

Public Works Act 1879

Public Act 1879 No 44
Date of assent 19 December 1879

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An Act to amend and repeal certain Acts relating to Public Works.

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

1 Short Title.

The Short Title of this Act is "The Public Works Act, 1879."

2 Interpretation.

In this Act "The Public Works Act, 1876," is referred to as "the said Act."

3 Amendment of section 21 of “The Public Works Act, 1876.”

In section twenty-one of the said Act, after the word “are” in line nine, add the words “or such other convenient place as the Minister shall direct.”

4 Section 26 of said Act amended.

Section twenty-six of the said Act shall be read as if the word “parchment” was omitted therefrom.

5 Section 123 of said Act, section 23 of Amendment Act of 1878, and section 17 of Appropriation Act of 1878 repealed.

Section one hundred and twenty-three of the said Act, and section twenty-three of “The Public Works Act 1876 Amendment Act, 1878,” and section seventeen of “The Immigration and Public Works Appropriation Act, 1878,” are hereby repealed.

6 “Railways Construction Act, 1878,” partly repealed.

“The Railways Construction Act, 1878,” except sections eight nine, ten, and eleven, and the second Schedule thereto, is hereby repealed.

7 Railways deemed to be made under this Act.

First Schedule.

This Act shall be deemed to be a special Act authorizing the construction of each of the railways specified in the First Schedule, and such of them as have been finished shall be deemed to have been made, and such as are unfinished may be completed, under the provisions of the said Act, “The Public Works Act 1876 Amendment Act, 1878,” and this Act.

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

Second Schedule.

When moneys are proposed to be voted in any session for the construction of railways, the Minister shall insert in the Immigration and Public Works Appropriation Bill of such session a Schedule in the form of the Second Schedule hereto.

9 Amendment of section 85 of the said Act.

In section eighty-five, subsection two, of the said Act, after the word “directs” in line three of the said subsection, add the words “and he may from time to time alter the control from one county to the other, as he may deem expedient.”

10 Repeal of section 200 of the said Act.

Section two hundred of the said Act is hereby repealed.

11 Governor may proclaim water-races and take any stream to supply water-races.

The Governor may, by Proclamation publicly notified and gazetted, declare any land therein specified, whether within or without or partly within and partly without a proclaimed gold field, to be a water-race, and may declare any stream therein specified to be taken for the purpose of supplying a water-race.

12 Repeal of section 205 of the said Act.

Section two hundred and five of the said Act is hereby repealed.

13 Water-races deemed to be made under this Act.

Third Schedule.

This Act shall be deemed to be a special Act authorizing the construction of each of the water-races specified in the Third Schedule, and such of them as have been finished shall be deemed to have been made, and such as are unfinished may be completed, under the provisions of the said Act, "The Public Works Act 1876 Amendment Act, 1878," and this Act.

14 Validating Orders in Council and Proclamations.

All Orders in Council and Proclamations made and issued, or purporting to be made and issued, under the authority of the said Act, "The Public Works Act 1876 Amendment Act, 1878," "The Immigration and Public Works Act, 1870," or Acts amending the same, are hereby declared to be and to have been as from the respective times of making and issuing thereof good, valid, and effectual to all intents and purposes whatsoever, and shall be final and conclusive with respect to the existence of all requisites thereto, and shall not be impeached or disturbed at law or in equity or otherwise on any ground whatsoever: Provided always that nothing herein shall affect any claim or matter for or concerning which any action or proceeding has been brought or taken in any Court.

15 In cases of compensation, on application of the Minister summons to issue against owner to have claim heard and determined by a Compensation Court.

In any claim or matter arising for compensation for any lands taken or to be taken under the said Act, "The Public Works Act 1876 Amendment Act, 1878," or this Act, and where a written offer on behalf of the Crown has been made therefor to the owner of such lands not less than thirty days previously, and the same has not been accepted, the Minister shall have the same right to require such claim to be heard by a Compensation Court as is given to a claimant by the thirty-ninth section of the said Act. And at any time after the said Minister has filed a copy of the notice in the aforesaid section mentioned, such Minister may give notice in the form contained in the Third Schedule to the said Act, amended to meet the case, and requiring such claim to be heard. The provisions

of Part III. of the said Act shall *mutatis mutandis* apply to any proceedings taken under this section.

