

New Zealand.



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1928, No. 21.

AN ACT to consolidate certain Enactments of the General Assembly relating to Public Works. Title.
[6th October, 1928.]

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

1. (1) This Act may be cited as the Public Works Act, 1928, and it shall come into force on the first day of January, nineteen hundred and twenty-nine. Short Title and commencement.

(2) This Act is divided into Parts, as follows:—

PART I.—Preliminary. (Sections 2 to 9.)

PART II.—Taking Lands for Public Works. (Sections 10 to 41.)

PART III.—Compensation. (Sections 42 to 101.)

PART IV.—Native Lands. (Sections 102 to 106.)

PART V.—Surveys. (Sections 107 and 108.)

PART VI.—Roads and Rivers. (Sections 109 to 210.)

PART VII.—Railways. (Sections 211 to 236.)

PART VIII.—Railways and Tramways Regulation and Inspection. (Sections 237 to 250.)

PART IX.—Defence. (Sections 251 to 259.)

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PART XIII.—Water-power and Electrical Energy. (Sections 306 to 329.)

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Act divided into Parts.

1908, No. 160, sec. 1

PART I.

PRELIMINARY.

2. In this Act, if not inconsistent with the context,—

“Authorized surveyor” means a licensed surveyor:

“Cattle” includes any horse, mare, gelding, colt, filly, or foal; any bull, cow, ox, steer, heifer, or calf; any ram, ewe, wether, or lamb; and any ass, mule, or goat, or any boar, sow, or other pig:

A suckling of any species under six months old and its mother are, for the purpose of this Act, to be considered as one animal:

“Crown land” means and includes all lands included within that term in the Land Act, 1924, except lands held or occupied by any person under the Crown on deferred payment, occupation with right of purchase, perpetual lease, lease in perpetuity, renewable lease, or under any other kind of lease or license, or for any other estate or interest:

“Government work” means a work constructed or intended to be constructed by or under the control of His Majesty, or the Governor-General, or the Government of New Zealand, or any Minister of the Crown:

Interpretation.

1908, No. 160, sec. 2

1909, No. 19, sec. 13

1913, No. 38, sec. 7

- “ Judge ” and “ Registrar ” of the Supreme Court mean respectively the Judge and Registrar or Deputy Registrar of the Supreme Court acting in or for the Supreme Court District in which any matter arises ; and “ Supreme Court ” means the Supreme Court in such district :
- “ Local authority ” means and includes any City Council, Borough Council, County Council, Town Board, Road Board, River Board, Harbour Board, Electric - power Board, Education Board, and other Board, Commissioners, trustees, or other persons or body however designated, having authority, under any Act or Provincial Ordinance, to undertake the construction of any public work :
- “ Local work ” means a work constructed or intended to be constructed by or under the control of a local authority :
- “ Minister ” means the Minister of Public Works, and, to the extent provided for in subsection two of section seven of the Government Railways Act, 1926, also means the Minister of Railways :
- “ Native ” means an aboriginal Native of New Zealand, and includes half-castes and their descendants by Natives :
- “ Native land ” means land held by Natives under their customs or usages :
- “ Notice ” means a statement conveying the general effect of a matter or thing done or intended to be done :
- “ Outlying district ” means any part of a county which is not included in a road district or town district :
- “ Person ” includes a corporation, and also a company (whether incorporated or not) and any partnership :
- “ Public domain ” has the same meaning as in the Public Reserves and Domains Act, 1908 :
- “ Public notice ” means a notice as herein defined published in some newspaper circulating in the district in which the matter of the notice arises, or to which it relates ; and if there is 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 :
- “ Public reserve ” has the same meaning as in the Public Reserves and Domains Act, 1908 :
- “ Public work ” and “ work ” mean and include—
- (a) Every work which His Majesty, or the Governor-General, or the Government, or any Minister of the Crown, or any local authority is authorized to undertake under this or any other Act or Provincial Ordinance, or for the construction or undertaking of which money is appropriated by Parliament ; and in particular—
- (b) Any survey, railway, tramway, road, street, gravel-pit, quarry, bridge, drain, harbour, dock, canal, river-work, water-work, and mining work (including therein the deposit of tailings, or the construction of sludge-channels or tailings-channels in connection with mining operations) ;

(c) Any hospital or any public institution under the Mental Defectives Act, 1911, including lands necessary for the use, convenience, or enjoyment of any such hospital or institution, or for any work or purpose in connection therewith ;

(d) Any secondary school or University college specified in the Ninth and Eleventh Schedules to the Education Act, 1914 ; any school established under section eighty-eight of the last-mentioned Act ; any technical school as defined in section four of the Statute Law Amendment Act, 1917 ; any public school within the meaning of the Education Act, 1914 ; any Native school ; and any lands for playgrounds, or teachers' residences, or for any other purpose in connection with any such college or school ;

(e) Any electric telegraph, fortification, rifle range, artillery range, lighthouse, or any building or structure required for any public purpose or use, including lands necessary for the use, convenience, or enjoyment of the same ;

(f) All Ministerial residences and other public buildings ; and the Minister may acquire any land adjoining any such Ministerial residence or other public building for the purpose of securing the same from fire, or any other purpose :

“ Public Works Acts ” means and includes this and all other Acts relating to public works, and all Proclamations, Orders in Council, and regulations made under any such Act :

“ Special Act ” means any Act with which this Act or any part of this Act is incorporated authorizing the construction of a public work :

“ Stopping ” of roads includes “ diverting ” :

“ Surveyor ” means any authorized surveyor appointed by the Minister of Public Works or the Minister of Lands, or by any local authority, and authorized to make any survey.

3. (1) A notice required by this Act to be sent to any person may be sent to the last known place of abode or business of such person by messenger or by post.

(2) If such person is absent from New Zealand, the notice may be sent to his agent.

(3) If such person is not known, or has no known agent in New Zealand, the notice shall be publicly notified.

(4) A notice required to be sent to the Minister shall be sent to the Public Works Office or, as the case may require, to the Railway Office at Wellington, or to the office of such person, either at Wellington or elsewhere in New Zealand, as the Minister authorizes by public notice to receive notices on his behalf.

(5) A notice required to be sent to a local authority shall be sent to the office of such authority.

(6) Where a notice is sent by post it shall be sent so as to arrive in the due course of post on or before the last day on which such notice is required to be served.

How notices to be sent.

1908, No. 160, sec. 3
1909, No. 19, sec. 13

Governor-General may make regulations for conduct of officers.

1908, No. 160, sec. 4

To be laid before Parliament.

Minister of Public Works.

Ibid., sec. 5

Interest in contracts, &c., of Minister to devolve on his successor.

Appointment of engineers and other officers.

Ibid., sec. 6
1912, No. 23, sec. 60 (3)

Annual estimates.
1908, No. 160, sec. 7

Where moneys voted for railways, Appropriation Act to contain schedule of same.

Annual accounts and expenditure to be certified by Auditor-General.

Ibid., sec. 8

Contracts for Government works to be in the name of His Majesty.

Ibid., sec. 9

Of contracts for local works.

4. (1) The Governor-General in Council may from time to time make regulations for the conduct of all persons employed by the Government under this Act, or in or about any works which may be constructed by the Government under the authority thereof.

(2) A copy of all regulations made under the authority of this Act shall within ten days after the issue thereof be laid before Parliament if sitting, or if not sitting, then within ten days after the commencement of the next ensuing session.

5. (1) The Governor-General shall appoint some member of the Executive Council to be the Minister of Public Works, who shall be charged with the administration of this Act and with the execution of all Government works.

(2) The Minister of Public Works holding office on the coming into operation of this Act shall be deemed to be appointed under this Act.

(3) Where the Minister is authorized to enter into any contract or agreement or make any lease under this or any other Act, all the rights and liabilities in respect thereof and all benefit and advantage thereunder or interest therein shall vest in his successor or successors in office without the necessity of any transfer or assignment whatsoever.

6. There may from time to time be created such offices, and such engineers, managers, clerks, and other officers and persons may be appointed, as may be necessary for the administration of this Act and for the execution of all Government works.

7. (1) The Minister shall as soon as conveniently may be after the opening of each session lay before Parliament full and detailed estimates of the expenditure proposed to be made upon all Government works during the financial year; and no such works shall be undertaken unless Parliament appropriates money for the execution thereof.

(2) Where moneys are proposed to be voted in any session for the construction of railways, the Minister shall insert in the Appropriation Act of such session a schedule in the form in the First Schedule hereto.

8. (1) The Minister shall as soon as conveniently may be after the opening of each session lay before Parliament a full report of the works carried out by the Government under the authority of this Act during the preceding financial year; also a full and correct statement of the expenditure during such year on all the works and services chargeable to the Public Works Fund.

(2) A copy of such statement of accounts shall be sent to the Controller and Auditor-General, who shall certify to the correctness of the same; and his certificate, together with any remarks by him appended thereto, shall be laid before Parliament by the Minister.

9. (1) Every contract for the execution of Government works shall be entered into in the name of His Majesty, and may be executed by the Governor-General on his behalf.

(2) Every contract for the execution of local works shall be made in such manner as the local authority making the same is authorized by law to make and execute its contracts.

(3) All such contracts may be varied and discharged in the same manner respectively.

PART II.

TAKING LANDS FOR PUBLIC WORKS.

10. (1) The provisions of sections twenty-two and twenty-three hereof do not, except as hereinafter specially provided, apply to the taking of lands for railway or defence purposes, or for roads in connection with such purposes, or for water-power or irrigation works or purposes, or to the taking of Native land for any public work.

Application of Part II.
1908, No. 160, sec. 10
1910, No. 66, sec. 4

(2) All the other provisions of this Part of this Act apply to the taking of any lands and to all lands taken for any public work whatever, except as hereinafter specially provided.

Power to take.

11. Land required for any public work may be taken under the provisions of this Act—

Empowering the taking of land.
1908, No. 160, sec. 11

(a) If for a Government work, by the Minister ; or

(b) If for a local work, by the local authority.

12. The power conferred by this Act on the Minister or a local authority, as the case may be, to take or contract for the purchase of land for a public work shall include the power—

Land may be taken subject to particular estate or interest.
1913, No. 38, sec. 8

(a) To take or contract for the purchase of and to hold the said land, subject to any particular estate or other interest to which the land is for the time being subject ; and

(b) To take or contract for the purchase of, separately, any particular estate or other interest for the time being subsisting in the land.

What may and what may not be taken.

13. Whenever power is given to take land for any public work under this Act such power, except where otherwise specially provided,—

Crown lands, public reserves, &c., roads and streets.
1908, No. 160, sec. 12

(a) Includes the power to set apart or procure the setting-apart of Crown land for such purpose, and also the power to take or set apart any part of any public reserve or public domain, or of any land vested in any local authority for any purpose whatsoever, or of any land vested in trustees for any public purpose whatsoever, whether local or general ; but

(b) Does not include the power to take any part of any road or street.

14. (1) The Minister may from time to time impound, divert, and take away any water from any stream or running water, or may purchase or acquire any right or interest therein, for the purpose of supplying water for the use of any railway or other public work and the engines or machinery used thereon or connected therewith, or for the purposes of any wharf, building, or premises connected with such railway or other public work, whether such railway or other public work is situated on land entitled to the use of such water or not, and also may in like manner take, purchase, or acquire any land which may be necessary for the purposes of this enactment.

Water or land for supply of water to public work.
Ibid., sec. 13

(2) Any water so impounded, diverted, or taken away, and any land taken, purchased, or acquired as aforesaid, and any right or interest therein respectively, and all pipes, machinery, appliances, and works

used in connection with or for the purposes of such water-supply, are hereinafter included in the expression "waterworks"; and all waterworks already constructed or acquired or that may hereafter be constructed or acquired for all or any such purposes as aforesaid shall be deemed to have been and to be constructed or acquired under this Act, and to form a part of the railway or other public work for the use of which they have been constructed or acquired.

Entry on land to lay pipes and examine or repair waterworks.

(3) The Minister, and all officers, workmen, and others by his direction, may enter on any land in the daytime, with or without carts or other vehicles, for the purpose of laying or erecting waterworks in or on such land, and also may from time to time in like manner enter thereon for the purpose of examining or repairing such waterworks when necessary.

(4) At least twelve hours' previous notice in writing shall be given by or on behalf of the Minister to the owner or occupier of such land, if resident thereon, before any entry for the purpose of laying or erecting waterworks, and if such owner or occupier is not so resident, then by posting such notice in a conspicuous place on such land; but no notice shall be necessary in cases where the entry is made for the purpose of examination or to execute repairs.

(5) In exercise of the powers conferred by subsection three hereof the Minister, his officers, workmen, or others, shall do as little damage as possible, and any damage or loss done or occasioned by the exercise of such powers shall from time to time be ascertained and settled in the manner provided by any agreement made by the Minister under the authority of this Act, or if no such agreement is made, then in the manner provided by Part III hereof.

Forest plantations, recreation-grounds, agricultural show-grounds.

1908, No. 160, sec. 14
1908, No. 241, sec. 2
1910, No. 66, sec. 13

15. (1) The Governor-General or a local authority is hereby empowered to take under the provisions of this Act any area of land, whether private, Native, or otherwise, required for forest-plantation purposes, recreation-grounds, 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.

Paddocks for driven cattle.

(2) Land may be taken under this Act by the Governor-General or any local authority for the purpose of paddocking driven cattle as if such purpose were a public work.

Power to establish swimming-baths.
Ibid., sec. 9

16. 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 this 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.

Quarry or gravel-pit, or stone or gravel may be taken when required for construction of public work.
1925, No. 47, sec. 4

17. Where any public work has been authorized to be carried out by or on behalf of His Majesty and gravel or stone is required in the construction of such work, any land may be taken under this Act for the purposes of a gravel-pit or quarry to be used in connection with such work, or the Minister may by his servants or agents after twenty-four hours' notice to the occupier enter on any such land, other than land occupied as a garden or ornamental shrubbery, and dig and take any stone, gravel, or other material therefrom. Reasonable compensation shall be paid for any injury done to or material taken from the

land entered upon, and in the event of any dispute the amount thereof shall be determined in manner set out in Part III hereof.

18. Except for the purpose of a railway or for defence purposes, or for the purposes of any other work to be made under the authority of a special Act, nothing in this Act shall authorize—

Certain lands, &c.,
not to be entered on
without consent.
1908, No. 160, sec. 15

- (a) The taking of any stone or other material from any quarry, brickfield, or like place commonly used for the taking of material therefrom for sale without the consent in writing of the owner first obtained; or
- (b) The taking of any land occupied by any building, yard, garden, orchard, or vineyard, or in *bona fide* occupation as an ornamental park or pleasure-ground without the previous consent of the Governor-General in Council or the consent in writing of the owner first obtained.

19. (1) Where any land is or has been taken at any time by the Governor-General or by any local authority under the authority of any Act or Provincial Ordinance for the construction of any public works, the Governor-General or such local authority shall not thereby be deemed to have acquired or to acquire any right to any mines of coal or other minerals whatsoever under any land so taken, except only such parts thereof as are necessary for the proper and effectual construction, support, and maintenance of such works.

Mines and minerals
excluded from land
taken for public
works.
Ibid., sec. 16
1911, No. 21, sec. 7
(6)

(2) All such mines and minerals (excepting as aforesaid) shall be deemed to be and to have been excepted out of the Proclamation or other instrument under the authority whereof the land is or has been or may be taken, except so far as a contrary intention is expressed in that Proclamation or instrument.

20. In case any of the land so taken as last aforesaid is leasehold land of the Crown, held under lease granted under the provisions of the Westland and Nelson Coalfields Administration Act, 1877, or any other Act relating to the granting of leases of land or licenses to hold land for mining purposes, then and in such case the lessee or licensee of such land shall not be entitled to claim compensation in respect of any land so taken, but shall only be entitled to claim compensation for actual loss sustained through damage to his mine, or the works connected therewith, by reason of the taking of such land.

As to Crown mineral
leaseholds.
1908, No. 160, sec. 17

21. (1) In any case the Crown or local authority may in taking or acquiring land for a public work take or acquire only the surface, together with such part of the subsoil as is deemed necessary, or may take only such part of the subsoil as is deemed necessary excluding the surface.

Surface only or
subsoil only of land
may be taken.
1911, No. 21, sec. 7

(2) When any land is so taken and any part of the subsoil beneath that land is not taken the land so taken shall, except in pursuance of some agreement to the contrary, have no right of support from the subjacent subsoil.

(3) In such a case it shall not be lawful for any person to extract minerals or otherwise interfere with the subjacent land until three months' notice of his intention so to do has been given in writing to the Minister of Public Works in the case of a Government work, or to the local authority in the case of a local work.

(4) In any case where land has been so taken or acquired to the exclusion of any part of the subsoil, the Minister of Public Works or

the local authority, as the case may be, may at any time thereafter take or otherwise acquire as for a public work any part of the subsoil underlying or adjacent to the land so taken or acquired, the acquisition of which is deemed necessary for the support or protection of the surface or of any public work thereon.

(5) Where a Proclamation or Order in Council is revoked under section twenty-seven hereof, and thereafter the whole or any part of the land included therein is again taken by the Crown or by the same local authority for the same or any other public work, no compensation shall be payable in respect of the value of any works or improvements which have been made or effected (whether before or after the commencement of this Act) on the land at any time while it remained vested in the Crown or in the local authority by virtue of the Proclamation or Order in Council so revoked or of any prior Proclamation or Order in Council

Procedure for taking.

Procedure for taking lands.

1908, No. 160, sec. 18
1909, No. 19, sec. 4

22. (1) Subject to the provisions of section ten hereof, whenever lands (other than Crown lands) are required to be taken for any public work, the Minister in the case of Government works, and the local authority in the case of local works,—

Surveys and plans to be deposited in road district.

(a) Shall cause a survey to be made and a plan to be prepared showing the lands required to be taken for the same (if any), together with the names of the owners and occupiers of such lands so far as they can be ascertained; and

Notice that objections to proposed works will be heard.

(b) Shall cause a copy of such plan to be deposited in some place in the road district in which such lands are, or, if such lands are not within a road district, in such other convenient place as the Minister or local authority respectively may direct; and

(c) Shall cause a notice to be gazetted and to be twice publicly notified stating the place where such plan is open for inspection, with a general description of the works proposed to be executed and of the lands required to be taken; and

(d) Shall in such notice call upon all persons affected to set forth in writing any well-grounded objections to the execution of such works or to the taking of such lands, and to send such writing within forty days from the first publication of such notice to the Minister or to the local authority, as the case may be:

Provided that no objection as to the amount or payment of compensation in respect of the execution of such works shall be deemed a well-grounded objection within the meaning of this section: and

Notice to be served on owners and occupiers.

(e) Shall also cause a copy of such notice and description to be served upon the said owners and occupiers, and any other person having an interest in the land, so far as they can be ascertained: and

How objections to be heard.

(f) Shall upon receiving any such well-grounded objection as aforesaid appoint a time and place in New Zealand at which the objector may appear (in the case of Government works) before the Minister or some person appointed by him, and (in the case of local works) before the local authority and support the objection by such evidence as the objector thinks fit.

(2) The plan referred to in paragraph (b) of subsection one hereof shall be open to inspection by all persons at all reasonable hours; and any person having custody thereof and refusing or obstructing such inspection shall for every such offence be liable to a fine not exceeding five pounds.

(3) The provisions of this section requiring the names of the owners and occupiers of the land to be shown on the plan thereof, and requiring copies of the notice and description referred to in this section to be served upon the said owners and occupiers and upon all other persons having an interest in the land, shall have no application to any Native who is an owner or occupier of the land or has an interest therein unless his title to the land is registered under the Land Transfer Act, 1915. Entry on the Provisional Register shall not be deemed to be registration within the meaning of this subsection.

(4) When any Native is an owner or occupier of the land or has an interest therein and his title is not so registered under the Land Transfer Act, 1915, a notice to the same effect as the notice gazetted in accordance with the foregoing provisions of this section shall at the same time or as soon thereafter as practicable be published in the *Kahiti*, but no proceedings for the taking of land shall be invalidated by any failure to conform to the requirements of this subsection.

23. If within the said forty days no objection is made or if after due consideration of all objections the Minister or the local authority, as the case may be, is of opinion that it is expedient that the proposed works should be executed, and that no private injury will be done thereby for which due compensation is not provided by this Act, the land proposed to be taken shall be taken in the following manner:—

(a) (i) A map shall be prepared in duplicate, showing accurately the position and extent of the lands proposed to be taken; and

(ii) Such map shall be signed by the Surveyor-General, or some authorized surveyor appointed by him to certify plans for the purpose of any Act relating to the conveyance or transfer of land, as evidence of the accuracy thereof:

(b) In the case of any Government work the Minister shall recommend the Governor-General to issue a Proclamation taking the land: or,

(c) In the case of any local work,—

(i) The local authority shall lay before the Governor-General a memorial containing a list of the lands proposed to be taken, together with the aforesaid map in duplicate;

(ii) Every such memorial shall be signed by two members of the local authority, and need not be under seal;

(iii) A statutory declaration, duly stamped with the proper stamp fee, by the Chairman, Mayor, or other chief executive officer of the local authority, that the local authority is authorized by law to undertake the work for which the land described in the memorial is required, that all the provisions of this Act as to taking such land have been complied with, and that the local authority is of opinion that the proposed works should be executed, and that no private injury will be done for which due compensation is

Upon recommendation by Minister, or memorial by local authority, lands to be taken by Proclamation.

1908, No. 160, sec. 19
1909, No. 19, sec. 13

Declaration by local authority to be accepted as sufficient that public work is authorized.

not provided by this Act, may be accepted by the Governor-General as sufficient without making further inquiry :

- (d) The Governor-General may thereupon, if he thinks fit, by Proclamation declare that the said lands, a list whereof shall be contained in or annexed to the Proclamation, are taken for the public work therein mentioned. Every such Proclamation shall be publicly notified within one month after the making thereof, but a Proclamation shall not be invalidated by any error, defect, or delay in the public notification thereof.

And from and after a day to be named in the said Proclamation the lands therein specified shall, unless otherwise specially provided in this Act or in any special Act, become absolutely vested in fee-simple in His Majesty, or in the local authority or the corporate body represented by it, as the case may require, discharged from all mortgages, charges, claims, estates, or interests of what kind soever, for the public use named in the said Proclamation.

Proclamation taking land not to issue until Governor-General satisfied compensation has been provided for.
1908, No. 160, sec. 20

24. Where it appears to the satisfaction of the Governor-General that any local authority has not made provision for the payment of the compensation which would probably be awarded for the land proposed to be taken, the Governor-General shall not issue the Proclamation taking such land until he is satisfied that the local authority has made provision for the payment of such compensation.

Setting apart Crown land, public reserve, or domain for public work.
Ibid., sec. 21
1923, No. 29, sec. 2

25. (1) Where any Crown land is required to be set apart for any public work, the Governor-General may at any time by Proclamation set the same apart for such public work without complying with any of the provisions of this Act in respect to the taking or setting-apart of other lands for such purpose, and every such Proclamation shall have the effect of and shall be deemed to be a Proclamation under section twenty-three hereof.

(2) The provisions of this section shall apply with respect to any part of a public reserve or public domain which is required to be set apart for any public work.

Proclamations not to take effect until gazetted.
1908, No. 160, sec. 22

26. A Proclamation issued under this Act or under any former Act relating to public works shall not be held or deemed to have taken or to take effect until such Proclamation was or is gazetted.

Revocation of Proclamation or of Order in Council taking land.
1909, No. 19, sec. 3

27. (1) If at any time after the issue or making of any Proclamation or Order in Council taking land under this Act, and before the payment or award of any compensation in respect of the taking thereof, it is found that the land or any part thereof is not required for the purpose for which it was taken, or that any error in form or substance exists in or in relation to that Proclamation or Order in Council, or the making or gazetted thereof, the Governor-General may, by a subsequent Proclamation or Order in Council gazetted, revoke the former Proclamation or Order in Council either wholly or so far as he thinks necessary.

(2) The former Proclamation or Order in Council shall thereupon to the extent to which it has been so revoked be absolutely void and of no effect as from the date thereof as if it had not been issued or made.

(3) Any registration which in respect of the taking of that land has been effected by the District Land Registrar or any other person

in pursuance of the next succeeding section or in pursuance of any other authority in that behalf shall thereupon be cancelled, and be deemed to have been of no effect as from the date of the making thereof, to the same extent to which the said Proclamation or Order in Council has been so revoked.

(4) Any person who has any estate or interest in the land so taken, and who has in respect of that estate or interest suffered any loss or damage by reason of the Proclamation or Order in Council taking the same, shall be entitled in any claim made by him within one year after the gazetting of the Proclamation or Order in Council revoking the same to compensation for that loss or damage in accordance with the provisions of this Act, and all the provisions of this Act with respect to compensation shall, so far as applicable, apply accordingly. Every such claim for compensation shall be made against the Minister when the land so taken was taken for a Government work, and against the local authority when the land so taken was taken for a local work.

(5) A Proclamation or Order in Council may be revoked under this section whether made before or after the commencement of this Act.

28. (1) Except in a case under the next succeeding section, the Minister shall cause a copy of every Proclamation taking or setting apart land and of the map referred to therein to be deposited without fee in the District Land Registry Office for the district in which such land is situate.

Map and Proclamation to be registered. 1908, No. 160, sec. 24

(2) If such land was not theretofore subject to the Land Transfer Act, 1915,—

If land not under Land Transfer Act.

- (a) The District Land Registrar shall cause an entry of such Proclamation and map to be made under the proper head or title in the index-book of the Deeds Register Office ; and
- (b) Upon such deposit such land shall thereupon become subject to the Land Transfer Act, 1915.

(3) If the said land was theretofore subject to the Land Transfer Act, 1915,—

If land under Land Transfer Act.

- (a) The District Land Registrar shall register such Proclamation and map against such land ; or, if no Crown grant, certificate of title, or other instrument evidencing the title to such land has been issued, shall make a provisional registration of such Proclamation and map against the said land :
- (b) Any person in possession of the Crown grant, certificate of title, or other instrument evidencing the title to such land shall upon receiving notice from the District Land Registrar in that behalf deliver up to him such grant, certificate of title, or other instrument to be wholly or partially cancelled as the case may require ; and every person who refuses or neglects so to deliver up any such instrument is liable to a fine not exceeding fifty pounds :
- (c) The District Land Registrar shall retain every such instrument, and shall when required by the registered proprietor of the land not taken issue to him free of charge a certificate of title for such land, unless no Crown grant has been issued for the same.

Compensation not payable until instrument of title delivered up.

(4) No person having in his possession such Crown grant, certificate of title, or other instrument shall be entitled to claim or receive any compensation under this Act until such instrument is delivered up to the District Land Registrar.

As to land in mining district.

(5) Where the land is within a mining district a copy of the Proclamation shall be deposited with the Mining Registrar for registration, and the Registrar shall register the same as on the hour and date of its being so deposited.

Where Proclamation not registrable to be lodged with Surveyor-General.
1908, No. 160, sec. 25
1909, No. 19, sec. 13

29. In the case of a Proclamation setting apart or taking any lands which are not subject to the Land Transfer Act, 1915, and dealings with which are not registrable under the Deeds Registration Act, 1908, the Minister shall cause a copy of the same to be lodged in the office of the Surveyor-General, and the Surveyor-General 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 in any manner at variance with such Proclamation.

Taking Land for Road.

Governor-General may proclaim middle-line of road and thereafter take land required therefor.
1923, No. 29, sec. 4
1924, No. 46, sec. 14

30. (1) Where under the powers conferred on him by this Act the Governor-General desires to construct a road over land not previously acquired or set apart for a road, the Governor-General may issue a Proclamation defining the middle-line of the road or any part thereof, and in such case the provisions of sections two hundred and sixteen and two hundred and seventeen hereof shall, as far as applicable, and with the necessary modifications, apply in respect of the construction of such road in like manner as if a railway were to be constructed.

(2) The provisions of sections twenty-two and twenty-three hereof shall not apply to the taking of land for the construction of a road in respect of which a Proclamation has been issued as aforesaid.

Severed Land.

Owner may require small parcel of land severed to be taken.
1908, No. 160, sec. 26

31. (1) If any land not situate in a town or built upon is so divided by the land taken for any work as to leave on either side thereof a less quantity of land than half a statute acre, the Minister or local authority, as the case may be, shall, if so required by the owner of such small parcel of land, and except as hereinafter provided, take such parcel together with the other land taken for such work.

(2) But if such owner has other land adjoining into which such small portion may be conveniently thrown the Minister or local authority, as the case may be, may instead of taking such small parcel of land throw the same into such adjoining land by removing the fences and levelling and soiling the sites in a sufficient and workmanlike manner.

Agreements for Taking or Purchase.

Contracts to take or purchase land required for public works may be made, and Proclamation issued, or conveyance taken.
Ibid., sec. 27

32. (1) Notwithstanding anything in this Act, the Minister or local authority may enter into agreements to take the estate and interest of any person in any land required for public works without complying with the provisions of section twenty-two or of subparagraph (iii) of paragraph (c) of section twenty-three hereof, or to purchase any such estate or interest, upon such terms and conditions as he or it thinks fit.

(2) Where an estate or interest is taken by agreement, the compensation to be paid may be either agreed upon or left to be determined under Part III of this Act.

(3) In any case the compensation or purchase-money shall be paid,—

(a) If payable by the Minister, out of moneys appropriated by Parliament for the works in respect of which the land is taken or purchased :

(b) If payable by a local authority, out of the ordinary funds of such authority available for such purposes :

but neither the Minister nor any member of a local authority shall be personally liable for any compensation or purchase-money which may become payable under this Act.

(4) Where an agreement for the taking of an estate or interest has been entered into, the Governor-General upon being satisfied of the sufficiency of the agreement may forthwith issue a Proclamation taking such estate or interest under section twenty-three hereof without complying with any of the provisions of section twenty-two or of subparagraph (iii) of paragraph (c) of section twenty-three hereof.

(5) Where an agreement for the purchase of an estate or interest has been entered into, such estate and interest shall be conveyed or surrendered to His Majesty, or (except in the case of roads) to the body corporate represented by such local authority, or (if not incorporated) to some person on behalf of such local authority, as the case may be.

(6) An estate or interest purchased and conveyed or surrendered hereunder shall be deemed land taken under the authority of this Act, but the provisions of this Act respecting compensation shall not be applicable in any such case except as specially provided.

Fencing.

33. Except where an agreement has been made as provided in section one hundred and forty-two hereof, nothing in this Act shall authorize the removal of any fencing upon any lands until fences have been first erected so that all lands adjacent to land taken or works executed under this Act shall be as effectually protected against damage by trespass as before the commencement of such works ; and where such lands were fenced with a rabbit-proof fence within the meaning of the Fencing Act, 1908, the fence to be erected under this section shall be rabbit-proof, and shall be so kept during the construction of the work for which the land was taken.

Protective fences to be made before boundary-fences removed.

1908, No. 160, sec. 28

Taking Additional Lands.

34. (1) If any public work has been or is executed, and after the execution thereof it is found that any person has any estate or interest in any land occupied by such work, or that any land required therefor has not been taken in the manner required by law, or that the provisions relating to the taking of such land have not been fulfilled ; or

Land may be taken for any public work after such public work has been completed.

Ibid., sec. 29.

If it is found desirable for the use, convenience, or enjoyment of any public work executed or in course of execution to take, purchase, or acquire other land—

Such land or the estate or interest of any person therein may be taken, purchased, or acquired in the manner provided by this Act in

respect of the taking, purchasing, or acquiring of lands required for such public work in the first instance.

(2) All the provisions of this Act relating to the taking, purchasing, or acquiring of land and to payment of compensation or purchase-money therefor shall apply, except that in such cases—

(a) Section twenty-two, in cases to which it applies, shall be read as if the words “ of the works proposed to be executed and ” and the words “ to the execution of such works or ” were omitted therefrom :

(b) And section two hundred and sixteen, in cases to which it applies, shall be read as if paragraphs (a), (b), and (c), of subsection one, and the words “ after the deposit of such maps and plans ” in paragraph (d) of that subsection were omitted therefrom :

Provided that if any person has received payment or been awarded compensation for such land or by reason of his being injuriously affected by such public works, such person, and all persons claiming by, through, under, or in trust for him, shall not be entitled to any further payment or compensation.

(3) The provisions of this section shall be deemed to apply, with the necessary modifications, to the closing of any road or street and to the exercise of any power over any land, road, or street after the execution of any public work for the purposes of which a road or street might have been closed or any such power exercised in the first instance.

(4) Nothing in this section shall be deemed to in any way interfere with the operation of section ten of the Public Works Acts Amendment Act, 1889, set forth in the Ninth Schedule hereto, or of any other provision of this or any other Act validating or confirming the taking of any land for any public work.

Dealings with Taken Lands.

Land not wanted
may be sold, &c.
1908, No. 160, sec. 30
1909, No. 19, sec. 5

35. If it is found that any land held, taken, purchased, or acquired at any time under this or any other Act or Provincial Ordinance, or otherwise howsoever, for any public work is not required for such public work, the Governor-General may, by an Order in Council publicly notified and gazetted, cause the same to be sold under the following conditions :—

(a) A recommendation or memorial, as the case may be, as provided by section twenty-three hereof shall be laid before the Governor-General by the Minister or local authority at whose instance the land was taken describing so much of the said lands as are not required for such public work, accompanied by a map thereof certified by the Surveyor-General or an authorized surveyor appointed by him in that behalf, and setting forth the reasons for disposing of the same :

(b) The Minister or local authority, as the case may be, shall cause the land proposed to be sold to be valued by 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 taken ; and, if he refuses it or cannot after due inquiry be found, then to

the owner of the adjacent lands, or, if there is more than one such owner, then to each of such owners in such order as the Minister or local authority thinks fit ; and, if no such owner accepts such offer, may cause the land to be sold by public auction :

Provided that the Governor-General may without complying with any of the last foregoing provisions sell by private contract or grant to any Education Board any lands taken for Government works, and may execute such grants, conveyances, and assurances as may be necessary to give effect to such sale or grant :

Governor-General may sell or grant to Education Board.

Provided also that in the case of any land so taken, purchased, or acquired for a Government work and not required for that purpose, the Governor-General may, on such recommendation as aforesaid and without complying with any other requirements of this section, by Proclamation declare such land to be Crown land, subject to the Land Act, 1924, and thereupon the land may be administered and disposed of under that Act accordingly.

Or declare Crown land.

36. Any land held, taken, purchased, or acquired for a public work and proposed to be sold pursuant to the authority conferred by the last preceding section may, with the concurrence of the Governor-General, be sold on deferred payments extending over such period not exceeding five years and on such terms and conditions as the Minister or the local authority, as the case may be, may determine.

Land not required may be sold on system of deferred payments.

1927, No. 69, sec. 3

37. The purchase-money of land so sold under section thirty-five or section thirty-six hereof shall be paid into the Public Account or the ordinary fund of the local authority, as the case may be, and shall form part of the fund appropriated to the execution of the works in respect of which the said lands were taken.

Application of purchase-money.

1908, No. 160, sec. 31

38. (1) Upon the payment of the purchase-money the Minister or local authority, as the case may be, shall file in the District Land Registry Office for the district in which such land is situate a copy of the Order in Council directing the sale of the said lands, together with a copy of the certified map thereof, and also a certificate of the payment of the purchase-money, with the name and address of the purchaser.

Order in Council to constitute transfer of title.

Ibid., sec. 32

(2) Such Order in Council and certificate shall be deemed to be a memorandum of transfer of such land to such purchaser within the meaning of the Land Transfer Act, 1915, and the Registrar shall register the same and deal therewith in the manner provided in that Act.

39. If any land at any time taken for public works under this or any other Act or Provincial Ordinance is not required for immediate use, the Minister or local authority by whom the land was taken may let the same upon such terms as he or it may respectively think fit for any period not exceeding twenty-one years, and the rents and profits thereof shall be paid into the Public Account or the ordinary fund of the local authority, as the case may require.

Lands not wanted for immediate use may be let.

Ibid., sec. 33

40. (1) The Governor-General may by Order in Council authorize the sale and removal of any timber, stone, mineral, metal, or other substance upon or under any land vested in His Majesty for any public work :

Authorizing the sale and removal of timber, &c., from lands acquired for any public work.

1917, No. 26, sec. 119

Provided that nothing herein shall limit the liability of His Majesty for any damage that may be caused by reason of the removal of such timber, stone, mineral, metal, or other substance, or shall authorize the

removal of any metal or mineral under any land mentioned in this section except under the authority of a mining privilege under the Mining Act, 1926.

(2) The provisions of Parts I and II of the Coal-mines Act, 1925, shall, so far as applicable, apply in any case where coal is removed under the authority of this section.

His Majesty or the local authority may grant easements over lands acquired for public work.

1908, No. 160, sec. 34

41. (1) His Majesty or the local authority, as the case may be, but, in the case of a local authority, subject to the provisions of subsection two hereof, 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 His Majesty or the local authority thinks 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.

(2) The power given by the last preceding subsection shall not be exercised by a local authority without the consent of the Minister; and no instrument executed by or on behalf of a local authority granting or purporting to grant such an easement shall have any effect whatever unless and until the consent of the Minister has been endorsed thereon.

PART III.

COMPENSATION.

For what and when it may be claimed.

All persons suffering damage entitled to compensation.
Ibid., sec. 35

42. (1) Every person having any estate or interest in any lands taken under this Act for any public works, or injuriously affected thereby, or suffering any damage from the exercise of any of the powers hereby given, shall be entitled to full compensation for the same from the Minister or local authority, as the case may be, by whose authority such works may be executed or power exercised.

(2) No compensation shall be payable in respect of—

(a) Any land taken for a road or railway under this Act the right to make a road over which is otherwise reserved to the Crown, and has not lapsed or become barred:

(b) Any Crown lands taken or set apart for any public work.

On resumption of land no compensation payable otherwise than as provided in enabling Act.
Ibid., sec. 36

43. In any case where His Majesty or the Governor-General may have been or may hereafter be entitled to resume or take possession of land under the authority of any Act, then, notwithstanding the issue of a Proclamation under this or any Act of a like tenor at any time heretofore in force taking such land for any public purpose, and notwithstanding that any special provisions contained in such authorizing 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 His Majesty or the Governor-General, or any person on behalf of His Majesty or the Governor-General, is entitled to resume or take possession as aforesaid, provided such Proclamation shall have been issued during the currency of such authority.

44. When land has been taken under this Act or any other Act and whether before or after the commencement of this Act for a road, railway, tramway, or other public work of any kind whatever, no person shall in any claim for compensation for land taken, or for injurious affection, loss, or damage, have or be deemed to have had any right to compensation by reason of the fact that the road, railway, tramway, or other public work affords or may afford to any other person any access or approach, or any more convenient access or approach, to any other land, or by reason of the special adaptability of any land for the purposes of a road, railway, tramway, or other means of access or approach to the land of any other person, and all the provisions of this Act and of all other Acts relating to the taking of land and the payments of compensation shall be read and construed accordingly; but nothing in this section shall affect any award of compensation made before the twelfth day of October, nineteen hundred and fifteen (being the date of the commencement of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1915).

