

Right Hon. Mr. Coates.

BUILDING CONSTRUCTION.

ANALYSIS.

Title.	10. Local authorities to obtain services of technical adviser.
1. Short Title and commencement.	11. Clerk-of-works.
2. Interpretation.	12. Demolition, removal, or alteration of building or work erected or done in contravention of law.
3. Constitution of Building Committee.	13. Minister may take steps to secure compliance with Act if local authority fails to do so.
4. Functions of Building Committee.	14. Special fee in respect of building permits to provide expenses of administration, including investigation of building-designs.
5. Buildings not to be erected or substantially altered without permit from local authority.	15. General penalty for offences.
6. Governor-General may make regulations as to construction and design of buildings.	16. Regulations.
7. Local authority may make by-laws.	17. Repeal.
8. Plans and other particulars of buildings to be open for inspection.	Schedule.
9. Powers of entry on land and buildings for purposes of inspection.	

A BILL INTITULED

AN ACT to make Better Provision for the Design and Title.
Construction of Buildings.

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

1. This Act may be cited as the Building Construction Short Title and
Act, 1932, and shall come into force on the first day commencement
of July, nineteen hundred and thirty-three.

10 2. (1) In this Act, unless the context otherwise Interpretation.
requires,—

“Building” (except as otherwise provided herein)
includes—

15 (a) Any structure enclosed or partially en-
closed within walls and having a roof thereto :

(b) Any grandstand, stadium, or other structure in which seating or standing accommodation is provided for the public at any racecourse, sports-ground, recreation-ground, or other place where people congregate, though such structure may not be enclosed or covered as mentioned in the *last preceding* paragraph : 5

(c) Any retaining-wall :

and also includes the site and foundations of any structure referred to in paragraph (a) or paragraph (b) or paragraph (c) of this definition,— 10

but does not include any dwellinghouse or building appurtenant thereto or any farm-building, if such dwellinghouse or building or farm-building is situated elsewhere than in any borough or town district or area defined by the Governor-General in Council in accordance with the provisions of subsection *three* hereof : 15

“ Building Committee ” or “ Committee ” means the Building Committee constituted in accordance with this Act : 20

“ District ” means a county, borough, town district, or road district :

“ Engineer-in-Chief ” means the person for the time being holding office as the Engineer-in-Chief in the Public Works Department, and, in the absence of the Engineer-in-Chief, includes the Assistant Engineer-in-Chief or the deputy of the Engineer-in-Chief : 25 30

“ Local authority ” means a Borough Council, County Council, or Town Board ; and in counties in which the Counties Act, 1920, is suspended or is not in force includes a Road Board :

“ Minister ” means the Minister of Public Works : 35

“ Owner ” in relation to any premises includes every person who is the owner or the occupier thereof within the meaning of the Rating Act, 1925 :

“ Registered architect ” means an architect registered under the New Zealand Institute of Architects Act, 1913 : 40

“ Registered engineer ” means an engineer registered under the Engineers Registration Act, 1924.

(2) Without limiting the ordinary meaning of the expression "substantial alteration" in relation to buildings, every alteration of a building which tends or may tend to reduce its resistance to earthquake shock shall be deemed to be a substantial alteration for the purposes of this Act.

(3) For the purposes of this Act the Governor-General in Council, having regard to the density of the population of any area not included in a borough or town district, or to the rate at which settlement is proceeding in any such area, may define such area, and thereupon buildings erected or thereafter to be erected within that area shall be subject to the provisions of this Act to the same extent as if such defined area were a borough or town district.

(4) The Governor-General may from time to time, by Order in Council, exclude in whole or in part from the operation of this Act structures of any specified class or classes, being buildings as hereinbefore defined, or in like manner may exclude specified portions of any such structures if in his opinion the application of this Act to such structures or portions is not required in the public interest or is not so required in its entirety.

(5) In like manner the Governor-General may, if he thinks fit, by Order in Council, declare that structures of any specified class or classes, not being buildings as hereinbefore defined, shall be deemed to be buildings for the purposes of this Act.

(6) Every Order in Council under this section may be at any time in like manner varied or revoked.

3. (1) For the purposes of this Act the Minister may appoint an Advisory Committee, to be called the Building Committee, consisting of—

Constitution of
Building
Committee.

