

New Parliament.

Hon. Mr. Richardson.

PUBLIC WORKS ACT AMENDMENT.

ANALYSIS.

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A BILL INTITLED

AN ACT in further Amendment of "The Public Works Act, 1882." Title.

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

5     **1.** The Short Title of this Act is "The Public Works Act 1882 Amendment Act, 1884." Short Title.

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

10     **2.** The said Act is hereby amended as follows:— "The Public Work Act, 1882," amended.

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

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

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

Description of land taken for public works.

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 Subsection one of section eleven of the said Act is hereby repealed, and in lieu thereof the following is hereby substituted:—

The Minister, or the local authority, shall lay before the Governor a memorial containing a list of the lands proposed to be taken, together with a map showing accurately the position and extent thereof. 5

Plantations, &c., not excepted from being taken for public works.

4. Section twenty of the said Act is hereby amended by the omission therefrom of the words "plantation or ornamental park or pleasure ground, or the cutting or injuring of any ornamental tree or shrub," and the said section shall be read as if the said words had not been originally inserted therein. 10

As to compensation for land taken in mining districts.

5. Where land is taken for any public work in a mining district or a gold-mining district, the value of the gold or other minerals in or on such land shall not be taken into account in determining the compensation to be paid to any person who may be entitled to compensation by reason of such taking. 15

Awards of costs in compensation cases.

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

The Court shall fix and determine the amount of the costs of the inquiry as between party and party, and shall include the same in their award, and shall direct by whom such costs shall be paid. 20

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

The Court may in any case declare that no costs shall be awarded, and the fact shall be stated in the award. 25

#### ROADS.

Road dividing two boroughs to be maintained at mutual cost.

7. When a road lies lengthwise on the boundaries of two boroughs or of a borough and town district such road shall be constructed and maintained by the two boroughs or borough and town district respectively, on such terms and conditions as may be mutually agreed upon, and, failing such agreement, the Resident Magistrate of the district in which the road is may determine what portions of the road shall be constructed or maintained by each of the boroughs or borough and town district respectively, or that the whole shall be constructed or maintained by one borough or town district, and that the other borough or town district shall pay a certain proportion of the cost thereof: Provided always that no change shall be made in the levels of any road abutting on two boroughs or borough and town district without the consent of both the boroughs or of the borough and town district. 30

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

8. When, in order to lay out any new street, or divert, alter the course of, or extend or widen any existing street, the Council shall deem it expedient to acquire more land on either or both sides of such proposed street or extension, widening, or diversion than is required for such proposed street, extension, widening, or diversion, the Council may take such land in accordance with the provisions contained in sections one hundred and seventy-nine and one hundred and eighty of "The Municipal Corporations Act, 1876," and any enactments in amendment of the aforesaid sections, but subject to the limitation contained in section one hundred and eighty-two of the Act last aforesaid. 35 40 45 50

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

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

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

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

20 But the half cost of constructing or maintaining any such bridge, ferry, or ford may be recovered in any Court of competent jurisdiction, in the first case by the County Council from the districts on either side, and in the second case as a debt due to Her Majesty from the

25 counties on either side, or by the County Council having such control from the other county, or the local authorities substituted in the place of the County Council thereof, or by the local authority having the control of such bridge, ferry, or ford, from the local authorities on either side, as the case may require.

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

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

40 in proportion as he may deem them respectively to benefit from such bridge, ferry, or ford.

45 11. Where there is a bridge, ferry, or ford across a river at a point where the two banks of the said river are situate within the boundaries of the same county, road district, or borough respectively, and the Minister shall be satisfied that it would be unreasonable that the local body of such county, road district, or borough respectively should bear and defray the whole cost of maintaining or repairing the same, the Minister may appoint any local body of any adjacent county, road district, or borough respectively to have the control of

50 such bridge, ferry, or ford, and to be charged with the cost of maintaining or repairing the same, or may apportion such cost between the said local body or bodies of the adjacent county, road district, or borough, or some of them, in such manner as he shall think fair and just, and may, nevertheless, appoint any one of such local bodies to have such control.

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

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

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

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

Recovery of cost of maintenance.

