

Provincial Acts Validation Act 1867

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An Act to Validate certain Provincial Acts and Ordinances also to give the force of Law to certain Bills passed by Provincial Legislatures and disallowed by the Governor.

Preamble.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows that is to say—

1 Short Title.

The Short Title of this Act shall be “The Provincial Acts Validation Act 1867.”

2 Acts or Ordinances mentioned in schedule to be deemed legal and valid.

All the Acts or Ordinances or such parts thereof as are mentioned in the first Schedule hereto shall be deemed to have been from the date of the assent of the Governor or officer administering the Government of the Colony or of the assent of the Superintendent of any Province on behalf of the Governor as the case may be legal and valid and all things done in pursuance of any such Acts or Ordinances shall be deemed to have been as legally done and as valid as if done after the passing of this Act Provided however that any moneys which have before the passing of this Act been paid or recovered or shall hereafter be paid or recovered for or on account of a certain rate made or pretended to be made under “The Picton Improvement Act 1861” and which rate the Court of Appeal in a suit Bagge *versus* Sinclair declared invalid shall be retained by the Board of Works and deemed to be a payment on account of any rate to be hereafter made under the said Act on the property in respect of which such money shall have been paid Provided also that nothing in this Act shall affect

the rights or liabilities of the parties to the suit *Bagge versus Sinclair* so far as the same were determined in and by the judgment of the Court of Appeal made therein.

3 Legalizing Highways Act (Wellington).

The provisions contained in the several clauses of the Bill of the Provincial Council of the Province of Wellington passed in the last session thereof and of which a copy is set forth in the third Schedule hereto intituled "An Act to Amend and Consolidate the Laws relating to District Highways" shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and such provisions shall be read and construed as if the words "General Assembly of New Zealand in Parliament assembled and by the authority thereof" were substituted in lieu of the words "Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof" where they occur immediately after the words "enacted by the."

4 Legalizing Fencing Act (Wellington).

The provisions contained in the Bill of the Provincial Council of the Province of Wellington passed in the last session thereof and of which a copy is set forth in the second Schedule hereto intituled "An Act to Consolidate and Amend the Laws relating to Fencing within the Province" shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and such provisions shall be read and construed as if the words "General Assembly of New Zealand in Parliament assembled and by the authority of the same" were substituted in lieu of the words "Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof" where they occur immediately after the words "enacted by the."

5 Force of law given to certain Bills of the Provincial Council of Otago.

The provisions contained in the Bill of the Provincial Council of the Province of Otago and of which a copy is set forth in the first part of the fourth Schedule hereto shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and the provisions contained in the Bill of the said last-mentioned Provincial Council and of which a copy is set forth in the second part of the said fourth Schedule shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and the provisions contained in the Bill of the said last-mentioned Provincial Council and of which a copy is set forth in the third part of the said fourth Schedule shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the present session of the General Assembly and

shall take effect accordingly and such provisions shall be read and construed as if the words “General Assembly of New Zealand in Parliament assembled and by the authority of the same” were substituted in lieu of the words “Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof” where they occur in the said Bills immediately after the words “enacted by the.”

6 Force of law given to certain Bills of the Provincial Council of Marlborough.

The provisions contained in the Bill of the Provincial Council of the Province of Marlborough and of which a copy is set forth in the first part of the fifth Schedule hereto shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and the provisions contained in the Bill of the said last-mentioned Provincial Council and of which a copy is set forth in the second part of the said fifth Schedule shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and such provisions shall be read and construed as if the words “General Assembly of New Zealand in Parliament assembled and by the authority of the same” were substituted in lieu of the words “Superintendent of the Province of Marlborough with the advice and consent of the Provincial Council thereof” where they occur in the said Bills immediately after the words “enacted by the.”

7 Force of law given to a certain Bill of Province of Hawke’s Bay.

The provisions contained in the Bill of the Provincial Council of the Province of Hawke’s Bay and of which a copy is set forth in the sixth Schedule hereto shall be deemed to have the force of law as if such provisions had been incorporated in an Act of the General Assembly of this present session and shall take effect accordingly and such provisions shall be read and construed as if the words “General Assembly of New Zealand in Parliament assembled and by authority of the same” were substituted in lieu of the words “Superintendent of the Province of Hawkes Bay with the advice and consent of the Provincial Council thereof” where they occur in the said Bill immediately after the words “enacted by the.”

8 Act to continue till end of next session.

This Act shall continue in force until the end of the next session of the General Assembly and no longer.

FIRST SCHEDULE

By what Legislature passed.	Title or Short Title of Act or Ordinance.
The Superintendent and Provincial Council of the Province of Auckland	“The City Board Act 1863” No. 7 of Session XV.
	“The City Board Act 1863 Amendment Act” No. 6 of Session XVI.
	“The City Board Act 1863 Amendment Act No. 2 1865” No. 4 of Session XVIII.
	“The Highways Act 1862” No. 5 of Session XIV.
	“The Highways Act 1867” No. 9 of Session XX.
	“The Thistle Act 1858” No. 5 of Session VIII.
	“The Impounding Act 1867” No. 10 of Session XX.
	“The Stamp Act 1863” No. 14 of Session XV.
	“The Diversion of Roads Act 1863” No. 2 of Session XV.
	“The Auckland Municipal Police Act 1862” No. 10 of Session XIV.
	“The Auckland Rural Police Act 1866” No. 2 of Session XIX.
	“The Distress Act 1866” No. 3 of Session XX.
	“The Turnpike Act 1866” No. 4 of Session XX.
	“The Turnpike Act Amendment Act 1866” No. 4 of Session XX.
The Superintendent and Provincial Council of the Province of Taranaki	“The Roads and Bridges Ordinance 1858” No. 1 of Session VI.
	“The Town Board of New Plymouth Ordinance 1863.”
The Superintendent and Provincial Council of the Province of Wellington	“An Act to make further provisions relative to Fencing within districts of the Province” No. 13 of Session I.
	“An Act to establish and regulate Markets” No. 12 of Session I.
	“An Act to repeal the Wellington Town Board Act and make other provision for the management of the City of Wellington” No. 11 of Session XIII.
	“An Act to provide for the management of the Streets Sewerage and Drainage in towns and populous places and the preservation of the health of the inhabitants thereof” No. 7 of Session II.
	“The Drainage Act 1863” No. 7 of Session X.
	“The Public Boards Act 1856” No. 2 of Session III.
	“An Act to amend and consolidate the Law relating to District Highways” No. 10 of Session IX.

By what Legislature passed.	Title or Short Title of Act or Ordinance.
	<p>“An Act to vest in a Board of Wardens for the management of Local Public Works and matters the management of the Streets Sewerage and preservation of the health of the inhabitants of the Town of Wanganui” No. 8 of Session IX.</p> <p>“An Act to amend and consolidate the laws relating to Scab Catarrh and Sheep Inspectors.”</p> <p>Sections 1 2 and 6 of “An Act to authorize the Superintendent to cause a Wharf to be erected in the Harbour of Port Nicholson” No. — Session VIII. Assented to May 29, 1861.</p>
The Superintendent and Provincial Council of the Province of Nelson	<p>“An Ordinance to provide for altering roads in the Province of Nelson 1855” No. 4 Session II.</p> <p>“An Act to provide for the making and maintaining of roads and other public works in the Province of Nelson” except clauses 4 5 6 7 9 26 27 32 and 33 1856 No. 4 Session III.</p>
The Superintendent and Provincial Council of the Province of Nelson	<p>“The Country Roads Amendment Act 1858” No. 12 Session V.</p> <p>“The Country Roads Amendment Act 1863” No. 2 Session X.</p> <p>“An Act to provide for the improvement of the Town of Nelson 1856” No. 3 Session III except clauses 3 4 5 6 7 9 11 29 31 32 33 34 35 38 and 40.</p> <p>“An Act to amend the Nelson Improvement Act 1856” and to repeal “The Nelson Improvement Amendment Act 1857 1858” No. 11 Session V.</p> <p>“An Act to amend the “Nelson Improvement Act 1856 1862” No. 8 Session IX.</p>
The Superintendent and Provincial Council of the Province of Marlborough	<p>“Picton Improvement Act 1861” No. 5 of Session V.</p> <p>“An Act to amend the Picton improvement Act” No. 1 of Session VII. 1863.</p> <p>“Blenheim Improvement Act 1864.”</p>
The Superintendent and Provincial Council of the Province of Canterbury	<p>“The Roads Ordinance 1864” No. 18 of Session XXII.</p> <p>“The Roads Ordinance Amendment Ordinance 1866” No. 20 of Session XXIV.</p> <p>“The Roads Ordinance Amendment Ordinance 1867” No. 12 of Session XXVI.</p> <p>“The Christchurch City Council Ordinance 1862.”</p> <p>“The Lyttelton Municipal Council Ordinance 1863.”</p> <p>“The Hokitika Municipal Council Ordinance 1867.”</p> <p>“Municipal Council Ordinance” No. 2 Session XIV.</p> <p>“The Sheep Rating Ordinance 1866.”</p>

By what Legislature passed.	Title or Short Title of Act or Ordinance.
	<p>“The Sheep Rating Ordinance 1866 Amendment Ordinance 1867.”</p> <p>“The Fencing Ordinance 1866.”</p> <p>“The Fencing Ordinance 1866 Amendment Ordinance 1867.”</p> <p>“The Roads Ordinance 1864.”</p> <p>“The Roads Ordinance Amendment Ordinance 1866.”</p> <p>“The Roads Ordinance Amendment Ordinance 1867.”</p> <p>“The Gibson Quay Ordinance 1866.”</p> <p>“The Gibson Quay Ordinance Amendment Ordinance 1867.”</p> <p>“The Beswick Wharf Ordinance 1864.”</p> <p>“The Fire Ordinance 1864.”</p> <p>“The Sheep Ordinance 1864.”</p> <p>“The Education Ordinance 1864.”</p> <p>“The Hospital and Charitable Act Ordinance 1864.”</p> <p>“The Railway Carriage Ordinance 1864.”</p> <p>“The Waimakariri Bridge Ordinance 1863.”</p> <p>“The Heathcote Bridge Ordinance 1862.”</p> <p>“The Dog Nuisance Ordinance” No. 3 Session XVII.</p> <p>“The Dog Nuisance Ordinance Amendment Ordinance 1862.”</p>
The Superintendent and Provincial Council of the Province of Otago	<p>“Otago Roads Ordinance 1865” No. 190 of Session XX.</p> <p>“Otago Roads Ordinance 1865 Extension and Amendment Ordinance” No. 90 of Session XXL</p> <p>“The Otago Municipal Corporation Ordinance 1865.”</p> <p>“An Ordinance to Amend the Otago Municipal Corporation Ordinance 1865.”</p> <p>“The Otago Municipal Corporations Ordinances Amendment Ordinance 1866.”</p>
The Superintendent and Provincial Council of the Province of Southland	<p>“Invercargill Town Board Ordinance 1863.”</p> <p>“The Roads Ordinance 1862” No. 19 of Series.</p> <p>“The Tolls Ordinance 1866” No. 65 of Series.</p> <p>“The Roads Ordinance 1862 Amendment ordinance 1867.”</p>

SECOND SCHEDULE***An Act to consolidate and amend the Laws relating to Fencing within the Province.***

[Assented to 11th June, 1867.]

Preamble.

Whereas it is necessary to consolidate and amend the Laws relating to Fencing within the Province

1 Repealing clause.

Be it therefore enacted by the Superintendent of the Province of Wellington with the advice and consent of the Provincial Council thereof as follows namely—The Ordinance of Session VIII. of the Legislative Council of the Colony numbered 8 called “The Fencing Ordinance” and the Act of the Provincial Council Session I. No. 13 are hereby repealed.

2 Half cost of fence already erected to be paid.

If any person after the passing of this Act shall have erected a sufficient fence dividing his land from the adjoining land the owner of the land adjoining shall be liable to pay the owner of the land who shall have erected such fence half the value thereof or such part of it as shall serve as a dividing fence between their respective land.

3 After notice owner of land may erect fence.

The owner of any land not having a sufficient dividing fence between it or any part of it and the adjoining land may by writing require the owner of such adjoining land (except such land as shall be held of the Crown by temporary occupation only) or his agent to assist in making any dividing fence between their respective lands in equal proportions If the owner of such adjoining land or his agent shall refuse or neglect for fourteen days to assist in making or having commenced shall not use due diligence in completing such dividing fence after a requisition as aforesaid shall have been given to him or left for him at his usual or last known place of abode or shall not give to the owner who shall have made such requisition a sufficient excuse for not having complied therewith it shall be lawful for the owner who shall have given or left such requisition and who shall have made or erected his share of such dividing fence to complete or contract with any other person to complete the other portion of it The owner who shall have neglected or refused or whose agent shall have neglected or refused to assist in making or completing such dividing fence shall be liable to pay to the owner of the land who shall have completed the same half of the costs of erecting or making the whole dividing fence Any necessary expense incurred in cutting a boundary line through bush for the purpose of erecting a boundary fence shall on the completion of such fence be deemed an additional part of the cost of the erecting of the same.

4 Half cost of fence which shall be erected to be paid.

If any person shall heretofore have erected or shall hereafter erect a sufficient fence dividing his land or any part of it from any adjoining land which shall not have been duly granted by the Crown or otherwise be held as private property such person shall be authorized to claim and recover from the person to whom such adjoining land may hereafter be granted or leased for any term exceeding three years certain half the value of the said fence or of such part of it as shall divide their respective lands.

5 Owners of land liable for cost of repairs.

When any dividing fence which shall have been or shall be erected shall be out of repair or become insufficient the owners of the land on either side thereof shall be liable to the cost of repairing such fence in equal proportions Either owner may give notice in writing to the other or his agent to assist in repairing such fence and on neglect or refusal of such lastly mentioned owner or his agent so to do for the space of seven days the owner Who shall have given such notice may cause the same to be repaired and made a sufficient fence and shall be entitled to recover from the other owner half the costs thereof Provided however if any fence or any portion thereof shall be destroyed by any accident fire falling of timber or otherwise the occupier of land on either side may immediately repair the same without any notice and shall be reimbursed half the expense of so doing in manner herein provided.

