

Hon. Mr. Hall-Jones.

PUBLIC WORKS ACTS AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Amendments of interpretation clause in principal Act.</p> <p>3. Amendment of section 10 of principal Act.</p> <p>4. Appointment when Assessor resigns or refuses to act.</p> <p>5. Amendment of section 85 of principal Act.</p> <p>6. Amendment of section 102 of principal Act.</p> <p>7. Control and cost of road on boundary of borough.</p> <p>8. Apportionment of cost where road used principally by traffic from another district.</p> <p>9. Amendment of section 110, subsection (11), of principal Act.</p> <p>10. Removal of fences and other obstructions on roads.</p>	<p>11. Amendment of section 113 of principal Act.</p> <p>12. Minister's consent required to close road.</p> <p>13. Extended powers to make by-laws in respect of heavy traffic.</p> <p>14. Removal or lowering of trees overshadowing road.</p> <p>15. Or obstructing watercourse.</p> <p>16. Magistrate's order thereon.</p> <p>17. Provision to allow timber to be brought over private lands.</p> <p>18. Local authority may sell stone, &amp;c.</p> <p>19. Provision for compelling owner when subdividing land to provide and dedicate a public road to allotments sold.</p> <p>20. Governor may abolish toll-gates.</p> <p>21. Amendment of section 167 of principal Act.</p> <p>22. Powers of Governor over water-races.</p>
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A BILL INTITLED

AN ACT to further amend "The Public Works Act, 1894."

Title.

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

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1. The Short Title of this Act is "The Public Works Acts Amendment Act, 1900." It shall form part of and be read together with "The Public Works Act, 1894" (hereinafter called "the principal Act").

Short Title.

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2. Section two of the principal Act is hereby amended as follows:—

Amendments of interpretation clause in principal Act.

(1.) By inserting the words "or hospital" after the word "asylum" wherever the same occurs in subsection three of the definition of "Public work."

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(2.) By inserting, next after the words "The Education Act, 1877," in subsection four of the definition of "Public work," the words "or any Native school."

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3. Section ten of the principal Act, limiting the operation of certain portions of that Act, is hereby amended by inserting, next after the words "for railway or defence purposes," the words "or for roads in connection with such purposes."

Amendment of section 10 of principal Act.

4. The provisions of section sixty of the principal Act, in so far as they relate to Assessors, shall extend and apply, and be deemed

Appointment when Assessor resigns or refuses to act.

Amendment of  
section 85 of  
principal Act.

from the commencement of the principal Act to have extended and applied, to the case of an Assessor who resigns or refuses to act.

5. Section eighty-five of the principal Act, empowering the Governor to grant surplus land in lieu of compensation, is hereby amended by inserting the words "purchased or acquired" after the word "taken," wherever the said word occurs throughout the said section. 5

Amendment of  
section 102 of  
principal Act.

6. Section one hundred and two of the principal Act, prescribing the powers of the Governor in respect to roads, is hereby amended by inserting the following additional subsection next after subsection three thereof, that is to say,— 10

"(3A.) The Governor may, in like manner, declare that any road constructed by the Governor within the limits of a borough shall be under the control and management of the Council of the borough, and such road shall thereupon be deemed to be a street within the meaning of the first paragraph of section two hundred and thirty-one of 'The Municipal Corporations Act, 1886.'" 15

Control and cost of  
road on boundary of  
borough.

7. Section one hundred and eight of the principal Act is hereby repealed, and in lieu thereof it is hereby enacted that, where a road lies lengthways on the boundary of a borough, such road, whether included in whole or in part in such borough or not, shall be under the control of and shall be constructed and maintained by the borough, and with respect to every such road the following provisions shall apply:— 20 25

(1.) The cost of such construction and maintenance shall be borne by the Council of the borough and the local authority of every district of which such road is also a boundary, or which is benefited by the construction or maintenance thereof, in such proportions as may be mutually agreed upon. 30

(2.) If any dispute arises respecting the apportionment of such cost, such dispute shall be decided by the Governor, who may from time to time declare that the whole of such cost shall be borne by the Council of the borough, or may apportion the same among all or any of the local authorities concerned, in such manner as he thinks fit. 35

(3.) Prior to making such declaration or apportionment, the Governor may, if he thinks fit, appoint a Commissioner to inquire into the matter and report thereon, and such Commissioner shall have the powers set forth in subsection two, (d), of section one hundred and thirteen of the principal Act, or such other powers as the Governor thinks fit to confer. 40

(4.) The share, if any, of the cost to be contributed by any local authority as aforesaid may be recovered by the Council of the borough in any Court of competent jurisdiction. 45

Apportionment of  
cost where road  
used principally by  
traffic from another  
district.

