

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. Act incorporated. 2. Amendments of principal Act. 3. Particulars to be inserted in claim to compensation. Place where claim to be lodged. 4. Court may compel claimant to state particulars. 5. Governor may declare any portion of land taken for railway purposes to be a public road or street, and vest same in a local authority. 6. Removal of gorse, &c., from roads, &c. 7. Notice to clear gorse, &c. 8. Proclamations taking land for public works may be cancelled for error or misdescription. 9. If Crown resume land for public purpose under authority of general or special Act, then, notwithstanding Proclamation under Public Works Act, no compensation payable otherwise than as provided in enabling Act. 10. Defining land taken for railway purposes where not taken by Proclamation or conveyance, and fixing time within which compensation is payable for same. 11. Value of land taken for public works to be assessed at its value at time first entered upon. 12. Local authority may permit swing-gates to be placed on roads in sparsely-populated districts. 13. Rabbit-fences may be erected across roads, with swing-gates. 14. County Council may delegate to Road Boards the power to make new drains. 15. If a local authority wishes to construct a bridge or to establish a ferry or ford that will benefit an adjoining district, the Governor may in certain cases compel local authority of such adjoining district to contribute to the cost of same. | <ol style="list-style-type: none"> 16. Where Native land taken for public works, Native Land Court to determine all claims. 17. Railway servants may impound trespassing cattle. 18. Drainage-works to include outlet to lake. 19. Local authorities may agree with Minister as to conversion of railway-bridge into a bridge for ordinary and railway traffic. 20. Her Majesty may grant easements over lands acquired for public works. 21. Power of Governor to vest control of road may be exercised from time to time. 22. Extent to which Railway Commissioners may lease land. 23. Words "bridge," "ferry," and "ford" to include approaches to bridge, ferry, or ford. 24. Proclamation vesting control of bridge may be revoked or varied from time to time. 25. No fees or stamp-duty to be charged upon certificate where road stopped or exchanged for other road. 26. Every local authority to have power to settle claims. 27. By-laws to be proved by production of <i>Gazette</i>. 28. Conveyances to and contracts with the Railway Commissioners to be exempt from duty. 29. Defining the terms "public notice" and "publicly notified." 30. Crown lands, public reserves, and public domains may be set apart for purposes of fortifications. 31. Land vested in local authority or trustees for public purposes may be taken for fortifications. No compensation payable in such cases. 32. Harbour Boards may contribute to construction of streets. Proviso. 33. Procedure for altering course of roads where landowners consent. <p style="text-align: right;">Schedule.</p> |
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1889, No. 19.

Title.

AN ACT to further amend "The Public Works Act, 1882," and the Acts amending the same. [16th September, 1889.]

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

Short Title.

1. The Short Title of this Act is "The Public Works Acts Amendment Act, 1889."

It shall be deemed to be incorporated with "The Public Works Act, 1882," hereinafter referred to as "the principal Act." Act incorporated.

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

In the Fourth Schedule the words "that I am not concerned or interested in any way in the claim, and" are hereby inserted after the word "declare." Amendments of principal Act.

3. Section thirty-three, and the Second Schedule of the principal Act, are hereby repealed, and the following enacted in lieu thereof:— Particulars to be inserted in claim to compensation.

In order to obtain compensation the claimant shall serve upon the respondent a claim, in writing, in one of the forms in the Schedule to this Act, stating—

(a.) The several areas and descriptions of the lands taken or injuriously affected in respect of which he makes his claim, and the nature and particulars of his interest therein; and if he claim as owner, and the land is encumbered, leased, or subject to any easement, he shall give particulars of such encumbrance, lease, or easement:

(b.) Each matter on account of which he claims compensation, with full particulars of the nature and extent of the claim:

(c.) The amount which he claims respectively for land taken, or for land injuriously affected, giving in both cases the amount for each item of such claim separately:

(d.) The total amount claimed:

(e.) His full Christian name and surname, together with his address, which address shall be deemed to be the last known place of abode or business of the claimant within the meaning of section three of the principal Act, unless and until special notice in writing of a change of address is delivered to the respondent.

Such claim shall be served, in the case of the Minister, by being delivered at the Public Works Office at Wellington, or by being sent by registered letter addressed to the Minister at such office, and, in the case of the local authority, by being left at their office, or sent by registered letter to their office; and the claimant shall be entitled to receive from the officer for the time being in charge of any such office a receipt stating the day on which such claim was delivered or received, and any officer refusing to give such receipt on demand shall be liable to a penalty not exceeding five pounds. Place where claim to be lodged.

