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Hon. Mr. W. W. Johnston.

### RAILWAY IMPROVED LANDS.

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### A BILL INTITULED

AN ACT to impose on Lands traversed by Railways constructed at the Public Expense a Charge in Aid of such Construction. Title.

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

1. The Short Title of this Act is "The Railway Improved Lands Act, 1883." Short Title.

## Interpretation.

2. (1.) In this Act, if not inconsistent with the context,—
- “ Crown lands ” means all lands the property of the Crown in New Zealand :
- “ Local body ” means any Council, Board, Trustees, Commissioners, or persons owning or in whom are vested any private lands as herein defined : 5
- “ Native lands ” means all lands or interests in lands the property of aboriginal natives of the Colony of New Zealand (including in the term “ aboriginal natives ” all half-castes or their descendants by Natives), whether held under their own customs and usages or otherwise howsoever : 10
- “ Owner ” of Crown lands means the Minister of Lands for the time being, by his official title :
- “ Owner ” of private lands means the person, company, corporation, or local body entitled for the time being to receive the rack-rent thereof ; and, where there is no such person, means the trustees of any property in reversion or expectancy, and includes the guardian, committee, or trustees of any person under legal disability : 15
- “ Person ” includes a company : 20
- “ Public railway ” or “ railway ” means any railway or section of a railway constructed by means of the public moneys of the colony :
- “ Private lands ” means all lands not being Crown lands or Native lands as herein defined, and includes all Crown lands granted to or vested in any persons, corporation, or local body as reserves or for endowments : 25
- “ Property-Tax Commissioner ” means the Property-Tax Commissioner for the time being appointed under the said Act :
- “ Said Act ” means “ The Property Assessment Act, 1879, ” and includes all Acts passed in amendment thereof. 30

(2.) Words in this Act relating to a railway, district, authority, officer, owner, occupier, person, or lands shall be construed distributively as referring to such railway, district, authority, officer, owner, occupier, or person, or to the particular lands to which or to whom the provision is applicable. 35

Property Assessment Acts incorporated.

3. “ The Property Assessment Act, 1879, ” and all Acts passed in amendment thereof are hereby incorporated with this Act, and shall be read and construed with this Act, and the several provisions thereof respectively necessary to the operation of this Act shall apply accordingly ; and all regulations made under the said Act shall, as far as applicable, apply to all matters under this Act. 40

For the purposes of this Act, the aforesaid Acts and regulations shall be read with the words “ contribution or interest ” in lieu of the word “ tax, ” and with all other necessary changes of language to adapt the same to the said purposes. 45

Governor to make regulations, &c.

4. The Governor in Council may, from time to time, make, alter, and revoke regulations, either applicable generally, or to meet particular cases, which may be necessary to carry out the administration of this Act, and for prescribing the forms of any instruments or documents necessary to such administration. 50

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All such regulations shall be gazetted, and when so gazetted shall have the force of law.

- 5 All lands whatever which are situate within five miles from the middle line of a public railway, or within a radius of five miles beyond the terminal point of any such railway, or of any section of such railway, commenced after the *thirtieth* day of *September*, one thousand eight hundred and eighty-two, with the following exceptions, shall be subject to the provisions of this Act:—
- 10 (1.) Lands within boroughs ;  
 (2.) Lands within town districts ;  
 (3.) Lands occupied by churches, chapels, or cemeteries other than cemeteries owned and conducted by private persons for pecuniary gain or profit ;  
 15 (4.) Lands occupied by Government schools, or any other schools which are not carried on for pecuniary gain or profit, including playgrounds and schoolmasters' residences and grounds occupied therewith, whether as a garden or paddock or otherwise, and actually used for these purposes ;  
 20 (5.) Lands, not exceeding in each case fifty acres, occupied by and used in connection with any museum, lunatic asylum, prison, hospital, or charitable institution ; any quarantine station, or lighthouse ;  
 (6.) Lands used and occupied as public parks, domains, gardens, or plantation reserves ;  
 25 (7.) Lands on which railways and railway stations are constructed, and buildings that may be connected or used therewith ;  
 (8.) Wharves, piers, and jetties the property of Her Majesty ;  
 (9.) All Native lands.