6 Live fences to be trimmed.

In all cases where the dividing fence shall be a live gorse fence the occupiers of the adjoining lands shall each duly trim and keep in order the side of the fence next their own lands and in the event of either of them neglecting to do so then after seven days' notice in writing it shall be lawful for the other owners or occupiers to trim and keep in order such fence at the expense of the party so neglecting For the purpose of making or repairing any boundary fence or for trimming any live gorse fence it shall be lawful for the occupier or owner of any land or any person duly authorized by him from time to time to enter upon that of the adjoining occupier or owner and no action shall accrue to such adjoining occupier or owner by reason of such entry or entries for the purpose of making or repairing any fence.

7 Fences destroyed &c. to be made good.

In case any dividing fence shall be destroyed or injured by reason of the falling of timber thereon or the firing of scrub fern toitoi gorse or flax the owner or occupier of the land on which such timber scrub fern gorse toitoi or flax shall be standing or growing shall be liable to the whole expense of repairing such fence Provided that to make such owners or occupiers liable under this clause it shall be necessary to prove that such owners or occupiers had neglected after due notice been given in writing to clear such timber scrub gorse toitoi fern or

flax from off his or their lands adjoining such dividing fence to the distance of at least half a chain.

8 Definition of sufficient fence.

No fence erected after the passing of this Act shall be considered a sufficient fence unless it consists of mortised posts and four rails the top rail whereof shall not be less than four feet from the ground or shall if it be made in any other way be equal in efficiency to such a fence and after the first day of June one thousand eight hundred and seventy-one no fence shall be considered a sufficient fence unless made in accordance with the provisions of this Act.

9 Provision in case of stream dividing properties.

When any stream or ditch being less than half a chain in its average width which does not form a sufficient fence shall divide two properties and the owner of the land on one side of the stream or ditch shall after having given the requisite notice to the owner of the land on the other side of the stream or ditch have erected a fence on his own land for half the distance between the said properties and the owner of the land on the opposite side shall have refused or neglected to complete a dividing fence by erecting a fence on his own land for the other half of such distance then it shall be lawful for the owner of the land who shall have given such notice and erected such fence as aforesaid and his workmen to enter upon the land on the opposite side of the stream or ditch and erect or cause to be erected thereon a fence in continuation of the fence he shall have erected on his own land for the remainder of the distance between his land and the land on the opposite side of the stream or ditch and connect the said fences in such a way as occasion may require and he may deem most advisable.

10 Provision in case any owner shall rear live fence.

If the owner or occupier of any lands either before or after the passing of this Act shall have planted upon any dividing line a live fence the owner or occupier so planting and rearing such live fence shall be enabled to recover from the adjoining occupier or owner half the expense of planting and rearing such dividing fence so soon as the same shall become a sufficient fence between their respective lands within the intent and meaning of clause eight of this Act Provided always that any sum which may be so recovered shall not exceed the sum of fifteen shillings per chain and the notices as hereinbefore required to be given shall not be deemed requisite nor apply to the planting of live fences.

11 Provision in case owner be absent or cannot be found.

When the owner of any land who shall have erected or shall be desirous of erecting a fence dividing his own from the adjoining land cannot after due inquiry ascertain who is the owner of such adjoining land or when the owner

of any adjoining land shall be absent from the Province or when such owner or his agent cannot be found the insertion in a newspaper published in the district in which such land is situate and if no newspaper be published in such district then in a newspaper published in the City of Wellington of a notice addressed to the owner of such adjoining land requiring him to make or assist in making such fence shall be a sufficient requisition or notice for the purposes of this Act and the owner giving the same may proceed to erect or complete such fence and be entitled to recover half of the value of making completing or repairing the same fence or any portion thereof in like manner as if such requisition as aforesaid had been given to and received by the owner of such adjoining land Such insertion shall be made for four successive weeks if the newspaper be published weekly for two successive numbers if published once in every fourteen days In case the district newspaper be published at longer intervals than fourteen days the notice shall be inserted for four successive weeks in a newspaper published in Wellington No such notice or insertion shall be necessary where assistance or contribution towards repairing any fence shall be required.

12 Limit of amount to be recovered.

The amount to be recovered under this Act for either making or repairing any fence shall in no case exceed a sum equal to the half of a fair contract price for erecting a post and four-rail fence.

For Determining who is the Proper Person to Contribute towards the Expense of Making or Repairing any Fence

13 When occupier of freehold liable.

Where land shall be in *bona fide* and beneficial occupation but the occupier thereof shall not have a greater interest therein than for two years from the time when a contribution towards making any dividing fence shall be demanded the occupier of the freehold shall be the party liable to contribute towards the expense of making any such fence as aforesaid And the owner of such land shall at the expiration of the lease of such occupier pay to such occupier a sum equal to the value of the fence so erected at the time of the expiration of such lease.

14 Occupier liable for repairs.

The beneficial occupier for any period shall be the party liable to contribute towards the repairs of any fencing.

15 This Act not to affect existing covenant or contract.

Provided always that nothing in this Act contained shall avoid or affect any covenant contract or agreement relative to fencing existing at the time of the passing of this Act between any landlord and tenant.

16 Provision for arbitration.

In order to avoid the cost and inconvenience of summoning witnesses to a distant Court in all cases where there shall be natural boundaries and disputes or differences shall arise as to the sufficiency thereof for the purpose of fences or when any disputes or difference shall arise as to the amount of costs to be paid for completing or repairing any fence or the value of or of the sufficiency of any fence for the purpose of recovering contribution towards the making or erecting thereof or any part thereof such differences and all questions and disputes that may arise upon any other question whatsoever under this Act shall be referred to and determined by the arbitration of two persons one of whom shall be named by each party in difference and in case such arbitrators shall not agree upon the matter referred to them within one month it shall be referred to an umpire to be named by such arbitrators previously to entering upon the reference and the decision of such two arbitrators or their umpire shall be final and binding upon the parties in difference The arbitrators or umpire as the case may be shall also have power to award by whom and in what proportions the costs of the reference shall be borne If either of the parties in difference shall neglect or refuse for the space of one month after notice in writing shall have been given to him or left for him at his usual or last known place of abode to name an arbitrator it shall be lawful for the arbitrator named by the party giving or leaving such notice to make an award upon his own judgment and such award shall be as conclusive as if the party refusing or neglecting had named an arbitrator who had joined and concurred therein.

17 Notices how and when to be given.

All notices given under this Act shall be given in writing previous to the commencement of any of the work as herein authorized to which they respectively relate and no person shall be compelled to erect or construct any of the fences or work for which such notices are given till the parties giving such notice shall have performed his share of the work for which they are respectively given.

18 Interpretation clause.

In the construction of this Act the word "owner" shall be taken to include the tenant in fee-simple a tenant in tail a tenant for life and a tenant for any term of years not being less than two years subject to the enactments referring to the persons liable to contribute to the making or repairing of fences.

19 Short Title.

The Short Title of this Act shall be "The Fencing Act 1867."

THIRD SCHEDULE***An Act to amend and consolidate the Laws relating to District Highways.***

[11th June 1867.]

Preamble.

Be it enacted by the Superintendent of the province with the advice and consent of the Provincial Council thereof as follows

1 Certain Acts repealed. Proviso.

The Acts of the Provincial Council Session III. No. 4 Session IV. No. 16 Session IX. No. 10 Session X. No. 4 and Session XIII. No. 4 are hereby repealed Provided that all districts already proclaimed shall continue such for the purposes of this Act till altered under the provisions hereof And all Wardens elected under such mentioned Acts shall after the passing hereof be and become Wardens under this Act and shall hold office as such Wardens till the expiration of the term for which they were originally elected and they may exercise all the powers of this Act for the purpose of levying and collecting rates already imposed and for carrying into effect anything partially executed under the repealed Acts or for the election of and transfer of their powers to a new Board of Wardens to be elected under this Act at the expiration of their term of office or for the convening of meetings of ratepayers or for the performance of any other thing authorized to be done under this Act as fully as if they had been originally elected Wardens under this Act.

2 Interpretation clause.

In the construction of this Act the word "highways" shall signify road bridge cartways horseways bridleways causeways footpaths and all other works forming part thereof or being accessory thereto The word "Board" shall mean "Board of Wardens for the management of Highways" The word "owner" shall mean any person other than the occupier having any interest in the land rated and when by this Act any notice or other document shall be directed to be posted it shall signify "conspicuously posted in some public place" within the district to which such notice or document shall relate.

3 Power to Superintendent to proclaim districts.

The Superintendent with the advice of his Executive Council may for the purposes of this Act from time to time by proclamation divide the Province or any part thereof into districts and may in like manner subdivide alter or reunite the same Provided always that in case of any alteration being proposed in the boundaries of districts already proclaimed six months' notice shall be given in the Government *Gazette* and at least one newspaper published in the Province of the intention to issue such proclamation and the various boards affected shall

be communicated with in order to obtain an expression of the opinion of the ratepayers of such districts.

4 Qualification to vote.

Every person who shall have to his own use in any proclaimed district a freehold estate not let for two years and upwards or a leasehold estate not underlet for two years or upwards and every occupier of land within such district shall be a qualified voter for the district for the purposes of this Act Provided that no ratepayer shall be allowed to vote at any meeting general or special unless he shall have paid all rates which may have been assessed on him or on his land in this district.

5 First annual meeting how to be summoned.

Any Justice of the Peace of any proclaimed district upon the requisition of any five such voters shall (by notice posted and inserted four times at least in some newspaper published within or as near the district to be called "the first annual meeting" who having met at some convenient place within or near the district shall in the first place elect a chairman in the second place elect a Board of Wardens in the third place fix the amount of the rate to be levied severally for the construction repair and maintenance of the highways of such district and in the fourth place shall appoint two auditors of accounts provided that no member of the Board shall be eligible to be an auditor And it shall be lawful for any Justice of the Peace at any time on the requisition of five voters of the district to convene a general meeting of the voters such meeting to be called by notice posted and inserted four times at least in some newspaper published within or as near the district as may be and to be held at some place within the district at which meeting the voters may in case no Board of Wardens shall have been legally elected or a valid rate imposed at any annual or previous meeting elect a Board of Wardens or impose a rate and do and determine any other act matter or thing which may be necessary or expedient for the purpose of carrying out any of the provisions of this Act.

6 Regulation of voting at meetings.

At all meetings held in pursuance of this Act the chairman shall have an original and casting vote and every question shall be decided by a majority of votes Every voter must be present in order to enable him to record his vote or votes and the number of votes to which each voter is entitled shall be calculated according to the Schedule of this Act but in all meetings of the Board each Warden shall only have one vote except the chairman who shall have an original and casting vote.

7 Board how constituted. Names of Board to be published.

The Board shall consist of not less than four nor more than six persons being such qualified voters as aforesaid Each of them shall hold office for two years

from the day of his election or till he shall die become bankrupt or insolvent a public defaulter or a convicted felon or shall cease to be qualified as a voter for the district or shall resign or shall not have attended any meeting of the Board for three consecutive meetings held at intervals of not less than one month or shall directly or indirectly be interested in any contract under the Board and if from any such cause the Board shall be reduced to less than four members the surviving or continuing members shall so often as the same may happen by notice given as aforesaid convene a meeting of voters who shall forthwith by election fill up the vacancies and the persons so elected shall hold office until the following general election of wardens The names of the Board when elected and of all persons elected to supply vacancies therein and of the chairman shall be communicated by the chairman to the Provincial Secretary who shall publish the same in the Government *Gazette*.

8 Number of Quorum Board how to be summoned.

Three members of the Board shall be a quorum but no business shall be transacted by any Board unless at a meeting summoned by written notice under the hands of two Wardens or of the chairman of the Board and left at the usual place of abode of every other Warden at least three clear days before such meeting Provided that when all the members of any Board consent such Board may transact business at any meeting fixed unanimously without being summoned by written notice left at the usual place of abode of every Warden at least three clear days before any such meeting.

9 Board to elect chairman.

The Wardens shall so soon as may be after their election choose one of their body to be their chairman who shall hold that office till the termination of the two years for which the Board shall have been elected unless he shall die resign or become disqualified for the office of Warden as aforesaid in which case the surviving or continuing Wardens shall forthwith elect another chairman and so from time to time as occasion may require.

10 Duties of the Board.

Power to Superintendent to act in case of Board neglecting.

The duty of the Board shall be to make maintain and repair all highways other than main roads within the district and generally to carry the provisions of this Act into effect Whenever any road district shall have been proclaimed and any roads constructed within it out of funds contributed wholly or in part by rates levied on the land within that district it shall thenceforward be the duty of the Board to maintain all such roads in an efficient state of repair The Board may at any time call a special meeting of the ratepayers for the purpose of imposing a rate to repair any accident which may have occurred to a road within the district or for any other purpose requiring immediate attention one week's notice of such meeting being posted in the district and the ratepayers at any such

meeting may fix and impose and the Board of Wardens may assess and levy the rate so fixed in such and the same manner as they are hereby empowered to fix impose assess and levy a rate fixed at any annual meeting Should the Board fail to keep the roads in the district in an efficient state of repair it shall be competent for any three qualified voters within the said district whose land shall have been heretofore taxed for the construction of any such road to summon the chairman of the Board to appear before the nearest Bench of Magistrates who are hereby empowered after hearing the case to make out an order to the said chairman to have the requisite repair made without further delay Should the Board fail to comply with this order the Superintendent may withhold any contribution to such Board until the necessary repairs shall have been effected by them Should the ratepayers neglect to appoint a Board or refuse to impose a rate the Superintendent is authorized to impose and cause to be levied on the lands of such district a repairing rate not exceeding ninepence per acre and expend the same on the said repairs Such rate to be levied in accordance with the proportions that may have been heretofore fixed by the Board to be levied on the respective lands of the district.

11 Contracts or legal proceedings to be in the name of or against chairman.

All contracts appointments and other matters authorized by any resolution of the Board shall be entered into made and done by the chairman on behalf of the Board and shall thereupon be taken to be the acts of the Board and all suits or other legal proceedings other than for the recovery of rates by or against the Board shall be in the name of or against the chairman thereof and if no chairman then in the name of or against any one of the Wardens but execution shall only be levied on the effects of the Board and shall not in any manner charge or effect the person or private property of the chairman or other member of the Board It shall be sufficient in all cases to describe the property of the Board as such and no suit or other proceeding against the Board. shall abate or be otherwise affected by any change of the members of the Board or the Chairman thereof.