In order to prove the service of any claim as aforesaid it shall be necessary to produce the receipt of the officer receiving the same.

4. If the claimant does not give full particulars of such claim, or does not specify in his claim the amount claimed for each matter on account of which he claims compensation, the respondent may, by notice in writing, require him to furnish such particulars; and if such particulars are not supplied twenty-one days before the date appointed for the sitting of the Compensation Court to hear the claim the Court may, if it think fit, upon the application of the respondent, made before or at the hearing, order the claimant to furnish such particulars, and may adjourn the further hearing of the claim until such particulars are supplied, and until the respondent has had reasonable time to consider the same, and may order that the costs of such adjournment shall be borne by the claimant. Court may compel claimant to state particulars.

Governor may declare any portion of land taken for railway purposes to be a public road or street, and vest same in a local authority.

5. Whenever it may be considered desirable to allocate any portion of any land reserved, taken, purchased, or otherwise acquired for a railway to the purposes of a road or street, and it is certified by the New Zealand Railway Commissioners that such land is not required for railway purposes, the Governor may, after having received the consent of the local authority hereinafter referred to, by Proclamation, declare such portion of such land as is defined in such Proclamation to be a road or street, and may by such Proclamation vest the control of such road or street in the local authority most capable, in his opinion, conveniently and effectively to construct, control, and maintain the same; and from and after the date of the gazetting of such Proclamation such portion of land shall become a road or street, and shall be under the control of and be liable to be maintained by such local authority in like manner as other public highways are controlled and maintained by such authority.

Removal of gorse, &c., from roads, &c.

6. Section fifteen of "The Public Works Act 1882 Amendment Act, 1884," section eighteen of "The Public Works Act Amendment Act (No. 2), 1885," and section thirty-two of "The Public Works Acts Amendment Act, 1887," are hereby repealed, and in lieu thereof it is hereby enacted as follows:—

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 such road or street, or obstruct the traffic thereon, or obstructing any ditch or drain appertaining thereto; and
- (2.) To cut down or grub up, as the local authority may direct, and remove all obstructions to traffic or drainage, arising from the growth of plants upon such road or street up to the middle line of such road or street along the whole frontage of the land occupied or owned by him.

In the event of any such occupier or owner failing to comply with such order within one month from the service thereof, he shall be liable to a penalty not exceeding one pound 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 trimming such hedge, or cutting down, or grubbing up, and removing any such plants then growing on such road or street; and the said cost shall be a charge on the land, and may be recovered by the local authority as rates are recoverable by such local authority under "The Rating Act, 1882," or "The Rating Act, 1876," as the case may be:

Provided that the local authority has reasonable ground for believing that such plants have spread from such adjoining land or the fence thereof.

"Cut down" in this section means cutting down and keeping cut down the stem and root of any plants so as to prevent their throwing out any leaf, offshoot, or flower:

"Plants" means and includes gorse, sweetbriar, bramble, blackberry, acacia, broom, and fennel.

7. When, under the provisions of the last-preceding section, an order is made by a local authority, such order shall be in writing,

Notice to clear gorse, &c.

signed by any person appointed, either generally or specially, by the local authority for the purpose of giving such notices, and shall be delivered to the person liable, either personally or by leaving the same at or posting the same in a registered letter addressed to his last known place of abode or business in New Zealand, and it shall not be necessary to prove the actual receipt of such order by the person to whom it is addressed.

If any person upon whom such order should be served is unknown, or, after due inquiry, cannot be found, or is absent from the colony, then a service upon his known agent or attorney shall be deemed a sufficient service, and if such person has no known agent or attorney in the colony, or such agent or attorney cannot, after due inquiry, be found, then a publication of such order in a newspaper circulating in the district in which such order is issued, and posting a copy of the order upon a conspicuous part of the property in respect of which such order is issued, or on some public road adjacent thereto, shall be sufficient service, and the cost of publishing such notification shall be a charge upon the land, and shall be recoverable by the local authority in the same manner as rates are recoverable by such local authority under "The Rating Act, 1882," or "The Rating Act, 1876," as the case may be.