8. In any case where a road in one district is largely used by or for the purpose of traffic to or from another district, and the Governor is of opinion that it is equitable that the latter district should contribute towards the cost of constructing or maintaining the whole or 50

any portion of such road in the former district, the Governor may from time to time apportion the cost of constructing or maintaining the whole or any part of such road among the local authorities of the respective districts as he thinks fit; and for that purpose, and to  
 5 enable effect to be given hereto, the provisions of section one hundred and fourteen of the principal Act shall, *mutatis mutandis*, apply.

9. (1.) The provisions of subsection eleven of section one hundred and ten of the principal Act, empowering Road Boards to enter upon certain lands and remove therefrom any stone, gravel, or  
 10 other material, shall extend and apply to any Native land of which the ownership has not been determined, and to any unfenced and uncultivated land which is unoccupied and the owner of which is unknown or cannot readily be found.

Amendment of section 110, subsection (11), of principal Act.

(2.) In any such case the notice referred to in the said subsection  
 15 shall be sufficient if it is legibly written or printed and is posted up in a conspicuous position at or near to the place from which it is intended to remove such stone, gravel, or other material.

(3.) Such notice shall be signed by the Chairman of the Road Board or County Council in the case of district or county roads, and  
 20 by some person on behalf of the Minister in the case of Government roads.

10. (1.) From and after the passing of this Act it shall not be lawful for any local authority to grant permission for the erection or placing of any gate, fence, or other obstruction across or upon any  
 25 road in general or frequent use for traffic with horses or vehicles, anything in any Act to the contrary notwithstanding.

Removal of fences and other obstructions on roads.

(2.) If at any time, upon petition of any ratepayer or ratepayers, it is shown to the local authority having the control of any such road as aforesaid that any gate, fence, or other obstruction erected  
 30 or placed upon or across such road is or has become a public inconvenience, such local authority shall forthwith serve notice in writing on the owner or occupier by whom or at whose instance the same was erected or placed as aforesaid, ordering the removal thereof within a time (not exceeding fourteen days) to be appointed in such  
 35 notice.

(3.) If after receipt of such petition the local authority declines or neglects to issue a notice as aforesaid, any ratepayer may, by complaint under "The Justices of the Peace Act, 1882" (the provisions whereof shall, *mutatis mutandis*, apply), require the local  
 40 authority to appear before a Stipendiary Magistrate to show cause why such notice should not issue.

(4.) On the hearing of the complaint the Magistrate, whose decision shall be final, shall decide whether such notice should or should not issue, and the local authority shall act accordingly.

(5.) If such notice is issued and served as aforesaid and default is made in duly complying therewith, the defaulting owner or occupier shall be liable to a penalty of *one* pound per day for every day during which such default continues, and the local authority or any ratepayer may remove such gate, fence, or other obstruction, and re-  
 50 cover from such owner or occupier as a debt the cost of such removal.

11. Section one hundred and thirteen of the principal Act, relating to the construction of bridges or ferries by local authorities, is hereby amended by adding the following subsections :—

Amendment of section 113 of principal Act.

“(4.) Any contribution due by any local authority under any warrant of the Governor already issued or hereafter issued under subsection two, (e), hereof in respect to any bridge which may be constructed by the Minister of Lands in pursuance of this Act, shall be deemed to be a debt due to Her Majesty, and, without affecting any other mode of recovery, may be deducted from any subsidies at any time payable by the Crown to such local authority. 5

“(5.) This section shall apply,— 10

“(a.) To any works in respect to which the whole or any portion of the moneys required for construction has been or may hereafter be voted by Parliament, and where the Minister is of opinion that it is reasonable that a proportion of the cost of the work should be contributed by any local authority whose district is benefited by the work, and for that purpose the Minister shall be deemed to be a local authority, and shall have all the powers of a local authority, under this section notwithstanding that he has no district. 15 20

“(b.) To the bridge over the Rangitikei River at or near the Township of Bull’s, notwithstanding that a contract may have been already accepted for it by the Government.”

Minister's consent required to close road.

12. Notwithstanding anything to the contrary in section one hundred and twenty-two of the principal Act (relating to the stopping of roads), it is hereby declared that no road shall be stopped under that section without the consent in writing of the Minister; but he shall not refuse his consent unless he is satisfied that the stopping of the road would cause inconvenience to the public. 25 30

Extended powers to make by-laws in respect of heavy traffic.