12 Board to keep minutes.

The Board shall keep minutes of its proceedings and accounts of all moneys paid and received by it during the year and the accounts shall be audited by the auditors who shall submit the past year's accounts as audited to every successive annual meeting of the ratepayers before they are called on to vote any fresh rate.

13 Money papers &c. to be handed over to new board.

All balances of money assets books and papers belonging to the Board shall at the expiration of their term of office be handed over to the chairman of the new Board immediately on the election of the latter.

14 Annual meeting of voters to fix rate.

There shall be an annual meeting in every district at such time and place as the Board shall fix notice thereof being given by the Board by posting and advertisements in some newspaper published in or near the district if such there be at least one month before the day of meeting at which annual meeting the voters shall fix the amount of the rates for the construction maintenance and repairs severally of the roads in the district during the ensuing year not exceeding one shilling per acre for construction and ninepence for maintenance and repairs as the majority of voters present at the meeting may decide and transact all other business necessary to be done at such meeting under this Act.

15 At alternate annual meeting new board to be elected.

At every alternate annual meeting a new Board shall be elected the members of the old Board being eligible for re-election.

16 Rates how to be levied and adjusted.

The Board of Wardens shall assess and levy the rates upon the land within the district in the form of an acreage rate but not necessarily an uniform acreage rate and may assess and levy the same at such rate per acre not exceeding the sum of one shilling for construction and ninepence for maintenance and repairs as to the Board may seem equitable with full power to exonerate either wholly or in part any land from such rate.

17 Lands exempted from rate and limitation of rate.

The rates may be levied on all lands within the district except demesne of the Crown Lands granted to or set apart for Aboriginal Natives unoccupied or in their own occupation or lands except by proclamation of the Superintendent and that whether the same shall or shall not have been surveyed or granted.

18 Notice of assessment how to be given.

The Board shall assess the rates imposed as aforesaid on the land liable to the same and post a statement of such assessment specifying the names of the ratepayers so far as the Board can ascertain the same the amount payable and the number of acres for which the same is assessed in each case and shall append to such statement notice of some place within or near the district and some time not less than fourteen days after the posting thereof when and where all objections to such assessment shall be heard and determined by the Board.

19 Board to appoint treasurer and collector—their duties.

The Board shall appoint a treasurer and a collector to collect all rates imposed under this Act and pay the same over so soon as practicable after they are collected into the hands of the treasurer who shall hold all moneys until appropriated by the Board It shall be the duty of the Board to take sufficient security from the collector.

20 Rates how to be recovered.

All rates levied under this Act shall be paid on demand to the collector by the occupier or if there be no occupier by the owner of the rated land and shall be recoverable by summary proceedings at the suit of the collector or by distress of chattels on the premises made by the Board or bailiff appointed in writing But if any such rate or part thereof with the cost of recovering the same cannot be recovered by such proceedings or distress for the space of one month after posting of the assessment the same shall be recovered as directed by “The Sale for Non-payment of Rates Act 1862.”

21 Rates how to be levied and recovered.

In any proceedings to levy and recover or consequent upon the levying or recovering of any rate under the provisions of this Act if any error in the assessment so far as the quantity of land assessed shall appear the burden of proof that the quantity assessed is in excess of the quantity of land held by the owner thereof shall be with such owner and the notice in the *Government Gazette* of the appointment of Wardens shall be sufficient evidence of their appointment and the book of rates of the Board and all entries made therein by the production thereof and without any evidence of the notices and other requirements of this Act having been given or complied with or proof of the signature of the Wardens whose names appear subscribed therein shall be received as evidence of such rates and of the contents thereof and a map or plan certified by some surveyor to be a true map or plan of the district shall be sufficient evidence of the boundaries of such district In all cases whenever a distress is lawfully authorized by the warrant to levy any sum mentioned therein shall upon being required by the collector aid in making a distress or sale pursuant to such warrant.

22 Board may enter on any lands required in the making or diverting of any road—in such case Board how to act owner of land so affected how to act.

When the Board shall intend to make any new or divert any existing highway or construct any work connected therewith it shall respectively have power to enter any land for the purpose of enabling it to accomplish its object and shall make and deposit at the office of the Provincial Secretary a survey plan and section of the intended works and a book in which shall be recorded the names of the owners or occupiers of the land on which such highway is or is intended to be with an estimate of the expense thereof and of the land required for the same and a statement of the amount of compensation proposed to be paid to each of the owners and occupiers of such lands both in respect of the value of the same and also of the damage (if any) done to the adjacent lands of any person by severance or otherwise and where the owner and occupier are not the same person distinguishing the amount of compensation payable in respect of the interest of each. The Board shall also deposit at the house or office in which it usually meets to transact business duplicate survey plans section

books and estimates which, shall be open for inspection at all reasonable hours The above-mentioned original documents shall be open for inspection and extract without charge at the office of the Provincial Secretary at all usual office hours and notice of the same being so deposited shall be inserted in the Government *Gazette* and a notice of the same tenor and date shall be published in one or more of the local papers by order of the Provincial Secretary and a place and time not less than one month from the publication of such *Gazette* shall be fixed for a meeting of the Board to whom any person whose property is affected by such intended work may send in writing any objections or suggestions relative to such works or to the amount of compensation proposed to be paid to such persons and may attend at such meeting personally to enforce such objections or suggestions.

23 Owners or occupiers dissatisfied with amount of compensation how to act.

If any such owner or occupier shall not be satisfied with the amount of compensation proposed to be paid to him and cannot agree with the Board in respect thereof he may at the meeting of the Board lastly mentioned give notice in writing that he desires to refer the matter to arbitrators naming one person in such notice as the arbitrator on his behalf and thereupon the matter shall be referred to the arbitrament of such person and one other chosen by the Board and a third by the two so chosen and such referees shall have power to call for and examine any documents relating to the land in question and to examine witnesses on oath to be administered by any one of them and the award of such referees or any two of them being put in writing and signed shall be final and the same shall be filed in the Supreme Court and upon application by either party be made a rule of Court provided that if either the Board or owner or occupier fail or neglect to appoint an arbitrator for a space of one month from the day of meeting of the Board fixed for receiving objections then the Superintendent shall have power to appoint an arbitrator or arbitrators as the case may be.

24 With respect to cost of arbitration by whom payable.

If a larger amount of compensation shall be awarded than was assessed by the Board it shall pay all the costs of the reference If the same or a less sum shall be awarded the party disputing the assessment shall pay the costs Such costs in every case to be subject to taxation if required by either party by the Registrar of the Supreme Court and if payable by the Board may be paid out of the rates levied under this Act if payable by the other party may be deducted by the Board out of the amount of compensation if any awarded by the referees or may be recovered by legal process summons or otherwise according to the amount.

25 In case the owner of such land be a married woman infant &c. who to appoint arbitrators.

When any land required by the Board shall be owned by a person having only a partial or qualified interest in the freehold or by a married woman infant idiot lunatic or by a trustee or other person without power to sell the amount to be paid for such land shall be settled by arbitration as hereinbefore provided and the person entitled to receive the rents the guardian committee or trustee as the case may be shall be the party entitled to appoint referees and conduct the reference and the purchase money compensation to be paid for any land taken from any such party shall be deposited in the Treasury of the Province and on the petition of any person interested therein be applied or paid as the Supreme Court at Wellington may direct The cost in all such cases shall be paid by the Board.

26 In case owner of land not resident in Province the Superintendent to appoint an agent to act for him.

When any land shall be required for the purposes aforesaid the owner whereof shall not be resident in the Province the Board shall advertise their intention of taking such land twice in some newspapers published within the Province calling on any agents of such owner to appear and act in the matter and if no agent shall appear within one week after the second insertion of such advertisement the Superintendent may appoint some person to act as such agent for the purpose of determining the compensation to be paid to such owner and his acquiescence or reference to arbitration shall bind the owner The amount agreed upon or decided by arbitrators less the reasonable costs of such agent shall be paid into the Provincial Treasury to the credit of the owner of such land who shall be entitled to receive the same with interest on demand.

27 Before commencing works Boards to satisfy Superintendent that there is no opposition thereto.

Before commencing the works of any such highway as aforesaid the Board shall lay before the Superintendent a statement of all objections or suggestions which may have been made to them as aforesaid and shall satisfy him that the several persons on or over whose land it is purposed to construct the same have consented to the direction of any proposed new line of road and have either acquiesced in the assessment of compensation made by the Board or have had the amount thereof settled by arbitration under the provisions hereinbefore contained And thereupon the Superintendent may in writing authorize the Board to construct the intended works and they may enter upon the lands proposed to be taken by them and lay off the site of such works after which the said lands shall become a public highway and vest in the Board for the purposes of this Act.

28 Right of road reservation under Crown Grant.

When a right of making roads shall have been reserved without the lines of roads having been defined and laid down by the Crown in the grant of the land through which any road shall be made such reservation shall apply to one principal road and one cross road and no more.

29 Provision for private footway or horse path.

No road or occupation way made or hereafter to be made by or at the expense of any individual or private person body politic or corporate nor any road already set out or to be hereafter set out as a private footway or horsepath shall be deemed or taken to be a highway which the inhabitants of any district shall be compellable or liable to repair unless the person body politic or corporate shall give three calendar months' notice in writing to the Board of his intention to dedicate such highway to the use of the public describing its situation and extent and shall have made or shall make the same in a substantial manner and of the width of thirty-three feet at the least and to the satisfaction of the Board and after the said highway shall have been used by the public and duly repaired and kept by the said person body politic or corporate for the space of twelve calendar months such highway -shall for ever thereafter be kept in repair by the Board Provided nevertheless that if the said Board shall not deem the said highway of sufficient utility to the inhabitants of the district to justify its being kept in repair at the expense of the district the said Board may so determine and refuse to accept the dedication of the said highway to the public and keep the same in repair.

30 Reserved roads manner in which Superintendent or Board are empowered to deal with them.

When any road shall have been or shall be reserved by the New Zealand Company the Crown or the Provincial Government over any lands held under a Crown Grant and not included within the limits of any proclaimed road district it shall be lawful for the Superintendent by writing to authorize the owner of the land over which the same shall pass to occupy and use such road for pastoral purposes only as if it were part of the land belonging to such person and to erect gates across such road whereon the same may be crossed by any fence Provided that such gates be so hung and fastened that any traveller on horseback can conveniently open and shut the same without dismounting The Board shall also have the power of erecting gates across any road within the limits of any proclaimed district subject to such special regulations as they might find suitable to the state of the traffic.

31 All right to lay off new lines of road in established Road Districts to cease under certain provisions.

Whenever the Board of any district which shall have been proclaimed a road district under this or any former Act for a period of eight years shall have

passed a resolution to the effect that no additional lines of road are required within the district beyond those already laid off surveyed and proclaimed as hereinafter provided for all right to lay off any new lines of road within the district that may have been created in consequence of certain allowances in land given for roads under any land regulations shall cease and determine Provided that a copy of such resolutions shall have been first submitted to and approved of by a majority of the ratepayers at a meeting specially convened for the purpose and another copy thereof so approved and signed by the Chairman of the Board shall have been forwarded to the Provincial Secretary for publication in the Government *Gazette* Provided further that a period of six months shall elapse after the said publication in the Government *Gazette* before this clause shall take effect in order that the Government may have notice to provide if necessary access through such proclaimed districts to any back country and in order that the situation and direction of all existing roads may be better ascertained and determined it shall be the duty of the Board to have all the roads under their management within the district accurately surveyed with a plan thereof lodged in the Crown Lands Office.

32 Power to Crown Lands Commissioner to order accurate surveys.

Should any such plan not be found sufficiently accurate by any Government Surveyor appointed to examine the same the Crown Lands Commissioners may order the Board to have a more accurate survey made.

33 If order neglected by Board Superintendent how to act.

Should the Board neglect or delay to perform this duty the Superintendent may withhold any contribution of money in aid of any such Board until a proper survey shall have been made and lodged So soon as convenient after such survey plans have been lodged as above directed the Superintendent shall issue a proclamation in the Government *Gazette* proclaiming all roads to be public highways.

34 Notice of intention to fence to be given.

Before any owner or occupier of land abutting on such proclaimed road shall proceed to fence he shall give one month's notice in writing of his intention to the Board.

35 Board to replace fencing.

Whenever for any of the purposes of this Act any fencing shall be interfered with whether temporarily or permanently the land protected by such fencing shall be as securely protected by fencing to be made by and at the expense of the Board as it was before.

36 Board to fence both sides of new road.

When any new road shall be constructed through any lands previously enclosed by a substantial fence as required by the Fencing Act the Board before opening the same to the public shall fence with a good and substantial fence both sides of such road so far as it shall run upon such fenced lands Provided always that the Board shall not be called upon to fence any line of road laid off under the provisions of clause 29.

37 Power to Board to enter on land for materials for repairing road.

The Board may enter upon any land near to any highway in course of construction or repair (not being a garden orchard yard or ornamental pleasure ground) and use the same as a temporary road and also may in such lands seek for take and carry away any materials required for repair of such highway and also therein may construct any drains or necessary works in connection therewith Provided that when such land shall be occupied but not otherwise the Board shall at least one week before so doing serve upon the owner of such land or his agent or the occupier thereof notice of their intention so to do and shall when such materials have been taken fill up or securely fence off all holes pits or cuttings and efface as nearly as may be all irregularities and damage done by using such temporary road or by taking such materials and shall pay to the owner or his agent or the occupier (according to the character of the damage) the value of the materials taken and injury done to the premises as may be agreed upon between them or if they cannot agree then as may be awarded by arbitration in like manner as hereinbefore provided in case of land taken for a new highway And provided also that the Board shall not in seeking for or taking such materials divert or dam up the course of any stream or damage the banks thereof so as to cause it to overflow or injure any building road or ford or take materials out of the bed of any stream within one hundred and fifty feet of any bridge.