Restriction of right to compensation in certain cases for land taken for purposes of road, railway, tramway, or other public work.
1915, No. 68, sec. 127

45. (1) No claim for compensation under this Act or any former Act relating to public works shall be made (in respect of any lands taken) after a period of five years after the date of the Proclamation taking the said lands, or (in respect of any damage done) after a period of twelve months after the execution of the works out of which such claim has arisen or may hereafter arise; and all right and title to any compensation in respect of such lands or for damage arising out of the execution of such works, as the case may be, shall after such respective periods absolutely cease.

Compensation not to be claimed after five years from taking or one year from other damage suffered.
1908, No. 160, sec. 37
1910, No. 66, sec. 13

(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.

46. In any case where land is taken or acquired by the Crown under this Act the Minister shall offer such sum as he thinks fit, and if such offer is not accepted by the owner, then the compensation payable shall be ascertained by the Court and in the manner hereinafter prescribed.

Compensation for land taken or acquired.
1908, No. 160, sec. 38

The Claim.

47. A claim for compensation may be made by any person seised, possessed of, or entitled to such lands, or to any estate or interest therein, whether such person has or has not the power to sell and convey the same, or by any executor or administrator; and any such claim on behalf of *cestuis que trustent*, wards, mental defectives, or idiots may be made by their trustees, guardians, or committees respectively.

By whom compensation may be claimed.
Ibid., sec. 39

48. (1) In the case of any person being an infant, mental defective, or idiot, or *cestui que trust*, not having a guardian, committee, or trustee in New Zealand, the Public Trustee shall for the purposes of this Act be deemed to be the legal guardian, committee, or trustee of such person.

Public Trustee to be guardian, &c., in certain cases.
Ibid., sec. 40

(2) A claim for compensation for lands taken out of any Native reserve may be made by the Native Trustee on behalf of those interested in the reserve.

Native Trustee may claim in respect of Native reserves.

Procedure in
unrepresented
absentee claims.
1908, No. 160, sec. 41

49. (1) Upon the application of the Minister to a Judge of the Supreme Court, accompanied by an offer of the amount of compensation in the matter, and on such proof as is satisfactory to such Judge that any person who has any right or title to prefer a claim for compensation is absent from New Zealand, or is not known, or has no known agent in New Zealand, such Judge shall direct such claim to be heard by a Compensation Court under this Act, and shall appoint an assessor to act in such Court on behalf of such person.

(2) Thereupon such Court may proceed in the examination of such claim as in ordinary cases where the claimant is present.

(3) In every such case the Public Trustee shall represent the claimant, and may act in his behalf in all matters incident to the claim or the hearing thereof; and the moneys payable as compensation shall be paid into the Public Trust Office, and shall there remain subject to the provisions of section ninety-one hereof.

Claimant and
respondent.
Ibid., sec. 42

50. Any person so claiming compensation is hereinafter called "the claimant"; and the Minister in the case of Government works, and the local authority in the case of local works, is hereinafter called "the respondent."

Particulars to be
inserted in claim
for compensation.
Ibid., sec. 43
1927, No. 69, sec. 2

51. (1) In order to obtain compensation the claimant shall serve upon the respondent a claim in writing, in one of the forms in the Second Schedule hereto, 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 claims 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 name, 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 hereof, unless and until special notice in writing of a change of address is delivered to the respondent.

Method of serving
claims.

(2) Claims for compensation under this Act shall be served as follows:—

- (a) Where the Minister of Public Works is the respondent, by being sent by registered letter addressed to the permanent head of the Public Works Department at the Public Works Office at Wellington, or by being delivered at that office;
- (b) Where the Minister of Railways is the respondent, by being sent by registered letter addressed to the Secretary of the Government Railway Board at the Government Railways Office at Wellington, or by being delivered at that office;
- (c) Where a local authority is the respondent, by being sent by registered letter addressed to the local authority at its office, or by being delivered at that office.

(3) In any such case as aforesaid the claimant shall be entitled on demand to receive from the officer for the time being in charge of any such office as aforesaid 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 fine of five pounds.

(4) 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.

52. 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 at least twenty-one days before the date appointed for the sitting of the Court to hear the claim, that Court may if it thinks fit on 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 occasioned by such adjournment shall be borne by the claimant.

Court may compel claimant to state particulars.
1908, No. 160, sec. 44

53. If the respondent does not within sixty days after receiving such claim give notice in writing to the claimant that he does not admit it, the following provisions shall apply:—

In certain cases claims for compensation may be filed in and have effect of an award of Supreme Court.
1909, No. 19, sec. 6

(a) At any time after the expiration of the said sixty days the claimant may file a copy of his claim, together with the receipt for the service thereof, in the Supreme Court; and thereupon the claim, unless the filing thereof is set aside as hereinafter provided, shall have the effect of an award filed in the Supreme Court, and may be enforced in manner provided in section ninety hereof.

(b) On the application of the respondent the Supreme Court may if it appears reasonable so to do, and on such terms as to costs and otherwise as the Court deems just, set aside the filing of the claim, and if necessary stay or set aside any proceedings subsequent to the filing of the claim, and may allow further time within which the respondent may give the notice referred to in this section.

54. (1) If the respondent gives notice in writing within the said sixty days, or within such further time as is allowed by the Supreme Court in this behalf, that he does not admit the claim, he may within ninety days after receiving the claim, by notice in writing, make the claimant an offer of the sum which he is willing to pay in lieu of the amount claimed, and may file a copy of such notice in the Court or office prescribed in subsection four of this section.

Respondent may make an offer; if refused, the claimant may require claim to be settled in Compensation Court and appoint assessor
1908, No. 160, sec. 46
1909, No. 19, sec. 13

(2) If the respondent gives notice in writing within the said sixty days, or within such further time as is allowed by the Supreme Court in this behalf, that he does not admit the claim, but makes no such offer, or if the claimant does not accept the offer so made, the claimant may file a copy of his claim in the Court or office prescribed in subsection four of this section, together with a notice in the form in the Third Schedule hereto that he requires such claim to be heard by a Compensation Court; and he shall in such notice state the name and address of some person

whom he thereby appoints to act as assessor in such Court, and shall give notice in writing to the respondent of the appointment of such assessor.

(3) If the claimant does not file such notice as aforesaid within thirty days after the time limited for the respondent to make an offer as hereinbefore provided, the claimant shall be deemed to have abandoned the proceedings in respect of his claim, and shall not be entitled to prosecute the same further, except with the leave of the Court in which the claim might have been filed within such time, to be granted upon such terms and conditions as to the time and mode of procedure, and as to the costs of the application for such leave, as that Court thinks fit.

Court for filing the claim.

(4) The Court or office in which the claim and notices aforesaid may be filed shall if the amount claimed is not more than two hundred and fifty pounds be the Magistrate's Court Office nearest to the land or work in respect of which the claim arises, and in all other cases shall be the office of the Supreme Court nearest to such land or work within the Supreme Court District within which such land or work is situated. Such Court or office is hereinafter referred to as "the Court for filing the claim."

Respondent to appoint assessor within thirty days.
1908, No. 160, sec. 47
1923, No. 29, sec. 3

55. The respondent shall within thirty days after receiving notice of the appointment of the assessor by the claimant also appoint an assessor, and shall give notice in writing of such appointment to the Registrar or Clerk of the Court for filing the claim and to the claimant; and if the respondent fails within the said thirty days to make such appointment the Registrar or Clerk of the Court for filing the claim shall forthwith appoint an assessor on behalf of the respondent, and give notice thereof to the claimant.

Respondent similarly may require to have claim heard and determined by a Compensation Court.
1908, No. 160, sec. 48

56. (1) In any claim or matter arising for compensation for any land taken, where a written offer on behalf of the respondent has been made therefor to the claimant not less than thirty days previously and the same has not been accepted, the respondent shall have the same right to require such claim to be heard by a Compensation Court as is given to a claimant by section fifty-four hereof.

(2) And at any time after the respondent has filed a copy of his notice as mentioned in the aforesaid section fifty-four he may give notice in the form or to the effect contained in the Third Schedule hereto requiring such claim to be heard.

Consent of assessor to act.
Ibid., sec. 49

57. No appointment of any person to be an assessor shall be valid unless such person signs the consent and declaration in the form contained in the Fourth Schedule hereto; and every such consent and declaration shall be appended to the notice of appointment of such assessor, and shall be filed in the Court for filing the claim.

The Court.

Claims to be determined by Compensation Court.
Ibid., sec. 50

58. All claims for compensation shall, except where express provision is otherwise made, be determined by a Compensation Court constituted as hereinafter provided, and hereinafter called "the Court."

If not more than £250 claimed, Magistrate and two assessors to constitute Court.
Ibid., sec. 51

59. If the amount claimed is not more than two hundred and fifty pounds, then—

(a) The Magistrate exercising jurisdiction at the Magistrate's Court nearest to the land or work in respect of which the claim

arises shall, if he is not interested in the case, be the President of the Court :

- (b) If such last-mentioned Magistrate is interested in the case, the Judge of the Supreme Court shall, on the application of either party, appoint some other Magistrate who is not interested to be the President of the Court :
- (c) Such Magistrate as aforesaid and the two assessors appointed as provided in sections fifty-four and fifty-five hereof shall constitute the Court :

Provided that if before the first sitting of the Court to hear the claim the claimant and respondent execute and file (in the Court for filing the claim) an agreement in writing that the claim shall be heard and determined by such Magistrate without assessors, then such Magistrate alone shall constitute the Court, and shall hear and determine the claim accordingly.

Parties may dispense with assessors.

60. If the amount claimed is more than two hundred and fifty pounds the Judge of the Supreme Court and the two assessors so appointed as aforesaid shall, except as hereinafter provided, constitute the Compensation Court, and the Judge shall be the President thereof.

If more than £250 claimed, Judge and two assessors to constitute Court. 1908, No. 160, sec. 52

61. If the amount claimed is more than two hundred and fifty pounds and not more than one thousand pounds the Judge may appoint a Magistrate to be a member of and to preside in the Court in his stead.

When claim not more than £1,000, Magistrate may be deputy.

Ibid., sec. 53 1925, No. 19, Schedule.

62. If either the claimant or respondent objects to the person appointed under the last preceding section the Judge shall, unless he considers such objection to be frivolous or unreasonable, cancel such appointment and preside in the Court himself.

Deputy may be objected to. 1908, No. 160, sec. 54

63. If the amount claimed exceeds one thousand pounds and the claimant and respondent consent in writing that the claim should be heard before a Magistrate, the Judge of the Supreme Court may order that such claim shall be heard accordingly, and may appoint a Magistrate to preside in the Court instead of the Judge of the Supreme Court.

When claim exceeds £1,000, Judge with consent of parties may appoint a Magistrate to preside.

Ibid., sec. 55 1925, No. 19, Schedule.

64. (1) Notwithstanding anything hereinbefore provided in this Act, any Judge of the Supreme Court may for the time being and from time to time exercise the functions of President of any Compensation Court, and every such Judge so acting for the time being shall for all purposes and to all intents be the President of that Court accordingly.

Any Judge of Supreme Court may act as President of Compensation Court. 1913, No. 38, sec. 2

(2) Nothing in this section shall apply to any Compensation Court of which any other person than a Judge of the Supreme Court is the President in accordance with this Act.

65. (1) If before the first sitting of the Court to hear any claim as hereinbefore provided the claimant and the respondent make and execute an agreement in writing to the effect that the claim in question shall be heard and determined by one person named in such agreement, such agreement shall also state the fee (if any) to be paid such person for his services, and shall be filed in the Court for filing the claim.

Parties may agree on a single person to constitute the Court.

1908, No. 160, sec. 56

(2) The person so named shall be deemed to be the Compensation Court, and shall appoint a time and place for the sitting thereof, and shall hear and determine the claim accordingly.

Court may hear other claims by consent.
1908, No. 160, sec. 57

66. A Court constituted to hear any claim under this Act may, by consent in writing of the claimant and respondent in any other claim, in respect of the same or of any other land, hear and determine such last-mentioned claim as though the Court had been constituted to hear and determine the same.

Assessors may be objected to.
Ibid., sec. 58

67. If either party before the first sitting of the Court objects to the appointment of any assessor, the President may upon the application of such party, unless the objection appears to be frivolous or unreasonable, order the assessor so objected to to be discharged, and the person who appointed him shall within twenty-one days after such order in like manner appoint another in his stead, failing which the Registrar or Clerk of the Court for filing the claim shall forthwith appoint one in his stead.

Liability to pay rates not to be deemed interest in a case.
Ibid., sec. 59

68. No member of the Court shall be deemed to be interested in any case solely on account of his liability to pay rates on which the compensation awarded may become a charge.

If Judge interested, Governor-General to appoint another Judge.
Ibid., sec. 60

69. If the Judge is interested in the claim to be heard the Governor-General shall appoint some other Judge of the Supreme Court to act in his stead.

Case of member of Court dying, resigning, refusing or unable to act
Ibid., sec. 61
1923, No. 19, Schedule.

70. (1) If before the award is given any member of the Court dies or becomes incapable of acting, or (being an assessor) resigns or refuses to act, the following provisions shall apply:—

- (a) If such member is the President (being a Judge of the Supreme Court), then, in his place, the Governor-General shall forthwith appoint some other Judge of the Supreme Court;
- (b) If such member is the President (not being a Judge of the Supreme Court), then, in his place, the Judge shall forthwith appoint some other Magistrate; and
- (c) If such member is an assessor, then, in his place, the person who made the appointment shall forthwith, or, if he fails to do so, the President shall, appoint a fresh assessor.

(2) But the inquiry before the Court shall proceed as if no such change in its members had taken place.

The Hearing.

Sittings of Court.
1908, No. 160, sec. 62

71. The President shall appoint the time and place for the first sitting of the Court, and shall not less than twenty-one days before such sitting cause a notice of such time and place to be served on each assessor and upon the claimant and respondent severally.

Hearing to proceed in absence of parties.
Ibid., sec. 63

72. (1) If the claimant or respondent fails to appear before the Court at the time and place appointed the Court may, upon proof of the service of the notice of such sitting, proceed to hear and determine the claim in his absence.

(2) Any person entitled under section forty-seven hereof to make a claim for compensation shall be entitled to appear before the Court in the same manner as a claimant may do.

(3) Either party may appear either personally or by his counsel or solicitor or by any agent appointed in writing in that behalf.

73. The Court, or, in the absence of the President or either of the assessors, the member or members of the Court present, may adjourn its sittings so often as is necessary to a future day, of which the President or such member or members, as the case may be, shall give notice in open Court; and no further notice of such future sitting shall be necessary.

Court may adjourn.
1908, No. 160, sec. 64

74. (1) On the hearing of any claim for compensation under this Act it shall not be lawful for the claimant to adduce evidence in relation to any matter not disclosed in the claim but he may with the leave of the Court amend his claim in any particular, but may not thereby formulate a new cause of action or make a new claim.

Amendment of claim
for compensation in
certain cases.
1909, No. 19, sec. 7
1911, No. 21, sec. 13

(2) Such leave shall be granted only on such terms and conditions as to notice to parties, payment of costs, or otherwise as the Court thinks fit.

75. (1) The Court shall have power to summon all persons required by either party or by the Court to give evidence before it, and may examine all such persons on oath, and may require the production of any documents, plans, or other papers in the custody or control of either party or of any person summoned as aforesaid.

Court to examine
witnesses, &c.
1908, No. 160, sec. 65

(2) The claimant and respondent, and their counsel, solicitors, witnesses, and all other persons attending the Court shall have the same rights and privileges and shall be subject to the same obligations, fines, and penalties, as in the trial of an action at law in the Court for filing the claim.

(3) The Court shall until it has made its award have all the powers of the Court for filing the claim so far as may be necessary for inquiring into and determining the claim referred to it.

(4) The Court may receive such evidence as it thinks fit, whether the same is strictly legal evidence or not.

76. Every question before the Court shall be determined by a majority of the members thereof, but the determination of the majority shall be deemed to be the award of the whole Court.

Questions to be
determined by
majority.
Ibid., sec. 66

77. If the Court is unable by a majority to agree upon an award the President shall discharge the assessors and cause notice thereof to be given to the claimant and respondent; and a fresh Court shall be constituted in the manner provided by this Act, which shall hear the case *de novo*.

If Court unable to
agree.
Ibid., sec. 67

78. (1) In any case brought before a Compensation Court where any question of law arises the President may hear and determine the same without the assessors; or he may if he thinks fit state a case for the decision of the Supreme Court thereon.

When questions of
law alone to be
determined,
President may sit
alone and determine
the same.

(2) Such determination or decision shall be followed by the Compensation Court on making its award.

Ibid., sec. 68

The Award.

79. In determining the amount of compensation to be awarded the Court shall take into account severally the value of the land or interests in land (including riparian rights) taken, and the extent to which any lands in which the claimant has an interest are or are likely to be injuriously affected, either by severance or by the nature of the works in question, and shall also take into account by way of deduction from the amount of compensation to be awarded any increase in the

How compensation
to be estimated.
Ibid., sec. 69

value of such lands likely to be caused by the execution of such works.

Value of land taken to be assessed at its value when first entered upon.

1908, No. 160, sec. 70

Anything done by claimant to make execution of work more costly to be taken into account.

Ibid., sec. 71

80. 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.

81. (1) If the Court is of opinion that the claimant in respect of any land taken for a public work has at any time after the date prescribed in subsection two hereof done anything upon or under such land with the purpose and effect of rendering the execution of such work more difficult or costly, the Court shall take into account by way of deduction from the amount of compensation to be awarded any increase in the cost of executing such work caused or likely to be caused thereby; and if in the opinion of the Court such increase in cost exceeds the value of the land taken, the award shall be for the payment by the claimant to the respondent of the amount of such excess and the costs of the inquiry.

(2) The date mentioned in subsection one hereof shall be, in the case of a railway or of a road under section thirty hereof, the date of the first gazetting of the Proclamation defining the middle-line thereof; and in the case of any other work the date of the first publication of the notice mentioned in paragraph (c) of section twenty-two hereof.

Gross sum or separate sums may be awarded and conditions attached.

Ibid., sec. 72

82. The Court may award one gross sum as the compensation to be paid to the claimant on all accounts, or it may award a particular sum in respect of any one or more of the items of the claim, and subject respectively to such conditions as it may think equitable, or it may determine that no compensation is payable in respect of the whole claim or any particular item or items thereof.

Fees to assessors hearing claims.

Ibid., sec. 73

83. Every assessor shall be entitled to a fee for every day upon which he attends a sitting of the Court in respect of each claim heard therein, the amount of such fee to be fixed by the President in each case, regard being had to the length of the sitting and the importance of the case.

Costs.

Ibid., sec. 74

84. (1) The Court shall fix and determine the amount of the costs of the inquiry as between party and party, and shall include the same in its award, and shall direct by whom such costs shall be paid.

(2) But if the compensation awarded does not exceed one-half of the amount claimed the claimant shall not be entitled to recover any costs.

(3) The Court may in any case declare that no costs shall be awarded, and the fact shall be stated in the award.

Costs may be deducted from compensation awarded.

Ibid., sec. 75

85. Costs payable by the claimant may be deducted from the compensation payable to the claimant under the award; and if such costs exceed the compensation payable, the award shall be for the payment by the claimant of the amount of such excess.

Costs in claims beyond jurisdiction of Compensation Court.

1913. No. 38, sec. 3

86. The power of awarding costs conferred upon the Court by section eighty-four hereof shall extend to cases in which it is determined that the Court has no jurisdiction to hear and determine the claim for compensation or any particular portion thereof, and any such award of costs in respect of such claim or such part thereof shall be dealt with and enforced in the same manner as an award of compensation.

87. When any claim for compensation is at any time after the making thereof withdrawn or abandoned, whether wholly or in part, costs may be awarded by the Court in respect of that claim or that part thereof in the same manner as if the claim or that part thereof had been heard and determined by the Court, and any such award of costs shall be dealt with and enforced in the same manner as an award of compensation.

Costs in claims withdrawn or abandoned.
1913, No. 38, sec. 4

88. For the purposes of the two last preceding sections the appointment, presence, or concurrence of assessors shall not be necessary to the constitution or jurisdiction of the Court.

Jurisdiction of Court not affected by failure to appoint assessors, &c.

89. No award of a Compensation Court shall be void through any error or omission in matter of form.

Ibid., sec. 5

90. (1) The Court shall make its award in writing, which shall be drawn up and signed by the President as soon as conveniently may be after the making thereof; and the President shall deliver or transmit the same to the Registrar of the Supreme Court to be by him filed in the said Court.

Award not void for informality.
1908, No. 160, sec. 76

(2) The Court may within one month after making the award reverse, alter, or modify the same; and may hear such evidence and make such order as to costs or otherwise as the Court may deem just.

Award to be in writing.
Ibid., sec. 77

(3) Such award shall be final as regards the amount awarded, but shall not be deemed to be final as regards the right or title of the claimant or any other person to receive the same or any part thereof.

And final as to amount, but not as to title.

(4) If the sum awarded is not paid into the Public Trust Office, under paragraph (a) of section ninety-one hereof, within sixty days after the filing of the award in the Supreme Court, the award so made and filed shall have the effect of a judgment of the Supreme Court, and may be enforced accordingly, subject, however, to the provisions of this Act.

When and how enforced.

Title to and Application of Compensation and Purchase-money.

91. If any doubt or dispute arises as to the right or title of any person to receive any compensation awarded under this Act, or any purchase-money or compensation agreed to be paid by the Minister or a local authority under this Act,—

When title doubtful, compensation or purchase-money to be paid into Public Trust Office.

(a) In the case of compensation awarded by the Court the respondent may within the period of sixty days after the award has been filed in the Supreme Court cause the sum awarded to be paid into the Public Trust Office; and the Public Trustee shall deal with and apply such moneys in such manner and shall pay the same to such persons as the Supreme Court upon the application of any of the parties interested may order:

Ibid., sec. 78

(b) In the case of purchase-money or compensation agreed to be paid the Minister or local authority respectively may pay the same into the Public Trust Office; and the Supreme Court may make such order in relation thereto, upon the application of any of the parties interested, as it thinks just and proper; and the Public Trustee shall deal with and pay such purchase-money or compensation in accordance with such order:

Procedure when purchase-money paid into Public Trust Office.

Order as to costs.

(c) In any case which may be heard or disposed of by the Supreme Court under this section such Court may order that all or any costs incurred in or in relation to such case, either before the Compensation Court or the Supreme Court, shall be paid by such of the parties, whether claimant, respondent, or a person interested as aforesaid, or that such costs be apportioned between such parties in such manner respectively as the Supreme Court may order; and such Court may vary or revoke any order previously made by a Compensation Court as to costs.

How compensation in case of limited interests to be dealt with.

1908, No. 160, sec. 79

92. (1) If compensation is awarded or has been agreed to be paid as last aforesaid in respect of lands or any interest therein taken from any person having a partial or qualified interest only in such lands, and not entitled to sell or convey the same, or in respect of any permanent injury done to such lands, such compensation shall be dealt with as follows, that is to say:—

(a) If the compensation amounts to two hundred pounds or upwards it shall be paid into the Public Trust Office, and the Public Trustee shall apply the same, upon an order of the Supreme Court made on the petition of any person claiming any estate or interest in the same, to one or more of the following purposes, that is to say:—

(i) To the discharge of any debt or encumbrance affecting the said lands, or affecting any of the lands settled therewith, or to the same or like uses, trusts, or purposes:

(ii) In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, or purposes:

(iii) In removing any buildings on the said land, or substituting others in their stead:

(iv) In the purchase of such securities as the Supreme Court may direct, to be settled in the same manner as the said lands:

(v) In payment to any party becoming absolutely entitled thereto.

(b) If the compensation is more than twenty but less than two hundred pounds it shall be paid into the Public Trust Office, and the Public Trustee may apply the same to any of the above-mentioned purposes; but no order of the Supreme Court shall be necessary.

(c) If the compensation is not more than twenty pounds it shall be paid to the parties entitled to the rents and profits of the said lands; or, in case of the disability or incapacity of such parties, to their respective husbands, guardians, committees, or trustees, as the case may be.

Saving as to partial interests of an absolute character.

(2) But the provisions of this section shall not be deemed to prevent any person who has a partial or other qualified interest in land to which interest he is solely entitled, and which he may absolutely sell or dispose of, from receiving any compensation in respect of such interest to which he may be declared entitled under any award, or which has been agreed to be paid to him as aforesaid.

93. Until any compensation deposited in the Public Trust Office under this Act is applied as provided by the last preceding section the Public Trustee shall invest the same upon investments upon which any moneys in the Public Trust Office may by law be invested, and shall pay the annual proceeds thereof to the party for the time being entitled to the rents and profits of the lands in respect of which such compensation was awarded.

Public Trustee may invest compensation-money.
1908, No. 160, sec. 80

94. (1) If the land in respect of which compensation is awarded is subject to a mortgage such compensation, or so much thereof as is required for the purpose, shall upon the application of the mortgagee be paid in discharge of the mortgage debt, or of part thereof, so far as the compensation will go; and if such land is a part of lands subject to a mortgage debt, and the mortgagee requires a part of such debt to be discharged, the Court shall determine what part of the compensation shall be paid in discharge of part of the mortgage debt, so that the remaining part of the mortgaged lands constitute as good security as theretofore for the part of the mortgage debt remaining undischarged.

Case of mortgaged lands taken.
Ibid., sec. 81

(2) The words "mortgage debt" in this section include the interest payable on such mortgage up to six months beyond the day on which notice was received by the mortgagee of the lands affected being taken under this Act.

95. (1) If the said land is subject to any rent-charge the Court shall determine what part of such compensation shall be paid to the party entitled to such rent-charge in redemption thereof; and if the said land is part of land subject to any rent-charge the Court shall determine what part of such rent-charge shall be redeemed and what part of such compensation shall be paid in the redemption thereof, so that the remaining part of the lands subject to such rent-charge shall be as good security as theretofore for the part of the rent-charge remaining unredeemed.

Case of lands subject to rent-charge.
Ibid., sec. 82

(2) The expression "rent-charge" includes "annuity."

96. If the said land is part of land in respect of which any rent is payable the Court shall determine what part of such rent shall cease to be payable, so that the rent ceasing to be payable shall bear the same proportion to the whole rent as the value of the land in respect of which compensation is awarded bears to the value of the whole land.

Case of lands on which rent is payable.
Ibid., sec. 83

Payment and other Satisfaction of Compensation and Purchase-money.

97. In any case where the amount of compensation or purchase-money to be paid to any person is determined by agreement between such person and the Minister, the Minister may agree to grant to such person, his executors, administrators, assigns, and successors, any easement, right of way, right of occupation, or any other right, privilege, or concession in, upon, over, or under any land taken or reserved for the purpose of any public work, in satisfaction or part satisfaction or mitigation of the compensation claimed by such person:

Minister may agree to grant easements in lieu of compensation or purchase-money.
Ibid., sec. 84

Provided that no such agreement shall be of any validity at law or in equity until notice of the assent of the Minister thereto has been duly gazetted.

Court may award easements in lieu of compensation.
1908, No. 160, sec. 85

98. In any case where the amount of compensation to be paid to any claimant is determined by the Court the respondent may offer and the Court may award to the claimant, his executors, administrators, assigns, and successors, in satisfaction or part satisfaction or mitigation of the compensation claimed, any easement, right of way, right of occupation, or any other right, privilege, or concession in, upon, over, or under any land taken or reserved for the purpose of any public work; and the Compensation Court may by its award declare which (if any) of such easements, rights, privileges, or concessions so offered shall be granted to the claimant in satisfaction or part satisfaction or mitigation of his claim to compensation.

Governor-General may grant surplus land in lieu of compensation.
Ibid., sec. 86

99. In payment or satisfaction or in part payment or satisfaction of the compensation payable for any land purchased or acquired, or for any damage done by reason of the construction or use of a public work, the Governor-General may grant to the person entitled any Crown land or any land reserved or taken, purchased, or acquired for the use, convenience, or enjoyment of the said public work, but which is not required for such public work:

Provided that before such land is conveyed the Minister shall certify that the land to be conveyed has been valued by a competent person, and that the total value (with money compensation, if any) does not amount to more than the sum which would be paid by the Government for the land taken, purchased, or acquired and the damage done if compensation for the same were made wholly in money in the usual way.

Out of what funds compensation to be paid.
Ibid., sec. 87

100. Moneys payable as compensation or as costs under this Act shall,—

(a) If payable by the Minister, be paid out of moneys appropriated by Parliament for the works in respect of which the claim for compensation arises:

(b) If payable by a local authority, be paid out of the fund of such local authority available for such purposes:

but neither the Minister nor any member of a local authority shall be personally liable for any compensation or costs payable under this Act.

Where compensation for land taken by Crown to be paid.
Ibid., sec. 88

101. Where land is taken or otherwise acquired by the Crown under this Act, then in the absence of any order of the Compensation Court or agreement of the parties to the contrary the place of payment of the compensation or purchase-money for the land shall be the office of the bank at which the Public Account is kept nearest to the residence of the claimant if he resides in New Zealand, and the Treasury at Wellington if he does not reside in or is absent from New Zealand.

PART IV.

NATIVE LANDS.

Taking for Public Works.

Power to take.
Ibid., sec. 89

102. Notwithstanding anything in any law in force to the contrary, any Native land and any land owned by Natives under title derived from the Crown may be taken for any public work in manner hereinafter provided.

103. (1) Where it is necessary to take any such land for any public work other than a railway or than for defence purposes the following provisions shall apply:—

Taking for work other than railway or defence work.
1908, No. 160, sec. 90
1909, No. 19, sec. 13

(a) Where the title to such land is not derived from the Crown,—

Title not derived from Crown.

(i) A map shall be prepared in duplicate, showing accurately the position and extent thereof, and shall be signed by the Surveyor-General, or some authorized surveyor appointed by him to certify plans for the purpose of any Act relating to the conveyance or transfer of land, as evidence of the accuracy thereof:

(ii) At any time thereafter the Governor-General may by Order in Council gazetted declare that the lands shown upon such map shall be deemed to be taken for the purposes of such public work; and thereupon such land shall vest in His Majesty or the local authority, as the case may require, as from a date to be named in such Order in Council, not being less than one month from the date of the gazetting thereof, unless in the meantime revoked:

(iii) The Minister shall as soon as may be after the date so named in such Order in Council cause a copy of the same, if unrevoked, to be lodged in the office of the Surveyor-General, who shall cause the land included therein to be shown upon the proper maps and records of the district in which it is situated in such manner as to prevent such land being disposed of in any manner at variance with such Order in Council.

(b) Where the title to such land is derived from the Crown the land may be taken in the manner set forth in Part II of this Act.

Title derived from Crown.

(2) Where it is necessary to take any such land for any railway authorized to be constructed under the provisions of any special Act, or for defence purposes, whether the land to be taken is Native land or the title thereto is derived from the Crown, such land may be taken for any such railway in the manner prescribed in Part VII of this Act, and for defence purposes in the manner prescribed in Part IX of this Act.

Taking for railway or defence work.

Compensation.

104. (1) For the purpose of ascertaining the amount of compensation to be paid to the Natives interested in any Native land, or to the Native owners of any other land (whether the legal title to that land is vested in the Native owners themselves, or in a Maori Land Board, or in a body corporate of the owners thereof, or in any trustee), the following provisions shall apply:—

Compensation to Native owners and others to be ascertained by Native Land Court in all cases.

(a) The Minister, in the case of a Government work, may at any time, and the local authority, in the case of a local work, shall not later than six months after the date of the gazetting of the Order in Council or Proclamation taking the land cause application to be made to the Native Land Court to ascertain what amount of compensation ought to

1908, No. 160, sec. 91
1909, No. 19, sec. 13
1910, No. 66, sec. 13
1911, No. 21, sec. 13
1927, No. 67, s. 15(2)

be paid to the owners of or other persons interested in such land, and who are the persons entitled to be paid such compensation ; and after hearing such evidence as may be produced before it or may be thought necessary such Court may make such order or orders as to it seems fit :

- (b) Provided always that if any person, whether a Native or European, has 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 this Act 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 *Gazette* and *Kahiti*.
- (c) The Native Land Court shall have all such authority and jurisdiction in respect of any such application as it would have in any matter within its ordinary jurisdiction ; and in addition thereto shall have all the powers and authority of a Compensation Court under Part III of this Act, and its award shall be final as regards the amount awarded.
- (d) The compensation ascertained by the Court to be payable to the owners or occupiers of the land taken, or other persons having particular estates, mortgages, or charges, shall be paid to them as soon as practicable after the making of the order of Court ; and from one month after the date of such order interest on the sum awarded, or on so much thereof as is not then paid, shall until the same is paid be payable at a rate not exceeding five per centum per annum.

(2) Any application under this section may be heard by the Court notwithstanding that the sitting of the Court to be held for the purpose of dealing with the land affected has not been notified in the *Gazette*.

Adjustment of
compensation
payable for Native
land taken.
1925, No. 40, sec. 10

105. (1) If and whenever in assessing compensation for any Native land taken under this Act or the Public Works Act, 1908, the Native Land Court deems it advisable that the whole or any part of such compensation shall be paid to one or more of the persons entitled as owners to the exclusion or partial exclusion of the other owners, it may order payment accordingly as if the interest of such person or persons alone was affected by the taking of the land, and may vary or amend the title of the land in such manner, either in regard to the owners or their interests, as the circumstances may require.

(2) Where an order for payment of compensation has already been made by the Court, it may apply the provisions of this section to such order and amend the order accordingly.

Enabling appeal in
compensation cases.
1927, No. 67, s. 15 (1)

106. Notwithstanding anything to the contrary contained in this Act, an appeal shall lie to the Native Appellate Court from any final order of the Court made under section one hundred and four hereof both as regards the amount of compensation awarded and the right or title of any person to be paid such compensation or any part thereof.

PART V.

SURVEYS.

107. (1) For all the purposes of this Act the Minister of Public Works, the Minister of Lands, the Surveyor-General or his deputy, or any local authority, or any person authorized either specially or generally by any such person or authority,—

Powers of entry on land, &c., for survey purposes. 1908, No. 160, sec. 97

- (a) May enter and re-enter from time to time during the day-time upon any land, with such assistants as he thinks fit, for the purpose of making any survey which he is authorized to make :
- (b) May affix or set up thereon trigonometrical stations, survey pegs, marks, or poles, and the same from time to time alter, remove, inspect, and repair :
- (c) May dig and bore into the land so as to ascertain the nature of the soil and set out the lines of any works thereon :
- (d) May do all things necessary for such survey in accordance with the survey regulations for the time being in force, or for any inspection, repair, or alteration thereof.

(2) When practicable, reasonable notice shall be given to the owner or occupier of the land of the intention to enter thereon ; and the authority under which the person entering claims to enter or has entered on such land shall if required by such owner or occupier be produced and shown.

108. Every person who, without due authority, destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark, or pole fixed or set up by any surveyor or other person under the authority of the last preceding section shall be liable on summary conviction to imprisonment with or without hard labour for any term not exceeding two years ; and every person who wilfully obstructs any such surveyor or other person or his assistants in carrying on such survey shall for every such offence be liable to a fine not exceeding fifty pounds.

Penalty for destroying survey marks. Ibid., sec. 98

PART VI.

ROADS AND RIVERS.

Construction and Maintenance of Roads.

109. Sections one hundred and thirty-eight, one hundred and sixty-eight, one hundred and seventy to one hundred and seventy-three, one hundred and seventy-eight, one hundred and eighty-one to one hundred and ninety, one hundred and ninety-three, one hundred and ninety-four, one hundred and ninety-eight, and one hundred and ninety-nine hereof do not apply to boroughs.

Certain sections not to apply to boroughs Ibid., sec. 100 1909, No. 19, sec. 13

110. Throughout this Act the word "road" means a public highway, whether carriage-way, bridle-path, or footpath ; and includes the soil of—

Definition of road. 1908, No. 160, s. 101

- (a) Crown lands over which a road is laid out and marked on the record maps :

- (b) Lands over which right of way has in any manner been granted or dedicated to the public by any person entitled to make such grant or dedication :
- (c) Lands taken for roads under the provisions of this Act or any other Act or Provincial Ordinance formerly in force :
- (d) Lands over which a road has been or is in use by the public which has been formed or improved out of the public funds, or out of the funds of any former province, or out of the ordinary funds of any local authority, for the width formed, used, agreed upon, or fenced, not being more than fifty links on either side of the middle-line thereof, and a sufficient plan whereof, approved by the Chief Surveyor of the land district wherein such road is situate, has been or is hereafter registered by the District Land Registrar or the Registrar of Deeds of the district against the properties affected by it ; and the said Registrars, or either of them, are hereby authorized and required to register any such plans accordingly, anything in any other Act notwithstanding, when presented for registration by or on behalf of the Minister :
- (e) Lands over which any road, notwithstanding any legal or technical informality in the taking or construction thereof, has been taken, constructed, or used under the authority of the Government of any former province, or of any local authority, and a sufficient plan whereof is registered in manner provided in the last preceding paragraph :

and, unless repugnant to the context, includes all roads which have been or may hereafter be set apart, defined, proclaimed, or declared roads under any law or authority for the time being in force, and all bridges, culverts, drains, ferries, fords, gates, buildings, and other things thereto belonging, upon the line and within the limits of the road.

Roads vested in the Crown.
1908, No. 160, s. 102

111. All roads and the soil thereof are hereby declared to be and are hereby vested in the Crown, together with all materials and things of which such roads are composed, or which are capable of being used for the purposes thereof, and are placed or laid upon any such roads.

Governor-General may make roads.
Ibid., sec. 103

112. (1) The Governor-General may construct or repair any road within any part of New Zealand, but such road shall not by reason of such construction or repair become a Government road if at the time of such construction or repair it was not a Government road.

And declare Government, county, district, and town district roads and streets.

(2) The Governor-General may, by Order in Council duly gazetted, declare that any road shall be a Government road, and such road shall become a Government road accordingly.

(3) The Governor-General may in like manner declare that any road shall be a county or district road, and such road shall become a county or district road accordingly.

(4) The Governor-General may in like manner declare that any road or street constructed or controlled by the Governor-General within a borough shall be under the control and management of the Council of the borough, and such road or street shall thereupon be deemed to be a street within the meaning of the Municipal Corporations Act, 1920.

(5) The Governor-General may in like manner declare that any road constructed or controlled by the Governor-General within a town district shall be under the control and management of the Town Board, and in such case the road shall be deemed to be a town district road.

(6) The powers hereby conferred on the Governor-General in Council may be exercised from time to time, and any Order in Council made hereunder may be revoked or altered, and a fresh Order in Council may be made as often as the Governor-General in Council thinks fit, and every such Order in Council shall have full effect according to its tenor.

113. The County Council may make county roads throughout the county; and by special order may from time to time—

(a) Declare any district road within the county to be a county road; and with the consent of the Road Board revoke such order, and on such revocation the road to which it relates shall again become a district road:

(b) With the consent of the Road Board within whose district a county road lies declare any portion of such county road to be a district road.