16 Power to alter or divert rivers, streams, and watercourses, when desirable for the safety or maintenance of any public work.

Whenever it shall be found desirable for the safety or proper maintenance of any public work constructed or authorized under the authority of Her Majesty, or the Governor, or the Government of the colony, or by or under the provisions of any Act of the General Assembly, to protect the banks of, or to alter or divert, either wholly or partially, any river, stream, or watercourse, it shall be lawful for the Governor, by Proclamation publicly notified and gazetted, to declare that the banks of such river, stream, or watercourse shall be so protected, or its course so altered or diverted, and thereupon the protection of the banks, or the alteration or diversion of such river, stream, or watercourse, as the case may be, shall be a public work within the meaning of “The Public Works Act, 1876.”

17 Proclamation of such works as in last preceding section.

It shall be lawful for the Governor, by Proclamation publicly notified and gazetted, to declare that any work or works of the description in the last preceding section mentioned which have been heretofore executed, or partially executed, has or have been so executed for the purposes therein mentioned, and thereupon such work or works shall for all purposes be taken and deemed to have been executed under the authority of this Act, and the said “Public Works Act, 1876.”

18 Minister may fix and advertise special fares upon special occasions.

The Minister may, from time to time, fix special fares to be paid in lieu of the ordinary fares, upon special occasions, and for such times and throughout such parts of any railway as he may think fit: And notice of such special fares being published in some public newspaper, circulating in the district to which such special fares apply, it shall not be necessary to publish the same in the *New Zealand Gazette*, anything in “The Public Works Act 1876 Amendment Act, 1878,” to the contrary notwithstanding.

19 Recovery of possession of land from persons holding illegal possession thereof.

When any person shall, without any right, title, or license, or whose right, title, or license has expired or been forfeited, or cancelled, be in occupation of any land which has been acquired or taken or is to be acquired or taken under the said Act for any public work, and whether such lands be within or outside of any mining district, the Minister of Lands, or the Minister for Public Works, or any person appointed in writing by either or both, may enter a plaint in the Resident Magistrate’s Court of the district in which the land lies to recover

possession thereof; and the jurisdiction of the Court or magistrate shall not be ousted on the plea that a question of title is involved in any such case.

20 Hearing and subsequent proceedings.

If upon the hearing of such plaint the defendant shall not appear, or shall appear but shall fail to establish in himself an absolute right and title to the possession of such land, or if upon such hearing it is shown to the satisfaction of the Court that the title under which the defendant claims has, as between himself and the Crown, expired or become liable to forfeiture or cancellation, the Court shall declare such title to be extinguished, and may order that possession of the said land be given by the defendant to the plaintiff, either forthwith or on or before such day as the Court thinks fit to name, and that the defendant do pay the costs.

If delivery of the land be not made in pursuance of such order, the Court, or the Resident Magistrate of the district, or any Justice of the Peace, may issue a warrant authorizing and requiring the bailiff of the Court or any constable to give possession of such land to the plaintiff.

The provisions of sections ninety-one to ninety-five, both inclusive, of "The Resident Magistrates Act, 1867," shall, so far as they are not repugnant to or inconsistent with the same, apply to any proceedings taken under this and the last preceding section.

21 Amendment of section 145 of the said Act.

In section one hundred and forty-five, subsection six of the said Act, after the word "tobacco," in first line, add the words "or any other substance."

22 Governor may agree to modify contract for construction of Tapanui Extension Railway.

Notwithstanding anything contained in a certain contract, bearing date the thirtieth day of July, one thousand eight hundred and seventy-eight, for the construction of the Tapanui Section of the Waipahi to Heriot Burn Branch Railway, it shall be lawful for the Governor in the name of Her Majesty the Queen to enter into an agreement to modify the said contract, upon such terms and conditions as he may deem advisable for the completion of the said contract.

23 Minister may agree with Emigrant and Colonist's Aid Corporation for construction of branch railway to Feilding Gorge Road.

