

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

*Legislative Council Chamber,
New Zealand, 25th September, 1867.*

A BILL INTITULED

AN ACT to Validate a certain Act passed ^{Title.}
by the Provincial Council of the Province of Wellington and assented to by the Superintendent of the said Province intituled "An Act to Amend and Consolidate the Laws relating to Scab Catarrh and Sheep Inspectors" and also to give the force of Law to certain Bills passed by the Provincial Council of the said Province and Disallowed by the Governor And also to validate certain Acts passed by the Provincial Councils of the Provinces of Nelson and Marlborough respectively.

5 **WHEREAS** doubts have been raised as to the validity of certain ^{Preamble.}
provisions in the Act set forth in the first Schedule hereto made and passed by the Provincial Council of the Province of Wellington and assented to by the Superintendent of the said Province and it is expedient that the said Act should be declared to have the force of law

until the end of the next Session of the General Assembly AND WHEREAS two several Bills copies of which are set forth in the second and third Schedules hereto were passed in the last Session of the Provincial Council of the said Province and having been assented to by the Superintendent were afterwards disallowed by the Governor and it is expedient that the force of law should be given to the provisions contained in the said two Bill respectively until the end of the next Session of the General Assembly And whereas a decision of the Court of Appeal has invalidated the several Acts passed by the Provincial Councils of the said Provinces of Nelson and Marlborough respectively and which are particularly set forth in the fourth Schedule hereto and it is expedient that the said Acts should be declared to have the force of law until the end of the next session of the General Assembly.

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

Short Title.

I. The Short Title of this Act shall be "The Provincial Acts Validation Act 1867."

Validating Scab Act.

II. The Act of the Superintendent and Provincial Council of the Province of Wellington passed in the Fourteenth Session thereof and numbered ten intituled "An Act to Amend and Consolidate the Laws relating to Scab Catarrh and Sheep Inspectors" and whereof a copy is set forth in the first Schedule hereto is hereby declared to be and from and after the seventh day of October 1866 to have been valid and to have and from such date aforesaid to have had the force of law as if the same had been passed by the General Assembly of New Zealand.

Legalising Highways Act.

III. The provisions contained in the several clauses of the Bills of the Provincial Council of the Province of Wellington passed in the last session thereof and of which a copy is set forth in the second Schedule hereto entitled "An Act to Consolidate the Law relating to District Highways" shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and such provisions shall be read and construed as if the words "General Assembly of New Zealand in Parliament assembled and by the authority thereof" were substituted in the first section of such Bill in lieu of the words "Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof."

Legalising Fencing Act.

IV. The provisions contained in the Bill of the Provincial Council of the Province of Wellington passed in the last session thereof and of which a copy is set forth in the third Schedule hereto intituled "An Act to Consolidate and Amend the Laws relating to Fencing within the Province" shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present Session and shall take effect accordingly and such provisions shall be read and construed as if the words "General Assembly of New Zealand in Parliament assembled and by the authority of the same" were substituted in the first section of such Bill in lieu of the words "Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof."

Other Provincial Acts declared valid.

V. The Provincial Acts recited in the fourth Schedule hereto are hereby severally declared to be and to have been valid and to have had the force of law from and after the date assigned to each of them in the said Schedule as if the same had been passed by the General Assembly of New Zealand.

VI. Provided however and it is hereby expressly enacted that it shall be lawful for the Provincial Councils of the said Provinces to pass any Acts or Ordinances which but for the passing of this Act it would have been competent for such Councils to pass but all such Acts or Ordinances which would be null and void by reason of their being inconsistent with or repugnant to this Act shall contain a provision postponing the operation of such Acts or Ordinances until after this Act shall cease to be in operation.

VII. This Act shall continue in force until the end of the next session of the General Assembly.

Provincial Councils may pass Acts &c.

Act to continue till end of next Session.

SCHEDULES.

FIRST SCHEDULE.

AN ACT to Amend and Consolidate the Laws relating to Scab Catarrh and Sheep Inspectors. Title. [Assented to July 7, 1866.]

WHEREAS an Act was passed by the Provincial Council of Wellington Session I. No. 20 intitled An Act to Repeal an Ordinance of the Legislative Council of New Munster Session I. No. 4 and to make other provisions to prevent the Extension of the Disease called the Scab and the Catarrh among sheep. And another Act was passed in Session III. No. 10 to Amend an Act intitled An Act to Amend the Scab and Catarrh Act Session I. No. 20 and an Act to define the duties of Inspectors of Sheep and to amend the Laws relating to sheep was likewise passed in Session IV. No. 8 And whereas another Act was passed in Session IX. No. 13 to Amend and Consolidate the Laws relating to Scab and Catarrh and Sheep Inspectors. And whereas another Act was passed in Session XI. No. 8 to amend and extend the Scab Catarrh and Sheep Inspectors Act Session IX No 13 And whereas it is expedient that the above recited Acts should be repealed.

Be it therefore enacted by the Superintendent of the said Province with the advice and consent of the Provincial Council thereof as follows:—

1. The above recited Acts are repealed from and after the time that this Act shall come into operation. Previous Acts repealed.
2. If any person shall by himself his agent or servant drive depasture or suffer to stray any sheep or lambs infected with either of the diseases known or called "Scab or Catarrh" across or upon any land not being the property of or rented by such person and not being land of which he shall have the right of pasturage or upon or along any public way he shall be subject to a penalty of not less than £10 (ten pounds) nor more than £100 (one hundred pounds) Nevertheless nothing in this Act shall prevent such sheep or lambs from being removed from one place to another in covered vehicles. Penalty for driving scabby sheep.
3. Nothing herein contained shall prevent separate information being laid by every occupier of land upon which such infected sheep or lambs as aforesaid shall have been driven depastured or suffered to stray or by every occupier of land through which or adjacent to which any public way shall lie upon or along which way any such infected sheep or lambs shall have been driven depastured or suffered to stray Provided always that if the fine incurred by any number of separate offences under this Act during one and the same removal of a flock shall exceed the sum of £200 (two hundred pounds) such accumulated fines shall not be levied to any greater amount. Separate information may be laid by each land owner.
4. That if any person himself or by means of any one under his control turn out keep or depasture any sheep or lambs infected with either of the said diseases on any land adjacent to or crossed by any public road or way and shall fail to affix a notice of the existence of such infection in some conspicuous place at each end of such public road or way where it crosses or is adjacent to such land or to renew or replace such notice as often as need be during the time of the existence of such infection he shall be liable to a penalty of not less than £2 (two pounds) nor more than £5 (five pounds). Notice of Scab or Catarrh to be set up on any public road.
5. Any person or persons moving or driving any sheep or lambs over unfenced leasehold or freehold land not being his or their own property or driving sheep or lambs on a public road where the land on either side is unfenced and on which sheep are depastured shall give 24 (twenty-four) hours notice in writing to the owner or owners person or persons in charge of such freehold or leasehold lands of his or their intentions so to do and failing to give such notice he or they shall be liable to a penalty of not more than £10 (ten pounds). Penalty for driving sheep without notice