114. Subject to the provisions of any Order in Council made under section one hundred and twelve hereof, all roads in an outlying district or on the boundaries thereof shall be deemed to be county roads, except in counties wherein the whole of the Counties Act, 1920, is not in force, in which case they shall be deemed to be Government roads.

115. (1) All the powers, rights, duties, and liabilities hereby vested in and imposed upon a Road Board in respect of a district road shall,—

(a) In the case of a county road, be vested in and imposed upon the County Council; and

(b) In the case of a Government road, be vested in and imposed upon the Governor-General; and

(c) In the case of a town district road, be vested in and imposed upon the Town Board—

instead of in or upon the Road Board.

(2) All the rights and powers vested in any local authority by any Act in respect to—

(a) The care, management, or control of roads or streets;

(b) The management, restriction, or prohibition of any traffic thereon;

(c) The use of any vehicle, engine, machine, or thing thereon, including the power to impose any charge or tax thereon;

(d) The abatement or prohibition of any nuisance thereon;

(e) The power to make and enforce by-laws for any or all of such purposes—

may in the case of a Government road or road or street being constructed, improved, or maintained by Government be exercised by the Governor-General.

116. All roads, except as herein otherwise provided, shall be under the control of and may be constructed and repaired by the Road Board of the district in which such roads are situate, and shall be called district roads.

County Council may make county roads, and declare county and district roads.
1908, No. 160, s. 104

Roads in outlying districts.
Ibid., sec. 105

Powers of Governor-General, County Councils, and Town Boards over roads.
Ibid., sec. 106

Roads to be under control of Road Boards.
Ibid., sec. 107

County Council may vest control of road or part of road in local authority.
1908, No. 160, s. 108

117. (1) The County Council may by special order declare that all or any part of any district road in the county shall from and after a date to be fixed therein be under the exclusive control of such local authority in the county as is mentioned in the special order; and may by the same special order direct that the cost of constructing and maintaining any such road or part of a road shall be borne by the local authority to which the exclusive control thereof is given, or that a proportion of such cost to be fixed in and by such special order shall be borne by any other local authority or local authorities in the county; and the local authority to which such exclusive control is given may recover from such other local authority or local authorities in any Court of competent jurisdiction the share so fixed of any reasonable expenditure incurred in constructing and maintaining any such road or part of a road as aforesaid.

(2) The County Council may in like manner and with like effect with the consent of the Town Board declare that all or any part of a county road within the town district shall be under the control of and be constructed and maintained by the Town Board, and thereupon it shall be the duty of the Town Board to construct and maintain the same.

(3) Wherever the operation of the Counties Act, 1920, is suspended, the Governor-General shall have and may exercise all the functions vested in a County Council under this section.

Governor-General to exercise powers where Counties Act suspended.

Apportionment of cost of construction of road used largely by traffic from other districts.
1927, No. 69, sec. 5

118. (1) In any case where a road constructed or proposed to be constructed in one district is or is likely to be largely used for the purpose of traffic to or from any other district or districts, and affords or will afford access to or from such district or districts, and the Governor-General is of opinion that it is equitable that the latter district or districts should contribute towards the cost of the construction of the whole or any portion of such road in the former district, the Governor-General may at any time apportion the cost of the construction of the whole or any part of such road among the local authorities of the respective districts as he thinks fit; and for that purpose and to enable effect to be given hereto the provisions of section one hundred and thirty-five hereof shall, with the necessary modifications, apply.

(2) For the purposes of this section the construction of a road includes the reconstruction of the same in whole or in part, and the cost of construction of a road includes the cost of any land acquired for the purposes thereof and also includes any expenditure incidental to such acquisition.

(3) The word "road" in this section includes, in the case of a borough, a street or other thoroughfare.

Apportionment of cost of maintaining road used largely by traffic from other districts.
1908, No. 160, s. 109
1924, No. 46, sec. 2
1927, No. 69, sec. 4

119. (1) In any case where a road in one district is largely used by or for the purpose of traffic to or from any other district or districts, and affords access to or from such district or districts, and the Governor-General is of opinion that it is equitable that the latter district or districts should contribute towards the cost of maintaining the whole or any portion of such road in the former district, the Governor-General may from time to time apportion the cost of maintaining the whole or any part of such road among the local authorities of the respective districts as he thinks fit; and for that purpose and to enable effect to be given hereto the provisions of section one hundred and thirty-six hereof shall, with the necessary modifications, apply.

(2) For the purposes of this section and of any warrant issued by the Governor-General for the apportionment of the cost of the maintenance of any road to which this section refers, the maintenance of the road shall be deemed to include its repair and improvement, and the cost of maintenance to be apportioned as provided in this section shall be determined accordingly.

(3) The word "road" in this section includes, in the case of a borough, a street or other thoroughfare.

120. (1) Where a road or street lies along the boundary of two or more districts, whether that road or street is wholly within one or is partly within one and is partly within another of those districts, or is within none of those districts, the following provisions shall have effect:—

Control and maintenance of boundary roads or streets.
1909, No. 19, sec. 12
1910, No. 66, sec. 13

- (a) The Governor-General may from time to time by warrant under his hand and gazetted direct which of the local authorities of those districts shall have control of the road or street or of any part thereof.
- (b) The Governor-General may in like manner determine from time to time whether any other of those local authorities shall contribute to the cost of the construction or maintenance or lighting or widening or reconstructing of that road or street, and, if so, in what proportions.
- (c) Any warrant of the Governor-General under this section may be altered or revoked from time to time as he thinks fit, and every such warrant shall have effect according to its tenor.
- (d) So long as any such warrant remains in force every road or street which is so placed under the control of a local authority shall be deemed for all purposes to be within the jurisdiction of that local authority in the same manner as if it formed part of the district thereof, and every road which by virtue of this section is under the control of a Borough Council shall so long as it so remains be vested in the Corporation of that borough in the same manner as if it were a street within the borough.
- (e) Where any local authority is pursuant to any such warrant liable to pay any proportion of the cost of constructing or maintaining or lighting or widening or reconstructing any such road or street, the amount of that proportion shall be recoverable from that local authority in any Court of competent jurisdiction as a debt due to the Corporation of the local authority having the control of the road.

(2) For the purposes of this section, "local authority" means a County Council, Borough Council, Town Board, or Road Board; and "district" means a county, borough, town district, or road district.

(3) This section shall extend and apply to any case in which a road lies along the boundary of a road district and a county, whether the road district is included in that county or not, and to any case in which a road lies along the boundary of a town district and a county, whether the town district is included in that county or not.

(4) The Governor-General may from time to time direct any person to inquire and report to him on any question which he deems necessary to enable him to determine any matter referred to in this section; and that person shall have all the powers of a Commissioner appointed by the Governor-General in Council under the provisions of the Commissions of Inquiry Act, 1908.

(5) All costs, charges, and expenses of or incidental to the exercise of the powers hereby conferred on the Governor-General shall be a charge upon the revenues of such one or more local authorities as the Governor-General directs, and may be recovered in any Court of competent jurisdiction as a debt due to the Crown.

(6) Notwithstanding the repeal of the sections referred to in subsection six of section twelve of the Public Works Amendment Act, 1909, all instruments issued by the Governor-General, agreements between local authorities, and awards of Magistrates made under any of the repealed enactments and in force on the commencement of this Act shall continue in force until superseded by a warrant of the Governor-General under this section; and all roads or streets shall remain subject to the control and jurisdiction of the same local authorities under whose control and jurisdiction they are at the commencement of this Act; and those local authorities shall remain subject to all such liabilities to contribute to the cost of the maintenance or construction of those roads or streets as they are subject to at the commencement of this Act until other provisions are made in that behalf either by a warrant of the Governor-General under this section or otherwise in due course of law.

Powers of a Road Board over district roads.
1908, No. 160, s. 111

121. (1) The Road Board shall have full power to do all things necessary to construct and maintain in good repair any road under its control, and therein especially to do the following things:—

- (a) To make surveys for the laying-out of new roads:
- (b) To alter the line of any road:

Provided that no new line of road shall be laid out by the Road Board over Crown lands without the consent of the Land Board:

- (c) To increase or diminish the width of any road:
- (d) To determine what part of a road shall be a carriage-way and what part a footpath only:
- (e) To alter the level of any road, except as herein otherwise provided:
- (f) To stop up any road as hereinafter provided:
- (g) To stop the traffic upon any road temporarily whilst being constructed or repaired:
- (h) To close any public highway or bridge for such period as may be deemed advisable when it is found necessary to execute such repairs thereto as will prevent the use of the same for traffic:
- (i) To enter on any lands and cut therein such ditches and drains as may be required to drain water from any road, and to keep such ditches and drains open at all times for the flow of water; and to erect floodgates therein and to open or close the same as the Board thinks fit, doing as little damage as may be:

(j) To enter on any uncultivated and unfenced land adjacent to a road and make thereon and use a temporary road whilst the road is being constructed or repaired:

(k) After twenty-four hours' notice to the occupier, to enter on any land, other than land occupied in a *bona fide* manner as a garden or ornamental shrubbery, and dig and take any stone, gravel, or other material therefrom, or from any river or stream, except within fifty yards above or below any bridge, dam, or weir, and so nevertheless as not to divert or interrupt the course of such river or stream, or damage any building, road, or ford.

(2) Reasonable compensation shall be paid for any injury done and material taken; and where any Road Board and the owner or occupier of land do not agree as to the compensation the same shall be determined as provided for in Part III of this Act.

Subject to compensation for injury done, &c.

122. (1) The provisions of paragraph (k) of the last preceding section extend and apply to any Native land which has not been partitioned, and to any unfenced and uncultivated land which is unoccupied and the owner of which is unknown or cannot readily be found.

Power to remove gravel, &c., from Native lands and unoccupied land. 1908, No. 160, secs. 112, 113

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

Notice to be given.

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

How notice to be signed.

123. Where a road crosses the boundary of a district or meets another road on such boundary it shall not be lawful to alter the level of such road or roads at such point of crossing or meeting unless both the parties having the control of the roads respectively agree as to the new level at such point.

Level of road on boundary of a district to be as agreed on. Ibid., sec. 114

124. (1) Where land purchased from the Crown has no existing access by road and access can only be gained by passing through adjoining land the owner of the first-mentioned land may if such adjoining land is the property of the Crown serve upon the Minister a notice claiming that a way of access by road from and to the nearest public road shall be laid off through such adjoining land, and it shall be the duty of the Minister to direct that such way of access be provided.

Access to land to which there is no road. Ibid., sec. 115

(2) If such adjoining land is not the property of the Crown or of such owner, he may, if the local authority within whose jurisdiction such land is situate has refused or neglected to take action in this behalf, in like manner serve a notice upon the Minister requiring that a way of access by road through such adjoining land shall be provided, and it shall be the duty of the Minister and he is hereby empowered to provide the same by taking or acquiring the necessary land, subject always to the following conditions:—

(a) The Minister shall ascertain the cost of taking or acquiring the land required for such road, and if such cost does not exceed one-fifth of the sum paid to the Crown as the

If private land adjoining, how land for road to be acquired.

purchase-money of the land to which access by road is to be provided, then the cost of taking or acquiring the land for such road shall be defrayed out of the Consolidated Fund.

(b) If such cost exceeds one-fifth of the sum so paid to the Crown, then the person applying for such road shall repay such excess to the Minister upon his demand, and may be required to make such payment, or to give security therefor to the satisfaction of the Minister, before the land for such road is taken or acquired.

Refund by local authority.

(c) If any part of the purchase-money of the land to which access is to be provided has been paid to any local authority, then such local authority shall on demand of the Minister refund to him a proportionate share of such cost not exceeding the amount received by such local authority on account of such purchase-money.

Where land sold, road or street to give access to be dedicated to public use.

1908, No. 160, s. 116
1910, No. 66, sec. 13
1911, No. 21, sec. 13
1928, No. 15, sec. 2

125. (1) Except as otherwise provided in this section, where the owner of any land sells any part thereof not having a frontage to an existing road, street, or private street, he shall provide and dedicate as a public road or street a strip of land of not less than sixty-six feet in width which will give access to such part from some existing road, street, or private street :

Provided that this subsection shall not apply with respect to the sale of land to the owner of adjoining land or to the sale of land in any case where the local authority in whose district the land is situated, having first satisfied itself that the land sold or intended to be sold is not intended to be used as a site for a dwellinghouse, resolves on that ground that the requirements of this subsection shall not apply.

(2) In any case of subdivision to which the provisions of section one hundred and eighty-seven of the Municipal Corporations Act, 1920, are applicable, there shall be substituted for the requirements of the last preceding subsection a requirement to provide and dedicate a strip of land of the width of the street authorized pursuant to the said section one hundred and eighty-seven.

(3) Any local authority other than a Borough Council may in any case by resolution authorize the provision and dedication within its district of a public road of a less width than sixty-six feet but not less than forty feet, but otherwise in accordance with this section ; but no such resolution shall take effect unless and until it had been approved by the Governor-General in Council.

(4) Any Order in Council made for the purposes of subsection two or subsection three hereof may be absolute or may be subject to such conditions with respect to the building-line as may be therein imposed. Where any such conditions are made the provisions of subsection three of section one hundred and twenty-eight hereof shall apply, with the necessary modifications, as in the case of an Order in Council made under the authority of that section.

(5) The owner shall submit to the local authority for its approval a plan showing the position, course, levels, grades, and extent of the proposed road or street, and on such approval being obtained shall form the road or street so dedicated to the satisfaction of the local

authority, and shall if so required by the local authority metal the road or street or any required portion thereof, and provide and lay necessary pipes for water-supply and drains to the satisfaction of the local authority, and shall also construct in connection therewith such drains and footpaths as may be agreed upon between the owner and the local authority.

(6) The dedication shall be by instrument in writing under the hand of the owner and registered by him in the office of the District Land Registrar or, as the case may require, of the Registrar of Deeds.

(7) The Registrar shall refuse to register any instrument affecting the land unless and until he is satisfied that the owner has complied with the requirements of this section.

(8) The road or street so dedicated shall be deemed to be vested in and under the control of the Borough Council where the road or street is within a borough, and in all other cases shall be deemed to be vested in His Majesty and shall be under the control of the local authority.

(9) For the purposes of this section—

“Owner” means the owner in fee-simple, whether beneficially or as trustee, and includes a mortgagee acting in exercise of power of sale, the Public Trustee, and any local authority, Board, or other body or authority, howsoever designated, constituted, or appointed, having power to dispose of land by way of sale or lease :

“Sale” includes gift, exchange, or other disposition affecting the fee-simple, and lease for any term (including renewals under the lease) of not less than fourteen years.

(10) The foregoing provisions of this section shall not be deemed to prevent the registration of any transfer or conveyance of any allotment or subdivision of land abutting on any road or street of not less than sixty links in width shown on any plan of subdivision deposited in any Land Registry Office or Deeds Register Office before the twentieth day of October, nineteen hundred (being the date of the coming into operation of the Public Works Acts Amendment Act, 1900), if the Registrar is satisfied that the requirements of subsection five hereof have been complied with.

126. (1) The last preceding section shall not apply to any case in which the land sold abuts upon any public navigable river or lake, or upon the seashore, and the local authority is satisfied that reasonable access by means of that river or lake, or by sea, is afforded to the said land, and resolves accordingly that the said section shall not apply.

(2) For the purposes of this section any land that is separated from a river or lake or from the seashore only by a reserve in respect of which the public has unrestricted rights of ingress, egress, and regress shall be deemed to abut on such river, or lake, or the seashore, as the case may be.

127. For the purposes of section one hundred and twenty-five hereof, in the case of land situated in any district which is not within the jurisdiction of any Borough Council, County Council, Road Board, or

Preceding section not to apply where land abuts on river, lake, or seashore.
1911, No. 21, sec. 10
1928, No. 15, sec. 6

Definition of “local authority” extended.
1911, No. 21, sec. 11

Town Board, the term "local authority" as used in that section shall be construed as meaning the Minister of Public Works.

Where land fronts road or street of less width than 66 ft. frontage to be set back.

1908, No. 160, s. 117
1910, No. 80, sec. 98
1911, No. 21, sec. 13

128. (1) Where land having a frontage to an existing road or street of a less width than sixty-six feet is subdivided into allotments for the purpose of sale, the owner shall set back the frontage of the land to a distance of at least thirty-three feet from the centre-line of the road or street and shall dedicate as a public road or street the strip of land between the frontage-line so set back and the frontage-line as previously existing, and the land so dedicated shall form part of such existing road or street :

Provided that this section shall not apply in any case where the local authority having control of the road or street by resolution declares that the provisions hereof shall not apply to any specified road or street or any specified part thereof, and such resolution is approved by the Governor-General in Council.

(2) Such approval may be either absolute or subject to such conditions with respect to the building-line as the Governor-General by Order in Council thinks fit to impose, and may refer to one or both sides of the road or street.

(3) The resolution, with the approving Order in Council, shall be published in the *Gazette*, and thereupon the following provisions shall apply :—

- (a) The Minister shall transmit a copy of the *Gazette* to the District Land Registrar or Registrar of Deeds, as the case may require, who shall deposit the same in his office and register against the title of all land affected thereby a memorandum under his hand that the land is exempted from this section either absolutely or, as the case may be, subject to conditions as specified in the deposited *Gazette* (which shall be identified by its date and also by its deposit number, if any).
- (b) Such registration shall affect, with notice of the resolution and Order, all persons then having any estate or interest in the land and their successors in title.
- (c) If any building is at any time commenced or erected in breach of any of the conditions imposed by such Order, the person for whom the work is done shall be liable on conviction to a fine of not less than five pounds nor more than fifty pounds for every day during which such breach continues.
- (d) In addition to all other remedies for the recovery of any such fine, the amount thereof with costs shall by force of this Act be a charge on the land, and such charge may be enforced by a sale of the land in such manner and on such terms as the Minister directs.
- (e) The proceeds of the sale shall be applied, first, in defraying the costs, charges, and expenses incurred in and about the sale ; secondly, in satisfying the amount of the fine and costs ; and the surplus, if any, shall be paid over to the Public Trustee for the persons entitled, upon their establishing their right thereto.

(4) In cases where the frontage on either side of any road or street has already been set back under the operation of this or any other Act,

or voluntarily by the owner, or by arrangement with the local authority, the centre-line of the road or street shall be taken to mean the centre of the road or street as it originally existed.

(5) The owner of the land so dedicated shall be entitled to compensation by the local authority having control of the road or street; and in assessing such compensation the Compensation Court shall take into consideration the necessity for or advantage of affording greater road or street space, the betterment accruing to the whole property so affected, and any such betterment shall be a set-off against the compensation claimed.

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

(7) Subsections six to ten of section one hundred and twenty-five hereof shall apply to this section.

(8) The provisions of this section shall not apply to any street, private street, or private way situate in that part of the Borough of Napier known as Scinde Island, which was laid out before the first day of January, nineteen hundred and one (being the date of the commencement of the Municipal Corporations Act, 1900).

129. For the purposes of the last preceding section any division of land to which that section relates, whether into two or more allotments, shall be deemed to be a subdivision of that land for the purpose of sale if at least one of those allotments is intended for disposal by way of sale.

Meaning of
"subdivision"
extended.
1928, No. 15, sec. 3

130. Before dedicating any strip of land to form part of an existing road or street pursuant to the provisions of section one hundred and twenty-eight hereof, the owner of that land shall give to the local authority having control of the existing road or street not less than forty days' notice in writing of his intention so to do.

Notice to be given to
local authority
before dedicating
land for road.
1923, No. 29, sec. 5

131. (1) When by any Order in Council issued in pursuance of section one hundred and twenty-eight hereof, or under section one hundred and seventeen of the Public Works Act, 1908, or under section one hundred and seventeen of the Public Works Act, 1905, as amended by section three of the Public Works Act Amendment Act, 1906, conditions have been imposed with respect to the building-line in the case of any street or road exempted from the provisions of those sections, the Governor-General may from time to time by Order in Council, on the application of the local authority having control of that road or street, amend the first-mentioned Order in Council by cancelling or varying the conditions so imposed thereby, and any such cancellation or variation may extend either to the whole or to any part or parts of the said road or street.

Cancellation or
variation of
conditions imposed
by Order in Council
under section 128.
1908, No. 241, sec. 3

(2) A copy of every Order in Council issued under the authority of this section shall be transmitted under the hand of the Minister of Public Works to the District Land Registrar or the Registrar of

Deeds, as the case may require, who shall register the same against the title of all land affected thereby, and the original Order in Council shall thereupon be deemed to be amended, and shall have effect as so amended accordingly.

Special permits to build private motor-garages may be granted in cases where building-line fixed under section 128.

1924, No. 46, sec. 3

132. (1) Where in any Order in Council issued pursuant to subsection two of section one hundred and twenty-eight hereof the Governor-General has imposed conditions with respect to the building-line in relation to any road or street or specified part thereof, then notwithstanding anything to the contrary in the said section one hundred and twenty-eight the local authority may with the approval of the Minister grant permits for the erection of private motor-garages adjacent to the line of the road or street, or to a line intermediate between the line of the road or street and the building-line :

Provided that no such permit shall be granted in contravention of any express conditions relative to the grant of such permits that may hereafter be imposed by the Governor-General by any Order in Council issued pursuant to the said section.

(2) With respect to permits granted under this section the following provisions shall apply :—

(a) No such permit shall authorize the erection of any motor-garage the inside measurements of which exceed ten feet in width by twenty feet in depth by nine feet in height.

(b) Every such permit may be at any time cancelled by the local authority, and shall be so cancelled if the Minister so requires. Within one month after the date of such cancellation, or within such extended time as the local authority may in any case allow, the owner shall be required to remove the garage, and shall not be entitled to any compensation in respect thereof. If the owner fails to remove the garage within the time specified the local authority may remove it at his expense, and the cost of removal may be recovered in any Court of competent jurisdiction as a debt due by the owner to the local authority.

(c) The local authority may charge such fee as it thinks fit for the issue of any permit under this section.

Local authority may by special order raise special loan.

1910, No. 66, sec. 12

1911, No. 21, sec. 13

133. A local authority may by special order and without taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926, 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 section one hundred and twenty-eight hereof or section one hundred and seventeen of the Public Works Act, 1908, together with the expenses incurred by the local authority in connection with such dedication.

Unformed roads or streets.

1908, No. 160, s. 118

134. On the petition of a majority of the owners owning not less than two-thirds of the frontage on any unformed road or street of not less than sixty-six feet in width, which had prior to the year nineteen hundred been dedicated or used as a public road or street, the local authority may form the same and apportion the cost thereof amongst the whole of the owners in proportion to the frontage held by them respectively, and may recover the amount so apportioned as if the same were a rate.

Bridges, Ferries, and Fords.

135. (1) 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 His 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 the construction of a new bridge, an addition to the length of a bridge, and the complete or partial rebuilding of a bridge or of a substantial portion of a bridge.

(2) 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, 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 of such adjacent district should contribute to the cost of constructing or establishing the said bridge, ferry, or ford, the following provisions shall have effect :—

(a) The local authority proposing to construct the work 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—

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

(ii) 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-General for power to construct the work and to recover the proportion of the cost of the same from the local authority mentioned in such notice ; and

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

(b) At the expiration of the aforesaid period of two months the local authority may make application to the Governor-General for power to construct the work on the terms mentioned in the notice aforesaid.

(c) 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.

Local authorities benefiting by construction of bridge, ferry, &c., may be compelled to contribute thereto.

1908, No. 160, s. 119
1908, No. 241, sec. 4
1909, No. 19, sec. 13
1911, No. 21, sec. 13
1913, No. 38, sec. 9
1927, No. 69, s. 6 (1)

- (d) If an objection is lodged, the Governor-General (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 Magistrate or other person to be a Commissioner to inquire into and report to him on the matter, and such Commissioner shall have all the powers of a Commission appointed by the Governor-General in Council under the Commissions of Inquiry Act, 1908; but it shall not be obligatory upon the Governor-General to act in accordance with the opinion that may be expressed by such Commissioner or to give effect to any recommendation that may be contained in his report.
- (e) If no objection is lodged within the two months aforesaid, or if although an objection is lodged the Governor-General is of opinion that the work should be done, he may if he thinks fit by warrant under his hand publicly notified and gazetted authorize any local authority to execute such work, either as originally proposed or with such alterations as are agreed on between the local authorities concerned or as are recommended by the Commissioner, and may declare that a proportion of the cost thereof, to be mentioned in such warrant, shall be borne by any other local authority, and such proportion shall be paid by such local authority accordingly.
- (f) The local authority empowered to construct the work shall execute and construct the same accordingly, and shall from time to time as the work proceeds make a demand in writing on any other local authority liable to contribute to the cost of the same.
- (g) Such demand shall show in detail the cost of the work to the date of the demand and the amount demanded in respect of the same; and if such other local authority does not within one month from the date of such demand being made satisfy the same, the first-mentioned local authority may recover the amount with interest at five per centum per annum, 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-General shall be conclusive and binding on such Court, and it shall not be competent for such Court to question the validity of such warrant.
- (h) 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-General at any time thereafter to make other provision in respect of such control under section one hundred and thirty-six hereof.
- (i) The provisions of subsection nine of section one hundred and thirty-six hereof shall extend and apply in respect of all matters intended to be provided for under the provisions of this section.

(3) 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-General hereunder, such local authority may raise a loan for the said amount, over the whole or any specified part of its district, in terms of section seventeen of the Local Bodies' Loans Act, 1926, 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, 1926, and all the provisions of that Act, where not inconsistent herewith, shall apply to such loan. The words in this subsection, "any order which may be made by the Governor-General hereunder" shall be deemed to include any authority conferred on any local authority to execute any work, and any declaration that any proportion of the cost of any work is to be borne by any local authority. The authority to borrow conferred by this section shall be deemed to extend to the local authority authorized to execute any work. The limit of any authority to borrow under this section may if the Governor-General thinks fit be set out in the Governor-General's warrant, and any warrant (whether heretofore issued or hereafter to be issued) may from time to time be amended for the purpose of setting out the limit of such authority to borrow. The Governor-General's warrant or amended warrant as gazetted shall be conclusive evidence that the local authority thereby authorized to construct any work, or thereby declared liable to bear any proportion of the cost of any work, is duly authorized to raise a loan to the limit of amount mentioned in such warrant.

(4) Any contribution due by any local authority under any warrant of the Governor-General hereafter issued under paragraph (e) of subsection two hereof or already issued under the corresponding provisions of any former Act relating to public works, in respect to any bridge constructed by the Minister in pursuance of this Act or of any such former Act, shall be deemed to be a debt due to His Majesty, and without affecting any other mode of recovery may be deducted from any subsidies at any time payable by the Crown to such local authority.

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

136. (1) For the purposes of this section the words "bridge," "ferry," and "ford" respectively include such approaches to a bridge, ferry, or ford, and such protection-works in connection therewith, as may by any warrant under this section be defined to be part of the bridge, ferry, or ford, or any combined road and railway bridge; but nothing herein shall authorize the Governor-General to vest the care, control, and management of any such combined bridge in any local authority.

Governor-General may vest control of bridge, ferry, or ford in local authority, and apportion cost of maintenance.

1908, No. 160, s. 120
1909, No. 19, sec. 13
1911, No. 21, sec. 13
1927, No. 69, s. 6 (2)

(2) The Governor-General may by warrant under his hand publicly notified and gazetted direct that any bridge already constructed or which may hereafter be constructed, and any ferry or ford already established or which may hereafter be established, over or across any river or arm of the sea respectively shall from and after a date to be fixed in such warrant be under the exclusive care, control, and management of the Minister or of such local authority as is mentioned in that behalf in such warrant: and

(3) May by any subsequent warrant as aforesaid from time to time vary or alter such care, control, and management: and

(4) May by any such warrant fix and determine whether all or any, and, if so, what part, of the cost, whether theretofore incurred or thereafter to be incurred, of maintaining or repairing any such bridge, or of managing and maintaining any such ferry or ford, and the machinery and appliances used therewith, is to be provided and paid by any local authority or local authorities (if more than one), and, if so, by what local authority or local authorities (if more than one); and any local authority so required to contribute may in addition to any other rating-power from time to time make, levy, and collect a rate sufficient to cover such contribution over the whole of its district or over any specified part thereof which in its opinion is benefited by that bridge, ferry, or ford: and

(5) May by any such warrant direct how, when, and to whom any such payment is to be made; and every payment so directed to be made shall be made as directed by such warrant, and unless so made may be recovered in any Court of competent jurisdiction at the suit of the Minister or local authority, as the case may be, as a debt due to His Majesty or to the local authority to which such payment ought to be so made.

Revenues to be considered in apportioning maintenance.

(6) In fixing and apportioning the cost of maintaining or repairing any such bridge, or of managing or maintaining any such ferry or ford, and the machinery and appliances used therewith, the Governor-General shall take into account the net revenue (if any) derived from or incident to the use of such bridge, ferry, or ford by the Minister or by the local authority, as the case may be, having the care, control, management, or maintenance thereof.

Governor-General may refer certain questions to Commissioner.

(7) The Governor-General may from time to time, with the view of determining whether it is expedient to vest the exclusive care, control, management, and maintenance of any such bridge, ferry, or ford either in the Minister or in any local authority, or with the view of determining the proportion in which it would be fair and reasonable to fix and determine the amount to be provided and paid by any local authority or local authorities for or towards the cost of maintaining or repairing any such bridge, or of managing or maintaining any such ferry or ford, and the machinery and appliances used therewith, direct any Magistrate or other person to be a Commissioner to inquire and report to him upon any matter which he deems necessary to enable him to determine any such question as aforesaid; and such Commissioner shall have all the powers of a Commission appointed by the Governor-General in Council under the provisions of the Commissions of Inquiry Act, 1908.

(8) Such Commissioner shall report to the Governor-General, after such inquiry as he deems requisite and reasonable, his opinion as to the matters respecting which he was appointed to report ; but it shall not be obligatory upon the Governor-General to act in accordance with any opinion that may be expressed by such Commissioner, nor to give effect to any recommendation that may be contained in his report.

(9) All costs, charges, and expenses attending or incidental to the exercise of the powers conferred upon the Governor-General or upon such Commissioner or other persons shall be a charge upon the revenues of such local authority or local authorities as the Governor-General directs, and may be recovered as a debt due to His Majesty in any Court of competent jurisdiction.

Cost of exercising powers to be paid by local authority.

(10) In case any local authority refuses or neglects to maintain, work, or repair any bridge, ferry, or ford (including the working of swing or lifting spans in bridges, where such have been provided) under its care, control, and management, or to reconstruct any such bridge, ferry, or ford when requisite, the Minister may undertake such maintenance, repairs, or reconstruction in the place of the local authority so refusing or neglecting as aforesaid, and may provide for the care, working, and management of such bridge, ford, or ferry, and may recover all costs, charges, and expenses attending or incidental to his so doing from such local authority as a debt due to His Majesty in any Court of competent jurisdiction.

Power to Minister to maintain bridge, &c., in case of refusal by local authority, and recover cost.

(11) In the exercise of the powers conferred upon him by this section the Minister, and any and every person authorized by him, shall have all the powers and authorities which under any law are or may be vested in or could be exercised by the local authority in the place of which the Minister is acting.

(12) Any Proclamation or instrument heretofore made under any Act relating to public works vesting the control of any bridge, ferry, or ford, and apportioning the cost of maintenance thereof, may be revoked, altered, or varied by the Governor-General from time to time as he may deem expedient, subject to the provisions of this Act.

Proclamation may be varied, altered, or revoked.

137. Any warrant issued by the Governor-General for the purposes of the last preceding section, whether issued before or after the passing of this Act, may in like manner be revoked or from time to time varied.

Warrant under preceding section may be revoked or varied.

1924, No. 46, sec. 4

138. Any local authority having control of a ferry may let such ferry for a period not exceeding three years.

Local authority may let ferry for three years.

1908, No. 160, s. 121

Other Provisions.

139. Where any local authority is notified that accrued thirds or fourths are available for expenditure, and for a period of not less than eighteen months fails to utilize the same, the Minister may give such local authority six months' notice to put in hand works approved by the Land Board to the value thereof ; and if during that period the local authority fails so to do, the expenditure of the thirds or fourths as aforesaid may be undertaken by the Minister, and all rights of the local authority thereto shall be determined.

Expenditure of thirds and fourths. Ibid., sec. 122

140. (1) The Governor-General may authorize any local authority to sell or contract to sell and remove any timber, stone, mineral, metal,

Local authority may sell stone, &c. Ibid., sec. 123

or other substance upon or under any land vested in it or placed under its control for a public road or other public work :

Provided that nothing herein shall limit the liability of the local authority in respect to damage to person or property by reason of the removal of such timber, stone, mineral, metal, or other substance, or shall authorize the removal of any metal or mineral under any land mentioned in this section except under the authority of a mining privilege under the Mining Act, 1926.

(2) The provisions of Part II of the Coal-mines Act, 1925, shall so far as applicable apply in any case where coal is removed under the authority of this section.

Gates across Roads.

Local authority may permit swing-gates to be placed on roads in sparsely populated districts.
1908, No. 160, s. 124

141. The Minister or the local authority respectively having the control of any road in a sparsely populated district may by writing permit any person to erect a swing-gate, including a rabbit-proof swing-gate, across such road ; but the Minister or local authority, as the case may be, 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.

Local authority may agree as to gates on roads taken through private lands by agreement.
Ibid., sec. 125

142. In the case of any road which has been or may be taken or constructed through private lands under agreement with the owner thereof, the Minister or local authority, as the case may be, may agree with the owner or lessee of such lands to permit a swing-gate to be erected across such road at the outer boundaries respectively of such lands at the cost of one or both parties as may be agreed, there to be maintained at the like cost for any period not exceeding twenty years, or until such road has within such period been fenced on both sides.

Permission to erect swing-gate not to be granted until after notice published in newspaper.
Ibid., sec. 126

143. Permission to erect a swing-gate across any road shall not be granted unless and until after notice of any application in that behalf has been given at least once in each of two consecutive weeks in some newspaper circulating in the district, and the cost of all such notices shall be defrayed by the person applying for such permission.

Gates across roads registered under section 110.
Ibid., sec. 127
1909, No. 19, sec. 13

144. (1) Every owner of land through which a road has been taken and registered under paragraph (d) of section one hundred and ten hereof shall have a right, wherever such road crosses the boundary of his land, to erect a swing-gate on the formed portion thereof, not less than ten feet wide, to fence up to such gate, and to maintain such gate and fences for a period of twenty years from the date of such registration, or until such road has within that period been fenced on both sides.

(2) Every such gate shall be constructed and maintained to the satisfaction of the Commissioner of Crown Lands for the district.

Regulations as to gates and fences.
1908, No. 160, s. 128

145. (1) In every case where a gate is erected across a road under any of the four last preceding sections, or the corresponding provisions of any Act heretofore in force relating to public works, a board with the words " Public Road " legibly painted thereon in letters of not less than three inches in height shall be fixed upon each side of such gate and at all times maintained thereon by the person or body authorized to erect such gate, or at whose cost it has been agreed that such gate shall be erected and maintained.

(2) The Minister or local authority, as the case may be, shall have power to make by-laws from time to time providing fines for leaving any such gate open or for damaging the same.

(3) Every such gate and fence shall be deemed to be the property of the person who erected the same, or at whose cost it was agreed that the same should be erected and maintained, and every person who damages any such gate or fence is liable to such first-mentioned person accordingly.

Damage to gates and fences.

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

Removal of fences and other obstructions on roads.

1908, No. 160, s. 129

(2) If after receipt of such petition the local authority declines or neglects to issue a notice as aforesaid, any ratepayer may, by complaint under the Justices of the Peace Act, 1927 (the provisions whereof shall with the necessary modifications apply), require the local authority to appear before a Magistrate to show cause why such notice should not issue.

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

(4) If such notice is issued and served as aforesaid and default is made in duly complying therewith, the defaulting owner or occupier shall be liable to a fine of one pound for every day during which such default continues, and the local authority or any ratepayer may remove such gate, fence, or other obstruction, and recover from such owner or occupier as a debt the cost of such removal:

Provided that nothing herein shall apply to any swing-gate erected across any road under the authority of any Act relating to the abatement of the rabbit nuisance, if the local authority is of opinion that such gate is necessary for the purposes of such Act.

Stopping of Roads.

147. No road shall be stopped unless and until a way to the lands in the vicinity as convenient as that theretofore afforded by the said road is left or provided, unless the owners of such lands give consent in writing to such stoppage; and no road along the bank of a river shall be stopped either with or without consent.

Road not to be stopped, except a way is left to land in the vicinity. Ibid., sec. 130

148. (1) Subject to the provisions of the last preceding section, a road under the control of a Road Board may be stopped in accordance with the provisions hereinafter set out.

How roads may be stopped by local authorities.

1928, No. 15, sec. 4

(2) The Board shall have a plan prepared of the road proposed to be stopped, and shall forward it to the Chief Surveyor of the district for a certificate as to the accuracy thereof.

(3) The plan as certified by the Chief Surveyor shall be deposited for public inspection at the office of the Board or other convenient place, and the Board shall at least twice at intervals of not less than seven days give public notice of the proposal to close the road and of

the place where the plan may be inspected, and shall in such notice call upon persons objecting to the proposal to lodge their objections in writing at the office of the Board on or before a date to be specified in the notice, being not earlier than forty days after the date of the first publication thereof. The Board shall also forthwith after such first publication serve a notice in the same form on the owners and occupiers of all land adjoining the road proposed to be closed, so far as they can be ascertained.

(4) If no objections are received within the time limited as aforesaid, the Board shall send a copy of the plan, with full particulars of its proposals, to the County Council.

(5) If any objections are received by the Board it shall by public notice call a meeting of the ratepayers of the district, to be held at a time and place to be specified in the notice, the time so specified being not earlier than fourteen days after the date of publication of the notice.

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

(7) If the meeting decides against the stopping of the road, the decision shall be final and no further proceedings for stopping such road shall be taken by the Board at any time within one year thereafter. If the meeting decides in favour of the stopping of the road, the Board shall send a copy of the plan, with full particulars of its proposals, to the County Council, together with a copy of all objections lodged and a statement of the decision come to by the meeting of ratepayers.

(8) The County Council, after considering the proposals and the objections (if any), may either approve or disapprove the stopping of the road, and its decision shall be final.

(9) If the Council disapproves of the stopping of the road the proposal shall not again be submitted to it at any time within one year thereafter.

(10) If the Council approves of the stopping of the road, the Board may by public notice declare the said road to be stopped, and it shall thereupon cease to be a public highway.

149. Notwithstanding anything in section one hundred and forty-eight hereof,—

- (a) A local authority shall not declare any county or district road to be stopped, and such road shall not be deemed to be stopped until the consent thereto of the Governor-General by Order in Council gazetted is obtained.
- (b) The District Land Registrar shall not issue any certificate under paragraph (d) of the next succeeding section unless a copy of such Order in Council or of the *Gazette* containing the same is filed in his office.
- (c) The Governor-General may by Proclamation publicly notified stop or alter the course of any Government road or any part thereof, and may dispose of the land occupied by the road or part of the road so stopped or altered in manner provided by section thirty-one or section thirty-five hereof.

Further provision
as to closing roads.
1908, No. 160, s. 133

- (d) A copy of every Order in Council or Proclamation issued under this section shall within ten days after such issue be laid before Parliament if sitting, or if not, then within ten days after the commencement of the next ensuing session.

