

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
21st September, 1893.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Seddon.

GOVERNMENT RAILWAYS ACT AMENDMENT.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend "The Government Railways Act, 1887." Title.

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

5 1. The Short Title of this Act is "The Government Railways Act Amendment Act, 1893." Short Title. It shall be construed as one with "The Government Railways Act, 1887" (herein referred to as "the said Act").

New paragraph.

10 2. The persons who have been or shall be appointed Commissioners under the said Act, and who shall be in office at the expiration of the term of five years mentioned in subsection (one) of section six of the said Act, shall continue to hold office as such Commissioners for a further period of one year, computed from the expiration of the term of five years for which the Commissioners have been appointed under
15 the said Act, but with and subject in all other respects to the powers, terms, and provisions of the said Act which shall continue in force.

20 ~~2. Part I. of This Act shall come into operation on the twenty-third day of January, one thousand eight hundred and ninety-four. and Part II. on the first day of January of the said year; but any appointments may be made, or act or thing done or performed, before such day, but so that it shall not take effect until the said day.~~ Commencement.

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PART I.

MINISTER AND FUTURE COMMISSIONERS.

Minister for Railways.

3. A Minister of the Crown shall be appointed from time to time by the Governor on behalf of Her Majesty, to be called the Minister for Railways (hereinafter referred to as "the Minister"), who, in addition to the authorities and duties conferred upon him by this Act, shall exercise all the powers, authorities, and functions, and shall have all the duties in respect of the Government railways, excepting the power of taking lands for railway purposes, which the Minister for Public Works has hitherto exercised or had.

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Every such Minister shall be a member of the Executive Council holding one or more of the offices mentioned or included in the Third Schedule of "The Civil List Act 1863 Amendment Act, 1873," or either of the offices of Minister of Defence or Minister of Education.

Minister to be *ex officio* Commissioner without salary, in addition to three others.

4. From and after the commencement of this Part of this Act, the Minister shall be *ex officio* a Commissioner, but without salary, under the said Act, in addition to three other Commissioners to be appointed from time to time under the said Act.

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The Minister shall have and may exercise all the powers of a Commissioner, may assist at their meetings, and when present shall preside thereat, and shall have a deliberative and a second or casting vote in case of there being an equality of votes on any matters before the Commissioners.

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Section eight of the said Act is hereby repealed.

Tenure of office of Commissioners.

5. For section seven of the said Act the following section shall be substituted, namely:—

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Suspension.

"7. (1.) Every Commissioner shall hold his office during good behaviour for the term during which he may be appointed.

"(2.) At any time when Parliament is not in session the Governor in Council may suspend any Commissioner from his office for inability, inefficiency, mismanagement, or misbehaviour, or refusal or neglect or failure to carry out any of the provisions of the said Act; and when and so often as the same happens a full statement of the cause of such suspension shall be laid before both Houses of the General Assembly within seven days after the commencement of the next session thereof.

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"If any time during the continuance of such session an address shall be presented to the Governor from either one of the two Houses of the General Assembly, praying that the Commissioner suspended as aforesaid shall be restored to his office, he shall be restored accordingly; and

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"If no such address be presented as aforesaid, the Governor in Council may confirm such suspension and declare the office of such Commissioner to be vacant. Thereupon such office shall become and be vacant as if the aforesaid Commissioner had died.

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Vacancy of office.

"(3.) A Commissioner shall be deemed to have vacated his office,—

"(a.) If he shall engage, during his term of office, in any employment outside the duties of his office:

"(b.) If he shall become bankrupt, or apply to take the

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benefit of any Act now or hereafter to be in force for the relief of bankrupts, or shall compound with his creditors, or make an assignment of his salary for their benefit :

5 “(c.) If he shall absent himself from duty for a period of fourteen consecutive days, except on leave granted by the Governor (which leave he is hereby authorised to grant), or shall become incapable of performing his duties :

10 “(d.) If he shall become in any way concerned or interested in any contract or agreement made by or on behalf of the Commissioners ; or shall in anywise participate or claim to be entitled to participate in the profit thereof, or in any benefit or emolument arising therefrom :

15 “(e.) If he shall himself, or through any other person for him or on his behalf, receive or take any fee, reward, commission, or benefit of any kind from any company or person contracting for the supply of goods or materials of any kind to a railway, or using any railway for the carriage of any materials, goods, or animals, or from any passenger on any railway.”