6. No sheep to be moved from one Inspector's district to another without a clean certificate from the Inspector of the district from which they came under a penalty not exceeding £10 (ten pounds).
7. From and after the passing of this Act all sheep and lambs over the age of 9 (nine) months within the Province of Wellington shall be branded with a fire brand or wool brand or marked with an ear mark being the brand or ear mark of the owner and every owner of any such sheep or lambs not being so branded or marked shall be liable to a penalty not exceeding £5 (five pounds) and if the said sheep or lambs not being so branded or marked shall exceed 400 (four hundred) in number such owner shall be liable to a further penalty of not less than 3d. (three pence) nor more than 6d. (sixpence) for every sheep or lamb not being so marked as aforesaid.
8. The Superintendent shall divide the Province into such number of districts as he may think proper and shall appoint the Inspectors of Sheep in each district to be the registrar of sheep brands within such districts and with the advice and consent of the Executive Council make rules and regulations for the guidance of such registrars and to fix a scale of fees which shall be passable to such registrars and all such rules and regulations and tables of fees shall be published in the Government *Gazette* and shall thereupon be binding upon all persons whom they may concern and shall have the force of law.
9. Every owner of sheep or lambs shall within such time as shall be appointed by the Superintendent for that purpose cause a correct copy or impression of his brand to be registered in the office of the registrar of sheep brands for the district in which such sheep or lambs shall be depastured and any owner neglecting so to register such brand as aforesaid shall be liable to a penalty not exceeding £5 (five pounds).
10. After any person shall have so registered a brand it shall not be lawful for any other person to brand any sheep or lambs with a brand bearing the same mark and any person offending against the provisions of this clause shall be liable to a penalty of not less than £5 (five pounds) and not exceeding £25 (twenty-five pounds).
11. If any person shall brand any sheep or lambs or shall deface or efface any brand upon any sheep or lambs without the authority of the owner thereof or shall cut off one or both ears of any sheep or lambs whatever he shall be liable to a penalty of not less than £10 (ten pounds) nor exceeding £100 (one hundred pounds).
12. The mark or impression of any registered brand upon any sheep or lambs shall be *prima facie* evidence of the ownership of such sheep or lambs by the person in whose name such brand shall be registered in the Office of the Registrar of Sheep Brands.
13. Any Justice of the Peace having reasonable grounds from information stated on oath before him to suspect any sheep or lambs within the Province of Wellington or on board any ship boat or vessel in any Harbor of the Province to be infected with either of the said diseases of Scab or Catarrh may by a Warrant in the form specified in the Schedule of this Act order the inspection of such suspected sheep or lambs by the Inspector aided by any one or more competent person or persons named in such Warrant and such Inspectors shall immediately after such inspection report the result thereof in writing to the Justice issuing the said Warrant and shall declare to the truth of the said report upon oath before him and it shall be lawful for such Justice thereupon to order each of such assistant Inspectors to be remunerated at the rate of not more than 10s. (ten shillings) by the day during the time in which he or they shall have been reasonably employed in such inspection and in case such sheep or lambs shall prove to be infected such remuneration shall be paid by the owner of the same but if they shall prove to be uninfected the remuneration as aforesaid shall be paid by the informant.
14. Every owner of any sheep or lambs who shall refuse to allow such inspection to be made under such Warrant as aforesaid or shall obstruct or shall refuse or neglect to afford all reasonable facilities to such inspectors as aforesaid shall be subject to a fine of not less than £20 (twenty pounds).
15. Nothing in this Act shall be construed to limit or deprive any person suffering loss or damage from the driving depasturing or suffering to stray of any such infected sheep or lambs as aforesaid of an action or remedy which he may have at law or otherwise for obtaining redress or compensation for such loss or damage from the person liable thereto.
16. Any flockowner who on discovering scab in his flock shall within 7 (seven) days give notice in writing to the Inspector of the district and shall within 48 (forty-eight) hours give notice in writing to the neighbors on land adjoining shall be allowed 6 (six) months to clean his sheep but failing to clean them in that period shall pay a penalty not exceeding 20 (twenty pounds) and for every subsequent 6 (six) months shall be liable to further penalty of not more than £50 (fifty pounds) until the said sheep are pronounced clean by such Inspector of the district.
17. From and after the passing of this Act every owner of any sheep or lambs infected with the disease called "Scab" who shall fail to give such notice of such disease to the Inspector of the district and to all neighbors keeping sheep on lands adjoining shall be fined upon the report of the Inspector 6d. (sixpence) for every such infected sheep or lamb. Provided that no person who shall have been convicted under this clause shall be liable to any further penalty under the same on account of such disease in the same sheep or lambs until the expiration of 6 (six) months after the date of such conviction as aforesaid.

Sheep not to be moved without certificate.

All sheep to be branded.

Superintendent to appoint Registrar of Brands.

All brands to be registered.

Penalty for using another's Brand.

Penalty for branding without authority.

Brand *prima facie* evidence of ownership

Justice of the Peace may order sheep to be examined.

Penalty for refusing to allow inspection.

Actions for damage shall still lie.

Flockowners shall give notice of Scab.

Penalty for failing to give notice.

18. If any sheep infected with Scab or Catarrh shall be found on any land or run not in the lawful occupation of the owner of such sheep and such owner shall not remove the same within 48 (forty-eight) hours after he shall have received a written notice that they are so trespassing or if such owner cannot after reasonable enquiry be discovered it shall be lawful for the occupier of such land or run forthwith to destroy such sheep provided always that the nature of such reasonable enquiry together with the number and brands of the sheep so found and destroyed shall by the occupier aforesaid be certified in writing to the Inspector of the district within eight days of the destruction of such sheep and any person offending against the provisions of this section shall be liable to a penalty of not less than £5 (five pounds) nor more than £25 (twenty-five) pounds. Penalty for failing to remove infected Sheep.

19. The owner of any sheep or lamb infected with the disease called "Catarrh" at the time of its death who shall fail to consume the carcase by fire or to bury it at least 3 (three) feet under the ground within 12 (twelve) hours after the death he shall be liable to a penalty of not less than 10s. (ten shillings) nor more than £5 (five pounds) for each carcase not so buried or destroyed. Sheep dying of Catarrh not to be burned or buried.

20. If any person by himself his servant or agent shall cast or cause to be cast the carcase of any sheep or lamb infected with "Catarrh" at the time of its death into any stream or pond or other water he shall be liable to a penalty of not less than £5 (five pounds) nor more than £20 (twenty pounds). Sheep dying of Catarrh not to be cast into water.

21. If any person shall slaughter or shall have in his possession for the purpose of slaughtering for sale any sheep or lamb infected with either of the said diseases or shall expose for sale the carcase of any part thereof of any sheep or lamb so infected he shall be liable for each such offence to a fine of not less than 20s. (twenty shillings) nor more than £5 (five pounds) one half of such fine to be paid to the informer and such infected carcase or part thereof shall be thereupon destroyed in such manner as any Justice of the Peace may direct. Penalty for slaughtering infected Sheep.

22. Any master owner or super-cargo of any ship boat or other vessel who shall permit any sheep or lambs to be landed therefrom before they shall have been inspected by an Inspector of Sheep duly authorised under the provisions of this Act and before he shall have received a certificate to that effect shall be liable to penalty of not less than £20 (twenty pounds) nor more than £100 (one hundred pounds). Penalty for landing Sheep without inspection.

23. If any person shall himself or by means of any agent or servant land or cause to be landed from any ship boat or other vessel except as hereinafter provided any sheep or lambs infected with either of the said diseases he shall be liable to a penalty of £100 (one hundred pounds) and if such sheep or lambs so landed shall exceed 20 (twenty) in number he shall be liable to a further penalty of £5 (five pounds) for every such sheep or lamb in excess of the number aforesaid. Penalty for landing infected Sheep.

24. Any person who by himself his agent or servant shall land or cause to be landed any sheep or lambs infected with the disease called "Scab" upon land declared or proclaimed by the Government of the Province of Wellington as the quarantine ground or as near thereto as may be possible shall not be subject to any penalty. No penalty for landing or ing in quarantine ground.

