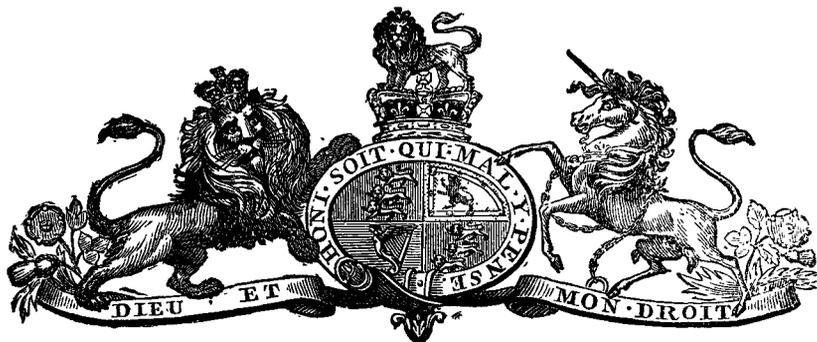


NEW ZEALAND.



TRICESIMO TERTIO ET TRICESIMO QUARTO

VICTORIÆ REGINÆ.

No. LXXVII.

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Title.

AN ACT to provide for Immigration and the Construction of Railways and other Public Works and also to promote Settlement. [12th September 1870.]

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

Short Title.

1. The Short Title of this Act shall be "The Immigration and

Immigration and Public Works.

Public Works Act 1870" and the sections thereof are arranged in Parts as follows—

Division of Act into Parts.

PART I.—Roads in North Island ss. 2-5.

PART II.—Powers to construct Railways and what Funds applicable to the purpose Special Railway Fund for Middle Island ss. 6-25.

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PART VIII.—Provisions specially applicable to construction of Works for Supply of Water under the Third Part of this Act ss. 82-90.

PART IX.—Miscellaneous ss. 91-104.

PART I.

ROADS IN NORTH ISLAND.

2. The Governor from time to time by Proclamation published in the *New Zealand Gazette* may as to parts within the North Island of New Zealand define the roads and the boundaries thereof and the bridges and ferries which shall be and be deemed to be roads bridges or ferries as the case may be under the provisions of this Act and any such Proclamation may include existing roads but no such roads or parts of roads shall be included if they are in the opinion of the Governor in Council roads which should be constructed by the Superintendent and the Provincial Council of the Province wherein such roads are situated as well as new road lines and the Governor from time to time may revoke or alter any such Proclamation.

Governor authorized to proclaim roads bridges and ferries to be under the provisions of this Act.

3. The Governor shall have power to form control improve manage repair and maintain any proclaimed road bridge or ferry.

Governor empowered to construct roads &c.

4. The Governor may cause to be expended or contracted for out of such moneys authorized to be raised under "The Immigration and Public Works Loan Act 1870" hereinafter referred to as "the said Loan Act" as may for the time being be applicable to the purposes of the formation construction reparation and maintenance of such roads bridges and ferries any sum of money not exceeding in the whole four hundred thousand pounds but not more than one hundred thousand pounds shall be so expended or contracted for in any one year.

£400,000 out of moneys to be raised under "The Immigration and Public Works Loan Act 1870" to be applicable to roads &c. at rate not exceeding £100,000 in a year.

5. Whenever the Governor deems it expedient to open or make a road or bridge or increase the width or alter any existing road or bridge proclaimed under this Act the regulations and provisions contained in the Sixth Part of this Act shall be observed and as to all roads bridges and ferries proclaimed under this Act and authorized to be formed constructed repaired or maintained hereunder the regulations and provisions contained in the said Sixth Part of this Act shall apply thereto.

Roads bridges and ferries to be constructed in accordance with and to be subject to provisions of the Sixth Part of this Act.

PART II.

POWERS TO CONSTRUCT RAILWAYS AND WHAT FUNDS APPLICABLE TO THE PURPOSE. SPECIAL RAILWAY FUND FOR MIDDLE ISLAND.

Governor from time to time to ascertain opinions of Provincial Legislatures as to railways to be constructed under this Act and to lay the same with his recommendations before General Assembly.

6. The Governor may from time to time and in such manner as he shall think fit cause inquiries to be made in order to ascertain what railways in the opinion of the Superintendent and Provincial Council of each Province ought to be constructed within such Province under the powers conferred by this Act out of the moneys for the time being available for the purpose under this Act and the said Loan Act and at what time and in what mode such railways ought to be constructed and generally the opinion of the Superintendent and Provincial Council relative to such railways and copies of all Resolutions passed by any Council of a Province relative to the railways to be constructed in such Province together with the opinion or recommendation in writing of the Superintendent of such Province and any documents maps plans or drawings referred to therein as shall be forwarded to the Colonial Secretary or Minister of Public Works in order that the same may be laid before both Houses of the General Assembly shall be laid before both Houses of the General Assembly forthwith after the receipt of the same if the General Assembly be then sitting and if the General Assembly shall not be then sitting then within seven days after the commencement of the then next Session of the General Assembly and there shall at the same time be laid before both Houses of the General Assembly a statement showing whether or not or to what extent the Governor concurs in such opinions and recommendations and generally a statement showing what lines or parts of lines of railways in each of the Provinces of New Zealand the Governor recommends to be constructed and the time when the construction ought to be commenced and in what mode the same should be constructed and generally the recommendation of the Governor as to such railways.

Governor may cause surveys to be made.

7. The Governor shall cause a reconnaissance survey to be made sufficiently accurate to indicate the main lines of railways between Cook's Straits and Invercargill and between Napier and Wellington and between New Plymouth and Wellington respectively and shall from time to time cause such inquiries reports and surveys to be made and such acts and proceedings to be done and taken as he may think necessary and sufficient for the purpose of ascertaining the railways that ought to be constructed under this Act and the mode of construction and generally for the purpose of enabling him to make such recommendations as aforesaid and for such purposes may from time to time employ and appoint and remove such engineers surveyors draftsmen clerks and others as he may think fit.

Governor may apply such amount of moneys as he thinks fit for purposes of survey.

8. There may be issued and applied out of any of the moneys authorized to be raised under the said Loan Act for railways and made applicable to the purpose by the General Assembly all such sums of money as the Governor may from time to time order for the purposes mentioned in the two preceding sections.

The railways to be constructed to be those only prescribed from time to time by the General Assembly. Sums equal to those expended or contracted to be ex-

9. The railways to be constructed under this Act shall be only such railways as shall from time to time be determined by the General Assembly.

10. Out of such moneys authorized to be raised under the said Loan Act as may for the time being be applicable to the purpose there shall be set aside and paid to the credit of the Special

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Fund to be kept there as a separate account to be called "The Middle Island Railway Fund Account" a sum equal to the amount authorized to be expended under the First Part of this Act on roads during each year after the passing of this Act and the said moneys from time to time placed to the said account shall be expended in accordance with the provisions hereinafter contained upon the construction or on account of such railways in the Middle Island as shall from time to time be prescribed by the General Assembly as railways on which such fund is to be expended and on no other purpose.

pended on roads &c. to be paid to special account and expended on railways in the Middle Island.

11. The expenditure of the said sums from time to time placed to the said Account shall be distributed over the Middle Island as follows—In each Province there shall be expended upon the construction or on account of railways so prescribed as aforesaid in such Province in each year such a proportion of the said sums as the capitation moneys allotted in such year to the Province under the provisions contained in "The Payments to Provinces Act 1870" bear to the sum of such capitation moneys allotted in such year to all the Provinces in the Middle Island and if in any year the whole of the moneys which may under this section be expended in any Province in such year be not expended then such part as shall not have been expended in that year may be expended under this Act in any year thereafter in the construction of or on account of such railways as aforesaid in such Province Provided that for the purposes of this and the last preceding section of this Act so far as they apply to the County of Westland the term "railways" shall include such road works in the County of Westland as the Governor in Council may from time to time prescribe.

Apportionment of such moneys amongst Provinces in Middle Island.

