

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE.]
House of Representatives; 25th November, 1910.

Hon. Mr. R. McKenzie.

PUBLIC WORKS AMENDMENT.

ANALYSIS.

| Title. | |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------|
| 1. Short Title. | 7. Receipts payable into Consolidated Fund. |
| <i>Irrigation.</i> | |
| 2. Minister may be authorized to construct and maintain waterworks. | 8. Regulations. |
| 3. Powers of Minister with respect to such waterworks. | 9. Power to establish swimming-baths. |
| 4. Land may be taken for water-power works. | 10. Power as to footpaths, &c. |
| 5. In certain cases land may be taken as for a public work. | 11. Repeal. |
| | 12. Roading and disposal of Native reserves, &c., vested in the Public Trustee. |
| | 13. Restriction of heavy traffic on roads. |
| | 14. Miscellaneous amendments. |
| <i>Water-power and Electrical Energy.</i> | |
| 6. Section 272 of principal Act amended. | Schedules. |

A BILL INTITULED

AN ACT to amend the Public Works Act, 1908.

Title.

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

1. This Act may be cited as the Public Works Amendment Act, 1910, and shall form part of and be read together with the Public Works Act, 1908 (hereinafter referred to as the principal Act). Short Title.

Irrigation.

10 2. The Governor may, if he thinks fit, by Order in Council authorize the Minister to construct, maintain, or control any water-race, or water-supply works, either within or outside a mining district, which are proposed to be constructed or which have been constructed out of funds provided by Parliament. Minister may be authorized to construct and maintain waterworks.

15 3. The Minister shall, in respect to every such water-race or water-supply works, have all the powers, rights, duties, and authorities conferred upon a County Council under the sections of the Water-supply Act, 1908, mentioned in the *First* Schedule hereto, and those sections are hereby incorporated in this Act; and, for the purposes of this section, the following provisions shall, *mutatis mutandis*, apply:— Powers of Minister with respect to such waterworks.

(a.) All references in the said sections to a Council or to the Corporation or Chairman of a county shall be construed

to apply to the Minister, and all rights, acts, functions, or duties therein conferred or imposed upon a Council, Corporation, or Chairman of a county may be exercised or carried out by the Minister accordingly :

Provided that in any case where a special order is required, the same may be made by the Minister in writing under his hand and gazetted : 5

(b.) The Governor in Council when vesting the control of any water-race or water-supply works in the Minister, or at any time thereafter, may define or alter the district to be served by such water-race or water-supply works ; and the district so defined or altered shall, for the purposes of this Act, be deemed to be the district over which the Minister's powers and authorities in connection with such water-race or water-supply works shall extend and apply. 10 15

Land may be taken for water-power works, &c.

4. Land required for water-power or irrigation works or purposes may be taken as for a public work and in the manner prescribed by section two hundred and twenty-three of the principal Act.

Struck out.

In certain cases land may be taken as for a public work.

5. If in the opinion of the Governor in Council the effect of the construction of any water-race which the Minister in pursuance of this Act is authorized to construct will be materially to increase the value of land which could be irrigated by means of it, or if upon the construction of any such water-race the landowners in the district do not avail themselves of the water for irrigation or other purposes to such an extent as in the opinion of the Governor in Council justifies the existence of the race, the Governor may, if he thinks fit, take as for a public work, in the manner prescribed by the principal Act, the whole or any portion of such land which in his opinion could be usefully irrigated by means of such water-race ; and for that purpose all the provisions of Parts II and III of the principal Act shall apply : 20 25 30

New.

5. (1.) Before any Order in Council is issued authorizing the Minister to construct any water-race or water-supply works, the owners or occupiers of all lands likely to be benefited thereby shall be given an opportunity to enter into contracts with His Majesty to take water from such works when completed ; and such contracts shall specify the quantity of water to be so taken and the price or rate to be paid for the same. 35 40

(2.) If less than one-half of the total number of the owners or occupiers of such land are willing to enter into such contracts, no Order in Council authorizing the construction of such works shall be issued, but if at least one-half of the total number of those owners or occupiers enter into contracts to take such quantity of water as the Governor thinks reasonable, at such price or rate of payment as the Governor may approve, an Order in Council authorizing the construction of the works may be issued. 45

(3.) In such case the Governor may, if he thinks fit, at any time prior to the completion of the works, take as for a public work, in the manner prescribed by the principal Act, the whole or any portion 50

New.

of any land with respect to which neither the owner nor the occupier is willing to enter into such contract and which can, in the opinion of the Governor, be usefully irrigated by means of such works; and
 5 for the purposes of this subsection all the provisions of Parts II and III of the principal Act shall apply.