(a) The Engineer-in-Chief :

(b) A registered engineer with experience in structural engineering, to be appointed on the recommendation of the Council of the New Zealand Society of Civil Engineers (Incorporated) :

(c) A registered architect to be appointed on the recommendation of the Council of the New Zealand Institute of Architects :

(d) A registered engineer or registered architect to be appointed on the recommendation of the Executive Committee of the Municipal Association of New Zealand :

(e) A registered engineer to be appointed on the recommendation of the Executive Committee of the New Zealand Counties Association :

(f) Not more than two other persons, possessed of scientific or technical qualifications, of whom one shall have had practical experience in building construction. 5

(2) The members of the Building Committee other than the Engineer-in-Chief shall be appointed for a term of three years, save that any such member may be re-appointed, or may at any time be removed from office by the Minister, or may resign his office by writing addressed to the Minister. One member shall be appointed by the Minister to be the Chairman of the Committee. 10 15

(3) The members of the Building Committee not being persons in the service of the Crown shall be paid such fees and allowances as may from time to time be prescribed in that behalf. All members of the Committee shall be entitled to a refund of travelling-expenses reasonably incurred by them in respect of attendance at meetings of the Committee, or in transacting the business thereof. 20

(4) Meetings of the Building Committee shall be held at such times and places as the Committee, with the approval of the Minister, may from time to time appoint, provided that such meetings shall be held at intervals not exceeding three months in any case. In the absence of the Engineer-in-Chief from any meeting of the Committee he may appoint any officer of his Department to attend such meeting in his stead. At all meetings of the Committee three members shall constitute a quorum. 25 30

Functions of Building Committee.

4. In addition to any functions expressly or impliedly conferred on it by the following provisions of this Act, it shall be the duty of the Committee to consider and report to the Minister upon all matters that may be referred to it relative to the construction or design of buildings, or to the subject-matter and application of any regulations or by-laws made for the purposes of this Act. 35

Buildings not to be erected or substantially altered without permit from local authority.

5. (1) It shall not be lawful for any person after the commencement of this Act to commence the erection of any building or the reconstruction or substantial alteration of any building in any district without a permit from the local authority of that district. Where a permit is issued by any local authority for the carrying-out of any such 40

work as aforesaid, in accordance with any plans and specifications, failure to comply with such plans and specifications to the satisfaction of the local authority shall be a breach of this Act notwithstanding that such failure may not constitute a breach of any regulations or by-laws thereunder.

(2) While any regulations or by-laws are in force under this Act in the district of any local authority a permit shall not be issued for the erection, reconstruction, or alteration of any building in that district, except in conformity with the provisions of such regulations or by-laws. If it appears to the Minister, on the advice of the Building Committee, that any permit has been issued on terms that do not ensure compliance with any regulations or by-laws as aforesaid, he may require the local authority to amend the permit, and the permit shall thereupon be amended accordingly.

(3) Nothing in this Act shall be construed to limit the powers conferred on any local authority independently of this Act in relation to building-permits or other permits in respect of works undertaken or proposed to be undertaken in the district of that local authority.

6. (1) The Governor-General may from time to time, by Order in Council, make regulations in accordance with this section for all or any of the matters specified in the Schedule hereto.

Governor-General may make regulations as to construction and design of buildings.

(2) Any such regulations may according to the tenor thereof apply generally throughout New Zealand, or within any specified part or parts thereof to the exclusion of other parts, and may from time to time be applied by the Minister by notice in the *Gazette* to any part of New Zealand, and any such notice may be at any time in like manner revoked.

(3) The operation of any regulations published as aforesaid may, if so provided therein, be wholly suspended until they are applied by the Minister by notice pursuant to the *last preceding* subsection.

(4) In so far as the by-laws of any local authority in force in any locality are inconsistent with or repugnant to any regulations made under this section and in force in the same locality the by-laws shall be read subject to the regulations.

(5) All regulations made under this section and for the time being in force in the district of any local

authority, or in any part of such district, shall be enforceable in all respects as if they were by-laws made by that local authority, and all fines recovered for the breach thereof in proceedings conducted by or on behalf of a local authority shall be applied as if they were recovered in respect of the breach of by-laws. 5

(6) No regulations shall be made, applied, suspended, revoked, or varied in accordance with this section unless and until the Building Committee has been given a reasonable opportunity to consider the proposals and to make recommendations thereon to the Minister: 10

Provided that the validity of any Order in Council under this section shall not be questioned on the ground that the provisions of this subsection have not been complied with. 15

Local authority may make by-laws.

7. (1) Every local authority shall have power, subject to the provisions of the *last preceding* section, to make by-laws for the several matters and purposes specified in the Schedule hereto. Any such by-laws may be made to apply throughout the whole district of the local authority, or within a defined part or defined parts thereof only. 20

(2) A copy of every such by-law under the seal of the local authority shall, within fourteen days after the making thereof, be sent by the local authority to the Minister.

Plans and other particulars of buildings to be open for inspection.