38 With respect to dangerous trees Board how to act.

If any tree growing on land adjoining any highway shall be injurious to the same by overhanging it shall be in the power of the Board to require the owner to lop all that portion of such tree so overhanging such highway if any tree growing on land adjoining any highway be dangerous to passengers thereon or shall fall thereon from such land the Board may require the occupier of such land or the owner if it be unoccupied to remove the same within two days after notice in writing left at the usual place of abode of such occupier and if such tree shall not be removed accordingly the Board may remove the same at the cost of such occupier or owner to be summarily recovered.

39 Power to Board to dispose of any disused highways.

It shall be lawful for the Board at any time to discontinue the whole or any part of any highway either as being unnecessary for the convenience of the public

or because a better highway can be substituted and on giving three months' notice of their intention so to do by posting and publishing in the *Government Gazette* (in the former case) and on giving such notice and opening such substituted road for public use (in the latter case) the original highway shall cease and the owner or owners of the land over or adjoining which the same may be taken may take possession of the same on paying to the Board such price as may be agreed upon between them or if they cannot agree as may be assessed by arbitration in like manner as in the case of a disputed assessment hereinbefore provided and a conveyance by the Chairman of the Board of Wardens shall vest the same in the purchaser free from encumbrance But in case the owner of the land adjoining shall decline to purchase such abandoned highway the Board may sell the same to any other person.

40 Penalties for certain acts and omissions under this Act.

Any person convicted of the following acts and omissions shall be offenders under this Act and all persons convicted thereof shall be liable to the penalties severally attached thereto.

- (1.) Wardens or their servants or any contractor or other person engaged in repairing road in use leaving stones or other things on such road at night or unprotected holes therein so as to endanger life or limbs Penalty not exceeding five pounds.
- (2.) Any person obstructing or attempting to obstruct Wardens or persons authorized by them in the performance of anything under this Act Penalty not exceeding forty shillings.
- (3.) Any person wilfully damaging or destroying highway or any other work connected therewith shall be liable to double the amount of the damage done to be recovered on information of the Board.
- (4.) Suffering any horse ass mule cattle sheep goats or swine to be at large on the highway Penalty to be computed according to the rates per head fixed in the Schedule to the Impounding Act to be recovered on the information of the Board or any constable or the same may be impounded by the Board or any person authorized by it in writing.

41 Penalties how to be recovered.

All penalties imposed by this Act to be recovered summarily.

42 Auctioneer not liable to penalty.

The Sheriff or any other person effecting any sale by auction under this Act shall not be liable to a penalty although he may not be licensed as an auctioneer.

43 Commencement of Act and Short Title.

This Act shall come into operation from the passing thereof and may be referred to as “The District Highways Act 1867.”

Under 200 acres 1 vote

200 and upwards to 500 acres 2 votes

And for every additional 500 acres up to 3000 acres 1 vote for each 500 acres.

FOURTH SCHEDULE**FIRST PART**

A BILL to repeal “*The Port Chalmers and Invercargill Town Boards Ordinance 1859*” and “*The Port Chalmers Town Board Ordinance 1864*” and to substitute the Corporation of the Incorporated Town of Port Chalmers in lieu of “*The Town Board of Port Chalmers.*”

Preamble.

Whereas by an Ordinance of the Superintendent and Provincial Council of Otago made and passed in the twenty-third year of the reign of Her present Majesty and shortly intituled “*The Port Chalmers and Invercargill Town Boards Ordinance 1859*” a Public Board was constituted within the Town of Port Chalmers for the purpose of performing any duties that might from time to time be devolved upon the said Board and the said Board was thereby incorporated under the name of “*The Town Board of Port Chalmers*” And whereas by another Ordinance of the said Superintendent and Provincial Council made and passed in the twenty-eighth year of the reign of Her present Majesty and shortly intituled “*The Port Chalmers Town Board Ordinance 1864*” the Acts of the said Town Board were declared valid notwithstanding any informalities or irregularities in the election of the said Board And whereas by proclamation in the *Government Gazette* of the said Province of Otago of the provisions of “*The Otago Municipal Corporations Ordinance 1865*” were extended to the Town of Port Chalmers and the citizens of the said town were incorporated under the style of “*The Corporation of the Incorporated Town of Port Chalmers*” And whereas it is expedient to repeal the said “*Port Chalmers and Invercargill Town Boards Ordinance 1859*” and “*The Port Chalmers Town Board Ordinance 1864*” and to substitute the said “*Corporation of the Incorporated Town of Port Chalmers*” in lieu of the Town Board of Port Chalmers constituted under the said first-mentioned Ordinance

Be it therefore enacted by the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof as follows—

1 Short Title.

This Ordinance may be referred to and cited as “*The Port Chalmers Town Board Ordinance Repeal Ordinance 1867.*”

2 “Port Chalmers and Invercargill Town Boards Ordinance 1859” and Port Chalmers Town Board Ordinance 1864” repealed.

From and after the date of the coming into operation of this Ordinance “*The Port Chalmers and Invercargill Town Boards Ordinance 1859*” and “*The Port Chalmers Town Board Ordinance 1864*” shall be and the same are respectively hereby repealed.

3 Property of Board transferred to Corporation.

All the lands tenements buildings hereditaments and real estate chattels real and personal estate and property whatsoever and all powers rights remedies and capacities in respect of the same which shall on the day of the coming into operation of this Ordinance be vested in or held in trust for the said Town Board of Port Chalmers established by the said "Port Chalmers and Invercargill Town Boards Ordinance 1859" shall by force of this Ordinance be vested in and held in trust for the said "Corporation of the Incorporated Town of Port Chalmers" hereinafter called "the said Corporation" and all moneys then due and owing by or to or on account of the said Town Board shall be receivable by or from the said Corporation and all contracts agreements mortgages bonds covenants and securities made or entered into with or in favour of the said Town Board or any person on its behalf shall take effect and may be proceeded on and enforced by against with reference to and in the name of the said Corporation as fully in all respects as they might have been enforced by against and with reference to the said Town Board if this Ordinance had not been passed.

4 Suits &c. already in progress not to abate or be discontinued.

No action suit prosecution or other proceeding whatsoever commenced or carried on previously to the day of the coming into operation of this Ordinance either by or against the said Town Board shall abate or be discontinued or prejudicially affected by force of this Ordinance but shall continue and take effect both in favour of and against the said Corporation and all decrees and orders made and all fines and penalties imposed and incurred respectively and all rates made or so much thereof as shall not have been levied and paid before the day of the coming into operation of this Ordinance shall be enforced levied recovered and proceeded for by and in the name of the said Corporation in such and the like manner as they could have been enforced levied recovered and proceeded for by and in the name of the said Town Board of Port Chalmers if this Ordinance had not been passed.

5 Powers of Board vested in Corporation.

All the powers rights and privileges interests authorities and immunities whatsoever possessed by and all the duties imposed upon the said Town Board of Port Chalmers shall be possessed by and are hereby imposed upon the said Corporation And wherever in any Ordinance heretofore passed and now in force the Town Board of Port Chalmers their clerk or other officer is or are named or to be deemed to be named or referred to every such Ordinance shall be read and construed so far as the context will admit as if the said Corporation the town clerk or the other corresponding officer of the said Corporation had been therein named in the place or stead of the said Town Board of Port Chalmers their clerk or other officer aforesaid.

6 When to come into operation.

This Ordinance shall not come into operation until the last day of the session of the General Assembly of New Zealand which shall be held first after the passing hereof.

SECOND PART

A BILL to repeal "*The Oamaru Town Hoard Ordinance 1862*," and to substitute the "*Corporation of the Incorporated Town of Oamaru*" in lieu of the "*Town Board of Oamaru*."

Preamble.

Whereas by an Ordinance of the Superintendent and Provincial Council of Otago made and passed in the twenty-sixth year of the reign of Her present Majesty and shortly intituled "*The Oamaru Town Board Ordinance 1862*" a public board was constituted within the town of Oamaru for the purpose of performing any duties that might from time to time be devolved upon the said board and the said board was thereby incorporated under the name of the "*Town Board of Oamaru*" And whereas by proclamation in the *Government Gazette* of the said Province of Otago the provisions of "*The Otago Municipal Corporations Ordinance 1865*" were extended to the town of Oamaru and the citizens of the said town were incorporated under the style of the "*Corporation of the Incorporated Town of Oamaru*" And whereas it is expedient to repeal the said "*Oamaru Town Board Ordinance 1862*" and to substitute the said "*Corporation of the Incorporated Town of Oamaru*" in lieu of the "*Town Board of Oamaru*" constituted under the first mentioned Ordinance

Be it therefore enacted by the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof as follows—

1 Short Title.

This Ordinance may be referred to and cited as "*The Oamaru Town Board Ordinance 1862 Repeal Ordinance 1867*."

2 "Oamaru Town Board Ordinance 1862" repealed.

From and after the date of the coming into operation of this Ordinance "*The Oamaru Town Board Ordinance 1862*" shall be and the same is hereby repealed.

3 Property of Oamaru Town Board transferred to Corporation.

All the lands tenements buildings hereditaments and real estate chattels real and personal estate and property whatsoever and all powers rights remedies and capacities in respect of the same which shall on the day of the coming into operation of this Ordinance be vested in or held in trust for the said "*Town Board of Oamaru*" established by the said "*Oamaru Town Board Ordinance*"

1862” shall by force of this Ordinance be vested in or held in trust for the said “Corporation of the Incorporated Town of Oamaru” (hereinafter called the “said Corporation”) and all moneys then due and owing by or to or on account of the said Town Board shall be receivable by or from the said Corporation and all contracts agreements mortgages bonds covenants and securities made or entered into with or in favour of or by or for the said Town Board or any person on its behalf shall take effect and may be proceeded on and enforced by against with reference to and in the name of the said Corporation as fully in all respects as they might have been enforced by against and with reference to the said Town Board if this Ordinance had not been passed.

4 Suits &c. already in progress not to abate or be discontinued.

No action suit prosecution or other proceeding whatsoever commenced or carried on previously to the day of the coming into operation of this Ordinance either by or against the said Town Board shall abate or be discontinued or prejudicially affected by force of this Ordinance but shall continue and take effect both in favour of and against the said Corporation and all decrees and orders made and all fines and penalties imposed and incurred respectively and all rates made and so much thereof as shall not have been levied and paid before the day of the coming into operation of this Ordinance shall be enforced levied recovered and proceeded for by and in the name of the said Corporation in such and in like manner as they could have been enforced levied recovered and proceeded for by and in the name of the said Town Board of the said Town of Oamaru if this Ordinance had not been passed.

5 Powers of Town Board vested in Corporation.

All the powers rights and privileges interests authorities and immunities whatever possessed by and all the duties imposed upon the said Town Board of Oamaru shall be possessed by and are hereby imposed upon the said Corporation and whenever in any Ordinance heretofore passed and now in force the “Town Board of Oamaru” their clerk or other officer are named or are to be deemed to be named or referred to any such Ordinance shall be read and construed so far as the context will admit as if the said Corporation the Town Clerk or other Corresponding officer of the said Corporation had been therein named.

6 When to come into operation.

This Ordinance shall not come into operation until the last day of the session of the General Assembly of New Zealand which shall be held first after the passing hereof.

THIRD PART

An Ordinance to consolidate and amend the Laws relative to Fences.

[27th May 1867.]

Preamble.

Whereas it is expedient to consolidate and amend the Laws now in force in the Province of Otago relative to the Fencing of Land

Be it therefore enacted by the Superintendent of the Province of Otago with the advice and consent of the Provincial Council thereof as follows—

1 Short Title.

This Ordinance may be cited and referred to as “The Fencing Ordinance 1867.”

2 Repeal of Ordinances.

Except as hereinafter mentioned the Ordinances in Schedule A. hereto annexed shall be and the same are hereby repealed Where before the coming into operation of this Ordinance any notices have been given or any liability incurred under any of the Ordinances mentioned in the said Schedule or any matter or thing done before the coming into operation of this Ordinance has accrued or any action suit or other proceeding in respect of such matter or thing has been commenced every such notice matter or thing shall be of the same force and effect and every such liability shall continue and every such action suit or other proceeding shall be prosecuted continued and defended as if such Ordinances were not repealed.

3 Fences described in the Schedule to be deemed a sufficient fence.

In the construction of this Ordinance the term “sufficient fence” shall be taken to include all fences of the description in Schedule B. hereto annexed Provided always that no person shall be entitled to erect any such fence as is described in clauses Nos. 1 and 14 of Schedule B. within the limits of a town and that the fence described in the said clause No. 14 shall only be a sufficient fence in the case of a dividing fence between the lands comprised in a pastoral lease and any adjoining land And provided also that where a sufficient fence has already been erected under the provisions of the Ordinances hereby repealed it shall not be necessary that any such fence should until its re-erection be made a sufficient fence within the meaning of this Ordinance.

4 Notice must be given to fence.

Before any person shall erect or make a sufficient fence dividing his land from land adjoining thereto such person is hereby required to give to the occupier or if there be no occupier to the owner of such adjoining land or if the owner be absent from the Province or Colony then by delivering the same to or leaving the same at the residence or place of business of his known agent resident in the Province a notice in writing in the form or to the effect of that contained in Schedule C. hereunto annexed of such person’s intention to erect or make such sufficient fence and if such person shall erect such fence without giving notice as aforesaid the occupier or owner as the case may be of such adjoining land shall not be liable to pay any portion of the value of such fence

Provided also that in the event of any adjoining lands being Crown Lands at the time of the erection of any fence within the meaning of this Ordinance the purchaser occupier or Crown lessee of such adjoining lands shall not later than six calendar months after the time of his becoming the purchaser occupier or lessee upon notice being given as aforesaid pay to the owner occupier or Crown lessee who has erected the fence one half of the then value of such fence.

5 Notice how given.

Notice how proved.

Every such notice may be served upon such occupier or owner either personally or by leaving the same with some adult inmate at his usual residence or if such owner shall be absent from the Province then by delivering the same to or leaving the same at the residence of his known agent in the same manner and if there shall be no such agent resident in the Province then it shall be sufficient to insert such notice at least three consecutive times in the Government *Gazette* of the Province Provided always that the burden of proving the due service or publication of every such notice shall rest with the giver of the notice.