12. Subject to the provisions contained herein the Governor may construct or cause to be constructed any lines of railway which shall be prescribed by the General Assembly as railways to be constructed under this Act or any part or parts thereof and acquire the necessary engines plant and machinery for working and using the same or any of them.

Power to construct railways authorized by the General Assembly.

13. Whenever the Governor shall determine to construct any such railway or any part thereof it shall be lawful for him by Proclamation published in the *New Zealand Gazette* to declare and define the limits and description and line thereof and the lands proposed to be taken for the purpose of such railway subject to the provisions of any Act defining such limits and descriptions and any such Proclamation may refer to maps plans or drawings to be deposited in the office of the Registrar or Deputy Registrar of the Supreme Court in the Province in which such railway or part thereof is proposed to be constructed and any maps plans or drawings so referred to shall be deemed to form part of such Proclamation and upon the publication of such Proclamation the provisions and regulations contained in the Seventh Part of this Act shall be applicable to the railway and to the lands to which the Proclamation shall relate.

Power to define the lines of railway and lands to be taken.

14. It shall be lawful for one or more Superintendents of Provinces to join and concur in any contract for the purpose of entering into such engagements on behalf of his or their Provinces as he or they may be authorized by law to enter into.

Superintendents of Provinces may join in contract.

15. In any contract made by the Governor with any person for the construction of or on account of any such railway the Governor may contract to pay for such works in money or by grant of any lands which he may be authorized by law to contract to grant as compensation for such works or may agree on such terms as he shall think fit to let or rent such railway or guarantee to the contractor or his

Governor may contract to pay in money or by grants of land or by lease of line and guarantee of profits or subsidies.

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assigns a certain amount of profits on the working of such railway or on such terms as he may think fit to pay an annual or other sum as subsidy for the construction or working thereof or on such terms as he shall think fit to sell or purchase such railway when constructed and in such case either with or without conditions for the repurchase thereof or any such agreement may include any or all of such arrangements or any other arrangements which in the opinion of the Governor are calculated to carry out the object of the Act and not in conflict with the same. Provided that any railway constructed by the Governor out of money raised under the said Loan Act shall not be let or sold without the previous authority of the General Assembly.

16. Every such guarantee shall be in the form of a guarantee of an amount of interest to be agreed upon on capital expended not exceeding six pounds per cent. per annum on a fixed amount of capital and no such subsidy shall exceed one-third of the cost of construction.

17. It shall be lawful for the Superintendent of any Province in which any such railway or any part thereof is proposed to be constructed under the powers hereby conferred from time to time with the consent of the Provincial Council of such Province signified by Act or Ordinance to recommend to the Governor that such of the Waste Lands of the Crown within such Province as shall be therein specified be set apart and appropriated in and for the construction of such railway or part and to any such recommendation conditions and limitations may be attached and upon any such recommendation being made it shall be lawful for the Governor to include in any contract for the construction of such railway or part a contract on such terms as the Governor shall think fit to grant at such time or times as the Governor shall think fit and be defined in the contract such land or such part thereof as the Governor shall think fit and be defined in the contract to the contractor as compensation in whole or in part for the construction of such railway or part thereof and in such contract effect shall be given to the conditions and limitations attached to such recommendation and it shall be lawful for the Governor to make grants of such land in performance of any such contract.

18. Beyond the money hereinbefore authorized to be expended only on railways in the Middle Island there may be expended upon the construction or on account of any such railways as shall be prescribed as aforesaid by the General Assembly whether situate in the North or Middle Island of New Zealand such moneys raised under the said Loan Act for railways as shall be appropriated by the General Assembly for the purpose of such prescribed railways and for the purposes of this Part of this Act the term "railway" shall include all buildings plant and machinery necessary or convenient for the construction and maintenance and the use and working of any such railway.

19. All moneys which shall from time to time be expended under the authority of this part of this Act on railways (except such as shall be expended out of the Middle Island Railway Fund Account) shall immediately upon such expenditure being made be charged against the Province in which the works upon which such moneys shall have been expended are situate in the manner provided by the forty-fourth section of "The Public Revenues Act 1867" and the tenth section of "The Payments to Provinces Act 1870" Provided that as to so much of such moneys as shall be expended out of any Loan such charge shall be the interest and sinking fund from time to time accruing due in respect of such moneys commencing from the date of the borrowing thereof and a proportionate part of the costs of raising such moneys.

Guarantee to be of fixed amount of interest on capital. Limit to amount of subsidy.

Superintendent and Provincial Council may recommend lands to be set aside for construction of railway.

Subject to terms of recommendation Governor empowered to contract to grant such lands to contractor.

Beyond said £400,000 for Middle Island railways alone Governor empowered to expend on railways in North and Middle Island moneys appropriated by the said Loan Act.

Railway expenditure except that from the Middle Island Fund to be charged provincially.

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20. It shall be lawful for the Superintendent of any Province in which any railway is about to be or has been constructed under the powers hereby conferred from time to time with the consent of the Provincial Council of such Province signified by Act or Ordinance to agree with the Governor subject to the approval of the General Assembly that such part of the Waste Lands of the Crown situate within such Province as shall be specified in such Act or Ordinance and agreement shall be accepted in lieu of payment by the Province of such amount of moneys as shall be fixed in such Act or Ordinance and agreement and as shall have become chargeable against such Province under the provisions contained in the preceding section hereof or in the case of expenditure not for the time being yet made in lieu of payment of such amount as shall be so fixed and shall thereafter become chargeable under the said provisions of this Act and upon any such agreement being entered into the lands to which the same relate shall cease to be subject to disposal under the laws for the time being in force regulating the sale and disposal of Waste Lands of the Crown within such Province and shall and may subject to any engagement for the time being relating thereto be disposed of in such manner and for such of the purposes authorized by this or any other Part of this Act as the General Assembly shall from time to time direct subject to the provisions of the next succeeding section and the proceeds if any may also be in like manner disposed of for any such purposes.

Lands may be accepted by Governor in lieu of moneys charged against Province.

Disposal of such lands.

21. The Governor shall on the disposal of any such lands as in the last preceding section referred to and the proceeds thereof observe and carry out any engagements to which the same may be subject at the time of the entering into any agreement relating thereto under the powers contained in the said last section and shall also observe and perform any terms stipulations or conditions which may be contained in such agreement relating to the disposition of such lands.

Governor to carry out existing contracts relating to such lands and observe terms of agreement with Superintendent.

22. It shall be lawful for the Governor by Proclamation in the *New Zealand Gazette* to proclaim and declare that any lands taken under "The New Zealand Settlements Act 1863" and the Acts amending the same or any lands which by "The East Coast Act 1868" it is provided shall be deemed to be Crown Lands and defined in such Proclamation and not theretofore granted or agreed to be granted or reserved or set apart under any law now or hereafter to be in force shall from and after a day to be appointed in such Proclamation be and be deemed to be Waste Lands of the Crown within the meaning of any Act or Ordinance or Regulation regulating the sale of Waste Lands of the Crown in the Province within which such lands are situate and for the time being in force and from and after the day so appointed such lands shall subject to the provisions of this Act be sold occupied disposed of or dealt with in the manner provided by such Act Ordinance or Regulation or may be dealt with or disposed of under the seventeenth or twentieth and twenty-first sections of this Act Provided however that as to such of the said lands as are within the Province of Auckland such lands shall not be subject to be proclaimed under the second section of "The Auckland Waste Lands Act 1870" Provided further that all revenue and other proceeds derived from the said lands shall and may be applied first in the payment of all such charges expenses and other sums of money as shall have been agreed upon between the Governor and the Superintendent of the Province in which the lands are and thereafter in and towards the costs charges and expenses under this Act of introducing immigrants into the Province in which such lands are and of

Governor may declare confiscated lands to be Waste Lands of the Crown.

Exception.

Immigration and railway costs to be first charge on revenue from such lands.

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such costs charges and expenses of the construction of railways under this Act as may be determined by the General Assembly and the Colonial Treasurer is hereby authorized to pay out of such revenue and proceeds the costs charges and expenses authorized as aforesaid.

Half of Stamp duties appropriated to Provinces to meet charges for railway expenditure.