150. The land occupied by any road stopped under section one hundred and forty-eight hereof and agreed to be sold under this section may be sold under the following conditions:—

How the land of stopped road may be disposed of.

1908, No. 160, s. 134

- (a) The Chairman of the County Council or the Magistrate, as 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 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 refuses it or cannot after due inquiry be found, then to the owner of the adjacent lands; or if there are more owners than one, then to each of such owners in such order as the Board thinks fit; and if no such owner accepts 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 such land is situate a copy of the order directing the sale of the said land, together with a map thereof certified in the manner required by paragraph (a) of section twenty-three hereof, and shall endorse thereon a certificate of the payment of the purchase-money, with the name and address of the purchaser; and such copy of the order so endorsed shall be deemed to be a memorandum of transfer of such land to such purchaser within the meaning of the Land Transfer Act, 1915, and the Registrar shall register the same and deal therewith in the manner provided by that Act.

151. (1) The land occupied by any road stopped under section one hundred and forty-eight hereof may be exchanged for other land under the following conditions:—

Exchange of land for roads.

Ibid., sec. 135

- (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 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 Magistrate as aforesaid shall certify in writing under his hand that such road has been stopped as by law required.
- (c) The Chairman of the Road Board shall endorse 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) Such copy of certificate so endorsed, together with such map as is mentioned in paragraph (d) of the last preceding section, shall when filed in the District Land Registry Office for the district in which such land is situate be dealt with in the manner directed by the said paragraph, and shall confer upon the exchangee the same rights and titles as are therein mentioned.

Conveyance to be free of stamp duty.

(2) No stamp duty or registration or other fees shall be charged or payable upon or in respect of any certificate of title or copy thereof made and issued under the provisions of this section.

If road stopped for benefit of private person, to be at his sole expense.

1908, No. 160, s. 136

152. If a road is proposed to be stopped on the motion and solely for the convenience of any private person, such person shall pay all the costs incurred thereby, including the cost of constructing a new road, if in the opinion of the Board such new road is necessary in the place of the road stopped; and the Board shall take no steps towards stopping such road until such person pays into the District Fund the whole estimated cost of the proposed alteration.

Governor-General may sell stopped roads not required for public use.

Ibid., sec. 137

153. Any road stopped under the authority of any Act or Provincial Ordinance may be sold or exchanged by the Governor-General, if the land occupied by the stopped road is not required for public use; and the Governor-General may execute all necessary grants and assurances, and do all things requisite to carry into effect any such sale or exchange.

Where land of stopped road sold or exchanged, Governor-General may perfect sale or exchange.

Ibid., sec. 138

154. Where it appears to the satisfaction of the Governor-General—

(a) That any road has been stopped under the authority of any Act or Provincial Ordinance, and the same or any part thereof has heretofore been sold or exchanged, or agreed to be sold or exchanged, whether the contract for such sale or exchange is in writing or not; or

(b) That any contract has been entered into for the sale or exchange of any land for the purposes of a road, and whether such land consists wholly or in part of closed road-lines,—

then and in any such case, and for the purpose of completing and perfecting such agreement, sale, or exchange, the Governor-General may issue such grants or execute such conveyances, transfers, and other assurances as he deems necessary, or may direct the issue of any other instrument of title authorized by law.

By-laws as to Use of Roads.

Definition of heavy traffic.

Ibid., sec. 139

1924, No. 46, sec. 16

(1), (2)

155. (1) "Heavy traffic" in this section means—

(a) The transportation of any vehicle, engine, or machine which itself, or together with any thing or things being transported thereon, weighs more than one and a half tons avoirdupois to each pair of wheels:

(b) The traction of any vehicle or thing by means of bullocks, notwithstanding that such vehicle or thing may separately or together with any load thereon weigh less than one and a half tons avoirdupois:

(c) The transportation of any motor-vehicle the weight of which with its maximum load exceeds two tons:

(d) Any traffic which may from time to time be declared to be "heavy traffic" by Order in Council.

(2) The Minister in respect of all or any Government roads, and of all or any bridges, ferries, and fords under the control of the Minister, and any local authority in respect of all or any roads, bridges, ferries, and fords under the care, control, or management of such local authority, may from time to time make by-laws upon the following subjects:—

Power of Minister and local authorities to make by-laws.

(a) Classifying all vehicles of any kind, and prescribing a maximum and minimum width of tires of all vehicles used wholly or chiefly for the carriage of passengers, whether plying for hire or not:

(b) Regulating, in proportion to the number of wheels or to the weight of load, or to the number of animals employed to draw the same, or to all or any of such matters, the width of the tires of all vehicles, whether plying for hire or not:

(c) Regulating the number of passengers and the quantity and weight of goods which may be carried in any vehicle with a specified width of tire, or the number of horses or other animals that may be employed to draw the same, and preventing such number, quantity, or weight being exceeded:

(d) Regulating heavy traffic generally, or making special regulations in regard to any one or more special kinds of heavy traffic, such as the cartage of timber, stone, minerals, metallic ores, metals, machinery, or any other special kind of load, and dealing in a different way with different kinds of heavy traffic:

(e) Providing for the giving or taking of security by or from any person that no special damage will accrue to any road, bridge, ferry, or ford by reason of any heavy traffic thereon:

(f) Providing for the annual or other payment of any reasonable sum by any person concerned in any heavy traffic by way of compensation for any damage likely to occur to any road, bridge, ferry, or ford therefrom:

(g) Providing for the establishing of a toll to be levied on any kind of heavy traffic; such toll to be established in the manner prescribed by this Act:

(h) Providing for a yearly license fee on any vehicle or machine engaged in heavy traffic:

Provided, in the case of a by-law made by a local authority, that no other charge is levied thereon by the local authority:

(i) Providing that heavy traffic of all or any kinds shall cease during the whole or any part of the months of May, June, July, August, and September:

(j) Regulating the use of bullocks as traction animals, or prohibiting the use thereof at any time and for any period:

(k) Regulating the weight of any engine, agricultural or other machine, or vehicle of any kind, and the weight of any load or material of any kind which shall be permitted to cross any bridge or culvert, and the times when such engines, agricultural or other machines, or vehicles shall be allowed

to cross any bridge or culvert, or the weight of the load which any traction-engine may draw :

- (l) Regulating the pace, mode or manner, and times at which any horses, cattle, engines, agricultural or other machines, or vehicles shall cross or be driven, led, or taken over any bridge or culvert :
- (m) Regulating the pace, mode, or manner in which bicycles or tricycles may pass any vehicle :
- (n) Fixing any fine for any breach of any such by-law, not exceeding in any case the sum of five pounds, except as specially provided in paragraph (b) of the next succeeding section.

Application to motor-vehicles.

(3) The provisions of the last preceding subsection shall apply with respect to motor-vehicles in the same manner in all respects, with the necessary modifications, as they apply with respect to other classes of vehicles or other classes of heavy traffic.

Fines, &c., to be expended on repair of roads, &c.

(4) All fines recovered in respect of the breach of any by-law made under this section by a local authority shall be paid to the county or district or other fund of the authority making the by-law, as the case may be ; and all such fines, and all charges, fees, and tolls received by any local authority under this section shall without any deduction excepting for the cost of collection be expended on the repair and maintenance of the road, bridge, ferry, or ford in respect of the use of which the same has been received.

Copy of every by-law to be sent to Minister, who may disallow same.

(5) A copy of every by-law made by a local authority under this section shall within one week after the making thereof be sent by such authority to the Minister, who may at any time within twelve months after such copy has been so sent disallow the same or any part thereof ; and upon such disallowance being gazetted such by-law or part thereof shall cease to have any force ; but such disallowance shall not affect the validity of anything theretofore done under the by-law or part thereof so disallowed.

(6) Nothing in this section shall apply to any authorized railway or tramway on, over, or across any road, or shall limit any powers of regulating traffic on roads, bridges, ferries, or fords otherwise possessed by the Governor-General, the Minister, or any local authority.

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

156. For the purpose of giving fuller effect to the provisions of the last preceding section the following special provisions shall apply :—

1908, No. 160, s. 140

- (a) Any person authorized in that behalf by the Minister in respect of Government roads, or by any local authority in respect of roads under its control, may stop and detain any vehicle or machine which in his opinion infringes any by-law made under that section until the width of the tires, or the weight of such vehicle or machine and the load thereon, or the weight or measurement of the contents thereof, can be ascertained.
- (b) Any such by-law may prescribe—
 - (i) For the weighing of any vehicle or machine :
 - (ii) For the marking of the weight of any vehicle or machine on such vehicle or machine, and imposing a fine not exceeding twenty pounds for the non-marking or incorrect marking of any such weight :

(iii) For the weighing or measurement of the contents of any vehicle or machine, or for the computation of the weight or measurement of such contents from the cubical or superficial measurement thereof.

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

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

157. With respect to by-laws made under section one hundred and fifty-five hereof the following special provisions shall apply:—

Extending scope of by-laws.

1924, No. 46, s. 16 (3)

(a) All licenses issued under paragraph (h) thereof may be made to terminate on the thirty-first day of March in each year, or on such other date as may in any case be fixed, and where any such license is issued for a period less than one year the annual license fee shall be reduced by one-twelfth part thereof for every complete month by which that period is less than one year.

(b) Such by-laws may provide for the issue of marks or devices to denote with respect to any vehicle that it is licensed to be engaged in heavy traffic, or to ply for hire, the number of the license, the issuing authority, and the date of its expiration; the number of passengers or the weight of the load that the vehicle is authorized to carry; and any other particulars relevant to the subject-matter of the by-laws.

(c) Such by-laws may prohibit absolutely or conditionally any particular class of traffic (whether heavy traffic or not). By-laws under this paragraph may apply generally to all roads under the control of the authority making such by-laws or may apply only to any specified road or roads.

(d) Such by-laws may require the drivers of vehicles engaged in heavy traffic to furnish daily or at other prescribed intervals full particulars in the prescribed form as to the use of any such vehicle, including distances covered and roads traversed.

158. (1) The Governor-General in the case of Government roads, and the local authority in the case of any road or street under its control, may from time to time by notice publicly notified direct that any heavy traffic as defined in section one hundred and fifty-five hereof, 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.

1910, No. 66, sec. 11

1924, No. 46, sec. 10

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

(3) Every person who contravenes the requirements of such notice shall be deemed to have committed an offence, and on conviction before any Court of competent 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.

Extended operation of heavy-traffic licenses and of licenses for vehicles plying for hire. 1924, No. 46, sec. 18

159. (1) The Governor-General may from time to time by Order in Council made on the application of any local authority direct that any licenses issued by such local authority in respect of heavy traffic or in respect of vehicles plying for hire shall extend and be available within the districts of two or more local authorities, and in any such case the fees payable in respect of such licenses shall be apportioned among the several local authorities within whose districts such licenses are so available :

Provided that a local authority issuing any such license may for the purpose of covering the cost of issue and incidental expenses deduct from the license fee an amount not exceeding five per centum thereof.

(2) Every apportionment made under this section shall be made by agreement among the local authorities concerned, or in default of agreement shall be made by order of a Magistrate on the application of any of those local authorities.

(3) Such agreement or order shall continue in force until terminated by the parties thereto, or until superseded by the order of a Magistrate made after six months' notice has been given by any of the said local authorities of intention to apply for such order.

Interpretation.

(4) For the purposes of this section the term "local authority" includes the Minister in respect of Government roads, and the Main Highways Board in respect of main highways under the Main Highways Act, 1922, and the term "district" includes a highway district established under the last-mentioned Act.

Road Boards may make by-laws. 1908, No. 160, s. 141

160. Every Road Board within a county where the Counties Act, 1920, is not in force, or where the operation thereof is suspended, may from time to time make by-laws under the Road Boards Act, 1908,—

(a) For all or any of the purposes set forth in the Second Schedule to the Counties Act, 1920 ; or

(b) For fixing times during which horses or cattle not in harness or yoke, or sheep, goats, or pigs, may not be driven over any county or district roads lying within three miles from the outer boundaries of any borough or town district, or over certain such roads named in any by-law in that behalf ; and any such by-law may be made in respect of any county road, notwithstanding the provisions of any Act whereby the control of such road is vested in the Governor-General.

Grass-seed on road or street. Ibid., sec. 142

161. A local authority may by by-law prohibit the cutting of grass for seed on any road or street under its control without the previous consent in writing of such authority, and such by-law may apply to all roads or streets under the control of the authority, or to any specified road or street, and for the whole year or for any specified part of the year.

162. In respect to by-laws made under sections one hundred and fifty-five to one hundred and sixty-one hereof the following provisions shall apply :—

- (a) A copy of the *Gazette* containing any such by-law shall be evidence in all Courts of the same having been duly made under the authority of this Act.
- (b) A copy of all by-laws having special reference to bridges shall be conspicuously displayed and maintained in a clearly legible condition at each and every bridge to which such by-laws have reference.
- (c) Printed copies of all by-laws having reference to the traffic on roads generally, or on any one road in particular, shall be on sale to every person applying for the same at a price of not more than one shilling a copy in the case of Government roads, at the Government Printing Office in Wellington, and in the case of other roads at the principal office of the local authority having the control of the same.

163. Nothing in this Act or in any by-law made thereunder shall be deemed to relieve any person from any fine, punishment, or action to which he would otherwise be liable in respect of anything done by him in breach of any such by-law; and the Minister or the local authority, as the case may be, may sue any person for any damage done to any road or bridge or other works in contravention of any by-law made under this Act, in addition to recovering the amount of the fine for the breach of the by-law.

Proof of by-laws.
1908, No. 160, s. 143

By-laws not to
relieve offenders
from other
proceedings.
Ibid., sec. 144

Special Provisions as to Motor-vehicles.

164. (1) Save as provided in this Act, it shall not be lawful to use on any road or street in New Zealand any motor-vehicle which is designed to carry more than six tons, exclusive of the weight of the vehicle, or which is so designed that its weight when laden may exceed ten tons :

Prohibition of use of
motor-vehicle over
specified weight.
1924, No. 46, sec. 17

Provided that this subsection shall not apply with respect to any motor-vehicle which was in use in New Zealand on the sixth day of November, nineteen hundred and twenty-four (being the date of the commencement of the Public Works Amendment Act, 1924), or which at that date was in course of transit to New Zealand in fulfilment of a contract of purchase.

(2) After that date it shall not be or be deemed to have been lawful to use on any road or street in New Zealand any motor-vehicle if the weight of its load exceeds six tons, or if the combined weight of the vehicle and load exceeds ten tons.

(3) The owner and driver of any motor-vehicle used in contravention of this section shall be severally liable to a fine of ten pounds for every day on which such vehicle is so used.

Penalty.

165. (1) For the purposes of this section a six-wheeled motor-lorry means a motor-lorry (as the term is defined in section one hundred and sixty-six hereof) which is specially designed so that the weight of the load is distributed between the middle and rear pairs of wheels, or a four-wheeled motor-lorry adapted to secure the better distribution of the load by means of a combination body and trailer with two wheels added.

Six-wheeled
motor-lorries.
1925, No. 47, sec. 2

(2) Nothing in the last preceding section shall apply to six-wheeled motor-lorries.

(3) It shall not be lawful to use on any road or street in New Zealand any six-wheeled motor-lorry if its load exceeds nine tons, or if the combined weight of the vehicle and load exceeds fifteen tons :

Provided that when the weight of the load exceeds six tons the load must be so distributed that the weight on the middle axle or pair of wheels does not exceed one and a quarter times that on the rear axle or pair of wheels, and the aggregate weight carried on the middle and rear axles or pairs of wheels does not exceed four times the weight on the front axle or pair of wheels.

(4) The owner and driver of any six-wheeled motor-lorry used in contravention of the last preceding subsection shall be severally liable to a fine of ten pounds for every day on which such vehicle is so used.

Interpretation.

1924, No. 46, sec. 19
1927, No. 69, sec. 11

Governor-General
may make
regulations as to
the use of
motor-lorries.

166. (1) For the purposes of this section the term "motor-vehicle" has the same meaning as in the Motor-vehicles Act, 1924, and the term "motor-lorry" includes every motor-vehicle (other than a private motor-car as defined by the last-mentioned Act) which, with its maximum load, exceeds two tons in weight.

(2) Notwithstanding anything to the contrary in this Act, or in any local governing Act, or in any Act relating to the use of motor-vehicles, the Governor-General may from time to time, by Order in Council, make regulations in relation to the use of motor-lorries as follows :—

- (a) For the classification of motor-lorries according to their weight and carrying-capacity :
- (b) For the classification of all roads and streets in New Zealand, with reference to their suitability for use by different classes of motor-lorries :
- (c) Providing for the issue of heavy-traffic licenses in respect of such vehicles by the local authority or other body or person exercising control thereof :
- (d) Fixing the license fees payable for heavy-traffic licenses in respect of such vehicles by reference to weight, carrying-capacity, and the kind of tires thereon, but so that the minimum fee in respect of any vehicle shall be not less than five pounds, and the maximum fee shall be not more than seventy-five pounds :
- (e) Defining the areas within which any such licenses shall operate, and providing for the apportionment of the license fees among the several local authorities within whose districts the licenses operate :
- (f) Providing for the application by local authorities of all revenues derived from the apportionment of such license fees for the maintenance of the roads and streets under their control :
- (g) Fixing limits of speed for motor-lorries, with reference to their weight, carrying-capacity, and kind of tires :
- (h) Prescribing the minimum width and the minimum thickness of tires to be used on any class of motor-lorry :

- (i) Authorizing any local authority or other body or person exercising control over any road or street to prohibit the use thereon of motor-lorries, or of any class of motor-lorry, during any specified period or periods :
- (j) Providing for the appointment of persons with authority to require the driver of any motor-lorry to stop, to inspect the load on any such vehicle, to require the vehicle or its load to be weighed or measured, and also to require the removal of any load in excess of the prescribed maximum :
- (k) Prescribing fines not exceeding twenty pounds in respect of the breach of any such regulation :
- (l) For any other matter in relation to motor-lorries in respect of which a local authority may make by-laws under section one hundred and fifty-five hereof.

(3) Any regulations under this section may apply generally throughout New Zealand or within any specified part or parts thereof, and may from time to time be applied by the Minister by notice in the *Gazette* to any part of New Zealand, and any such notice may at any time in like manner be revoked.

(4) The operation of any regulations published as aforesaid may if so provided therein be wholly suspended until they are applied by the Minister by notice in the *Gazette* pursuant to the last preceding subsection.

(5) Regulations under this section shall not be held to be invalid merely on the ground that any fees imposed thereby are unreasonably high, or that any conditions therein are unreasonably restrictive.

(6) Any by-laws relative to heavy traffic made by any local authority or other person or body, whether before or after the issue of regulations under this section, shall be read subject to any regulations for the time being in force under this section.

Injuries to and Nuisances on Roads.

167. (1) A local authority may give to the occupier of any land situated within ten chains of any bridge and abutting upon any river or stream notice in writing not to remove or permit to be removed any stone, earth, or other material from any part of his land in such manner as to be likely to cause damage to the said bridge.

Occupier of land not to cause injury to bridge by removal of stone, &c. 1911, No. 21, sec. 12

(2) Any person dissatisfied with the requirements of any such notice may appeal therefrom to a Magistrate, who may confirm, cancel, or vary the same as he thinks fit.

(3) Any person who commits a breach of this section is liable to a fine not exceeding one hundred pounds.

168. (1) Every person who without lawful authority or the written permission of the local authority having the control of a road or bridge—

Penalties for injuries to road or bridge, or for allowing tailings, &c., to flow on to road or into public drain.

- (a) Encroaches on the road by making or erecting any building, fence, ditch, or other obstacle, or planting any tree or shrub thereon ;
- (b) Leaves on the road any timber, stones, or other material so as to obstruct or endanger persons using the road ;

1908, No. 160, s. 145
1909, No. 19, sec. 13
1910, No. 66, sec. 13
1927, No. 69, sec. 7

- (c) Digs up, removes, or alters in any way the soil or surface or scarping of the road ;
- (d) Fills up, alters, or obstructs any ditch or drain, whether on the road or elsewhere, made by or under the control of the local authority to carry water off the road ;
- (e) Allows any water, tailings, or sludge, or any filthy or noisome matter to flow from any building or land in his occupation on to the road or into any ditch or drain declared to be a public drain ;
- (f) Causes or allows any timber or other heavy material, not being wholly raised above the ground on wheels, to be dragged on the road ;
- (g) Digs up or removes any stone, gravel, sand, or other material from a river-bed and within thirty yards of a bridge, dam, ford, or weir—

shall be liable to a fine not exceeding ten pounds for every day upon which such offence is committed or suffered to continue, and to a further sum equal to the cost incurred by the local authority in removing any such encroachment or obstruction, or in repairing any injury done to any road, ditch, drain, or river-bed as aforesaid :

Provided that no fine shall be imposed unless the information or complaint is laid by authority of the local authority or the Chairman thereof.

Protection of rights with respect to telegraph or other lines placed on or over roads.

(2) Except with the prior consent in writing of the Minister a local authority shall not authorize or suffer any encroachment on a road if such encroachment would or might interfere with or in any way obstruct the right of the Crown or of any other local authority or public body to construct, place, maintain, alter, remove, or otherwise deal with any electric wires, telephone-wires, telegraph-wires, or pneumatic tubes on, over, or under such road.

Removal or lowering of trees overshadowing or obscuring road.
1908, No. 160, s. 146
1911, No. 21, sec. 13

169. In any case where trees or hedges overshadow any road or street so as to be detrimental to the maintenance thereof, or so as to obscure or partially to obscure the view at any bend, or at any road or railway crossing, or at any junction with another road or street, or so as in any other manner to render that road or street dangerous to traffic, the local authority having control of that road or street may by notice in writing served on the occupier, or if there is no occupier or if the occupier is unknown or cannot be found, then on the owner of the land, require him to remove, lower, or trim such trees or hedges to the satisfaction of the local authority within two months after the service of the notice ; and with respect to such notice the following provisions shall apply :—

- (a) Within ten days after the service of the notice such occupier or owner may by complaint under the Justices of the Peace Act, 1927 (the provisions whereof shall, with the necessary modifications, apply), require the local authority to appear before a Magistrate to show cause why the notice should not be set aside.
- (b) On the hearing of the complaint the Magistrate, whose decision shall be final, shall decide whether the notice should or should not be set aside, and in the former case the notice shall be deemed to be void.

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

170. (1) The local authority may order the occupier, or in case there is no occupier, then the owner, of any land abutting upon any road under its control—

Removal of gorse.
&c., from roads.
1908, No. 160, s. 147

- (a) To remove any part of a tree or lower or trim any part of a hedge overhanging the road so as to injure such road or obstruct the traffic thereon or obstructing any ditch or drain appertaining thereto; and
- (b) 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, up to the middle-line of such road, along the whole frontage of the land occupied or owned by him.

(2) In the event of any such occupier or owner failing to comply with such order within two months from the service thereof, he shall be liable to a fine 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; and the said cost shall be a charge on the land, and may be recovered by the local authority as rates are recoverable by the local authority.

(3) The powers given to the local authority under this section may be exercised by the local authority irrespective of the fact that the obstruction existed before the coming into operation of this Act.

(4) "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, sweetbrier, blackberry, acacia, broom, and fennel.

171. (1) Where under the provisions of the last preceding section an order is made by a local authority such order shall be in writing 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.

Notice to clear
gorse, &c.
Ibid., sec. 148

(2) If any person upon whom such order should be served is unknown, or after due inquiry cannot be found, or is absent from New Zealand, then a service upon his known agent or attorney shall be deemed a sufficient service.

(3) If such person has no known agent or attorney in New Zealand, 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 affixing 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.

(4) 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.

Trimnings of hedges, &c., not to be thrown on roads. 1908, No. 160, s. 149

172. If any person throws or causes to be thrown the trimmings of any hedge or tree, or any gorse, sweetbrier, blackberry, broom, or other rubbish upon any road, and neglects to remove the same within two weeks from the receipt of an order so to do from the local authority having control of the road, the local authority may cause such trimmings, gorse, sweetbrier, blackberry, broom, or other rubbish to be removed; and the cost of the removal of the same and all expenses attendant thereon shall be recoverable accordingly from such person by the local authority.

Local authority may recover expenses for repairs to road damaged by excessive weights. Ibid., sec. 150 1910, No. 66, sec. 13

173. Where it appears to the local authority which is liable or has undertaken to repair any road, whether a main road or not, that extraordinary expenses have been or will have to be incurred by such authority in repairing such road by reason of the damage caused by excessive weight passing along the same or extraordinary traffic thereon, such authority may recover in a summary manner from any person by whose order or for whose benefit such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the Court having cognizance of the case have been or will have to be incurred by such authority by reason of the damage arising from such weight or traffic as aforesaid:

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with such authority as is mentioned in this section for the payment to it of a composition in respect of such weight or traffic, and thereupon the persons so paying the same shall not be subject to any proceedings under this section.

Power to make by-laws forbidding certain traffic. 1908, No. 160, s. 151 1910, No. 66, sec. 13

174. Where the local authority is of opinion that the carriage of any particular weight, or the conduct of any particular kind of traffic has caused or will cause serious injury to a road under its control, the local authority may make a by-law forbidding such carriage or traffic unless the cost, as estimated by the local authority, of reinstating the road is previously paid to it:

Provided that the provisions of subsection five of section one hundred and fifty-five hereof shall apply to every such by-law.

Breach of such by-laws. 1908, No. 160, s. 152

175. Every person who commits a breach of any such by-law is liable to a fine not exceeding twenty pounds.

Offences on Roads.

Offences on roads. Ibid., sec. 153

176. Every person is liable to a fine not exceeding five pounds who does any of the following things upon a road:—

- (a) Rides or drives any horse or vehicle furiously;
- (b) Rides or drives any horse or vehicle on a footpath constructed for foot-passengers only;
- (c) Tethers any animal on or so that it may be on the road:

- (d) Drives any entire horse or any savage or dangerous animal loose :
- (e) Plays any game to the annoyance of passengers :
- (f) Pitches any tent, booth, or stall :
- (g) Makes any fire without written authority from the local authority having control of the road :
- (h) Discharges any firearms or fireworks on the road, or within fifty feet from the side of the road :
- (i) Unlawfully obstructs in any manner the free passage of persons passing along the road :
- (j) Drives any vehicle in his charge without having reins to guide the horse or other animal drawing the same :
- (k) Goes to sleep in any vehicle in his charge, so as to leave any animal drawing the same without proper guidance :
- (l) Leaves any such vehicle by going to such a distance as to be unable to control the animal drawing the same :
- (m) Does not keep any vehicle driven by him on the left or near side of the road when meeting and on the right or off side when passing another vehicle, or does not leave a reasonable portion of the road for any vehicle, person, or animal passing him :
- (n) Impedes the traffic or endangers the safety of passengers by a load unduly projecting from the side of any vehicle or beast of burden :
- (o) Permits any cattle to be at large without proper guidance, or to wander or be herded or grazed upon the road other than in the ordinary course of driving stock.

177. Every person who is drunk when in charge of any cattle or vehicle upon a road is liable to a fine not exceeding five pounds, or, at the discretion of the Justices, to imprisonment with or without hard labour for not exceeding fourteen days.

Being drunk in charge of vehicle or cattle.
1908, No. 160, s. 154

178. If cattle are found straying on a road which is fenced on both sides or has a fence on one side and the sea on the other side the local authority having control of the road, or any other person, may cause such cattle to be taken to the nearest public pound, whether in or out of the district in which they are found straying, to be dealt with as in the case of cattle lawfully impounded.

Cattle straying on roads may be impounded.
Ibid., sec. 155

Tolls.

179. The local authority having control of a road may cause tolls to be collected upon such road, and for that purpose may do the following things :—

Toll-gates, &c., may be placed on roads, and tolls collected.
Ibid., sec. 156 (1)

- (a) May appoint and discharge collectors of tolls :
- (b) May place on the road toll-houses, gates and bars, also ferry-houses, and posts and other things necessary for working a ferry, and provide boats and punts for the use of any ferry :
- (c) May from time to time fix the scale of tolls to be collected at any toll-gate or ferry upon all persons, cattle, or vehicles passing the same, and may revoke or alter such scale.

180. No toll-gate shall hereafter be established without the consent of the Governor-General in Council or in any case within one mile from the boundary of any borough, except for a ferry.

When toll-gate not to be established.
Ibid., sec. 156 (2)
1911, No. 21, sec. 13

Conditions under which tolls may be taken.

1908, No. 160, s. 157

181. No toll shall be payable unless the following conditions are observed, that is to say:—

- (a) The scale of tolls shall be publicly notified for fourteen days before becoming first payable :
- (b) The name of the toll-gate or ferry, and the name in full of the collector, and the scale of tolls, shall be painted in black letters not less than two inches in length on a white board, and placed in a conspicuous place on or near the toll-house or ferry-house so as to be conveniently read by every person from whom a toll is demanded.

Persons exempt from tolls.

Ibid., sec. 158

182. (1) The following persons, cattle, and vehicles, and every animal and vehicle employed solely in carrying such persons or their tools and materials shall be exempt from tolls:—

- (a) The Governor-General, and every person in attendance on the Governor-General :
- (b) Every member of any military, militia, or Territorial Force, or Permanent Force, when on duty, or going to or returning from parade, and in the uniform (if any) of his corps :
- (c) Every constable on duty, and every prisoner in his custody :
- (d) All passengers by any public conveyance, but this exception shall not apply to such passengers at any ferry at which tolls are lawfully taken from foot-passengers :
- (e) Every child going to or from school :
- (f) All cattle the property of any person residing within one mile of a toll-gate, going to or from water or feed :
- (g) Every animal and cart employed solely in drawing manure :
- (h) Every person or vehicle and all cattle in respect of whom or which toll has been paid at the same toll-gate at any time since the midnight previous.

(2) The three last-mentioned exceptions shall not apply to tolls payable at a ferry.

Falsely claiming exemption from tolls.

Ibid., sec. 159

183. Any person falsely claiming exemption from toll shall be liable to a fine of not less than two nor more than five pounds, and the proof of being exempt shall lie with the person claiming to be so.

Tolls may be let on certain conditions.

Ibid., sec. 160

184. The local authority may let or farm the tolls payable at any toll-gate or ferry, together with the buildings and other things belonging thereto, on the following conditions:—

- (a) Such letting shall be for a period not exceeding one year.
- (b) Such letting shall be by public auction or sealed tenders, after due public notice given.
- (c) Security in two good sureties shall be given for the rent to be paid.
- (d) The scale of tolls shall not be altered during such lease without the consent of the lessee, except under the provisions of sections one hundred and ninety-five to one hundred and ninety-seven hereof.
- (e) The lessee or any person appointed by him in writing shall be deemed to be for all purposes a collector duly appointed by the local authority.

Collector may distrain goods of persons refusing to pay toll.

Ibid., sec. 161

185. If any person refuses to pay a toll for which he is liable, the collector may seize and distrain any cattle or vehicle on account of which such toll is payable, or any goods or chattels carried in such vehicle or on

such cattle ; and unless the toll with reasonable charges for the seizure and distress and for the maintenance of such cattle is paid within four days may sell such cattle, vehicle, goods, or chattels by public auction, and apply the proceeds of such sale in the payment of such toll and charges, and shall pay the residue (if any) to the owner on demand.

186. Any collector may instead of making such seizure and distress recover from any person refusing to pay a toll for which he is liable the amount of such toll, together with such compensation for loss of time in recovering the same as the Court hearing the case determines.

Collector may recover toll and compensation instead of distraining.
1908, No. 160, s. 162

187. Every person who leaves a road and returns thereto within three hundred yards on either side of any toll-gate, so as and with the intent to evade paying toll, is liable to a fine not exceeding five pounds for each such offence.

Evading a toll.
Ibid., sec. 163

188. Every person who attempts by force to evade the payment of any toll or resists or obstructs any toll-keeper in the execution of his duty is liable to a fine not exceeding twenty pounds.

Forcible evasion of toll.
Ibid., sec. 164

189. It shall not be lawful for any person to hire or to ply for hire in any boat or punt, or by or by means of any mode of conveyance whatever, across any river, stream, or creek within half a mile in a straight line from any public ferry in working-order, or bridge open for traffic across the same, at which tolls are payable ; and every person who so hires or plies for hire is liable to a fine not exceeding five pounds.

Plying for hire across a stream near a bridge or ferry.
Ibid., sec. 165

190. Every toll-collector is liable to a fine not exceeding five pounds who does any of the following things :—

Offences by toll-collectors.
Ibid., sec. 166

(a) Demands a larger toll than that payable by law :

(b) Does not maintain the board required by section one hundred and eighty-one hereof in a legible condition :

(c) Refuses when required so to do to give his name, or gives a false name, to any person of whom he has demanded a toll :

(d) Is drunk when in discharge of his duty :

(e) Obstructs any person in passing when the lawful toll has been tendered :

(f) Uses any abusive or offensive language to any person passing.

191. The local authority may make any toll-gate in its district clear any other toll-gate in the district ; and the County Council may by an order declare, or any two or more local authorities of districts within the county may agree, that any toll-gate in any such district shall clear any toll-gate in any other such district ; and no toll shall be payable at a gate so cleared by any person showing the ticket hereinafter mentioned.

Toll-gates in different districts may be made to clear one another.
Ibid., sec. 167

192. Where any toll-gate clears any other toll-gate in the same or any other district, the words " Clears the [*Naming the toll-gate cleared*] Gate " shall be painted upon the board mentioned in section one hundred and eighty-one hereof.

Notice of gates cleared to be painted on toll-board.
Ibid., sec. 168

193. Any person passing through a toll-gate may demand from the collector a ticket showing that he has passed the gate on that day, and every collector who refuses to give such a ticket on demand is liable to a fine not exceeding five pounds.

Toll-tickets.
Ibid., sec. 169

Transferring, &c., a
toll-ticket.
1908, No. 160, s. 170

194. Every person is liable to a fine not exceeding five pounds who with intent fraudulently to evade any toll transfers such a ticket to another person, or uses a ticket so transferred, or alters or forges such a ticket so as and with intent fraudulently to evade any toll.

County Council,
in certain cases,
may abolish toll-gate
or diminish tolls.
Ibid., sec. 171

195. If the County Council is of opinion that any toll-gate in the county is not necessary, or that the road in respect of which the tolls are taken is not kept in proper repair, or that the tolls are excessive and unduly burdensome, the County Council may after due inquiry into the case, by an order publicly notified, abolish such toll-gate, or may direct the local authority having control thereof to diminish the tolls taken thereat, as such Council thinks fit; and such toll-gate shall thereafter be abolished or the tolls thereat diminished in compliance with such order:

Provided that nothing herein shall deprive the lessee of such toll-gate of the right which he may have of compensation for any loss which he may sustain thereby.

When Governor-
General may act.
Ibid., sec. 172

196. In any county where the Counties Act, 1920, is suspended the Governor-General may exercise all the powers conferred by the last preceding section on County Councils.

Governor-General
may abolish toll-
gates.
Ibid., sec. 173

197. Without limiting the powers conferred on County Councils by section one hundred and ninety-five hereof with respect to toll-gates and tolls, those powers may at any time be exercised by the Governor-General in Council in like manner and with the like consequences as in the case of a County Council.

Compensation if
tolls not levied.
Ibid., sec. 174

198. Nothing in this Act shall be construed to limit or interfere with the right to levy tolls on any bridge, ferry, tramway, or toll-gate granted to any person or persons during the period for which such right has been so granted, except on payment of adequate compensation.

Existing tolls to be
tolls under this Act.
Ibid., sec. 175

199. All tolls which may be lawfully taken at the time of the coming into operation of this Act shall, subject only to the exemptions contained in this Act, be deemed to be tolls made and collected under the authority of this Act, and all the provisions of this Act shall apply thereto.

Rivers.

Removal of gorse,
&c., from river-beds.
Ibid., sec. 176

200. (1) The local authority of a county, road district, or town district may grub up, clear away, and destroy all gorse, sweetbrier, blackberry, acacia, broom, and fennel growing on any river-bed in its district, and maintain such river-bed free from the same, and may from time to time apply any of its funds to the purpose.

(2) Where a river or river-bed divides two districts, the local authority on either side may clear and maintain free from gorse, sweetbrier, blackberry, acacia, broom, and fennel such river-bed for half the width thereof adjoining the bank within the district of such local authority.

Removal of drift-
wood, timber, weeds,
&c., from river-beds.
Ibid., sec. 177
1924, No. 46, s. 5 (1)

201. (1) A local authority may remove from any river, stream, or watercourse in its district, or from the bed thereof, any earth or stone, and all trees, plants, weeds, refuse, and other growth, and all driftwood, logs, trees, branches, and other timber which may be lodged in the bed or against the banks thereof, and be calculated to impede the free flow of water therein in its natural channel, whereby any road or street under the control of such local authority may be injured.

(2) For the purpose aforesaid such local authority shall by its servants have the free right of ingress, egress, and regress on any land on the banks of any such river, stream, or watercourse.

202. (1) A River Board shall have and may exercise the powers and privileges conferred on local authorities by the last preceding section as if the words "whereby any road or street under the control of such local authority may be injured" were omitted therefrom:

Removal by River Board of obstacles from river-beds.
1908, No. 160, s. 178
1924, No. 46, s. 5 (2)

Provided that the Board shall be liable to pay compensation for any damage occasioned by the exercise of such powers.

(2) The local authority or River Board may dispose of anything removed under this or the last preceding section in such manner as it thinks fit, and the proceeds of such disposal shall form part of its ordinary funds.

(3) Nothing in this section shall be deemed to authorize any local authority or River Board to dispose of any timber floated down any river or stream under the provisions of the Timber-floating Act, 1908.

203. The provisions of section one hundred and sixty-nine hereof shall apply, with the necessary modifications, in any case where live or dead timber, plants, or other vegetable growth existing on or near to the bank or in the bed of any river, stream, canal, watercourse, or drain on land held in fee-simple, or on lease from the Crown for a term of which not less than two years are then unexpired, in any way obstructs the navigation of or flow of water in such river, stream, canal, watercourse, or drain:

Local authority may require obstructions to be removed.
1908, No. 160, s. 179

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

204. On the hearing of any proceedings under the last preceding section the Magistrate may in his discretion—

Magistrate's order thereon.

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

Ibid., sec. 180

(b) Decide when and to whom the money is to be paid:

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

205. Where any river, stream, or watercourse extends beyond the limits of the district of the local authority, and its obstruction is likely to cause damage to any road or street within such district, such local authority may order the occupier or, where there is no occupier, the owner of any land on the banks of such river, stream, or watercourse for the space of one mile beyond the up-stream boundary of such district to remove any earth or stone, and any driftwood, tree, shrub, or bush, or any part thereof, impeding the free flow of water in the said river, stream, or watercourse, or to lower or trim any part of a tree, shrub, or bush overhanging such river, stream, or watercourse and likely to fall therein, within the space of the aforesaid mile; and if the owner or occupier fails to comply with such order within fourteen days from the receipt thereof he shall be liable to the fines provided in section one hundred and sixty-eight hereof.