20 6. Upon any vacancy occurring in the office of a Commissioner by effluxion of time, the Governor in Council may, from time to time, appoint any person to fill such vacancy. And this provision shall be deemed to be part of the sixth section of the said Act, accordingly.

Governor may fill vacancy in Board.

25 7. All the words from the commencement of section nine of the said Act to the end of the second subsection are hereby repealed, and the following substituted :—

Salaries of Commissioners.

30 “Each of the Commissioners shall receive a salary not exceeding one thousand pounds per annum.”

8. Section eleven of the said Act is hereby repealed, and the following substituted :—

Conduct of business.

35 “11. (1.) In the absence of the Minister, the Commissioners present at any meeting shall elect one of their number to preside thereat.

“ (2.) All questions before the Commissioners shall be decided by a majority of votes ; but when only two Commissioners are present and they differ, the question upon which they differ shall be referred for decision at a future meeting.”

PART II.

GENERAL AMENDMENTS.

40 9. Notwithstanding anything contained in sections twenty-three or twenty-four of the said Act, the power of taking lands for any Government railway under “The Public Works Act, 1882,” shall be exercised only by the Governor or the Minister for Public Works in manner provided by “The Public Works Act, 1882,” and the Commissioners shall be deemed to be a local authority for the purposes of Parts II. and III. of “The Public Works Act, 1882,” except that they shall not exercise the power conferred by section twenty-two of the Act last aforesaid.

Governor to take lands for railways.

50 10. Section thirty-one of the said Act is hereby amended by the omission of the first words thereof, “The Commissioners,” and the

Minister to determine situations for stations, &c.

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substitution of the words "The Minister" in lieu thereof, and by the addition of the following to the section:—

"Provided that the Minister shall, before deciding upon any matters mentioned in the said section, obtain the advice of the Commissioners upon such matters."

Financial proposals of Commissioners, how to be dealt with.

11. The Minister may at any time in writing request the Commissioners to propose in writing a scheme for effecting an increase of income or a decrease of expenditure; and if the Minister approves of the same he may direct the Commissioners shall take all necessary steps to carry out the same.

If the Minister does not approve of any scheme proposed by the Commissioners, he may himself transmit to them any proposition for effecting and carrying out such increase or decrease, and thereupon such proposal and the proposals of the Commissioners shall be determined at a meeting of the Commissioners to be called for the special purpose of considering the same.

If any doubt or difference of opinion occurs respecting the provisions of this section, the same may be finally determined by the Governor in Council.

Contracts, &c., for work above £100 to be submitted for public tender.

12. Notwithstanding anything in the said Act contained,—

(1.) Every contract for the supply of stores, coal, timber, plant, engines, or rolling-stock, where the cost exceeds in the aggregate *one hundred* pounds shall, except in any case of urgent necessity, be submitted to public tender, of which due public notice shall be given. But the Commissioners shall not be bound in any case to accept the lowest tender; and

(2.) The annual estimates of receipts and expenditure prepared by the Commissioners under section sixty-one of the said Act shall be submitted by them to the Executive Government before their presentation to Parliament.

Annual estimates to be submitted to Government before presenting to Parliament.

In such estimates every salary proposed to exceed two hundred pounds per annum shall be set out in detail; and, as to salaries or payments proposed to be paid to any class of persons below such annual sum, if stated in a gross sum, there shall be given a detail of the number of persons included in such class and their relative rate of pay, and also the rate of pay to be granted to each such class respectively.

Expenditure of moneys.

13. All moneys appropriated by any Public Works Appropriation Act, or any other Act authorising the expenditure of moneys out of the Public Works Fund, for expenditure on or in connection with railways now or hereafter vested in or under the control and management of the Commissioners, except moneys specially appropriated for additions to open lines, shall, notwithstanding any provision in "The Government Railways Act, 1887," be applied and expended under the control and direction of the Minister for Public Works; but the Minister may, if he thinks fit, nevertheless apply and expend such moneys, or any part thereof, through the agency of the Commissioners, and in such case the Commissioners shall furnish to the Colonial Treasurer such requisitions and vouchers for the proper expenditure of such moneys, or any part thereof, as he may from time to time require.

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Government Railways Act Amendment.

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14. Notwithstanding anything in the said Act contained, the Commissioners shall not, without sanction of an Order in Council, increase the salary of any officer or employé whose annual salary or wages is more than three hundred pounds, or appoint or promote any person to any office the annual salary or wages of which is more than three hundred pounds.