23. From and after the thirtieth day of June one thousand eight hundred and seventy-one one-half of the revenue from time to time arising within each of the Provinces under "The Stamp Duties Act 1866" "The Stamp Duties Acts Amendment Act 1867" "The Stamp Duties Acts Amendment Act 1869" or any of the said Acts shall from time to time be applied in the payment of all moneys expended in the construction of railways in the Province within which such revenue shall have arisen and which shall then have been charged or shall be chargeable against such Province under the nineteenth section of this Act and the revenue so arising in each Province and made applicable as aforesaid shall in the first instance be paid to the Special Fund and kept there as a separate account to be called "The [*naming the Province*] Stamp Duties Account" and shall from time to time be issued and applied therefrom at such times and in such manner as the Governor in Council shall direct and for the payment of such sums as the Governor in Council shall declare to be payable on account of the construction of railways in such Province and charged or chargeable as the case may be against such Province Provided that this fund shall be accumulative for that object in Provinces which have no railways until their construction takes place and shall not be used on account of any railways except those constructed under or in pursuance of this Act and that the word "railways" shall in the County of Westland mean road works as provided in the eleventh section of this Act.

Grants of land for railway purposes limited to 2,500,000 acres.

24. The Governor may in addition to the pecuniary liabilities which he is authorized to incur as hereinafter provided enter into contracts to make grants of such land as he may under the provisions of this Act be authorized to make in compensation for the construction or on account of such railways but not exceeding in the whole for all such railways two millions and five hundred thousand acres and may for the construction or on account of all such railways contract to make money payments or incur pecuniary liabilities to an extent not exceeding in the whole for all such railways seven millions and five hundred thousand pounds sterling and for the purposes of this section of this Act the term "pecuniary liabilities" shall include the following contracts—

Money payments including subsidies guarantees and certain lands limited to seven millions.

- (1.) All contracts for direct payments in cash
- (2.) All contracts for guarantee of a certain amount of profits or interest on capital expended in construction and the liability incurred by such a contract shall be estimated as equivalent to the amount of capital upon which such interest or profits are guaranteed
- (3.) All contracts to purchase or repurchase any such railways
- (4.) All contracts for subsidies
- (5.) The value of all such land as the Governor may contract to grant as compensation for the construction of or on account of such railways over and beyond the amount of the two millions and five hundred thousand acres of land hereinbefore mentioned
- (6.) All sums expended from the Middle Island Railway Fund Account
- (7.) All moneys paid or contracted to be paid for lands taken for the purposes of such railways

Provided that the money payments agreed to be paid on account of all

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such railways including direct payments subsidies and moneys for purchasing land for the purposes of such railways but not including guarantees of interest and contracts to purchase railways shall not on the whole exceed the amounts authorized to be raised under the said Loan Act and made applicable to the purposes of such railways.

25. In every contract to be entered into for the construction of any railway under this Act it shall be provided that no deviation from the plans and specifications shall involve an increased expenditure in connection with such work unless distinctly authorized by writing under the hand of the Minister of Public Works who before authorizing any such deviation shall obtain from the Engineer intrusted with the execution of such work an estimate of the increased expenditure arising therefrom. Provided that in all cases where such deviation from the said plans and specifications shall involve an outlay exceeding five hundred pounds the consent of the Governor in Council shall first be obtained.

Deviation from plans must be duly authorized.

PART III.

POWERS TO CONSTRUCT WORKS FOR SUPPLY OF WATER TO GOLD FIELDS AND WHAT FUNDS APPLICABLE TO THE PURPOSE.

26. The Governor may on the request of the Superintendent and Provincial Council of any Province in which any proclaimed Gold Field is cause to be constructed completed extended repaired or maintained such works for supplying water to such Gold Field as he may from time to time think fit and may enter into contracts for the construction completion or extension of such works or for purchasing or otherwise acquiring any drains dams water-races reservoirs or other works already constructed which may appear to the Governor suitable for any such purpose as aforesaid.

Governor on request of Superintendents of Provinces may construct works for supply of water to Gold Field.

27. The Governor may from time to time cause such inquiries reports and surveys to be made and such acts and proceedings to be done and taken as he may think necessary and sufficient for the purpose of ascertaining the waterworks that ought to be constructed under this Act and the mode of construction thereof and for such purposes may from time to time employ and appoint and remove such engineers surveyors draftsmen clerks and others as he may think fit.

Governor may cause reports and surveys to be made.

28. There may be issued and applied out of any of the moneys authorized to be raised under the said Loan Act for supply of water to Gold Fields and made applicable to the purpose by the General Assembly all such sums of money as the Governor may from time to time order for the purposes mentioned in the preceding section of this Act.

Moneys applicable for supply of water to Gold Fields.

29. Out of the moneys authorized to be raised under the said Loan Act and made applicable to waterworks there may from time to time be issued and expended or contracted for in or about the constructing purchasing completing extending repairing and maintaining any such works or any such drains dams water-races or reservoirs as in the last section mentioned any sum or sums not exceeding in the whole three hundred thousand pounds and not exceeding one hundred thousand pounds in any one year.

£300,000 applicable to the purpose.

30. In any contract made by the Governor with any person for the construction of or on account of any such waterworks the Governor may contract to pay in money or may agree on such terms as he shall think fit to let such waterworks when constructed and grant the right to construct the same or guarantee to the contractor or his assigns a certain amount of profit on the working of such waterworks and on the letting rights to use the water thereof or may agree on such terms as he shall think fit to pay an amount or other

Governor may agree with contractor in letting waterworks for payment in money or for subsidy or otherwise.

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sum as subsidy for the construction or working thereof or any such agreement may include any or all of such arrangements or any other arrangements which in the opinion of the Governor are calculated to carry out the object of this Part of this Act and are not in conflict with the same and every such guarantee shall be in the form of a guarantee of an amount of interest to be agreed upon on capital expended in construction such interest not to exceed six pounds per centum per annum on a fixed amount of capital and no such subsidy shall exceed one-third of the cost of construction.

Pecuniary liabilities for waterworks not to exceed three hundred thousand pounds.

31. The money payments and pecuniary liabilities to be incurred in and about the construction of such works shall not exceed the aforesaid sum of three hundred thousand pounds sterling and for the purpose of this section the term "pecuniary liabilities" shall include the following contracts—

- (1.) All contracts for direct payments in cash
- (2.) All contracts for guarantee of a certain amount of interest on capital expended in construction and the liability incurred by such a contract shall be estimated as equivalent to the amount of capital upon which such interest is guaranteed
- (3.) All contracts for subsidies
- (4.) All moneys paid for waterworks purchased or for lands purchased for the purposes of waterworks

To be charged against Province in which constructed.

32. All moneys which shall from time to time be expended under the authority of this Part of this Act shall immediately upon any such expenditure being made be charged by the Colonial Treasurer against the Province in which the works on which such moneys shall have been expended are situate in the manner provided by the forty-fourth section of "The Public Revenues Act 1867" and the tenth section of "The Payments to Provinces Act 1870" Provided that as to so much of such moneys as shall be expended out of any Loan such charge shall be the interest and sinking fund from time to time accruing due in respect of such moneys commencing from the date of the borrowing thereof and a proportionate part of the costs of raising such moneys.

Governor to define lands and streams to be taken.

33. Whenever the Governor shall determine to construct any waterworks under the powers conferred in this Part of this Act he shall from time to time by Proclamation published in the *New Zealand Gazette* declare and specify the waterworks which he proposes to construct and the lands and streams of water proposed to be taken for the purpose of such waterworks and any such Proclamation may refer to maps plans or drawings to be deposited in the office of the Registrar or Deputy Registrar of the Supreme Court in the Province in which such waterworks are proposed to be constructed and any maps plans or drawings so referred to shall be deemed to form part of such Proclamation and upon the publication thereof the provisions and regulations contained in the Eighth Part of this Act shall be applicable to the lands and streams and the waterworks to which the Proclamation relates.

PART IV.