8. In any case where a Proclamation has been issued taking land for any public work, under the authority of section eleven or of section one hundred and thirty of the principal Act, and where, before such Proclamation has been registered by the District Land Registrar as required by the said Act, it is found that such Proclamation incorrectly describes the land purporting to be taken, or that any other error in form or substance exists in or in relation to such Proclamation or the making or gazetting thereof, the Governor may by a subsequent Proclamation cancel and annul such Proclamation or any part thereof, and such first Proclamation or such part thereof shall from the date of the subsequent Proclamation be absolutely void and of none effect as from the date of the same, and shall not be deemed to have vested the land mentioned therein in Her Majesty, or in the local authority, or in the corporate body represented by such local authority, or to have discharged such land from any mortgages, charges, claims, estates, or interests of what kind soever existing in respect of such land, anything to the contrary in section eleven or in section one hundred and thirty of the principal Act or in section six of "The Public Works Act 1882 Amendment Act, 1884," notwithstanding; but nothing herein contained shall limit the power of the Governor to take by any subsequent Proclamation the whole or any part of the land mentioned or described in any Proclamation so cancelled in whole or in part.

9. Section eleven of "The Public Works Act 1882 Amendment Act, 1885," is hereby repealed, and the following is enacted in lieu thereof:—

In any case where the Queen or the Governor may have been or may hereafter be entitled to resume or take possession of land under the authority of any Act of the General Assembly, then, notwithstanding the issue of a Proclamation under the principal Act, or any Act thereby repealed, or any Act repealed by "The Public

Proclamations taking land for public works may be cancelled for error or misdescription.

If Crown resume land for public purpose under authority of general or special Act, then, notwithstanding Proclamation under Public Works Act, no compensation payable otherwise than as provided in enabling Act.

Works Act, 1876," taking such land for any public purpose, and notwithstanding that any special provisions contained in such authorising Act as to the resumption or taking of such land may not have been complied with, no compensation shall be paid or payable in respect thereof otherwise than as may be specially provided in the Act by virtue of which the Queen or the Governor, or any person on behalf of the Queen or the Governor, is entitled to resume or take possession as aforesaid: Provided such Proclamation shall have been issued during the currency of such authority.

10. In any case where land has been entered upon by the Queen or the Governor, or by any person on behalf of the Queen or the Governor, prior to the thirty-first day of March, one thousand eight hundred and eighty-four, for the purpose of constructing a railway thereon, and no Proclamation taking such land for railway purposes has been issued, and no conveyance or other instrument vesting such land in the Queen has been executed, it is hereby enacted that such land shall be deemed to have been duly taken for railway purposes to the extent hereinafter defined :

Provided, however, that in any such case where the Queen or the Governor, or any person on behalf of the Queen or the Governor, may have been entitled to resume possession of or take land for a road or a railway, under the authority of any Act of the General Assembly, without payment of compensation, or on payment of a certain sum fixed by or under such Act, then, if such land was entered upon for the purpose of the construction of a railway thereon during the currency of such authority, and prior to the thirty-first day of March, one thousand eight hundred and eighty-four, such land shall be deemed to have been duly taken for railway purposes, under the authority of such Act, to the extent hereinafter defined, at the time when it was entered upon by the Queen or the Governor, or by any person on behalf of the Queen or the Governor, for the purpose of constructing a railway thereon, notwithstanding that any special provisions contained in such Act as to the resumption or taking of such land may not have been complied with. But compensation may be claimed as hereinafter provided for any land thus taken in excess of the area authorised to be resumed or taken as aforesaid.

The word "Proclamation," where used in this section, means a Proclamation issued under the authority of the principal Act, or any Act thereby repealed, or of any Act repealed by "The Public Works Act, 1876."

In any case where compensation is payable under the provisions of this section, the time within which any person can obtain compensation for the land taken is hereby limited to a period of two years from the date of the coming into operation of this Act.

All claims in respect of such lands shall be made and dealt with as claims for compensation under the principal Act in respect of lands taken.

The boundaries on each side of the railway of the land hereby declared to have been duly taken for railway purposes are hereby defined to be—

(a.) The outer boundary-fence of the railway where any such boundary fence now exists ;

Defining land taken for railway purposes where not taken by Proclamation or conveyance, and fixing time within which compensation is payable for same.

(b.) Where no such boundary-fence exists, a line parallel to and distant thirty-three feet from the centre-line of the railway; but where the railway works and buildings now actually occupy a greater width, the boundary-line shall extend and include such works and buildings, and a space of six feet beyond the same.

But no building or structure owned by any person other than the Queen, or the Governor, or the New Zealand Railway Commissioners shall be included by force of this enactment within the boundaries of land deemed to be taken for railway purposes; nor shall anything herein be deemed to interfere with any public road or street except under and subject to the provisions of the principal Act and its amendments; nor shall anything herein affect any sale, lease, or other disposition by the Queen, or the Governor, or the New Zealand Railway Commissioners, of any land hereby declared to have been taken for railway purposes after the occupation of such land for railway purposes by the Queen, or the Governor, or the Railway Commissioners aforesaid.

