

Hon. Mr. Seddon.

GOVERNMENT RAILWAYS ACT AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Minister for Railways.</p> <p style="text-align: center;">PART I.</p> <p style="text-align: center;">FUTURE COMMISSIONERS.</p> <p>3. Minister to be <i>ex officio</i> Commissioner without salary, in addition to three others.</p> <p>4. Tenure of office of Commissioners. Suspension. Vacancy of office.</p> <p>5. Governor may fill vacancy in Board.</p> <p>6. Salaries of Commissioners.</p> <p>7. Conduct of business.</p> <p style="text-align: center;">PART II.</p> <p style="text-align: center;">GENERAL AMENDMENTS.</p> <p>8. Governor to take lands for railways.</p> <p>9. Minister to determine situations for stations, &amp;c.</p> <p>10. Financial proposals of Commissioners, how to be dealt with.</p>	<p>11. Contracts, &amp;c., for work above £100 to be submitted for public tender. Annual estimates to be submitted to Government before presenting to Parliament.</p> <p>12. Expenditure of moneys.</p> <p>13. Power of Commissioners to alter salaries.</p> <p>14. How leave to be granted.</p> <p>15. Section 65 amended.</p> <p>16. Board of Appeal.</p> <p>17. Mode of appeal.</p> <p>18. Tariff on Westport and Grey Railways not to be reduced without the sanction of the Minister.</p> <p>19. Copy of <i>Gazette</i> to be evidence of by-laws.</p> <p style="text-align: center;">PART III.</p> <p style="text-align: center;">SPECIAL PROVISIONS.</p> <p>20. Either House may resolve that railways revert in the Queen. When to take effect.</p> <p>21. Proclamations, &amp;c., validated. Schedule.</p>
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A BILL INTITULED

An Act to amend "The Government Railways Act, 1887."

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, 1894." It shall be construed as one with "The Government Railways Act, 1887" (herein referred to as "the said Act").

10    2. 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, 15 excepting the power of taking lands for railway purposes, which the Minister for Public Works has hitherto exercised or had.

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 20 either of the offices of Minister of Defence or Minister of Education.

Title.

Short Title.

Minister for Railways.

## PART I.

~~Future Commissioners.~~

## 3. From and after the commencement of this Act,

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Minister to be  
*ex officio* Commis-  
sioner without  
salary, in addition  
to three others.

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. 5

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 their being an equality of votes on any matters before the Commissioners. 10

Section eight of the said Act is hereby repealed.

*New.*

Railways to be  
revested in Her  
Majesty the Queen.

the railways in the colony, now vested in the Commissioners, shall again be vested in Her Majesty, and the management of the said railways shall pass to the Minister, to be controlled and regulated under "The Public Works Act, 1882," and the several Acts amending the same. 15

(1.) "The Government Railways Act, 1887," and all the preceding sections of this Act, except sections one and two thereof, shall be repealed: 20

(2.) The appointments of the Commissioners shall be determined, but they severally shall receive appointments from the Governor as officers of the railway service of the colony, to date from the aforesaid day, for the residue of the terms of office for which they were respectively appointed as Commissioners aforesaid, and at the same rate of salary: 25

(3.) All persons who were in the Civil Service immediately before the twenty-eighth day of January, one thousand eight hundred and eighty-nine, shall hereafter be in the same position in such service as if they had never left it: 30

(4.) All persons in the employ of the Commissioners who are not within the terms of the *last-preceding* subsection shall be deemed to be the servants and employés of Her Majesty: 35

(5.) The *two preceding* subsections shall also apply, *mutatis mutandis*, to the persons holding the office of Commissioners at the date of the passing of this Act who were in the Civil Service of the colony at the commencement of "The Government Railways Act, 1887." 40

(6.) All property of every sort mentioned in section sixteen of the said Act, and which by the said section was vested in the Commissioners for any estate, shall vest absolutely in Her Majesty for the same estate: 45

(7.) All transactions of any kind mentioned in section nineteen of the said Act, entered into, made, or given by or to the Commissioners in connection with any property whatever vested in the Commissioners, shall be binding, and may be enforced as if Her Majesty or the Minister, as the case may be, had been a party thereto: 50

