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(Rough Draft for Consideration Only.)

No. , 1915.

A BILL

To amend the Public Works Act, 1912, the Public Works and Closer Settlement Funds Act, 1906, and the Public Instruction Act of 1890 ; to provide for the resumption of certain lands ; and for other purposes.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the "Public Works Short title. (Amendment) Act, 1915."

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2.

2. References in this Act to sections, subsections, and other provisions shall be taken to refer to sections, subsections, and provisions of the Public Works, Act, 1912, unless the context otherwise requires.

Easements and rights-of-way.

3. The following section is inserted next after New s. 4A. section four :—

4A. The provisions of this Act relating to the acquisition of land shall also apply to the acquisition of an easement or right to use the subsoil or under-surface of land, whether such easement or right is acquired separately from or together with any land.

4. Section one hundred and thirty-eight is amended Sec. 138. by adding thereto the following :—

“ Provided that where an easement beneath the surface or a right to use the subsoil or under-surface of any land is taken, such easement or right shall not be deemed part of a house, or other building, or manufactory.”

Works other than authorised works.

5. Paragraph (a) of subsection two of section forty Sec. 40 (2) (a). is amended by inserting after “ schools ” the words “ public libraries, mechanics’ institutes, or schools of art, technical colleges, museums, shelters, industrial schools, or homes for children.”

6. Section forty-one is amended by inserting next after paragraph (e) the following new paragraph :— Sec. 41, new paragraph.

“ (e i) technical colleges, museums, shelters, industrial schools, and homes for children.”

Resumptions—Surveys.

7. The following section is inserted next after section New ss. 41A, thirty-nine :— 41B.

39A. The Governor may by proclamation in the Acquisition of certain land. Gazette notify that he proposes to acquire any specified land situate within fifteen miles from the boundaries of the towns of Coff’s Harbour, Jervis Bay, Port Stephens, or Wallerawang. At

At any time after the date of such proclamation, the Governor may, under this Act, purchase or compulsorily resume any such land as if it were land required for an authorised work: Provided that in determining the compensation to be paid for such land any added value which would accrue to the land from the construction of any line of railway or any public works within the said fifteen miles shall be excluded.

The Governor may by like proclamation rescind or amend any proclamation under this section.

Any land purchased or resumed under this section shall be Crown lands within the meaning of the Crown Lands Consolidation Act, 1913, but shall not be available for the purposes of any application thereunder until a notification declaring it to be so available has been published by the Minister for Lands in the Gazette.

8. The following section is inserted next after section forty-one :—

41A. Any person authorised by the Chief Commissioner of Railways and Tramways or by the Director-General of Public Works may enter any land with any assistants and any horses and vehicles and do therein such things as may be necessary for the purpose of making surveys and taking levels in relation to land proposed to be acquired or works proposed to be constructed, and staking and setting out such surveys.

In the exercise of such powers such persons shall do as little damage as possible, and, if required, shall pay compensation to the owner of the land for any damage caused by them.

Acquisition by Gazette notice.

9. Section forty-two is amended by adding thereto the following proviso :—

Provided that, so far as regards the publication of any such notification in a newspaper, other than the Gazette, it shall be a sufficient description of

Surveys of land.

Description of land in newspapers.

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of the land if it is referred to in terms other than by metes and bounds, and if reference in such publication is made to the notification in the Gazette containing the description of the land.

Dedication of highways.

10. Section eighty-one is amended by omitting the proviso. Sec. 81.

Powers of Constructing Authority.

11. Paragraph (a) of subsection one of section eighty-two is amended by omitting the word "and" at the end of the paragraph and substituting the following:—"or where such entry is required for the purpose of taking timber, within a distance of not more than fifteen miles from such boundary; and" Sec. 82 (1) (a).

12. The following sections are inserted next after section ninety-seven:— New ss. 97A, 97B, 97C.

97A. Notwithstanding any provision in any Act to the contrary, it shall not be necessary for the Constructing Authority to give any notice of his intention to blast any rock, nor shall he be liable to have an injunction issued to restrain him from causing or continuing to cause any nuisance by such blasting or by any other operation necessary or proper in connection with the construction of an authorised work. Blasting and other nuisances.

97B. (1) Any action for damage or injury caused by the carrying out of any authorised work or the doing of anything under the authority of this Act (not being an action for compensation in respect of any land taken under the authority of this Act) shall be heard and determined, when the amount claimed in such action exceeds one thousand pounds, by a judge of the Supreme Court without a jury, and when such amount does not exceed one thousand pounds by a judge of the said court or a District Court judge without a jury. Action for damage caused by carrying out work.

(2) No such action may be brought unless a claim in writing setting out the nature of the damage or injury complained of has been served upon

upon the Constructing Authority within twelve months after the carrying out of the work or the doing of the thing by reason of which the damage or injury complained of is alleged to have arisen, or such extension of the said period as a judge of the Supreme Court may allow.