If at any time within three years after the passing of this Act it is desired that any land hereby declared to have been taken for railway purposes, or any part thereof, shall cease to be part of a railway, the Governor may from time to time, by a notice published in the *Gazette* defining accurately the portion desired to be retained as part of the railway, declare that the residue thereof shall cease to be part of such railway; and such notice shall take effect accordingly, and such residue shall thenceforth, if compensation have not been paid therefor, be deemed not to have been taken.

Nothing herein contained shall be construed to affect or limit the provisions of section twelve of "The Public Works Act Amendment Act, 1887," or any other statutory provision or any reservation whereby a greater width than one chain is prescribed or reserved for any railway.

Nothing herein shall be deemed to affect the provisions of section seventy-one of the principal Act, nor shall anything herein be deemed to confer any right to compensation where such right does not now exist.

11. In every case where compensation shall hereafter be claimed under the provisions of the principal Act, or any Act amending the same, or this Act, the value of land taken or injuriously affected shall be assessed for the purpose of ascertaining the amount of compensation, if any, at its value at the time when it was first entered upon for the purpose of constructing or carrying out a public work thereon.

Value of land taken for public works to be assessed at its value at time first entered upon.

12. The local authority having the control of any road in a sparsely-populated district may, by writing, permit any person to erect a swing-gate across such road; but the local authority may, notwithstanding such permission, cause such swing-gate to be removed at any time, without payment of compensation to the person who may have erected the same, or to any person deriving benefit therefrom; and in any case in which a swing-gate shall be or may have been erected as aforesaid a board with the words "Public Road" legibly painted thereon shall be fixed to each side of such gate, and shall at all times be maintained thereon by the person authorised to erect the same.

Local authority may permit swing-gates to be placed on roads in sparsely-populated districts.

Rabbit-fences may be erected across roads, with swing-gates.

13. The Minister, or any Board of Trustees, or any person erecting any rabbit-proof fence on Crown lands, or private lands, or lands belonging to any local authority or public body, for the purpose of preventing the spread of rabbits, shall be deemed to have, and always to have had, authority to enter upon any district or county roads traversing the line of any such fence or bounding any such lands, and to continue the construction of such fence across any such road, or any bridge on such road, with swing-gates, but so as not to unnecessarily interfere with public traffic; subject, however, to the provisions of the last-preceding section as to the power of the local authority to cause any such swing-gate to be removed, and to the requirements of the said section in respect of having the words "Public Road" legibly printed on a board at each side of such gate.

Every person who, whether using the road or bridge as a highway or not, leaves any swing-gate in a rabbit-proof fence open, or, after passing through such gate, does not close it, shall be liable on summary conviction to a penalty not exceeding five pounds for every such offence.

County Councils may delegate to Road Boards the power to make new drains.

14. The Council of any county may from time to time, at the request of any Road Board, by a special order, delegate to such Board all or any of the powers granted to such Council by section one hundred and eighty-nine of the principal Act, for the purpose of enabling such Board to make or maintain new public drains within the district under its jurisdiction.

The Road Board, for the purpose aforesaid, may, from the date of such order taking effect, exercise any of the powers mentioned in the aforesaid section, and also shall have all the powers and be subject to all the liabilities given to or imposed upon County Councils by the principal Act in respect of the construction and repair of public drains.

If a local authority wishes to construct a bridge or to establish a ferry or ford that will benefit an adjoining district, the Governor may in certain cases compel local authority of such adjoining district to contribute to the cost of same.

15. In any case where the local authority of any district desires to construct a bridge, or to establish a ferry or ford, in any position that will, in its opinion, be of advantage and benefit to the whole or any considerable portion of the inhabitants of an adjacent district or districts, as well as to the inhabitants of its own district, and where it is, in the opinion of such local authority, reasonable that the local authority or authorities of such district or districts whose inhabitants are to be so benefited should contribute to the cost of constructing or establishing the said bridge, ferry, or ford, the following provisions shall have effect:—

(1.) The local authority shall prepare plans, specifications, and estimates of the work, and shall send a copy of the same to the Minister and to each local authority which it is proposed should contribute to the cost of the work, together with a notice stating—

(a.) The proportion of such cost which it is proposed that each local authority should bear;

(b.) That after the expiration of two months from the date of such notice being served it is the intention of such local authority to apply to the Governor for power to construct the work, and to recover the proportion of the

cost of the same from the local authority or local authorities mentioned in such notice; and

(c.) That any objection to the proposal must be sent to the Governor within such period of two months.