Power of Commissioners to alter salaries.

15. Notwithstanding anything in the said Act contained, the Commissioners shall not grant to any officer or employé any leave of absence for longer or more frequent periods or on terms more favourable than those prescribed for officers of the Civil Service under section twenty-seven of "The Civil Service Act, 1866," or any Act or regulation for the time being in force relating to the Civil Service.

How leave to be granted.

16. Section sixty-five of the said Act is hereby amended by the insertion of the following words at the commencement of the second paragraph thereof, namely:—

Section 65 amended.

"Except in the case of a person transferred from any department of the Civil Service."

17. For section seventy-two of the said Act the following section shall be substituted, namely:—

Appeals from their decisions.

20 "72. (1.) Every appeal shall be lodged with the Commissioners within seven days after the date of the decision which is appealed against, and shall be heard within thirty days from the date of the appeal being so lodged.

25 "(2.) Any of the Commissioners by or before whom any appeal shall be heard shall have authority and is hereby authorised to administer an oath to every witness at such hearing, and shall on application of the appellant administer such oath to all witnesses in any appeal the decision of which may result in the dismissal of the appellant.

30 "(3.) Any one Commissioner may hear all appeals to the Commissioners from employés against fines inflicted upon them by any officer at the head of a branch in the railway service, and may confirm or modify any decision of such officer, or make such order as such Commissioner shall think fit, and such decision shall be final. The decision of such Commissioner shall be deemed and taken to be the decision of the Commissioners.

35 "(4.) Any other appeal or application whatever from officers or employés to the Commissioners may be heard, confirmed, modified, or otherwise finally determined; and any decision of any officer may be reviewed, confirmed, modified, or otherwise finally determined by any two or more Commissioners; but no appellant shall be dismissed unless two Commissioners concur in the determination of his appeal. The decision of such two Commissioners shall be the decision of the Commissioners."

45 18. Notwithstanding anything contained in the said Act or "The Public Works Act, 1882," every reduction whatever made from time to time by the Commissioners in the rates or charges for the carriage of passengers and goods upon the Greymouth-Brunner Railway, or upon the Westport-Ngakawau Railway, or any extension thereof which may have been or be constructed out of the Westport Harbour Fund, shall be null and of no effect unless and until the proposed reduction has been approved by the Minister.

Tariff on Westport and Grey Railways not to be reduced without the sanction of the Minister.

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Copy of *Gazette* to be evidence of by-laws.

19. The due making of any by-law by the New Zealand Railway Commissioners, and the date of the making thereof, and the date when the same came into force, shall be sufficiently proved by the production of a copy of the *New Zealand Gazette* in which such by-law is published. 5

Section twenty-seven of "The Public Works Acts Amendment Act, 1889," is hereby repealed.

Proclamations, &c., validated.

20. The several Proclamations and the Order in Council enumerated in the Schedule hereto, issued by the Governor, for the taking of land for railways, or otherwise relating to railways open for traffic, are hereby validated for all purposes, and shall be and be deemed to have been from the dates thereof respectively of the same effect as if the same respectively had been made by the Railway Commissioners appointed under the said Act. 10
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Schedule.

SCHEDULE.

PROCLAMATIONS VALIDATED.

Date of Proclamation.	Railway.	Object of Proclamation.
January 28, 1889...	Waitaki-Bluff ...	Taking land near Stirling.
" 30, " ...	Foxton-New Plymouth	" near Oroua Bridge.
March 14, " ...	"	" at New Plymouth.
April 22, " ...	North Island Main Trunk	Undertaking to maintain fences.
May 11, " ...	Foxton-New Plymouth	Taking land near Kai-iwi.
" 16, " ...	Duntroon Branch ...	" at Duntroon.
June 26, " ...	Wellington-Woodville ...	" at Pitone.
July 9, " ...	Kaipara-Waikato ...	" for Kaukapakapa Section
" 9, " ...	Kaukapakapa Northwards	"
" 9, " ...	Foxton-New Plymouth...	" at New Plymouth. "
August 28, " ...	North Island Main Trunk	" at Rangatira.
October 6, " ...	Foxton-New Plymouth...	" at Ngaire.
<i>Order in Council.</i> September 16, 1889	Waitaki-Bluff ...	Authorising sale of land at Balclutha