- 5 (8.) All powers of Her Majesty, the Governor in Council, or the Governor or Minister, under any Act relating to the management, working, and maintenance of railways, and all rights and privileges accrued or accruing under or by virtue of any such Act, and which by section twenty of the said Act were authorised to be exercised, enforced, and enjoyed by the Commissioners, shall revert to and be exercised, enforced, and enjoyed respectively in manner as before the said Act was passed :
- 10 (9.) All by-laws and regulations made by the Commissioners shall continue in operation as if they had been made under "The Public Works Act, 1882," and the several Acts amending the same, and any penalty, forfeiture, or other punishment incurred or to be incurred thereunder respectively may be enforced and recovered in the same manner :
- 15 (10.) No action or other proceeding whatsoever commenced by or against the Commissioners shall abate or be discontinued, or be prejudicially affected, but the same shall continue and take effect in favour of or against Her Majesty or the Minister, as the case may be :
- 20 (11.) All judgments, decrees, or orders made in favour of or against the Commissioners, and all fines and penalties imposed or incurred under "The Government Railways Act, 1887," or under any other Act in respect of any matter or thing vested in the Commissioners, and unsatisfied or unperformed, or that have not been recovered or enforced, shall be respectively enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of Her Majesty, or the Minister, in the same manner as they might have been enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of the Commissioners :
- 25 (12.) All rights, powers, duties, and obligations now by law conferred and imposed upon the Railway Commissioners are hereby transferred to Her Majesty ; and all references to the Railway Commissioners in any statute or regulation thereunder or in any Order in Council, Proclamation, or other similar instrument, shall be construed as references to Her Majesty.
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*Struck out.*

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

- 45 "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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Tenure of office of Commissioners.

Suspension.

"If at 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.

Vacancy of office.

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

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"(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 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 :

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"(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 :

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"(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 :

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"(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."

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Governor may fill vacancy in Board.

5. 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 section six of the said Act accordingly.

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Salaries of Commissioners.

6. 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 :—

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

Conduct of business.

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

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"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."

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## PART II.

## GENERAL AMENDMENTS.

8. 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.

9. Section thirty-one of the said Act is hereby amended by the omission of the first words thereof, "The Commissioners," and the substitution of the words "The Minister" in lieu thereof, and by the addition of the following to the section:—

Minister to determine situations for stations, &c.

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

10. 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 that the Commissioners shall take all necessary steps to carry out the same.

Financial proposals of Commissioners, how to be dealt with.

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.

11. 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

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

(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.

12. All moneys appropriated by any Public Works Appropriation Act, or any other Act authorising the expenditure of moneys

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.

Power of Commissioners to alter salaries.

13. 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.

How leave to be granted.

14. 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.

Section 65 amended.

15. 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:—

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

Board of Appeal.

16 4. An Appeal Board is hereby constituted for the North Island and Middle Island respectively, each of which Boards (herein referred to as "the Board") shall consist of—

(1.) ~~One of the Commissioners,~~ *A Judge of the District Court or a Stipendiary Magistrate to be appointed from time to time by the Governor,* who shall be the Chairman;

(2.) One person to be elected by the officers of the railway service in the North Island and Middle Island respectively; and

(3.) One person to be elected by the employés of such service in the aforesaid islands respectively.

~~The Commissioners, under the authority of section sixty three of the said Act, shall, as soon as may be after the passing of this Act, The Governor in Council may make regulations for the conduct of the elections of the aforesaid persons respectively, and provide facilities to the officers and employés of the aforesaid service for voting at such elections, and for the attendance of the elected persons at any sittings of the Board to which they may be elected.~~

Mode of appeal.

5. Every appeal shall be lodged with the ~~Commissioners~~ *Minister or with some officer appointed by him for the purpose,* 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.

(1.) The Chairman of the Board, ~~or any Commissioner sitting alone,~~ by or before whom any appeal shall be heard, shall have authority and is hereby authorised to administer an

oath or affirmation to every witness at such hearing, and shall on application of the appellant administer such oath or affirmation to all witnesses in any appeal the decision of which may result in the dismissal of the appellant.