Lands subject to Act.

Exceptions.

CHARGES ON LAND.

30 6. All lands becoming subject to this Act by the construction of any section of a railway shall, as soon as such section of railway is open for public traffic, be liable, as a contribution towards the cost of the construction of such railway, to an amount equal to one-half of the amount by which such lands have been augmented in value in consequence of such construction ; which amount, hereinafter referred to as "the improved value of lands," shall be ascertained as hereinafter mentioned ; and such contribution shall be paid to the Crown by the owners of such lands respectively as hereinafter mentioned.

On opening of railway, lands traversed to be liable to contribution in aid of its construction.

35 All moneys received under this Act shall be paid by the persons receiving the same respectively into the Public Account to the credit of the Public Works Fund.

All moneys to be paid to Public Works Fund.

40 7. The improved value of lands shall, for the purposes of this Act, be deemed to be the difference between the value of such lands as appearing in the assessment roll prepared by the Property-Tax Commissioner under the said Act and in force last prior to the advertising for tenders for the construction of the section of the railway traversing the said lands, and such value as appearing in the like assessment roll in force prepared as aforesaid, first after the opening of such railway for public traffic.

Determination of the improved value of lands.

4 *Railway Improved Lands.*

Public Works  
Minister to notify  
and declare lands  
subject to this Act.

8. As soon as may be after the opening of a section of any railway for public traffic, the Minister for Public Works shall, by notification in the *Gazette*, in general terms define the lands to be affected by the opening of such railway, and shall declare the said lands to be subject to this Act.

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Property-Tax  
Commissioner to  
make assessment on  
lands subject to Act.

9. On the requisition of the Minister for Public Works the Property-Tax Commissioner shall prepare, from the assessment rolls of the various districts traversed by a railway, a separate assessment roll of all lands within a district notified as aforesaid as being subject to this Act, in the same manner as if such district were a rating district under the administration of a local body; and each such roll shall show separately the amount of contribution for which each owner of such land is liable respectively,

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The aforesaid Commissioner shall send a complete copy of every such assessment roll to the Minister for Public Works.

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Owner may object  
to assessment, or  
require Crown to  
purchase land at  
price assessed,  
together with lands  
adjoining.

10. If any person shall be dissatisfied with the amount at which the whole or any portion of his property is assessed under this Act, he shall be entitled to call upon the Commissioner to reduce the assessment to a certain stated amount as the owner thinks fair, or to purchase the property at ten per cent. in excess of such stated amount.

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The Commissioner shall, at his discretion, reduce the assessment accordingly, or shall, upon obtaining the consent of the Governor in Council, and upon having the property duly conveyed, assured, or assigned to the Crown, purchase the same at the amount determined as last aforesaid.

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Where any lands subject to this Act constitute the greater part of any one property and are purchased by the Commissioner upon the terms aforesaid, the owner of such lands shall be entitled to require the Commissioner to purchase at the same percentage of increase upon the assessed value as appearing in the assessment roll in section seven first mentioned, all other lands of the same owner which though not subject to this Act lie contiguous to and form one continuous area with the lands so purchased as first aforesaid.

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Disposal of land so  
purchased.

11. Any property so acquired shall be sold or otherwise dealt with in such manner as the Governor in Council may direct, and the Governor in Council is hereby empowered in the name of Her Majesty to convey, assure, assign, or otherwise transfer the same to the purchaser thereof:

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The Colonial Treasurer, upon the Governor's warrant, may issue and pay out of the Consolidated Fund, without any specific appropriation, any moneys required to be expended for the purposes of the *last-preceding* section.

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Landowner to elect  
to pay contribution,  
or charge his land,  
paying interest until  
redemption.

12. Every owner of private lands liable to pay any contribution under this Act shall have the election to pay the same on demand, or to allow the amount to remain as a debt due to the Crown charged by way of lien on his land, paying interest on such amount at the rate of five pounds per centum per annum until the charge is redeemed, which may be done at any time either by one gross payment or by instalments.