6 If parties cannot agree matters to be settled by two Justices.

If within two months after the service of such notice or publication thereof as hereinbefore provided the giver and receiver thereof do not enter into an agreement as to the nature of the fence to be made and the cost thereof and the mode and time of making the same or agree as to the value of any fence already erected as provided for in clause 4 such matters or any of them as may be in difference shall be settled by a Resident Magistrate or two or more Justices of the Peace sitting in open court.

7 Fence shall then be made.

When such matters shall have been settled either by agreement between the parties or by a Resident Magistrate or two or more justices as aforesaid a fence shall be made by the persons or one of them of the description and in the manner so agreed upon or decided but if no agreement shall be entered into between the parties and neither of them shall within the said period of two months apply to a Resident Magistrate or two or more justices to decide upon the description of fence to be made the person giving such notice may proceed to erect a sufficient fence within the meaning of this Ordinance and the owner or occupier of such adjoining land to whom such notice shall have been given shall be liable for and shall pay to such person or any other in his right within six months after a demand made upon him personally or at his dwelling-place if within the Province or upon or at the residence of his known agent if absent from the Province or by intimation in the Provincial Government *Gazette* unless he earlier avails himself of the fence in which case he shall be liable for and shall pay within one month from the time of so

availing himself of it one half of the original value of such fence as divides the said several properties.

8 If default made by one party other may fence and recover one half of actual cost.

If either party shall neglect or fail for the space of one month to perform his part of any such agreement which may be so made or to obey any part of any decision of any such Resident Magistrate or Justices which should be obeyed by him the other party may thereupon or at any time within six months thereafter make a fence of the kind or description so agreed upon or decided as aforesaid or may at his discretion make any other sufficient fence within the meaning of this Ordinance and may immediately thereupon or at any time thereafter recover from the defaulting party one-half of the actual cost of making such fence together with a sum of five pounds for his costs of suit over and above the ordinary fees of Court.

9 Occupier may recover from owner.

In certain cases occupier not to recover. Existing agreements.

Any occupier shall be entitled at the expiration of the time for which he shall hold the land fenced under this Ordinance to recover from the owner thereof the half of the then value of any fence made under this Ordinance Provided that where the occupancy is for a term of which less than two years shall be unexpired at the time of the making of the fence it shall not be lawful for the occupier of any land to recover from the owner thereof the value of any such fence unless he shall previously to the making thereof have received notice from an adjoining occupier to make such fence or unless he shall have obtained the consent in writing of the owner of such land to the making thereof Provided always that nothing herein contained shall make void or affect any covenant or agreement relative to fencing which shall be now subsisting or shall be hereafter entered into between adjoining occupiers or owners or between landlord and tenant under any lease or by implication of law or otherwise.

10 Half of dividing fence may be on adjoining land.

Posts may be placed on boundary line.

The owner or occupier of any land in the Province of (Otago not being within the limits of any town may in making a fence of the description No. 1 of Schedule B. dividing his land from the land thereto adjoining make a ditch on such adjoining land and use the soil taken therefrom towards the making of a bank and he may also place the half of the bank on such adjoining land Provided always that it shall not be lawful to make any ditch or bank upon any such adjoining land in any case where a hedge of live thorns gorse or broom may have been planted and kept in good and thriving condition thereon so as to disturb or injure such hedge without the consent of the owner or occupier of such land first obtained And where a dividing fence is made of the description

No. 2 of Schedule B. the posts of such fence shall be placed on the boundary line.

11 Owner or occupier of land to keep road clear of young gorse plants.

The owner or occupier of any land fenced with a gorse fence running along any road shall be held liable to keep the road in front of the said fence clear of young gorse plants and should he fail to do so the General Road Board shall on the complaint of the Road Board of the district in which such road is or of any two proprietors or occupiers of land within the said district cause the work to be done at the expense of the owner or occupier of the said land the amount to be recovered in a summary way Provided always that the General Road Board shall give one calendar month's previous notice in writing to the owner or occupier of such land.

12 A boundary fence may be made of thorns and the adjoining proprietor shall be liable for the half of the value of it.

It is hereby specially provided that where a proprietor tenant or occupier shall plant a hedge of white thorns on the boundary between his own lands and those of an adjoining proprietor tenant or occupier he may make fences sufficient for their protection and one of such fences may be placed on the adjoining land Provided always that no adjoining proprietor tenant or occupier shall be liable to pay as his half of the value of such hedge and protecting fences a greater sum than thirty shillings per chain for it and them Provided also that where a boundary fence has been erected for three years any person may elect to plant a hedge of white thorns on such boundary the adjoining proprietor tenant or occupier shall in like manner be liable to pay as half his half of the value of such hedge and protecting fences a sum not exceeding fifteen shillings per chain.

13 Half the cost of repairing fence to be paid by adjoining owner or occupier.

When any sufficient dividing fence shall require cutting trimming cleansing or repairs or shall become insufficient the same shall be cut trimmed cleansed and repaired at the joint expense of the owner and occupier of the adjoining land and any owner or occupier of land adjoining such fence (having given notice in writing to the other owner or occupier of the land divided by such fence or to his or her agent in the said Province) may on refusal or neglect of such last-mentioned person for the space of one month to contribute one-half of such expense cause the same to be cut trimmed cleansed or repaired and made a sufficient fence and shall thereupon be entitled to recover from such adjoining owner or occupier one-half of the cost of so cutting trimming cleansing or repairing such fence Provided always that the party making such repairs shall be bound to prove to the satisfaction of the Resident Magistrate or Justices before whom any action is brought for the expense of such repairs that the sum expended and sought to be recovered was necessarily and properly expended.

14 Not a sheep fence.

Shall be made a sheep fence.

It is hereby specially provided that clause 5 of Schedule B. hereto annexed is only applicable as a fence under this Ordinance where both proprietors or occupiers do not keep sheep but should any proprietor or occupier after such fence shall have been erected elect to keep sheep the fence shall be constructed as provided for in clause 6 of Schedule B. hereto annexed and the adjoining proprietor or occupier shall after having received one month's notice in writing of the fence having been so constructed pay one-half of the costs of such construction.

15 Limitation of amount to be recovered.

No greater sum shall be recovered under the provisions of clause 7 of this Ordinance in respect of the making of any fence than the sum of thirty shillings per chain in country districts and forty shillings per chain in the towns of the Province of Otago for the half cost of any fence.

Schedule A

Fencing Ordinance 1855 No. 21a.

Fencing Ordinance 1856 No. 2.

Fencing Ordinance 1856 Amendment Ordinance 1865 No. 216

Schedule B

1. A bank or dyke not less than four feet six inches high substantially formed with turf on both sides on a base not less than four feet six inches broad and having a ditch not less than three feet wide and two feet deep on each side of such bank.
2. For swampy land a ditch not less than six feet wide and two feet deep with bank not less than three feet high with posts not less than four feet high from the surface of the ground and more than nine feet apart with not less than two rails or three wires or with one rail and two wires or posts and four rails or posts and seven wires with ditch as already described and no bank the posts being not less than four feet six inches high from the surface of the ground nor more than nine feet apart where rails are used nor more than seven feet apart where wires are used the posts being inserted into the ground not less than two feet.
3. A bank or dyke not less than two feet six inches high substantially formed with turf on both sides on a base not less than three feet broad and a ditch not less than two feet six inches wide and two feet deep on each side of such bank with posts not less than four feet six inches high from the surface of the ground and not more than nine feet apart with not less than two rails or four wires and in the case of a three feet bank three wires.
4. A bank or dyke not less than two feet six inches high with a ditch not less than three feet wide and two feet six inches deep with posts not less than four feet six inches high from the surface of the ground nor more than nine feet apart inserted not less than two feet into the ground with three rails or with four wires the posts to be not more than seven feet apart.
5. A fence of posts and four rails the posts to be not less than five feet high from the surface of the ground and not more than nine feet apart inserted not less than two feet into the ground the upper rail to be not less than four feet six inches from the ground or with posts as already described and five wires *or* four wires and a top rail.
6. A fence of posts and four rails and two wires the posts to be not less than four feet six inches from the surface of the ground and not more than nine feet apart inserted not less than two feet in the ground the upper rail to be not less than four feet three inches from the surface of the ground.
7. A fence of posts and seven wires with posts not more than seven feet apart inserted not less than two feet into the ground the upper wire to be not less than four feet three inches from the ground.
8. Any paling fence four feet three inches high with posts and two rails and having split or sawn timber placed perpendicularly and well nailed to both rails there being not more than four inches of opening betwixt each perpendicular piece of timber.

9. The posts for all post and rail fences shall contain not less than fifteen superficial inches to the foot if sawn or split or eighteen superficial inches to the foot if round posts be used.
10. The posts for all post and wire fences shall contain not less than eight superficial inches to the foot if sawn or split or twelve superficial inches to the foot if round posts be used Straining posts for wire fences shall contain not less than eighteen superficial inches to the foot and shall be inserted into the ground not less than three feet and not more than five chains apart.
11. The rails for all fences shall contain not less than six superficial inches to the foot if sawn or split nor less than nine superficial inches to the foot if round rails be used.
12. The rails to be either firmly mortised into the posts or double-nailed and the wires either passed through the posts or firmly fixed with staples.
13. A stone or brick wall or dry stone dyke or thick set thorn or briar hedge not less than four and a half feet high or where deficient of that height if surmounted by a paling or wire fence such as is above described to the height of four feet three inches and the lower rail or wire of which being not higher than the top of the growing thorns or briars.
14. Any fence formed of iron or wooden standards and straining posts with iron or wooden rails The standards not less than four feet long and if composed of iron material one and a quarter inches broad by a quarter of an inch in thickness if composed of wood three inches by two inches or six square inches in thickness to be placed at a distance not greater than ten feet apart The straining posts not less than six feet long and if composed of iron weighing not less than one hundred pounds including iron stay and iron base if composed of wood not less than five inches square or twenty-five cubic inches in thickness to be placed not less than six straining posts to the mile the wires not less than five in number and of a gauge not lower than number eight in thickness the lowest wire to be placed at a distance not greater than seven inches from the ground the top wire not less than two feet six inches from the ground the four lower wires not more than five inches apart The rails if composed of wood to be placed at intervals not greater than those composed of wire.

Schedule C

Notice to Make Fence

To occupier (or owner or Crown lessee or agent as the case may be) of
(describing adjoining land)

Take Notice that I desire that the boundary or separating fence between (describing
the lands) be made immediately (on or before the day of 186) and that
such fence shall be a (here describe the fence)

Dated this day of 18

A.B. occupier (or owner or Crown lessee or agent) of &c.

FIFTH SCHEDULE**FIRST PART*****An Act to facilitate the Drainage of Lands in the Province of Marlborough*****Preamble.**

Whereas it is expedient that provision should be made for promoting the Drainage and preventing the inundation of Lands in the Province of Marlborough

Be it therefore enacted by the Superintendent of the said Province with the advice and consent of the Provincial Council thereof as follows—

1 Short Title.

The Short Title of this Act shall be “The Drainage Act 1867.”

2 Persons desirous of bringing land under operation of Act to give notice and deposit plan.

Whenever any person or persons shall be desirous of bringing any tract of land in the Province within the operation of this Act such person or persons shall cause a notice to be published in the form in the Schedule hereto annexed in some local newspaper published or usually circulated in the Province for a period of six weeks of his or their intention to apply to the Provincial Council to bring such tract of land within the operation of this Act and shall also deposit in the Survey Office a plan of the land intended to be brought under the provisions of this Act.

3 Provincial Council may order land to be subject to operation of Act.

It shall be lawful for the Provincial Council on the motion of any member thereof by order or resolution to declare that the lands in respect of which such notice shall have been given as aforesaid or any part thereof shall be subject to the provisions of this Act Provided always that satisfactory proof shall have been first given of the due publication of the said notice and of the depositing of the said plan Provided further that it shall be lawful for any person or persons having any interest in the lands in respect of which notice shall have been given as aforesaid in person or by counsel to appear at the bar of the council and be heard against the proposed resolution or order.

4 Superintendent to proclaim land to be subject to Act and name district.

The Superintendent shall immediately on the making or passing of any order or resolution of council as aforesaid by proclamation in the *Government Gazette* proclaim the lands mentioned in such order or resolution to be subject to the provisions of this Act and this Act shall thereafter be in force therein and

such lands shall for the purposes of this Act be a district to be named by the Superintendent in such proclamation.

5 Superintendent may enter upon lands and form drains.

It shall be lawful for the Superintendent and any other person or persons appointed by him to enter into and upon any land proclaimed as aforesaid to widen straighten deepen divert scour or cleanse any river stream ditch or drain and to alter or remove any bank sluice flood-gate weir dam or other construction and to make or erect any bank sluice flood-gate ditch drain tunnel or other works necessary or convenient for drainage or for warping and to dam bar or stop up any river or dam any river or watercourse and to erect and maintain on such lands engines and machinery.

6 Power to purchase lands.

It shall be lawful for the Superintendent to purchase any land as the site of any engine-house or for any other purpose necessary for the works thereby authorized.

7 Mode of settling damage.

The compensation to be paid for the damage or injury to any land which may be entered upon cut through or interfered with under any such order or resolution of council as aforesaid may be determined in the manner provided by "The Lands Clauses Consolidation Act 1863."

Rates

8 Rates may be levied.

For the purpose of raising money for the execution of the works to be made under this Act and for maintaining the same and the said expenses attendant thereupon it shall be lawful for the Superintendent from time to time to make and levy a rate or rates upon all land defined in such proclamation as aforesaid of such amount and in such manner as to him shall appear necessary and advisable and such rate shall be proportionate to the acreage of the land and the benefit conferred by any such works Provided that no owner or occupier of any land in respect of which any rate is payable shall be liable in any one year to pay more than one-fourth of the amount levied where such rate exceeds the sum of one pound sterling per acre nor more than one-half where such rate is not less than ten shillings nor more than twelve shillings per acre.

9 Superintendent empowered to borrow on security of rate.

It shall be lawful for the Superintendent from time to time to borrow on the security of rates to be levied under this Act any sum or sums of money necessary for carrying on any works under this Act Provided that every sum so borrowed shall be charged against the rates in respect of which such sum shall have been advanced.