POWER TO ACQUIRE LAND IN NORTH ISLAND TO BE DEALT WITH AS WASTE LANDS AND WHAT FUNDS APPLICABLE TO THE PURPOSE.

Governor empowered to acquire lands in North Island.

34. The Governor may from time to time in the name and on behalf of Her Majesty purchase or in anywise acquire any land in the North Island of New Zealand or any interests therein which the owners thereof may be willing to sell convey or surrender after he shall have been requested so to do by the Superintendent of the

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Province in which the land is and after he shall have agreed with such Superintendent upon terms for charging against the Province the amount to be expended in the purchase and if it shall appear to him that a profit may be made in the sale of such land and otherwise expedient that he should acquire such land and in entering into any contracts for the purchase for money of any lands under the powers contained in this section of this Act the Governor shall be guided in fixing the price which he shall be willing to pay therefor by an estimate based on the laws in force in the Province in which such land is regulating the price at which Waste Lands of the Crown may be sold.

35. Out of the moneys authorized to be raised under the said Loan Act and applicable to the purpose of purchasing lands in the North Island there may be issued and expended in or about the purchase of any such lands as in the preceding section mentioned any sum or sums not exceeding in the whole two hundred thousand pounds Provided that the Governor may agree to pay for any such land either wholly or in part by terminable annuity assignable or unassignable for any period not exceeding two lives or thirty years and in every such case he shall be deemed to have expended so much of the sum hereinbefore appropriated as would represent the principal sum whereof such annuity would represent the interest reckoning at six per centum.

£200,000 applicable to the purpose.

36. The Governor may by Proclamation declare any land so acquired to be Waste Lands of the Crown subject to be sold according to the provisions of the laws for the time being in force in the Province in which such land is regulating the sale and disposal of Waste Lands of the Crown within such Province and thereupon such lands so proclaimed shall become subject to such provisions Provided however that as to such of the lands as are within the Province of Auckland such lands shall not be subject to be proclaimed under the second section of "The Auckland Waste Lands Act 1870."

Land may be declared to be sold subject to Waste Land Laws in force in the Province in which they are.

37. Any land so proclaimed may be set aside or dealt with under the seventeenth or twentieth sections of this Act and if sold all proceeds thereof shall be applied in defraying any moneys charged against the Province in which such land is under this Act in respect of railways or immigration and purchase of land.

Disposal of land and proceeds.

38. A separate account shall be kept by the Colonial Treasurer against each Province in the North Island of all moneys expended under the provisions contained in this Part of this Act in the purchase of lands within such Province and so proclaimed as aforesaid and of interest on such moneys at the rate of six pounds per centum from the date of such expenditure and each such Province shall be charged with the cost incurred in the purchase of such land together with interest as aforesaid according to the terms arranged between the Superintendent of such Province and the Governor so long as such Province shall in respect of such lands so acquired and proclaimed within such Province be indebted to the Colony for payments made on account thereof together with interest as aforesaid.

Cost of purchase to be charged against Province.

PART V.

IMMIGRATION AND WHAT FUNDS APPLICABLE TO THE PURPOSE.

39. In order to give speedy effect to the provisions of this Act the Governor may enter into such contracts as may seem proper with any person or persons whether within or without the Colony for the selection of conveyance to or settlement in any Province of the Colony of such classes of immigrants and in such

Governor at request of Superintendent may contract for introduction of immigrants.

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numbers as the Superintendent of such Province shall request and any such contract may or not as the Governor shall think fit form part of any contract for the construction of any railway or any road or other work which the Governor is by this Act authorized to construct and any such contract may as the Governor shall think fit either relate solely to the selection or introduction of immigrants or may also provide for giving any such immigrants employment on any railway or road or other work which the Governor is hereby authorized to construct or may provide for giving free or other grants of land to any such immigrants or may provide for compensating the person with whom the contract is made either in money or by grants of land or partly one and partly the other or by guaranteeing to such person an agreed amount of interest not exceeding six per centum per annum on moneys expended by such person on and about such purposes as aforesaid and guaranteeing repayment of the principal moneys so expended Provided always that after the thirty-first day of December one thousand eight hundred and seventy-one all such contracts shall be made only in accordance with such regulations as may from time to time be made under the provisions of this Act.

Governor to make regulations in regard to immigrants.

40. The Governor in Council may from time to time make regulations for the conduct of immigration to New Zealand and for the nomination of immigrants by persons residing therein and for the distribution of any funds which may be available for the purposes of immigration and for the introduction into New Zealand upon such terms and conditions as he may think fit of persons skilled in any description of industry which the Governor in Council may deem it desirable to encourage in New Zealand and of the families of such persons And no action shall be taken upon any such regulation until the same has been laid before Parliament.

Governor may make regulations relating to immigration.

41. The Governor may at the request of the Superintendent of any Province from time to time make regulations not inconsistent with those made under the preceding section for the conduct of immigration under this Act into such Province and for the nomination of immigrants by persons resident therein and for the distribution of funds provided by this Act for immigration purposes and for the introduction into and settlement in such Province of immigrants and for selling as special settlements for any such immigrants any lands which he may acquire from any Province under the provisions herein contained or any lands acquired under "The New Zealand Settlements Act 1863" or the Acts amending the same and for laying out and allotting any lands so acquired amongst any such immigrants Provided that such regulations shall be laid before the General Assembly within fourteen days after the meeting of the next ensuing Session.

£1,000,000 may be applicable to immigration purposes and pecuniary liabilities (inclusive of such expenditure) authorized to the extent of £1,000,000.

42. In and about the selection introduction and settlement of immigrants in New Zealand the Governor may expend or contract to expend out of such moneys raised under the said Loan Act as are for the time being applicable to the purpose any sum or sums not exceeding one million pounds sterling including all pecuniary liabilities and for the purposes of this section the term "pecuniary liabilities" shall include not only all moneys expended directly on and about such purposes but all contracts for guaranteeing payment of the principal moneys expended by any person on and about such purposes under any such contract as aforesaid and all interest thereon agreed to be paid but contracts for the introduction of immigrants included in any contract for the construction of railways roads or other works shall not for the purposes of this section be taken into consideration.

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43. In order to facilitate the speedy introduction of immigrants the Governor may until the thirty-first day of December one thousand eight hundred and seventy-one expend out of the sum hereby applicable for immigration purposes such sums of money not exceeding one hundred and fifty thousand pounds as he may deem proper but after the said date the amount to be annually devoted to the introduction of immigrants as well as the salaries to be paid to all officers appointed under this section of the Act shall be voted by Parliament.

Not more than £150,000 to be expended on immigration prior to December 1871.

44. One-half of all moneys which shall from time to time be expended under the authority of this Part of this Act in the selection introduction or settlement of any immigrants into any Province together with interest thereon at the rate of six per centum per annum shall immediately upon such expenditure being made be charged against such Province in the manner provided by the forty-fourth section of "The Public Revenues Act 1867" but such half of the said cost and interest thereon shall be so charged against such Province that there shall not be deducted on that account from any moneys payable to such Province a greater sum than thirty shillings per annum for each immigrant introduced.

Half of expenditure to be charged on Provinces, at rate not exceeding 30s. per head per annum.

45. The Governor may from time to time appoint some person to be Agent-General for New Zealand in the United Kingdom of Great Britain and Ireland and may remove any such person and appoint another in his stead It shall be the duty of the Agent-General to do all things in relation to New Zealand that the Governor in Council may direct and he shall be paid out of the moneys applicable to immigration purposes under this Act such salary as the Governor shall from time to time appoint.

Appointment of Agent-General.

46. The Agent-General shall have control over all Agents and Sub-Agents appointed under this Act for immigration purposes and may suspend from office any Agents or Sub-Agents so appointed until the Governor's pleasure can be taken as to the removal of any such person from his office.

Agents and Sub-Agents to be subject to control of Agent-General.

47. The Governor may from time to time appoint such and so many persons and in such parts of New Zealand as he may think fit to be Immigration Agents in New Zealand to advise immigrants on their arrival and assist them in obtaining employment and otherwise and such persons may be paid out of the moneys authorized by this Act to be expended on immigration such salaries or other remuneration as the Governor shall from time to time appoint and the Governor may from time to time remove any such persons so appointed.