The Minister may agree with the Emigrant and Colonist's Aid Corporation (Limited), for the formation of the Taonui Siding Extension or Branch Railway to the Feilding Gorge Road, provided that the payment for the same be a charge on the moneys payable to the said Corporation for roads and works in the Manchester Block.

24 Railway stations exempted from the operations of “The Municipal Corporations Act, 1876,” or any other Acts.

Notwithstanding anything contained in “The Municipal Corporations Act, 1876,” or any amendments thereof from time to time, or any other Act, railway stations shall be exempt from the operations of the said Acts, or any by-laws constituted under the same.

25 Transfer of the debt to the Crown of the Carrick Range Water-Supply Company to the County of Vincent.

All the property and estate vested in Her Majesty the Queen, and all the principal moneys and interest due or to become due to Her said Majesty on the security of three several deeds of mortgage, made under the authority of “The Immigration and Public Works Act Amendment Act, 1871,” and the amendments thereof, between the Carrick Range Water-Supply Company (Registered) of the one part, and Her said Majesty of the other part, and bearing dates respectively the thirteenth day of April, one thousand eight hundred and seventy-four, the twenty-first day of April, one thousand eight hundred and seventy-six, and the twenty-fifth day of July, one thousand eight hundred and seventy-seven, together with all other the right, title, interest, and remedies at law or in equity of Her Majesty under the aforesaid mortgage securities, are hereby vested in, assigned, and transferred to the Chairman, Councillors, and Inhabitants of the County of Vincent; and, subject to the approval of the Governor, it shall be lawful for the Council of the County of Vincent to sell or otherwise dispose of and assign all the right, title, and interest, and remedies at law or in equity under the aforesaid mortgage securities to any person or persons whomsoever, upon such terms and conditions as to the said Council may seem advisable.

26 When damage to a road by a river, Board of Conservators empowered to contribute to purchase land for diversion of road.

Whenever it shall be found desirable in any case when any stream shall cause any damage to a road or highway to purchase land for the diversion of such road or highway, it shall be lawful for the Board of River Conservators of the district in which such road or highway lies to contribute from their funds to the purchase of the necessary land for such diversion, or the construction or maintenance thereof.

27 Section 158 of said Act provisionally repealed.

Section one hundred and fifty-eight of the said Act is hereby repealed, except as to proceedings which have heretofore been taken and had or are now pending pursuant to the provisions of the said section of the said Act: Provided that every act duly done, and every conviction duly made, and every warrant or authority duly executed under the authority of the said section of the said Act shall be and continue as valid and effectual to all intents and purposes,

and may be continued, executed, and enforced as if this Act had not been passed: Provided also that every person who has, before the passing of this Act, committed any offence specified in the said section of the said Act, may be proceeded against, convicted, and punished in pursuance of the provisions of the said Act as if this Act had not been passed.

28 Offences on railways punishable by fine or imprisonment.

Whosoever shall wilfully do or cause or procure to be done any of the following acts,—

- (1.) Deface the writing on any boards or any notices authorized to be maintained on any railway, or any railway carriage or rolling-stock, or any railway station;
- (2.) Obstruct any officer or servant employed on any railway in the performance by such officer or servant of his duty;
- (3.) Damage any railway, or any engine, carriage, truck, wagon, or any material or rolling-stock used upon any railway;
- (4.) Be drunk or behave in a violent or offensive manner to the annoyance of others on any railway or in any carriage thereon;
- (5.) Alter any ticket with intent to avoid payment of the proper fare or any part thereof;
- (6.) Sell or offer for sale or transfer any free pass ticket, or permit any person other than the person to whom such free pass ticket is issued to make use of any such ticket;
- (7.) Write any indecent words on any part of a railway, or on any railway carriage or rolling-stock, or on any fences or buildings upon or adjoining any railway, or near to and conspicuous from any railway,—

shall be liable on conviction thereof, before any two Justices of the Peace, at the discretion of such Justices, to be imprisoned in any public gaol with or without hard labour for any period not exceeding two months, or to pay a fine not exceeding ten pounds and costs, and in default of payment to be imprisoned in any public gaol for any period not exceeding two months, unless such fine and costs be sooner paid.

