

New Zealand.



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1884, No. 14.

AN ACT in further Amendment of "The Public Works Act, 1882." Title.
 [3rd November, 1884.

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 Public Works Act 1882 Short Title. Amendment Act, 1884."

It shall be read and construed with "The Public Works Act, 1882" (herein referred to as "the said Act").

2. The said Act is hereby amended as follows:—

In section fifty-six the word "sixty-three" shall be inserted in lieu of the word "sixty-four":

"The Public Work
Act, 1882,"
amended.

In section eighty-five all the words from "In cases where," to

the end of the section, shall be omitted, and the following words substituted: "Wherever the operation of 'The Counties Act, 1876,' is suspended, the Governor shall have and may exercise all the functions vested in a County Council under this section:"

In section one hundred and twenty-three, fifth subsection thereof, the word "eleven" shall be substituted for "twelve."

3. Subsection one of section eleven of the said Act is hereby repealed, and in lieu thereof the following is hereby substituted:—

The Minister, or the local authority, shall lay before the Governor a memorial containing a list of the lands proposed to be taken, together with a map showing accurately the position and extent thereof.

4. Section twenty of the said Act is hereby amended by the omission therefrom of the words "plantation or ornamental park or pleasure ground, or the cutting or injuring of any ornamental tree or shrub," and the said section shall be read as if the said words had not been originally inserted therein.

Provided that hereafter the said Act or this Act shall not authorize the entry upon, or taking of, any land occupied by any plantation, or ornamental park, or pleasure-ground, or the cutting of any ornamental tree or shrub without the previous sanction of the Governor in Council.

5. After section fifty-six of the said Act, there shall be read the provision following as section fifty-seven thereof:—

The Court shall fix and determine the amount of the costs of the inquiry as between party and party, and shall include the same in their award, and shall direct by whom such costs shall be paid.

But, if the sum awarded does not exceed three-fourths of the amount claimed, the claimant shall not be entitled to recover any costs, unless the Court shall otherwise direct.

The Court may in any case declare that no costs shall be awarded, and the fact shall be stated in the award.

6. A Proclamation issued under "The Public Works Act, 1882," or under any Act thereby repealed, shall not be held or deemed to have taken or to take effect until such Proclamation was or shall be gazetted: Provided that if a claimant desires to avail himself of the provisions of this section in respect of a claim already made by him, such claimant shall, within six months from the date of the passing of this Act, deliver to the respondent a statement of the nature of such claim, and thereafter the respondent may make an offer; and either the claimant or respondent may have the amount payable in respect of such claim ascertained in either case respectively under the provisions, as far as applicable, of "The Public Works Act, 1882."

ROADS.

7. When a road or street lies along the boundary of two boroughs or of a borough and town district, and is not included in any such borough or town district, or is included entirely in one of such boroughs or in the town district, or partly in one of such boroughs and partly in another, or partly in the borough and partly in the

Description of land taken for public works.

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Awards of costs in compensation cases.

Operation of Proclamation in compensation claims.

Road dividing two boroughs to be maintained at mutual cost.

town district, such road or street shall be constructed and maintained by the two boroughs or borough and town district respectively, on such terms and conditions as may be mutually agreed upon, and, failing such agreement, the Resident Magistrate of the district in which the road or street is may determine what portions of the road or street shall be constructed or maintained by each of the boroughs or borough and town district respectively, or that the whole shall be constructed or maintained by one borough or town district, and that the other borough or town district shall pay a certain proportion of the cost thereof: Provided always that no change shall be made in the levels of any road or street on or along the boundary of any two boroughs or borough and town district without the consent of both the boroughs or of the borough and town district.

8. When, in order to lay out any new street, or divert, alter the course of, or extend or widen any existing street, the Borough Council shall deem it expedient to acquire more land on either or both sides of such proposed street or extension, widening, or diversion than is required for such proposed street, extension, widening, or diversion, the said Council may take such land in accordance with the provisions contained in sections one hundred and seventy-nine and one hundred and eighty of "The Municipal Corporations Act, 1876," and any enactments in amendment of the aforesaid sections, but subject to the limitation contained in section one hundred and eighty-two of the Act last aforesaid.

Borough Council
may acquire land
for extending,
diverting, or
widening streets.

And when such street shall have been laid out, extended, diverted, or widened as aforesaid, the said Council may cause any surplus area so acquired to be sold in the manner prescribed by section fourteen of "The Public Works Act, 1882."