If the Constructing Authority does not admit such claim or is unable to agree with the claimant as to the amount of compensation to be paid, he may by notice in writing require the claimant to bring an action for the prosecution of such claim, and such action shall be commenced within six months from the date of such notice or such extension of the said period as a judge of the Supreme Court may allow.

97c. The Constructing Authority or any person authorised by him in writing may at any reasonable hour in the day time enter any land or building along or near to any line of railway being or forming part of an authorised work and inspect the same and make measurements and drawings and take photographs thereof and take such other measures as he may think necessary to ascertain the construction and condition of any such building :

Power to enter and inspect certain lands or buildings.

Provided that notice shall be given to the person in occupation of such land or building at least twenty-four hours before such entry.

Superfluous lands.

13. Section ninety-eight is amended as follows :— Sec. 98.

(a) at the end of subsection one insert the following :—

Land may be superfluous within the meaning of this section although the subsoil or under-surface of the land is used or required for the purposes of an authorised work.

In any sale or disposal of superfluous land the Constructing Authority may reserve an easement or a right of using any part of the land.

(b)

- (b) at the end of subsection two insert " Provided that where any such work is a public school such sale may be by public auction or private contract."
- (c) in subsection three, before "public works" insert "authorised works or", and omit the words "not exceeding fifty years".

Actions for compensation.

14. Subsection two of section one hundred and four Sec. 104 (2). is repealed and the following inserted in its place:—

(2) Any such action shall be tried by a judge of the said court in Sydney without a jury.

15. Subsection one of section one hundred and five Sec. 105 (1). is amended by omitting the words "four hundred pounds," and inserting in lieu thereof the words "one thousand pounds."

16. The following proviso is added to subsection Sec. 105 (2). two of section one hundred and five:—

" Provided that no action under this section shall be tried before a jury.

17. Section one hundred and twenty-three is repealed, Sec. 123. and the following inserted in its place:—

123. (1) If the compensation awarded by the arbitrators exceeds three hundred pounds, and either party is dissatisfied with the award, and desires to have the compensation settled by the Supreme Court or by a district court, and within fourteen days after the making of the award and notice thereof signifies such desire by notice in writing to the other party, then no steps shall be taken to enforce performance of the award, but the claimant shall proceed by action in the Supreme Court or in a district court in the manner directed by sections one hundred and four and one hundred and five.

(2) Upon the trial of the said action, both the costs thereof and the costs of and incidental to the arbitration shall be determined and allocated by a comparison of the respective amounts of the claim, the valuation, and the verdict, in the manner directed by section one hundred and six of this Act.

Basis

Basis of assessment.

18. Section one hundred and twenty-four is amended Sec. 124.
by substituting the word "judge" for the word "jury."
The third paragraph (second proviso) of the same
section is amended by omitting the words "by noti-
fication in the Gazette".

Payment of compensation.

19. (1) Section one hundred and twenty-six is Sec. 126 (2)
amended by inserting at the end of subsection two the and (3).
following :—

" Provided that such interest shall not be paid
for any period during which delay in fixing the
amount of compensation or in completing title has
been caused by the act or default of the person to
whom such compensation is payable."

(2) The same section is amended by omitting
subsection three.

Conveyances.

20. Section one hundred and thirty-four is amended Sec. 134.
by adding thereto the following subsection :— New subsec.
(4).

(4) The provisions of sections fifty-two and fifty-
three, so far as they relate to the conveyance and
release of lands or any estate or interest therein,
shall apply and shall be deemed to have applied to
conveyances of lands compulsorily taken under this
Act or under any Act thereby repealed.

21. Section one hundred and thirty-seven is amended Sec. 137.
as follows :— Vesting of
land without
conveyance.

(a) Omit "for ever, as fully and effectually to all
intents and purposes as if the same had been
conveyed by the persons legally entitled to sell
and convey the said lands" insert the words
"for an estate in fee simple in possession, freed
and discharged from all trusts, obligations,
estates, interests, contracts, charges, rights of
way, or other easements whatsoever.

Where

Where lands are acquired under Division 2 of Part V of this Act, such lands shall be deemed to have been set out, ascertained, and finally appropriated when the map or plan and book of reference in the case of a railway or tramway or the plan in the case of any other authorised work has, in pursuance of section forty-seven, been confirmed by the Governor, and notice thereof has been published in the Gazette."

(b) At end of that section add the following subsection:—

(2) A certificate under the hand of the Constructing Authority that any such land has been set out, ascertained, and finally appropriated as aforesaid, shall, when such land is under the Real Property Act, 1900, be forwarded to the Registrar-General, who shall deal with and give effect to the same as if it were a memorandum of transfer duly executed under the said Act.

Proceeds of sales under section four of Public Instruction Act.

22. (1) The proceeds of the sale of land by the Minister of Public Instruction under section four of the Public Instruction Act of 1880 may be applied in the purchase of other land or the purchase or construction of buildings for schools. Application of proceeds of sale of land under Public Instruction Act.

(2) Paragraph (b) of section four of the Public Works and Closer Settlement Funds Act, 1906, is amended by omitting the words "and the net proceeds of sale of land under section four of the Public Instruction Act of 1880".