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

Road Boards to pay cost where Counties Act suspended.

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

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

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

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

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

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

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

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

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

- (1.) To remove any part of a tree, or lower or trim any part of a hedge, overhanging a road or street so as to injure it; or

(2.) To clear away and destroy, within the above-mentioned limits, all obstructions to traffic arising from the growth of gorse, sweetbriar, bramble, or broom upon such road or street.

5 In the event of any such occupier or owner failing to comply with such order within one month from the receipt thereof, he shall be liable to a penalty not exceeding five pounds for every day during which such order is not obeyed, and a further sum equal to the cost incurred by the local authority in removing such tree, or lowering or  
10 trimming such hedge, or grubbing up and removing such gorse, sweetbriar, bramble, or broom.

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

15 Permits any horses or cattle to be at large, or without proper guidance, or to wander, or be herded, or grazed upon any road.

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

17. Where any local authority proposes to stop or divert any road, a copy of the notice required to be given in any such case shall be transmitted by the local authority for record in the office of the  
20 Chief Surveyor of the district; and no notice of the stoppage or diversion of any road shall take effect until such notice has been recorded as aforesaid.

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

18. Where there is any unused line of road not immediately required for public traffic, the Land Board may from time to time  
25 grant a license for the occupation thereof by any owner or occupier of land abutting thereon or contiguous thereto, or by any other person or persons, upon such terms as to the Board shall deem fit.

Unused roads may be occupied on license from Board or local authority, subject to rent.

30 Every such license shall be in writing, specifically describing the road to be occupied, and a record thereof shall be made in the office of the Board; and shall be granted only upon the payment by the applicant to the Board of a sum, by way of deposit, sufficient to cover all expenses likely to be incurred by such Board by, through, or in consequence of such occupancy, during the term thereof, or at  
35 its determination.

No such license shall be granted except it be made subject to the payment of rent, the amount whereof shall be in the discretion of the Board, during the whole term of occupancy, and that it shall be revocable by the Board at any  
40 time at a month's notice.

Every local authority having the control of any unused line of road as aforesaid shall have and may exercise, in respect of such road, the powers granted to the Board under this section, but subject only to the like conditions.

#### RAILWAYS.

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

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

50 (1.) Such land may be taken in the manner provided by section one hundred and thirty of the said Act, with the exception that subsections one and three of the said section shall

not apply, and that it shall be sufficient under subsection two of the said section to deposit a map of the land proposed to be taken without making any reference to the course of the line of railway; or

- (2.) Such land, or the estate or interest of any person therein, may be purchased or acquired in any other manner authorized by the said Act. 5

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

20. The power conferred upon the Minister by subsection one of section one hundred and thirty-one is hereby extended, and he is hereby authorized to make a railway in manner as is mentioned in the said subsection upon, over, or under any land lying within a distance of ten chains on either side of the middle line of the railway; and locomotive engines, carriages, and trucks of all kinds may be used and run over any land which forms part of the railway lying within the distance aforesaid. 10 15

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

Private level crossings.

21. Where the Minister, for the convenience of any person occupying land or premises adjoining to or near a railway, has granted such person permission to cross such railway on the level either on foot or with his horses, and carts, and cattle, such permission shall be deemed to be limited to the person to whom it was granted, and shall become *ipso facto* revoked upon his ceasing to occupy the land or premises in respect whereof the permission was granted. 20 25

This Act to apply to finished railways.

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

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

23. Any railway, or portion of a railway, may be opened for the public conveyance of passengers so soon as the Minister has intimated to the proprietors of such railway that the Governor has received a satisfactory report as to the construction thereof from the person appointed to inspect such railway, notwithstanding that the notices of such opening, required to be given by section one hundred and eighty of the said Act, have not expired. 30 35

Penalty for breach of order to postpone opening or discontinue working railway.

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

If any order made by the Governor under section one hundred and eighty-one of the said Act shall not be complied with by the proprietors of any railway to be affected by such order, such proprietors shall be liable to a penalty not exceeding the sum of two hundred pounds for every day during which such order is not complied with. 40 45

Repeals.

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