29 Offences on railways punishable by fine.

Whosoever shall wilfully do or cause or procure to be done any of the following acts,—

- (1.) Use or attempt to use any ticket, the time for the proper use of which has expired;
- (2.) Sell or transfer to any person a ticket which has been used for the whole or any part of the journey for which such ticket is issued, or travel or attempt to travel with any such ticket sold or transferred by any other person;

- (3.) Travel in a railway carriage of a class superior to that for which he is provided with a ticket;
- (4.) Stick any placard or bill on any part of the buildings or fences upon or connected with any railway, or sell or attempt to sell any articles on any railway without being thereto authorized by the Minister;
- (5.) Neglect to shut any gate or slip-panel in any fence forming the boundary of, or upon or adjoining, any railway;
- (6.) Trespass upon any part of a railway not being a station, platform, or railway crossing, or other part to which the public are allowed access by law,—
shall be liable, on conviction thereof before any two Justices of the Peace, to pay a fine not exceeding ten pounds and costs.

30 By-laws and regulations for working railways.

It shall be lawful for the Governor in Council, in addition to the by-laws and regulations for the management of railways authorized to be made by section one hundred and forty-five of the said Act, to make, alter, and revoke by-laws and regulations for regulating the manner, times, and places in and at which tickets shall be purchased by, issued to, and delivered up by passengers on railways: And any such by-law or regulation may apply to railways generally, or to any particular railway or part of a railway, and to all tickets, or only to tickets issued under special circumstances: And any such by-law or regulation may impose a penalty not exceeding ten pounds for the breach thereof.

31 Interpretation of the word “railway.”

In the twenty-eighth, twenty-ninth, and thirtieth sections of this Act the word “railway” means the land taken, purchased, or used for the purposes of any railway authorized to be made or constructed, or deemed to have been authorized to be made or constructed, under the authority of the said Act, or of “The Public Works Act 1876 Amendment Act, 1878,” or of “The Railways Construction Act, 1878,” or of this Act, and includes all works, buildings, and materials of what kind soever on such land, and all wharves and jetties constructed and used in connection with a railway made or constructed, or deemed to have been made or constructed, under the said authority.

32 Governor may guarantee debentures or mortgages, to be given by any railway company mentioned in Fourth Schedule, for a sum not exceeding 75 per cent, upon construction, &c., of railway.

It shall be lawful for the Governor in Council from time to time, on being satisfied that the expenditure on any of the district railways specified in the Fourth Schedule hereto, by the company constituted for the purpose of constructing the same, has been economically expended, to guarantee, upon such terms, conditions, and subject to receiving such security as the Governor in Council may approve, the debentures or mortgages to be given by any such

company, for a sum in the aggregate not exceeding seventy-five per centum of the expenditure of the company upon the construction and laying of any railway line constructed by them, and the erecting and building of any buildings and erections, and the purchase of rails or rolling-stock in connection therewith, being the property of the company; and the Governor may execute any instrument for completing or perfecting such guarantee on behalf of the colony: Provided always that the total amount of debentures or mortgages so guaranteed shall not exceed in the aggregate the sum of sixty thousand pounds.