25. The quarantine ground shall for the time during which such sheep or lambs shall be depastured thereupon as before provided be taken and deemed to be for the purposes of this Act in the lawful occupation of the owner of such sheep or lambs. Provided always that such sheep or lambs shall be subject to a weekly charge of 3d. (threepence) each payable by the week such sheep or lambs to be removed when declared free from "Scab" by the Inspector or to be subject to a further charge of 2d. (two pence) by the week. Should payment be in arrears for four weeks the sheep or lambs to be deemed to be abandoned and may be sold or disposed of as may appear most likely to contribute to the public interest. Quarantine ground lawfully occupied by owner of Sheep.

26. Should any sheep or lambs infected with Scab be placed on the land appointed as a quarantine ground and the pasture thereof at any time be found not sufficient for the sustenance of such sheep or lambs the owner or person in charge of the same to provide food for them at his own expense. Person in charge of the quarantine ground to provide food.

27. Every sheep and lamb running in any flock or being on board any ship boat or other vessel in which there shall be one sheep or lamb infected with the disease called "Scab" shall be deemed to be infected within the meaning of this Act. If one Sheep be infected the whole flock shall be considered so.

28. Every flock-owner placing a number of sheep in an enclosure or otherwise and keeping them separate from all other sheep for a period of two months to the satisfaction of the Inspector of the district to be allowed to call them a flock and they shall be deemed to be a flock accordingly as long as they are not allowed to mix with any other sheep. Flock of Sheep defined.

29. All newly imported sheep shall be properly dressed to the satisfaction of the Inspector before they shall be removed to a greater distance than one mile from the port at which they shall have been landed unless on their way to the quarantine ground. And any person driving any such sheep beyond such distance before they shall have been properly dressed as aforesaid shall forfeit and pay for every sheep so driven a sum of not less than 1s. (one shilling). Imported Sheep must be dressed before driven.

30. Every person owning or having in charge any sheep shall in the month of May in every year deliver in writing to the Inspector of the district in which such sheep shall be depasturing a return of the number of sheep above six months old owned by him or under his charge and shall append thereunto a declaration that such return is true to the best of his knowledge and belief. Returns to be made to Inspector.

- Superintendent may appoint Inspectors and Sub-Inspectors. 31. The Superintendent may appoint such number of Inspectors and Sub-Inspectors of Sheep for the purposes of this Act as he may think fit and assign them to such districts as he shall deem proper and every Inspector and Sub-Inspector shall have at all times and exercise at his discretion the powers given by clause 13 of this Act to certain persons acting under the warrant of any Justice of the Peace in the inspection of the sheep suspected to be infected with Scab.
- Penalty for false declaration. 32. Every person wilfully making a false declaration in respect of any of the provisions of this Act shall be liable to a fine of not less than £10 (ten pounds) nor more than £50 (fifty pounds).
- Assessment on Sheep. 33. Every person owning or having charge of any sheep shall in the month of August in every year on demand pay to the Inspector of the district in which such sheep shall be depasturing or other persons authorised to receive the same the sum of one ½d. (half-penny) per head for all sheep over the age of 6 (six) months so owned by him or under his charge in accordance with the return made by him in the preceding month of May. If such sum be not paid in the month of September the same shall be recovered by the Inspector of the district by summary proceedings whether the same shall exceed £20 (twenty pounds) or otherwise before any Resident Magistrate or any Justice of the Peace together with all the costs and expenses incident thereto or to be incurred in recovering the same.
- Inspectors to pay money to Treasurer. 34. In the month of October in every year the several Inspectors shall pay the amounts they have respectively collected under the authority of this Act to the Treasurer of this Province who shall place the sums so received to a separate account and all such sums shall be set apart for the purpose of carrying out the provisions of this Act.
- Duties of Inspectors. 35. The Inspectors of Sheep shall once in every twelve months inspect the several flocks in their respective districts and examine the sheep and shall immediately after such inspection report to the Secretary of the Province whether the sheep or any of them in any flock are infected with Scab or Catarrh and to what extent they may be so affected (all such reports shall be published in the Government *Gazette*) and such Inspector shall furnish to each owner of a flock a certificate as to the state of his flock or flocks at the time of such inspection.
- Further duties of Inspectors. 36. Every Inspector or Sub-Inspector of Sheep may within his district at any time after the yearly inspection proceed to inspect any flock in which he has reason to suppose that the disease of Scab or Catarrh has broken out since his yearly inspection or may have become infected with either of the said diseases and that after such inspection he shall in the event of such flock having become infected with either of the said diseases immediately cancel the clean certificate and report at once to the Provincial Secretary that such certificate has been cancelled.
- Copy of certificate to be furnished to driver 37. Every flock-owner shall on delivery of any sheep from his land furnish the person driving such sheep with a copy of the certificate granted to him by the Inspector with a declaration that such document is a true copy of such certificate and that it has not been cancelled by the Inspector at the date of such copy being furnished. Provided always that the production of such copy of certificate will not remove from the owner of such sheep any liability imposed under the clauses of this Act in respect to infected sheep. Penalty for non-compliance with this clause to be £10 (ten pounds).
- Penalty for non-production of such certificate. 38. Every person driving any sheep along a public road or over any land except such land as his own property shall when requested so to do by any one produce such copy of certificate under a penalty of £10 (ten pounds) for such refusal.
- Every certificate to be entered in a book by Inspector. 39. The Inspectors of Sheep shall keep a book in which shall be entered a copy of every certificate granted to owners of sheep and an entry of the date on which they have cancelled any certificate with their reason for so doing.
- Right of appeal to Resident Magistrate. 40. If any owner of sheep should be of opinion that his sheep are not infected with Scab or Catarrh notwithstanding the decision of such Inspector or Sub-Inspector to the contrary he may within one calendar month after such decision appeal from such decision to the nearest Resident Magistrate who is hereby authorised and required to hear and determine the same in a summary way and then a decision of such Resident Magistrate shall be final in every such case. Provided always that any decision of an Inspector or Sub-Inspector so appealed against shall until reversed continue in full force and effect.
- Penalty for carelessness or negligence of Inspector or Sub-Inspector. 41. If any Inspector of Sheep or Sub-Inspector shall refuse or wilfully neglect or unreasonably delay to perform any of the duties hereby imposed upon him or which he may be appointed to discharge under this Act or shall wilfully abuse the powers and authority hereby intrusted to him he shall forfeit and pay for every such offence a penalty not exceeding £20 (twenty pounds).
- Penalty for false report of Inspector or Sub-Inspector. 42. If any Inspector of Sheep or Sub-Inspector shall wilfully make any false report or shall wilfully deliver any false certificate as to the condition of any sheep examined by him he shall be liable to a penalty of not less than £20 (twenty pounds) nor exceeding £100 (one hundred pounds).
- Inspectors and Sub-Inspectors not to accept fees. 43. If any Inspector or Sub-Inspector shall under color of his office or employment exact or accept any fee or reward whatsoever his office shall on his conviction of such offence before any two justices of the Peace become (*ipso facto*) vacant and he shall be liable to a penalty of not less than £20 (twenty pounds) nor exceeding £100 (one hundred pounds).
- Notice for mustering to be given. 44. Every Inspector or Sub-Inspector shall give to the owner or person in charge of each station within his district at least seven days' notice in writing of the day on which

he proposes to visit the station and such owner or person in charge shall for 3 (three) days after the day named in such notice have his flock or flocks of sheep in readiness for mustering and on the arrival of the Inspector or Sub-Inspector at his station shall so soon as required by the Inspector or Sub-Inspector muster all the flock or flocks of sheep on the station or under his charge at the time for examination by Inspector or Sub-Inspector and shall if required to do so assist him in such examination.