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On alienation of  
land charge to be  
redeemed.

Every such person shall be required to make such election upon receiving notice of assessment under this Act.

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13. Upon the first sale of any lands subject to this Act every charge imposed upon the lands to be sold shall be paid in full, and no

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conveyance or instrument of transfer shall be registered or filed unless accompanied by a receipt from the proper officer that every such charge is paid.

14. Upon any proposed sale of land charged under this Act the said Commissioner shall, on request of the owner of such land, apportion the charge upon the whole land between the land proposed to be sold and that to be retained, and on completion of the sale, if the charge in respect of the land to be sold is paid, shall release the lien registered upon the land, and register as aforesaid a lien upon so much of the land as remains the property of the original owner.

Apportionment of charge when land is subdivided, and part sold.

15. All husbands, and all executors and administrators, trustees, guardians, and committees shall respectively have the same rights and powers of making elections, and of charging lands, and of paying contributions and moneys for interest, and taking all necessary proceedings or doing all necessary things under this Act as their respective wives, or *cestuis que* trust, wards, lunatics, or idiots would have had if free from disability, or as such trustees, executors, or administrators respectively would have had if the estates or interests of which they shall be such trustees, or which shall be vested in them as such executors or administrators, had been vested in them in their own right.

Trustees, &c., to have powers of absolute owners.

And no guardian, committee, trustee, executor, or administrator shall be in anywise responsible for anything lawfully done by him under this Act.

16. No charge on land made by virtue of this Act shall be deemed such an incumbrance as shall preclude a trustee of money, with power to invest the same in the purchase of land or on mortgage, from investing it in a purchase or upon a mortgage of the land so charged.

Charge on land not to bar mortgage or sale.

17. All amounts of contribution under this Act and interest due thereon shall be collected and paid under the said Act in the same manner as the property-tax is collected and paid; and all amounts of contribution or interest remaining unpaid may be recovered by distress or sale of land as if the same were property-tax in arrear.

Recovery of contribution and interest to be as in the case of property-tax.

As to Private Lands.

18. Upon the completion of the assessment roll under this Act the Property-Tax Commissioner shall cause to be given to each person whose name appears thereon as owner of any private lands subject to this Act a notice, in manner provided by the forty-sixth section of the said Act, of the making such assessment.

Notice of assessment to be served on landowners.

19. Each notice shall require the person to whom it is sent to pay the amount assessed within a certain time, or to make his election to pay interest on the amount demanded and to redeem the principal sum at a future time.

Notice to require owner to elect as to payment of contribution or to charge the land.

20. When the aforesaid Commissioner has received notice from any owner that he elects the amount of contribution assessed on any lands to be charged thereon he shall cause a notice of lien, in the prescribed form, to be registered in the Registry of Deeds, or to be filed in the office of the District Land Registrar in the district where such lands are situate.

Lien may be registered against land.

Effect of lien.

21. The effect of the registry or filing of any such lien shall be to create a lien upon and have a precedence of all unregistered claims against the land in respect whereof such charge shall be payable for the amount of such charge.

Commissioner to give notice to owner of absolute charge on land, and demand interest.

22. The Property-Tax Commissioner shall, on the registry of any such lien as aforesaid, forthwith give notice of the making of an absolute charge on the lands to the owner thereof, and in such notice shall require such owner to pay interest on the amount charged by equal half-yearly payments in advance, the first of which payments shall be deemed to have become due on the day of registering the lien on the land. 5 10

*As to Crown Lands.*

Commissioner to give Minister of Lands notice of assessments, and also to Commissioner of Crown Lands.

23. The Property-Tax Commissioner shall send to the Minister of Lands a notice of the assessment made of all Crown lands appearing on any assessment roll prepared under this Act, in the same manner as notices are sent to owners of private lands; and the said Commissioner shall send an extract from such notice of all the Crown lands in the various districts appearing on such roll to the Commissioner of Crown Lands of the land district wherein such lands respectively are situate. 15 20

Liability of present occupiers of Crown lands under lease or license to contribution under this Act.

