

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 2 September 1981

PUBLIC WORKS BILL

Proposed Amendments

HON. W. L. YOUNG, in Committee, to move the following amendments:

Clause 1: To omit *subclauses (2) and (3)* (all the words in lines 13 to 17 on page 5), and substitute the following subclause:

(2) This Act shall come into force on the 1st day of February 1982.

Clause 2: To omit from the definition of the term "public work" at lines 27 to 29 on page 9 the words "; and also includes any work or undertaking which is declared to be a public work under section 3 of this Act".

Clause 4: To omit *subclause (6)* (all the words in lines 6 to 12 on page 12).

Clause 14, subclause (1): To omit *paragraph (a)* (all the words in lines 32 and 33 on page 18).

Clause 18, subclause (2): To insert after *paragraph (b)*, at line 21 on page 22, the following paragraph and words:

(c) An agreement for the sale and purchase of the land is not made with the owner under section 17 of this Act,—

the Minister or local authority may, within 1 year after notifying the owner under subsection (1) of this section, proceed to take the land under this Act.

Subclause (2B): To omit all the words in lines 6 to 11 on page 23.

Clause 19: To insert before *subclause (6)*, at line 23 on page 25, the following subclause:

"(5) Every person who acquires an estate or interest in any land in respect of which a compensation certificate under this section has been registered shall be bound by the agreement to which it relates to the same extent as the person from whom he acquired the estate or interest."

Clause 23: To omit *subclause 7* (all the words in lines 22 to 25 on page 29).

Subclause (8): To omit from lines 26 and 27 on page 29 the words "Notice that land is subject of a notice of intention to take", and substitute the words "A copy of the notice under subsection (1) (b) of this section".

Clause 24, subclause (8): To omit from lines 42 and 43 on page 30 the words "purposes for which the work is intended", and substitute the words "objectives of the Minister or local authority, as the case may require".

Subclause (9): To omit from line 6 on page 31 the words "purposes for which the work is intended", and substitute the words "objectives of the Minister or local authority, as the case may require".

Clause 33: To omit this clause (all the words in lines 11 to 19 on page 39), and substitute the following clause:

33. Protective fences to be made before boundary fences removed—Nothing in this Act shall authorise any person to remove any fencing on or near the boundary of any land that has been or is intended to be acquired under this Act unless—

- (a) Other fences have been erected so that all land adjacent to that land is as effectually protected against damage by trespass as it would be if the fences were not removed; or
- (b) The owner of the adjacent land has agreed in writing to the removal of the fencing.

Clause 43, subclause (2): To omit all the words in lines 9 to 13 on page 50.

Clause 70, subclause (8): To omit from line 38 on page 74 the number "21", and substitute the expression "15 working".

Clause 76, subclause (1) (c): To insert at line 12 on page 83, after the word "acquisition", the words "for an essential work".

Clause 78, subclause (2): To add to this subclause, at line 24 on page 84 after the word "damage", the words "or injurious affection".

Subclause (3): To insert at line 29 on page 84, after the words "conditions as", the words "he or".

Clause 79, subclause (3) (a): To omit from line 39 on page 85 the number "30", and substitute the expression "20 working".

Clause 114A, subclause (4): To omit from line 5 on page 112 the word "issuing", and substitute the word "making".

Clause 158, paragraph (a): To insert at line 8 on page 156, after the words "section 157 (2) of this Act", the words "or created as such under section 4 of the Public Works Amendment Act 1963,".

Clause 173: To omit this clause (all the words in lines 37 to 41 on page 164, and all the words in lines 1 to 14 on page 165).

Clause 174, subclause (1): To insert at line 4 on page 166, after the words "gas supply pipe," the words "or any power supply or telecommunications link,".

Subclause (2): To insert at line 15 on page 166, after the words "supply pipe", the words ", power supply, or link,".

Subclause (4): To omit from line 25 on page 166 the words "or pipe", and substitute the words "pipe, power supply, or link".

To omit from line 28 on page 166 the number "14", and substitute the expression "10 working".

Clause 184, subclause (1): To omit from *paragraph (a)* at line 40 on page 170 the word "or", and substitute the word "and".

To omit from *paragraph (b)* at line 6 on page 171 the word "or", and substitute the word "and".

Clause 191: To insert at the top of page 174, before clause 192, the following clause:

191. This Part not to derogate from Town and Country Planning Act 1977—This Part of this Act shall not be construed so as to prevent the making of any requirement or provision under section 36, section 43, or section 118 of the Town and Country Planning Act 1977.