45. Every person detaining the Inspector or Sub-Inspector or wilfully refusing or neglecting to muster the sheep for examination by the Inspector or Sub-Inspector after such notice on being required to do so shall forfeit a penalty of not less than £2 (two pounds) nor more than £10 (ten pounds) for every day of such wilful detention until the same shall be mustered to the satisfaction of the Inspector or Sub-Inspector. Penalty for detaining Inspector or Sub-Inspector.

46. Any person on whose station the Inspector or Sub-Inspector may report that there are sheep infected with the Scab or Catarrh may at any time previous to the next yearly visitation apply to the Inspector or Sub-Inspector to examine again the sheep of any flock upon his station and if he shall prove to the satisfaction of the Inspector or Sub-Inspector that all the sheep of any flock on his station or under his charge are then free from the disease of Scab or Catarrh may demand a certificate to that effect which certificate it shall be the duty of the Inspector to give a copy of which certificate shall on the original being left at the Provincial Secretary's Office for the purpose be published forthwith in the Government Gazette. When sheep are clean owner may demand certificate.

47. It shall be the duty of the Inspector or Sub-Inspector whenever it shall be reported to him that sheep infected with Scab or Catarrh are driven into or through his district to take immediate steps to stay the entry into or further progress through his district of such sheep and for that purpose not only to lay information for such infringement of the law before the nearest Justice of the Peace but to give notice to the person in charge of such sheep to return and in case of non-compliance by the driver to return immediately to the place from whence he started or to the nearest quarantine ground to detain such sheep or to employ such drivers and other assistants as he the Inspector or Sub-Inspector may think sufficient to take back such sheep to the place from whence they started or to such quarantine ground. Inspectors to stop infected Sheep.

48. Every person in charge of infected sheep to whom notice to return shall be given as aforesaid shall return without any unnecessary delay to the station whence he started by the same route that he shall have travelled or to such quarantine ground and if he shall refuse or neglect so to do shall forfeit and pay a sum of £5 (five pounds) per day for every day that he shall so refuse or neglect to return. Penalty for neglecting to return when ordered by Inspector.

49. Any person owning or having charge of any sheep who shall wilfully fail to make returns thereof in accordance with the provision in that behalf in this Act (Clause 30) shall forfeit and pay the sum of not less than £5 (five pounds) nor more than £20 (twenty pounds) for so refusing or neglecting to make such return. Penalty for failing to make returns.

50. All fines and penalties imposed and the amount of remuneration directed to be paid under the authority of this Act shall be recoverable in a summary way. Penalties under this Act to be recovered in a summary manner.

51. In the interpretation of this Act the words "owner of any sheep or lambs" shall be taken to include the person having the control or management of such sheep or lambs. The word "flock" shall be taken to include such sheep as the owner of any station is in the habit of herding separately on different parts of his run or station. The term "station" shall include not only the stations or runs held under license from the Provincial Government but also all properties (freeholds or leaseholds) on which sheep are depastured or kept. Interpretation clause.

52. This Act shall not come into operation until three months after it has been assented to by the Superintendent of the Province. Date of Act coming into operation.

SCHEDULE.

WARRANT FOR INSPECTING SHEEP.

Province of Wellington, }
New Zealand. } To
and all others whom it
may concern.

WHEREAS it appears to me one of Her Majesty's Justices of the Peace for the said Province, by the information upon oath of

of in the said Province, that certain sheep or lambs are (depastured upon the land situated in the occupation of

in the said Province) (on board of the vessel Commander, now lying in in the said province) and that the said hath cause to suspect, and doth suspect, that the said sheep or lambs, or some of them, are infected with the disease called

These are, therefore, in the name of our Lady the Queen, to authorise and require you to enter upon the said (land, vessel) and carefully to inspect the said sheep or lambs; and that you do immediately upon such inspection, report in writing to us whether the said sheep or lambs, or any of them, are infected with the said disease.

5. When any dividing fence which shall have been or shall be erected shall be out of repair or become insufficient the owners of the land on either side thereof shall be liable to the cost of repairing such fence in equal proportions. Either owner may give notice in writing to the other or his agent to assist in repairing such fence and on neglect or refusal of such lastly mentioned owner or his agent so to do for the space of seven days the owner who shall have given such notice may cause the same to be repaired and made a sufficient fence and shall be entitled to recover from the other owner half the costs thereof. Provided however if any fence or any portion thereof shall be destroyed by any accident fire falling of timber or otherwise the occupier of land on either side may immediately repair the same without any notice and shall be reimbursed half the expense of so doing in manner herein provided.

Owners of land liable for cost of repairs.

6. In all cases where the dividing fence shall be a live gorse fence the occupiers of the adjoining lands shall each duly trim and keep in order the side of the fence next their own lands and in the event of either of them neglecting to do so then after seven days' notice in writing it shall be lawful for the other owners or occupiers to trim and keep in order such fence at the expense of the party so neglecting. For the purpose of making or repairing any boundary fence or for trimming any live gorse fence it shall be lawful for the occupier or owner of any land or any person duly authorised by him from time to time to enter upon that of the adjoining occupier or owner and no action shall accrue to such adjoining occupier or owner by reason of such entry or entries for the purpose of making or repairing any fence.

Live Fences to be trimmed.

7. In case any dividing fence shall be destroyed or injured by reason of the falling of timber thereon or the firing of scrub fern toittoi gorse or flax the owner or occupier of the land on which such timber scrub fern gorse toittoi or flax shall be standing or growing shall be liable to the whole expense of repairing such fence. Provided that to make such owners or occupiers liable under this clause it shall be necessary to prove that such owners or occupiers had neglected after due notice been given in writing to clear such timber scrub gorse toittoi fern or flax from off his or their lands adjoining such dividing fence to the distance of at least half a chain.

Fences destroyed &c. to be made good.

8. No fence erected after the passing of this Act shall be considered a sufficient fence unless it consists of morticed posts and four rails the top rail whereof shall not be less than four feet from the ground or shall if it be made in any other way be equal in efficiency to such a fence and after the 1st day of June 1871 no fence shall be considered a sufficient fence unless made in accordance with the provisions of this Act.

Definition of sufficient Fence.

9. When any stream or ditch being less than half a chain in its average width which does not form a sufficient fence shall divide two properties and the owner of the land on one side of the stream or ditch shall after having given the requisite notice to the owner of the land on the other side of the stream or ditch have erected a fence on his own land for half the distance between the said properties and the owner of the land on the opposite side shall have refused or neglected to complete a dividing fence by erecting a fence on his own land for the other half of such distance then it shall be lawful for the owner of the land who shall have given such notice and erected such fence as aforesaid and his workmen to enter upon the land on the opposite side of the stream or ditch and erect or cause to be erected thereon a fence in continuation of the fence he shall have erected on his own land for the remainder of the distance between his land and the land on the opposite side of the stream or ditch and connect the said fences in such a way as occasion may require and he may deem most advisable.

Provision in case of stream dividing properties.

10. If the owner or occupier of any lands either before or after the passing of this Act shall have planted upon any dividing line a live fence the owner or occupier so planting and rearing such live fence shall be enabled to recover from the adjoining occupier or owner half the expense of planting and rearing such dividing fence so soon as the same shall become a sufficient fence between their respective lands within the intent and meaning of clause 8 of this Act. Provided always that any sum which may be so recovered shall not exceed the sum of fifteen shillings per chain and the notices as hereinbefore required to be given shall not be deemed requisite nor apply to the planting of live fences.

