

Hon. Mr. Oliver.

PUBLIC WORKS.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Amendments of "The Public Works Act, 1876." 3. As to costs in compensation awards. 4. Repeal of section 93 of the said Act, and substitution of fresh section in lieu thereof <i>re</i> stopping of roads. 5. Repeal of section 94 of the said Act, and substitution of fresh section in lieu thereof, empowering land occupied by a road stopped to be sold. 6. Repeal of section 95 of the said Act, and substitution of fresh section in lieu <i>re</i> exchange of land occupied by road stopped for land required for new road. 7. Road between two road districts to be under control of county. 8. Governor may abolish certain offices and create others. 9. Mines and minerals excluded from land taken for public works. | <ol style="list-style-type: none"> 10. Power to make by-laws for licensing vehicles. 11. Power to close roads or bridges under repair. 12. Power to construct railway on highways, or public reserves. 13. Validation of Orders in Council and Proclamations. 14. Power to take ungranted Native lands for roads. (1.) Governor may order works to be undertaken. (2.) After publication of Order in Council Governor may take lands. (3.) Compensation to be made. (4.) Moneys awarded to be paid to Public Trustee. (5.) Land so taken to be deemed vested in Her Majesty. (6.) Costs and charges to be defrayed by parties applying. 15. Procedure where lands taken out of Native reserves for public works. 16. Limitation of time in compensation claims. 17. New agreement to be made in respect of Kawakawa Railway. |
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A BILL INTITULED

AN ACT to amend certain Acts relating to Public Works.

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

1. The Short Title of this Act is "The Public Works Act, 1880."

Title.

Short Title.

5 This Act and the several Acts previously passed in amendment of "The Public Works Act, 1876" (hereinafter referred to as "the said Act"), shall be read and construed together with the said Act, and subject to the definitions and interpretations contained in the said Act.

2. The said Act is hereby amended as follows:—

Amendments of "The Public Works Act, 1876."

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(1.) In section thirty-two, after the words "under this Act," the words "or any Act repealed by this Act" are hereby added;

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(2.) In section fifty the following words are hereby added: "but no execution of judgment shall be enforced, nor shall interest commence, until thirty days after the award has been made and the costs taxed."

(3.) In section fifty-four the words "five hundred pounds" are hereby altered to "two hundred pounds."

(4.) In section eighty-five the words following are hereby added to the first subsection thereof: "and where 'The Counties Act, 1876,' is not in operation, such bridge, ferry, or ford shall be under the control of such one of the two districts as the Minister may from time to time direct."

(5.) In section one hundred and thirty-five, after the words "use any land," the words "main or other road or street at any distance from the line of railway to be constructed or repaired" are hereby inserted; and in subsection three, after the word "roads," the words "railways, tramways, bridges, or drains," are hereby inserted; and the words following are hereby inserted as an additional subsection to the said section: "(6.) May use engines, trucks, and wagons on such land, main or other road or street." 5

(6.) In section one hundred and forty-five, the words following are hereby added to the first paragraph of the first subsection thereof: "or for fixing the rates of wharfage to be charged on all goods loaded or unloaded from or into lighters into or from ships lying at any wharf, pier, or jetty in connection with a railway." 10

(7.) In section one hundred and fifty-seven, second subsection, the words, 'which is fenced on both sides' are hereby omitted. 15

As to costs in compensation awards.

3. In section sixty of the said Act, the following sub-sections are hereby added:—

(1.) If the award shall not exceed twenty-five per centum above the amount offered, the claimant shall pay all the costs of and occasioned by the inquiry. 20

(2.) If the award shall exceed twenty-five per centum and not exceed fifty per centum above the amount offered, the claimant and respondent shall each pay his own costs of and occasioned by the inquiry.

(3.) If the award shall exceed fifty per centum above the amount offered the respondent shall pay all the costs of and occasioned by the inquiry. 25

Repeal of section 93 of the said Act, and substitution of fresh section in lieu thereof re stopping of roads.