Clause 201: To insert in the definition of the term "season", after the words "Order in Council" at line 32 on page 184, the words "under section 212 of this Act".

Clause 202: To add at line 8 on page 185 the following subclause:

(2) The Minister shall, in respect of such water supply works, have all the powers, rights, duties, and authorities conferred, in respect of water supply works, upon a territorial authority under the Local Government Act 1974; except that in any case where a special order is required it may be made by the Minister in writing under his hand and published in the *Gazette*.

Clause 206, subclause (1) (a) (vi): To insert at line 28 on page 187, before the word "from", the words "from the commencement of the supply of water and".

Clause 213, Item F: To omit from line 28 on page 192 the words "so much of".

To omit from lines 30 to 32 on page 192 the words "as remains after the commencement of availability of supply as determined under section 221 of this Act".

Clause 215, subclause (1): To omit from line 30 on page 194 the expression "sections 206 and 222", and substitute the expression "section 206".

Subclause (2) (d): To omit from line 7 on page 195 the expression "sections 206 and 222", and substitute the expression "section 206".

Clause 220, subclause (7): To omit from lines 17 and 18 on page 199 the words " , other than that portion of it representing the annual basic charge".

Clause 227, subclause (1): To omit from line 18 on page 204 the number "205", and substitute the number "206".

Subclause (3): To omit all the words in line 27 on page 204.

Clause 240: To insert at line 1 on page 217, after the word "construction", the words " , maintenance, or operation".

To insert at line 2 on page 217, after the word "construct", the words " , maintain, or operate".

Clause 252: To insert, after *subclause (4)*, at line 21 on page 226, the following subclause:

(4AA) Section 49 (2A) of the Town and Country Planning Act 1977 (as inserted by section 10 (2) of the Town and Country Planning Amendment Act 1980) is hereby amended by adding to paragraph (c) the expression “; and”, and adding the following paragraph:

“(d) The extent to which adequate consideration has been given to alternative sites, routes, or methods of achieving the objectives of the Council—”.

Subclause (4A): To omit from lines 27 and 28 on page 226 the words “purposes for which the work is intended”, and substitute the words “objectives of the Minister or local authority”.

Subclause (4B): To omit from lines 34 and 35 on page 226 the words “purposes for which the work is intended”, and substitute the words “objectives of the Minister,”.

Subclause (5): To omit from line 36 on page 226 the number “30”, and substitute the number “31 (1)”.

Clause 252A: To omit from line 16 on page 227 the word “April”, and substitute the word “February”.

Clause 252B: To omit from line 34 on page 227 the word “April”, and substitute the word “February”.

Clause 254, subclause (3): To insert at line 29 on page 228, after the expression “Public Works Act 1928”, the words “(as substituted by section 6 of the Public Works Amendment Act 1962 and amended by section 2 of the Public Works Amendment Act 1964)”.

To omit from line 32 on page 228 the words “by this section”, and substitute the words “by section 12 (8) of the Maori Purposes Act 1974”.

New clause 255: To insert after clause 254, at the foot of page 228, the following clause:

255. Transitional provision—Every claim for compensation under the Public Works Act 1928 that—

(a) Has not been finally determined by agreement between the parties; or

(b) Has not been heard or partly heard by the Land Valuation Tribunal—

before the 1st day of February 1982 shall be determined under this Act as if the claim related to an essential work, or the taking or acquisition of any land for an essential work, as the case may require.

EXPLANATORY NOTE

Clause 1: This amendment changes the commencement date to 1 February 1982. The Bill as reported back from the Select Committee had a commencement date of 1 April 1982, except for Parts V and VI which were to come into force 28 days after the day on which the Bill receives the Governor-General's assent.

Clause 2: The amendment to the definition of the term "public work" is consequential upon the new *clause 3* in the Bill as reported back from the Select Committee. That clause does not provide for the declaration of any work to be a public work.

Clause 4: This change removes a provision relating to the giving of notice of intention to purchase or take certain Maori land. The matter is also dealt with in *clauses 17 (4) and 18 (3)*.

Clause 14: This amendment removes a reference to the Minister's power under *clause 3*. In the Bill as reported back from the Select Committee, the Minister does not have any powers under *clause 3*.

Clause 18: This amendment corrects an error in the positioning of an amendment in the Bill as reported back from the Select Committee.