Provision in case any owner shall rear live fence.

11. When the owner of any land who shall have erected or shall be desirous of erecting a fence dividing his own from the adjoining land cannot after due enquiry ascertain who is the owner of such adjoining land or when the owner of any adjoining land shall be absent from the Province or when such owner or his agent cannot be found the insertion in a newspaper published in the district in which such land is situate and if no newspaper be published in such district then in a newspaper published in the City of Wellington of a notice addressed to the owner of such adjoining land requiring him to make or assist in making such fence shall be a sufficient requisition or notice for the purposes of this Act and the owner giving the same may proceed to erect or complete such fence and be entitled to recover half of the value of making completing or repairing the same fence or any portion thereof in like manner as if such requisition as aforesaid had been given to and received by the owner of such adjoining land. Such insertion shall be made for four successive weeks if the newspaper be published weekly for two successive numbers if published once in every fourteen days. In case the district newspaper be published at longer intervals than fourteen days the notice shall be inserted for four successive weeks in a newspaper published in Wellington. No such notice or insertion shall be necessary where assistance or contribution towards repairing any fence shall be required.

Provision in case owner be absent or cannot be found.

Limit of amount to be recovered. 12. The amount to be recovered under this Act for either making or repairing any fence shall in no case exceed a sum equal to the half of a fair contract price for erecting a post and four rail fence.

FOR DETERMINING WHO IS THE PROPER PERSON TO CONTRIBUTE TOWARDS THE EXPENSE OF MAKING OR REPAIRING ANY FENCE.

When occupier of freehold liable. 13. Where land shall be in *bona fide* and beneficial occupation but the occupier thereof shall not have a greater interest therein than for two years from the time when a contribution towards making any dividing fence shall be demanded the occupier of the freehold shall be the party liable to contribute towards the expense of making any such fence as aforesaid. And the owner of such land shall at the expiration of the lease of such occupier pay to such occupier a sum equal to the value of the fence so erected at the time of the expiration of such lease.

Occupier liable for repairs. 14. The beneficial occupier for any period shall be the party liable to contribute towards the repairs of any fencing.

This Act not to affect existing covenant or contract. 15. Provided always that nothing in this Act contained shall avoid or affect any covenant contract or agreement relative to fencing existing at the time of the passing of this Act between any landlord and tenant.

Provision for arbitration. 16. In order to avoid the cost and inconvenience of summoning witnesses to a distant Court in all cases where there shall be natural boundaries and disputes or differences shall arise as to the sufficiency thereof for the purpose of fences or when any disputes or difference shall arise as to the amount of costs to be paid for completing or repairing any fence or the value of or of the sufficiency of any fence for the purpose of recovering contribution towards the making or erecting thereof or any part thereof such differences and all questions and disputes that may arise upon any other question whatsoever under this Act shall be referred to and determined by the arbitration of two persons one of whom shall be named by each party in difference and in case such arbitrators shall not agree upon the matter referred to them within one month it shall be referred to an umpire to be named by such arbitrators previously to entering upon the reference and the decision of such two arbitrators or their umpire shall be final and binding upon the parties in difference. The arbitrators or umpire as the case may be shall also have power to award by whom and in what proportions the costs of the reference shall be borne. If either of the parties in difference shall neglect or refuse for the space of one month after notice in writing shall have been given to him or left for him at his usual or last known place of abode to name an arbitrator it shall be lawful for the arbitrator named by the party giving or leaving such notice to make an award upon his own judgment and such award shall be as conclusive as if the party refusing or neglecting had named an arbitrator who had joined and concurred therein.

Notices how and when to be given. 17. All notices given under this Act shall be given in writing previous to the commencement of any of the work as herein authorised to which they respectively relate and no person shall be compelled to erect or construct any of the fences or work for which such notices are given till the parties giving such notice shall have performed his share of the work for which they are respectively given.

Interpretation clause. 18. In the construction of this Act the word "owner" shall be taken to include the tenant in fee-simple a tenant in tail a tenant for life and a tenant for any term of years not being less than two years subject to the enactments referring to the persons liable to contribute to the making or repairing of fences.

Short Title. 19. The Short Title of this Act shall be "The Fencing Act, 1867."

THIRD SCHEDULE.

Title. AN ACT to Amend and Consolidate the Laws relating to District Highways.
June 11th, 1867.

Preamble. BE IT ENACTED by the Superintendent of the Province with the advice and consent of the Provincial Council thereof as follows :—

Certain Acts repealed. Proviso. 1. The Acts of the Provincial Council Session III. No. 4. Session IV. No. 16 Session IX. No. 10 Session X. No. 4 and Session XIII. No. 4 are hereby repealed Provided that all Districts already proclaimed shall continue such for the purposes of this Act till altered under the provisions hereof. And all Wardens elected under such mentioned Acts shall after the passing hereof be and become Wardens under this Act and shall hold office as such Wardens till the expiration of the term for which they were originally elected and they may exercise all the powers of this Act for the purpose of levying and collecting rates already imposed and for carrying into effect anything partially executed under the repealed Acts or for the election of and transfer of their powers to a new Board of Wardens to be elected under this Act at the expiration of their term of office

or for the convening of meetings of ratepayers or for the performance of any other thing authorised to be done under this Act as fully as if they had been originally elected Wardens under this Act.

2. In the construction of this Act the word "Highways" shall signify road bridge cartways horseways bridleways causeways footpaths and all other works forming part thereof or being accessory thereto. The word "Board" shall mean "Board of Wardens for the management of Highways" the word "owner" shall mean any person other than the occupier having any interest in the land rated and when by this Act any notice or other document shall be directed to be posted it shall signify "conspicuously posted in some public place" within the district to which such notice or document shall relate. Interpretation clause.

3. The Superintendent with the advice of his Executive Council may for the purposes of this Act from time to time by Proclamation divide the Province or any part thereof into districts and may in like manner sub-divide alter or reunite the same. Provided always that in case of any alteration being proposed in the boundaries of districts already proclaimed six months notice shall be given in the Government Gazette and at least one newspaper published in the Province of the intention to issue such proclamation and the various boards affected shall be communicated with in order to obtain an expression of the opinion of the ratepayers of such districts. Power to Superintendent to proclaim Districts.

4. Every person who shall have to his own use in any proclaimed district a freehold estate not let for two years and upwards or a leasehold estate not underlet for two years or upwards and every occupier of land within such district shall be a qualified voter for the district for the purposes of this Act. Provided that no rate-payer shall be allowed to vote at any meeting general or special unless he shall have paid all rates which may have been assessed on him or on his land in this district. Qualification to vote.

5. Any Justice of the Peace of any proclaimed district upon the requisition of any five such voters shall (by notice posted and inserted four times at least in some newspaper published within or as near the district to be called "the first annual meeting" who having met at some convenient place within or near the district shall in the first place elect a Chairman in the second place elect a Board of Wardens in the third place fix the amount of the rate to be levied severally for the construction repair and maintenance of the Highways of such district and in the fourth place shall appoint two Auditors of accounts provided that no member of the Board shall be eligible to be an Auditor. And it shall be lawful for any Justice of the Peace at any time on the requisition of five voters of the district to convene a general meeting of the voters such meeting to be called by notice posted and inserted four times at least in some newspaper published within or as near the district as may be and to be held at some place within the district at which meeting the voters may in case no Board of Wardens shall have been legally elected or a valid rate imposed at any annual or previous meeting elect a Board of Wardens or impose a rate and do and determine any other act matter or thing which may be necessary or expedient for the purpose of carrying out any of the provisions of this Act. First annual meeting how to be summoned.