Appointment of Immigration Agents in New Zealand.

48. Where any contract has been made at any place out of New Zealand between any such immigrant as aforesaid of the one part and the Governor or any Agent on his behalf appointed by him or any person under any contract with the Governor made under this Act for the introduction of immigrants of the other part to serve or do work or labour in New Zealand such contract shall be of the same force and effect and shall subject the parties thereto to the same consequences for any breach thereof or for any misconduct in relation to the same as if made in New Zealand and on the complaint of any such immigrant that he has been induced to enter into any such contract by misrepresentation or that the terms of such contract are unfair towards such immigrant and that he entered into such contract in ignorance of facts of which he ought to have been informed by the other party to such contract it shall be lawful for any Resident Magistrate or any two Justices of the Peace in a summary way to inquire into such complaint and to make such order as the equity of the case may require and either to cancel such contract or to modify the terms

Contracts for service made out of New Zealand to have same effect and to be enforced as if made in New Zealand.

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thereof and Resident Magistrates and Justices of the Peace shall in such cases have all such powers and authorities as they have in cases in which Justices are empowered to make an order summarily for payment of money on complaint and the proceedings in such cases shall be conducted and such cases shall be heard tried and determined as nearly as may be in the same manner as in cases in which Justices of the Peace are empowered to make such orders as aforesaid.

PART VI.

PROVISIONS SPECIALLY APPLICABLE IN THE CONSTRUCTION OF ROADS AND TO ROADS CONSTRUCTED UNDER THE FIRST PART OF THIS ACT.

Notice to be given of roads to be made.

49. Whenever the Governor deems it expedient to open or make a new road or to increase the width or alter the line of any existing road or to proceed with the execution of any new work in connection therewith under the powers contained in the First Part of this Act he shall cause a map and survey plan thereof describing the course and bearings and the admeasurements required for the same and through what lands the same is proposed to pass and the names of the owners or occupiers thereof so far as known to be deposited in some office in the Province in which the road is to be from time to time fixed by him and shall cause a notice to be published by advertisement in the *New Zealand Gazette* describing generally the same particulars and referring to such maps and plans to be seen in the said office and calling upon all persons affected to set forth in writing addressed to the Governor or some person appointed by him for the purpose within forty days from the first publication of such notice any well-grounded objections they may have to the work.

Objections may be made.

After notice and hearing objections Governor may order work to be executed.

50. If after the expiration of such term and the due consideration of all objections set forth as aforesaid (if any) it shall nevertheless appear to the Governor expedient to proceed with the work the Governor may make an order thereupon directing such work to be executed according to such plans as aforesaid and on making compensation (if any) to the person entitled thereto as hereinafter mentioned Provided that nothing in this Part of this Act shall be deemed to give any right to compensation in cases where under any other Act Ordinance or Regulation for the time being in force the Governor has power to make or take the road in over or through the land without compensation.

Power to enter land and take the same for road.

51. After any such order by the Governor all persons acting under his orders shall have authority to enter upon the said land and to define and make the line of road or execute the work of which notice has been so given as aforesaid and such line of road when defined or work when executed shall be taken to be part of the road and shall be under the care and management of the Governor under this Act.

If fence removed temporary fence to be put up.

52. Where by the authority of the Governor any fencing is removed for the purpose of altering any part of a road the land from which the fence has been so removed shall be protected by a temporary fence which shall be made and continued during the progress of such alteration in the road as aforesaid.

Gardens &c. not to be taken or used without consent.

53. Nothing herein contained shall be construed to authorize the Governor to take or make use of or to order or direct any road or highway to be made in or through any orchard vineyard garden yard or any park planted walk or avenue to a house or any enclosed ground planted as an ornament or shelter to a house or planted and set apart as a nursery for trees or any part thereof respectively without the

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consent of the owner or proprietor thereof in writing first had and obtained.

54. On giving such notice as aforesaid the Governor may divert vary and alter the course of any public roads already made upon making compensation to the owners of the lands through which such road may pass Provided that no road used as a public road at the time of the passing of this Act shall be stopped diverted or varied under the provisions of this Act until a road instead or in lieu thereof shall have been opened or proclaimed under the provisions hereof.

Roads may be diverted.

55. When any such road as aforesaid is diverted varied or altered and the new road is made and completed such new road shall be in lieu of the old road and be deemed a public road or highway and the old road shall unless the Governor shall otherwise direct cease to be a public road and may be stopped up and the property in the ground and soil thereof shall unless the Governor shall otherwise direct vest in and be held by the owners of the land or ground immediately adjoining thereto in such proportions as the Governor may decide.

Diverted road to become part of highway.

56. The right interest and property of and in all toll gates toll bars toll houses posts fences erections and buildings punts and floating bridges placed erected or built in pursuance of the provisions of the First Part of this Act on or in connection with any road and the materials of such roads with all the appurtenances thereunto belonging shall be vested in the Governor for the time being.

Toll gates &c. vested in Governor.

57. Every person appointed by the Governor and every person acting under the orders of such person may make use of any uncultivated land for the purpose of constructing a temporary road whilst the road is undergoing repair or being made or formed Provided that the temporary road shall be fenced in or otherwise so secured as to afford to the person through whose land such temporary road may pass an equal protection against trespass as was possessed by such person previously to the construction of such temporary road.

Temporary roads.

58. Any person appointed by the Governor and every person acting under the authority of such person with all necessary cattle and carriages may without being deemed to commit trespass enter upon any land whether adjoining or not any road being formed or repaired under the provisions of the First Part of this Act for the purpose of surveying or opening any new road or making any alteration in the line of any existing road and for the purpose of constructing or repairing any drains sewers or culverts causeways or bridges or performing any repairs that may be required to the road.

Any adjoining land may be enclosed for purpose of making road drains, &c.

59. Any person appointed by the Governor and any one acting under the authority of such person may enter upon any land and may search for dig take and carry away any gravel sand or other materials thereon or in any river or creek but so nevertheless as not thereby to divert or interrupt the course of such river or creek or prejudice or damage any building road or ford or to dig or get the same out of any river or brook within the distance of one hundred and fifty feet above or below any bridge nor within the like distance of any dam or weir and may likewise raise and quarry stone and other materials and may take and carry away so much of the said stone and materials as in the discretion of the Governor or the person authorized by him is necessary to be employed in the formation construction and amendment of the said roads and bridges without making any satisfaction for the said stone or materials but satisfaction for all damages done to the lands or grounds of any person carrying by away the same shall be made in the manner hereinafter mentioned with reference to compensation.

Gravel sand &c. may be taken.

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Drains &c. may be cut.

60. Any person appointed by the Governor and any one authorized by such person may cause to be cut through all or any lands, whether adjacent or otherwise to any public road or any road or way made under the provisions hereof such drains or ditches and also may remove such obstructions to the free passage of water off the said roads or ways and may drain and turn water off the said roads or ways on or to any lands and may erect such causeways bridges archways sewers and generally may use such means as to him seems requisite for the carrying this Part and the said First Part of this Act into execution without being deemed a trespasser but making compensation for so doing.

Compensation how to be determined.

61. If any person consider any compensation tendered by or on behalf of the Governor insufficient he may apply to any two Justices (not interested in the subject-matter) acting in the district in which the act shall have occurred in respect whereof such claim is made to have the proper compensation due in respect of the same assessed and such Justices shall by writing under their hands nominate and appoint one or three competent surveyors for determining the just amount of such compensation who or the majority of whom if more than one shall accordingly assess the same and shall annex to such assessment a declaration subscribed by him or them of the correctness thereof and such assessment shall be binding and conclusive upon all parties and the amount of any such compensation or tender of compensation shall be paid out of the money authorized to be expended under the First Part of this Act to the party lawfully entitled thereto or to his agent duly authorized in that behalf by warrant under the hand of the Governor directed to the Colonial Treasurer and such sum or the tender thereof shall effectually bar such person from all further claims for or on account of the matter in respect of which such compensation is paid or tendered.