13. For the purpose of giving fuller effect to the provisions of section one hundred and thirty of the principal Act, relating to heavy traffic, the following special provisions shall apply:—

(1.) Any person authorised in that behalf by the Minister in respect of Government roads, or by any local authority in respect of roads under its control, may stop and detain any vehicle or machine which in his opinion infringes any by-law made under that section until the width of the tires or the weight of such vehicle or machine, and the load thereon, or the weight or measurement of the contents thereof, can be ascertained. 35 40

(2.) Any such by-law may prescribe the manner of ascertaining the weight or measurement of such contents by either weighing the same at any weighbridge or computing the weight or measurement from the cubical or superficial measurement of such contents or otherwise. 45

(3.) For the purpose of such computation such by-law may prescribe what quantity of timber, agricultural produce, mineral, or any material of any description whatever, shall be deemed to be of a specified weight or measurement, and such weight or measurement so computed shall be final and conclusive in any proceedings to recover a penalty for the breach of such by-law. 50

(4.) Any such by-law may also provide for the driver of any vehicle or machine giving such information as to the load or contents thereof, and the quantity, weight, size, or measurement of the same, or doing such acts for the purpose of enabling the same to be ascertained as such authorised person requests.

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14. In any case where trees or hedges growing on land within the district of a local authority overshadow any road or street in the district, the local authority may, by notice in writing served on the occupier, or if there is no occupier, or if the occupier is unknown or cannot be found, then on the owner of the land, require him to remove, lower, or trim such trees or hedges to the satisfaction of the local authority within *two* months after the service of the notice, and with respect to such notice the following provisions shall apply:—

Removal or lowering of trees overshadowing road.

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15 shall apply:—

(1.) Within *ten* days after the service of the notice, such occupier or owner may, by complaint under "The Justices of the Peace Act, 1882" (the provisions whereof shall, *mutatis mutandis*, apply), require the local authority to appear before a Stipendiary Magistrate to show cause why the notice should not be set aside.

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(2.) On the hearing of the complaint, the Magistrate, whose decision shall be final, shall decide whether the notice should or should not be set aside, and in the former case the notice shall be deemed to be void.

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(3.) In the case of a notice which is not set aside as aforesaid, if the occupier or owner fails to duly comply therewith within *two* months after the service thereof, or within *two* months after the Magistrate's decision, whichever period is the later, he is liable to a penalty not exceeding *one* pound for every day thereafter during which such failure continues; and the local authority may cause the land to be entered upon and the work to be done at his cost and expense in all things.

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15. The provisions of the *last preceding* section hereof shall apply, *mutatis mutandis*, in any case where live or dead timber, plants, or other vegetable growth, existing on or near to the bank, or in the bed, of any river, stream, canal, watercourse, or drain on land held in fee-simple, or on lease from the Crown for a term of which not less than *two* years are then unexpired, in any way obstruct the navigation of, or flow of water in, such river, stream, canal, watercourse, or drain:

Or obstructing watercourse.

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Provided, however, that nothing herein shall apply to any timber, plants, or other vegetable growth brought upon such land by the action of the river, stream, canal, or drain, and which did not grow or are not growing upon such land.

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16. On the hearing of any proceedings under the *last preceding* section hereof the Magistrate may, in his discretion,—

Magistrate's order thereon.

(1.) Direct that a portion of the cost of removing the obstruction be borne by any person holding any interest in the land, or by any local authority, whose district or works will be improved by such removal.

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(2.) Decide when and to whom the money is to be paid.

(3.) Direct who shall do the work, and within what time it shall be completed.

Provision to allow timber to be brought over private lands.

17. (1.) Any person (hereinafter called "the applicant") owning timber, or the right to cut timber, upon any land from which there is no practicable means or way of removing the same to any railway, road, mine, or sawmill, except by crossing private lands, may, by summary proceedings under "The Justices of the Peace Act, 1882" (the provisions whereof shall, *mutatis mutandis*, apply), summon the owner and occupier of the private lands to appear before a Stipendiary Magistrate and show cause why the applicant should not be authorised to construct a road or tramway over such lands for the removal of the timber. 5

(2.) On the hearing of the summons, the Magistrate, whose decision shall be final, may make such order as he thinks just. 15

(3.) If the Magistrate decides that the road or tramway is to be constructed, his order shall set forth clearly the route to be adopted, the land to be used, the rent or compensation to be paid, and the time within which the road or tramway is to be constructed, and for which the right to use the road or tramway is to last, but such latter time shall in no case exceed seven years. 20

(4.) Such order shall according to its tenor be sufficient authority for the applicant to enter upon the land and construct, use, and maintain the road or tramway, upon the terms and conditions and for the period specified in the order. 25

(5.) Such order may be registered under "The Deeds Registration Act, 1868," or "The Land Transfer Act, 1885," according to the nature of the title to the lands.

(6.) Any owner, lessee, or occupier of the private lands may, in any Court of competent jurisdiction, recover from the applicant any rent or compensation payable by him under the order, or compel him to observe any condition imposed upon him by the order. 30

(7.) For the purposes of the *last preceding* subsection hereof, the Magistrate's Court shall be deemed to be a Court of competent jurisdiction. 35

Local authority may sell stone, &c.