6. At all meetings held in pursuance of this Act the Chairman shall have an original and casting vote and every question shall be decided by a majority of votes every voter must be present in order to enable him to record his vote or votes and the number of votes to which each voter is entitled shall be calculated according to the Schedule of this Act but in all meetings of the Board each Warden shall only have one vote except the Chairman who shall have an original and casting vote. Regulation of voting at meetings.

7. The Board shall consist of not less than four nor more than six persons being such qualified voters as aforesaid. Each of them shall hold office for two years from the day of his election or till he shall die become bankrupt or insolvent a public defaulter or a convicted felon or shall cease to be qualified as a voter for the district or shall resign or shall not have attended any meeting of the board for three consecutive meetings held at intervals of not less than one month or shall directly or indirectly be interested in any contract under the Board and if from any such cause the Board shall be reduced to less than four members the surviving or continuing members shall so often as the same may happen by notice given as aforesaid convene a meeting of voters who shall forthwith by election fill up the vacancies and the person so elected shall hold office until the following general election of Wardens. The names of the Board when elected and of all persons elected to supply vacancies therein and of the Chairman shall be communicated by the Chairman to the Provincial Secretary who shall publish the same in the Government Gazette. Board how constituted. Names of Board to be published.

8. Three members of the Board shall be a quorum but no business shall be transacted by any Board unless at a meeting summoned by written notice under the hands of two Wardens or of the Chairman of the Board and left at the usual place of abode of every other Warden at least three clear days before such meeting. Provided that when all the members of any Board consent such Board may transact business at any meeting fixed unanimously without being summoned by written notice left at the usual place of abode of every Warden at least three clear days before any such meeting. Number of Quorum. Board how to be summoned.

9. The Wardens shall so soon as may be after their election chose one of their body to be their Chairman who shall hold that office till the termination of the two years for which the Board shall have been elected unless he shall die resign or become disqualified for the office of Warden as aforesaid in which case the surviving or continuing Wardens shall forthwith elect another Chairman and so from time to time as occasion may require. Board to elect Chairman.

- Duties of the Board** 10. The duty of the Board shall be to make maintain and repair all highways other than main roads within the district and generally to carry the provisions of this Act into effect. Whenever any road district shall have been proclaimed and any roads constructed within it out of funds contributed wholly or in part by rates levied on the land within that district it shall thenceforward be the duty of the Board to maintain all such roads in an efficient state of repair. The Board may at any time call a special meeting of the ratepayers for the purpose of imposing a rate to repair any accident which may have occurred to a road within the district or for any other purpose requiring immediate attention one weeks notice of such meeting being posted in the district and the ratepayers at any such meeting may fix and impose and the Board of Wardens may assess and levy the rate so fixed in such and the same manner as they are hereby empowered to fix impose assess and levy a rate fixed at any annual meeting. Should the Board fail to keep the roads in the district in an efficient state of repair it shall be competent for any three qualified voters within the said district whose land shall have been theretofore taxed for the construction of any such road to summon the Chairman of the Board to appear before the nearest Bench of Magistrates who are hereby empowered after hearing the case to make out an order to the said Chairman to have the requisite repair made without further delay. Should the Board fail to comply with this order the Superintendent may withhold any contribution to such Board until the necessary repairs shall have been effected by them. Should the ratepayers neglect to appoint a Board or refuse to impose a rate the Superintendent is authorised to impose and cause to be levied on the lands of such district a repairing rate not exceeding ninepence per acre and expend the same on the said repairs. Such rate to be levied in accordance with the proportions that may have been heretofore fixed by the Board to be levied on the respective lands of the district.
- Power to Superintendent to act in case of Board neglecting.** this order the Superintendent may withhold any contribution to such Board until the necessary repairs shall have been effected by them. Should the ratepayers neglect to appoint a Board or refuse to impose a rate the Superintendent is authorised to impose and cause to be levied on the lands of such district a repairing rate not exceeding ninepence per acre and expend the same on the said repairs. Such rate to be levied in accordance with the proportions that may have been heretofore fixed by the Board to be levied on the respective lands of the district.
- Contracts or legal proceedings to be in the name of or against Chairman.** 11. All contracts appointments and other matters authorised by any resolution of the Board shall be entered into made and done by the Chairman on behalf of the Board and shall thereupon be taken to be the acts of the Board and all suits or other legal proceedings other than for the recovery of rates by or against the Board shall be in the name of or against the Chairman thereof and if no Chairman then in the name of or against any one of the Wardens but execution shall only be levied on the effects of the Board and shall not in any manner charge or affect the person or private property of the Chairman or other member of the Board. It shall be sufficient in all cases to describe the property of the Board as such and no suit or other proceeding against the Board shall abate or be otherwise affected by any change of the members of the Board or the Chairman thereof.
- Board to keep minutes.** 12. The Board shall keep minutes of its proceedings and accounts of all monies paid and received by it during the year and the accounts shall be audited by the Auditors who shall submit the past years accounts as audited to every successive annual meeting of the ratepayers before they are called on to vote any fresh rate.
- Money papers &c. to be handed over to new Board.** 13. All balances of money assets books and papers belonging to the Board shall at the expiration of their term of office be handed over to the Chairman of the new Board immediately on the election of the latter.
- Annual Meeting of voters to fix rate.** 14. There shall be an annual meeting in every district at such time and place as the Board shall fix notice thereof being given by the Board by posting and advertisements in some newspaper published in or near the district if such there be at least one month before the day of meeting. At which annual meeting the voters shall fix the amount of the rates for the construction maintenance and repairs severally of the roads in the district during the ensuing year not exceeding one shilling per acre for construction and ninepence for maintenance and repairs as the majority of voters present at the meeting may decide and transact all other business necessary to be done at such meeting under this Act.
- At alternate Annual meeting new Board to be elected. Rates how to be levied and adjusted.** 15. At every alternate annual meeting a new Board shall be elected the members of the old Board being eligible for re-election.
- Lands exempted from rate and limitation of rate.** 16. The Board of Wardens shall assess and levy the rates upon the land within the district in the form of an acreage rate but not necessarily a uniform acreage rate and may assess and levy the same at such rate per acre not exceeding the sum of one shilling for construction and ninepence for maintenance and repairs as to the Board may seem equitable with full power to exonerate either wholly or in part any land from such rate.
- Notice of assessment how to be given.** 17. The rates may be levied on all lands within the district except demesne of the Crown lands granted to or set apart for Aboriginal Natives unoccupied or in their own occupation or lands excepted by Proclamation of the Superintendent and that whether the same shall or shall not have been surveyed or granted.
- Board to appoint Treasurer and Collector—their duties.** 18. The Board shall assess the rates imposed as aforesaid on the land liable to the same and post a statement of such assessment specifying the names of the ratepayers so far as the Board can ascertain the same the amount payable and the number of acres for which the same is assessed in each case and shall append to such statement notice of some place within or near the district and some time not less than fourteen days after the posting thereof when and where all objections to such assessment shall be heard and determined by the Board.
19. The Board shall appoint a Treasurer and a Collector to collect all rates imposed under this Act and pay the same over so soon as practicable after they are collected into the hands of the Treasurer who shall hold all moneys until appropriated by the

Board It shall be the duty of the Board to take sufficient security from the Collector.