Removal of obstructions in river outside of district.
Ibid., sec. 181

When damage to a road by a river, River Board may contribute to purchase land for diversion of road. 1908, No. 160, s. 182

Power to alter or divert rivers, streams, and water-courses for the safety or maintenance of any public work. Ibid., sec. 183

206. Where any river, stream, or watercourse causes damage to a road the River Board of the district in which such road lies may if it is found desirable to purchase land for the diversion of such road contribute from its funds to the purchase of the necessary land for such diversion, or the construction or maintenance of the diverted road.

207. Where it is found desirable for the safety or proper maintenance, or for the use, convenience, or enjoyment of any public work, to protect the banks of or to alter or divert, either wholly or partially, and either temporarily or permanently, any river, stream, or watercourse, the Governor-General by Proclamation publicly notified—

(a) May declare that the banks of such river, stream, or watercourse shall be so protected, or its course so altered or diverted; and thereupon the protection of the banks, or the alteration or diversion of such river, stream, or watercourse, as the case may be, shall be a public work within the meaning of this Act:

(b) May declare any work or works of the description last mentioned which have been heretofore executed, or partially executed, to have been so executed for the purposes therein mentioned; and thereupon such work or works shall for all purposes be taken and deemed to have been executed under the authority of this Act.

208. For the purposes of sections two hundred to two hundred and seven hereof the term "bed," used in relation to any river, stream, or watercourse, shall, unless the context otherwise requires, be deemed to include all lands within any stop-bank or protective works of any kind erected for the purpose of preventing the overflow on to adjacent land of the waters of such river, stream, or watercourse.

Roads or Tramways for Removal of Timber.

Extension of term "bed" of river or stream. 1924, No. 46, sec. 6

Provision to allow timber to be brought over private lands. 1908, No. 160, s. 184 1909, No. 19, sec. 8

209. (1) Any person (hereinafter called "the applicant") owning timber or the right to cut timber on any land from which there is no practicable and suitable means or way of removing the same to any railway, road, mine, or sawmill, except by crossing private lands, may, by proceedings under the Justices of the Peace Act, 1927 (the provisions whereof shall, with the necessary modifications, apply), summon the owner and occupier of the private lands to appear before a Magistrate and show cause why the applicant should not be authorized to construct a road or tramway over such lands for the removal of the timber.

(2) On the hearing of the summons the Magistrate may make such order as he thinks just.

(3) If the Magistrate decides that the road or tramway is to be constructed his order shall set forth clearly the route to be adopted, the land to be used, the rent or compensation to be paid (including the cost of fencing the same if in the opinion of the Magistrate such fencing is necessary), and the time within which the road or tramway is to be constructed, and for which the right to use the road or tramway is to last, but such latter time shall in no case exceed ten years from the date of the order.

(4) Such order shall according to its tenor be sufficient authority for the applicant to enter on the land and construct, use, and maintain

the road or tramway upon the terms and conditions and for the period specified in the order.

(5) Such order may be registered under the Deeds Registration Act, 1908, or the Land Transfer Act, 1915, according to the nature of the title to the lands.

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

(7) Subject to the terms of the order by which the same is authorized, any tramway authorized under this section may be worked by steam or other mechanical power.

(8) An order made under this section may in like manner be renewed from time to time, with or without a variation of the terms and conditions thereof, but no such renewal shall be for a longer period than ten years from the expiry of the last preceding term.

(9) All the provisions of this section with respect to an original order shall so far as applicable, and with all necessary modifications, extend and apply to any such order of renewal.

(10) Every application for a renewal shall be made within one year before the expiry of the last preceding term.

(11) At any time during the term of any order made under this section or during the term of any renewal thereof, or within two months after the expiry of any such term and of any renewal thereof, it shall be lawful for the applicant to enter upon the land and remove therefrom all works, structures, and materials placed by him upon the land in the exercise of the rights conferred upon him by the order.

(12) When application has been made to a Magistrate for an order under this section he may, if he thinks fit, pending the making of any such order, and on such terms and conditions as to the payment of compensation by the applicant or otherwise as he thinks fit, authorize by warrant under his hand, the applicant or any other person or persons to enter upon the land which is the subject of the application for the purpose of making thereon any survey which the Magistrate thinks necessary or expedient in the matter of the application.

(13) Any person who obstructs any entry or survey so authorized by the Magistrate shall be liable on summary conviction to a fine of twenty pounds.

(14) In this section the term "applicant" includes the executors, administrators, and assigns of the applicant.

(15) Subsections seven to fourteen hereof shall extend and apply to any order made under section one hundred and eighty-four of the Public Works Act, 1908, before the passing of the Public Works Amendment Act, 1909, except so far as they are inconsistent with the terms of that order.

210. (1) Where the land with respect to which any application is made under the last preceding section is land owned or occupied by several Natives, and where it is found difficult or impossible to effect service of any document for the purpose of giving effect to the provisions of that section, a Magistrate may on the *ex parte* application of any person interested order that substituted service shall be effected by delivering such document to one or more of such owners or occupiers

Where application in respect of Native lands, Magistrate may make order for substituted service of documents on owners.

1923, No. 29, sec. 6

for and on behalf of the others, or of any other of them, as the case may be, and by affixing a copy or copies of such document or documents upon some building, shed, or other permanent place on such land as aforesaid.

(2) In determining which of such owners or occupiers ought to be so served as aforesaid the Magistrate may if he thinks fit obtain the report and recommendations of the Registrar of the Native Land Court of the district in which such land is situate.

(3) For the purposes of this section the person or persons so served in accordance with an order for substituted service shall be deemed to represent all the owners or occupiers of the land in respect of which an application under the last preceding section is being made, and the subsequent proceedings shall accordingly be binding upon all the owners or occupiers of such land.

PART VII.

RAILWAYS.

“ Railway ” defined.
1908, No. 160, s. 185

Land purchased for
a railway to be
deemed part of the
railway.

211. The word “ railway ” includes the land upon which any railway is made or authorized to be made under this or any special Act, and all buildings and erections of every kind thereon, and all land taken, purchased, or acquired for railway purposes ; and, except where inconsistent with the context, such word when used in this Act also includes all works, wharves, and jetties the property of His Majesty, whether of a permanent or a temporary nature, used for the purposes of or in connection with such railway, and all materials and things of which such railway, buildings, erections, works, wharves, or jetties are composed, or which are being used for the purposes thereof, and are erected, placed, or laid upon any such land.

Construction and Maintenance.

Railways to be made
only under special
Act.

Ibid., sec. 186

Railways authorized
by other Acts.

212. (1) Every railway shall be made only under the authority of a special Act, which shall state as nearly as may be the line of the railway and the two termini thereof.

(2) Every railway the construction of which is deemed to have been authorized under the Public Works Act, 1908, or is authorized under any of the enactments repealed by this Act, shall be deemed to have been authorized by this Act, and for that purpose this Act shall in the case of each such railway be deemed to be a special Act within the meaning of this section.

(3) For convenience of reference a description of the railways so authorized is set out in the Fifth Schedule hereto.

(4) Such of the railways so authorized as have been completed shall be deemed to have been made under this Act, and such of them as are unfinished may be constructed and completed under this Act.

(5) Notwithstanding the repeal of any enactment authorizing the construction of any such railway, so much of any such enactment as is set out in the Sixth Schedule hereto shall continue in force and operate as if such repeal had not been made.

Connecting railways
not exceeding two
miles in length not
to require authority
of special Act.

1909, No. 19, sec. 9
1923, No. 29, sec. 11

213. (1) The provisions of subsection one of the last preceding section shall not apply in the case of railways not exceeding two miles in length intended to connect any railway with a ballast-pit or other undertaking required for the purposes of the railway.

(2) Land required for any such connecting railway may be taken as if such railway was to be constructed under the provisions of a special Act.

214. In every case where by statute or other lawful authority the Governor-General or any Minister is at the passing of this Act or theretofore has been empowered to take any land for a road, such authority shall be deemed to include and to have at all times included power to take that land for a railway.

Power to take land for road includes power to take for railway.
1909, No. 19, sec. 10

215. (1) For all the purposes of this Act and the Acts relating to Government railways, the railways constructed by the Midland Railway Company (Limited), and referred to in the Order in Council a copy whereof is set forth in the Seventh Schedule hereto, shall be deemed to have been duly made under the authority of a special Act as required by section two hundred and twelve hereof, and shall be managed and administered in like manner in all respects as if they had been constructed by the Governor-General on behalf of His Majesty under the provisions of a special Act.

Midland Railway.
1908, No. 160, s. 187

(2) All lands vested in His Majesty by virtue of the said Order in Council shall be deemed to be lands subject to the Land Transfer Act, 1915.

(3) It shall be the duty of every Registrar appointed under the Land Transfer Act, 1915, to make all such entries in the register and books under the control of such Registrar, and to issue all such certificates and documents as may be necessary for the purpose of evidencing the title of His Majesty to the lands vested in His Majesty by the said Order in Council.

(4) The powers conferred upon every such Registrar by section one hundred and eighty-three of the Land Transfer Act, 1915, shall be deemed to extend to entitle every such Registrar to require the production at his office of all instruments of title affecting any such lands, and to retain possession of all such documents as relate only to such lands, and to make endorsements and entries upon such documents as may affect such lands together with others, as if such lands were the subject of an application to bring the same under the Land Transfer Act, 1915.

216. (1) Where any railway is to be constructed under the provisions of any special Act,—

Procedure for making railway.

(a) The Governor-General shall issue a Proclamation defining the middle-line of the railway or of any part thereof, and may from time to time by a Proclamation revoking or amending such former Proclamation alter such line in any manner or to any extent which may be found necessary for the construction of such railway within the provisions of the said special Act :

Ibid., sec. 188
1924, No. 46, sec. 7
1927, No. 69, s. 8 (1)

Governor-General to proclaim limits within which railway is to be made.

(b) The Minister shall cause to be made such maps and plans as may be necessary to explain the said line and the land through which the same passes :

Plans and maps to be made.

(c) At any time after the publication of any such Proclamation the Minister may enter on any land required to be occupied for the construction of the railway, and do all things thereon which he is empowered by this Act or the special Act to do

After Proclamation land may be occupied.

for the construction of the railway, without being deemed to commit any trespass thereby :

Governor-General may take land or close road for railway.

- (d) At any time and from time to time after the deposit of such maps and plans the Governor-General may by Proclamation take any land required for the railway or for any road or street diversion in connection therewith, or road or street approach thereto, and wholly close for the full or any less width thereof the whole or any part of the length of any road or street the exclusive use of which may be required for the railway, taking the soil thereof when necessary :
- (e) The Proclamation when gazetted shall be conclusive evidence that the land therein referred to, and the soil of any road or street therein referred to, are vested in His Majesty in fee-simple, freed and discharged from all mortgages, charges, claims, estates, and interests of what kind soever, for the use of the railway, and that any part of any road or street thereby closed has ceased to be a public highway :
- (f) Every such Proclamation, together with a map of the land taken, certified as prescribed by paragraph (a) of section twenty-three hereof, shall be deposited as provided by section twenty-eight hereof, and all things shall be done and happen thereupon as in cases provided for by that section :
- (g) At any time either before or after issuing any Proclamation taking land for a railway the Minister shall cause notice to be given to every owner or occupier of such land, so far as they can be ascertained, and in such notice shall state that the land therein described is taken or intended to be taken for a railway, and that claims for compensation in respect thereof must be sent to the Minister pursuant to this Act :
- (h) With such notice a plan of the land taken or intended to be taken shall be sent, but the omission to send any such notice or plan shall not invalidate any Proclamation taking the land :
- (i) No Proclamation taking land or closing a road or street shall be impeached or defeasible on any ground whatsoever :
- (j) If any person in possession of any land taken, purchased, held, or acquired for a railway refuses to give up possession, or hinders the Minister or any person appointed by him from taking or entering into possession, the Minister may issue his warrant to the Sheriff of the Sheriff's district within which the land is situate to deliver possession of the same to the person appointed in the warrant to receive the same ; and upon the receipt of the warrant the Sheriff shall deliver possession of such land accordingly :
- (k) The costs accruing by reason of the issuing and execution of such warrant, to be settled by the Sheriff, shall be paid by the person refusing to give possession, and the amount of such costs shall be deducted and retained from the compensation, if any, then payable to such party ; or if no such compensation is payable to such party, or if the same is less than the amount of such costs, then such costs or

Before or after the time of taking land notice to be given to person whose land is taken.

Proclamation to be indefeasible.

Sheriff may deliver possession of lands.

Costs.

the excess thereof beyond such compensation if not paid on demand shall be levied by distress; and on application by any person appointed in that behalf by the Minister to any Justice for that purpose the Justice shall issue his warrant accordingly, and such costs shall be paid into the Public Works Fund.

(2) Any Proclamation defining the middle-line of a proposed railway issued under this section may define in respect of any portion of such line the distance on each side thereof, being not greater in any case than ten chains, within which the powers conferred on the Minister by section two hundred and nineteen hereof may be exercised.

Proclamation defining middle-line of railway may define limits on each side.

(3) The provisions of sections twenty-two and twenty-three hereof shall not apply to a railway made by the Governor-General under the authority of any Act, or a Proclamation relating to any such railway issued by virtue of any Act, unless it is otherwise provided in any special Act.

Provisions of sections 22 and 23 not to apply.

217. (1) The Minister shall cause a copy of every Proclamation defining the middle-line of any railway or part thereof issued pursuant to the last preceding section, and of every map and plan prepared in connection therewith, to be deposited without fee in the District Land Registry Office for the district in which is situated the land through which the line passes.

Proclamation defining middle-line of railway, with explanatory maps and plans, to be deposited in Land Registry Office.

1924, No. 46, sec. 7
1927, No. 69, sec. 9

(2) Where the land affected by any such Proclamation is subject to the Land Transfer Act, 1915, the District Land Registrar shall register against the land a memorial of such Proclamation and of the accompanying maps and plans, and in every other case shall cause an entry thereof to be made under the proper head or title in the index-book of the Deeds Register Office. At any time after a railway or any part thereof has been opened for traffic the Minister may cause to be deposited, without fee, in the appropriate District Land Registry Office a certificate signed by or on behalf of the Minister to the effect that the railway or part thereof, as the case may be, has been opened for traffic, and setting forth a description or reference to all lands taken or otherwise acquired for the purposes of such railway or part. On the deposit of any such certificate the District Land Registrar shall take all necessary steps to discharge or cancel the memorials or entries made pursuant to the foregoing provisions of this section in respect of all lands referred to in a Proclamation as aforesaid and not so taken or acquired.

On completion of railway, lands affected by Proclamation defining the middle-line thereof but not taken may be released.

(3) The provisions of subsections one and two hereof shall apply with respect to Proclamations, maps, and plans issued or made for the purposes of section thirty hereof.

218. (1) Where out of any Crown lands or public reserve upon which any railway has been or may hereafter be constructed no definite area or part of such lands or reserve has been or may be set apart or taken by Proclamation for railway purposes, it shall in any such case be deemed that a width of two chains of such lands or reserve (one chain on each side of the centre-line of the railway) has been set apart or taken for the purposes of such railway, and shall be included within the limits thereof, and for all purposes be deemed to be part of such railway accordingly.

Area of Crown land or reserves used or set apart to be deemed to be of two chains width.

1908, No. 160, s. 189

(2) If at any time it is desired that any such lands or portion of a reserve so deemed to be part of any railway, or any part thereof

Land not used to revert as Crown land or reserve.

respectively, shall cease to be part of such railway, the Governor-General may from time to time by a notice in the *Gazette* defining accurately the portion desired to be retained as part of the railway declare that the residue thereof shall again become lands of the Crown or a part of the public reserve from which it was originally taken; and such notice shall take effect accordingly, and such residue shall return to its original status as Crown land or public reserve, as the case may be.

Road, street, or land previously disposed of not to be interfered with.

(3) Nothing herein shall interfere with any public road or street on any such lands or reserve within the area so included in the railway, and lying along, adjacent to, or crossed by any such railway, except under and subject to this Act; nor shall anything herein affect any sale, lease, or other disposition of any such lands or reserve heretofore made and which may be at variance with this enactment.

Power to make railways and railway-stations, &c. 1908, No. 160, s. 190 1927, No. 69, s. 8 (2)

219. (1) Subject to the restrictions herein specified, the Minister may do the following things in respect of any railway authorized by a special Act:—

- (a) May enter upon and make the railway upon, over, or under any land necessary for the construction thereof, lying along the middle-line defined in any Proclamation under paragraph (a) of subsection one of section two hundred and sixteen hereof, or within a distance of ten chains on either side thereof, or within such lesser distance as may be prescribed in that behalf in the Proclamation defining the said middle-line; and for this purpose may construct works of every description and of every material necessary to the making thereof; and locomotive engines, machines, carriages, trucks, wagons, and vehicles of all kinds may be used and run over any land entered upon or taken or acquired for a railway lying within the distance aforesaid; and any such fuel as is mentioned in section ten of the Government Railways Act, 1926, may be used for any such locomotive engine or machine:
- (b) May make any part of such line of railway on and along any part of any road or street:
- (c) May make the railway upon, across, over, or under any road, street, railway, or tramway along such line; and may alter the level of any road, street, railway, or tramway for such purpose:
- (d) May make the railway across any arm of the sea, river, stream, or navigable water:
- (e) May alter the course or the level of any river not navigable, or of any stream, watercourse, ditch, or drain:
- (f) May make drains or conduits on or under any land adjacent to and for the purpose of carrying water from off the railway, and may at all times maintain the same in good repair:
- (g) May remove or alter any drain or sewer or any pipes or other material for the supply of water or of gas belonging to any company or person within or beyond the limits of the railway:
- (h) May make or construct all such buildings, stations, engines, machinery, piers, wharves, roads, approaches, and other

works in connection with the railway as may be thought necessary :

(i) May do all acts necessary for making, maintaining, altering, repairing, and using the railway.

(2) The provisions of paragraph (a) hereof shall be deemed to have applied and shall apply to all railways constructed or deemed to have been constructed under any Act heretofore in force relating to the construction of public works, or in course of construction, or hereafter to be constructed.

220. (1) Where any part of a road or street, except where it crosses a railway on a level, is used or occupied for a railway under the powers conferred by the last preceding section, such part of the road or street shall thereafter cease to be a highway.

Rights of way and traffic where railway made along or across road on a level.

1908, No. 160, s. 191

(2) Where a road or street crosses a railway on a level the public right of way at such crossing shall cease whenever any engine or carriage on the railway is approaching and within a distance of half a mile from such crossing ; and shall at all other times extend only to the right of crossing the line of railway with all convenient speed, but not to stopping or continuing thereon.

(3) Where a railway is constructed upon or across a road or street on the same level it shall be lawful for the Minister to carry on and conduct the working and management of such railway in every respect upon or across such road or street.

221. (1) No compensation shall be payable to any person or body in respect of the use or occupation of any part of any road or street for any railway under the powers conferred by section two hundred and nineteen hereof, or for or in respect of any inconvenience or damage to any lands fronting or adjoining any such road or street arising out of the construction of the railway upon such part of such road or street.

Compensation where road interfered with or wholly closed.

Ibid., sec. 192

(2) No compensation shall be payable to any person or body in respect of any road or street being wholly closed under the powers conferred by section two hundred and sixteen hereof, or in respect of the use or occupation thereof for any railway, or for or in respect of any such inconvenience or damage as mentioned in the last preceding subsection, if reasonable and sufficient access to the nearest road or street crossing over such railway is afforded by some other road or street, whether such last-mentioned road or street has been provided or constructed by the Minister or not.

(3) If any question arises as to whether such other reasonable and sufficient access as aforesaid is afforded the same shall be determined in such manner as is agreed upon between the local authority having the control of roads or streets in the district and the Minister ; and every such determination shall be conclusive as to the rights or claims of all persons affected.

(4) In the event of no such agreement being come to, all claims for compensation in respect of the matters mentioned in subsection two hereof shall be determined in the manner provided by this Act, but no compensation shall be awarded if in the opinion of the Compensation Court such other reasonable and sufficient access is afforded as aforesaid.

Government to make crossings to give access to lands. 1908, No. 160, s. 193

222. In cases where the making of a railway-line has cut off all access by road to land other than Crown land the Government shall make such crossing or crossings as may be necessary to give access to such land :

Provided that not more than one crossing may be demanded in respect of each property, unless the frontage of such property to the railway exceeds one mile in length, in which case one crossing shall on the application of the owner of such property be given for each mile of frontage ; but no additional crossing or crossings need be given in the event of the land being or having been subdivided after the construction of the railway.

Road or street heretofore wholly closed to be deemed lawfully closed. Ibid., sec. 194

223. In any case where the whole or any part of any road or street has been at any time before the coming into operation of this Act actually wholly closed by the construction of a railway thereon, or the use and occupation thereof for the purposes of a railway, and has so continued up to the time of such coming into operation, such road or street or part thereof shall be deemed to have been lawfully closed under the powers conferred by section two hundred and sixteen hereof as from the time of such actual closing.

Preceding sections applied to railway owned by company. Ibid., sec. 195

224. The provisions of the four last preceding sections shall apply and be deemed to have applied to railways owned by any company or person under the authority of any Act.

Alterations in roads, drains, pipes, &c., to be made without detriment to the public or to owners. Ibid., sec. 196

225. (1) Where it is found necessary for the construction of a railway to alter any road, street, tramway, watercourse or drain, or any other public work, or any water-pipe or gas-pipe for the supply of water or gas, such alterations shall be made in such manner as to interfere as little as possible with the work so altered, and so as to afford to the public and to every person entitled to use the same an equal use and convenience as far as may be as before such alteration.

Plan of alteration to be submitted to owners.

(2) Before commencing any such alteration the Minister shall cause a plan thereof to be prepared and to be submitted to the local authority having the control of the work proposed to be altered, or to the owner of such water-pipe or gas-pipe or other work, as the case may be.

Governor-General to settle objections.

(3) If such local authority or owner objects to the proposed alteration the Minister shall appoint a competent engineer to confer with such authority or owner, and to agree with it or him as to the manner in which such alteration shall be made ; and if no agreement can be come to between the parties, the matter shall be referred to the Governor-General, whose decision thereon shall be final.

Notice to be given of intention to make repairs.

(4) The Minister may at any time interfere with any such road, street, public work, or pipe so far as to effect all necessary repairs on any railway theretofore lawfully constructed thereon, but shall give to such local authority or owner three days' notice of his intention so to do.

In case of emergency works may be carried out forthwith.

(5) But in any sudden emergency or danger the Minister may carry out forthwith all such works as appear to him to be necessary, but shall as soon as possible give notice of so doing to such local authority or owner.

Governor-General may declare land taken for railway to be road or street, and vest it in local authority. Ibid., sec. 197

226. (1) Where it is 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 Minister that such land is not required for railway purposes, the Governor-General 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.

(2) 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.

227. (1) Any local authority may agree with the Minister 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 is hereby authorized to carry out, if he should so think fit.

Local authority may agree with Minister as to conversion of railway-bridge into one for combined traffic.

1908, No. 160, s. 198

(2) Such local authority is hereby authorized to pay such cost, and also to pay annually to the Minister 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 such amount, if any, annually as may be requisite to pay the wages of one or more caretakers of the said bridge.

(3) All moneys hereby authorized to be paid by a local authority shall be paid out of the fund under its control and be charged accordingly.

228. (1) Where a bridge is used for railway and ordinary traffic jointly, the public right of way on such bridge shall extend only so far as is defined in any by-law made under the Government Railways Act, 1926.

Right of way on joint railway and common bridges.

Ibid., sec. 199

(2) The Minister may close any such bridge to public traffic for such periods as may be deemed advisable when it is found necessary to execute such repairs thereto as will prevent the use of the same for such traffic.

229. (1) Except as and subject to the conditions hereinafter provided, the Governor-General may temporarily occupy and use any land for the purpose of constructing or repairing a railway, and may do the following things thereon:—

Land may be occupied temporarily.

Ibid., sec. 200

- (a) May take therefrom stone, gravel, earth, and other materials:
- (b) May deposit thereon any such material:
- (c) May form and use temporary roads thereon:
- (d) May manufacture bricks or other materials thereon:
- (e) May erect workshops, sheds, and other buildings of a temporary nature thereon.

(2) The engineer or other person having the charge of the railway shall before occupying or using any land as herein provided, and except in the case of accident to the railway requiring immediate repair, give to the owner or occupier thereof not less than twenty-one days' notice in writing, and shall state in such notice the use proposed to be made of such land.

Twenty-one days' notice of occupation to be given.

(3) The said owner or occupier may within ten days after receiving such notice and after giving notice to the said engineer or other person of his intention so to do apply to any Justice, who may

thereupon summon such engineer or other person to appear before two Justices at a time and place to be named in such summons.

Justices to decide if occupation necessary, and to settle conditions.

(4) If it appears to the said Justices that the use proposed to be made of the said lands is unreasonable and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, they may by writing under their hands order that the lands in question shall not be occupied or used in the manner proposed; or they may in such order direct that the said lands be occupied and used or material taken therefrom in such manner and to such extent only and subject to such limitations and restrictions as they think fit; and all persons concerned shall be bound by any such order.

Owner may require land to be permanently taken. 1908, No. 160, s. 201

230. (1) The owner of any land temporarily occupied, as provided by the last preceding section, for the purposes of a railway may at any time during such occupation give notice in writing to the Minister that he (the owner) requires the said land to be taken for the purpose of the railway; and such lands shall thereupon be taken for the railway in the manner herein provided.

(2) Upon the filing of the said notice by such owner in the Supreme Court the said owner and all persons having any interest in such land may recover compensation as if the same were taken in the manner provided by Part II of this Act.

Tree dangerous to railway to be removed.

Ibid., sec. 202

231. If upon the report of an engineer the Minister is of opinion that any tree on land adjacent to a railway (not being a Government railway open for traffic) is likely by falling or otherwise to obstruct the traffic or endanger the travellers thereon, he may cause notice to be given to the owner or occupier of such land to remove such tree; and in default of such removal he may cause the tree to be removed; but such owner or occupier may recover the amount of any cost or damage incurred or suffered by such removal.

Trespassing on railway in course of construction.

Ibid., sec. 203

232. (1) Every person who trespasses on any railway in the course of construction, or on any land occupied or temporarily occupied for the purpose of such construction under the powers hereby given, is liable to a fine not exceeding two pounds.

(2) Every person who rides or drives any animal or vehicle upon such railway or land without lawful authority is liable to a fine not exceeding five pounds.

(3) Every such person who refuses to leave such railway or land or to remove such animal or vehicle therefrom when warned so to do by the overseer, contractor, or any other person in charge of or employed upon such railway may be seized and detained by such overseer or other person until he can be conveniently taken before some Justice to be dealt with according to law.

Crown may elect to erect fences along boundaries of railways.

Ibid., sec. 204

233. (1) The Governor-General may from time to time, by Proclamation publicly notified, declare on behalf of His Majesty that any fences constructed or intended to be constructed by or on behalf of His Majesty for separating land taken for the use of any railway in such Proclamation mentioned from the adjoining lands not taken shall to such extent as is mentioned in such Proclamation be thereafter maintained, or erected and maintained as the case may require, at the cost of His Majesty during such time as the railway continues to be used by or on behalf of the Government of New Zealand.

(2) Such fences shall thereafter be maintained or erected and maintained, as the case may require, by the Minister accordingly.

(3) Where such Proclamation is issued before any claim for compensation has been ascertained in relation to any land taken as aforesaid, the issue of such Proclamation shall be taken into account by the Compensation Court in reduction of the amount of compensation to be awarded for severance.

234. Any person employed on or about any railway (not being a Government railway open for traffic), whether vested in His Majesty or in any company or other person, may impound cattle trespassing upon such railway; and any act, matter, or thing required under the Impounding Act, 1908, to be performed or done by the occupier of land as defined in that Act may be performed or done in respect of any such railway by any person authorized generally or particularly for that purpose by or on behalf of the Minister, the district railway officer, or the General Manager or any District Manager of such railway.

Railway servants may impound trespassing cattle. 1908, No. 160, s. 205

235. No building or other erection built or erected for railway purposes upon a railway shall be subject to any Act or any by-laws or regulations made under the same by which any local authority is empowered to regulate the erection, construction, or use of any buildings or erections within the jurisdiction of such local authority.

Railway buildings exempted from local building regulations. Ibid., sec. 206

236. Whenever it is necessary to take any proceedings in any Court of inferior jurisdiction for the recovery of any debt due to His Majesty under this Act or any other Act relating to Government railways, or for the recovery or enforcement of any fine recoverable under any such Act, the Minister of Railways may empower any officer of the Railway Department to appear and act in any such proceedings, either generally or in any particular case; and the statement of any such officer that he so appears or acts by the authority of such Minister shall be sufficient evidence of such authority for all purposes.

Officer of Railway Department may appear in inferior Court. Ibid., sec. 207

PART VIII.

RAILWAYS AND TRAMWAYS REGULATION AND INSPECTION.

Government Railways.

237. No part of any railway constructed by the Governor-General under this Act or under any other Act relating to the construction of public works or railways shall be opened for traffic until such part of such railway has been inspected by some proper person appointed by the Minister for that purpose, nor until such person has reported to the Minister that he has inspected the whole of such part, and (except in the case of an extension of an existing railway) all the rolling-stock to be used thereon, and that such railway and rolling-stock are in good and efficient repair and may be safely and conveniently used for public traffic thereon.

Inspection of railways. Ibid., sec. 208

238. Notwithstanding anything in the Government Railways Act, 1926, or in the last preceding section, the Minister of Public Works is hereby authorized to convey goods and passengers on any railway at any time prior to its being opened for traffic under the Government Railways Act, 1926, and also to charge such rates and fares for goods and passengers and impose and make such conditions, regulations, and

Power to carry goods, &c., on railway before completion. 1909, No. 19, sec. 11

by-laws for the carriage thereof as he may from time to time declare by order in writing under his hand. All expenses incurred in respect of such traffic shall be a charge against the vote or votes for the construction of that railway, and all revenue derived therefrom shall be credited to the same vote or votes.

Additional powers of Minister with respect to railways not opened for traffic. 1923, No. 29, sec. 12

239. Where pursuant to the last preceding section goods and passengers are being conveyed on a railway prior to its being opened for traffic under the Government Railways Act, 1926, the Minister of Public Works shall in addition to the powers conferred by that section have the following powers:—

- (a) He may by notice gazetted fix scales of dues and charges to be paid for the use by any vessel of any wharf, jetty, mooring, berthage, building, crane, or other appliance in connection with the railway, and may in like manner make by-laws regulating the use thereof:
- (b) With respect to goods on which charges are unpaid or of which the owner is unknown, he shall have all the powers conferred on the Minister of Railways by sections twenty-one to twenty-three of the Government Railways Act, 1926, and the provisions of those sections shall, with the necessary modifications, apply with respect to such goods.

Private Railways and Tramways.

Interpretation. 1908, No. 160, s. 209
1920, No. 81, sec. 2

240. Where used in sections two hundred and forty-one to two hundred and fifty hereof,—

- “Proprietors” means and includes the proprietors for the time being of any such railway as in this section defined, or in whom any such railway is vested, or who have the management or control of such railway, whether such proprietors are a body corporate or individuals:
- “Railway” means and includes all railways (other than railways for the time being vested in His Majesty) and all tramways whether constructed under the authority of this or any other Act or not:
- “Telegraph” includes “telephone.”

Regulation of Private Railways and of Tramways.

General Manager to be appointed for every railway. 1908, No. 160, s. 210

241. There shall be for every railway on which passengers are carried an officer called the General Manager, and the name and address of each such General Manager shall be registered in the office of the Minister.

Mails to be conveyed free of charge. Ibid., sec. 211

242. The proprietors of every railway shall be bound to convey all public mails in the ordinary trains free of charge; and in the event of war or civil commotion the said proprietors shall on the requisition of the Governor-General place the whole of the resources of the railway at his disposal at the charges actually incurred.

Railway at Governor-General's disposal in time of war.

243. The Governor-General shall have power at all reasonable times to enter into and upon any railway, and to take any necessary land and erect stations and other buildings thereon for telegraph purposes, and may cause telegraph-poles to be erected and an electric telegraph to be established along any railway, whether constructed under this Act or otherwise, without any compensation or payment

Governor-General may construct telegraphs on any line. Ibid., sec. 212

for the same ; but so nevertheless as not to cause any injury to such railway or to impede or obstruct the working thereof.

Inspection of Private Railways and of Tramways.

244. (1) The Minister may from time to time appoint any proper person to inspect any railway, and such appointment may be general, authorizing the person so appointed to inspect all or any railways as occasion may from time to time require ; or special, applying to any one or more sections of railway specially named therein. No railway to be open for traffic except on certificate of Inspector. 1908, No. 160, s. 213

(2) Any person so appointed may at all reasonable times upon producing his warrant of appointment, if required, enter upon and examine any such railway, and the stations, works, and buildings, and the engines and carriages, and other rolling-stock belonging thereto.

(3) Every person who wilfully obstructs any person duly appointed to inspect any railway as aforesaid in the execution of his duty is liable to a fine not exceeding ten pounds. Obstructing Inspector.

245. (1) No railway or portion of any railway shall be opened for the public conveyance of passengers— Notice of intended opening of railway. Ibid., sec. 214

(a) Until two months after notice in writing of the intention of opening the same has been given by the proprietors of such railway to the Minister ; nor

(b) Until thirty days after notice in writing has been given by such proprietors to the Minister of the time when the said railway or portion of railway will be in their opinion sufficiently completed for the safe conveyance of passengers and ready for inspection ; nor

(c) Unless and until the Minister has given notice in writing to the proprietors thereof that he has received from the person appointed under the last preceding section a certificate that the railway or portion thereof is safe and fit for traffic.

(2) If any such railway or portion of any such railway is opened without such notices having been duly given, the proprietors of such railway shall be liable to a fine not exceeding two hundred pounds for every day during which the same continues open until the said notices are duly given, and, in the case of the notices given to the Minister, have expired : Penalty for opening without notice.

Provided that the last-mentioned notices shall be deemed to have expired as soon as the Minister has given his notice as aforesaid to the proprietors.

246. (1) If the person appointed to inspect any railway or portion of railway shall after any inspection thereof report in writing to the Minister that in his opinion the opening or the continued working of the same would be attended with danger to the public or to the persons employed on such railway, by reason of the incompleteness of the works or permanent-way, or the need of necessary repairs in any part thereof respectively, or the insufficiency of the establishment for working such railway, the Governor-General may from time to time— Governor-General empowered to postpone the opening or working of a railway. Ibid., sec. 215

(a) Order the proprietors of such railway to postpone such opening or discontinue such working for any period not exceeding one month at any one time, until it appears to the Governor-General that such opening may take place

or such working may be resumed without danger to the public ; or

(b) Where an authorizing order has been made under the Tramways Act, 1908, direct that the works thereby authorized shall be completed in accordance with such order and any plan or documents mentioned therein, without suspending the traffic upon the tramway.

(2) The proprietors shall be entitled to a copy of the report on which such order is founded.

(3) If any order made by the Governor-General under this section is not complied with by the proprietors of any railway affected by such order, such proprietors shall be liable to a fine not exceeding two hundred pounds for every day during which such order is not complied with.

Breach of order to postpone opening or discontinue working.

General Manager to give Minister notice of accidents.

1908, No. 160, s. 216

247. (1) The General Manager of every railway shall, within forty-eight hours after the occurrence upon the railway under his management of any accident attended with serious personal injury to the public or to any person employed thereon, or with serious damage to the line, appliances, rolling-stock, or plant, give notice thereof by a telegram to the Minister.

(2) Such telegram may be sent by the officers of the Government lines of telegraph free of charge.

(3) If any such General Manager wilfully omits to give such notice he shall be liable to a fine not exceeding five pounds for every day during which such omission continues.

Inquiry as to accidents.

Ibid., sec. 217

248. (1) The Minister may cause an inquiry to be held in such manner as he thinks fit as to any accident referred to in the last preceding section ; and for the purpose of preventing the recurrence of any such accident may direct the proprietors of the railway to make such alterations as he thinks fit in the construction or equipment of the railway, or of the rolling-stock, plant, or machinery employed thereon or in connection therewith, or in the method of working the same, and to discontinue the working of the railway, or the use of such rolling-stock, plant, or machinery, or the method of working the same, as the case may require, until such alteration has been made.

(2) If any such direction is not complied with the proprietors of the railway shall be liable to a fine not exceeding two hundred pounds for every day during which such non-compliance continues.

249. (1) The Governor-General may order the General Manager of any railway to make up and deliver to the Minister returns of serious accidents occurring in the course of the public traffic upon the railway under his management, whether attended with personal injury or not.

(2) Such returns shall be made up in such form and manner as the Governor-General deems necessary and requires with a view to the public safety.

(3) If any such returns are not so delivered within fourteen days after the same have been required such General Manager shall be liable to a fine not exceeding five pounds for every day during which he neglects to deliver the same.

(4) All such returns shall be privileged communications and shall not be received in evidence in any Court whatever.

Governor-General may direct returns of accidents to be supplied.

Ibid., sec. 218

250. Notwithstanding anything in any Act, the Governor-General may allow carriages and rolling-stock up to eight feet in width to be used on any railway in cases where he is satisfied that they may be safely and conveniently used without danger to the public.

Width of carriages and rolling-stock. 1908, No. 160, s. 219

P A R T I X.

DEFENCE.

Defence Works.

251. In this Part of this Act—

“Fortification” or “defence purposes” means and includes any fortification or other work (however designated) which is constructed or intended to be used for the purposes of defence, and all roads or other works which may be requisite for approach to or otherwise necessary or convenient for the purposes of any such fortification :

“Obstruction” means and includes houses and erections of any kind, trees, shrubs, fences, banks, mounds, ditches, and generally any erection or thing which would or at any time might interfere with the range of fire from any fortification, or obstruct the clear view therefrom, or be available for any hostile purpose against any such fortification.

Definition of fortification and obstruction. Ibid., sec. 220

252. The Minister is hereby empowered to construct and maintain any fortification or other work for defence purposes, and he or any officer, surveyor, or other person or persons authorized by him may whenever the Minister deems it expedient enter upon any land, road, or street, and construct any fortification or other such work without having first taken or closed such land, road, or street for the purposes thereof ; but in any such case the land, road, or street necessary for the construction thereof shall be taken or closed as soon as conveniently may be thereafter in the manner provided by section two hundred and fifty-four hereof.

Minister may construct fortifications. Ibid., sec. 221

253. In addition to the power vested in him of taking land for defence purposes the Minister is hereby empowered on behalf of His Majesty to close the whole or any part of any road or street for such purposes, and to require that any land he has power to take or any road or street or part thereof shall (instead of being taken or closed) be kept free from obstruction in respect of the use of any fortification.

And may close roads and streets, and require land to be freed from obstruction. Ibid., sec. 222

254. (1) Any land or any road or street or part thereof may be taken or closed for defence purposes or required to be kept free from obstruction in respect of the use of any fortification in the following manner :—

Manner of taking, &c. Ibid., sec. 223

(a) A map shall be prepared in duplicate showing accurately the position and extent of the land, road, or street proposed to be taken, closed, or kept free from obstruction.