18. The Governor may authorise any local authority to sell or contract to sell and remove any timber, stone, mineral, metal, or other substance upon or under any land vested in it, or placed under its control, for a public road or other public work: Provided that nothing herein contained shall limit the liability of the local authority in respect to damage to person or property by reason of the removal of such timber, stone, mineral, metal, or other substance. 40

Provision for compelling owner when subdividing land to provide and dedicate a public road to allotments sold.

19. In every case where the owner of land subdivides the same into allotments for the purpose of disposing of the same by way either of sale or of lease for any term which (with the term of any renewal thereby provided for) is not less than *fourteen* years it shall be his duty to provide that each such allotment has, when so disposed of, a frontage to a public road or street, and for the purposes of this section the following provisions shall apply:— 45

(1.) The owner shall, in the case of every allotment which is to be disposed of as aforesaid, and which does not possess such frontage as aforesaid, provide and, by instrument in 50

writing under his hand, registered by him in the office of the District Land Registrar, or, as the case may require, of the Registrar of Deeds, irrevocably dedicate as a public road or street a strip of land not less than sixty-six feet in width.

5 (2.) Such road or street shall be connected with an existing road or street in such manner and in such position as may be agreed upon between the local authority and the owner.

10 (3.) The owner shall form and metal the road or street so dedicated, and in boroughs, townships, and town districts shall also construct in connection therewith such drains, footpaths, and curbing as may be agreed upon between the owner and the local authority.

15 (4.) The District Land Registrar or Registrar of Deeds, as the case may require, shall refuse to register any instrument of sale or lease of the allotment unless and until he is satisfied that the owner has complied with the foregoing provisions of this section.

20 (5.) The road or street so dedicated shall be deemed to be vested in Her Majesty, and shall be under the control of the local authority:

25 Provided that, on the application of the owner or his successor in title, the local authority may by special order close such road or street if satisfied that the road or street so dedicated is not required for the purpose for which it was dedicated.

30 (6.) The District Land Registrar or Registrar of Deeds upon being satisfied that such special order has been made, and upon being supplied with a certified copy thereof, shall, without fee, register such copy, and thereupon the land comprised in the road or street so closed shall revert to the owner by whom the dedication was made or his successor in title, and he shall be entitled to receive a certificate of title in respect thereof.

35 (7.) If any question or dispute arises hereunder between the owner and a local authority, or the owner or local authority and the District Land Registrar or Registrar of Deeds, such question or dispute shall be referred to the Minister of Lands, whose decision in writing shall be final and conclusive on all parties; and he may for the purposes of such decision cause an inquiry to be held in the manner set forth in section one hundred and fourteen of the principal Act.

45 (8.) Where the subdivision into allotments was made before the passing of this Act the foregoing provisions of this section shall apply only in the case of such of the allotments as at the time of the passing of this Act have not been sold or leased as aforesaid.

50 (9.) Any expenditure incurred hereunder by any owner (including as expenditure the value of the land comprised in any road or street dedicated by him), may, upon the application of the owner, be apportioned by the Supreme

Court among any owners or beneficiaries interested in the land, in such manner as is deemed just.

(10.) For the purposes of this section "owner" means the owner in fee-simple, whether beneficially or as trustee, and includes a mortgagee acting in exercise of power of sale, the Public Trustee, and any local authority, Board, or other body or authority, howsoever designated, constituted, or appointed, having power to dispose of land by way of sale or lease. 5

(11.) Nothing in this section shall limit the power of a local authority to make roads or streets, or to contribute towards the cost of any road or street on private land, if such local authority is of opinion that other adjacent land will be benefited thereby. 10

Governor may abolish toll-gates.

20. Without limiting the powers conferred on County Councils by section one hundred and fifty-seven of the principal Act with respect to toll-gates and tolls, those provisions may at any time be exercised by the Governor in Council in like manner and with the like consequences as in the case of a County Council. 15

Amendment of section 167 of principal Act.

21. Section one hundred and sixty-seven of the principal Act, relating to the construction of a railway under any special Act, is hereby amended by inserting the words "or any less" after the words "and wholly close for the full" in paragraph (e) of subsection one thereof. 20

Powers of Governor ver water-races.

22. Where, under the powers contained in Part XI. of the principal Act, or in any repealed Act relating to public works, any land has, by Proclamation, been declared to be a water-race, or any stream specified in such Proclamation has been declared to be taken for the purpose of supplying any water-race, it shall be lawful for the Governor at any time, in the event of such land or stream not being required for the purposes for which they were so proclaimed, to revoke such Proclamation, and thereupon such land or stream shall be deemed to be released from the effect of such Proclamation. 25 30