- (2.) At the expiration of the aforesaid period of two months the local authority may make application to the Governor for power to construct the work on the terms mentioned in the notice aforesaid.
- (3.) Any local authority making an objection shall state in such objection the grounds thereof, and such local authority shall send a copy of such objection to the local authority proposing to construct the work.
- (4.) If an objection is lodged, the Governor (with the view of determining whether or not the work should be done, or what proportion, if any, of the cost of the same should fairly be borne by any local authority, or what local authority should do the work) may direct any Resident Magistrate or other person or persons to be a Commissioner or Commissioners to inquire into and report to him on the matter, and such Commissioner or Commissioners shall have all the powers and duties mentioned in section six of "The Public Works Acts Amendment Act, 1887," but it shall not be obligatory upon the Governor to act in accordance with the opinion that may be expressed by such Commissioner or Commissioners, nor to give effect to any recommendation that may be contained in his or their report.
- (5.) If no objection be lodged within the two months aforesaid, or if, although an objection be lodged, the Governor is of opinion that the work should be done, he may, if he think fit, by warrant under his hand publicly notified and gazetted, authorise any local authority to execute such work, and may declare that a proportion of the cost thereof, to be mentioned in such warrant, shall be borne by any other local authority or local authorities, and such proportion shall be paid by such local authority or local authorities accordingly.
- (6.) The local authority empowered to construct the work shall execute and construct the same accordingly, and shall, on the completion thereof, make a demand in writing on any other local authority liable to contribute to the cost of the same, and such demand shall show in detail the cost of the work and the amount demanded in respect of the same; and if such other local authority shall not, within three months from the date of such demand being made, satisfy the same, the first-mentioned local authority may recover the amount, or as much thereof as may be found to be payable, in any Court of competent jurisdiction; but the proportion to be paid as stated in the warrant of the Governor shall be conclusive and binding on such Court, and it shall not be competent for such Court to question the validity of such warrant.

(7.) After the construction of the work the control thereof shall be deemed to be vested in the local authority which constructed it; but nothing herein contained shall limit the power of the Governor at any time thereafter to make other provision in respect of such control under section four of "The Public Works Acts Amendment Act, 1887."

The provisions of section seven of "The Public Works Acts Amendment Act, 1887," shall extend and apply in respect of all matters intended to be provided for under the provisions of this section.

For the purpose of providing the amount necessary to enable any local authority to comply with any order which may be made by the Governor hereunder, such local authority may raise a loan for the said amount in terms of section sixteen of "The Local Bodies' Loans Act, 1886," without taking any poll of the ratepayers thereon, and for that purpose, and for the purpose of paying the interest on such loan, and repaying the principal thereof, such local authority shall have and may exercise all the powers of "The Local Bodies' Loans Act, 1886," and all the provisions of that Act, where not inconsistent herewith, shall apply to such loan.

For the purposes of this section, if not inconsistent with the context,—

"District" means and includes a borough, county, town district, or road district:

"Local authority" includes the Minister in respect of the construction of a bridge or the establishment of a ferry or ford by Her Majesty on a Government road, and he shall have and may exercise all the rights, privileges, and authorities conferred upon a local authority by this section in respect of such work:

"Work" means the construction of a bridge (including approaches thereto and protective works in connection therewith where necessary) or the establishment of a ferry or ford, with all requisite appliances, including approaches thereto, and protective works in connection therewith, where necessary:

"The construction of a bridge" includes an addition to the length of a bridge, or the rebuilding of any portion of a bridge which has been destroyed by fire, flood, tempest, or accident, or the entire rebuilding of a bridge which in the opinion of the Minister requires to be entirely rebuilt.

16. The following proviso is hereby added to section fourteen of "The Public Works Acts Amendment Act, 1887":—

Provided always that, if any person, whether a Native or European, shall have any estate of leasehold or other particular estate in, or any mortgage or charge upon, such land, the Native Land Court shall in and by the same order or orders ascertain and determine what part of the whole compensation shall be paid to such person; and no Court constituted under Part III. of "The Public Works Act, 1882," shall have jurisdiction to entertain the claim of any such person for compensation, and every sitting of the said Court to be held for the purpose of dealing with such land shall be duly notified in the *New Zealand Gazette* and *Kahiti Maori*.

Where Native land taken for public works, Native Land Court to determine all claims.