10 Superintendent to make Schedule of acreage and assessment.

The Superintendent shall as often as may be deemed necessary cause a schedule of acreage and assessment to be made to be called the "Assessment Book" setting forth in alphabetical order the names and descriptions of all persons seized of or interested in land defined in such proclamation as aforesaid a description of the land of or in which they are so seized or interested the name of the occupier thereof respectively the number of acres of such land and the amount of money payable in respect thereof respectively at the rate imposed and the Superintendent shall cause such schedule of acreage and assessment to be published in some local newspaper published or usually circulated within the district.

11 Superintendent may enter and view.

For the purpose of ascertaining such names description number or probable number of acres of land the Superintendent and any person or persons on his behalf may at all reasonable times enter upon view and survey all such land without let hindrance or impediment from the owner or occupier thereof or any other person whomsoever.

12 Superintendent to hear objections.

The Superintendent shall at the foot or end of such schedule of acreage and assessment subjoin a notice in writing signed by him that any objection thereto will be heard by him or by some person appointed by the Superintendent for that purpose at a time and place to be in such notice mentioned and such time being not less than one calendar month from the date of such notice and the Superintendent or person so appointed shall hear such objections accordingly and shall have power to amend such schedule of acreage and assessment or any part thereof if in his opinion the objection taken thereto shall be sufficient and the Superintendent may adjourn such meeting for the purpose of obtaining or allowing to be obtained any evidence or information which may not be procured or available at the first meeting.

13 Assessment may be amended.

It shall be lawful for any person who shall think himself aggrieved by the decision of the Superintendent or the person hearing such objections as to the number of acres for or at the rate at which he is assessed at any time within seven days of the hearing at which such decision was made to give to the Superintendent or person appointed by him as aforesaid three days notice of his intention to apply to not less than two Justices of the Peace for leave to amend the said assessment and such Justices may upon the hearing make such order as shall appear to them just and may award such costs as to them shall seem meet to be paid to or by either of the parties to the application and such costs when awarded against the Superintendent shall be payable out of the rates collected under this Act.

14 Assessment to be settled and deposited.

The schedule of acreage and assessment for the first and every succeeding year shall be finally settled by the Superintendent in accordance with his decision or the judgment of the Justices and shall then be deposited at some convenient place to be named by the Superintendent and there lie for the inspection of any person whose name shall appear therein as liable to the payment of rates or by the authorized assent of such person without payment of any fee.

15 Rates to be paid to collector.

After the deposit of the completed assessment as hereinbefore provided the rate shall be paid to a collector appointed by the Superintendent to receive the same on demand at such place as the Superintendent may appoint and shall on non-payment thereof be recoverable at the suit of any such collector.

16 Liability of occupier and owner.

Subject to the provisions hereinafter made the occupier of any land in respect of which the aforesaid rate is made payable shall be liable to pay the same and in the event of there being no occupier the owner thereof shall be liable.

17 Entering tenant liable to arrears.

Any person who shall enter upon the occupation of any premises in respect of which any arrears whatever shall be due and continue in the occupation thereof after such arrears shall have been demanded in manner hereinbefore provided shall be liable to pay the same such payment to be subject to the provisions for adjustment hereinafter made with regard to the respective liabilities of landlord and occupier.

18 Rates recoverable by tenant from landlord.

Such rates if paid as aforesaid by any occupying tenant not a lessee for the term of seven years and upwards shall be recoverable by him from the landlord as money paid to his use or the same may be made a set-off against the rent then due or thereafter to become due and the landlord from whom such sum is recovered or deducted if he be a tenant to another of the same premises may recover or deduct from his landlord out of the annual rent payable to him a sum proportionate to that recovered or deducted from him with reference to the rent received by him and so on between successive landlords and tenants.

19 Moneys collected to be paid into bank.

All moneys so collected as aforesaid shall be immediately paid by the Superintendent or the collector appointed by him into some bank to the credit of the Provincial Treasurer and no moneys shall be withdrawn from such bank unless by cheques signed by the Provincial Treasurer upon warrant of the Superintendent Provided always that all moneys collected for each district shall be kept by the Provincial Treasurer in a separate account.

*Application of Money***20 Application of money.**

The money to be raised by virtue of this Act shall be laid out and applied in and towards the making and maintaining the works to be made and maintained and in otherwise carrying this Act into execution.

21 Superintendent to make contracts and appoint surveyors collectors and others.

The Superintendent shall have power from time to time to enter into any contracts for the execution of any work to be done in pursuance of this Act and to appoint and employ such collectors surveyors clerks and workmen as he may deem necessary and as he shall think proper and necessary to remove any such officers or workman and appoint others in their stead and out of the moneys which shall come into his hands under or by virtue of this Act to pay such officers and workmen such remuneration as may be reasonable.

22 Collector to give security.

The collector appointed to collect or receive the said rates shall give sufficient security to the satisfaction of the Superintendent by bond for the faithful execution of the said office and shall at such time or times as the Superintendent shall direct deliver to him true and perfect accounts of all moneys which shall have been received by him by virtue of this Act and of all moneys paid by him together with the proper vouchers for such payments.

23 Penalty on refusing to deliver books.

If any person shall refuse or neglect to produce or deliver to the Superintendent the vouchers relating to any payments or shall not deliver to the Superintendent within ten days after being thereunto required all books papers and writings in his custody or power relating to the trust reposed in him or shall refuse or neglect to pay to the Superintendent or to such person as he may appoint to receive the same such moneys as upon the balance of any account shall appear to be in his hands every such person shall for every such neglect forfeit a sum not exceeding fifty pounds to be recovered in a summary manner.

24 Persons obstructing works liable to penalty.

If any person shall alter obstruct or in any manner interfere with any drain watercourse or other work made or being made under the authority of this Act such person on being convicted thereof before any Justice of the Peace shall be liable to reimburse all charges and expenses which may be occasioned by reinstating and making good the work so altered obstructed or interfered with and shall forfeit any sum not exceeding twenty pounds and not less than one pound.

25 Land purchased to be conveyed to Superintendent.

All lands purchased in pursuance or under authority of this Act shall be conveyed to the Superintendent and his successors and assigns to be held by him in trust for the purpose for which the same were purchased until the Legislature of the Province shall make provision by Act for the future disposal of such land.

26 No Judge Resident Magistrate or Justice of the Peace to be disqualified from acting under this Act.

No Judge Resident Magistrate or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Act by reason of his being assessed as a ratepayer under this Act.

27 Annual accounts to be made up and kept at office of Superintendent and to be open for inspection.

The Superintendent shall in each year cause an account to be prepared of the whole receipt and expenditure of all rates and other moneys levied and received under the powers of this Act for the year preceding under the several distinct heads of receipt and expenditure with the statement of the balance of such account duly audited by two auditors to be appointed by the Superintendent and certified by the auditors thereof and such account shall be kept by him and shall be open to inspection by all persons during office hours on payment of one shilling for each inspection.

28 Persons owning or occupying land in case of neglect of adjoining proprietors to maintain banks &c. may after notice maintain same at their expense.

In all cases where by reason of the neglect of any proprietor or occupier of adjoining lands to maintain or join in maintaining the banks or to scour and cleanse or join in cleansing and scouring the channel of existing drains streams or watercourses lying in or bounding the land of such occupier or proprietor injury shall be caused or will likely result to any other land it shall be lawful for the proprietor or occupier of any land so injured or likely to be injured to require the proprietor or occupier so neglecting as aforesaid by a notice in writing delivered to him or left at his usual place of abode or in case such proprietor or occupier shall be absent from the Province of Marlborough then by leaving such notice with the agent or by forwarding the same by post in a registered letter addressed with a sufficient direction to his usual or last known place of abode effectually to maintain such banks or cleanse or scour such channel or to join in effectually maintaining such bank or cleansing or scouring such channels of such drains streams and watercourses and in case he shall neglect so to do it shall be lawful for the proprietor or occupier of the land to which such injury shall be caused or likely to be caused immediately after the expiration of one calendar month from the service of such notice as aforesaid to execute or cause to be executed or join with any other person in executing

or causing to be executed all necessary works for maintaining or repairing such banks or cleansing or scouring such channels as aforesaid and in case the expenses paid or incurred in executing or causing to be executed such works as aforesaid or the just proportion thereof which should have been paid or borne by the proprietor or occupier so neglecting as aforesaid shall not be paid by the proprietor or occupier so neglecting as aforesaid to the person by whom the same shall have been paid or incurred within one calendar month after demand the same may be recovered by the person or persons who shall have executed such works from such occupier neglecting as aforesaid and in case there shall be no occupier then from the proprietor of the land.

29 When Act to be in operation.

This Act shall not come into operation in any part of the Province except within such districts as the Superintendent shall with the authority of the Provincial Council proclaim.

30 Interpretation.

The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction that is to say—

- (1.) The word “person” shall include a corporation whether aggregate or sole
- (2.) The word “lands” except in clauses eight and ten shall include messuages lands tenements and hereditaments of any tenure
- (3.) The expression “works” shall mean the drainage or improvement works and other works connected therewith authorized to be constructed by this Act
- (4.) The word “Superintendent” shall mean the Superintendent for the time being of the Province of Marlborough acting by and with the advice and consent of the Executive Council And
- (5.) The word “districts” shall mean any lands defined by proclamation under any resolution or Order of Council.

Schedule

Notice is hereby given that the undersigned propose to apply to the Provincial Council of the Province of Marlborough at the expiration of six weeks from the publication hereof or so soon after as application can be made for an order declaring that all that block of land [here state numbers of sections and other particulars of land boundaries &c.] shall come within and be subject to the operation of "The Drainage Act 1867" And notice is hereby further given that a plan of the said land has been deposited at the Survey Office.

Dated this day of 186 .

Schedule

SECOND PART

An Act to provide for the making and maintaining of Roads in the Province of Marlborough

Preamble.

Whereas an Ordinance was passed by the Lieutenant-Governor of New Munster with the advice and consent of the Legislative Council thereof Session I No. 10 intituled "An Ordinance to authorize the levying and collecting of Tolls on Roads and Rates on Land in the Province of New Munster" And whereas two Acts were passed by the Superintendent of the Province of Nelson respectively intituled "The Country Roads Act 1856" and "The Country Roads Amendment Act 1858" And whereas it is expedient that the said recited Ordinance and the said two Acts be repealed and other provisions made in lieu thereof

Be it therefore enacted by the Superintendent of the Province of Marlborough with the advice and consent of the Provincial Council thereof as follows —

1 Short Title.

The Short Title of this Act shall be "The Roads Act 1867."

2 Ordinance and Acts repealed.

The said Ordinance and the said two recited Acts shall so far as regards the Province of Marlborough be and the same are hereby repealed.

3 Districts how constituted.

Every district set forth and described in Schedule A. to this Act shall be deemed to be a district for the purposes of this Act.

4 Commission to be appointed.

Within one month after the commencement of this Act the Superintendent shall with the concurrence of two members of the Provincial Council to be approved by the Council appoint three competent persons (one of whom shall be a land surveyor) to form a commission.

5 Superintendent may pay Commissioners.

The Superintendent shall have power to pay such commissioners such remuneration as he may deem just and reasonable.

6 Commissioners to classify and forward report.

The Superintendent is hereby empowered to instruct the commissioners so appointed to examine into and classify all lands within the Province (except

as is hereafter provided) into five classes according to Schedule B. to this Act and such commissioners shall with all convenient speed prepare and transmit to the Superintendent a report signed by them specifying the districts in which the lands are situated and showing the acreage and class to which the land belongs according to the said Schedule.

7 Lands exempt.

It shall not be lawful to make or levy any rates on any lands belonging to or in the occupation of Her Majesty or the Provincial Government of Marlborough or for any lands used or set apart exclusively for public charitable religious literary or scientific purposes unless in the occupation of private persons or any land situate within the limits of any proclaimed town having a Board of Works therein.

8 Qualification of electors.

Within one month after the classification shall have been made as aforesaid a list of persons qualified to vote in each such district shall be formed therefrom by some person to be appointed for that purpose by the Superintendent and every person whose name shall appear in such list shall be qualified to vote and take part in the proceedings of the general meeting which shall take place previous to any rate being levied for the district under this Act and after any such rate shall have been levied then every person who shall have paid the then last rate so levied for the district shall be entitled to vote and take part in such meeting Provided always that such person shall have paid all rates for which he shall then be liable such payment if disputed to be proved by the book usually kept by the collector of the rates for the time being.

9 Report of Commissioners to be open for inspection.

The report made by the Commissioners as aforesaid shall be open to inspection at the Survey Office for the period of one month.

10 Boards to be constituted.

There shall be in every district for the purposes of this Act a Board consisting of five members to be elected as hereinafter provided and who shall hold office for one year.

11 Election of first Board.

The Superintendent shall as soon as the list as aforesaid is completed cause a copy thereof to be posted up in some conspicuous place in the district and shall within fourteen days after call a meeting of the voters of such district at a time and at a convenient place in such district and the said voters having assembled and having appointed a chairman shall proceed to elect from amongst the persons qualified to vote at such meeting five persons to be a Board for the district Provided that if there be more candidates proposed than the number

to be elected the chairman shall call for a show of hands separately in favour of each candidate and after such show of hands shall declare the person or persons on whom the election has fallen. If however any candidate or elector shall demand a poll a polling shall take place on such day and at such time being not less than three nor more than seven days after the day of nomination as the chairman shall appoint and the mode of voting shall in all other respects be conducted in the same manner as is provided for the election of members of the Provincial Council and the chairman of such meeting or some person to be appointed by him shall preside at such polling and shall report in writing to the Superintendent the names of the persons so elected.

12 Election disputes to be settled by Superintendent.

All questions and disputes which may arise concerning the election of any member of the Board shall be referred to the Superintendent and Executive Council by the petition in writing of five or more electors setting forth the ground of dispute within twenty-one days after the election and all questions respecting the vacancy of the office of members shall be referred to the Superintendent and Executive Council whose decision thereon shall be final.

13 When and how vacancies in the Board are to be filled up.

At the expiration of one year from the date of the first general meeting for the election of the first Board and in every succeeding year and at a convenient place within each district to be fixed by the Board or if there be no Board then by the Superintendent the voters shall in manner herein provided elect five persons to be a Board for the district and the chairman of every such meeting shall report in writing to the Superintendent the names of the persons so elected.