4. The ninety-third section of the said Act is hereby repealed, and in lieu thereof the following is enacted, that is to say,—

No road shall be stopped except in the manner and upon the conditions following:— 30

(a.) The Board shall have a plan prepared of the road proposed to be stopped, and a survey made and a plan prepared of the new road (if any) to be made, showing the lands through which they pass, and the owners and occupiers of such lands so far as known.

(b.) The said plans shall lie open to public inspection at the office of the Board or other convenient place during *eight* consecutive weeks, and the Board shall, once in each week during such *eight* weeks, give public notice of the proposed alteration and of the place where the plans are on view. 35

(c.) A notice of the proposed stoppage, printed on linen or calico, shall be fixed in a conspicuous place at each end of the road to be stopped. 40

(d.) By public notice, at the same time as the last public notice required by subsection (b), the Board shall call a meeting of the ratepayers of the district for any day not less than fourteen days after such notice.

"Ratepayer" means any person entitled to vote at the election of a member of the Road Board. 45

(e.) The Chairman of the Road Board, or, in his absence, some other member of the Board appointed by the meeting, shall preside thereat; and such meeting shall decide by a majority of the ratepayers present whether the road shall be stopped or not. 50

(f.) If the meeting decide that the road be not stopped, such decision shall be final, and no proceedings for stopping such road shall be taken by

the Board for one year thereafter. If the meeting decide that the road may be stopped, the Board shall send the plans aforesaid, with a full description of the proposed alterations, and with their decision thereon, to the County Council.

5 (g.) The County Council shall, after giving regular notice thereof, hold a meeting at which they shall consider the proposed alterations and any objection made thereto by any person likely to suffer injury thereby, and shall confirm or reverse the decision of the ratepayers' meeting; and the decision of the County Council shall be final. And, if the
10 Council reverse the decision of the ratepayers, no proceedings shall be entertained by the County Council for stopping such road for two years thereafter.

(h.) If the County Council confirm the decision of the ratepayers, the Board may declare, by public notice, that the said road is stopped; and such
15 road shall thereafter cease to be a public highway.

(i.) If the whole of the Counties Act is not in force in any county, the term "County Council" in this section shall be taken to mean the Resident Magistrate within whose district the road proposed to be stopped is situated.

20 5. The ninety-fourth section of the said Act is hereby repealed, and in lieu thereof the following is enacted; that is to say,—

The land occupied by any road so stopped as aforesaid may be sold under the following conditions:—

Repeal of section 94 of the said Act, and substitution of fresh section in lieu thereof, empowering land occupied by a road stopped to be sold.

(a.) The Chairman of the County Council, or the Resident Magistrate (as
25 the case may be), shall, in writing under his hand, certify that the said road has been stopped as by law required, and order that the same shall be sold.

(b.) The Road Board shall cause the land proposed to be sold to be valued by
30 one or more competent valuers and shall offer such land, at the price fixed by such valuation, first to the person then entitled to the land from which such land was originally severed; and, if he refuse it, or cannot after due inquiry be found, then to the owner of the adjacent lands; or, if there be more than one such owner, then to each of such
35 owners in such order as the Board thinks fit; and, if no such owner accept such offer, may cause the land to be sold by public auction.

(c.) The purchase-money of lands so sold shall be paid into the District Fund, and shall form part of such fund.

(d.) Upon payment of the purchase-money the Chairman of the Road Board shall file, in the District Land Registry Office for the district in which
40 such land is, a copy of the order directing the sale of the said land, together with a map thereof certified by a certificated surveyor, and shall indorse thereon a certificate of the payment of the purchase-money, with the name and address of the purchaser; and such copy of order so indorsed shall be deemed to be a memorandum of transfer
45 of such land to such purchaser within the meaning of "The Land Transfer Act, 1870," or any amendment thereof, and the Registrar shall register the same, and deal therewith in the manner in the said Act provided.

