

New Zealand.

## ANALYSIS.

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1885, No. 42.

AN ACT to further amend "The Public Works Act, 1882."

Title.

[22nd September, 1885.]

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 Amendment Act (No. 2), 1885." Short Title.

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

"The said Act" means "The Public Works Act, 1882," and includes any Act amending that Act:

"By-laws" mean by-laws made under the said Act and in force for the time being.

3. Section twenty of "The Public Works Act, 1882," and section four of "The Public Works Act 1882 Amendment Act, 1884," are hereby respectively repealed. Repeal.

4. Except for the purpose of a railway or other public work to be made under the authority of a special Act, nothing in the said Act contained shall authorize,— Certain lands not to be taken without consent.

(1.) The taking of any stone or other material from any quarry, brickfield, or like place commonly used for the taking

material therefrom for sale, without the consent, in writing, of the owner first obtained; or

- (2.) The taking of any land occupied by any building, yard, garden, orchard, vineyard, plantation, or ornamental park, or pleasure ground, or the cutting of any ornamental tree or shrub without the previous consent of the Governor in Council.

Minister may resume and retain possession of bridge, ferry, or ford, and charge cost of maintaining and working same to local body.

5. Section eleven of "The Public Works Act 1882 Amendment Act, 1884," is hereby amended by the addition of the following words at the end of the first paragraph of the said section: "Or the Minister may retain the control of any such bridge, ferry, or ford in his own hands, or if such control has, either in pursuance of this section or in any other way, been already vested in any local body, he may resume and afterwards retain such control, and may nevertheless charge the cost of maintaining, repairing, and reconstructing such bridge, and of maintaining and working or repairing and reconstructing such ferry or ford, including all necessary boats and plant for all or any of such purposes, against the local body of the district in which such bridge, ferry, or ford is situated, or may apportion the cost amongst such local bodies as he may consider to be interested in such bridge, ferry, or ford, in such proportion as to him may seem meet, and may recover the cost of such maintenance from such local body or bodies in any Court of competent jurisdiction."

Minister may appoint person to keep record of traffic at bridge, ferry, or ford.

6. Whenever the Minister considers it advisable to ascertain the proportion in which the district of any particular local body is interested in any bridge, ferry, or ford, the cost of the maintenance of which he may desire to apportion amongst any two or more of the local bodies of any district adjacent to such bridge, ferry, or ford, it shall be lawful for him to appoint a fit person or persons to keep a record of the traffic over such bridge, ferry, or ford, and such person or persons is and are hereby empowered to demand from any person passing over such bridge, ferry, or ford a true statement of the district in which he resides, or from whence he has come, and the district to which he is going; and any person refusing to give such information when required so to do, or giving false information in respect of any of such matters, shall be guilty of an offence, and liable to a penalty not exceeding forty shillings for each and every such offence.

Cost of carrying out sections 5 and 6 hereof to be a charge upon revenues of local body.

7. All charges and expenses attending the exercise of the power hereinbefore conferred on the Minister and incidental thereto shall be a charge upon the revenues of the local bodies of the districts adjacent to such bridge, ferry, or ford, in the same proportion as the cost of maintaining the bridge, ferry, or ford shall afterwards be allocated amongst the said local bodies by the Minister.

Roads, &c., crossing railway on the level may be closed by Minister.

8. Notwithstanding anything contained in the one hundred and thirty-second section of the said Act, it shall be lawful for the Minister to wholly close any road or street which crosses a railway on the level, but in such case he shall, before exercising the power hereby conferred, cause a road, of the full width of the road to be closed, to be formed and metalled, so as to give access to the nearest public road crossing over such railway, and in the event of the owner or occupier of any land adjacent to the road-crossing so closed being

injuriously affected by reason of the closing thereof, he shall be entitled to compensation to be ascertained under the provisions of Part III. of the said Act.

9. (1.) The Minister may cause goods for conveyance by railway to be collected from places outside the limits of a railway, and for such purpose may do, execute, enter into, and perform all acts, matters, contracts, and things necessary thereto: Provided that no contract shall be entered into for a longer period than three years:

Minister may cause goods to be collected for carriage on railway.

(2.) And may from time to time, by notice gazetted, fix and define the limits within which such collection of goods shall be made, and also the rates and charges to be paid therefor. Such rates and charges shall be recoverable in the same manner as is provided by section one hundred and sixty-three of the said Act, in the case of fares, rates, and charges under any by-law.

10. When any goods have been received for conveyance on any railway, and the time during which the goods may, in accordance with any contract or under any by-law, remain on the railway premises, has expired, and notwithstanding anything contained in the said Act, the Minister shall thenceforth be responsible only as a warehouseman in respect to any loss or damage that may occur to such goods until removal by the consignee thereof.

Minister to be responsible only as warehouseman for goods received for conveyance on railway.

11. When any goods have been received for conveyance upon a railway, and the consignee or owner has not complied with all provisions of any law relating to the charge or collection of duties by the Customs, or has not paid all charges incurred by the Minister on account of such goods which have accrued upon or prior to receipt of the goods by the Minister, or if the goods are held awaiting the consignor's order to deliver, then such goods may be held and detained by the Minister until all such provisions are complied with, or charges paid, or consignor's order to deliver is given:

Goods received for conveyance on railway, and on which Customs duty not paid, may be retained by Minister.

Provided that, during the time such goods are so held, the Minister shall be responsible only as a warehouseman in respect to any loss or damage that may occur thereto, but the powers hereby conferred shall not prejudice the powers vested in the Minister by the one hundred and fifty-first section of the said Act.

12. The Minister may at all times run locomotive engines consuming either anthracite coal, bituminous coal, brown coal, coke, or wood of any kind, either with or without carriages, trucks, wagons, or other vehicles or machines, upon any railway, or private siding, or wharf connected with a railway.