9. Section eighty-seven of the said Act is hereby repealed, and in lieu thereof it is hereby enacted as follows:—

Every bridge, ferry, or ford across a river at a point where the two banks—

Case of a river
between two road
districts or two
counties, or within
a town district.

- (1.) Are in different road districts, or one bank is in a road district and the other is in an outlying district, shall be under the control of the county in which such banks are;
- (2.) Are in different counties, whether or not "The Counties Act, 1876," is suspended in either such counties or in both, shall be under the control of the Governor, or of such one of the counties or of such local authority within either of such counties as the Minister from time to time directs; and he may from time to time alter the control from one county or local authority to another, as he may deem expedient.

But the half cost of constructing or maintaining any such bridge, ferry, or ford may be recovered in any Court of competent jurisdiction, in the first case by the County Council from the districts on either side, and in the second case as a debt due to Her Majesty from the counties on either side, or by the County Council having such control from the other county, or the local authorities substituted in the place of the County Council thereof, or by the local authority having the control of such bridge, ferry, or ford, from the local authorities on either side, as the case may require.

The provisions of this section shall operate as herein enacted, notwithstanding that such bridge, ferry, or ford is entirely within the limits of a town district.

Maintenance of a bridge when local body unable to defray the cost.

10. In any case where, under the operation of the last preceding section, the Minister shall be satisfied that it would be unreasonable to require the cost of maintaining or repairing a bridge, ferry, or ford to be equally divided as in the said section mentioned, he may order that the whole cost of such maintenance or repair shall be charged upon the local body in his opinion most benefited by such bridge, ferry, or ford, or may, irrespective of the provisions of the said section, apportion the cost amongst the adjacent local bodies in proportion as he may deem them respectively to benefit from such bridge, ferry, or ford.

Maintenance of bridge, ferry, or ford when borough unable to defray the cost.

11. Where there is a bridge, ferry, or ford across a river at a point where the two banks of the said river are situate within the boundaries of the same county, road district, or borough respectively, and the Minister shall be satisfied that it would be unreasonable that the local body of such county, road district, or borough respectively should bear and defray the whole cost of maintaining or repairing the same, the Minister may appoint any local body of any adjacent county, road district, or borough respectively to have the control of such bridge, ferry, or ford, and to be charged with the cost of maintaining or repairing the same, or may apportion such cost between the said local body or bodies of the adjacent county, road district, or borough, or some of them, in such manner as he shall think fair and just, and may, nevertheless, appoint any one of such local bodies to have such control.

Every such bridge, ferry, or ford shall, for all purposes of such maintenance, be deemed to be entirely within the limits of the jurisdiction of the local body having the control thereof.

Recovery of cost of maintenance.

12. Where, under the operation of the said Act or this Act, any proportion of the cost of maintaining or repairing any bridge, ferry, or ford has devolved or shall devolve upon any local body, such cost may be recovered in any Court of competent jurisdiction by the local authority having the control of such bridge, ferry, or ford from the local body liable to pay the same.

Road Boards to pay cost where "Counties Act, 1876," suspended.

In any case where any such proportion of cost has devolved or shall devolve upon a county wherein the whole of "The Counties Act, 1876," is suspended, the Minister shall apportion the cost among the various Road Boards substituted in the place of the Council of the county aforesaid in proportion as he may deem them respectively to benefit from such bridge, ferry, or ford; and every Road Board upon which any proportion of such cost shall be imposed as aforesaid shall be liable and be deemed to have been liable for such proportion from the time when the liability first devolved upon the county aforesaid; and the county having the control of such ferry, bridge, or ford shall be entitled to recover in any Court of competent jurisdiction from such Road Boards, in the proportion aforesaid, the amount for which the said county is liable, together with all arrears of such amount remaining unpaid.

Provided always that this section shall not affect any existing agreement.

13. The local authority may grub up, clear away, and destroy all gorse, sweetbriar, bramble, and broom growing on any river-bed in the county, road district, or town district, and maintain such river-bed free from gorse, sweetbriar, bramble, and broom, and may apply any of the county or district funds to the purpose from time to time.

Removal of gorse,
sweetbriar, bramble,
or broom on
river-beds.