(b) Such map shall be signed by the Surveyor-General, or some authorized surveyor appointed by him to certify plans for the purpose of any Act relating to the conveyance or transfer of land, as evidence of the accuracy thereof.

(c) The Governor-General may thereupon, by Proclamation publicly notified, declare that such land or road or street or part thereof, a description whereof shall be contained in or annexed to the Proclamation, is taken or closed for defence purposes or required to be kept free from obstruction in respect of the use of any fortification.

(2) A Proclamation taking or closing land or a road or street or part thereof for defence purposes shall when gazetted be conclusive evidence that the land therein referred to, and the soil of any road or street or part thereof therein referred to, is vested in His Majesty in fee-simple, freed and discharged from all mortgages, charges, claims, estates, and interests of what kind soever, for defence purposes, and that any road or street or part thereof thereby closed has ceased to be a public highway.

(3) A Proclamation requiring land or a road or street or part thereof to be kept free from obstruction shall not vest such land or road or street or part thereof absolutely in His Majesty, but shall have the effect of a separate covenant by every person or body having any estate or interest in the land, road, or street, and all persons claiming under such person or body, with His Majesty that such land, road, or street shall at all times be kept free from obstruction, unless the Minister agrees to the release of such covenant, either wholly or in part, which he is hereby empowered to do in any case he thinks fit.

(4) On the deposit of the Proclamation and map in accordance with section twenty-eight hereof the proper officer of the District Land Registry Office for the district where such land, road, or street is shall make such entries in respect thereof and do such acts and sign such documents as the Governor-General in Council may from time to time prescribe.

Section 33 not to apply.
1908, No. 160, s. 224

255. Section thirty-three hereof shall not apply to the case of an entry upon or taking of land for defence purposes, but the Minister shall erect such fences as are required by that section to be made with all convenient speed after the removal of any fencing from the land entered upon or taken.

Taking land for parade or camping grounds or rifle ranges.
Ibid., sec. 225

256. Land required for parade-grounds, camping-grounds, or rifle ranges, or for approaches thereto, may be taken as for a public work and in the manner prescribed by this Part of this Act for taking land for defence purposes.

Refusing to give up possession of land, or obstructing Minister.
Ibid., sec. 226

257. If in any case where the Minister is authorized to take possession of or to enter on any land for defence purposes any person refuses to give up possession thereof, or obstructs the Minister or any person authorized by him in taking such possession or entering upon the same, any Magistrate may issue his warrant under his hand empowering any constable to deliver possession of such land to the person named in the warrant, and such warrant shall be sufficient authority to any such constable to enter on the said land and deliver possession thereof accordingly.

Compensation, when payable.
Ibid., sec. 227
1909, No. 19, sec. 13

258. (1) No person shall have any claim to compensation by reason of the firing of artillery from any fortification, or the use or working thereof, or otherwise under this Act, or by reason of rifle-firing

on any land taken or used for a rifle range, except for land actually taken or required to be kept free from obstruction ; but nothing in this section shall be deemed to prevent any person who suffers any damage to the materials of any house or building from pursuing any other remedy he may have at law.

(2) No compensation shall be payable to any person or body in respect of the whole or any part of any road or street being closed under the powers conferred by section two hundred and fifty-two hereof, or for or in respect of any inconvenience or damage to any lands fronting or adjoining any such road or street arising out of the construction of any fortification upon such road or street or part thereof if reasonable and sufficient access for the purposes for which such road or street or part thereof was intended is afforded by some other portion of such road or street, or by some other road or street, whether provided or constructed by the Minister or not.

(3) The provisions of subsections three and four of section two hundred and twenty-one hereof shall apply to all claims for compensation in respect of the matters mentioned in the last preceding subsection of this section.

259. (1) Every person is liable to a fine not exceeding fifty pounds who, on land taken or required to be kept free from obstruction, mutilates, defaces, takes away, destroys, or alters the position of any fortification, building, erection, survey peg, mark, or pole set up or affixed thereon, or who constructs or sets up any erection of any kind on any such land without authority of the Minister, or who wilfully obstructs any officer, surveyor, or his assistants or workmen engaged in carrying on any works authorized to be executed or constructed for defence purposes, or any survey of any land taken or required as aforesaid.

Destroying, altering,
&c., fortifications.
1908, No. 160. s. 228

(2) Nothing herein shall be deemed to interfere with or restrict the provisions of any other law or statute under which any such person could be punished for any such offence, so that such person be not punished twice for the same offence.

PART X.

DRAINAGE BY PUBLIC BODIES.

260. (1) " Drain " or " drains " in this Act includes every passage or channel on or under ground through which water flows, whether continuously or intermittently, except a navigable river ; and extends to and includes an outlet to any lake or other body of water not having a navigable communication with the sea or any navigable river.

Definition of drain
and public drain.
Ibid., sec. 229 *

(2) Any such drain made by the Government or by any public Board or Commissioners before the coming into operation of this Act, or made or declared to be a public drain under this Act, or made upon, above, or under any road or other land vested in the Crown, and every natural watercourse, stream, and river not navigable, is a public drain within the meaning of this Act.

261. All public drains shall, except as herein provided, be under the control of and shall be constructed and kept in repair by the Council of the county in which they are.

Public drains under
the control of
County Council.
Ibid., sec. 230

Minister may make Government drains. 1908, No. 160, s. 231 1923, No. 29, sec. 7

All drains upon railway land to be Government drains.

262. (1) The Minister may construct Government drains through any lands within New Zealand.

(2) All drains now or hereafter existing or made upon, above, or under any land on which any railway the property of His Majesty and open for traffic is constructed, or upon, above, or under any land within the limits of such railway, shall be Government drains :

Provided that, notwithstanding anything in the next succeeding section, if any such drain forms part of or is used in connection with any system of sewerage which is under the control of any local authority the cost of maintaining the drain shall be borne by that local authority, and if the work of maintenance is carried out by His Majesty shall be recoverable from such local authority as a debt due to the Crown :

Provided also that nothing herein shall confer upon any local authority the right to enter on any railway as aforesaid for the purposes of any such drain without the prior consent of the Minister of Railways, who may grant such consent subject to such terms and conditions as he thinks fit.

(3) The Governor-General may from time to time by Order in Council declare any drain now or hereafter existing or made within New Zealand to be a Government drain, and may by any subsequent Order in Council revoke any such former Order, and may declare that any such drain shall cease to be a Government drain.

In case of Government drains, Minister to have powers of County Council. 1908, No. 160, s. 232

263. All the powers and liabilities given to or imposed upon County Councils by this Part of this Act shall in respect of Government drains be exercised by and imposed upon the Minister so long as and whilst such drains continue to be Government drains, and during such period the County Council shall not have any powers or liabilities in respect thereof.

Drainage-map of county. Ibid., sec. 233

264. (1) The Governor-General may from time to time by Order in Council direct any County Council as soon as conveniently may be after the date of such Order to cause to be prepared a drainage-map of the county, on which shall be shown all the public drains within the county, with the levels and gradients thereof referred to a datum-plane thirty feet below the average level of the sea.

Datum-plane to be fixed by appointed engineer.

(2) The datum-plane shall be fixed by an engineer to be appointed for that purpose by the Governor-General ; and any errors or omissions in any drainage-map shall from time to time be corrected or supplied in such manner as such engineer directs.

Drainage-map to be open for inspection.

(3) The drainage-map shall be open for public inspection at all reasonable hours at the office of the County Council ; and any person under the authority of the Minister, or any Road Board within the county, may cause a copy to be made of any part of such map.

Powers of County Council to drain. Ibid., sec. 234

265. (1) Subject to the conditions and restrictions herein contained, the County Council shall have the power to do the following things for the drainage of the county :—

- (a) To make surveys on any lands :
- (b) To make new public drains through, above, or under any lands :
- (c) To make a public drain under any road, and for such purpose to cut through such road and alter the level thereof, and temporarily to stop the traffic thereon :

- (d) To take any existing drain and declare the same to be a public drain :
- (e) To erect banks and dams on any land or on any drain as a protection against water, and to make sluices therein :
- (f) To impound, divert, or take water from any public drain :
- (g) To keep all drains clean and in good repair, and to remove all obstructions to the flow of water therein :
- (h) To widen, deepen, straighten, or otherwise alter the course or level of any drain :
- (i) To enter upon any lands and take therefrom stone or other material for constructing or repairing any drain, bank, or dam :
- (j) To make and use temporary roads through any lands for such construction or repair :
- (k) To place any soil or rubbish removed from any drain upon any land adjacent thereto :
- (l) To inspect any private dam, weir, and mill-race, and to open or close any sluice or flood-gate for the purpose of such inspection :
- (m) To make and maintain all such works and machinery, of what kind soever, and generally to do all such things as may be necessary for the efficient drainage of the lands and houses within the county.

(2) In counties where the Counties Act, 1920, is suspended all the powers, duties, and functions vested in a County Council by this and the two next succeeding sections shall vest in and be exercised and performed by the Governor-General.

Where Counties Act suspended.

266. (1) The County Council may from time to time by an order publicly notified place all the public drains in any road district within the county under the control of the Road Board of the district in which they are situate, or place under such control any public drains to be specified in such order ; and may revoke any such order either in whole or in respect of any particular drains.

County Council may place drains under Road Board. 1908, No. 160, s. 235

(2) The Road Board shall in respect of any such drains have all the powers and be subject to all the liabilities herein given to or imposed upon County Councils in respect of the construction and repair of public drains.

267. If for the efficient drainage of any of the lands of a county a public drain is required to run through two or more counties, the Minister may upon the application of the County Council of any of such counties cause plans to be prepared showing the course, dimensions, and levels of the proposed drain ; and may, after submitting such plans to the said County Councils, and duly considering such reports, objections, or suggestions as any of them may make thereon, alter such plans and finally settle the same as he thinks fit, and may cause the said drain to be so constructed in accordance therewith.

Where a drain runs through two counties, Minister may construct it. Ibid., sec. 236

268. The cost of constructing and repairing such a drain shall be divided amongst and charged upon the counties through which it runs in proportion to the benefit accruing to each county from the drainage of the lands therein ; and the Minister shall fix the share so calculated to be paid by each county, and may recover the same from the County Council.

Cost to be recovered from the County Councils. Ibid., sec. 237

If any money provided by Parliament, only balance of cost to be recovered.

1908, No. 160, s. 238

County Council may delegate to Road Boards power to make new drains.

Ibid., sec. 239

Penalties for destroying drains.

Ibid., sec. 240

Railways not to be interfered with.

Ibid., sec. 241

Saving of Christchurch District Drainage Act and other Acts.

Ibid., sec. 242

269. If any such drain is constructed or repaired in part out of moneys appropriated by Parliament, the balance only of the cost thereof shall be charged on the counties, as provided by the last preceding section.

270. (1) The Council of any county may from time to time at the request of any Road Board within the county, by a special order, delegate to such Board all or any of the powers granted to such Council by section two hundred and sixty-five hereof for the purpose of enabling such Board to make or maintain new public drains within the district under its jurisdiction.

(2) 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 herein given to or imposed upon County Councils in respect of the construction and repair of public drains.

271. Every person who wilfully and maliciously destroys or damages any public drain, or any bank or dam or other work made under the authority of this Part of this Act, is liable to a fine not exceeding five hundred pounds, or at the discretion of the Court to imprisonment with or without hard labour for any term not exceeding two years.

272. Nothing in this Part of this Act shall be deemed to authorize any interference by any local authority with any land, drains, or works upon or within the limits of any railway.

273. Nothing in this Act shall be deemed to control or alter any of the provisions —

- (a) Of the Christchurch District Drainage Act, 1907, or to authorize any interference by any County Council with any drains or other works under the control of the Board constituted by or under the said Act without the consent of such Board ; or
- (b) Of the Land Drainage Act, 1908, or to authorize any interference by any County Council with any drains or other works under the control of any Board constituted by or under the said Act without the consent of such Board ; or
- (c) Of the River Boards Act, 1908, or to authorize any interference by any County Council with any drains or other works under the control of any Board constituted by or under the said Act without the consent of such Board ; or
- (d) Of the Water-supply Act, 1908.

PART XI.

IRRIGATION.

274. The Governor-General 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.

1910, No. 66, sec. 2

275. 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 Eighth Schedule hereto, and those sections are hereby incorporated in this Act; and for the purposes of this section the following provisions shall, with the necessary modifications, apply:—

Powers of Minister with respect to such waterworks. 1910, No. 66, sec. 3

- (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.

- (b) The Governor-General 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.

276. 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 fifty-four hereof.

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

Ibid., sec. 4

277. (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.

Agreements to take water may be entered into with owners or occupiers, or land taken if no agreement entered into.

Ibid., sec. 5

1923, No. 29, sec. 13

(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-General thinks reasonable, at such price or rate of payment as the Governor-General may approve, an Order in Council authorizing the construction of the works may be issued.

(3) In such case the Governor-General may if he thinks fit at any time before or after the completion of the works take as for a public work, in the manner prescribed by this Act, the whole or any portion 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-General be usefully irrigated by means of such works, and for the purposes of this subsection all the provisions of Parts II and III hereof shall apply:

Provided that—

- (a) The Proclamation may if the Governor-General thinks fit exclude 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 appropriated from time to time by Parliament:
- (c) The land so taken shall be dealt with and administered as Crown land under the Land Act, 1924:

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 (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 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:

- (d) Before such land is sold or leased the Governor-General may if he 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:
- (e) The capital value at which such land shall be sold, or upon 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 therefrom, and also 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.

Irrigation
agreements to run
with the land.

1911, No. 21, sec. 8
1927, No. 69, s. 10(1)

278. (1) Every agreement made in writing by or on behalf of His Majesty the King and the legal owner in fee-simple of any land for the supply of water to that land from any water-supply works constructed or to be constructed by the Minister under the authority of section two hundred and seventy-four hereof shall, when duly registered in accordance with this Act, except so far as otherwise expressly provided by this section or by the agreement, run with the said land at law so as to confer and impose upon every occupier of that land or of any part thereof for the time being, and whether at the date of the registration of the agreement or at any time thereafter until the expiry of the agreement by effluxion of time, a right to enforce the agreement, and an obligation to observe and perform the same during the period of his occupation so far as the agreement relates to the land so in his occupation, and a liability to pay to the Crown all moneys becoming due under the agreement during the period of his occupancy in respect of the land so in his occupation, and all moneys accrued

due under such agreement and unpaid in respect of such land at the commencement of his occupancy, in the same manner as if such occupier had been a party to the agreement.

(2) Every agreement made in writing by or on behalf of His Majesty the King and the lessee under any lease of any land for the supply of water to that land from any water-supply works constructed or to be constructed by the Minister under the authority of section two hundred and seventy-four hereof shall when duly registered in accordance with this Act, except so far as otherwise expressly provided by this section or by the agreement, run with the said land at law so as to confer and impose upon every occupier of that land or of any part thereof for the time being, and whether at the date of the registration of the agreement or at any time thereafter until the expiry of the agreement by effluxion of time, or until the determination of the said lease or of any renewal thereof by effluxion of time or otherwise (whichever event first happens), a right to enforce the agreement, and an obligation to observe and perform the same during the period of his occupation so far as the agreement relates to the land so in his occupation, and a liability to pay to the Crown all moneys becoming due under the agreement during the period of his occupancy in respect of the land so in his occupation, and all moneys accrued due under such agreement and unpaid in respect of such land at the commencement of his occupancy, in the same manner as if such occupier had been a party to the agreement.

(3) The term "lease" in this section means a registered lease, whether from His Majesty the King or otherwise, and includes an occupation-with-right-of-purchase license under Part III of the Land Act, 1924, and a pastoral license under Part VI of the same Act; and the term "lessee" means the holder of any such lease or license.

(4) No agreement which so runs with the land in accordance with this section shall confer or impose any right or obligation on any party thereto save in respect of the period of his occupation of the land.

(5) Notwithstanding anything hereinbefore contained, no such agreement shall confer or impose any right or obligation on any occupier who is in occupation of the land or of any part thereof at the date of the registration of the agreement, or on any person deriving title through any such occupier, unless that occupier is a party to the agreement or otherwise consents thereto.

(6) Notwithstanding anything hereinbefore contained, no such agreement shall confer or impose any right or obligation on any mortgagee under any mortgage registered at the time of the registration of the agreement, or on any person claiming title through any such mortgage, unless the mortgagee is a party to the agreement or otherwise consents thereto.

(7) For the purposes of this section all land which is not otherwise occupied shall be deemed to be in the occupation of the legal owner in fee-simple thereof.

(8) In the case of land which is subject to the Land Transfer Act, 1915, any such agreement may be registered, without fee, by depositing a duplicate thereof, certified under the hand of the Minister, with the District Land Registrar, who shall thereupon enter a memorial thereof upon the register against the title of the proprietor

Registration of
agreements.

in fee-simple or of the lessee, as the case may be, and it shall not be necessary to record the like memorial on the duplicate certificate of title, grant, or instrument of lease. The memorial may sufficiently describe the agreement as an irrigation agreement under Part XI of the Public Works Act, 1928.

(9) In the case of land which is not subject to the Land Transfer Act, 1915, any such agreement may be registered (without fee) by causing a memorial thereof, certified by the Minister, to be deposited and entry thereof to be made in the Deeds Register Office. Every such memorial may describe the agreement as an irrigation agreement under Part XI of the Public Works Act, 1928, and shall specify the parties thereto, the date thereof, and the land to which the agreement relates.

(10) When land is subject to a mortgage by way of conveyance of the legal fee-simple to the mortgagee, the owner of the equity of redemption shall for the purposes of this section be deemed to be the owner of the legal fee-simple.

(11) Any agreement made under the authority of section two hundred and seventy-seven hereof may be entered into and executed by the Minister on behalf of His Majesty the King.

(12) In every lease of any Crown land within a district defined pursuant to section two hundred and seventy-five hereof there shall be contained a covenant on the part of the lessee to take water from the water-supply works provided for the district on the same terms and conditions as are contained in any agreement under this section, and every such covenant shall be deemed to be an agreement within the meaning of this section.

Agreements to take water for irrigation purposes may be varied by parties.
1924, No. 46, sec. 12

279. (1) Agreements to which the last preceding section relates may from time to time by further agreement of the parties be varied, or any such agreement may be at any time cancelled by consent of the parties and a new agreement executed in lieu thereof.

(2) Any new agreement executed as aforesaid may be registered in the manner prescribed by subsection eight or subsection nine, as the case may be, of the said section.

(3) On production to the District Land Registrar or the Registrar of Deeds, as the case may be, of particulars of any variation of any such agreement made pursuant to this section, certified as correct by the Minister, the Registrar shall cause a memorial of such variation to be registered as near as may be in the manner prescribed by the last preceding section in respect of the registration of agreements.

(4) Every such new agreement and every variation registered as aforesaid of any agreement shall run with the land in the same manner in all respects as an original agreement.

Prior consent of Minister required before registration of transfer of land subject to irrigation agreement.
Ibid., sec. 13
1927, No. 69, s. 10(2)

280. (1) If at any time any moneys are due and unpaid under an irrigation agreement registered pursuant to section two hundred and seventy-eight hereof, the District Engineer of the Public Works Department for the district in which is situated the land subject to that agreement may, without fee, deposit with the District Land Registrar or Registrar of Deeds, as the case may be, in the land registration district in which the land is situated a certificate under his hand specifying the amount due and unpaid in respect of such land, and the Registrar shall thereupon register the same as a charge against the land. Whilst

any such charge is so registered no transfer, conveyance, lease, or other alienation of the land or of any interest therein, or of any part thereof, shall be registered without the prior consent of the Minister.

(2) Upon payment to the Crown of the full amount in respect of which a charge has been registered as aforesaid, and if all moneys that have subsequently accrued due under the agreement have been paid, the District Engineer shall forthwith cause a release of such charge to be registered, and the District Land Registrar or Registrar of Deeds shall, without fee, register such release.

(3) Where any lease or license from the Crown is subject to any agreement as aforesaid, no assignment or sublease of any such lease or license shall be consented to by the Land Board without the production of the written consent of the Minister to such assignment or sublease.

(4) The consent of the Minister under this section shall not be withheld in any case unless default has been made in complying with the terms of the irrigation agreement and such default continues.

281. With respect to water-races held by His Majesty under a license acquired pursuant to section two of the Public Works Amendment Act, 1914, or to section three of the Mining Amendment Act, 1915, or to section ninety-seven of the Mining Act, 1926, and utilized for irrigation purposes, there may be exercised the same powers as are set out in paragraph (c) of subsection one of section forty-six of the Water-supply Act, 1908, and are conferred on the Minister by section two hundred and seventy-five hereof, with respect to water-races and water-supply works established under this Part of this Act.

Extended powers of dealing with water-races held under Mining Act and used for irrigation purposes. 1925, No. 47, sec. 5

PART XII.

SUPPLY OF WATER FOR MINING DISTRICTS.

282. (1) "Water-race" means the land occupied by any channel, natural or artificial, for the supply of water, or by any sludge-channel or drain for removing the wash or refuse matter from mining claims, proclaimed to be a water-race under this Part of this Act; and includes all dams, sluices, reservoirs, and other waterworks, and all buildings and machinery upon the land and within the limits so proclaimed.

Definition of water-race and mining district. 1908, No. 160, s. 243

(2) "Mining district" means any mining district constituted under the Mining Act, 1926.

283. The Governor-General may by Proclamation publicly notified declare any land therein specified, whether within or without or partly within and partly without a mining district, to be a water-race, and may declare any stream therein specified to be taken for the purpose of supplying a water-race.

Governor-General may proclaim water-races, and take any stream to supply water-race. Ibid., sec. 244

284. The Minister shall cause a map of such water-race to be deposited in the Warden's Court of the district in which such land is situate, and such map shall be referred to in and shall form part of any such Proclamation.

Map to be deposited in Warden's Court. Ibid., sec. 245

285. The Governor-General may by a similar Proclamation at any time during the construction of such water-race revoke any former Proclamation or part thereof and alter the course of such water-race as he thinks fit.

Governor-General may alter the course of any water-race. Ibid., sec. 246

On unsurveyed land Proclamation to be in general terms, but line to be pegged out.

1908, No. 160, s. 247

How and when limits of land for water-race and streams taken therefor shall be determined.

Ibid., sec. 248

286. Where such water-race is proposed to be constructed over lands not surveyed it shall be sufficient that such Proclamation and map describe in general terms, but as nearly as may be, the course and limits of the water-race; but where it is proposed that the water-race shall pass through lands held or occupied, or contracted to be held or occupied, under grant, lease, or license from the Crown, the middle-line of such water-race shall be marked out by pegs driven into the ground at a distance, wherever the nature of the ground admits, of not more than one chain from each other; and the said Proclamation shall describe the course of such water-race over such lands by reference to the middle-line so marked out.

287. (1) In any case where the course and limits of any water-race or any portion thereof constructed at any time under the powers given by this Act or any other Act relating to the supply of water to mining districts, whether at present or heretofore in force, and the streams taken for supplying the same, are described in general terms and it is found expedient to describe the exact limits of such water-race or of any portion, and the streams taken for supplying the same, the Governor-General may by Proclamation at any time and from time to time define the exact limits of such water-race or any portion, and the streams for supplying the same.

(2) The effect of such a Proclamation shall be to vest the land within such exact limits, and all buildings, machinery, dams, sluices reservoirs, streams, and other waterworks on such land, in His Majesty in fee-simple at law and in equity, freed and discharged from all mortgages, charges, claims, estates, and interests whatsoever theretofore affecting the same.

(3) The Governor-General may also from time to time by Proclamation release any land outside of the exact limits so to be defined from any previous Proclamation affecting the same, whether made under the powers conferred by this Act or any other Act at present or heretofore in force.

(4) If the land released was, at the time it was affected by the Proclamation from which it is released, Crown land, the effect of the release shall cause it to again become Crown land, and if within a mining district to be portion of such district.

(5) A copy of such Proclamation, together with a map showing such limits, shall be deposited in the Warden's Court of the district.

Governor-General may revoke Proclamation as to water-race.

Ibid., sec. 249

288. Where under the powers contained in section two hundred and eighty-three hereof, or in any repealed Act relating to public works, any land has by Proclamation been declared to be a water-race, or any stream specified in such Proclamation has been declared to be taken for the purpose of supplying any water-race, it shall be lawful for the Governor-General at any time in the event of such land or stream not being required for the purposes for which it was so proclaimed to revoke such Proclamation, and thereupon such land or stream shall be deemed to be released from the effect of such Proclamation.

Water-races vested in Crown.

Ibid., sec. 250

289. (1) All water-races constructed under this Act shall, except as herein otherwise provided, be vested in His Majesty.

(2) Any water-race heretofore legally vested in any local authority shall continue to be so vested, notwithstanding anything contained in this section.

290. For the purposes of this Part of this Act the Minister may from time to time do the following things:—

- (a) May make surveys upon any lands :
- (b) May make a water-race on, over, or under any land within the limits defined in a Proclamation as aforesaid :
- (c) May make such water-race over or under any road or through any public reserve within such limits :
- (d) May alter the course or level of any road for such purpose within or beyond such limits :
- (e) May make the water-race across any stream or river, but so as not to impede the navigation upon any navigable river except under the provisions of a special Act :
- (f) May alter the course or level of any such stream or river, or of any ditch or drain :
- (g) May take, impound, or divert the water from any stream specified in a Proclamation as aforesaid :
- (h) May make dams, sluices, reservoirs, or other waterworks in any such stream, whether within or without the limits of such water-race :
- (i) May enter on any lands and take therefrom any materials required for the construction or repair of a water-race :
- (j) May purchase or lease any water-race wholly or partially constructed, or any rights to water :
- (k) May construct all works, buildings, and machinery of every description and material, and generally may do all things necessary for the construction, repair, maintenance, and use of any water-race.

Powers of Minister to construct or purchase water-races.

1908, No. 160, s. 251

291. The construction, maintenance, and use of every water-race made under this Act shall be subject to the laws and regulations affecting water-races, aqueducts, dams, or reservoirs for the time being in force in the mining district in which such water-race is situate.

Water-races subject to Mining Regulations.

Ibid., sec. 252

292. (1) The Minister may from time to time make regulations prescribing the terms and conditions on which any water-race may be used, and prescribing the rates and charges to be paid for water supplied or for the drainage of mining claims.

Minister may make regulations for using water-races.

Ibid., sec. 253

(2) All such regulations shall be gazetted and take effect from a future day to be therein named in that behalf.

(3) All such rates and charges may be recovered by and in the name of any person duly authorized by the Minister in that behalf as an ordinary debt.

293. (1) It shall not be lawful for any person to take or divert any water in or supplying or flowing into a stream declared in a Proclamation as aforesaid to be taken for the supply of a water-race; and any person doing or causing to be done any act whereby the water in any such stream is diverted, drawn off, or diminished in quantity, and refusing or neglecting when so required by the Minister or any person authorized by him to restore the waters of such stream to the state in which they were before the said act, shall be liable to a fine not exceeding five pounds for every day during which the supply of such water is so diverted, drawn off, or diminished.

Taking water from proclaimed water-race or stream.

Ibid., sec. 254

(2) If such person refuses or neglects so to restore the waters of such stream after receiving notice from the Minister or any person

authorized by him to do so, the Minister may at any time after one week from the serving of such notice execute all works necessary so to restore the said waters, and may by action in his own name recover from such person the whole cost of such works, together with the amount of any damage sustained by reason of the taking or diverting of such water.

Damaging
water-race.
1908, No. 160, s. 255

294. (1) Every person who wilfully or maliciously destroys or does any damage to a water-race is liable to a fine not exceeding one hundred pounds, and to a further sum equal to the cost of restoring such water-race or repairing the damage done thereto.

Using water-race
without paying
charges.

(2) Every person is liable to a fine not exceeding fifty pounds who unlawfully obtains water from a water-race, or uses any sludge-channel or drain, without payment of the lawful charges, or in any other manner than as provided by any regulations for the time being in force.

Governor-General
may lease water-
race.
Ibid., sec. 256

295. The Governor-General, in the name and on behalf of His Majesty, may lease any water-race to any person willing to work the same, subject to the condition that such water-race shall be kept and delivered up at the end of the lease in good and substantial repair; and all the real and personal property included in any such lease shall during the continuance thereof, and subject to the conditions thereof, be vested in the lessee.

Governor-General
may contract for
making water-race
on certain
conditions.
Ibid., sec. 257

296. The Governor-General may contract with any person to make, maintain, and work a water-race—

- (a) Either by agreeing to pay the contractor a subsidy, not exceeding the amount agreed to be expended and actually expended by the contractor in the construction of such water-race; or
- (b) By agreeing to pay to the contractor year by year such sum as shall, together with the net profits of working the water-race, make up six per centum yearly upon the amount agreed to be expended and actually expended in the construction thereof;

and every such contract shall contain a condition for the purchase, whenever the Governor-General thinks fit, of the interest of the contractor in the water-race upon terms to be specified in such agreement.

Such water-race to
be under this Act,
but to vest in
contractors.
Ibid., sec. 258

297. A water-race constructed under the last preceding section shall be deemed to be a water-race made under this Act; but so long as it continues to be worked by the contractor under and subject to the conditions of any such agreement the property therein shall vest in the contractor.

Moneys accruing
from water-races
to be part of
Consolidated Fund.
Ibid., sec. 259

298. All moneys accruing from water-races constructed under this Act shall be paid into the Public Account and form part of the Consolidated Fund.

Moneys payable to
be voted by
Parliament.
Ibid., sec. 260

299. All moneys payable under any agreement made under this Part of this Act shall be paid out of moneys appropriated by Parliament for the purpose.

Water-races, &c., held under Mining Acts.

Special provisions
relating to water-
races and works
within mining
districts.
Ibid., sec. 261

300. Where in any case it is not expedient that the preceding sections of this Part of this Act relating to the proclamation and construction of water-races should be put in force, or where any rights to the use of water held under Acts relating to mining or mining districts (or for the construction of works connected therewith) have heretofore

been acquired by or on behalf of His Majesty under such Acts, the following provisions shall have effect :—

- (a) His Majesty may in any mining district apply for, receive, and hold any license or other authority to cut, construct, and use any water-race, sludge-channel, tail-race, dam, reservoir, or for any other purpose, and in any manner authorized under the Mining Act, 1926, or any Act amending the same (which Acts and any regulations for the time being in force thereunder are hereinafter included in the expression “the Mining Acts”).
- (b) Every such license or other authority shall confer upon His Majesty the same rights, powers, remedies, and authorities, and he shall be subject to the same liabilities in respect thereof, as if such license or authority had been issued to him as a private person, except that the same shall not be liable to forfeiture for any cause whatever.
- (c) The Governor-General may from time to time appoint some person or persons in any mining district under the Mining Acts, on behalf of his Majesty, to apply for and obtain the issue of any license or other authority as aforesaid under the Mining Acts, or for the issue of any renewal of any such license or authority.
- (d) The Governor-General may in like manner appoint such person or some other person to exercise on behalf of His Majesty all such rights, remedies, and authorities, to execute all such instruments or documents, and to perform all such conditions in respect of any such license or other authority in the name and on behalf of His Majesty as he might have or exercise, or execute, or could be called upon to perform, if he were a private person holding such license or authority.
- (e) Every such appointment may be limited to some particular power or purpose hereinbefore mentioned, to be specified in the appointment, or may include all such powers or purposes.
- (f) A notice in the *Gazette* signed or purporting to be signed by the Minister of Mines or some other member of the Executive Council for the time being acting for such Minister shall be sufficient evidence that such person has been duly appointed with all the powers and for all the purposes hereinbefore mentioned, unless in such notification there is expressed some limitation of the authority conferred upon him.
- (g) Where under the provisions of any Act heretofore in force relating to mining, or under the Mining Acts, any right to the use of water, or any license or authority for all or any of the purposes hereinbefore mentioned, has been acquired by His Majesty or by any person on his behalf, such right shall be deemed to be and to have been, from the date or time when the same was so acquired, vested in His Majesty as effectually as if the same had been acquired by him under this Act, and shall be and be deemed to have been valid in law notwithstanding any defect or alleged defect in the title

or status of the person who may have held or in any manner acquired any such right or authority as aforesaid.

- (h) Every Warden, Registrar, clerk, or other officer whose duty it may be to issue any license or other authority under the Mining Acts shall, upon application made to him for that purpose and upon proof that any license or authority in respect of a right within the terms of the last preceding paragraph is held on behalf of His Majesty, alter or amend, as the case may require, any existing license or other authority or any register or record kept by him, and may insert the name of His Majesty therein, and such other particulars as may be necessary to give due effect to this enactment; and this provision shall be sufficient authority for such alteration or amendment being made, any Act or regulation to the contrary notwithstanding.
- (i) It shall not be necessary for His Majesty or any person on his behalf to take out or hold any miner's right under the Mining Acts in order to enable him to hold any such license or authority as aforesaid; nor shall it be necessary that any such license or authority be renewed in any way, or that any annual or other fee in respect thereof be paid by or on behalf of His Majesty; but such license or authority shall during the term for which it was granted subsist until relinquished by His Majesty or the original term for which it was granted has expired.
- (j) Expressions and terms used in this section shall have the like meanings as expressions and terms used in the Mining Acts.

Transfer of Water-races to Counties.

Governor-General may transfer water-races to counties.
1908, No. 160, s. 262

301. The Governor-General may by Proclamation publicly notified declare any water-race to be vested in the corporation of the county in which such water-race is situate, and, if it lies in two or more counties, to be vested either jointly in the corporations of such counties or wholly in the corporation of such one as the Governor-General thinks fit; and, from and after a day to be named in such Proclamation, the water-race therein mentioned shall cease to be vested in His Majesty, and shall become vested as in such Proclamation set forth:

Provided that no water-race shall be so vested unless with the consent of the Councils of the corporations in whom the same is intended to be vested.

Powers, &c., thereupon to vest in County Councils.
Ibid., sec. 263

302. The Council or joint Councils of the corporation or corporations in which any such water-race is so vested shall, in respect of such water-race, have and be subject to all the rights, powers, obligations, and liabilities which the Governor-General or the Minister has or is subject to under this Act in respect of the same.

County Councils to keep water-races in repair.
Ibid., sec. 264

303. Every water-race so vested in any such corporation or corporations shall be kept in good repair by and at the expense of the Council or Councils thereof; and if not so kept in good repair to the satisfaction of the Minister the Governor-General may from time to time cause the same to be repaired out of any subsidies or other moneys payable to such Council or Councils under any Act in force in that behalf.

304. (1) The Council of any county, or the Councils of any two or more counties jointly, may purchase any water-race wholly or partially constructed therein, or make any new water-race therein, and for such purpose shall have all the powers which may be exercised by the Governor-General or the Minister under this Part of this Act in respect of water-races.

County Councils may purchase water-race or make new water-races.
1908, No. 160, s. 265

(2) All such water-races shall be deemed to be vested in the corporation of such one or more of the counties as may be agreed upon between the respective Councils thereof, or if they cannot agree, then as the Governor-General determines.

305. (1) All moneys accruing from any water-race vested in any such corporation shall be paid into and form part of the County Fund instead of into the Consolidated Fund.

Revenue of water-races to be paid to County Fund.

Ibid., sec. 266

(2) Where a water-race is vested jointly in two or more such corporations such moneys shall be divided between the County Funds of such counties in such proportion as the several County Councils agree on, or if they cannot agree, then in such proportion as the Governor-General determines.

PART XIII.

WATER-POWER AND ELECTRICAL ENERGY.

306. (1) Subject to any rights lawfully held, the sole right to use water in lakes, falls, rivers, or streams for the purpose of generating or storing electricity or other power shall vest in His Majesty.

Use of water in lakes, &c., for electrical purposes to vest in Crown.

Ibid., sec. 267

(2) The Governor-General may from time to time acquire as for a public work any existing rights or any lands necessary for utilizing water for the generation or storage of electrical power.

Acquisition of existing rights or lands.

307. The Governor-General may from time to time by Order in Council gazetted delegate to any local authority, on such conditions as he thinks fit, the right to use water from any lake, fall, river, or stream for the purpose of generating electricity for lighting or motive power.

Delegation of powers to local authority.

Ibid., sec. 268

308. Notwithstanding anything in this Act, the Minister, outside a mining district, may subject to such conditions as he thinks fit grant to any person or company the right to use water from any fall, river, or stream for the purpose of—

Power to grant rights for certain purposes.

Ibid., sec. 269

(a) Generating electricity for lighting, to be used only for the purpose of and in connection with the business of such person or company, and not for the purpose of sale to or use by any other person, company, or corporation; and

(b) Driving any machinery used for any agricultural, industrial, or manufacturing purpose other than the generation or storage of electricity.

309. Nothing in this Part of this Act shall affect the right to the use of water for the irrigation of agricultural or pastoral lands for the supply of water for stock, or under the Mining Act, 1926, except the granting of water-rights for the generation of electric power for any other purpose save the applicant's own use:

Use of water for irrigation or mining purposes.

Ibid., sec. 270

1926, No. 15, s. 109

Provided that no application to a Warden for the use of more than ten heads of water shall be granted except with the consent in writing of the Minister of Mines.

Rights under certain Acts reserved.
1908, No. 160, s. 271

310. Nothing in this Part of this Act shall be deemed to invalidate or restrict any rights or privileges conferred by any Act in force on the twenty-third day of November, nineteen hundred and three (the date of the coming into operation of the Water-power Act, 1903).

Powers of the Minister as to utilization of water-power.

Ibid., sec. 272
1910, No. 66, sec. 6
1923, No. 29, sec. 10

311. (1) The Governor-General may by Order in Council from time to time authorize the Minister to—

- (a) Erect, construct, provide, and use such works, appliances, and conveniences as may be necessary in connection with the utilization of water-power for the generation and storage of electrical energy, and with the transmission, use, supply, and sale of electrical energy when so generated :
- (b) 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 :
- (c) Raise or lower the level of any lake, river, or stream, and impound or divert the waters thereof :
- (d) Construct tunnels under private land, or aqueducts and flumes over the same, erect poles thereon, and carry wires over or along any such land, without being bound to acquire the same, and with right of way to and along all such works and erections :
- (e) Supply and sell electrical energy, and recover moneys due for the same.

Trespass on land used for hydro-electric purposes.

(2) The provisions of section two hundred and thirty-two hereof shall apply with the necessary modifications to trespass on any land taken for works authorized under this section, and any person trespassing on such land shall be liable and may be dealt with in all respects as if the land were land occupied for the purpose of constructing a railway.

Supplementary powers conferred on Minister to facilitate carrying-out of hydro-electric schemes.

1924, No. 46, sec. 8

312. For the purpose of carrying out any works authorized by the last preceding section the Minister shall have the right at any time or times to enter upon any road, street, railway, or other land (whether vested in or occupied by the Crown or any other person or body corporate), and there to construct, erect, lay down, maintain, renew, or repair all such cables, wires, and other things as are required for or in connection with any such works.

Compensation for damage or user of land.
1908, No. 160, s. 273

313. Where any property of any person is at any time damaged by or through the exercise of any power conferred by paragraph (c) of section three hundred and eleven hereof, or is used for any purpose mentioned in paragraph (d) of the same section, he shall be entitled to compensation, to be ascertained in the manner prescribed by this Act.