6. The ninety-fifth section of the said Act is hereby repealed, and in lieu
50 thereof the following is enacted, that is to say,—

(a.) The Board may agree with the owner or owners of any land required for a road to be made in lieu of a road stopped as herein provided, to

Repeal of section 95 of the said Act, and substitution of fresh section in lieu of exchange of land occupied by road

stopped for land required for new road.

exchange the whole or any part of the land occupied by such last-mentioned road for the whole or any part of the land so required.

(b.) The Chairman of the County Council or the Resident Magistrate as aforesaid shall certify in writing under his hand that such road has been stopped as by law required. 5

(c.) The Chairman of the Road Board shall indorse on a copy of such certificate that the land occupied by such road so stopped has been exchanged for other land, and the name and address of the exchangee.

(d.) And such copy of certificate so indorsed shall when filed, together with such map as is mentioned in subsection (d) of section five of this Act, in the District Land Registry Office for the district in which such land is, be dealt with in the manner directed by the said subsection (d), and shall confer upon the exchangee the same rights and titles therein mentioned. 10

Road between two road districts to be under control of county.

7. Notwithstanding anything contained in section eighty-two of the said Act, when any road lies between any two road districts, it shall be under the control of the county in which such road is; or, if "The Counties Act, 1876," be not in operation, then under such one of the two districts as the Minister may from time to time direct. 15

Governor may abolish certain offices and create others.

8. Notwithstanding anything contained in the nineteenth section of "The Public Works Act 1876 Amendment Act, 1878," the Governor may abolish such offices as are therein referred to, and may create such other offices in the Public Works and Railway Departments as he may deem advisable. 20

Mines and minerals excluded from land taken for public works.

9. When any land shall at any time heretofore have been or shall at any time hereafter be taken by any County Council, Road Board, or Municipal Corporation under the authority of any Act, or Provincial Ordinance, for the construction of any water-race, aqueduct, reservoir, or other waterworks, such County Council, Road Board, or Municipal Corporation shall not thereby be deemed to have heretofore acquired or hereafter to acquire any right to any mines of coal or other minerals whatsoever under any land so already taken or to be taken hereafter, except only such part or parts thereof as shall be necessary for the proper and effectual support of such water-race, aqueduct, reservoir, or other waterworks. And all such mines and minerals (excepting as aforesaid) shall be deemed to have been excepted out of the Proclamation or other instrument under the authority whereof the land shall heretofore have been taken, or shall hereafter be taken. 25 30 35

Power to make by-laws for licensing vehicles.

10. Any County Council or Road Board may make by-laws to provide for the licensing of any vehicle without springs having wheel-tires of a less width than five inches.

Power to close roads or bridges under repair.

11. When it is found necessary to execute such repairs to any public highway or bridge as will prevent the use of the same for traffic, it shall be lawful for the County Council or Road Board under whose control the said public highway or bridge may be, to close the same for such period as may be deemed advisable. 40

Power to construct railway on highways, or public reserves.

12. In respect of any railway authorized by a special Act, the Minister may direct that any part of such line of railway may be constructed on and along any part of any public highway, and that any part of any such line of railway may be constructed on or through any public reserve; and no person or body shall be entitled to any compensation for any road or land so used or occupied, or for or in respect of any inconvenience or damage arising out of the execution of such works to any lands fronting or adjoining any such public road or reserve. 45 50