Provided that—

(a.) The Proclamation may, if the Governor thinks fit, exclude
 10 from its operation any water or mining rights, or any other rights, claims, or concessions granted or accruing under any Act or otherwise; and in that case no compensation shall be paid in respect to the matters so excluded:

(b.) The land so taken shall be paid for out of funds to be
 15 appropriated from time to time by Parliament:

Struck out.

(c.) Compensation for the land so taken shall be based upon the
 20 value of the land immediately prior to the construction of the said water-race:

(d.) The land so taken shall be dealt with and administered as
 25 Crown land under the Land Act, 1908:

Provided that the Land Board may allow any person from whom any such land was taken to acquire by sale or lease, without ballot, any reasonable area of the same
 25 (not being greater than the area which has been taken from him); but no greater area than two hundred acres of *irrigable land* shall be so sold or leased to any one person under this section without the previous consent of the Minister in writing, and no sale or lease of land hereunder
 30 shall confer upon the purchaser or lessee any right, title, or interest in any water-race upon such land, or in the water therein, beyond what may be distinctly provided for in the sale or lease of such land:

(e.) Before such land is sold or leased, the Governor may, if he
 35 thinks fit, cause such irrigation-works, roads, or other works to be constructed thereon as he considers necessary to improve its value or adaptability for settlement:

(f.) The capital value at which such land shall be sold, or upon
 40 which the rent of the same shall be based, shall be the value of the land for such purpose as in the opinion of the Land Board it is best adapted at the time of the sale or lease, taking into account its proximity to the said water-race and the possibility of such land being irrigated there-
 45 from and also to any increase in value likely to accrue to the land from such water-race or irrigation-works, or in respect to any irrigation or other work which may have been constructed on such land.

Water-power and Electrical Energy.

6. Section two hundred and seventy-two of the principal Act is
 50 hereby amended by inserting after paragraph (a) the following new paragraphs:—

Section 272 of principal Act amended.

“(aa.) Use electrical energy when so generated in the construction, working, or maintenance of any public work or for the smelting, reduction, manufacture, or development of ores, metals, or other substances.

Receipts payable
into Consolidated
Fund.

7. All sums received in respect of the sale of electrical energy or of the sale of water or water-power or water-rights under this Act shall be paid to the credit of the Consolidated Fund. 5

General.

Regulations.

8. (1.) For the purpose of giving effect to the provisions of this Act, and also of Part XII of the principal Act, and section five of the Public Works Amendment Act, 1908, the Governor in Council may from time to time make regulations— 10

(a.) Prescribing the conditions upon which water for irrigation or other purposes, or electrical energy, or water-power may be leased, sold, used, applied, or otherwise disposed of, and preventing electrical energy or water being taken, used, or applied contrary to the provisions of such regulations: 15

(b.) Preventing any interference with any river, stream, or lake, or preventing injury to any electrical supply, water-works, water-races, or other works connected therewith: 20

(c.) Prescribing penalties for the breach of any such regulations.

(2.) Nothing in such regulations shall limit the power of His Majesty to recover damages in respect to any injury, or to limit his power to restrain by process of law the repetition or continuance of such injury. 25

Power to establish
swimming-baths.

9. Any local authority may establish and maintain public swimming-baths, and for that purpose may take, as for a public work, under the provisions of the principal Act, or may purchase or otherwise provide, all such land, buildings, appliances, and conveniences as are necessary to enable such baths to be used and enjoyed. 30

Struck out.

Power as to
footpaths, &c.

10. A local authority may lay out, construct, or reconstruct footways or channels, or both, on one or both sides of any street or road, and may construct or reconstruct the same of such dimensions and of such material, and in such manner in all respects as it thinks fit, and may impose not exceeding one-half of the cost of such works upon the owners of lands fronting the same. For the purpose of this section the term “owner” has the same meaning as in the Municipal Corporations Act, 1908, and the amount imposed shall be recoverable as a rate. 35 40

Repeal.

11. Sections one hundred and sixty and one hundred and sixty one of the Municipal Corporations Act, 1908, are hereby repealed. 45

Struck out.

Roading and
disposal of Native
reserves, &c., vested
in the Public
Trustee.

12. (1.) In the case of any Native reserve or Native land situated in a borough where in the opinion of the Governor in Council it is necessary that such reserve or land should be roaded for the purpose of providing closer settlement, the Public Trustee may, with the consent of the Minister of Native Affairs, take 50

Struck out.

possession of, enter upon, survey, and subdivide such reserve or land accordingly, and may sell or may lease the same or any part thereof for such terms and on such conditions as are approved by the said
 5 Minister; and the Public Trustee may, with the like consent, and with the consent of the local authority, construct on or in connection with such reserve or land such roads or streets as in his opinion are necessary in accordance with the by-laws of the borough within which the reserve or land is situated.