17. Any person employed on or about a railway which is vested in Her Majesty, or the New Zealand Railway Commissioners, or any company, may impound cattle trespassing upon such railway; and any act, matter, or thing required under "The Impounding Act, 1884," to be performed or done by the occupier of land as defined in such Act, may be performed or done in respect of a railway by any person authorised generally or particularly for that purpose by or on behalf of the General Manager or any District Manager of such railway: Provided that such railway is fenced with a sufficient fence within the meaning of the Fencing Act, and that such fence is in good repair.

Railway servants may impound trespassing cattle.

18. The powers conferred in respect of drainage under Part VIII. of the principal Act shall extend to and include the power of making, constructing, and maintaining an outlet to any lake or other body of water not having a navigable communication with the sea or any navigable river.

Drainage-works to include outlet to lake.

19. Any local authority may agree with the Minister regarding unopened railways, or the New Zealand Railway Commissioners regarding railways open for traffic, to pay the cost or estimated cost of converting any railway-bridge into a combined road- and railway-bridge; which work of conversion the Minister or the New Zealand Railway Commissioners is or are hereby authorised to carry out, if he or they should so think fit; and such local authority is hereby authorised to pay such cost, and also to pay annually to the Minister or the New Zealand Railway Commissioners respectively such further amount as may be necessary to maintain the roadway of the said combined bridge, and any approaches, gates, or other works or structures in connection therewith, and also to pay to the Minister or the New Zealand Railway Commissioners respectively such amount, if any, annually as may be requisite to pay the wages of one or more caretakers to the said bridge.

Local authorities may agree with Minister as to conversion of railway-bridge into a bridge for ordinary and railway traffic.

All moneys hereby authorised to be paid by a local authority shall be paid out of the fund under its control, and charged accordingly.

20. Her Majesty in the case of unopened railways, or the New Zealand Railway Commissioners in the case of opened railways, may from time to time grant to any person any easement in, upon, through, over, or under any land taken or acquired for a public work, subject to such conditions and payment of rent as Her Majesty or the New Zealand Railway Commissioners respectively shall think fit, and subject to revocation without compensation, at any time when the service of the public requires it, and subject also to immediate revocation in case of the breach of any conditions under which such easement was granted.

Her Majesty may grant easements over lands acquired for public works.

21. All or any of the powers conferred upon the Governor by section two hundred and fifty of "The Counties Act, 1886," may be exercised from time to time as occasion may require, and any instrument issued or direction given by him under the provisions of the said section may be revoked, altered, or varied in such manner as the Governor may deem expedient.

Power of Governor to vest control of road may be exercised from time to time.

22. Notwithstanding the provisions of section thirty-three of "The Government Railways Act, 1887," the New Zealand Railway Commissioners shall have and may exercise the powers of leasing, for a period of twenty-one years, conferred upon the Governor by section

Extent to which Railway Commissioners may lease land.

one hundred and sixty-five of the principal Act: Provided that no lease for a term exceeding seven years shall be made without the consent of the Governor.

Words "bridge," "ferry," and "ford" to include approaches to bridge, ferry, or ford.

23. For all the purposes of sections four, five, six, seven, and eight of "The Public Works Acts Amendment Act, 1887," the words "bridge," "ferry," and "ford" shall respectively include such approaches to a bridge, ferry, or ford, and such protection-works in connection therewith, as the Governor may, by a Proclamation under the said section four, or otherwise, define to be part of the bridge, ferry, or ford.

Proclamation vesting control of bridge may be revoked or varied from time to time.

24. Whenever any Proclamation or instrument has at any time heretofore been issued or made under the principal Act or any amendment thereof vesting the control of any bridge, ferry, or ford, and apportioning the cost of maintenance thereof, such Proclamation or instrument may be revoked, altered, or varied by the Governor from time to time as he may deem expedient, subject to the provisions of the said Acts and this Act.

No fees or stamp-duty to be charged upon certificate where road stopped or exchanged for other road.

25. No stamp-duty or registration or other fees shall be charged or payable upon or in respect of any certificate or copy thereof made and issued under the provisions of the ninety-sixth section of the principal Act.

Every local authority to have power to settle claims.

26. Every local authority shall have power to compound with any person for such sum of money or other recompense as it thinks fit in respect of the breach of any contract or of any penalty incurred thereunder, or of any debt due to the local authority, or of any damage done by the local authority or its servants, or to submit any such matter to arbitration, whether before or after any action or suit is brought for or in respect of the same.

By-laws to be proved by production of *Gazette*.

27. The due making of any by-law by the New Zealand Railway Commissioners, and the date of the making thereof, and the date when the same came into force shall be sufficiently proved by the production of a copy of the New Zealand Government *Gazette* in which such by-law is published.