Erection of toll-gates &c.

62. The Governor may from time to time at such places as it seems fit cause such and so many toll bars toll gates and toll houses to be erected upon or at any such roads bridges and ferries and in like manner may from time to time cause them to be removed and placed at other places at or on such roads bridges and ferries and may from time to time by Proclamation published in the *New Zealand Gazette* direct tolls to be paid for all animals and vehicles passing or repassing through such toll bars or toll gates or at such bridges or ferries and fix and appoint the rates thereof and the exemptions therefrom and from time to time in like manner may reduce raise alter and abolish any such tolls and may from time to time let or lease such tolls and toll houses toll gates and bars punts bridges ferries at such rents and upon such terms and conditions as he thinks fit and may from time to time by Proclamation in the *New Zealand Gazette* make alter or revoke regulations prescribing the manner in which the public shall use the roads bridges punts or ferries under this Act and the description and number of such carriages and vehicles and the animals traversing such roads bridges ferries and punts and the velocity with which they shall move over the same and the sides thereof at which they may go and pass one another and for closing or suspending the use thereof and the manner in and terms upon which the said tolls may be collected let or leased and the conduct of collectors of such tolls and any person violating any such regulations shall forfeit a sum not exceeding fifty pounds.

Regulations as to roads ferries &c.

Fraudulent claim of exemption.

63. If any person by any fraudulent or collusive means claim or take the benefit of any exemption from toll under this Part of this Act he shall for every such offence forfeit a sum not exceeding five pounds.

Penalty.

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64. If any person in any manner evade or attempt to evade or aid or assist or abet any person in evading or attempting to evade the payment of any toll authorized by this Part of this Act or fraudulently or forcibly pass through or by any toll bar toll gate or toll house punt or ferry erected or established under such Part or do any other act in order or with intent to evade the payment of any such toll or whereby the same may be evaded every such person shall for every such offence forfeit a sum not exceeding five pounds.

Evasion of tolls.

Penalty.

65. If any person obstruct or attempt to obstruct any engineer inspector surveyor or other officer acting in the performance of his duty under this Part of this Act every person so offending shall on conviction forfeit for every such offence a sum not exceeding fifty pounds.

Obstructing officer.

Penalty.

66. If any person hire or employ or ply for hire with the view of evading the provisions of this Part of this Act any boat punt or other vessel for the carrying across any river or creek where any punt or ferry is proclaimed and established or within one mile of any punt or ferry any passengers beasts carts or carriages he shall for every such offence forfeit a sum not exceeding twenty pounds.

Plying with punt within one mile of ferry.

Penalty.

PART VII.

PROVISIONS SPECIALLY APPLICABLE TO THE CONSTRUCTION OF RAILWAYS AND TO RAILWAYS CONSTRUCTED UNDER THE SECOND PART OF THIS ACT.

67. The following words and expressions in this Part of this Act and in any Act herein incorporated shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant thereto that is to say—

Interpretation.

The term “plan” shall mean the plan of the prescribed railway deposited in the office of the Registrar or Deputy Registrar of the Supreme Court in the Province in which the lands to be affected are situate.

The expression “the railway” shall mean any such railway as the General Assembly shall determine to be a railway to be constructed hereunder and the works connected therewith authorized to be constructed by or under the authority of this Act.

The word “Governor” in the sixty-eighth seventieth seventy-seventh eightieth and eighty-first sections hereof shall include any person or company to whom the Governor may have leased any railway or conceded the right to construct or to construct and maintain any railway unless the Governor shall otherwise stipulate in such lease or concession.

68. It shall be lawful for the Governor to make construct and maintain any such railway as aforesaid with proper works approaches and conveniences connected therewith commencing at the place delineated on and extending along the lines set forth in and terminating at a point described in the Act or Proclamation proclaiming and defining such railway or shown in the maps plans or drawings referred to in such Act or Proclamation.

Power to construct railway as defined.

69. The Governor may direct that any part of any such line of railway may be constructed on and along any part of any public highway and that any part of any such line of railway may be constructed on or through any Public Reserves and no person or body shall be entitled to any compensation for any road or land so used or occupied.

Power to take public road or reserves without compensation.

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Power to take or use
lands.

70. Subject to the provisions of this Part of this Act and of the Acts incorporated herewith the Governor may exercise all or any of the powers by this Part of this Act or the said incorporated Acts conferred upon him for the construction of any such railway and may enter upon and cause to be entered upon all lands within the Colony for the purpose of making such surveys as may be necessary and may take and hold all the lands required for the railway along the line set forth and described as aforesaid or within the limits of deviation described in the Proclamation relating thereto and may temporarily occupy and use such lands as may be necessary on either side of the railway during the construction thereof.

Compensation for
land taken or used
or damage.

71. All persons being owners of or having any lesser estate or interest in any lands taken occupied or used under the authority of this Part of this Act or which may be damaged by the construction of any such railway shall be entitled to receive compensation for such land occupation use or damage the amount whereof shall be ascertained in the manner set forth in "The Lands Clauses Consolidation Act 1863" which and all Acts amending the same are hereby incorporated in this Part of this Act.

Where no legal guar-
dian of infant owner
Registrar of Supreme
Court to act.

72. In case any infant whose lands are taken or injuriously affected has no legal guardian resident in the Colony the word "guardian" when used in "The Lands Clauses Consolidation Act 1863" shall be held to mean the Registrar or Deputy Registrar of the Supreme Court of the Province in which the lands affected are situated.

Provisions of "Rail-
way Clauses Consoli-
dation Act 1845"
incorporated.

73. The Act of the Imperial Parliament called "The Railway Clauses Consolidation Act 1845" excepting the following sections that is to say seven eight nine ten eleven twelve seventeen twenty-five to twenty-nine both inclusive fifty sixty-six one hundred and seven one hundred and forty-one one hundred and fifty one hundred and fifty-nine one hundred and sixty-one one hundred and sixty-two one hundred and sixty-three and one hundred and sixty-four shall also be incorporated with and form part of this Part of this Act Provided that wherever in such Act the following words are used they shall mean the words hereinafter severally set opposite to them that is to say the words

"Commissioners of Her Majesty's Treasury" shall mean the Governor of New Zealand in Council

"Superior Courts" "The Court of Chancery" "The Court of Queen's Bench" "The Court of Exchequer" "General Quarter Sessions" "Quarter Sessions" shall mean severally the Supreme Court of New Zealand

"The promoters of the undertaking" "the Company" shall mean the Governor or any lessee of the Governor and any person or company to whom the right to construct or maintain any such railway is granted by the Governor

"The United Kingdom" "the Kingdom" shall mean New Zealand "The County" shall mean the Province in which the railway or other works are or are to be constructed

"The Bank" shall mean such Bank as shall from time to time be fixed by the Governor for the purpose

"Board of Trade" shall mean the Governor in Council

"Clerk of the Peace" "One of the Masters of the Court of Queen's Bench" "Accountant-General of the Court of Chancery in England" "Accountant-General of the Court of Exchequer in Ireland" "Taxing Master of the Court of Chancery" "Master in Chancery" shall mean

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severally the Registrar or Deputy Registrar of the Supreme Court of New Zealand in the Province in which the lands affected or railway or other works are situate

“Special Act” shall mean this Part and the Second Part of this Act together with the Special Act determining any railway to be a railway to be constructed hereunder

“The Lands Clauses Consolidation Act” shall mean “The Lands Clauses Consolidation Act 1863” of New Zealand.

74. A copy of the clauses of the Acts herein incorporated which relate to the subject of compensation for land shall be served or left at the last usual place of abode of every person whose land shall be required for the purposes of this Part of this Act if such person shall be resident in the Colony or if not then on the agent of such person or if there be no such agent or no such agent be known then by affixing the same on some conspicuous part of the said land.

Clauses relating to compensation to be served.