14 Superintendent may appoint voting places and make other arrangements.

Provided that if in consequence of the size of the district or from any other cause it shall appear desirable to give the electors an opportunity to record their votes in more than one part of the district it shall be lawful for the Superintendent until a Board for the district shall have been elected and afterwards for the Board at the time of giving notice of such election to appoint other polling places and to make other arrangements similar to those now provided for the election of members for the Provincial Council.

15 If members of Board be reduced below five new members to be elected.

If at any time by reason of death absence resignation bankruptcy or otherwise the number of the Board shall be reduced below five the Board shall forthwith appoint a meeting of the voters for the district at such place as the Board shall think expedient and such voters shall at such meeting after electing a chairman elect from amongst the persons qualified to vote at such meeting in manner hereinbefore provided a number of new members equal to the number

of vacancies and the chairman shall report in writing to the Superintendent the names of the members so elected and every member so elected shall hold office for the remainder of the year.

16 Superintendent may call special meeting and in some cases appoint Board.

In case the voters in any district shall at any annual meeting called for that purpose fail or neglect to elect a Board or to fill up the vacancies therein as the case may be it shall be lawful for the Superintendent to call a special meeting for the purpose in manner herein provided for the election of the first Board Provided that if the ratepayers after such second meeting as aforesaid fail to elect a Board the Superintendent shall if he deem it advisable appoint a Board which shall exercise all the functions of Boards elected by ratepayers under the provisions of this Act.

17 Board to levy rates.

The Board may levy for the purposes of this Act a yearly rate upon all lands within the district according to the following scale that is to say—

- (1.) Upon all lands classified as being in class A. in Schedule B. to this Act a sum not exceeding one penny per acre
- (2.) Upon all lands classified as being in class B. a sum not exceeding two pence per acre
- (3.) Upon all lands classified as in class C. a sum not exceeding four pence per acre
- (4.) Upon lands classified as being in class D. a sum not exceeding twelve pence per acre
- (5.) Upon all lands classified as being in class E. a sum not exceeding fifty pence per acre

Provided always that the rate to be levied on each class of lands shall be proportionate to the value of each class and shall be in accordance with the following scale that is to say—

- (a.) Whenever the lands enumerated in class A. shall be rated then the rate to be levied on lands enumerated in class B. shall be equal to twice the amount levied on lands included in class A.
- (b.) On lands in class C. equal to four times the amount levied on lands in class A.
- (c.) On lands in class D. equal to twelve times the amount levied on class A.
- (d.) And on lands included in class E. equal to fifty times the amount to be levied on class A.

18 Ratepayers' Roll.

The Board shall at its first meeting in every year cause a ratepayers' roll for the district to be formed from the classification hereinbefore appointed to be made and shall therein affix opposite to the name of each person in such roll the

number of acres owned or occupied by such person showing the classification thereof and amount for which he is liable under the provisions of this Act and the chairman of the Board shall sign the same and shall cause public notice to be given in some newspaper published or generally circulated in the district of the roll and of the place in the district where the same may be inspected for a period of twenty-one days and the person in whose custody such roll may be shall permit every owner or occupier of lands included in such roll to inspect the same during office hours.

19 Owners &c. to make returns in certain cases.

In all cases where a change of ownership or of occupation of land within the district has occurred every new occupier of land and every purchaser thereof shall forward to the Board at a time to be fixed by the chairman whereof fourteen days notice shall have been given in some newspaper in circulation in the district in every year a statement in writing signed by him of the acreage of the land newly owned or occupied by him Provided that no person who shall neglect or fail to make such return as aforesaid shall be entitled to appeal under the provisions of this Act.

20 Persons aggrieved may apply to amend said roll.

If any person shall think himself aggrieved by reason of any error omission irregularity or overcharge in such roll such person may within twenty-one days from the date of the publication of the roll but not after give notice in the form set forth in Schedule C. to this Act to the clerk of the Resident Magistrate or petty sessional district as the case may be of his intention to apply for leave to amend the said roll Provided always that every such person shall where the grounds of his application affect any other person or persons give to him or them or leave at his or their last known place of abode seven days notice in writing of such appeal.

21 Meeting of Justices to be summoned.

The clerk of the Resident Magistrate or of the petty sessional district as the case may be shall on the receipt of such notice as aforesaid summon a meeting of not less than three Justices of the Peace by advertisement in some newspaper in general circulation in the Province or by notice in writing to be given to the Justices and such meeting shall be held within fourteen days next after the expiration of the aforesaid twenty-one days and in case it shall appear to the Justices on the hearing of the said application that the said roll should be amended the Justices shall amend the same in such manner as shall appear to them just and reasonable.

22 Copy of amended roll to be sent to chairman.

The clerk of the Resident Magistrate or of the petty sessional district as the case may be shall in each case forthwith transmit to the chairman of the Board

a certified copy of the amended roll and the chairman shall thereupon cause the same to be published in some newspaper in general circulation within the Province.

23 Roll to be evidence as to rates.

The roll so amended shall be conclusive evidence of the liability of the persons therein named for the amount of rate set against their names respectively.

24 Ratepayers' Roll scale of votes.

At every election subsequent to the first election every ratepayer shall be entitled to take part in the proceedings of all meetings of the district for the election of members of the Board and shall be entitled to vote therein according to the following scale that is to say—

- (1.) Every person who shall appear on the ratepayers' roll as liable for a sum not exceeding ten pounds—one vote.
- (2.) Exceeding ten pounds and not exceeding twenty pounds—two votes.
- (3.) Exceeding twenty pounds—three votes.

25 Who eligible to be members.

No person shall be eligible to be elected to be a member of the Board unless he shall be a ratepayer of the district and shall reside or have his ordinary place of business therein and shall have paid all rates which he shall have been liable to pay under the authority of this Act at the time of such election and if any member of the Board shall be insolvent or shall be convicted of felony or shall cease to reside or have his ordinary place of business within the district or shall be in arrear for a period of one month of any rates which he shall have become liable to pay under the authority of this Act or shall accept or continue to hold any place of profit or emolument under the Board or shall have any pecuniary interest in any work done under the authority of the Board other than as a shareholder in a public registered company contracting therewith or shall resign his seat at the Board by writing under his hand addressed to the chairman thereof or shall fail to attend a meeting of the Board for six consecutive months his seat thereat shall thereupon become vacant.

26 Penalty for acting when not eligible.

If any person shall act as a member of the Board or vote at any meeting thereof not being eligible to hold a seat thereat he shall be liable to a penalty not exceeding twenty pounds for every such act or vote to be recovered in a summary way upon the information of any ratepayer of the district.

27 Board to be a body corporate.

Every Board shall be and is hereby declared to be a body corporate under the name and title of the “[name according to Schedule] Road Board” and under such name shall have perpetual succession and all contracts appointments and

other matters authorized by any resolution of the Board shall be entered into made and done by the chairman on behalf of the Board and shall be taken and held to be the acts of the Board and all suits and other legal proceedings by or against the Board shall be in the name of or against the chairman but execution shall only be levied on the effects of the Board and shall not in any manner charge or affect the person or private property of any member of the Board and it shall be sufficient in all cases to describe the property of the Board as such in the members of the Board or the chairman.

28 Chairman of the Board.

Every Board shall at its first meeting elect one of its members to be the chairman thereof who shall preside at the meetings of the Board and shall have an original and also a casting vote thereat Provided that if the chairman shall be absent from any meeting the members present shall elect one of their number to preside in his stead at such meeting.

29 If chairman vacate Board can elect again.

If the person shall cease to be a member of the Board or shall by writing under his hand addressed to the Board vacate the office of chairman the Board shall at its next meeting thereafter elect another member to be chairman in his stead.

30 Meetings of the Board.

The business of the Board shall be transacted at meetings which shall be holden at such times and places and shall be adjourned in such manner as the Board shall direct or appoint Any three of the members of the Board shall have power to call a special meeting of the Board by giving to the other members leaving at their places of abode notices in writing signed by the members calling the meeting specifying the time and place thereof which notices shall be given three clear days at least before such meeting and no business shall be done at any meeting unless three members at least be present.

31 Majority to decide.

All questions which shall come before any meeting of the Board shall be decided by a majority of the members present and a minute of every resolution agreed to shall be entered in a book to be kept for that purpose and signed by the chairman.

32 No act to be invalid by reason of vacancies.

No act of the Board shall be invalid by reason of any vacancy having occurred or by reason of any member being ineligible to occupy his seat thereat.

33 Superintendent may pay money appropriated for roads &c. to the Board.

It shall be lawful for the Superintendent if he shall think fit to commit to the said Board the expenditure of any moneys appropriated by the Provincial

Council to the construction and maintenance of roads bridges drains or other public works within the district and to pay over the same to the account of the Board to be appropriated in such manner and for such purposes as the Superintendent shall direct or appoint.

34 Board to have power to make roads &c.

The Board shall have power within the limits of the district to make and keep in repair roads streets causeways footpaths bridges and to execute other works of public utility and to make or cleanse all such ditches drains sewers and watercourses as they may deem necessary into through or under any lands or grounds upon paying to the owner or occupier of such lands for the damage he shall sustain thereby.

35 Board may make bye-laws.

The Board of every district shall have power to make ordain and constitute such bye-laws as may be necessary for the protection and preservation of the roads of the district and for the more speedy and effectual abatement of public nuisances and from time to time to repeal alter and amend such bye-laws and such bye-laws shall have the same force and effect as if they were incorporated in this present Act.

36 Bye-laws to have no effect until confirmed by Superintendent.

Provided that no such bye-law and no such alteration or repeal thereof shall take effect until one month after the same shall have been confirmed by the Superintendent and Executive Council and such confirmation published in the *Gazette* of the Province and in some newspaper circulated in the district to which it refers Provided further that no such bye-law and no alteration or repeal thereof shall be so confirmed until one month after the same shall have been published in some such newspaper circulated as aforesaid.

37 Bye-laws may fix penalties not exceeding forty shillings.

It shall be lawful for every such Board to fix in such bye-laws any penalty not exceeding forty shillings for every breach or non-performance thereof which may be recovered in a summary manner before a Resident Magistrate or any two Justices of the Peace.

38 Rate to be paid by occupier if no occupier by owner.

The rate shall be a charge upon the land and shall be paid by the occupier of the land or in case there shall be no occupier by the owner thereof Provided always that nothing herein contained shall in any way release the owner of the land from the payment of the rate in case the occupier shall be unable to pay the same.

39 What tenants can set off rates paid against rent.

Every lessee for a term of years of lands liable to be rated under this Act shall be entitled at the expiration of his tenancy to receive and be paid by the then owner of such land the whole of the rate paid by such lessee in respect of such land during the last year of the term and half the amount of rate paid for the preceding year which sums may be set off against the rent or any other sum payable by such lessee to the owner.

40 Notice of rate to be served.

When any rate shall become due the Board shall cause a notice in the form set forth in Schedule D. hereunto annexed to be served by a collector duly authorized to receive the same upon every person liable to pay such rate and if such rate be not paid to such collector on the service of such notice it shall be paid at the place named therein within thirty days after the service thereof and if not paid within such thirty days it may be forthwith recovered by law.

41 Service of notice.

Every notice required to be given by this Act may be served by delivering to the person to whom the same is addressed or by leaving the same at his last or usual known place of abode in the Province or in case he shall have no such place of abode such notice may be served by affixing the same on or to some part of the premises in respect of which the rate shall be payable.

42 Rates the property of Board.

All rates when made as hereinbefore provided shall be deemed to be the property of the Board.

43 Money to be paid to Treasurer of the Board.

All moneys levied or received under this Act shall be paid to the Treasurer of the Board for the district for which the same shall be received to be appropriated by such Board in defraying the expenses of carrying out the provisions of this Act and the said Board or any three of them may from time to time issue their warrants to the said Treasurer for the payment of such moneys.

44 Board may make contracts.

The Board shall have power from time to time to enter into any contracts for the execution of any work to be done under the authority of this Act and to employ all such officers and workmen as it may require to carry out the provisions of this Act and out of the moneys which shall come into their hands by virtue of this Act to pay such officers and workmen such remuneration as the Board shall deem just and reasonable.

45 Board to have power to remove officers.

In all cases where no special agreement exists to the contrary the Board shall have power to remove any officer in its employ by giving to such officer one month's notice in writing to that effect signed by the chairman and any officer may on a like notice to be forwarded to the chairman resign his appointment.

46 Board may stop roads temporarily.

The Board shall have power during the execution of any works under the authority of this Act *to* cause any road or bridge to be stopped up temporarily during the execution of such works upon giving a reasonable notice of the same in some newspaper in general circulation within the district.

47 Board to take precautions against accidents.

The Board shall during the execution of any work take all due and proper precaution against accident by reason of such works and if any person shall without the authority or consent of the Board take down alter or remove any bar chain or other thing placed by the authority of the Board for the purpose of protection against accident or extinguish any light so placed at night for the purpose of public protection he shall for every such *offence upon conviction before any court of competent jurisdiction forfeit* and pay any sum of money not exceeding five pounds or be imprisoned for any period not exceeding fourteen days.

48 Collector and Treasurer to give security.

Every collector treasurer or other person appointed to levy or receive the said rates other than the Provincial Treasurer shall give sufficient security to the satisfaction of the Board for the district by bond for the faithful execution of the said office and every such collector treasurer or other person shall at such time or times as the said Board shall direct deliver them true and perfect accounts of all moneys which shall have been received by him by virtue of this Act and of all moneys paid by him together with the proper vouchers for such payments and if any person shall refuse or neglect to produce or deliver the vouchers relating to the same or shall not deliver to the said Board within ten days after being thereunto required all books papers and writings in his custody or power relating to the trust reposed in him or shall refuse or neglect to pay such moneys as upon the balance of any account shall appear to be in his hands to the Board or as they shall appoint every such person shall for every such neglect respectively forfeit a sum not exceeding fifty pounds to be recovered in a summary manner.

49 Accounts to be kept and audited.

The Board shall in books to be kept for that purpose enter true accounts of all sums of moneys received and paid and of the several matters in respect whereof such sums shall have been received and paid and all such accounts

with all vouchers and papers relating thereto together with a full abstract or balance sheet thereof signed by the chairman and two members of the Board shall once at least in each year be examined and audited by the auditors appointed for that purpose.