Conveyances to and contracts with the Railway Commissioners to be exempt from duty.

28. Every instrument for the conveyance of any property or any interest therein to the New Zealand Railway Commissioners shall be exempt from stamp duty and from Native land duty, and every instrument expressing any contract made by or with the New Zealand Railway Commissioners, or by or with any person on behalf of the New Zealand Railway Commissioners, shall be exempt from stamp duty.

Defining the terms "public notice" and "publicly notified."

29. In section two of the principal Act the definition of the words "public notice" and "publicly notified" is hereby repealed, and the following is substituted in lieu thereof:—

"Notice" means a statement conveying the general effect of a matter or thing done or intended to be done:

"Public notice" means a "notice" published in some newspaper circulating in the district in which the matter of the notice arises or to which it relates; and, if there be no such newspaper, then by a printed or written placard posted in some conspicuous place on the land or works affected by such notice or to which it relates:

"Publicly notified" means notified by "public notice."

30. The Governor may, by Proclamation publicly notified and issued in the manner set forth in section one hundred and thirty of the principal Act, set apart any Crown land, or any part of any public reserve, or any part of any public domain which may be required for any such public work as is defined in "The Public Works Act 1882 Amendment Act, 1885," and all Crown land, and land forming part of a public reserve, and land forming part of a public domain hereafter to be set apart for the purposes of any such public work, shall be deemed to be absolutely vested in Her Majesty for the purposes of such public work.

Crown lands, public reserves, and public domains may be set apart for purposes of fortifications.

The Minister shall cause a copy of every such Proclamation to be lodged in the office of the Surveyor-General, who shall cause the land included in such Proclamation to be shown upon the proper maps and records of the district affected by such Proclamation, in such manner as to prevent such land being disposed of at variance with such Proclamation.

In this section the expressions "Crown land," "public reserve," and "public domain" have the meanings thereto respectively attached by "The Land Act, 1885," "The Public Reserves Act, 1881," and "The Public Domains Act, 1881."

31. In "The Public Works Act 1882 Amendment Act, 1885," the words "lands" and "land" shall be interpreted as including land vested in any local authority for any purpose whatsoever, and also land vested in trustees for any public purpose whether local or general.

Land vested in local authority or trustees for public purposes may be taken for fortifications.

Where such land so vested is taken for the purpose of a public work as defined by "The Public Works Act 1882 Amendment Act, 1885," no compensation shall be paid by the Minister therefor.

No compensation payable in such cases.

32. Whereas some doubt exists as to the power of Harbour Boards to expend any part of their revenue in constructing streets, it is hereby enacted that, whenever it shall have been agreed between any Harbour Board and the local body having jurisdiction over any land which may have been reclaimed from the sea by the said Harbour Board, or over any land vested in a Harbour Board, or held as an endowment for a Harbour Board, to construct any street or streets over such reclaimed land or land vested or held as an endowment as aforesaid, it shall be lawful for the Harbour Board to contribute out of its revenue such proportion of the cost of the construction of any such street or streets as may be agreed on by the said local bodies:

Harbour Boards may contribute to construction of streets.

Provided that the amount to be so contributed in respect of any street or streets on any lands other than lands which may have been reclaimed from the sea by the said Harbour Board shall not exceed fifty per centum of the cost of the construction of such street or streets.

Proviso.

33. Where a Road Board determines to alter the course of an existing road, and the owners of land on each side of such existing road agree to such alteration,—

Procedure for altering course of roads where land-owners consent.

(1.) 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, showing the lands through which it is proposed to pass, and the owners and occupiers of such lands so far as known.

- (2.) The said plans shall lie open to public inspection at the office of the Board, or other convenient place, during four consecutive weeks; and the Board shall once in each week during such four weeks give public notice of the proposed alteration, and of the place where such plans are on view, and, in such notice, shall call upon all persons having any objection to the proposed alteration to lodge such objections in writing in the office of the County Council within the four weeks aforesaid.
- (3.) At the expiration of the said four weeks the Board shall send the plans mentioned in subsection one hereof, with a full description of the proposed alterations, to the County Council, and the Council shall consider the proposed alterations and any objections lodged thereto, and shall prohibit or permit the proposals of the Board, and the decision of the Council shall be final; and, in the event of its being adverse to the proposal of the Board, no further action shall be taken by the Board therein for one year thereafter.
- (4.) If the decision of the Council is in favour of the proposals of the Board, the Board may, by resolution publicly notified, declare the existing road to be stopped between the points where such alteration is proposed, and the road so declared to be stopped shall thereafter cease to be a public highway.
- (5.) The Board may thereupon agree with the owners of the land on either side of the road so stopped either to exchange the land occupied by the closed road, or any part thereof, for the land to be used for the new road, or any part thereof; or to pay compensation for the land required for the new road, or any part thereof; or to sell the land occupied by the closed road, or any part thereof, to any of the adjoining landowners.
- (6.) The provisions of section ninety-five and of subsections two, three, and four of section ninety-six of the principal Act shall apply to a road so stopped.