Clause 19: This amendment makes it clear that once a compensation certificate has been registered, the agreement to which it relates is binding on any person who subsequently acquires an estate or interest in the land affected by it.

Clause 23, subclause (7) is omitted because the withdrawal of a notice is also dealt with in *subclause (9)*. The effect of the amendment to *subclause (8)* is that the District Land Registrar receives a copy of the actual notice affecting the land rather than notice that the land is subject to such a notice.

Clause 24: The effect of the change to *subclause (8)* is that in hearing an appeal the Planning Tribunal is required to inquire into the extent to which adequate consideration has been given to other methods of achieving the objectives of the Minister or local authority rather than other methods of achieving the purposes for which the work is intended.

The change to *subclause (9)* is of similar effect with regard to the report of the Planning Tribunal. The Tribunal will report on whether the proposed taking of the land is essential to achieve the objectives of the Minister or local authority rather than whether it is essential for achieving the purposes for which the work is intended.

Clause 33: The new clause removes the former limitations relating to agreements to provide cattle stops or swing gates, and an apparent restriction on the application of the section to the proposed construction of roads.

The clause provides that the Bill does not authorise the removal of fencing from land acquired or to be acquired under it unless adjacent land is protected from trespass or the owner of the adjacent land agrees to the removal of the fence.

Clause 43: This amendment corrects a printing error in the Bill as reported back from the Select Committee.

Clause 70: This amendment introduces the "working day" concept into the time limit for the lodging of appeals under this section.

Clause 76: The effect of this amendment is to exclude proposed acquisitions of land for non-essential works from the application of this section.

Clause 78: These amendments make minor changes to this clause. The change to *subclause (2)* places injurious affection on the same basis as damage so far as the deeming of work to be completed is concerned.

The change to *subclause (3)* is consequential upon the change made by the Select Committee to give the Minister power to extend the limitation period.

Clause 79: This amendment introduces the "working day" concept into the time limit for the lodging of a claim where moves have been made by the Minister or local authority to have compensation matters determined.

Clause 114A: This change is of a grammatical nature. A declaration is made rather than issued. It is the notice containing the declaration that is issued.

Clause 158: This change achieves consistency with *clause 157* as reported back from the Select Committee.

Clause 173: This amendment corrects an error in the Bill as reported back from the Select Committee and gives effect to the recommendation of the Committee.

Clause 174: These changes, which relate to interference with power supplies and telecommunications links in the construction of railways, place the situation with regard to such interference on the same basis as such interference caused by the construction of motorways.

Clause 184: These changes make the requirements of *paragraphs (a) to (c)* of *clause 184 (1)* conjunctive.

Clause 191: The effect of this clause is to make it clear that Part XVII is to operate in addition to rather than in substitution for the powers that may be exercised under sections 36, 43, or 118 of the Town and Country Planning Act 1977.

Clause 201: This amendment inserts a reference to the provision under which Orders in Council may be made so as to maintain consistency with other definitions in *clause 201*.

Clause 202: This amendment confers upon the Minister all the powers, rights, duties, and authorities conferred on territorial authorities by the Local Government Act 1974 in relation to water supply works.

Clause 206: This amendment is consequential upon the new *clause 214* in the Bill as reported back from the Select Committee.

Clause 213: This amendment is required because the period specified in *clause 206 (1) (a) (va)* is a definite period that commences from the availability of supply of water.

Clause 215: These changes result from the recommendation of the Select Committee that *clause 222* be struck out.

Clause 220: This amendment is being made because it is not appropriate to refer to part of the annual water availability charge as representing the annual basic charge.

Clause 227: The amendment to *subclause (1)* corrects a cross-reference. The amendment to *subclause (3)* corrects a printing error.

Clause 240: This clause extends the requirement to give notice of intention to enter on land to construct a public work to entry for the purposes of maintaining or operating a public work.

Clause 252: These changes to the Town and Country Planning Act 1977 are consequential upon the changes recommended for *clause 24* of the Bill; and include a similar change to section 49 (2A) of that Act which relates to appeals against the inclusion in a scheme of provision made by the Council for works for which it is responsible.

The amendment to *subclause (5)* corrects an incorrect reference.

Clauses 252A and 252B: These changes are consequential upon the change of commencement date for the Bill.

Clause 254: The amendments correct references to section 104 of the Public Works Act 1928.

Clause 255: This is a transitional provision which deals with claims under the Public Works Act 1928 that have not been resolved before the commencement of this Bill. Such claims are to be determined under the Bill as if they related to an essential work.