75. It shall be lawful for the Governor to lease from time to time at such rent and on such conditions as he may think reasonable all or any of the lands which he has acquired or may hereafter acquire by voluntary agreement for the purposes of any such railway or to sell or convey all or any of such lands in such manner and on such conditions as he may deem proper Provided that all leases so to be made shall be deemed to take effect in possession.

Power to lease lands not required.

76. The Governor is hereby authorized and required to cause all sums which may be agreed upon or be awarded or otherwise payable under the provisions of this Part of this Act as compensation for land taken or for damage done in the construction of any such railway to be paid out of any moneys authorized to be raised under the said Loan Act and applicable to the purposes of such construction.

Authority to pay money awarded for compensation.

77. The Governor in constructing any such railway may deviate from the line of works described in any Act defining such railway or in the Proclamation made under the Act relating to any such railway or laid down in the plan referred to therein but may not take or use for the purpose of such deviation any lands not comprised within the limits of deviation specified in such Act or Proclamation without the consent in writing of the owner of such lands.

Deviation from line of railway.

78. All lands acquired for the purposes of any such railway and all engines carriages plant and machinery and all property real or personal of what description soever belonging or appertaining to such railway or purchased or acquired for the maintenance or working thereof shall be and are hereby declared to be vested in and shall be deemed to be the property of the Governor for the time being and shall be held by him in trust for the public service of the Colony and shall be managed dealt with and administered by him for the purposes of this Part of this Act But if the Governor shall have leased any such railway or conceded to any person the right to construct the same then subject to the terms of such lease or concession all such real and personal property as aforesaid shall be deemed to be vested in and be the property of such lessee or person.

All lands &c. vested in Governor.

79. If any person shall throw any gravel stones or rubbish or any matter or thing upon any part of such railway or shall drive or permit through negligence to wander or cause to be driven upon any such railway or the approaches thereto any horse ass sheep swine or other beast or cattle of any kind or shall do any other act matter or thing to obstruct the free passage of any such railway or any part thereof every person so offending in any of the cases aforesaid shall forfeit and pay for every such offence any sum not exceeding fifty pounds and in default of payment thereof shall be imprisoned with or without hard labour for such period not exceeding six months as

Penalty on commission of certain offences on railways.

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the convicting Justice or Justices shall appoint unless the said penalty shall be sooner paid and such penalty may be recovered before any two Justices of the Peace on complaint to them for that purpose exhibited on behalf of the Colonial Secretary.

Power to arrest persons committing offences against regulations.

80. It shall be lawful for any Railway Officer or Agent appointed by the Governor or for any Constable and all such persons as they may call to their assistance to seize and detain any engine-driver waggon-driver guard porter servant or other person employed upon any such railway or in repairing and maintaining the works of any such railway who shall be found drunk whilst so employed upon any such railway or who shall commit any offence against any of the regulations or by-laws made in pursuance of this Part of this Act or who shall wilfully maliciously or negligently do any act or shall be guilty of any omission of duty whereby the life or limb of any person passing along or being upon such railway or the works thereof respectively shall be or might be injured or endangered or whereby the passage of any engine carriage or train shall be or might be obstructed or impeded and to convey such engine-driver guard porter servant or other person so offending or any person counselling aiding or assisting in such offence with all convenient despatch before any two or more Justices of the Peace without any other warrant or authority than this Act to be dealt with according to law and every person so offending as aforesaid and every person counselling aiding or assisting therein shall upon conviction before such Justices (upon a complaint in writing) in the discretion of such Justices be imprisoned with or without hard labour for any term not exceeding six months or shall in the like discretion forfeit any sum not exceeding fifty pounds and in default of payment thereof shall be imprisoned with or without hard labour for such period not exceeding six months as such Justices shall appoint unless the penalty be sooner paid.

Tolls and fares.

81. Tolls fares and charges for passengers animals carriages goods merchandise minerals articles matters and things conveyed on any such railway shall be payable to and receivable by the Governor at such rates as shall be from time to time fixed by the Governor in Council and shall be deemed to be tolls fares and charges authorized by this Part of this Act.

PART VIII.

PROVISIONS SPECIALLY APPLICABLE TO CONSTRUCTION OF WORKS FOR SUPPLY OF WATER UNDER THE THIRD PART OF THIS ACT.

Land &c. vested in the Governor.

82. All land taken or acquired for the purposes of any water supply authorized to be constructed completed extended repaired or maintained by the Third Part of this Act and all reservoirs dams races mains and other works buildings plant and machinery and all personal property whatever acquired for the purposes of such supply shall be vested in the Governor for the time being on behalf of the Colony.

Powers vested in Governor.

83. For the purposes of the Third Part of this Act the Governor or any person authorized by him subject to the restrictions and provisions herein contained may exercise any of the following powers that is to say—

He may enter upon any lands and take the levels of the same and set out such parts thereof as he thinks necessary and dig and break up the soil of such lands and remove or use all earth stones trees or other things dug or gotten out of the same.

He may enter upon take and hold such land as shall from

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time to time be specified in any Proclamation made under the Third Part of this Act for the construction or improvement of any works authorized in and by the Third Part of this Act.

He may from time to time make maintain or alter such reservoirs dams races aqueducts waterworks drains pipes culverts engines and other works and erect such buildings in or upon the lands and streams authorized to be taken as he thinks fit.

He may from time to time divert and impound the water from any such streams as shall be specified in any such Proclamation or alter the course of any such streams.

84. The construction maintenance and use of any water-races aqueducts dams or reservoirs made or maintained under the authority of this Act shall be subject to all laws and regulations affecting water-races aqueducts dams or reservoirs as the case may be and for the time being in force within the Gold Field on which the same are situate.

Construction of waterworks to be subject to laws and regulations in force in the Gold Field in which they are.

85. "The Lands Clauses Consolidation Act 1863" and any Act or Acts amending the same shall apply to lands which the Governor may determine to take for the purposes of this and the Third Part of this Act and the said Acts hereinafter in this Part referred to as "the said incorporated Acts" shall be incorporated in this Part of this Act subject to the provisions hereinafter contained—

Lands Clauses Consolidation Acts incorporated.

The terms "works" "undertaking" when used in the said incorporated Acts shall be construed and taken to mean any works proclaimed under the Third Part of this Act.

In the construction of the said incorporated Acts this and the Third Part of this Act shall be deemed to be the special Act.

The "promoters of the undertaking" shall mean the Governor.

86. The sixty-eighth seventieth and seventy-second sections of this Act shall apply to works constructed and lands taken under this Part of this Act.

Sections 68 70 and 72 of this Act to apply also to works under this Part.

87. In the exercise of any powers given to the Governor by this or the Third Part of this Act he shall do as little damage as can be and shall out of such moneys as shall be applicable to the construction of such works make compensation to all persons for all damage sustained by them through the exercise of such powers and for the use of any land on which any races or aqueducts are taken or pipes laid Provided that no compensation shall be made in respect of any damage sustained in respect of the taking or diverting water either permanently or temporarily from any rivers streams or natural water-courses and such compensation as aforesaid shall if the Governor and party entitled cannot agree be settled as in cases of disputed compensation under "The Lands Clauses Consolidation Act 1863."

Compensation to be made to owners of land.

No compensation for damage by diverting or taking water.

88. The Governor may from time to time make alter and repeal regulations prescribing the rates and charges to be paid for the use of any water supplied under this Act and the terms and conditions upon which the same may be supplied received and used and all moneys received under such regulations shall be applied in the first instance in paying any moneys charged against the Province in which the water in respect of which such rates are paid is supplied.

Rates for use of water.

89. Every person wilfully obstructing any person acting under the authority of the Governor in setting out the line of any works undertaken in pursuance of this Part of this Act or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works or deface or destroy any works

Obstructing officers.

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Penalty.

made for the same purpose shall be liable to a penalty not exceeding five pounds for every such offence.

Penalty for illegally taking water.