Minister may run locomotives, &c., on railway or private siding or wharf connected with a railway.

13. The following provisions are hereby enacted in addition to those enacted by the one hundred and forty-fourth section of the said Act, and shall be deemed to form a part of the said section:—

Further powers of Minister in respect of railways open for traffic.

(1.) May fix, alter, or revoke scales of fares, rates, and charges to be paid for vessels using any wharf, jetty, mooring, berthage, building, crane, or other appliances; or for goods received or delivered from or to any vessel lying at or adjacent to any wharf, jetty, berthage, or mooring:

(2.) May from time to time make, alter, or revoke by-laws for railways open for traffic upon the following subjects:—

(a.) Regulating public or private traffic of persons,

vehicles, or goods on roads across any railway on the level thereof;

(b.) Preventing the trespass of persons or animals on any railway or part thereof;

(c.) Regulating the admission of vessels to any wharf, jetty, berth, or mooring, and their usage of and removal from the same;

(d.) Regulating the maintenance, usage, opening, and closing of all gates and slip-panels, cattle-stops, and fencing;

(e.) Regulating the terms on which private sidings may be constructed and used, and for the hire, use, and detention of any rolling-stock at such sidings, and for the liability of persons hiring, using, or detaining the same, for damages done thereto, or the destruction thereof.

Further penalties for offences committed on railways.

14. The following provisions are hereby enacted in addition to the one hundred and fifty-sixth section of the said Act, and shall be deemed to form a part of the said section:—

Whoever knowingly and wilfully does or causes or procures to be done any of the following things, not having lawful authority to do so,—

(1.) Moves any signal, points, or stop-blocks, or shows any signal likely to mislead;

(2.) Removes from the railway or the railway premises any rolling-stock, tarpaulins, tools, appliances, or property of any kind,

—shall be liable, on conviction thereof, to the penalty provided by the one hundred and fifty-sixth section of the said Act.

Amendment of subsection 8 of section 157 of Public Works Act.

15. Subsection eight of section one hundred and fifty-seven of the said Act is hereby repealed, and the following subsection is enacted in place thereof, and shall be deemed to form a part of the said section:—

(8.) Sells or transfers to any person a ticket, or any portion of a ticket, which has been used for the whole or any part of the journey for which such ticket is issued; or travels, or attempts to travel, with any such ticket, or portion of a ticket, sold or transferred by any person.

Power to Minister to take water or acquire land for purpose of supplying water for railway purposes.

16. (1.) The Minister may from time to time, in the manner provided by the said Act, impound, divert, and take any water from any stream or running water, or may purchase or acquire any right or interest therein, for the purpose of supplying water for the use of any railway and the engines or machinery used thereon, or for the purposes of any wharf, building, or premises connected with such railway, and also may in like manner take, purchase, or acquire any land which shall be necessary for the purposes of this enactment.

Definition of term "waterworks."

(2.) Any water so impounded, diverted, or taken, and any land taken, purchased, or acquired as aforesaid, and any right or interest therein respectively, and all pipes, machinery, appliances, and works used in connection with or for the purposes of such water supply is and are hereinafter included in the expression "waterworks," and all waterworks already constructed or acquired, or that may hereafter be

constructed or acquired, for all or any such purposes as aforesaid, shall be deemed to have been and to be constructed or acquired under the provisions of the said Act and this Act, and to form a part of the railway for the use of which they have been constructed or acquired.

(3.) The Minister and all officers, workmen, and others by his direction may enter on any land, in the day-time, with or without carts or other vehicles, for the purpose of laying or erecting waterworks in or on such land, and also may from time to time in like manner enter thereon for the purpose of examining or repairing such waterworks when necessary. At least twelve hours' previous notice in writing shall be given by or on behalf of the Minister to the owner or occupier of such land, if resident thereon, before any entry for the purpose of laying or erecting waterworks; and if such owner or occupier is not so resident, then by posting such notice in a conspicuous place on such land; but no notice shall be necessary in cases where the entry is made for the purpose of examination or to execute repairs.

Power to Minister to enter on land to lay pipes and examine and repair waterworks.

(4.) In exercise of the powers conferred by the last-preceding subsection, the Minister, his officers, workmen, or others shall do as little damage as possible, and any damage done or occasioned by the exercise of such powers shall from time to time be ascertained and settled in the manner provided by any agreement made by the Minister under the authority of the said Act and this Act, or if no such agreement be made, then in the manner provided by Part III. of the said Act.

How damage ascertained.

17. Section eighty-six of the said Act is amended by adding the words "and also the cost of constructing the said road" to subsection one.

Section 86 of said Act amended.

18. When, under the provisions of section fifteen of "The Public Works Act 1882 Amendment Act, 1884," an order is made by a local authority, such order shall be in writing, signed by any person appointed by the local authority for that purpose, and shall be delivered to the person liable, either personally or by leaving the same at or posting the same in a registered letter addressed to his last known place of abode or business in New Zealand, and it shall not be necessary to prove the actual receipt of such order by the person to whom it is addressed.

Notice to clear gorse, &c.

If any person upon whom such order should be served is unknown, or after due inquiry cannot be found, or is absent from the colony, then a service upon his known agent or attorney shall be deemed a sufficient service, and if such person has no known agent or attorney in the colony, or such agent or attorney is unknown or cannot after due inquiry be found, then a publication of such order in a newspaper circulating in the district in which such order is issued, and posting a copy of the order upon a conspicuous part of the property in respect of which such order is issued or on some public road adjacent thereto, shall be sufficient service, and the cost of publishing such notification shall be a charge upon the land, and shall be recoverable in the same manner as rates are recoverable under "The Rating Act, 1882."