24. Occupiers of Crown lands at the time of the passing of this Act shall be liable under this Act in manner following:—

- (1.) Holders of leases of Crown lands for twenty-one years and upwards, with right of renewal; or
- (2.) Occupiers of Crown lands on the system of deferred-payments, or on the homestead system, or on any conditions whereby they become entitled to the fee-simple of such lands— 25

shall be subject to this Act in respect of the lands in their occupation or holding as if they were the owners of such land. And 30

- (1.) Occupiers of pastoral lands of the Crown under lease or license for depasturing purposes; or
- (2.) Occupiers of Crown lands under lease or license for any term not exceeding twenty-one years, without covenant of renewal— 35

shall be subject to this Act as if the amount assessed on the lands in their occupation had been charged upon such lands, and shall pay interest on such amount in manner as provided by this Act in the case where the owner of private lands has elected to allow a contribution under this Act to be charged upon his land. 40

The Property-Tax Commissioner shall serve notices of assessment upon all persons mentioned in the first two subsections of this section in the same manner as such notices are served upon owners of private lands; and shall serve notices on the persons mentioned in the last two subsections in manner as a notice of an absolute charge with demand for payment of interest, is made upon owners of private lands. 45

*Resumption of Lands.*

Lands subject to resumption on payment of 25 per cent over value.

25. All lands subject to this Act shall be liable to be resumed by Her Majesty for purposes of settlement, on paying to the owner compensation for the value thereof not exceeding twenty-five per 50

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centum over and above the amount at which such lands are valued in the assessment roll prepared by the Property-Tax Commissioner and in force at the date of the Proclamation notifying the resumption of the said lands.

5 There shall be excepted from such power of resumption all lands, not exceeding ten acres each, used as gardens, orchards, vineyards, nurseries, plantations, or ornamental pleasure-grounds. Exception.

26. The Governor may from time to time, by Proclamation, declare any lands which have become subject to this Act by the opening of a section of any railway to be resumed, subject to the following restrictions :— Land may be resumed within two years by Proclamation.

(1.) There shall be excepted from resumption—

15 The principal residence of the owner of private lands, if situate thereon, and so much land adjoining thereto, not exceeding six hundred and forty acres, as such owner shall elect.

(2.) The power of resumption of lands granted by this Act shall be exercised by the Governor within two years after the date of the notification in the *Gazette* of the said lands being subject to this Act, and not afterwards.

20 A copy of every such Proclamation shall be laid before Parliament as soon as possible after the issue thereof. To be laid before Parliament.

27. Every such Proclamation shall lapse on the day after the prorogation of Parliament ensuing next after the issue of the Proclamation if in the meanwhile moneys are not appropriated by Parliament for the payment of the lands intended to be resumed by such Proclamation. Proclamation to lapse if resumption not sanctioned by Parliament.

28. In case Parliament shall appropriate moneys for the resumption of the whole or part only of any lands proclaimed as aforesaid, then such Proclamation— If resumption sanctioned, Proclamation to take effect from date thereof.

(1.) Shall take effect, as to the lands authorized to be resumed, from the date of its issue:

(2.) Shall lapse, as to the remainder of any lands defined therein, as mentioned in the *last preceding* section.

29. All moneys appropriated for the resumption of land under this Act shall be paid to the owner of such land within thirty days after the prorogation of the session of the Parliament voting such moneys. Compensation moneys to be paid for land resumed within thirty days after prorogation.

30. All moneys received as contribution or interest for contribution from the owner of any lands resumed by Her Majesty under this Act shall, as to so much of such moneys as was paid in respect of the land resumed, be refunded to such owner over and above the money paid as compensation for such lands, and at the same time. Contribution moneys for land resumed to be refunded, over and above compensation paid.

31. All lands resumed under this Act, and confirmed by Parliament shall be deemed to have vested in Her Majesty absolutely, without any conveyance or transfer, from the date of the Proclamation notifying the resumption of such lands. Lands resumed to vest in Her Majesty from date of Proclamation of resumption.