90. After the streams or supplies of water hereby authorized to be taken by the Governor shall have been so taken every person who shall illegally divert or take the waters supplying or flowing into the stream so taken or any part thereof or who shall do any unlawful act whereby the said streams or supplies of water may be drawn off or diminished in quantity and who shall not immediately repair the injury done by him on being required so to do by the Governor or any person authorized by him so as to restore the said waters to the state in which they were before such act shall forfeit any sum not exceeding five pounds for every day during which the said supply of water shall be diverted or diminished by reason of any act done by or by the authority of such person and any sum so forfeited shall be in addition to the sum which he may be lawfully adjudged liable to pay for any damage which may be sustained by reason of the supply of water being diminished and the payment of the sum so forfeited shall not bar or affect the right of the Governor to bring or raise an action at law against such person for the damage so committed.

PART IX.

MISCELLANEOUS.

Minister of Public Works to be appointed.

91. There shall be a Minister for Public Works to be appointed from time to time by the Governor and such Minister or the Minister for the time being acting for him shall have charge of the administration of this Act and he shall from and after the end of the next Session of the General Assembly be assisted in the administration of this Act by any persons as a Board who shall act as a Board of Advice and not of Control to be from time to time appointed by the Governor for the purpose which appointments the Governor is hereby authorized from time to time to make or revoke as and when he may think fit and a report of the proceedings of such Minister or Board shall be annually laid before both Houses of the General Assembly by the Minister of Public Works.

Governor may delegate powers and to whom.

92. The Governor may by warrant under his hand from time to time delegate to any person or persons he may think fit or to a Board or Boards of Commissioners to be from time to time appointed by him any of the powers conferred upon him subject to such restrictions or limitations as to the road railway or other work with regard to which such powers may be exercised or as to the district or part of the Colony within or with regard to which the same may be exercised as he may think fit and may confer on any such person or persons and on any such Board or Boards the power to delegate to any Agent or Agents any of the powers delegated by the Governor subject to such conditions as the person or persons or Board or Boards may think fit to impose and the Governor may from time to time revoke any such delegation or appointments.

Power to appoint officers.

93. The Governor may from time to time appoint such Agents Sub-Agents Engineers Surveyors Clerks and other Officers in New Zealand or elsewhere as he may think requisite for effectually carrying out the powers herein conferred upon him and may from time to time cancel any such appointments and the persons so appointed shall be paid such salaries or other remuneration as the Governor may from time to time direct and such payments may until the end of one year after the commencement of the engagement of any such officer be made out of the money applicable to the purposes for the carrying out of which such persons may have been appointed and thereafter shall

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be paid out of such moneys as shall be specially appropriated for the purpose by the General Assembly such salaries as shall also be determined by it. Provided however that in the case of engineers or other skilled persons engaged outside the Colony for service in New Zealand the Governor may if he thinks fit enter into engagements with such persons for a term of years not exceeding five years from the commencement of such engagement.

94. Where in this Act any power or authority is conferred on a Superintendent of a Province every such power and authority shall unless it be expressed to be exercisable with the consent or concurrence of the Provincial Council of a Province be exercisable only with the advice and consent of his Executive Council and if in the affairs of such Province the Superintendent is empowered to act without the advice and consent of an Executive Council then every such power and authority as aforesaid shall be exercisable only with the advice and consent of the Provincial Council of such Province.

Superintendent to act with advice of Executive or Provincial Council.

95. In this Act the term "Province" shall include "County of Westland" and the term "Superintendent of a Province" includes "Chairman of County Council of Westland" and where in the Act the concurrence of or a resolution by the Provincial Council of a Province is made necessary with regard to the County of Westland such concurrence or resolution shall be that of the County Council of Westland.

County of Westland.

96. There shall be prepared and annually laid before both Houses of the General Assembly on or before the first day of August in every year if the General Assembly shall be then sitting and if the General Assembly shall not then be sitting then within fourteen days after the commencement of the then next Session of Parliament an account made up by the Colonial Treasurer to the thirtieth day of June preceding of the gross amount of all sums of money paid and lands granted and the gross amount of all sums contracted to be paid and of all lands contracted to be granted during the year ending on the thirtieth day of June aforesaid and copies of all contracts entered into and a statement of and a report upon all proceedings by the Colonial Treasurer which may have been paid granted entered into or taken under the provisions contained in this Act during the year ending on the thirtieth day of June aforesaid.

Accounts to be laid annually before Parliament of sums expended contracts entered into and proceedings taken under this Act.

97. All moneys raised under the said Loan Act outside the Colony shall be paid by the Agents authorized to raise the same to such Bank or Banks as the Governor shall from time to time direct to the Public Account of New Zealand to the credit of a separate account at the said Bank to be called "The Public Works Account" which account shall be deemed to be part of the Public Works Account hereinafter authorized to be kept in New Zealand and shall be withdrawn therefrom by such two or more of the said Agents as the Governor shall from time to time direct in pursuance of orders to be from time to time given by the Colonial Treasurer and Controller on the requisition of the Colonial Treasurer in the manner and form provided by the twenty-fifth and twenty-sixth sections of "The Public Revenues Act 1867" except that such orders shall be addressed to the Agents and not to the Bank and that the moneys shall not be transferred to the account of the Colonial Treasurer.

Moneys raised outside the Colony to be paid to Bank to credit of "The Public Works Account." How to be withdrawn from account.

98. Any such requisition may set forth the amount of moneys likely to be required during any period not exceeding six months after the date thereof and may include any such period notwithstanding that any part of it may have been included in a requisition previously prepared countersigned and acted on and an order shall and may be

Requisitions and Bank to act thereon.

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made on such requisition and the Bank shall be authorized to act thereon and permit the withdrawal of the moneys mentioned therein notwithstanding that the financial year in which the same was made has expired.

The Agents to produce orders to Banks before drawing moneys.

99. Before withdrawing any money from such account the Agents authorized and proposing to withdraw the same shall from time to time until such authority shall be exhausted produce to the Bank the order authorizing such withdrawal and shall withdraw only such moneys as shall from time to time be wanted for immediate expenditure upon the purposes authorized by this Act or the said Loan Act or any Act hereafter passed appropriating the moneys authorized to be raised under the said Loan Act.

Only such sums to be drawn as wanted for immediate expenditure.

Controller to issue orders when it is shown that Governor has given directions to raise the moneys.

100. It shall be the duty of the Controller to issue such orders on its being shown to him that directions have been given by the Governor to raise moneys under the said Loan Act sufficient for and applicable to the purposes mentioned in the requisition and on being satisfied that the requisition is in accordance with law.

Agents to keep accounts of moneys withdrawn to be transmitted to Paymaster-General.

101. Such Agents as aforesaid shall keep such accounts of all moneys withdrawn from the Public Works Account and of all expenditure thereof and in such form as shall be prescribed in regulations to be from time to time made for the purpose by the Governor in Council under "The Public Revenues Act 1867" and such Agents shall from time to time transmit such accounts in accordance with such regulations to the Paymaster-General in New Zealand.

At end of each month moneys to be transferred to Public Works Account in New Zealand.

102. At the end of each month or at such other periods as the Governor shall from time to time direct all sums of money for the time being standing to the credit of the said account in excess of all such Controller's orders as aforesaid which shall have been produced to the Bank and so far as such orders shall for the time being not have been exhausted shall be transferred by the Bank to the credit of the Public Works Account hereafter mentioned in New Zealand.

Moneys received or raised in Colony to be paid to separate account at the Public Account then to be withdrawn.

103. All money raised under the said Loan Act shall when received or raised in the Colony be paid into the Public Account to the credit of a separate account in the Bank to be called "The Public Works Account" and shall be withdrawn therefrom in the manner provided by the twenty-fifth and twenty-sixth sections of "The Public Revenues Act 1867" which Act so far as applicable shall be applied to the said account.

Paymasters to keep separate account at the Bank of moneys withdrawn.

104. A separate account shall be kept at the Bank by the Paymaster-General into which all moneys drawn from the Public Works Account shall be paid and from which alone all disbursements authorized by this Act or the said Loan Act or any Act hereafter passed appropriating the moneys raised under the said Loan Act shall be made and no moneys shall be withdrawn issued or paid from the said Public Works Account or the Paymaster's said Account except such disbursements as are authorized as aforesaid.

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