When a river or river-bed divides two districts the local authority on either side may clear and maintain free from gorse, sweetbriar, bramble, and broom such river-bed for half the width thereof adjoining the bank within the district of the local authority.

14. If any person shall throw, or cause to be thrown, the trimmings of any hedge or tree, or any gorse, sweetbriar, bramble, broom, or other rubbish upon any road, and shall neglect to remove the same within two weeks from the receipt of an order so to do from the local authority, the local authority may cause such trimmings, gorse, sweetbriar, bramble, broom, or other rubbish to be removed; and the cost of the removal of the same and all expenses attendant thereupon shall be recoverable accordingly from such person by the local authority.

Trimmings of
hedges, &c., not to
be thrown on roads.

15. The occupier, or in case there is no occupier, then the owner, of the land on each side of a road shall be answerable for the grubbing up, clearing away, and destroying of gorse, sweetbriar, bramble, and broom now or hereafter on such road for half the width thereof adjoining to the land occupied or owned by him: Provided that the local authority has reasonable ground for believing that the said gorse, sweetbriar, bramble, or broom has spread from such adjoining land or the fence thereof.

Removal of
overhanging trees
or gorse, sweetbriar,
bramble, or broom
on roads.

The local authority may order the occupier, or, in case there is no occupier, then the owner, of any land abutting upon any road or street—

- (1.) To remove any part of a tree, or lower or trim any part of a hedge, overhanging a road or street so as to injure it; or
- (2.) To clear away and destroy, within the above-mentioned limits, all obstructions to traffic arising from the growth of gorse, sweetbriar, bramble, or broom upon such road or street.

In the event of any such occupier or owner failing to comply with such order within one month from the receipt thereof, he shall be liable to a penalty not exceeding five pounds for every day during which such order is not obeyed, and a further sum equal to the cost incurred by the local authority in removing such tree, or lowering or trimming such hedge, or grubbing up and removing such gorse, sweetbriar, bramble, or broom; and the said cost shall be a charge on the land, and may be recovered as rates are recovered under "The Rating Act, 1882."

16. The words following are hereby added as a subsection to section one hundred and two of the said Act; that is to say,—

Permitting cattle,
&c., to wander on
roads an offence.

Permits any horses or cattle to be at large without proper guidance, or to wander, or be herded, or grazed upon any road other than in the ordinary course of driving stock.

17. Where any local authority proposes to stop or divert any road, a copy of the notice required to be given, and also of the plan required to be prepared in any such case shall be transmitted by the

Local authority to
give notice to
Survey Office of
all diversions, &c.,
of roads.

local authority for record in the office of the Chief Surveyor of the district; and no notice of the stoppage or diversion of any road shall take effect until such notice and plan has been recorded as aforesaid.

ROADS TO LANDS PURCHASED FROM THE CROWN.

Access to land to which there is no road.

18. The purchaser or owner of any land purchased from the Crown, to which land there is no existing access by road, and to which access can only be gained by passing through other adjoining land, may, when such adjoining land is the property of the Crown, serve upon the Minister for Public Works a notice claiming that a way of access by road from and to the nearest public road shall be laid off through such adjoining land, and it shall be the duty of the Minister to direct that such way of access be provided; and, when such adjoining land is the property of another owner or owners, may, if the local governing body within whose jurisdiction such land is situate shall have refused or neglected to take action in this behalf, in like manner serve a notice upon the Minister requiring that a way of access by road through such adjoining land shall be provided, subject always to the conditions in the next succeeding section contained.

If private land adjoining, how land for road to be acquired.

19. When the road is required to be taken through private lands the Minister shall ascertain the cost of acquiring the land required for such road, and if such cost shall not exceed one-fifth of the sum paid to the Crown as the purchase-money of the land to which access by road is sought to be obtained, then the cost of acquiring the land for such road shall be defrayed out of the Consolidated Fund; and if the cost shall exceed one-fifth of the sum so paid to the Crown, then the person applying for such road shall repay such excess to the Minister upon his demand, and may be required to make such payment, or to give security therefor, to the satisfaction of the Minister before such road be taken.

Refund by local governing body.

20. If any part of the purchase-money of the land to which access is to be provided has been paid to any local governing body, then such local governing body shall, on demand of the Minister, refund to him a proportionate share of the cost not exceeding the amount received by such local governing body on account of such purchase-money.

PRIVATE TRAMWAYS.

Private tramways may be constructed along streets and roads.