10 (2.) Any transfer, conveyance, or lease, executed or issued by the Public Trustee in pursuance of this section, shall be valid and unassailable for all purposes, and the road or street so constructed shall thereupon become a public highway, and shall vest in His Majesty or the local authority, as the case may require.

15 (3.) The money received from the sale or lease of the land shall be applied by the Public Trustee first in repaying to himself all moneys advanced and expended by him in the survey and administration of the land and in the construction of streets, drains, and footpaths thereon, together with interest and charges thereon; and the balance
 20 shall be paid by him to the beneficial owners of the reserve or land in such shares as may be equitable and just, or as the Native Land Court may in any case determine.

13. (1.) The Governor, in the case of Government roads, and the local authority, in the case of any road or street under its control,
 25 may from time to time, by notice publicly notified, direct that any heavy traffic as defined in the principal Act, or any special class of traffic defined in such notice, shall not proceed between any two points or places by way of any road or street or roads or streets mentioned in the notice.

Restriction of heavy traffic on roads.

30 (2.) A copy of the notice shall be displayed in one or more prominent positions on every such road or street.

(3.) The driver of any vehicle, engine, motor, or machine who contravenes the requirements of such notice shall be deemed to have committed an offence, and, on conviction before any Court of com-
 35 petent jurisdiction, shall be liable to a fine not exceeding *ten* pounds for each offence, unless he satisfies the Court that there was no other way reasonably available for the traffic.

New.

40 13A. A local authority may, by special order and without taking the steps prescribed by sections seven to thirteen of the Public Bodies' Loans Act, 1908, raise a special loan for the purpose of paying the amount of compensation now or hereafter payable by that local authority for or in respect of land dedicated under or by virtue of
 45 section one hundred and seventeen of the Public Works Act, 1908, or section one hundred and seventeen of the Public Works Act, 1905, together with the expenses incurred by the local authority in connection with such dedication.

Council may by special order raise special loan.

14. (1.) The principal Act is hereby amended in the manner indicated in the *Second* Schedule hereto.

Miscellaneous amendments.

(2.) Section twelve of the Public Works Amendment Act, 1909, is hereby amended by inserting, after the words "construction or maintenance" where they occur in paragraph (b) of subsection one, and after the words "constructing or maintaining" in paragraph (e) of subsection one, the words "or lighting, or widening, or recon- 5 structing."

Schedules.

SCHEDULES.

FIRST SCHEDULE.

SECTIONS of the Water-supply Act, 1908, incorporated in this Act.—3, 4, 11, 12, 14, 16, 23, 28, 30, 42, 46, 47, 48, 50, 51, 57, 58, 59, 60, 61, 62, 63, 64.

SECOND SCHEDULE.

MISCELLANEOUS AMENDMENTS OF THE PUBLIC WORKS ACT, 1908.

| Number of Section affected. | Nature of Amendment. |
|-----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 14 ... | By omitting subsection (1) of the section, and inserting in lieu thereof— <p style="margin-left: 40px;">“(1.) The Governor or a local authority is hereby empowered to take, under the provisions of the principal Act, any area of land, whether private, Native, or otherwise, required for forest-plantation purposes, recreation-grounds, or for the preservation of scenery, or for the purposes of agricultural show-grounds and any land so taken shall be deemed to have been taken as and for a public work duly authorized by this Act: “Provided that no Native land shall be taken in pursuance of this subsection without the consent of the Native Minister.”</p> |
| Section 37 ... | By adding the following subsection :— <p style="margin-left: 40px;">“(2.) For the purposes of this section, the term ‘ execution of the works ’ means the completion of the construction of any portion of a work where such portion in itself (and without reference to any other part of the work) causes the damage ; and such portion of the work shall be deemed to be completed when anything further that may be required to be done thereon to finish the same will have no effect either to increase or lessen the damage.”</p> |
| Section 91 ... | By adding to paragraph (c) the words “and its award shall be final as regards the amount awarded.” |
| Section 116 ... | By inserting, after the words “portion thereof” in subsection (2), the words “and provide and lay necessary pipes for water-supply and drains.” By omitting in subsection (2) the words “where the road or street is in a borough or town district or is within the County of Selwyn.” |
| Section 145 ... | By inserting as paragraph (h) the words “Digs up or removes any stone, gravel, sand, or other material from a river-bed and within thirty yards of a dam, ford, or weir.” |
| Section 150 ... | By inserting, before the words “incurred by such authority” wherever they occur in the section, the words “or will have to be.” |
| Section 151 ... | By inserting the words “has caused or” before the words “will cause serious injury.” |