50 Board to be bound by Act.

The Board shall expend all moneys paid to it by the Superintendent except sums as may be appropriated by the Provincial Council for any specific works within the district and all money arising from rates levied within the district in accordance with any resolutions which may be passed by the Board in that behalf provided that such resolutions are in accordance with the provisions of this Act.

51 Board to make roads.

The Board shall out of the moneys to be received under this Act in the first place make maintain and repair so many or such part or parts of the roads specified in Schedule E. as shall be within the district and in the next place after the same shall be made and in a proper state of repair to the satisfaction of the Superintendent or some person appointed by him to inspect such roads make maintain and repair other roads therein.

52 Superintendent to pay moneys appropriated for roads to Boards which have levied rates.

All moneys which may from time to time be appropriated by the Provincial Council to the Road Boards shall be paid by the Superintendent to the Treasurers of the Boards or other officers appointed to receive the same by way of *pro rata* distribution according to the amount of rates levied by each Board Provided always that in distributing the aforesaid moneys there shall be paid to each district marked respectively I. K. N. O. P. in Schedule A. three times the amount and to each district marked respectively A. E. H. L. M. S. twice the amount that may be payable or paid to districts marked respectively B. C. D. F. G. Q. R. T. U. for each one pound sterling of rates collected under this Act.

53 Auditors to be appointed.

At the first general meeting for the election of a Board and afterwards at the annual meeting in each successive year for the purpose aforesaid there shall be elected two or more auditors to examine into and audit the accounts of the Board and in each successive year the balance sheet as aforesaid so examined and audited shall be submitted to such meeting and a copy thereof signed by the chairman shall be forwarded to the Superintendent.

54 Money books &c. to be handed over to new Board.

All moneys found by the auditors to be due from any retiring Board together with all such books of accounts vouchers and papers shall be forthwith paid and delivered over to the Board for the time being.

55 Persons obstructing works liability to penalty.

If any person shall obstruct or in any manner interfere with any road drain watercourse or other work such person on being convicted thereof before any Resident Magistrate or two Justices of the Peace shall be liable to reimburse all charges and expenses which may be occasioned by reinstating and making good the work so altered obstructed and interfered with and shall also forfeit any sum not exceeding ten pounds nor less than five pounds.

56 Penalty for erecting windmills and brickkilns.

It shall not lawful for any person to erect or cause to be erected within one hundred yards of any road or street any steam engine or windmill unless such steam engine or windmill shall be behind some wall or fence sufficient to screen the same from the road so that the same may not be dangerous to passengers horses or cattle nor to make any fire for burning or calcining any limestone bricks or clay or the making of coke or charcoal within twenty-five yards of any road or street unless the same be within some building in or behind some wall or fence sufficient to screen the same from such road and any person offending against this enactment shall be liable to a penalty for every such offence not exceeding ten pounds nor less than five pounds and a further penalty not exceeding forty shillings for every day during which the offence is continued after notice in writing from the Board for the district in this behalf.

57 Penalty for danger at night.

If any person shall lay or cause to be laid any heap of stones or any other matter or thing whatsoever upon any road and allow the same to remain at night to the danger or the personal damage of any person passing thereon all due and proper precaution not having been taken to guard against the same he shall forfeit for every such offence any sum not exceeding ten pounds.

58 Fines recoverable.

All fines and penalties imposed under this Act shall be recoverable in a summary way.

59 No Judge &c. to be disqualified.

No Judge Resident Magistrate or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Act by reason of his being assessed as a ratepayer under this Act.

60 Interpretation clause.

In the interpretation of this Act the word "Province" and "Provincial Council" shall be severally taken to mean the Province of Marlborough and the Provincial Council of Marlborough

The word "Superintendent" shall be taken to mean the Superintendent with the advice and consent of the Executive Council

The word "Roll" shall mean the Ratepayers' Boll as amended

The words "the District" "the Board" shall severally mean a District and a Road Board established under the provisions of this Act

And whenever in describing or referring to any person or party matter or thing the word importing the singular number or masculine gender only is used the same shall be understood to include and shall be applied to several persons or parties as well as to one person or party and to females as well as males and to several matters or things as well as to one matter or thing respectively unless there shall be something in the subject or context repugnant to such construction.

SCHEDULES REFERRED TO

Schedule A

A.—KAIKOURA DISTRICT

The Kaikoura Petty Sessional District with the exception of the town and suburban lands within such district.

B.—UPPER CLARENCE DISTRICT

From the northernmost point of District A. by the Clarence to the Dee River thence by the Dee to its source thence by the Watershed to Barefell's Pass thence by the boundary of the Province to District A.

C.—FLAXBOURNE DISTRICT

By Districts A. and B. by the sea coast from Clarence River mouth to Grassmere at its northernmost point thence by boundary of Flaxbourne Run to Flaxbourne River thence by Flaxbourne River to Phillip's Gully thence by northern boundary of Richmond Brook Back Run and by boundary between that Run and Upton Downs Run to watershed of Blue Mountain Range thence by watershed to District B.

D.—UPPER AWATERE

By boundary of the Province from Barefell's Pass to the watershed of the Wairau and Acheron Rivers thence along the dividing range through Maungatere and Castle Craggs to the source of the Avon River thence by the Avon River to the Tummel thence by the Tummel to its source thence by the range to the source of the Bolton thence by the Bolton to the Awatere thence by the Awatere to the Hodder thence by the Hodder to its source thence by the range to District B.

E.—LOWER AWATERE

By Districts C. and D. to the source of the Tummel thence by the southern boundary of the Hon. Mrs. Dillon's Run to the Omaka River thence by the boundary between Blarich and Tyntesfield Runs thence by Riddle Stream to Ned Saddle thence by boundary between Dumgree Run and Meadow Bank Run to stream flowing immediately from Taylor Pass saddle thence to Taylor Pass saddle thence by watershed to White Bluff thence by sea to District C. Together with a belt one mile each side of the Taylor Pass Road from the junction of the stream immediately flowing from the Taylor Pass saddle with the boundary stream between Dumgree and Meadow Bank Runs to a road line running nearly East and West to the base of the hills on either side of the entrance to the Taylor Pass.

F.—WAIHOPAI DISTRICT

By District D. to junction of Tummel and Avon Rivers thence by Avon to Waihopai thence up Waihopai to boundary of Bank House Run thence by said boundary to the saddle of the Marshburn Pass thence by the watershed of the Wairau and Waihopai Rivers to the boundary of the Province at the westernmost point of District D.

G.—WAIRAU VALLEY

From the westernmost point of District D. by the boundary of the Province to Mount Richmond thence by the range to the western boundary of Langley Dale thence by the said boundary of the Wairau River thence by the Wairau River the junction of Wairau and Waihopai Rivers thence by a straight line to the saddle of the Marshburn Pass thence by District F.

H.—UPPER WAIRAU

By Districts G. F. D. and E. to S.E. corner of Tyntesfield Run thence by boundary of Tyntesfield Run to Fairhall thence to Fairhall River to the boundary line between the Electoral Districts of Upper and Lower Wairau to the Opawa River thence up Opawa River to Wairau River thence by Wairau River to the watershed between the Are Are and Onamalutu to the main range thence by the range to District G.

I.—LOWER WAIRAU

By boundary between sections two and four Omaka commencing at the Town of Blenheim thence by line between sections twenty-five and twenty-six thence by road line running east to section forty-three thence by road running to Split Peak Gully thence by northern boundary of sections three and two of block two thence by southern boundary of sections thirty-two thirty twenty-seven twenty-six and twenty-three Opawa thence by Seventeen Valley Creek to section fifty-two on square No. 28 thence by southern boundary of sections fifty-two fifty-three fifty-four and part of fifty-five on square No. 28 thence by southern boundary of sections twenty-one twenty and part of nineteen on square No. 39 to Taylor River thence by the boundary between Dumgree and Meadow Bank Runs and Dumgree and land held by Mr. Wither to District H. thence by District H. and Opawa River to Blenheim.

K.—FOX'S ISLAND

By the Opawa and Wairau Rivers and the boundary between the electoral districts of Tua Marina and Lower Wairau.

L.—BUSH DISTRICT

By the Opawa and Wairau Rivers and boundary between the Electoral Districts of Tua Marina and Lower Wairau and lying to the S.E. of District K. above.

M.—OPAWA DISTRICT

By District L. I. and E. and by the sea.

N.—EAST WAIRAU

By the Wairau River from its mouth to the S.E. boundary of the Village of Tua Marina thence along the said boundary to the base of Massacre Hill thence by the base of the hills in a N.E. direction to White's Bay thence by the sea to the Wairau River.

O.—TUA MARINA

By Districts K. and N. to White's Bay thence by the range leading to Mount Robertson thence along range to Karaka Point thence by sea to Wedge Point thence by watershed of Kaituna and Tua Marina rivers and Tua Marina and Wairau River to the Wairau River.

P.—KAITUNA DISTRICT

By the watershed from Cullen's Point to District O. thence by Districts O. K. and H. and by the watershed of the Kaituna and Pelorus Rivers to the N.W. corner of Havelock thence by the coast line to Cullen's Point.

Q.—PELORUS VALLEY

By Districts P. H. and G. to the boundary of the Province thence by said boundary to Castor Peak thence by a straight line to Kai-kumera Point.

R.—PELORUS SOUND DISTRICT

By District Q. by the boundary of the Province and by the sea coast including the adjacent islands.

S.—LINKWATER DISTRICT

By Districts O. and P. and by the coast line from Cullen's Point to the S.W. boundary of the Blencartha run thence by the said boundary to Queen Charlotte Sound thence by the coast line to Wedge Point.

T.—KENEPURU SOUND

By District S. and by the coast line round Jackson's Head.

U.—QUEEN CHARLOTTE SOUND

By District O. and by the coast line round Cape Koamoroo to White's Bay including the adjacent islands.

V.—KAIKOURA TOWN DISTRICT

The township of Kaikoura and suburban lands.

Schedule B

Class A.—All land of a hilly or broken character and inferior pastoral description.

Class B.—All hilly land of a superior pastoral description and all level land which from its inferior description is unsuitable for tillage.

Class C.—All level or comparatively level timber lands not situated in a locality where the timber is in immediate demand for sale as well as all level or comparatively level land being arable but which from its position or natural capabilities is not in immediate demand for purposes of tillage.

Class D.—All land that from its situation and quality may be farmed with advantage and level or comparatively level timber lands in a locality where a demand exists for timber.

Class E.—All lands situate within the limits of any town not having a Board of Works therein.

Schedule C

Form of Notice

To the Clerk of the Resident Magistrate [or Petty Sessional District] of

I hereby give you notice that I object to the following portion of the Ratepayers' Roll 186 [Here state part or parts objected to] and the following is the ground of my objection [state ground of objection] and that I shall appear in support of such objection at the meeting of Justices to be holden under the provisions of this Act.

[Signature] A. B.

[Description.]

[Place of Abode.]

Dated this day of 186

Schedule D

Notice

[Date.]

This is to give notice that you are required to pay the sum of £ s. d.
being the amount of Rate due from you to the Road Board unto at his
residence at on or before the day of 186 the said
being duly authorized to receive the same.

[Signed] A. B.

Chairman.

To C. D.

[Residence.]

Schedule E**Roads**

1. From the boundary of the Nelson Province at the River Heringa through the Pelorus and Kaituna Valleys to Renwick thence through the Taylor Pass and down the East Coast to the boundary of the Province at the Conway Ranges so far as is required for dray traffic.
2. From the Picton Wharf to Blenheim thence to the Taylor Pass joining No. 1.
3. From Hyde's Corner to Renwick thence up the Wairau Valley to the Top House.
4. From No. 2 near the Ferry up Fox's Island to Renwick.
5. From the Landing Place at Anikawa to the Landing Place at Mahakipawa.

SIXTH SCHEDULE***An Act to make further provisions to prevent the spread of the disease among Sheep called Scab and for other matters.*****Preamble.**

Whereas it is expedient to make further provisions to prevent the spread of disease amongst sheep called scab and for other matters

Be it therefore enacted by the Superintendent of the Province of Hawke's Bay by and with the consent of the Provincial Council thereof as follows—

1 Directions as to returns.

The return directed to be furnished by owners of sheep by clause No. 4 of an Act of the Superintendent and Provincial Council of Hawke's Bay No. 2 of Session No. 6 shall in addition to other particulars contain the sex of each sheep included in such return and every owner of sheep neglecting to give such further particulars shall be liable to the penalty inflicted by the said clause.

2 Penalty for driving sheep without tar brand.

Every person driving sheep into the Province of Hawke's Bay by land from any other Province shall previous to so driving brand the said sheep with a legible tar brand and any person driving sheep without such tar brand shall be liable to a penalty not exceeding fifty pounds and not less than five pounds.

3 Notice to Inspector requisite before driving sheep into Province.

Before any person shall drive sheep into the Province of Hawke's Bay from any other Province he shall give twenty-one days' notice in writing of his intention so to do to the Inspector of the district through which he may propose to drive any such sheep and such notice shall state from what place such sheep have been originally driven and on what day and at what place adjacent to the boundary of the said Province such sheep will be mustered for the inspection of the said Inspector and such notice shall also state the particulars of the tar brand with which such sheep shall be branded every such notice shall be served personally on the said Inspector or left at his usual place of abode.

4 Penalty for not giving notice.

Any person driving Sheep into the said Province of Hawke's Bay without serving or delivering the notice provided for by the last clause shall be liable to the penalty of one pound per head for every sheep so driven into the said Province.

5 Sheep driven through infected districts to be deemed infected.

All sheep driven into the said Province of Hawke's Bay from any district in any other Province and which district shall be known or reputed to be infected with

the disease called the scab shall be deemed to be infected with the said disease and the owners of the said sheep shall forthwith be liable to all penalties now imposed by law on persons owning infected sheep and to the provisions and penalties contained in and imposed by clauses eighteen and nineteen of an Act of the Superintendent and Provincial Council of Hawke's Bay No. 2 of Session No. VI.

6 Penalties how recoverable.

All penalties imposed by this Act which are within the jurisdiction of Resident Magistrate's Courts shall be recoverable by summary proceedings.

7 Short Title.

The Short Title of this Act shall be "The Sheep and Scab Amendment Act 1867."