Damaging works.
Ibid., sec. 274

314. Every person who damages any works, appliances, or conveniences erected, constructed, or used as mentioned in section three hundred and eleven hereof shall be liable for the amount of such damage, to be recovered by any person authorized in that behalf by the Minister in any Court of competent jurisdiction, and, if such damage is done wilfully, shall be liable in addition to a fine not exceeding five hundred pounds.

315. No person who is a consumer of electrical energy supplied or sold by the Minister as aforesaid shall have any claim against the Government or the Minister in the event of any failure of the supply of any such energy through accident, drought, or other unavoidable cause.

No claim in case of failure of energy through accident, &c.

1908, No. 160, s. 275

316. (1) Notwithstanding anything to the contrary in any Act, it shall not be lawful for any local authority to grant to any person any right or concession for the purpose of either generating or using electricity as a motive power without in each instance the previous consent of the Governor-General by Order in Council gazetted.

Concessions for use of electricity as motive power subject to Governor-General's consent.

Ibid., sec. 276

(2) Every right or concession granted in breach of this section shall be void for all purposes.

317. (1) The Governor-General in Council may from time to time cause such inquiries to be made as he thinks fit in order to ascertain the feasibility of utilizing the waterways of New Zealand for the purpose of supplying electrical motive power for use on the goldfields.

Governor-General may cause inquiries as to feasibility of using waterways for supply of electrical motive power.

Ibid., sec. 277

(2) A report setting forth the result of such inquiries shall be laid before Parliament as soon as practicable after the inquiries are concluded.

Licenses to use Water for generating Electricity.

318. (1) Notwithstanding anything contained in this Part of this Act or in the Post and Telegraph Act, 1928, the Governor-General may from time to time by Order in Council grant to any person or body corporate (hereinafter, together with the successors or assigns of that person or body corporate, called the licensee) a license to use water from any fall, river, stream, or other source for the purpose of generating electricity for electric light, mechanical power, or other uses, and to exercise in respect of that purpose any of the powers and authorities hereinafter specified in that behalf.

Governor-General may grant licenses authorizing use of water for electrical purposes.

1908, No. 241, sec. 5

(2) The license may be granted either in perpetuity or for such fixed period, with or without a right of renewal, as the Governor-General thinks fit.

(3) The license shall be assignable and determinable on such terms and conditions and in such cases as are expressed in the Order in Council.

(4) Subject to the provisions of this section the license may contain such terms and conditions, and may impose such obligations on the licensee, as the Governor-General thinks fit.

(5) The license shall be deemed to constitute a contract between the licensee and His Majesty the King, and shall be enforceable by and against either party accordingly.

(6) The license may contain a provision vesting in His Majesty the King an option to purchase at a valuation the license, together with the whole or any part of the business and undertaking of the licensee so far as it relates to or is connected with the exercise of the license, and together with all real and personal property and all rights vested in the licensee and used or enjoyed in connection with the business or undertaking so to be purchased. The said option of purchase shall be exercisable at such time or times as the license prescribes. The said valuation shall not include any sum in respect of the value of the goodwill of the licensee's business or undertaking, or in respect of the

License may reserve power of purchase by Crown from licensee.

value of the license in respect of the unexpired period thereof. On the completion of any such purchase His Majesty the King shall be deemed to be the assignee of the license, and all the rights vested in the licensee shall vest in His Majesty during the remainder of the term of the license.

License may confer power to take necessary land.

(7) The license may confer upon the licensee such powers as the Governor-General thinks fit to take land under this Act as for a public work; and to the extent to which such powers are so conferred, and subject to such conditions and restrictions as are expressed in the license, the licensee may for the purposes of any business or undertaking established or proposed to be established by the licensee in connection with the license take land under this Act in the same manner and subject to the same obligations as if the said business or undertaking was a public work and the licensee was a local authority within the meaning of this Act. Nothing in this section or in the license shall be so construed as to take away or restrict the discretionary power of the Governor-General to refuse to issue a Proclamation taking land under this Act.

(8) The license may confer upon the licensee a right at any time or times during the continuance of the license, but subject to such conditions and restrictions as are expressed in the license, to enter upon any road, railway, or other land, whether vested in or occupied by the Crown or any other person or body corporate, and there to construct, erect, lay down, maintain, renew, or repair all such cables, wires, and other things as are required for the transmission of electricity between the fall, river, stream, or other source aforesaid and any place to which the licensee is authorized to transmit electricity in pursuance of the license.

(9) The license may confer upon the licensee a right at any time or times during the continuance of the license, but subject to such conditions and restrictions as the Governor-General thinks fit, to raise or lower the level of any river or stream, and to obstruct, impound, or divert the waters thereof, so far as may be necessary for enabling the licensee to use the said waters for the purposes authorized by the license.

Licensee to pay compensation for injury to land.

(10) In respect of all lands injuriously affected by the exercise of any of the powers conferred upon the licensee by the license, and in respect of all damage done by the exercise of any of those powers, the licensee shall from time to time, as and when any such injurious affection or damage accrues or happens, pay compensation in accordance with the provisions of this Act in the same manner (subject to all necessary modifications) as if the licensee was a local authority and the claim was one for injurious affection or damage arising out of the establishment of a public work. Every claim for such compensation shall be made within twelve months after the injurious affection or damage in respect of which the claim is made has accrued or happened.

(11) The license shall contain such provisions as the Governor-General thinks fit determining the maximum charges which the licensee may make for the sale or supply of electricity in pursuance of the license, and may impose upon the licensee the duty of selling or supplying electricity to the public or to any portion of the public.

(12) The license may impose upon the licensee such fines as the Governor-General thinks fit for any breach of the obligations thereby imposed upon the licensee, and any such fines may be recovered summarily in accordance with the Justices of the Peace Act, 1927.

(13) Nothing in this section shall be so construed as to take away or restrict any power vested in the Governor-General, or a Minister, or a local authority, by this Part of this Act, or by the Post and Telegraph Act, 1928, or to invalidate any license granted under either of those enactments, whether before or after the passing of this Act.

Licenses for Electric Lines.

319. (1) No person shall lay, construct, put up, place, or use any electric line except under the authority of a license issued to him by the Governor-General in Council under this section. Every person who commits a breach of this provision is liable to a fine not exceeding one hundred pounds.

Electric lines to be laid, &c., only pursuant to license. 1911, No. 21, sec. 2

(2) The Governor-General may from time to time by Order in Council gazetted make regulations—

Power to make regulations.

(a) Prescribing the form of licenses under this section, the conditions on which any such license may be issued, and the fees payable thereon :

(b) Controlling the use and management of any works or lines used for generating, transforming, converting, or conveying electricity (whether so used pursuant to a license under this section or not) so as to secure the safety of the consumers or employees and of the public from personal injury by reason of such use :

(c) Providing for the removal of lines laid or erected in breach of this section, and of any line in the use of which any of the conditions of the license under which it was laid or erected are not observed or complied with, and for the removal or alteration of any dangerous line (whether erected under the authority of a license issued under this Act or any other Act or not), at the expense in each case of the owner of the line :

(d) Imposing fines not exceeding twenty pounds for the breach of any such regulation.

(3) For the purposes of this section “electric line” or “line” means a wire or wires, conductor, or other means used for conveying, transmitting, or distributing electricity for power, lighting, or heating purposes, and includes any instrument, insulator, casing, tubing, pipe-covering, or post enclosing or supporting an electric line or anything connected therewith.

(4) Except as hereinafter otherwise provided the provisions of Division II of the Post and Telegraph Act, 1928, shall not apply to electric lines as defined by this Act.

320. The last preceding section shall not apply to any electric line which is used for telegraph, telephone, or wireless-telegraphy purposes, nor to any electric line used for the transmission of power for electric-tramway purposes under the authority of an authorizing order issued under the Tramways Act, 1908, nor to any electric line which is not laid or placed, or is not intended to be used, laid, or placed, beyond

Exceptions. Ibid., sec. 3

the limits of the premises in which the electricity is generated for the purposes of that line.

Electric lines
connecting portions
of premises divided
by street, &c.
1923, No. 29, sec. 15

321. For the purposes of the last preceding section an electric line shall not be deemed to be laid or placed, or intended to be laid or placed, beyond the limits of the premises in which the electricity is generated for the purposes of that line by reason of the fact that the premises are divided by a road, street, railway, or stream, and that the line is laid or placed, or intended to be laid or placed, across such road, street, railway, or stream for the purpose of connecting the two portions of the premises ; but with respect to the laying, placing, or use of any such line the following provisions shall apply :—

- (a) No person shall lay, construct, put up, place, or use any electric line across any road, street, railway, or stream dividing any premises for the purpose of connecting the two portions of the premises, except under the authority of a permit issued to him by the Minister under this section :
- (b) In issuing any permit the Minister may impose such conditions as to the erection, maintenance, and use of the electric line as he thinks fit :
- (c) A permit shall not be granted for a longer period than three years from the date of the issue thereof, but may from time to time be renewed by the Minister on the same terms or on such other terms as he thinks fit :
- (d) The Minister may at any time cancel any permit.

Damage to electric
lines.
1911, No. 21, sec. 4

322. Every person who causes damage to an electric line shall be liable to make good the damage, and the cost of repairing such damage shall be recoverable in the same manner as fines are recoverable under this Act.

Governor-General
may establish
electric lines for
public purposes.
Ibid., sec. 5

323. The Governor-General may from time to time construct and maintain electric lines for lighting or power purposes in or in connection with public offices, buildings, or works under the control of the Government, and for that purpose the Minister of Public Works shall have and may exercise all the powers conferred upon him by Division II of the Post and Telegraph Act, 1928.

Removal of trees
causing damage to
electric lines.
Ibid., sec. 6
1923, No. 29, sec. 16

324. If any tree growing on any land causes or is likely to cause damage to an electric line, the Minister (in the case of a line erected under section three hundred and eleven or section three hundred and twenty-three hereof) or the licensee (in the case of a line licensed under section three hundred and nineteen hereof) may give notice to the owner or occupier of that land to remove the said tree or any part thereof, and if the owner or occupier fails to comply with the terms of such notice within the time specified therein (being not less than seven days) the Minister or licensee, as the case may be, or the agent of either of them, may enter upon that land and remove the tree or any part thereof, but so that no unnecessary damage is done or incurred thereby.

Compensation for
removal of trees
causing damage to
electric lines.
1924, No. 46, sec. 11

325. Where pursuant to the last preceding section any tree or part of a tree is removed on the ground that it causes, or is likely to cause, damage to an electric line, compensation, to be assessed in the manner prescribed by this Act, shall be payable therefor if the said tree was growing on the land prior to the erection of the electric line, but not in any other case.

Miscellaneous Provisions.

326. (1) The Governor-General in Council may at any time, on giving not less than three months' notice in writing of his intention so to do, cancel any license issued under section three hundred and eighteen or section three hundred and nineteen hereof; or may at any time, on the application of the licensee, amend, extend, or vary the terms, conditions, and obligations of any such license; or may issue a new license in lieu of any such license.

Power to cancel or vary licenses to utilize water-power and to erect electric lines.

1923, No. 29, sec. 8
1924, No. 46, sec. 15

(2) The powers conferred by the last preceding subsection may be exercised in respect of any such license as aforesaid, whether issued before or after the passing of this Act:

Provided that if any such license issued before the twenty-ninth day of August, nineteen hundred and twenty-three (being the date of the commencement of the Public Works Amendment Act, 1923), does not in its terms confer express power for the revocation thereof by the Governor-General in Council, or by any other public authority, the licensee shall be entitled to full compensation as a person suffering damage from the exercise of the power conferred by this section, and the provisions of Part III of this Act shall apply accordingly in respect of such compensation:

Provided further that it shall be lawful for the Minister to agree with any such licensee for the supply of electric power from other sources to such licensee upon special terms in satisfaction or part satisfaction of the claim of such licensee to compensation.

(3) Every cancellation, amendment, extension, or variation of a license under either of the aforesaid sections, and every new license issued in lieu of any such license, before the said twenty-ninth day of August, nineteen hundred and twenty-three, shall be deemed to have been as validly made or issued as if this section had been in force on the date of such cancellation, amendment, extension, or variation as aforesaid, or the issue of such new license.

(4) The power conferred on the Governor-General in Council by this section to cancel licenses shall not be exercised unless in any case the licensee has made default in complying with the terms of the license, and unless the terms of the license or the regulations relating thereto provide that the license may be cancelled in the event of default of that nature being made by the licensee.

Limitation of power to cancel such licenses.

327. (1) Notwithstanding anything to the contrary in this Act or in any other Act, the Minister may, by writing under his hand and subject to such conditions as he thinks fit to prescribe, authorize any person to use water from any fall, river, stream, or other source, on land the property of or in the occupation of that person, for the purpose of generating electricity up to a maximum capacity of twenty-five horse-power for lighting or for mechanical power or other uses. Any such authority may be at any time in like manner revoked.

Permits for small water-power installations.

1923, No. 29, sec. 9

(2) Electricity generated pursuant to an authority granted under this section shall be used only by the person to whom such authority is granted for the purposes for which such authority is granted, and subject to the conditions prescribed with reference thereto, and it shall not be lawful for that person to sell or otherwise dispose of any such electricity or to use the same save in accordance with his authority or for any other person to use the same.

(3) Notwithstanding anything in the last preceding subsection, an authority granted to any person under this section may with the consent of the Minister be assigned to a successor in title or other person for the time being in occupation of the land in respect of which the license is issued.

(4) Every person to whom an authority is granted or assigned as aforesaid and who commits a breach of any of the requirements of this section is liable to a fine of ten pounds.

Returns to be
furnished by
licensees in respect
of electric lines.
1923, No. 29, sec. 14

328. (1) Every person being the holder of a license under section three hundred and nineteen hereof, and every person (including the assignee of any such person) who has laid, constructed, put up, placed, or used any electric line under the authority of any special Act or other lawful authority, shall in the prescribed form furnish to the Minister, not later than the thirtieth day of June in each year, such particulars respecting the erection and operating of any electric line erected pursuant to such license or other authority as may be prescribed by regulations in that behalf.

(2) The Governor-General may from time to time by Order in Council make regulations prescribing—

- (a) The particulars to be furnished to the Minister pursuant to this section, including (but without limiting the power of the Governor-General to prescribe such other particulars as he thinks fit) particulars of the source and nature of the electrical energy conveyed, transmitted, or distributed over any such electric lines as aforesaid; of the cost of establishing, operating, and maintaining such lines; of the loading thereof; of electrical energy generated or bought; and of sales of electrical energy for any purpose;
- (b) The periods in respect of which such particulars shall be furnished;
- (c) The keeping of such accounts and records as may be necessary for the proper furnishing of the prescribed particulars, and the form and manner in which such accounts and records shall be kept;
- (d) Fines, not exceeding ten pounds, for the breach of any such regulation.

Regulations.
1910, No. 66, sec. 8

329. (1) For the purpose of giving effect to the provisions of Part XI and this Part of this Act the Governor-General in Council may from time to time make regulations—

- (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;
- (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;
- (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 of any injury, or to limit his power to restrain by process of law the repetition or continuance of such injury.

PART XIV.

GENERAL PROVISIONS.

330. (1) The Governor-General may execute any deed or instrument for the purpose of granting and confirming any land, easement, right, privilege, concession, payment, or satisfaction which may have been or may hereafter be agreed to be granted or awarded under this or any other Act empowering such grant or award.

Governor-General may execute instruments.
1908, No. 160, s. 278

(2) The Governor-General may from time to time by Order in Council delegate to any local body or to any number of local bodies united for the purpose, and may from time to time resume, any powers or authorities vested in him in relation to the construction or control of any public works within the district or districts under the jurisdiction of such local body or united local bodies on such terms and conditions as are expressed in the Order.

Governor-General in Council may delegate power to local body to construct public works

331. The Minister may from time to time appoint any person to conduct the sale by auction of any land or chattels which have been acquired or used for the purposes of any Government work under this Act, and which are required to be so sold or for the sale of which lawful authority exists, and it shall not be necessary in any such case that the person so appointed should be the holder of an auctioneer's license.

Minister may appoint person to sell land, stores, &c., by auction without being holder of auctioneer's license.
1924, No. 46, sec. 9

332. In all cases where under this Act, or any repealed Act relating to public works, any money is authorized to be recovered from any local authority as a debt due to His Majesty, the Minister of Finance may deduct the same or any portion thereof from any subsidies or other moneys (if any) that may be payable by or on behalf of His Majesty from time to time to such local authority under any law for the time being in force, but without prejudice to the right of the Minister to recover the unsatisfied balance (if any) of such debt from such local authority as a debt due to His Majesty in any Court of competent jurisdiction.

Moneys due by local authority may be deducted from moneys payable to it by Government.
1908, No. 160, s. 279

333. 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 by or 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.

Power of local authorities to settle claims.
Ibid., sec. 280

334. (1) Where any person is in occupation of any land reserved, acquired, or taken, or to be reserved, acquired, or taken for any public work, without any right, title, or license, or whose right, title, or license has expired or been forfeited or cancelled, and whether such land is within or outside of any mining district, the Minister of Lands, or the Minister of Public Works, or any person appointed in writing by either or both, may enter a plaint in the Magistrate's Court nearest to the place where the land lies to recover possession thereof; and the jurisdiction of the Court or Magistrate shall not be ousted on the plea that a question of title is involved in any such case, or that the value of the premises possession whereof is sought to be recovered is above the jurisdiction of such Court or Magistrate.

Recovery of possession of land from persons holding illegal possession.
Ibid., sec. 281

(2) If on the hearing of such plaint the defendant does not appear, or appears but fails to establish in himself an absolute right and title to the possession of such land, or if on such hearing it is shown to the satisfaction of the Court that the title under which the defendant claims has as between himself and the Crown expired or become liable to forfeiture or cancellation, the Court shall declare such title to be extinguished, and may order that possession of the said land be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name, and that the defendant do pay the costs.

(3) If delivery of the land is not made in pursuance of such order the Court or Magistrate or any Justice may issue a warrant authorizing and requiring the bailiff of the Court or any constable to give possession of such land to the plaintiff.

(4) The provisions of sections one hundred and eighty-six, one hundred and eighty-seven, one hundred and ninety-one, and one hundred and ninety-two of the Magistrates' Courts Act, 1928, shall so far as they are not repugnant to or inconsistent with the same apply to any proceedings taken under this section.

Obstructing work-
men or destroying
fences.
1908, No. 160, s. 282

335. Every person is liable to a fine not exceeding fifty pounds who wilfully obstructs any engineer, overseer, workman, or other person in the performance of any duty, or in doing any work he has lawful authority to do under this Act, or wilfully and unlawfully cuts down, breaks, removes, or destroys any fence in or upon any land taken or acquired under this Act.

Destroying buildings
or bridges.
Ibid., sec. 283

336. Every person who wilfully and unlawfully cuts down, breaks, removes, or destroys any building or bridge in or upon any land taken or acquired under this Act is liable to imprisonment for any term not exceeding two years, with or without hard labour.

Fines recoverable in
a summary way.
Ibid., sec. 284

337. All fines recoverable under this Act may be recovered before any two Justices in a summary way.

Magistrate to have
powers of two
Justices.
Ibid., sec. 285

338. Where anything may be done by two Justices under this Act, the same may be done by a Magistrate.

Making by-laws by
local authority.
Ibid., sec. 286

339. Any power conferred by this Act on a local authority to make by-laws upon any subject shall be exercised in manner provided for the making of by-laws in the particular Act regulating the administration of the local affairs of the district of such authority.

Validation of Orders
in Council and
Proclamations.
Ibid., sec. 287

340. (1) All Orders in Council and Proclamations made and issued, or purporting to be made and issued, under the authority of any Act or Provincial Ordinance repealed by the Public Works Act, 1894, or by any Act of a like tenor at any time theretofore in force 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 the performance of all conditions precedent or subsequent to the issue thereof, and shall not be impeached or disturbed at law or in equity or otherwise on any ground whatsoever.

(2) All Orders in Council, by-laws, and regulations made prior to the passing of the Public Works Act, 1894, giving to the Minister power to fix or alter scales of fares and charges, and all notices by the Minister fixing or altering scales of fares and charges, are hereby

declared as on and from the making of such Orders in Council, by-laws, regulations, and notices to have been and be good, valid, and effectual to all intents and purposes.

341. Any public work authorized under the authority of any Act or Ordinance now in force, or any of the enactments mentioned in the Tenth Schedule hereto, or any Act or Ordinance repealed by any such enactment or by any former Act, and any land required to be taken or acquired for such work, or anything commenced under any such authority as aforesaid, may be continued, taken, or acquired, executed, carried out, enforced, and completed under this Act :

Works authorized or commenced under prior enactments may be completed thereunder or under this Act.

1908, No. 160, s. 288

Provided that in any case where it is found that the provisions of this Act are not applicable to such work, land, or thing, then for the purposes of carrying out and completing such public work, land, or thing the said enactments, Acts, and Ordinances shall be deemed to be in full force and operation.

342. (1) Subject to the provisions aforesaid, all railways and public works of every kind constructed, and all lands taken or acquired or things done under the provisions of any Act or Ordinance now in force, or any enactment mentioned in the Tenth Schedule hereto, or any Act or Ordinance repealed by any of those enactments or by any former Act, shall be deemed to have been constructed, taken, acquired, or done under this Act.

Railways and public works, &c., under previous Acts to be deemed constructed under this Act.

Ibid., sec. 289

(2) All proclamations, Orders in Council, regulations, by-laws, and appointments made under any enactment mentioned in the Tenth Schedule hereto or any Act repealed by any such enactment and subsisting on the coming into operation of this Act shall be deemed respectively to have been made under this Act, and shall have effect accordingly.

Existing Proclamations, Orders, regulations, &c., to remain in force.

343. Nothing in this Act shall be deemed to repeal or alter any of the provisions of any other Act, save as herein expressly mentioned.

Saving of Acts.

Ibid., sec. 290

344. Whenever any unrepealed Act incorporates or refers to any Part or Parts or any provisions of any of the enactments mentioned in the Tenth Schedule hereto, or any Act repealed by any such enactment or by any former Act, such unrepealed Act shall be deemed to incorporate or refer to the corresponding Part or Parts or provisions of this Act.

References to repealed Act to apply to this Act.

Ibid., sec. 291

345. Notwithstanding the repeal by the Public Works Act, 1894, of the Acts referred to in the First Part of the Fifth Schedule thereto, so much of those Acts as is set out in the Ninth Schedule hereto shall continue in force and operate as if such repeal had not been made.

Certain enactments continued in force.

Ibid., sec. 292

346. The enactments mentioned in the Tenth Schedule hereto are hereby repealed, and with respect to those enactments, but without affecting or being affected by the other saving provisions of this Act, the following provisions shall apply :—

Repeals.

(a) All offices, appointments, Proclamations, Orders in Council, orders, warrants, regulations, by-laws, notifications, records, licenses, agreements, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed and are subsisting or in force on the coming into operation of this Act shall enure for the purposes of this Act as fully and effectually as if

Savings.

Ibid., sec. 1 (2)

they had originated under the corresponding provisions of this Act, and accordingly shall where necessary be deemed to have so originated.

- (b) All railways and public works authorized under any such enactment or under any enactment thereby saved shall be deemed to be authorized by this Act, and for that purpose this Act shall be deemed to be a special Act.
- (c) All matters and proceedings commenced under any such enactment and pending or in progress on the coming into operation of this Act may be continued, completed, and enforced under this Act.

SCHEDULES.

FIRST SCHEDULE.

Section 7.
1908, No. 160,
Second Schedule.

SCHEDULE showing the Railways on which Expenditure for Construction is authorized by this Act; the Railways or Sections thereof on which the Expenditure is to be incurred; the Definition and Length of such Railways or Sections; the Estimated Expenditure required to render the same available for Use; the Amounts appropriated for the Year ending , 19 ; and the Balances for Future Appropriation.

1. Railway.		2. The Railway or Sections thereof for which Appropriation is made in this Act.			6.	7.	8.
1. Name.	2. Estimated Length of the Whole Line.	3. From	4. To	5. Estimated Length of Section.	Estimated Expenditure required on the Length stated in Column 5.	Amount appropriated for Expenditure during the Financial Year ending 31st March, 19 .	Balance for Future Appropriation.
	M. ch.			M. ch.			
	.						

SECOND SCHEDULE.

Section 51.
Ibid.,
Third Schedule.

Form A.

For Cases where Lands are taken.

CLAIM TO COMPENSATION UNDER THE PUBLIC WORKS ACT, 1928.

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

WHEREAS by a Proclamation by His Excellency the Governor-General dated the day of , 19 , 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 His 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 lands and the construction of the said public work, which sum is made up as follows :—

at	acres per acre.	roods	perches	of land taken,	£	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 , 19 .

Claimant: [*Name in full.*]
Address: [*Address in full.*]

TABLE A.

DESCRIPTION OF LANDS TAKEN.

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

TABLE B.

NATURE OF INTEREST IN LANDS TAKEN.

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

TABLE C.

DESCRIPTION OF LANDS INJURIOUSLY AFFECTED.

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

TABLE D.

NATURE OF INTEREST IN LANDS INJURIOUSLY AFFECTED.

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

Form B.

For Cases where Lands are injuriously affected, but where no Lands are taken.

CLAIM TO COMPENSATION UNDER THE PUBLIC WORKS ACT, 1928.

To [*Here insert either the Minister of 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 :—

	£	s.	d.
<p>[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.]</p>			
Total claim	£		

Given under my hand this day of , 19 .

Claimant : [Name 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 lands affected, giving name of survey district, and number of block and section, or other means of identification.]

TABLE C.

NATURE OF INTEREST IN LANDS INJURIOUSLY AFFECTED.

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

THIRD SCHEDULE.

NOTICE REQUIRING CLAIM TO BE HEARD IN COMPENSATION COURT.

(Under the Public Works Act, 1928.)

To the Registrar [or Deputy Registrar] of the Supreme Court at [or Clerk to the Magistrate's Court at].

WHEREAS a certain claim for compensation for the amount of [Name the sum] in respect of certain lands taken [or in respect of certain lands injuriously affected] in which I have an interest, a copy of which claim is attached hereto, was made by me on the day of , 19 , upon, and was duly served as by the said Act required upon, the Minister [or local authority], and the said Minister [or local authority] has refused to admit the said claim [or has made me an offer of (Name the sum) in lieu of the said claim, which I do not accept] :

This is to give notice that I hereby require the said claim to be heard by a Compensation Court, as by the said Act provided ; and I hereby appoint C. D., of M. N., to be an assessor of the said Court. And I append hereto the consent and declaration of the said C. D. as by the said Act required.

Given under my hand at , this day of , 19 .
A. B., Claimant.

Enclosures :

1. Copy of claim, on one of the forms in the Second Schedule to the Act.
2. Assent of assessor to act, in the form provided in the Fourth Schedule to the Act.

Sections 54, 56.
1908, No. 160,
Fourth Schedule.

FOURTH SCHEDULE.

ASSENT OF ASSESSOR TO ACT.

I, C. D., consent to act as assessor in the Compensation Court to be constituted under the Public Works Act, 1928, to hear the claim of [*Naming the claimant*] against [*Naming the respondent*] for the sum of [*Naming the amount of the claim*]; and I solemnly and sincerely declare that I am not concerned or interested in any way in the said claim, and that I will faithfully, honestly, and impartially, according to the best of my skill and ability hear and determine the said claim.

C. D.

Section 57.
1908, No. 160,
Fifth Schedule.

FIFTH SCHEDULE.

RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT.

Section 212 (3).
Ibid.,
Eighth Schedule.

Name of Railway.	Extent authorized.
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Authorized by the Railways Authorization Act, 1881.

Authorizing Act.
1881, No. 36

- | | |
|---|--|
| 1. Kaipara - Waikato
(Hamilton - Cambridge Branch) | From the Town of Hamilton to the Town of Cambridge, District of Waikato. |
| 2. Waitaki-Bluff .. | From the main line to the Fernhill Colliery, at Chain Hills. |
| 3. Waitaki-Bluff .. | From the main line to Oteramika and Toitois. |

Authorized by the Railways Authorization Act, 1884.

1884, No. 50

- | | |
|----------------------------|--|
| 1. Whangarei-Kamo .. | A branch line of railway from the main line to the Whau Whau Colliery. |
| 2. Kaipara-Waikato .. | A branch line of railway from the main line across the Waikato River at Huntly. |
| 3. Foxton - New Plymouth | An extension from New Plymouth to the Breakwater at Moturoa. |
| 4. North Island Main Trunk | From a point at or near Marton to Te Awamutu via Muri-motu, Taumarunui, and the Ongarue River Valley. |
| 5. Hurunui-Waitaki .. | An extension from Hurunui to the Red Post. |
| 6. Waitaki-Bluff .. | A branch line of railway commencing at a point at or near the Lovell's Flat Station, and terminating near the southern end of the Kaitangata Lake. |

Authorized by the Railways Authorization Act, 1885.

1885, No. 54

- | | |
|----------------------------|---|
| 1. Wellington-Napier .. | From Palmerston North, by way of the Manawatu Gorge, to Woodville. |
| 2. Forest Hill Tramway .. | The Forest Hill Tramway.—From Winton to Hedgehope. |
| 3. Kaipara-Waikato .. | A branch line of railway from the main line, at or near Huntly, to a point in the Auckland University College Reserve fronting Lake Kimihia, Parish of Taupiri. |
| 4. Wellington-Masterton .. | A siding from at or near Petone Station to the factory of the Wellington Woollen Manufacturing Company (Limited); length about a quarter of a mile. |

Authorized by the Railways Authorization and Management Act, 1886.

1886, No. 44

- | | |
|---------------------------|--|
| Helensville Northwards .. | From Kaukapakapa an extension for five miles northwards. |
|---------------------------|--|

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization and Management Act, 1891.</i>	
Authorizing Act. 1891, No. 44	
1. Wellington-Napier ..	From the present terminus of the railway at Thorndon, in the City of Wellington, to a point on the Te Aro Reclamation, within the said city, to be hereafter determined by the Governor.
2. Whangarei-Kamo ..	From the present terminus of the railway at Kamo to a point in the Parish of Hikurangi, to be hereafter determined by the Governor.
3. Helensville Northwards (Kaukapakapa ballast-pit siding)	A siding from the Kaukapakapa Station, on the Helensville Northwards Railway, to the ballast-pit in Section 34, Block XI, Kaipara Survey District. Length about two miles and a quarter.
4. Otago Central (Wingatui ballast-pit siding)	A siding from the Otago Central Railway, about 2 miles 18½ chains from its junction with the Waitaki-Bluff Railway, to the ballast-pit in Sections 6 and 5, Block XIV, Taieri Survey District. Length about 85 chains.
5. Kaihu Valley ..	From the Railway Wharf at Dargaville to a point near the left bank of the Waima River, distant in a northerly direction about 41½ chains from the westernmost corner of Subdivision A, Opanake No. 2 Block. Length about 19 miles 20 chains.
<i>Authorized by the Railways Authorization Act, 1894.</i>	
1894, No. 60	
1. Whangarei-Kamo Extension	From the termination of the line in the Parish of Hikurangi, as authorized, to a point to be determined by the Governor in Block XI, Hukerenui Survey District.
2. Helensville Northwards	A further extension of four miles—namely, nine miles northwards from Kaukapakapa.
<i>Authorized by the Railways Authorization Act, 1899.</i>	
1899, No. 27	
1. Kawakawa-Grahamtown	(1) An extension from Whangarei to Grahamtown—length, about three miles; (2) an extension from Waitutu to Hukerenui—length, about one mile and a half; and (3) an extension of the Opuā-Kawakawa Railway to a point in Block III, Motatau Survey District—length, about eight miles.
2. Paeroa-Waihi ..	From Paeroa to Waihi. Length, about thirteen miles.
3. Gisborne-Karaka ..	From Gisborne to a point on the left bank of the Waipaoa River near its junction with the Ngakoroa Stream. Length, about eighteen miles.
4. Helensville Northwards	From the termination of the extension authorized, to the Kaipara Flats at a point in Section 74, Block IX, Mahurangi Survey District. Length, about six miles.
5. Grahamstown-Te Aroha (Omahu ballast-pit siding)	A siding from a point near Omahu Station, on the Grahams-town-Te Aroha Railway, to the Omahu ballast-quarry. Length, about one mile and a half.
6. Wellington-Woodville ..	A deviation to avoid the Rimutaka Incline, between the Upper Hutt and Woodside.

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.	
<i>Authorized by the Railways Authorization Act, 1899—continued.</i>		
Authorizing Act. 1899, No. 27		
7. Picton-Hurunui ..	From the termination of the line as at present authorized, to a point in the Blind River Estate on the western margin of Lake Grassmere where intersected by the dividing-line between Sections 19 and 20, Block XIV, Clifford Bay Survey District. Length, about eight miles.	
8. Hurunui-Waitaki ..	A branch from Waipara to a point in the neighbourhood of the Township of Mackenzie. Length, about thirty-five miles.	
9. Waitaki-Bluff (Mosgiel ballast siding)	A siding from a point near the Mosgiel Station, on the Waitaki-Bluff Railway, to the Mosgiel ballast-quarry. Length, about 27 chains.	
10. Palmerston - Waihemo (Inch Valley limestone-quarry siding)	A siding from Inch Valley Station, on the Palmerston-Waihemo Railway, to the limestone-quarry on the Makareao Estate. Length, about two miles and a quarter.	
11. Orepuki-Waiiau ..	From Orepuki Railway-station to a point on the left bank of the Waiiau River near the north-west corner of the Longwood Survey District. Length, about thirteen miles.	
12. Catlin's - Seaward Bush	(1) From Owaka, on the Catlin's River Branch Railway, to a point near the south-east corner of Section 20, Block VIII, Catlin's Survey District—length, about four miles; and (2) from Waimahaka, on the Seaward Bush Branch Railway, to a point near Tokanui—length, about eight miles and a half.	1909, No. 34, sec. 2
13. Heriot Extension ..	An extension of the Waipahi-Heriotburn Branch Railway in the direction of Rae's Junction, to a point on the eastern boundary of Section 10, Block XII, Crookston Survey District. Length, about six miles and a half.	
<i>Authorized by the Railways Authorization Act, 1900.</i>		
1900, No. 53		
1. Kawakawa-Grahamtown	From the termination of the extension of the Opuakawakawa Railway authorized by the Railways Authorization Act, 1899, to Hukerenui. Length, about fifteen miles.	
2. Foxton - New Plymouth	A branch line from Stratford to a point to be hereafter determined by the Governor, at or near Wangamomona. Length, about forty-eight miles.	
3. Midland	An extension from Belgrove to Tadmor, terminating at the boundary-line between Sections 11 and 13A, Block XV, Whangapeka Survey District. Length, about twenty miles.	
	An extension from Reefton to Inangahua, terminating on the west bank of Dee Creek. Length, about thirty-two miles.	
	The section between Otarama and Jackson's, by way of the Waimakariri, Bealey, Otira, and Teremakau Valleys. Length, about fifty-eight miles.	
4. Waitaki-Bluff ..	A duplicate line between Dunedin and Mosgiel, following generally the route of but not necessarily within the limits of deviation of the present railway. Length, about ten miles.	

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization Act, 1901.</i>	
Authorizing Act. 1901, No. 52	
1. Greymouth - Hokitika - Ross	An extension from Hokitika to Ross. Length, about fifteen miles.
3. Stratford-Kawakawa ..	An extension of the Stratford-Wangamomona Branch from Wangamomona to the Ongarue Station on the North Island Main Trunk Railway. Length, about sixty-three miles.
4. Stratford - Kawakawa (Ngairē ballast - pit siding)	A siding from a point on the Stratford-Wangamomona Branch Railway in Section 1, Block III, Ngairē Survey District, to Bird Road. Length, about one mile and a half.
5. Gisborne - Karaka (Kai- teratahi ballast - pit siding)	A siding from a point on the railway about twelve miles and a half from Gisborne to the gravel-deposit on the bank of the Waipaoa River. Length, about half a mile.
6. Helensville Northwards	An extension from a point in Section 74, Block IX, Mahurangi Survey District, to a point on the northern boundary of Section 8, Block XVI, Otamatea Survey District. Length, about twelve miles.
7. Kawakawa-Grahamtown (Kawakawa ballast-pit siding)	A siding from a point on the railway near the Waiharakeke Stream to Kaikohe Road, and thence generally along the road to ballast-quarry in Block XIV, Kawakawa Survey District. Length, about two miles.
<i>Authorized by the Railways Authorization Act, 1902.</i>	
1902, No. 53	
1. Helensville Northwards	An extension from a point on the southern boundary of Section 8, Block XVI, Otamatea Survey District, to Maungaturoto. Length, about twenty-three miles.
2. Gisborne-Karaka ..	An extension from the left bank of the Waipaoa River to Karaka. Length, about five miles and a quarter.
<i>Authorized by the Railways Authorization Act, 1904.</i>	
1904, No. 36	
1. Helensville Northwards	From Maungaturoto to the southern boundary of Maungatapere Parish. Length, about twenty miles.
2. Gisborne-Rotorua ..	From Karaka to Motu. Length, about thirty-seven miles.
3. Foxton - New Plymouth (Mount Egmont Branch)	A branch line from Waipuku to Mount Egmont. Length, about nine miles.
4. Foxton - New Plymouth (Aramoho - Wanganui Deviation)	A deviation line from a point about 2 miles 5 chains from Aramoho to near the Wanganui Station. Length, about one mile.
5. Midland	An extension from Tadmor up the Tadmor Valley. Length, about ten miles and a half.
6. Westport-Inangahua ..	From Westport towards the junction of the Inangahua and Buller Rivers. Length, about twelve miles.
7. Culverden-Hanmer ..	From Culverden to Montrose by way of the Waiau Valley. Length, about eight miles.
8. Lawrence-Roxburgh ..	An extension of the Lawrence Branch Railway to Beaumont. Length, about thirteen miles.
9. Catlin's-Seaward Bush	From the termination of the line at present authorized, by the Catlin's Valley, to the northern boundary of Section 2, Block IV, Woodland Survey District. Length, about four miles.