Every County Council shall in respect of county roads, as well as of all district roads under its control, have all the powers conferred upon a Road Board by this section.

SCHEDULE.

Form A.

For Cases where Land is taken.

FORM OF CLAIM TO COMPENSATION UNDER "THE PUBLIC WORKS ACT, 1882," AND ITS AMENDMENTS.

To [Here insert either "the Minister for Public Works" or the name of the local authority, as the case may be].

WHEREAS by a Proclamation by His Excellency the Governor, dated the _____ day of _____, 18____, the lands mentioned in Table A hereunder, in which I have an interest, as described in Table B hereunder, have been taken and vested in Her Majesty for the purposes of [Here insert the name of the public work mentioned in the Proclamation]:

And whereas the lands mentioned in Table C below, adjacent to the lands so taken, in which I have an interest as described in Table D below, will be injuriously affected by the said work by reason that [*Here state items of claim, with a reference number to each, and give in each case full particulars of the nature and extent of claim*]:

This is to give notice that I claim the sum of £ as compensation for all loss arising out of the taking of the aforesaid land and the construction of the said public work, which sum is made up as follows:—

at acres roods perches of land taken per acre.	£	s.	d.
Land injuriously affected as follows: [<i>Here state reference number, and short heading of each item of claim previously detailed, and the amount claimed in respect of each such item separately.</i>]			
Total claim 	£		

Given under my hand, this day of , 18 .

Claimant: [*Christian name and surname in full.*]

Address: [*Address in full.*]

TABLE A.

DESCRIPTION OF LANDS TAKEN.

[*Here describe the area and situation of land taken, giving name of survey district, and number of block and section, as in Proclamation.*]

TABLE B.

NATURE OF INTEREST IN LAND TAKEN.

[*Here state in full the nature of the interest, as owner in fee-simple, mortgagee, lessee, or occupier; and if the land is leased or encumbered, or subject to any easement, give particulars of such lease or encumbrance, &c., &c.*]

TABLE C.

DESCRIPTION OF LAND INJURIOUSLY AFFECTED.

[*Here describe the area and situation of the land injuriously affected, giving name of survey district, and number of block and section, or other means of identification.*]

TABLE D.

NATURE OF INTEREST IN LAND INJURIOUSLY AFFECTED.

[*Here state in full the nature of the interest as owner in fee-simple, mortgagee, lessee, or occupier; and if the land is leased or encumbered, or subject to any easement, give particulars of such lease or encumbrance, &c., &c.*]

Form B.

For Cases where Land is injuriously affected but where no Land is taken.

FORM OF CLAIM TO COMPENSATION UNDER "THE PUBLIC WORKS ACT, 1882," AND ITS AMENDMENTS.

To [*Here insert either "the Minister for Public Works" or the name of the local authority, as the case may be.*]

WHEREAS the public works mentioned in Table A hereunder have been [or are about to be] executed by your authority, by which the lands described in Table B hereunder, in which I have an interest, as described in Table C hereunder, have been [or will be] injuriously affected by the said works by reason that [*Here state items of claim with a reference number to each, and give in each case full particulars of the nature and extent of each such item*]:

This is to give notice that I claim the sum of £ , as compensation for all loss arising out of the construction of the said public work, which sum is made up as follows:—

[Here state reference number, and short heading of each item of claim previously detailed, and the amount claimed in respect of each such item separately.]	£	s.	d.
	Total claim	£	

Given under my hand this day of , 18 .

Claimant: [Christian name and surname in full.]

Address: [Address in full.]

TABLE A.

NATURE OF THE WORKS.

[Here describe the works constructed or proposed which have caused the claim.]

TABLE B.

DESCRIPTION OF THE LANDS AFFECTED.

[Here describe the area and situation of the land affected, giving name of survey district, and number of block and section, or other means of identification.]

TABLE C.

NATURE OF INTEREST IN THE LANDS INJURIOUSLY AFFECTED.

[Here state in full the nature of the interest as owner in fee-simple, mortgagee, lessee, or occupier; and if the land is leased or encumbered, or subject to any easement, give particulars of such lease or encumbrance, &c., &c.]