13. All Orders in Council and Proclamations made and issued, or purporting to be made and issued, under the authority of the said Act, "The Public Works Act 1876 Amendment Act, 1878," and "The Public Works Act, 1879," or "The Immigration and Public Works Act, 1870," or Acts amending the same, are hereby declared to be and to have been as from the respective times of making and issuing thereof good, valid, and effectual to all intents and purposes whatsoever, and shall be final and conclusive with respect to the existence of all requisites thereto, and shall not be impeached or disturbed at law or in equity or otherwise on any ground whatsoever: Provided always that nothing herein shall affect any claim or matter for or concerning which any action or proceeding has been brought or taken in any Court.
14. Whenever any ungranted Native lands are required to be taken for public works of any kind, the Minister in the case of Government works, and the County Council or Road Board in the case of county works or district works, shall apply to the Governor for the purpose of taking such lands.
- If the Governor is satisfied that the public work is such as is necessary to be done, proceedings for taking such lands shall be conducted in manner following, that is to say:—
- (1.) The Governor by Order in Council may order that any public work to be defined in such Order shall be made;
 - (2.) After the gazetting of such Order in Council the Governor may compulsorily take and permanently hold all such lands as may be necessary for the construction of such public work, and may occupy any lands that may be required for temporary use during the construction of such public work, and may enter upon any lands for the purposes of taking surveys or levels without giving any notice or making any application to any person owning such lands;
 - (3.) Compensation shall be made to the Native owners of the lands so taken, to be ascertained in the manner prescribed by Part III. of the said Act; with the exception, that in all such cases the Compensation Court shall consist of a Judge of the Native Land Court sitting together with two Assessors of the said Court;
 - (4.) The Court so constituted shall have all the powers of a Compensation Court constituted under the said Act; and the moneys to be paid as compensation awarded by the aforesaid Court shall be paid into the Public Trust Office;
- The Public Trustee shall deal with and apply such moneys, and pay the same to such persons as the Native Land Court may, on the application of any of the parties interested, declare to be the owners of the lands taken, and entitled to such moneys;
- (5.) Every such public work and the land and soil thereof shall from the date of such Order in Council be deemed to be vested in Her Majesty, her heirs and successors, as part of the demesne lands of the Crown;
 - (6.) All costs and charges incident to any proceedings under this section shall be defrayed by the parties who applied for the same to be taken; and, upon such payment, the Governor may transfer such public work to the said parties.
15. In any claim for compensation for lands taken for any Government work out of Native reserves vested in the Governor under any Act relating to Native reserves, the Governor, for the purpose of such claims being determined by a Compensation Court under Part III. of the said Act, or otherwise by arbitration, shall be the claimant, and the Minister the respondent.

Validation of Orders in Council and Proclamations.

Power to take ungranted Native lands for roads.

Governor may order works to be undertaken.

After publication of Order in Council Governor may take lands.

Compensation to be made.

Moneys awarded to be paid to Public Trustee.

Land so taken to be deemed vested in Her Majesty.

Costs and charges to be defrayed by parties applying.

Procedure where lands taken out of Native reserves for public works.

The Minister may enter into agreements with the Governor for the purchase of any such lands in the manner prescribed by section twenty-one of "The Public Works Act 1876 Amendment Act, 1878."

Limitation of time in compensation claims.

16. Notwithstanding anything contained in section seventy-two of the said Act, the said section shall apply to all claims arising out of or under the several Acts repealed by the said Act. 5

New agreement to be made in respect of Kawakawa Railway.

17. Whereas by "The Immigration and Public Works Act, 1875," it is, amongst other things, enacted that, to give effect to a certain agreement therein mentioned, the Governor should cause the Kawakawa Railway to be constructed, and, upon the completion and construction thereof, for or in the name or on behalf of Her Majesty the Queen, should make and execute a valid lease to the Bay of Islands Coal Company, Limited, of a certain piece or parcel of land in the Bay of Islands in which the Kawakawa Coal Mine is situate, and also a lease of the said railway, at the rents and royalties, and subject to the conditions, stipulations, and restrictions, as by the said agreement is provided, subject, however, to the provisions of the last-named Act: 10 15

And whereas differences having arisen between the Minister for Public Works and the said Company, in reference to the interpretation of the said agreement, and upon an arbitration an award was made, rendering it necessary that a fresh agreement should be entered into between the Governor and the aforesaid Company: Be it therefore enacted as follows:— 20

Notwithstanding anything contained in sections nineteen to twenty-two of "The Immigration and Public Works Act, 1875," the Governor, in the name of Her Majesty the Queen, may enter into a fresh agreement with the Bay of Islands Coal Company, Limited, for a mining lease of certain Crown land situate in the Ruapekapeka Block, in the Bay of Islands, and also a lease of the railway in the course of construction from the said land to a certain point in the Harbour of the Bay of Islands, upon such conditions, stipulations, and restrictions as he may deem advisable. 25 30