20. All rates levied under this Act shall be paid on demand to the Collector by the occupier or if there be no occupier by the owner of the rated land and shall be recoverable by summary proceedings at the suit of the Collector or by distress of chattels on the premises made by the Board or Bailiff appointed in writing. But if any such rate or part thereof with the cost of recovering the same cannot be recovered by such proceedings or distress for the space of one month after posting of the assessment the same shall be recovered as directed by the "Sale for Non-Payment of Rates Act 1862."

21. In any proceedings to levy and recover or consequent upon the levying or recovering of any rate under the provisions of this Act if any error in the assessment so far as the quantity of land assessed shall appear the burden of proof that the quantity assessed is in excess of the quantity of land held by the owner thereof shall be with such owner and the notice in the Government *Gazette* of the appointment of Wardens shall be sufficient evidence of their appointment and the book of rates of the Board and all entries made therein by the production thereof and without any evidence of the notices and other requirements of this Act having been given or complied with or proof of the signature of the Wardens whose names appear subscribed therein shall be received as evidence of such rates and of the contents thereof and a map or plan certified by some Surveyor to be a true map or plan of the District shall be sufficient evidence of the boundaries of such district. In all cases whenever a distress is lawfully authorised by the warrant to levy any sum mentioned therein shall upon being required by the collector aid in making a distress or sale pursuant to such warrant.

22. When the Board shall intend to make any new or divert any existing highway or construct any work connected therewith it shall respectively have power to enter any land for the purpose of enabling it to accomplish its object and shall make and deposit at the office of the Provincial Secretary a survey plan and section of the intended works and a book in which shall be recorded the names of the owners or occupiers of the land on which such highway is or is intended to be with an estimate of the expense thereof and of the land required for the same and a statement of the amount of compensation proposed to be paid to each of the owners and occupiers of such lands both in respect of the value of the same and also of the damage (if any) done to the adjacent lands of any person by severance or otherwise and where the owner and occupier are not the same person distinguishing the amount of compensation payable in respect of the interest of each. The Board shall also deposit at the house or office in which it usually meets to transact business duplicate survey plans section books and estimates which shall be open for inspection at all reasonable hours. The above mentioned original documents shall be open for inspection and extract without charge at the office of the Provincial Secretary at all usual office hours and notice of the same being so deposited shall be inserted in the Government *Gazette* and a notice of the same tenor and date shall be published in one or more of the local papers by order of the Provincial Secretary and a place and time not less than one month from the publication of such *Gazette* shall be fixed for a meeting of the Board to whom any person whose property is affected by such intended work may send in writing any objections or suggestions relative to such works or to the amount of compensation proposed to be paid to such persons and may attend at such meeting personally to enforce such objections or suggestions.

23. If any such owner or occupier shall not be satisfied with the amount of compensation proposed to be paid to him and cannot agree with the Board in respect thereof he may at the meeting of the Board lastly mentioned give notice in writing that he desires to refer the matter to arbitrators naming one person in such notice as the arbitrator on his behalf and thereupon the matter shall be referred to the arbitrament of such person and one other chosen by the Board and a third by the two so chosen and such referees shall have power to call for and examine any documents relating to the land in question and to examine witnesses on oath to be administered by any one of them and the award of such referees or any two of them being put in writing and signed shall be final and the same shall be filed in the Supreme Court and upon application by either party be made a rule of Court provided that if either the Board or owner or occupier fail or neglect to appoint an arbitrator for a space of one month from the day of meeting of the Board fixed for receiving objections then the Superintendent shall have power to appoint an arbitrator or arbitrators as the case may be.

24. If a larger amount of compensation shall be awarded than was assessed by the board it shall pay all the costs of the reference. If the same or a less sum shall be awarded the party disputing the assessment shall pay the costs. Such costs in every case to be subject to taxation if required by either party by the Registrar of the Supreme Court and if payable by the Board may be paid out of the rates levied under this Act if payable by the other party may be deducted by the Board out of the amount of compensation if any awarded by the referees or may be recovered by legal process summons or otherwise according to the amount.

25. When any land required by the Board shall be owned by a person having only a partial or qualified interest in the freehold or by a married woman infant idiot lunatic or by a trustee or other person without power to sell the amount to be paid for such land shall be settled by arbitration as hereinbefore provided and the person entitled to receive the rents the guardian committee or trustee as the case may be shall be the party entitled to appoint referees and conduct the reference and the purchase money

Rates how to be recovered.

Rates how to be levied and recovered.

Board may enter on any lands required in the making or diverting of any road—in such case Board how to act owner of land so affected how to act.

Owners or occupiers dissatisfied with amount of compensation how to act.

With respect to cost of arbitration by whom payable.

In case the owner of such land be a married woman infant &c. who to appoint arbitrators.

compensation to be paid for any land taken from any such party shall be deposited in the Treasury of the Province and on the petition of any person interested therein be applied or paid as the Supreme Court at Wellington may direct. The cost in all such cases shall be paid by the Board.

In case owner of land not resident in Province the Superintendent to appoint an agent to act for him.

26. When any land shall be required for the purposes aforesaid the owner whereof shall not be resident in the Province the Board shall advertise their intention of taking such land twice in some newspapers published within the Province calling on any agents of such owner to appear and act in the matter and if no agent shall appear within one week after the second insertion of such advertisement the Superintendent may appoint some person to act as such agent for the purpose of determining the compensation to be paid to such owner and his acquiescence or reference to arbitration shall bind the owner. The amount agreed upon or decided by arbitrators less the reasonable costs of such agent shall be paid into the Provincial Treasury to the creditor of the owner of such land who shall be entitled to receive the same with interest on demand.

Before commencing works Boards to satisfy Superintendent that there is no opposition thereto.

27. Before commencing the works of any such highway as aforesaid the Board shall lay before the Superintendent a statement of all objections or suggestions which may have been made to them as aforesaid and shall satisfy him that the several persons on or over whose land it is purposed to construct the same have consented to the direction of any proposed new line of road and have either acquiesced in the assessment of compensation made by the Board or have had the amount thereof settled by arbitration under the provisions hereinbefore contained. And thereupon the Superintendent may in writing authorise the Board to construct the intended works and they may enter upon the lands proposed to be taken by them and lay off the site of such works after which the said lands shall become a public highway and vest in the Board for the purposes of this Act.

Right of road reservation under Crown Grant.

28. When a right of making roads shall have been reserved without the lines of roads having been defined and laid down by the Crown in the Grant of the land through which any road shall be made such reservation shall apply to one principal road and one cross road and no more.

Provision for private footway or horse path

29. No road or occupation way made or hereafter to be made by or at the expense of any individual or private person body politic or corporate nor any road already set out or to be hereafter set out as a private footway or horsepath shall be deemed or taken to be a highway which the inhabitants of any district shall be compellable or liable to repair unless the person body politic or corporate shall give three calendar months notice in writing to the Board of his intention to dedicate such highway to the use of the public describing its situation and extent and shall have made or shall make the same in a substantial manner and of the width of 33 feet at the least and to the satisfaction of the Board and after the said highway shall have been used by the public and duly repaired and kept by the said person body politic or corporate for the space of twelve calendar months such highway shall for ever thereafter be kept in repair by the Board. Provided nevertheless that if the said Board shall not deem the said highway of sufficient utility to the inhabitants of the district to justify its being kept in repair at the expense of the district the said Board may so determine and refuse to accept the dedication of the said highway to the public and keep the same in repair.

Reserved roads manner in which Superintendent or Board are empowered to deal with them.