8. (1) The Engineer-in-Chief or any person acting by direction or with the authority of the Engineer-in-Chief shall, at any time during the office hours of a local authority, but not so as to interfere unreasonably with the carrying-out of his duties by any officer of that local authority, have the right to inspect all plans, sketches, calculations, specifications, and other particulars in relation to any building or proposed building supplied to the local authority by or on behalf of the applicant for a permit in respect of such building. 30

(2) Any person entitled in accordance with the *last preceding* subsection to inspect any plans or other documents in relation to any building shall, on giving a receipt therefor, be entitled to remove the same from the office of the local authority if he is of opinion that detailed examination thereof is necessary for the purposes of this Act and that such detailed examination cannot conveniently be made in the offices of the local authority. All plans or other documents so removed from the office of the local authority shall be returned thereto as soon as practicable. 40 45

(3) The production by a local authority of a receipt given to it under the *last preceding* subsection in respect of any documents shall indemnify the local authority against any claim for damages or otherwise that may be made against the local authority in respect of the loss of or damage to any such documents occurring after their removal from the office of the local authority pursuant to this section and before their return.

9. (1) In order to ascertain whether or not the requirements of this Act, or of any regulations or by-laws thereunder, are being or have been observed in respect of any building, the Engineer-in-Chief or any person appointed by him in writing for the purpose, or any person acting in any district by direction or with the authority of the local authority for that district, may at any time during the daytime, or at any other time while work is being done for which a permit is required, enter upon and examine the site of any building for the erection of which application for a permit has been made or for which a permit has been granted, or any building in course of erection, reconstruction, or substantial alteration, or any building after the completion of the work for which a permit has been granted.

Powers of entry on land and buildings for purposes of inspection.

(2) In addition to the powers conferred by the *last preceding* subsection, the Engineer-in-Chief or any other person acting under the authority of that subsection may, in relation to any building as aforesaid, do anything that is reasonably necessary to enable him to determine whether or not the requirements of this Act or of any regulations or by-laws thereunder have been complied with.

(3) Every person commits an offence and is liable on summary conviction to a fine of *one hundred* pounds who obstructs or interferes with the Engineer-in-Chief or any other person as aforesaid in the exercise or performance of his powers and duties under this section.

10. (1) For the purpose of securing the proper examination of plans and of other particulars submitted in relation to buildings, and generally for the purpose of ensuring the effective administration of this Act, every local authority shall, whenever necessary, obtain the services of a competent technical adviser, either by the appointment of an officer with the requisite technical qualifications or by special agreement with a qualified person.

Local authorities to obtain services of technical adviser.

(2) If any local authority fails to obtain the services of a competent technical adviser, as required by the *last preceding* subsection, the Minister, on the recommendation of the Building Committee, may appoint a suitable person to act as technical adviser to that local authority, either generally or in respect of any particular matter, and it shall not be competent for the local authority to terminate the appointment of any person so appointed except with the consent of the Minister. 5

(3) Any person appointed under the *last preceding* subsection shall be entitled to receive from the local authority such salary or other remuneration as may be fixed in that behalf by the Governor-General in Council. 10

Clerk-of-works.

11. (1) If the owner or other person required by any by-laws or regulations under this Act to appoint a clerk-of-works or other qualified person to undertake the detailed supervision of the erection, reconstruction, or substantial alteration of any building (as distinguished from the general supervision of the architect or engineer, if any, engaged on the work) fails to make such appointment, or appoints a person whose appointment is not acceptable to the local authority, the local authority may appoint a qualified person for the purpose, and in such case may recover from the owner as a debt due to the local authority all expenses, including salary, incurred in respect of such appointment. 15 20 25

(2) Before issuing a permit for the erection, reconstruction, or alteration of any building in any case in which, for the detailed supervision of the proposed work, the employment of a clerk-of-works or other qualified person is required in accordance with regulations or by-laws as aforesaid, the local authority may require satisfactory security to be given for the payment of the clerk-of-works or other person as aforesaid in respect of his services. 30 35

Demolition, removal, or alteration of building or work erected or done in contravention of law.

12. (1) The local authority in whose district any building is erected, reconstructed, or substantially altered, or any other work or thing in relation to any building is done in contravention of this Act or of any regulations or by-laws thereunder, may by requisition in writing require the owner of such building or of the premises on which such work or thing has been done to pull down, remove, or alter such building, work, or thing within such time and in such manner as may be therein specified. 40

(2) Any local authority as aforesaid may by requisition in writing require the owner of any building or premises to pull down, remove, or alter any part of a building or any other work or thing, erected or done before the commencement of this Act, if in its opinion such building, work, or thing is a source of public danger, or may become a source of such danger in the event of earthquake.

(3) If the owner fails to comply with such requisition, the Supreme Court or a Judge thereof may, on the application of the local authority, make an order that the building, work, or thing or any specified part thereof, be pulled down and removed at the expense in all things of the owner, within such time as may be specified in the order, or that alterations satisfactory to the local authority be carried out within a specified time.

(4) If the owner of any building, work, or thing fails to comply with an order issued in respect thereof pursuant to this section, the local authority may proceed to pull down, remove, or alter any building, work, or thing in effective compliance with such order, and may recover from the person in fault all expenses reasonably incurred by it in or about the exercise of the powers conferred by this section.