(2.) Every appeal or application whatever from officers or employes (except for fines inflicted upon them by officers) may be heard, confirmed, modified, or otherwise determined, and any decision of any officer may be reviewed, confirmed, modified, or otherwise determined by the Board. The decision of two members of the Board shall be the decision of the Board.

Every decision of the Board shall be submitted for the approval of the Minister before it takes effect.

(3.) ~~Any one Commissioner~~ The Minister may hear all appeals to the ~~Commissioners~~ from employes 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~~

*Struck out.*

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.

Section seventy-two of the said Act is hereby repealed; and all references in the said Act to appeals to the Commissioners shall be construed as referring to the mode of appeal provided for under this Act.

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.

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.

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

### PART III.

#### SPECIAL PROVISIONS.

20. In case either House of the General Assembly shall, at any session thereof to be held after the session wherein this Act is passed, pass a resolution that the railways in the colony, now vested in the Commissioners, should again be vested in Her Majesty, and the management of the said railways should pass to the Minister, to be controlled and regulated under "The Public Works Act, 1882," and the

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

Copy of Gazette to be evidence of by-laws.

Either House may resolve that railways revert in the Queen.

When to take effect.

- several Acts amending the same, the Governor may, by Order in Council gazetted, appoint a day upon which such resolution as aforesaid shall take effect; and upon such day,—
- (1.) "The Government Railways Act, 1887," and all the preceding sections of this Act, except sections one and two thereof, shall be repealed : 5
  - (2.) The appointments of the Commissioners shall be determined, but they severally shall receive appointments from the Governor as officers of the railway service of the colony, to date from the aforesaid day, for the residue of the terms of office for which they were respectively appointed as Commissioners aforesaid, and at the same rate of salary : 10
  - (3.) All railway servants and other persons in the employ of the Commissioners shall be deemed to be the servants and employés of Her Majesty, without prejudice to any rights preserved to any of the said persons under the provisions of section seventy-six of the said Act : 15
  - (4.) All property of every sort mentioned in section sixteen of the said Act, and which by the said section was vested in the Commissioners for any estate, shall vest absolutely in Her Majesty for the same estate : 20
  - (5.) All transactions of any kind mentioned in section nineteen of the said Act, entered into, made, or given by or to the Commissioners, in connection with any property whatever vested in the Commissioners, shall be binding, and may be enforced as if Her Majesty or the Minister, as the case may be, had been a party thereto : 25
  - (6.) All powers of Her Majesty, the Governor in Council, or the Governor or Minister, under any Act relating to the management, working, and maintenance of railways, and all rights and privileges accrued or accruing under or by virtue of any such Act, and which by section twenty of the said Act were authorised to be exercised, enforced, and enjoyed by the Commissioners, shall revert to and be exercised, enforced, and enjoyed respectively in manner as before the said Act was passed : 30
  - (7.) All by-laws and regulations made by the Commissioners shall continue in operation as if they had been made under "The Public Works Act, 1882," and the several Acts amending the same, and any penalty, forfeiture, or other punishment incurred or to be incurred thereunder respectively may be enforced and recovered in the same manner : 35
  - (8.) No action or other proceeding whatsoever commenced by or against the Commissioners shall abate or be discontinued, or be prejudicially affected, but the same shall continue and take effect in favour of or against Her Majesty or the Minister, as the case may be : 45
  - (9.) All judgments, decrees, or orders made in favour of or against the Commissioners, and all fines and penalties imposed or incurred under "The Government Railways Act, 1887," or under any other Act in respect of any matter or thing 50



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vested in the Commissioners, and unsatisfied or unperformed, or that have not been recovered or enforced, shall be respectively enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of Her Majesty, or the Minister, in the same manner as they might have been enforced, levied, proceeded for, and recovered by, against, with reference to, and in the name of the Commissioners.

*New clause.*

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6. The Minister shall, at such times as may be convenient, grant to every officer or employé leave of absence; such leave of absence to be for one week in each year, and to be given at one time:

Leave of absence.

Provided, however, that nothing in this section shall be deemed to limit any leave of absence usually heretofore granted under regulations now existing.

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21. 7. 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.

Proclamations, &c., validated.

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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.