30. When any road shall have been or shall be reserved by the New Zealand Company the Crown or the Provincial Government over any lands held under a Crown Grant and not included within the limits of any proclaimed road district it shall be lawful for the Superintendent by writing to authorise the owner of the land over which the same shall pass to occupy and use such road for pastoral purposes only as if it were part of the land belonging to such person and to erect gates across such road whereon the same may be crossed by any fence provided that such gates be so hung and fastened that any traveller on horseback can conveniently open and shut the same without dismounting. The Board shall also have the power of erecting gates across any road within the limits of any proclaimed district subject to such special regulations as they might find suitable to the state of the traffic.

All right to lay off new lines of road, in established Road Districts, to cease under certain provisions.

31. Whenever the Board of any district which shall have been proclaimed a road district under this or any former Act for a period of eight years shall have passed a resolution to the effect that no additional lines of road are required within the district beyond those already laid off surveyed and proclaimed as hereinafter provided for all right to lay off any new lines of road within the district that may have been created in consequence of certain allowances in land given for roads under any land regulations shall cease and determine provided that a copy of such resolutions shall have been first submitted to and approved of by a majority of the rate-payers at a meeting specially convened for the purpose and another copy thereof so approved and signed by the Chairman of the Board shall have been forwarded to the Provincial Secretary for publication in the Government *Gazette*. Provided further that a period of six months shall elapse after the said publication in the Government *Gazette* before this clause shall take effect in order that the Government may have notice to provide if necessary access through such proclaimed districts to any back country and in order that the situation and direction of all existing roads may be better ascertained and determined it shall be the duty of the Board to have all the roads under their management within the district accurately surveyed with a plan thereof lodged in the Crown Lands Office.

32. Should any such plan not be found sufficiently accurate by any Government Surveyor appointed to examine the same the Crown Lands Commissioner may order the Board to have a more accurate survey made. Power to Crown Lands Commissioner to order accurate surveys.

33. Should the Board neglect or delay to perform this duty the Superintendent may withhold any contribution of money in aid of any such Board until a proper survey shall have been made and lodged. So soon as convenient after such survey plans have been lodged as above directed the Superintendent shall issue a Proclamation in the Government Gazette proclaiming all roads to be public highways. If order neglected by Board, Superintendent how to act.

34. Before any owner or occupier of land abutting on such proclaimed road shall proceed to fence he shall give one month's notice in writing of his intention to the Board. Notice of intention to fence to be given.

35. Whenever for any of the purposes of this Act any fencing shall be interfered with whether temporarily or permanently the land protected by such fencing shall be as securely protected by fencing to be made by and at the expense of the Board as it was before. Board to replace fencing.

36. When any new road shall be constructed through any lands previously enclosed by a substantial fence as required by the Fencing Act the Board before opening the same to the public shall fence with a good and substantial fence both sides of such road so far as it shall run upon such fenced lands. Provided always that the Board shall not be called upon to fence any line of road laid off under the provisions of Clause 29. Board to fence both sides of new road.

37. The Board may enter upon any land near to any highway in course of construction or repair (not being a garden orchard yard or ornamental pleasure ground) and use the same as a temporary road and also may in such land seek for take and carry away any materials required for repair of such highway and also therein may construct any drains or necessary works in connection therewith. Provided that when such land shall be occupied but not otherwise the Board shall at least one week before so doing serve upon the owner of such land or his agent or the occupier thereof notice of their intention so to do and shall when such materials have been taken fill up or securely fence off all holes pits or cuttings and efface as nearly as may be all irregularities and damage done by using such temporary road or by taking such materials and shall pay to the owner or his agent or the occupier (according to the character of the damage) the value of the materials taken and injury done to the premises as may be agreed upon between them or if they cannot agree then as may be awarded by arbitration in like manner as hereinbefore provided in case of land taken for a new highway. And provided also that the Board shall not in seeking for or taking such materials divert or dam up the course of any stream or damage the banks thereof so as to cause it to overflow or injure any building road or ford or take materials out of the bed of any stream within 150 feet of any bridge. Power to Board to enter on land for materials for repairing road.

38. If any tree growing on land adjoining any highway shall be injurious to the same by overhanging it shall be in the power of the Board to require the owner to lop all that portion of such tree so overhanging such highway if any tree growing on land adjoining any highway be dangerous to passengers thereon or shall fall thereon from such land the Board may require the occupier of such land or the owner if it be unoccupied to remove the same within two days after notice in writing left at the usual place of abode of such occupier and if such tree shall not be removed accordingly the Board may remove the same at the costs of such occupier or owner to be summarily recovered. With respect to dangerous trees, Board how to act.

39. It shall be lawful for the Board at any time to discontinue the whole or any part of any highway either as being unnecessary for the convenience of the public or because a better highway can be substituted and on giving three months' notice of their intention so to do by posting and publishing in the Government Gazette (in the former case) and on giving such notice and opening such substituted road for public use (in the latter case) the original highway shall cease and the owner or owners of the land over or adjoining which the same may be may take possession of the same on paying to the Board such price as may be agreed upon between them or if they cannot agree as may be assessed by arbitration in like manner as in the case of a disputed assessment hereinbefore provided and a conveyance by the Chairman of the Board of Wardens shall vest the same in the purchaser free from incumbrance. But in case the owner of the land adjoining shall decline to purchase such abandoned highway the Board may sell the same to any other person. Power to Board to dispose of any disused Highways.

40. Any person convicted of the following acts and omissions shall be offenders under this Act and all persons convicted thereof shall be liable to the penalties severally attached thereto. Penalties for certain acts and omissions under this Act.

1. Wardens or their servants or any contractor or other person engaged in repairing road in use leaving stones or other things on such road at night or unprotected holes therein so as to endanger life or limbs. Penalty not exceeding five pounds.
2. Any person obstructing or attempting to obstruct Wardens or persons authorised by them in the performance of anything under this Act. Penalty not exceeding forty shillings.
3. Any person wilfully damaging or destroying highway or any other work connected therewith shall be liable to double the amount of the damage done to be recovered on information of the Board.
4. Suffering any horse ass mule cattle sheep goats or swine to be at large on the highway. Penalty to be commuted according to the rates per head fixed in the

Schedule to the Impounding Act to be recovered on the information of the Board or any constable or the same may be impounded by the Board or any person authorised by it in writing.

Penalties how to be recovered.
 Auctioneer not liable to penalty.
 Commencement of Act and Short Title.

- 41. All penalties imposed by this Act to be recovered summarily.
- 42. The Sheriff or any other person effecting any sale by auction under this Act shall not be liable to a penalty although he may not be licensed as an auctioneer.
- 43. This Act shall come into operation from the passing thereof and may be referred to as the District Highways Act 1867.

SCHEDULE.

Under 200 acres 1 vote
 200 and upwards, to 500 acres 2 votes
 And for every additional 500 acres up to 3000 acres 1 vote for each 500 acres.

FOURTH SCHEDULE.

- 1. An Act to provide for the making and maintaining of Roads and other Public Works in the Province of Nelson. April 3, 1856.
 - 2. An Act to make better provisions for making and maintaining Roads and other Public Works in the Province of Nelson. Assented to May 13, 1858.
 - 3. An Act to Amend the Nelson Improvement Act, 1856, and to repeal the Nelson Improvement Amendment Act 1857. Assented to May 13, 1858.
 - 4. An Act to provide for the Improvement of the Town of Picton. Assented to May 28, 1862.
 - 5. An Act to amend the Picton Improvement Act. Assented to October 2, 1863.
 - 6. An Act to provide for the Improvement of the Town of Blenheim. Assented to December 19, 1864.
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