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.	Authorizing Act.
<i>Authorized by the Waikaka Branch Railway Act, 1905.</i>		
Dunedin-Invercargill ..	A branch line from Waikaka Station to Waikaka Township. Length, about twelve miles.	1905, No. 23
<i>Authorized by the Sentry Hill - New Plymouth Railway Deviation Act, 1905.</i>		
Foxton-New Plymouth ..	A line leaving the Sentry Hill to New Plymouth Branch Railway at about five miles and three-quarters on the railway chainage, and on the west side of the Waiwakaiho River, and running on the seaward side of the present line to a junction therewith in the New Plymouth Station yard at about 7 miles 50 chains on said chainage. Length, about one mile and three-quarters.	1905, No. 47
<i>Authorized by the Railways Authorization Act, 1907.</i>		
1. Helensville Northwards (Pukekaroro ballast-pit siding) ..	A branch line from the Helensville Northwards Railway in Section 86, Block XIV, Waipu Survey District, to the eastern boundary of Section 84 in the same block. Length, about one mile.	1907, No. 68
2. Foxton - New Plymouth (Kai Iwi ballast-pit siding)	A branch line from Kai Iwi to Sections 6k and 5c, Block XV, Nukumaru Survey District. Length, about two miles and a quarter.	
3. Picton-Hurunui ..	From the termination of the line as at present authorized in Block XIV, Clifford Bay Survey District, to Ward Township. Length about eight miles and a half.	
4. Ngahere-Blackball ..	From Ngahere, on the Stillwater-Reefton Section of the Midland Railway, to a point near the adit of the Blackball Mine on the left bank of Ford's Creek. Length, about three miles and a half.	
5. Coal Creek ..	An extension from the State Collieries Station on the Greymouth - Point Elizabeth Railway up the valley of the Seven-mile Creek. Length, about four miles.	
6. Catlin's - Seaward Bush	From the termination of the line as at present authorized in Section 2, Block IV, Woodland Survey District, to a point in Section 1, Block VI, Woodland Survey District. Length, about six miles and a quarter.	
<i>Authorized by the Railways Authorization Act, 1908.</i>		
Midland ..	From the termination of the line as at present authorized, in the Tadmor Valley, to the junction of the Hope and Buller Rivers. Length, about twelve miles.	1908, No. 237
<i>Authorized by the Railways Authorization Act, 1909.</i>		
1. Kawakawa-Hokianga ..	From the Kawakawa Ballast-pit line to Kaikohe. Length, about fourteen miles.	1909, No. 34
2. East Coast - Main Trunk	From Maunganui Bluff (Tauranga Harbour) to Te Puke. Length, about thirteen miles.	
3. Picton-Hurunui ..	(1) An extension from the end of the line as at present authorized at Ward Township to a point in Block XI, Cape Campbell Survey District. Length, about three miles and a quarter. (2) From the end of the authorized line in the neighbourhood of the Township of Mackenzie to a point in the Leader Valley about one mile north of the Waiau-ua River. Length, about nine miles.	

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization Act, 1909—continued.</i>	
Authorizing Act. 1909, No. 34	4. Catlin's - Seaward Bush From the end of the line as at present authorized in Section 1, Block VI, Woodland Survey District, to near the confluence of the McLennan and Tahakopa Rivers. Length, about six miles.
<i>Authorized by the Railways Authorization Act, 1910.</i>	
1910, No. 52	1. North Auckland (formerly known as the Helensville Northwards Railway) An extension from a point on the line as at present authorized in Section 35, Block XII, Waipu Survey District, to McCarroll's Gap. Length, about ten miles.
	2. Kaipara-Waikato (Huntly - Awaroa Branch) A branch line from Huntly Station towards Pepepe Parish. Length, about three miles.
1912, No. 45, sec. 5	3. East Coast - Main Trunk From the end of the line as at present authorized at Te Puke to Paengaroa. Length, about five miles.
	4. Foxton - New Plymouth (Manawapou deviation) A deviation leaving the existing line at about 195 miles 67 chains on the railway chainage, and running on the northern side of the present line to a junction therewith at about 196 miles 64 chains on the said chainage. Length, about 1 mile 6 chains.
	5. Picton-Hurunui .. (1) An extension from the end of the line as at present authorized in Block XI, Cape Campbell Survey District, to a point about one mile south of the Ure River. Length, about three miles and a quarter. (2) From the end of the authorized line in the Leader River Valley, about one mile north of the Waiau-ua River, to a point farther up the said valley in Section 87, Block IX, Hawkswood Survey District. Length, about six miles.
	6. Waitaki-Bluff .. A duplicate line leaving the main line at about 233 miles on the railway chainage, east of Ravensbourne, and running generally on the seaward side of the said main line to a junction therewith near Hanover Street, in the City of Dunedin, but not necessarily within the limits of deviation of the present railway. Length, about two miles and a quarter.
<i>Authorized by the Railways Authorization Act, 1911.</i>	
1911, No. 26	1. Kawakawa-Hokianga .. An extension of the authorized line from Kaikohe to near Horeke. Length about sixteen miles and a half.
	2. North Auckland .. An extension of the authorized line from McCarroll's Gap to the left bank of the Wairoa River, in Block VII, Maungaru Survey District. Length about twenty-five miles.
	3. Kaipara - Waikato (Huntly - Awaroa Branch) An extension of the authorized line in Section 55, Pepepe Parish, to a point in Section 206, Block I, Newcastle Survey District. Length, about four miles and a half.
	4. Stratford - Main Trunk A deviation of the authorized line of the Stratford-Kawakawa Railway from a point in Block IV, Ohura Survey District, to a junction with the North Island Main Trunk Railway about one mile and a half south of Te Koura Station. Length, about six miles.

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.	Authorizing Act. 1911, No. 26
<i>Authorized by the Railways Authorization Act, 1911—continued.</i>		
5. North Island Main Trunk (Raetihi Branch)	A branch line from Raetihi to a junction with the North Island Main Trunk Railway. Length, about nine miles.	
6. Kaipara-Waikato (Buckland deviation)	A deviation leaving the existing line at about 32 miles 40 chains on the railway chainage, and running on the eastern side of the existing line to a junction therewith at about 34 miles 40 chains on the said chainage. Length, about 1 mile 72 chains.	
7. Kaipara-Waikato (Whangarata deviation)	A deviation leaving the existing line at about 37 miles 58 chains on the railway chainage, and running generally on the eastern side of the existing line to a junction therewith at about 38 miles 57 chains on the said chainage. Length, about 1 mile 20 chains.	
8. East Coast - Main Trunk	<p>(1) From Waihi to Athenree. Length, about nine miles.</p> <p>(2) An extension of the authorized line from Te Maunga Junction to the right bank of the Wairoa River, in Block IX, Tauranga Survey District. Length, about eight miles.</p> <p>(3) From the end of the authorized line at Paengaroa in a south-easterly direction to the left bank of the Pongakawa River. Length, about eight miles.</p> <p>(4) From Napier to a point near the confluence of the Okatawai and Esk Rivers in Block III, Puketapu Survey District. Length, about fifteen miles.</p>	
9. Foxton - New Plymouth (Kakariki deviation)	A deviation leaving the existing line at about 109 miles 76 chains on the railway chainage, and running generally on the southern side of the existing line to a junction therewith at about 110 miles 58 chains on the said chainage. Length, about fifty-three chains.	
10. Picton-Hurunui	<p>(1) An extension of the authorized line at the north end to near the south side of the Kekerangu River. Length, about eight miles and a half.</p> <p>(2) From the end of the authorized line at the south end to a point near the confluence of the Charwell and Conway Rivers. Length, about ten miles.</p>	
11. Midland	An extension from the end of the authorized line at the junction of the Hope and Buller Rivers to near the confluence of the Owen and Buller Rivers. Length, about nine miles.	
12. Westport-Inangahua	From the end of the authorized line to the eighteenth-mile peg. Length, about six miles.	
13. Ross-Mikonui	From a point near Ross to the south side of the Mikonui River. Length, about four miles.	
14. Hurunui-Waitaki (Waimate Branch)	An extension from Waihao Downs Station to a point near Kelcher's Corner. Length, about four miles.	
15. Invercargill - Kingston (Winton-Heddon Bush Branch)	A branch line from Winton Station to Heddon Bush. Length, about thirteen miles.	
16. Catlin's - Seaward Bush	<p>(1) An extension of the authorized line at the east end to near the confluence of Back Creek with the Taha-kopa River. Length, about five miles.</p> <p>(2) From Tokanui to near Trigonometrical Station AA in Block XII, Mokoreta Survey District. Length, about five miles and a half.</p>	

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization Act, 1911—continued.</i>	
Authorizing Act, 1911, No. 26	17. Orepuki-Waiiau .. An extension of the authorized line from the left bank of the Waiiau River, in Longwood Survey District, to a point near the confluence of the Wairaki and Waiiau Rivers. Length, about nineteen miles and a half.
<i>Authorized by the Railways Authorization Act, 1912.</i>	
1912, No. 45	1. North Auckland (branch line to Whangarei) A branch line from Whangarei, via Kioreroa, to a junction with the North Auckland Railway. Length, about twenty miles. 2. North Island Main Trunk (Waiuku Branch) From Main Trunk, via Patumahoe, to Waiuku. Length, about twelve miles. 3. East Coast Main Trunk From Makaraka in a westerly and south-westerly direction to Hangaroa. Length, about twenty-six miles. 4. Foxton - New Plymouth (Opunake Branch) From Foxton - New Plymouth main line to Opunake. Length, about twenty-three miles. 5. Wellington - Napier (Featherston - Martinborough Branch) From Featherston to Martinborough. Length, about eleven miles. 6. Hurunui - Waitaki (Culverden-Waiiau Branch) From Culverden to Waiiau. Length, about fourteen miles. 7. Waitaki-Bluff (Balclutha-Tuapeka Mouth Branch) From Balclutha to Tuapeka Mouth. Length, about twenty-one miles.
<i>Authorized by the Railways Authorization Act, 1913.</i>	
1913, No. 27	1. Kaihu Valley .. An extension of the authorized line from Waima Station to a point in or near Section 28, Block XI, Waipoua Survey District. Length, about four miles and a half. 2. East Coast Main Trunk (1) An extension of the authorized line from Pongakawa to Taneatua. Length, about thirty-five miles. (2) A branch line from the authorized line near Te Puke to a quarry in Section 18, Block I, Te Puke Survey District. Length, about two miles and three-quarters.
<i>Authorized by the Railways Authorization Act, 1914.</i>	
1914, No. 67	1. Whangarei - North Auckland (1) A branch line from the authorized line near the boundary of Sections 54 and 55, Ruarangi Parish, to a quarry in or near Sections 32, 34, and 35, Maungakaramea Parish. Length about four miles. (2) A branch line from Mangapai on the authorized line to Waipu. Length, about sixteen miles. 2. Kaipara-Waikato (Huntly -Awaroa Extension and Manurewa and Karaka deviations) (1) An extension of the authorized line from its present terminus to near Basley's Corner (Burnt Bridge) in Section 25, Parish of Pepepe. Length about two miles and a half. (2) A deviation leaving the authorized line at about 14 miles 25 chains on the existing railway chainage, and running on the eastern side of the authorized line to a junction therewith at about 16 miles 52 chains on the said chainage. Length about 2 miles 25 chains.

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.	
<i>Authorized by the Railways Authorization Act, 1914—continued.</i>		Authorizing Act. 1914, No. 67
2. Kaipara-Waikato (Huntly -Awaroa Extension and Manurewa and Karaka deviations)— <i>continued</i>	(3) A deviation leaving the authorized line at about twenty-five miles on the existing railway chainage, and running on the eastern side of the authorized line to a point at about 26 miles 12 chains on the said chainage where it crosses the authorized line, and running on the western side of the said line to a junction therewith at about 27 miles on the said chainage. Length about two miles.	
3. North Island Main Trunk	A branch line from the railway siding in the New Zealand Railways Metal Reserve adjoining Te Kuiti 2B Block No. 4 to the limestone-deposits in Scenic Reserve, all in Block IV, Otanake Survey District. Length about 50 chains.	
4. East Coast Main Trunk	A branch line from the authorized line in Repongaere A Block to a quarry in Section 79, all in Block IV, Patutahi Survey District. Length about one mile and a quarter.	
5. Stratford Main Trunk (Tahora deviation)	A deviation commencing at Tahora on the authorized line, and running in an easterly direction to the Heao Valley, and thence by that valley in a northerly direction to the authorized line near Tatu. Length about seventeen miles.	
6. Foxton - New Plymouth	A branch line from the authorized line between Greatford and Kakariki to gravel-deposits in or adjacent to the Rangitikei River bed. Length about four miles.	
7. Eltham-Opunake (Manaia Branch)	A branch line from the Manaia Road crossing on the authorized line to Manaia. Length about five miles and a half.	
<i>Authorized by the Railways Authorization Act, 1915.</i>		1915, No. 46
Paeroa-Pokeno	From the authorized line at Paeroa to a point in Block XI, Waihou Survey District. Length about six miles.	
East Coast Main Trunk ..	(1) From the end of the authorized line at Athenree to the end of the authorized line at Wairoa River. Length about twenty-four miles and a half. (2) From the end of the authorized line at Taneatua to Opotiki. Length about twenty-six miles and a half. (3) From the end of the authorized line at Hangaroa to the end of the authorized line in Block III, Puketapu Survey District. Length about ninety-three miles. Also a branch line to a wharf on the left bank of the Wairoa River, opposite the Town of Wairoa. Length about two miles.	
South Island Main Trunk ..	From the end of the authorized line at Kekerangu to the Clarence River. Length about thirteen miles.	
Lawrence-Roxburgh ..	From the end of the authorized line at Beaumont to the northern boundary of Block III, Bengier Survey District. Length about fifteen miles.	
<i>Authorized by the Finance Act, 1918 (No. 2), Section 35.</i>		1918, No. 4, sec. 35
Paeroa-Pokeno	From the end of the line in Block XI, Waihou Survey District (as authorized by the Railways Authorization Act, 1915), to Pokeno. Length about thirty-five miles.	

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization Act, 1919.</i>	
1. North Auckland Main Trunk	An extension of the authorized line from the left bank of the Wairoa River in Block VII, Maungatu Survey District, to a connection with the existing line near Ngapuhi. Length about thirty-nine miles.
2. North Island Main Trunk	A branch line from Otorohanga along the right bank of the Waipa River to the south boundary of Block VI, Mangaoronga Survey District. Length about seven miles and a half.
3. North Island Main Trunk	A deviation between Plimmerton and Paekakariki via Terewarewa Point. Length about nine miles.
4. East Coast Main Trunk	A branch line from Wairoa to Waikopu. Length about twenty-two miles.
5. Midland	A deviation at Springfield along the north-eastern side of the existing line between 29 miles 10 chains and 31 miles 3 chains. Length about 1 mile 74 chains.
6. Greymouth - Point Elizabeth	An extension of the existing line from a point about 3 miles 45 chains from Greymouth for about 2 miles 50 chains in a northerly direction.
7. North Auckland Main Trunk	A deviation of the authorized line to the westward from 117 miles 14 chains to 121 miles 15 chains.
8. Waikokowai Branch ..	A branch line from the Huntly-Awaroa Railway in Block XV to Section 115, Block XIII, Rangiriri Survey District. Length about 7 miles.
9. Te Roti - Opunake ..	An extension of the authorized line from Opunake to a connection with the existing line at Moturoa. Length about 35 miles.

Authorizing Act.
1919, No. 34

1920, No. 73

Authorized by the Railways Authorization Act, 1920.

1. North Auckland Main Trunk Railway	An extension of the authorized line from a point in Section 70, Block VI, Omapere Survey District, to a point on the east bank of the Mangamuka River, Block XI, Mangamuka Survey District, near its confluence with the Waihou River, a portion of the Hokianga Harbour. Length about thirteen miles.
2. Westport-Inangahua ..	From the end of the authorized line to the Inangahua Junction. Length about eight miles.
3. Wellington - New Plymouth (Palmerston North Deviation)	A deviation leaving the existing line at about 83 miles 55 chains on the railway chainage, and running generally on the north-westward of the existing line to a junction therewith at about 91 miles 37 chains on the said chainage. Length about 6 miles 66 chains.
4. Wellington-Napier Railway (Palmerston North - Woodville Branch; Palmerston North Deviation)	A deviation leaving the proposed deviation of the Wellington - New Plymouth Railway (Palmerston North Deviation) at about 6 miles 5 chains on the chainage of the said proposed deviation, and running generally to the north-westward of the existing line to a junction therewith at about 4 miles 22 chains on the railway chainage. Length about 2 miles 37 chains.

FIFTH SCHEDULE—*continued.*RAILWAYS AUTHORIZED OR DEEMED TO HAVE BEEN AUTHORIZED BY ACTS REPEALED BY THIS ACT—*continued.*

Name of Railway.	Extent authorized.
<i>Authorized by the Railways Authorization Act, 1924.</i>	
1. Lawrence-Roxburgh ..	An extension of the authorized line from Miller's Flat to Roxburgh. Length about ten miles.
2. Rotorua-Taupo ..	An extension of the authorized line from Rotorua southward to Reparoa. Length about twenty-eight miles.
3. Dargaville - North Auckland Main Trunk	A branch line from Dargaville along the northern bank of the Wairoa River to a junction with the North Auckland Main Trunk Railway near Pukehuia. Length about thirteen miles.
4. Wellington - New Plymouth (Wellington - Tawa Flat Deviation)	A deviation leaving the existing Wellington-Napier Railway at about 2 miles 10 chains on the railway chainage, and running generally to the eastward of the existing Wellington - New Plymouth Railway to a junction therewith at about 11 miles 45 chains on the chainage of the latter railway. Length about seven miles.
5. Wellington-Napier (Rimutaka Deviation)	A deviation leaving the existing line at about 23 miles 36 chains on the railway chainage, and running generally to the south-eastward of the existing line to a junction therewith at about 37 miles 20 chains on the said chainage. Length about 5 miles 48 chains.
6. Wellington-Napier (Lower Hutt Valley Duplication)	A duplicate line leaving the main line at about 7 miles 10 chains on the railway chainage, crossing the Hutt River, and running generally on the eastern side of the said main line to a junction therewith at about 16 miles 20 chains on the said chainage. Length about 9 miles 34 chains.
7. East Coast Main Trunk	<p>(a) A branch line from the authorized line at Kiwinui Junction to Whakatane. Length about six miles.</p> <p>(b) From the end of the authorized line at Gisborne southwards via Wharerata to a junction with the authorized line from Wairoa to Waikokopu. Length about thirty-nine miles.</p>
8. Kapara-Waikato ..	<p>(a) A deviation leaving the authorized line near Morning-side Station, and running generally to the north-westward of the existing line to the new Auckland station - yard (Auckland - Westfield Deviation). Length about three miles.</p> <p>(b) A branch line from the authorized line in the Auckland station-yard along Quay Street in a north-westerly direction. Length about half a mile.</p>
9. Midland	An extension of the authorized line from near the confluence of the Owen and Buller Rivers to Murchison. Length about twelve miles.

Authorizing Act.
1924, No. 36

Section 212 (5).
1908, No. 160,
Ninth Schedule.

SIXTH SCHEDULE.

CERTAIN ENACTMENTS CONTINUED IN FORCE.

The Railways Authorization Act, 1884: Section 9.

Branch line from
Wairio to Township
of Nightcaps deemed
to be a railway
under the Public
Works Act, 1882.
1884, No. 50, sec. 9

9. The branch line of railway from Wairio to the Township of Nightcaps, in the Provincial District of Otago, so long as it may be worked by the Government under the existing or any subsequent agreement made by the Minister for Public Works for that purpose with the person or persons owning the said railway (hereinafter called "the company"), shall, for all purposes of conducting traffic, or for levying fares, rates, and other charges, or for the operation of by-laws and regulations in connection therewith, be deemed to be a railway constructed under and subject to the provisions of the Public Works Act, 1882, and any Act amending that Act. But the said railway is the property of the company, and in the event of the Government ceasing to work it as aforesaid the Governor in Council may empower the company to work and maintain the said railway under and subject to such provisions of the said Acts and on such terms and conditions as he shall from time to time prescribe, and the provisions of the said Acts so prescribed shall take effect and be operative accordingly.

The Kaihu Valley Railway Extension Act, 1895: Sections 2 and 3.

Governor may enter
into contract for
extension of Kaihu
Valley Railway.
1895, No. 62, sec. 2

2. The Governor may, in the name and on behalf of Her Majesty, undertake or enter into contracts for the construction of an extension of the Kaihu Valley Railway for a distance of three miles or thereabouts from the present terminus at Opanake to a point adjacent to the Waima River, the termini of which said extension and the line thereof are respectively shown on plans deposited in the office of the Minister for Public Works at Wellington, and marked P.W.D. 17574.

How cost to be
defrayed.

The cost of constructing such extension, or of acquiring or purchasing any land required for the same, shall be paid out of moneys appropriated for that purpose by the General Assembly.

Public Works Act
incorporated.
Ibid., sec. 3

3. The Public Works Act, 1894, so far as applicable, is hereby incorporated with this Act; and any portion of such extension now wholly or partially made shall be deemed to have been made and may be finished under the authority of this Act.

The Paeroa-Waihi Railway Act, 1903: Sections 2 to 4.

Power to raise
£75,000.
1903, No. 61, sec. 2

2. (1.) In order to raise funds for the completion of the railway authorized to be constructed between Paeroa and Waihi, the Colonial Treasurer is hereby authorized to create and issue debentures, having a currency of not less than eight years, and bearing interest at the rate of three per centum per annum, to such an amount as will at ninety-three pounds ten shillings for every hundred pounds realize the sum of seventy-five thousand pounds.

(2) The provisions of the Aid to Public Works and Land Settlement Act, 1903, relating to the creation and issue of debentures under that Act shall, *mutatis mutandis*, apply to the creation and issue of the debentures authorized by this Act.

Application of
money.
Ibid., sec. 3

3. The money obtained on the sale of the said debentures shall be paid into a separate account within the Public Works Fund, and shall be applied solely to the construction of the said railway, and the said railway shall be completed and made available for traffic as soon as may be found practicable.

Appropriation.
Ibid., sec. 4

4. The expenditure incurred in the construction of the said railway since the thirty-first day of March last may be transferred and charged to the separate account aforesaid, and such expenditure, together with all subsequent expenditure incurred in the construction of the said railway, may be charged to the said separate account without further appropriation than this Act.

The Waikaka Branch Railway Act, 1905: Sections 2 to 5.

Railway authorized,
1905, No. 23, sec. 2

2. The Governor may, in the name and on behalf of His Majesty, undertake or enter into contracts for the construction of the railway mentioned in the Schedule hereto.

Power to raise
£50,000.
Ibid., sec. 3

3. (1) In order to raise funds for the construction of the said railway, the Colonial Treasurer is hereby authorized to create and issue debentures, having a currency of not less than eight years, and bearing interest at the rate of three per centum per annum, to such an amount as will, at ninety-three pounds ten shillings for every hundred pounds, realize the sum of fifty thousand pounds.

(2) The provisions of the New Zealand Loans Act, 1904, shall apply to the debentures created and issued under the authority of this Act.

4. The money obtained on the sale of the said debentures shall be paid into a separate account within the Public Works Fund, and shall be applied solely to the construction of the said railway, and the said railway shall be completed and made available for traffic as soon as may be found practicable.

Application of money.
1905, No. 23, sec. 4

5. The expenditure incurred in the construction of the said railway may be charged to the said separate account without further appropriation than this Act.

Appropriation.
Ibid., sec. 5

THE RAILWAYS AUTHORIZATION ACT, 1909: SECTIONS 6 AND 7.

Sentry Hill - New Plymouth Railway Deviation.

6. (1) With respect to the land mentioned in section five of the Sentry Hill - New Plymouth Railway Deviation Act, 1905, and with respect to such part of the land taken or otherwise acquired for the purposes of the railway authorized by that Act as is not now required for the purposes of the railway, the following provisions shall apply:—

Disposal of surplus lands on the Sentry Hill to New Plymouth Branch.
1909, No. 34, sec. 6

(a) The Minister of Railways may from time to time cause the said lands or any part thereof to be offered for sale by public auction or public tender, in such manner and subject to such terms and conditions as he thinks fit.

(b) If on any land being offered for sale by public auction or public tender as aforesaid that land is not sold, the said Minister may within twelve months after the land was so offered for sale sell the same by private contract at a price not less than that at which the land is valued by some competent person appointed for the purpose by the said Minister.

(2) The proceeds of any such sale shall be paid into the Public Works Fund and form part of the Public Account.

(3) So much of the Ninth Schedule to the Public Works Act, 1908, as relates to section five of the Sentry Hill - New Plymouth Railway Deviation Act, 1905, is hereby repealed.

Repeal.

Hutt Railway and Road Improvement.

7. (1) With respect to the lands reclaimed or otherwise acquired under the authority of the Hutt Railway and Road Improvement Act, 1903, or otherwise acquired for the purposes of the railway and other works authorized by that Act, and not now required for the purposes of that Act, the following provisions shall apply:—

Disposal of surplus lands on the Hutt Railway.
Ibid., sec. 7

(a) The Minister of Railways shall offer the fee-simple of the said lands at a price to be fixed by some competent valuer appointed by him for the purpose to the owners of the adjoining private property.

(b) If in the case of any of the said lands such offer is not accepted within three months after the date on which the same was made, or if the owner of the adjoining private land is not known, the said land may be granted in satisfaction or part satisfaction of any claim for compensation for land taken or acquired for the purposes of the last-mentioned Act in all respects as provided by section eighty-six of the Public Works Act, 1908, and the value of the land so granted shall be deemed to be the proceeds of the sale of that land.

(c) If in the case of any of the said lands such offer is not accepted within the aforesaid three months the owner of the adjoining private land to whom the offer was made shall have no claim to compensation on account of loss of frontage to the Hutt Road.

(d) Such of the said lands as are not disposed of under paragraphs (a) or (b) of this section shall be offered for sale by public auction or public tender in such manner and subject to such terms and conditions as the Minister of Railways thinks fit.

(e) If on any land being offered for sale as aforesaid the land is not sold the said Minister may, within twelve months after the land was so offered for sale, sell the same by private contract at a price not less than that at which the land is valued by some competent person appointed for the purpose by the said Minister.

(2) This section is in substitution for subsection one of section six of the Hutt Railway and Road Improvement Act, 1903, and that subsection is hereby accordingly repealed.

Repeal.

The Railways Authorization Act, 1924: Section 3.

How cost to be
defrayed.
1924, No. 36, sec. 3

3. The cost of constructing such railways shall be paid out of moneys to be appropriated for that purpose by Parliament :

Provided that on the completion of the railway which by this Act is authorized to be constructed along Quay Street, in the City of Auckland, the Minister of Public Works shall furnish to the Auckland Harbour Board a detailed statement of the actual cost of the construction of that railway, certified as correct by the Controller and Auditor-General, and the said Harbour Board shall thereupon be required and empowered to pay the amounts so certified into the Public Account to the credit of the General Purposes Account of the Public Works Fund.

Section 215.
1908, No. 160,
Sixth Schedule.

SEVENTH SCHEDULE.

RANFURLY, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, this twenty-third day of July, 1900.

Present : HIS EXCELLENCY THE GOVERNOR IN COUNCIL.

WHEREAS, in pursuance and exercise of the powers conferred by the one-hundred-and-twenty-third section of an Act of the General Assembly of New Zealand intituled the Railways Construction and Land Act, 1881, the Governor of the Colony of New Zealand did, on or about the twenty-fifth day of May, one thousand eight hundred and ninety-five, take possession of and assume the management of two several lines of railway partly constructed by the New Zealand Midland Railway Company (Limited), and being the lines of railway from Springfield to Brunnerton and from Brunnerton to Belgrove, more particularly mentioned and described in a certain deed of contract bearing date the third day of August, one thousand eight hundred and eighty-eight, and expressed to be made between Her Majesty the Queen of the one part and the New Zealand Midland Railway Company (Limited) of the other part, which said deed was entered into and executed pursuant to the provisions of the Midland Railway Contract Act, 1887 : And whereas the said lines of railway are hereinafter referred to as "the railway" : And whereas certain expenditure of public money has been entailed in and about the completion of the railway and in conducting the traffic on the railway, and accounts of the outlay and expenditure of public money so entailed and incurred, crediting the said company with all earnings and receipts of the railway, have been computed and rendered to the said company as provided by the Railways Construction and Land Act, 1881 : And whereas the said company failed after the Governor had taken possession as aforesaid to repay sums of public money which have been expended towards completing the railway and the equipment thereof, and sums of public money which have been expended on the repair and management of the railway and in connection therewith in excess of the receipts therefrom, which sums of public money have been shown to be due from the said company to the Governor by accounts computed and rendered as aforesaid after crediting the said company as aforesaid : And whereas such failure and default by the said company had continued with respect to certain of such sums of public money for the space of more than one year at the date of the notice hereinafter referred to : And whereas by a document bearing date the eleventh day of April, one thousand nine hundred, under the hand of the Governor of the Colony of New Zealand, notice was given to the said company that at the expiration of the period of three months from the date of service thereof the Governor intended to retain the railway as Government property : And whereas the said period of three months has now expired, and the said company has failed as well during that period as before to repay the said sums of public money, and no arrangement has in the meantime been made between the Governor of the Colony of New Zealand and the said company :

Now, therefore, His Excellency the Governor of the Colony of New Zealand, by and with the advice and consent of the Executive Council of the said colony, and in exercise of the powers and authorities vested in him by the one-hundred-and-twenty-sixth section of the Railways Construction and Land Act, 1881, and of every other power and authority him in this behalf enabling, doth hereby declare that possession of the railway has been taken as aforesaid, and will be permanently retained by the Government, and accordingly doth hereby declare and direct that the two several lines

of railway from Springfield to Brunnerton and from Brunnerton to Belgrove, and the land whereon the same are constructed and that may be used therewith respectively, and all works, buildings, rolling-stock, machinery, and plant of every kind connected therewith respectively, and the right to construct and work the same respectively, and all the powers and privileges belonging and appertaining thereto respectively, and all stations connected therewith respectively, and all plant, equipments, and appurtenances belonging thereto respectively, shall become and be absolutely vested in Her Majesty the Queen.

ALEX. WILLIS,

Clerk of the Executive Council.

EIGHTH SCHEDULE.

Section 275.

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.

1910, No. 66,
First Schedule.

NINTH SCHEDULE.

Section 345.

ENACTMENTS OF FORMER ACTS CONTINUED IN FORCE.

1908, No. 160,
Seventh Schedule.

The Railways Construction Act, 1878, No. 45, ss. 8, 9, 11.

(a) Notwithstanding anything contained in the Ellesmere and Forsyth Reclamation and Akaroa Railway Trust Act, 1876 (hereinafter called "the said Act"), all moneys now standing to the credit of the special account required to be kept by the sixteenth section of the said Act, or that may be standing to the credit of the Public Trustee for the purposes of the said Act, shall be and the same are hereby transferred to the Public Account.

Moneys to credit of Ellesmere and Forsyth Reclamation and Akaroa Railway Trust Account transferred to Public Account.

(b) The whole proceeds of the sale or disposal of the fifty thousand acres of land mentioned in the said sixteenth section shall, together with all moneys transferred under the last preceding section, be paid into a separate account in the Public Account.

Proceeds of disposal of 50,000 acres mentioned in said Act to be paid into Public Account.

[Section 10 repealed.]

(c) All moneys transferred, paid, or received under the provisions of sections eight, nine, and ten shall be applied in the construction and maintenance of a line of railway to Little River, and thence to Akaroa, from the main line from Amberley to Waitaki, or from a branch of the said line; and the Colonial Treasurer may from time to time cause all or any part of such moneys to be issued and applied accordingly.

Application of moneys paid into Public Account as aforesaid.

The Public Works Act, 1879, No. 44, s. 7.

This Act shall be deemed to be a special Act authorizing the construction of each of the railways specified in the First Schedule, and such of them as have been finished shall be deemed to have been made, and such as are unfinished may be completed, under the provisions of the said Act,* the Public Works Act 1876 Amendment Act, 1878, and this Act.

Railways deemed to be made under Act.

FIRST SCHEDULE.

Railways authorized to be constructed.

Railways authorized to be constructed.

Short Title.	Description.
<i>North Island.</i>	
Kawakawa	From Kawakawa Coal-mine to the Shipping-place.
Whangarei-Kamo	From Kamo Coal-mine to the Shipping-place.
Kaipara-Waikato	From Kaukapakapa to Te Awamutu, with a branch from Auckland to Onehunga.
Waikato-Thames	From Waikato to the Thames, being a line from a junction with the line from Kaukapakapa to Te Awamutu, at a point near Hamilton, to Grahamstown, passing by Hamilton, Te Aroha, and Ohinemuri.

* The Public Works Act, 1876.

FIRST SCHEDULE—continued.
 Railways authorized to be constructed—continued.

Short Title.	Description.
<i>North Island—continued.</i>	
Wellington-Napier ..	From Wellington to Napier, by Woodville, with a branch from Woodside to Greytown.
Wellington-Foxton ..	From Wellington to Foxton, by Johnsonville and Porirua.
Foxton - New Plymouth	From Foxton to New Plymouth, with branches from the Main Line, as follows :— From Bunnythorpe to Woodville. From the Taonui Siding to the Feilding Gorge Road. From Greatford to Bull's. From a point near Kakaramea to Carlyle. From Sentry Hill to Waitara.
<i>Middle Island.</i>	
Nelson-Greymouth ..	The section from Nelson to Roundell, and the section from Greymouth to Nelson Creek, with Harbour-works at Greymouth.
Greymouth-Hokitika ..	From Greymouth to Hokitika.
Westport-Ngakawau ..	From Westport to the Ngakawau River.
Picton-Hurunui ..	The section from Picton to Awatere.
Hurunui-Waitaki ..	From the Hurunui River to the Waitaki River, passing by Amberley, Rangiora, Kaiapoi, Christchurch, Ashburton, and Timaru, with branches from the Main Line as follows :— From Rangiora to Oxford. From Kaiapoi to Eyreton. From Christchurch to Lyttelton. From the Racecourse to Southbridge, with a sub-branch to Little River, and thence to Akaroa. From Rolleston to Springfield Colliery, with a sub-branch to the White Cliffs. From the Main Line to Upper Ashburton. From the Washdyke to Opawa, Fairlie Creek, and Burke's Pass. From the Main Line to Waimate. The section from Amberley to Waikari.
Canterbury Interior Main Line	From Oxford to Temuka.
Waitaki-Bluff	From the Waitaki River to the Bluff, passing by Oamaru, Palmerston, Port Chalmers, Dunedin, Balclutha, and Invercargill, with branches from the Main Line as follows :— From Main Line to Duntroon. From Main Line to Ngapara, with a sub-branch to Livingston. From Main Line to Port Moeraki. From Main Line to Shag Point. From Main Line at Palmerston to Waihemo. From Sawyer's Bay to Port Chalmers. From Main Line to the Brighton Road. From Mosgiel to Outram. From Clarksville (Tokomairiro) to Lawrence. From Main Line to Catlin's River. From Waipahi to Heriot Burn. From Edendale to Toitosis.
Otago Central	From Dunedin to Albert Town, Lake Wanaka.
Waimea-Switzers ..	From Waimea Plain to Switzers.

FIRST SCHEDULE—continued.

Railways authorized to be constructed—continued.

Short Title.	Description.
<i>Middle Island—continued.</i>	
Invercargill-Kingston ..	From Invercargill to Kingston (Lake Wakatipu), passing by Winton, Lumsden, and Athol, with a branch from Lumsden to the Mararoa River.
Western Railways ..	From the Invercargill-Kingston Line, at the Makarewa River, to Riverton and Orepuki, with a branch to Otatau and the Nightcaps Coalfield.

The Public Works Act, 1879, No. 44, s. 13.

This Act shall be deemed to be a special Act authorizing the construction of each of the water-races specified in the Third Schedule, and such of them as have been finished shall be deemed to have been made, and such as are unfinished may be completed, under the provisions of the Public Works Act, 1876, the Public Works Act 1876 Amendment Act, 1878, and this Act.

Water-races deemed to be made under Act.

THIRD SCHEDULE.

Water-races authorized to be constructed by the Government.

- | | |
|---|----------------------------|
| 1. Thames. | 4. Mount Ida. |
| 2. Waimea, including extension to Kumara. | 5. Waipori Sludge-channel. |
| 3. Nelson Creek. | 6. Four-mile. |
| | 7. Mikonui. |

The Public Works Act, 1879, No. 44, s. 32.

It shall be lawful for the Governor in Council from time to time, on being satisfied that the expenditure on any of the district railways specified in the Fourth Schedule hereto, by the company constituted for the purpose of constructing the same, has been economically expended, to guarantee upon such terms, conditions, and subject to receiving such security as the Governor in Council may approve, the debentures or mortgages to be given by any such company, for a sum in the aggregate not exceeding seventy-five per centum of the expenditure of the company upon the construction and laying of any railway-line constructed by them, and the erecting and building of any buildings and erections, and the purchase of rails or rolling-stock in connection therewith, being the property of the company; and the Governor may execute any instrument for completing or perfecting such guarantee on behalf of the colony: Provided always that the total amount of debentures or mortgages so guaranteed shall not exceed in the aggregate the sum of sixty thousand pounds.

Governor may guarantee debentures or mortgages, to be given by any railway company mentioned in Fourth Schedule, for a sum not exceeding 75 per cent. upon construction, &c., of railway.

FOURTH SCHEDULE.

Waimea Plains Railway Company (Limited).
 Duntroon and Hakateramea Railway Company (Limited).
 Waimate Railway Company (Limited).
 Rakaia and Ashburton Forks Railway Company (Limited).

The Public Works Acts Amendment Act, 1889, No. 19, s. 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:

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

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 authorized 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 :
- (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 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 has 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

* The Public Works Act, 1882.

TENTH SCHEDULE.

ENACTMENTS REPEALED.

- 1908, No. 160.—The Public Works Act, 1908.
1908, No. 237.—The Railways Authorization Act, 1908.
1908, No. 241.—The Public Works Amendment Act, 1908.
1909, No. 19.—The Public Works Amendment Act, 1909.
1909, No. 34.—The Railways Authorization Act, 1909.
1910, No. 52.—The Railways Authorization Act, 1910.
1910, No. 66.—The Public Works Amendment Act, 1910.
1910, No. 80.—The Reserves and other Lands Disposal and Public Bodies Empowering Act, 1910 : Section 98.
1911, No. 21.—The Public Works Amendment Act, 1911.
1911, No. 26.—The Railways Authorization Act, 1911.
1912, No. 45.—The Railways Authorization Act, 1912.
1913, No. 27.—The Railways Authorization Act, 1913.
1913, No. 38.—The Public Works Amendment Act, 1913.
1914, No. 67.—The Railways Authorization Act, 1914.
1915, No. 46.—The Railways Authorization Act, 1915.
1915, No. 68.—The Reserves and other Lands Disposal and Public Bodies Empowering Act, 1915 : Section 127.
1917, No. 26.—The Reserves and other Lands Disposal and Public Bodies Empowering Act, 1917 : Section 119.
1918, No. 4.—The Finance Act, 1918 (No. 2) : Section 35.
1919, No. 34.—The Railways Authorization Act, 1919.
1920, No. 73.—The Railways Authorization Act, 1920.
1920, No. 81.—The Tramways Amendment Act, 1920 : Section 2.
1923, No. 29.—The Public Works Amendment Act, 1923.
1924, No. 36.—The Railways Authorization Act, 1924.
1924, No. 46.—The Public Works Amendment Act, 1924.
1925, No. 40.—The Native Land Amendment and Native Land Claims Adjustment Act, 1925 : Section 10.
1925, No. 47.—The Public Works Amendment Act, 1925.
1927, No. 67.—The Native Land Amendment and Native Land Claims Adjustment Act, 1927 : Section 15.
1927, No. 69.—The Public Works Amendment Act, 1927.
1928, No. 15.—The Public Works Amendment Act, 1928.