Manawatu County may raise loan to complete Carnarvon-Sanson Tramway.

Land may be taken or purchased for railways after completion thereof.

21. Subject to the provisions of "The Private Tramways Act, 1882," any private tramway may be authorized to be constructed upon or along any part of any street or road.

22. For the purpose of completing the tramway from Carnarvon Station to Sanson, the Council of the County of Manawatu may raise a special loan under "The Counties Act, 1876," not exceeding six thousand pounds, subject to the consent of the ratepayers of the several ridings of the county being obtained thereto, in manner as provided by the said "Counties Act, 1876."

RAILWAYS.

23. If it is found desirable for the use, convenience, or enjoyment of any railway constructed, or in course of construction, to take, purchase, or otherwise acquire land in addition to any land previously acquired for the purposes of such railway,—

- (1.) The Governor may at any time, and from time to time, by Proclamation, take such land in the manner provided by section one hundred and thirty of the said Act, with the exception that subsections one, two, and three of the said section shall not apply; and that this section shall be read in lieu of the first paragraph of the fourth subsection of the said section; or
- (2.) Such land, or the estate or interest of any person therein, may be purchased or acquired in any other manner authorized by the said Act.

24. The power conferred upon the Minister by subsection one of section one hundred and thirty-one is hereby extended, and he is hereby authorized to enter upon any land and make any railway in manner as is mentioned in the said subsection upon, over, or under any land lying within a distance of ten chains on either side of the middle line of the railway; and locomotive engines, carriages, and trucks of all kinds may be used and run over any land entered upon or taken or acquired for a railway lying within the distance aforesaid.

Land may be taken within ten chains of middle line, and locomotives, &c., run thereon.

The words "ten chains" are hereby substituted for the words "five chains" in the said subsection.

25. Section one hundred and thirty-six of the said Act is hereby amended by the insertion of the words "as far as may be" before the words "as before such alteration," and by the omission of all the words of the section after the words thereof herein last cited.

Alteration in roads, drains, pipes, &c.

26. Before commencing any such alteration, the Minister shall cause a plan thereof to be prepared, and to be submitted to the local authority having the control of the work proposed to be altered, or to the owner of such sewer, water-pipe, or gas-pipe, or other work as the case may be.

Plan of alteration to be submitted to owners.

(1.) If such local authority or owner objects to the proposed alteration, the Minister shall appoint a competent engineer to confer with such authority or owner, and to agree with them or him as to the manner in which such alteration shall be made; and if no agreement can be come to between the parties, the matter shall be referred to the Governor, whose decision thereon shall be final.

Governor to settle objections.

(2.) The Minister may at any time interfere with any such road, street, public work or pipe, so far to effect all necessary repairs on any railway theretofore lawfully constructed thereon, but shall give to such local authority or owner three days' notice of his intention so to do.

Notice to be given of intention to make necessary repairs.

(3.) But in any sudden emergency or danger, the Minister may carry out forthwith all such works as appear to him to be necessary, but shall as soon as possible give notice of so doing to such local authority or owner.

In cases of emergency works may be carried out forthwith.

27. The foregoing provisions of this Act relating to railways shall be deemed to have applied, and shall apply, to all railways heretofore constructed or deemed to have been constructed under the said Act or any Acts repealed thereby, or hereafter to be so constructed.

Forgoing provision to apply to railways constructed under said Act.

28. Any railway, or portion of a railway, may be opened for the public conveyance of passengers so soon as the Minister has intimated to the proprietors of such railway that the Governor has

Railways may be opened at once if reported favourably on inspection.

Penalty for breach
of order to postpone
opening or discon-
tinue working
railway.

received a satisfactory report as to the construction thereof from the person appointed to inspect such railway, notwithstanding that the notices of such opening, required to be given by section one hundred and eighty of the said Act, have not expired.

29. All the words of section one hundred and eighty-one of the said Act, after the words "order shall be founded," are hereby repealed, and the following are substituted in lieu thereof:—

If any order made by the Governor under section one hundred and eighty-one of the said Act shall not be complied with by the proprietors of any railway to be affected by such order, such proprietors shall be liable to a penalty not exceeding the sum of two hundred pounds for every day during which such order is not complied with.

REPEAL.

Repeal.

30. "The Public Works Act 1882 Amendment Act, 1883," is hereby repealed.

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