(5) All expenses incurred by a local authority as aforesaid shall until repaid to the local authority constitute a charge on the estate or interest of the owner of such building, work, or thing in the land in respect of which such expenses were incurred.

(6) The exercise by a local authority of the powers conferred by this section shall not relieve any person from liability to any penalty for the breach of the provisions of this Act or of any regulation or by-law thereunder.

13. If any local authority fails in any case to take such action under section *eleven* or section *twelve* hereof as the Minister on the recommendation of the Building Committee may deem necessary or desirable, the Minister may exercise any of the powers conferred by those sections on the local authority, and in such case shall have the same right to recover expenses and the same protection in the exercise of such powers as the local authority would have had.

Minister may take steps to secure compliance with Act if local authority fails to do so.

Special fee in respect of building-permits to provide expenses of administration, including investigation of building designs.

14. (1) In respect of all buildings for the erection, reconstruction, or alteration of which a permit is granted for the purposes of this Act by any local authority a special fee at the rate of *one-eighth* of *one* per centum of the cost of such erection, reconstruction, or alteration, as the case may be, or at such less rate as may from time to time be prescribed, shall be payable into the Public Account. 5

(2) The proceeds of such special fee shall be applied towards the cost of the administration of this Act, and the residue, if any, shall be applied, in accordance with the appropriation of Parliament, in payment of the expenses incurred by or with the approval of the Department of Scientific and Industrial Research for investigations undertaken with a view to the improvement of building-designs and in connection with matters relevant thereto. 10 15

(3) The special fee payable under this section in respect of any building shall be assessed on the cost of the work, and shall be paid by the applicant for a permit before the issue thereof. The special fee in respect of any building shall be paid in the first place to the local authority by which a permit is issued, and shall be paid by such local authority into the Public Account. 20

(4) For the purposes of this section the cost of the erection, construction, or alteration of a building shall be the total cost of the work as determined by the local authority, exclusive of the fees payable to any person in respect of its design or supervision, but inclusive of the cost of preparing foundations or other like work in relation to any building. 25 30

General penalty for offences.

15. Every person who by any act of omission or commission commits a breach of any by-law or of any regulation made under this Act, or who commits a breach of any of the provisions of this Act for the breach of which no other penalty is expressly provided, shall be liable on summary conviction to a fine of *one hundred* pounds, and in the case of a continuing offence to a further fine of *twenty-five* pounds for every day or part of a day during which such offence continues. 35 40

16. (1) The Governor-General may from time to time, **Regulations.**
by Order in Council, make regulations for any purpose
for which regulations are contemplated or required by
this Act, and in particular may make regulations—

- 5 (a) Prescribing the rate of the special fee to be charged
in accordance with section *fourteen* of this Act,
and providing for the apportionment of the
proceeds of such special fee :
- 10 (b) Prescribing the qualifications to be possessed by
persons employed for the purposes of this Act
as technical advisers to local authorities, and
prescribing also the circumstances in which a
local authority must obtain the services of a
technical adviser :
- 15 (c) Prescribing the rates of fees and allowances to be
paid to members of the Building Committee.

(2) All regulations made under the authority of this
Act shall be published in the *Gazette*, and shall be laid
before Parliament within fourteen days after the date of
20 such publication if Parliament is then in session, and if
not, then within fourteen days after the commencement
of the next ensuing session.

17. Section forty-one of the Finance Act, 1931 (No. 2), **Repeal.**
is hereby repealed.

Schedule.

SCHEDULE.

SUBJECT-MATTER OF REGULATIONS OR BY-LAWS TO BE MADE UNDER THIS ACT.

1. The design and construction of buildings and methods of building construction.
2. Heights of buildings.
3. Forces to be allowed for in the design of buildings.
4. Working-stresses or loads allowable in the construction of buildings.
5. Materials to be used in the construction of buildings, and the qualities and proportions of such materials.
6. Fire prevention and control.
7. Means of ingress to and egress from buildings.
8. The plans, sketches, calculations, specifications, and other particulars to be submitted for the approval of local authorities in relation to buildings, and the verification thereof.
9. Procedure in relation to application for and the issue of building permits.
10. Requiring in respect of the erection, reconstruction, or substantial alteration of any building, the appointment of a clerk-of-works or other person competent to undertake the detailed supervision of the same (as distinguished from the general supervision of the architect or engineer, if any), and prescribing in relation to different classes of buildings the qualifications to be possessed by persons employed as aforesaid in respect of the erection, reconstruction, or substantial alteration thereof, and the duties and functions of such persons.
11. Conditions subject to which buildings erected for any purpose or purposes may be used for any other purposes.
12. The fees payable to local authorities for building permits in addition to the special fee charged under section 14 of this Act.