SCHEDULES

FIRST SCHEDULE Railways authorized to be Constructed

Short Title.	Description.
	North Island.
Kawakawa	From Kawakawa Coal Mine to the Shipping Place.
Whangarei-Kamo	From Kamo Coal Mine to the Shipping Place.
Kaipara-Waikato	From Kaukapakapa to Te Awamutu, with a branch from Auckland to Onehunga.
Waikato-Thames	From Waikato to the Thames, being a line from a junction with the line from Kaukapakapa to Te Awamutu, at a point near Hamilton, to Grahamstown, passing by Hamilton, Te Aroha, and Ohinemuri.
Wellington-Napier	From Wellington to Napier, by Woodville, with a branch from Woodside to Greytown.
Wellington-Foxton	From Wellington to Foxton, by Johnsonville and Porirua.
Foxton-New Plymouth	From Foxton to New Plymouth, with branches from the Main Line as follows:— From Bunnythorpe to Woodville. From the Taonui Siding to the Feilding Gorge Road. From Greatford to Bulls. From a point near Kakaramea to Carlyle. From Sentry Hill to Waitara.
	Middle Island.
Nelson-Greymouth	The Section from Nelson to Roundell, and the Section from Greymouth to Nelson Creek, with Harbour Works at Greymouth.
Greymouth-Hokitika	From Greymouth to Hokitika.
Westport-Ngakawau	From Westport to the Ngakawau River.
Picton-Hurunui	The Section from Picton to Awatere.
Hurunui-Waitaki	From the Hurunui River to the Waitaki River, passing by Amberley, Rangiora, Kaiapoi, Christchurch, Ashburton, and Timaru, with branches from the Main Line as follows:— From Rangiora to Oxford. From Kaiapoi to Eyreton. From Christchurch to Lyttelton. From the Racecourse to Southbridge, with a sub-branch to Little River and thence to Akaroa. From Rolleston to Springfield Colliery, with a sub-branch to the White Cliffs. From the Main Line to Upper Ashburton.

Short Title.	Description.
	<p>From the Washdyke to Opawa, Fairlie Creek, and Burke's Pass.</p> <p>From the Main Line to Waimate.</p> <p>The Section from Amberley to Waikari.</p>
<p>Canterbury Interior Main Line</p> <p>Waitaki-Bluff</p>	<p>From Oxford to Temuka.</p> <p>From the Waitaki River to the Bluff, passing by Oamaru, Palmerston, Port Chalmers, Dunedin, Balclutha, and Invercargill, with branches from the Main Line as follows:—</p> <p>From Main Line to Duntroon.</p> <p>From Main Line to Ngapara, with a sub-branch to Livingston.</p> <p>From Main Line to Port Moeraki.</p> <p>From Main Line to Shag Point.</p> <p>From Main Line at Palmerston to Waihemo.</p> <p>From Sawyers' Bay to Port Chalmers.</p> <p>From Main Line to the Brighton Road.</p> <p>From Mosgiel to Outram.</p> <p>From Clarkesville (Tokomairiro) to Lawrence.</p> <p>From Main Line to Catlin's River.</p> <p>From Waipahi to Heriot Burn.</p> <p>From Edendale to Toitois.</p>
<p>Otago Central</p>	<p>From Dunedin to Albert Town, Lake Wanaka.</p>
<p>Waimea-Switzers</p>	<p>From Waimea Plain to Switzers.</p>
<p>Invercargill-Kingston</p>	<p>From Invercargill to Kingston, (Lake Wakatipu), passing by Winton, Lumsden, and Athol, with a branch from Lumsden to the Mararoa River.</p>
<p>Western Railways</p>	<p>From the Invercargill-Kingston Line at the Makarewa River to Riverton and Orepuki, with a branch to Otautau and the Nightcaps Coal Field.</p>

SECOND SCHEDULE

Schedule showing the Railways on which Expenditure for Construction is authorized by this Act; the Railways or Sections thereof on which the Expenditure is to be incurred; the Definition and Length of such Railways or Sections; the Estimated Expenditure required to render the same available for use; the Amounts Appropriated for the Year ending , 18 ; and the Balances for future Appropriation.

Railway.		The Railway or Sections thereof for which Appropriation is made in this Act.			6. Estimate d Expendit ure required on the Length stated in Column 5	7. Amount authorise d for Expendit ure during the Year ending 31st March, 1906.	8. Balance for Future Appropri ation
1. Name	2. Estimated Length of the Whole Line.	3. From	4. To	5. Estimated Length of Section.			
	M. ch.			M. ch.			

THIRD SCHEDULE
List of Water-races authorized

Water-races authorized to be constructed by the Government

1. Thames.
2. Waimea, including extension to Kumara.
3. Nelson Creek.
4. Mount Ida.
5. Waipori Sludge Channel.
6. Four-Mile.
7. Mikonui.

FOURTH SCHEDULE

Waimea Plains Railway Company (Limited.)

Duntroon and Hakateramea Railway Company (Limited).

Waimate Railway Company (Limited).

Rakaia and Ashburton Forks Railway Company (Limited).