



NEW ZEALAND
GOVERNMENT GAZETTE
(PROVINCE OF NELSON).

PUBLISHED BY AUTHORITY.

All Public Notifications which appear in this Gazette, with any Official Signature thereunto annexed, are to be considered as Official Communications made to those Persons to whom they may relate, and are to be obeyed accordingly.

By His Honor's command,

S. L. MULLER, *Provincial Secretary.*

VOL. IV.

NELSON, FRIDAY, JANUARY 18, 1856.

No. 3.

Provincial Secretary's Office,
Nelson, January 17, 1856.

WEDNESDAY, the 23rd instant, having been appointed as a day of public rejoicing, to celebrate the taking of Sebastopol by the allied forces, his Honor the Superintendent directs that it be observed as a Holiday at the Government Offices.

By his Honor's command,
S. L. MULLER,
Provincial Secretary.

Provincial Secretary's Office,
Nelson, January 17, 1856.

HIS Honor the Superintendent directs that the following Bill, about to be brought before the Provincial Council in its next Session, be published for general information,

By his Honor's command,
S. L. MULLER,
Provincial Secretary.

A BILL to provide for the making and maintaining of Roads and other Public Works in the Province of Nelson.

Preamble. — Whereas an Ordinance was passed by the Lieutenant-Governor of New Munster, with the advice and consent of the Legislative Council thereof, Session I., number 10, intituled "An Ordinance to authorize

the levying and collecting of tolls on roads and rates on land in the Province of New Munster": And whereas it is expedient that the said Ordinance be repealed, and other provisions made for the making and repairing of roads and other public works within the Province of Nelson: *Be it therefore enacted*, by the Superintendent of the Province of Nelson, with the advice and consent of the Provincial Council thereof, as follows:—

1. *Recited Ordinance repealed.*—The said recited Ordinance, so far as regards the said Province of Nelson, shall be, and the same is hereby repealed.

2. *Superintendent to proclaim Districts.*—It shall be lawful for the Superintendent from time to time to constitute and appoint certain districts in which this Act shall come into operation, and the limits of such districts from time to time to alter as occasion may require, and also, if he shall see fit, to revoke the proclamation by which such district shall have been constituted, and to make such other provisions as he shall think necessary for carrying into effect this Act.

3. *Qualification of Electors.*—Every person whose name shall appear on the Electoral Roll for the time being in force, as entitled to vote in the election of members of the Provincial Council for the district; and if there be no Electoral Roll for any district to be constituted

as aforesaid, a list of persons qualified to vote in each such district shall be formed from the claims of persons entitled to vote in the election of members of the Provincial Council, by some person to be appointed for that purpose by the Superintendent; and every person whose name shall appear in such list shall be qualified to vote and take part in the proceedings at the general meetings which shall take place previous to any rate being levied for the district under this Act; and after any such rate shall have been levied, then every person who shall have paid the then last rate so levied for the district, shall be entitled to vote and take part at such meeting: Provided always, that such person shall have paid all rates for which he shall be then liable.

4. *Meeting of Electors to decide what Rate, if any, shall be levied.*—At a day in the month of _____ in each year, and at a convenient place within each district, and hour, to be fixed by the Superintendent, or such other person as he shall appoint, the voters shall assemble, and, having appointed a chairman, shall proceed to consider and determine what rate (if any) upon the lands within such district shall be made and levied for the ensuing year for the purposes of this Act.

5. *Rate to be made upon estimated Value of Lands to sell.*—The rate shall be made upon the estimated value to sell of the lands rated thereto, exclusive of the buildings erected thereon, and shall not exceed _____ in the pound.

6. *Board to be elected.*—At the first meeting of the voters of each district for the purposes aforesaid, after the passing of this Act, and at the annual meeting in every alternate year thereafter, the meeting, after having determined the amount of rate (if any) to be levied, shall elect from amongst the persons qualified to vote at such meeting, five persons to be a Board to carry into effect the provisions of this Act, any three of whom shall be a quorum; and the chairman of such meeting shall report in writing to the Superintendent the names of the persons elected to form the Board.

7. *Board to continue in Office two Years.*—The Board shall continue in office two years, and until the next election of a Board; any member going out of office may be re-elected if then qualified.

8. *Members of Board to be disqualified in certain cases.*—If any member shall refuse to act, or be absent from the Province for six months at any one time, or become bankrupt, or an insolvent debtor within the meaning of any laws relating to insolvent debtors, or a public defaulter, or be convicted of felony or any infamous crime, he shall cease to be a member of the Board.

9. *If Members of Board reduced below*

three, new Members to be elected.—If at any time, by reason of death, absence, resignation, bankruptcy, or otherwise, the members of the Board shall be reduced below three, the Board shall signify the same to the Superintendent, who shall appoint a meeting of voters, at such time and place as he shall think expedient, and such voters shall, at such meeting, after electing a chairman, elect from amongst the persons qualified to vote for such meeting, a number of new members equal to the number of vacancies; and the chairman shall report in writing to the Superintendent the names of the members so elected; such new members shall hold office until the next general election.

10. *All Disputes relating to election of Members of the Board, or making Rate, to be determined by Superintendent and Executive Council.*—All questions and disputes which may arise concerning the election of any members of the Board, or the making of any rate, or respecting any other proceeding at a general meeting, shall be referred to the Superintendent and Executive Council by the petition in writing of five or more electors, presented within ten days after the day of meeting at which the disputed proceeding shall have taken place; and all questions respecting the vacancy of the office of members shall be referred to the Superintendent and Executive Council, whose decision shall be final.

11. *Board to have power to make Roads, &c.*—The Board shall have power within the limits of the district, to make and keep in repair roads, streets, causeways, footpaths, bridges, and the like, and to provide for the establishment of markets and construction of market-places, and other works of public utility.

12. *Board to have power to make Drains, &c.*—The Board shall also have power from time to time to make all such ditches, drains, sewers, and watercourses, as they may deem necessary, into, through, or under any lands or grounds adjoining or lying near to any such road, street, causeway, or footpath, upon paying to the owner and occupier of such lands for the damage he shall sustain thereby.

13. *Board may make Contracts, and appoint Surveyors, &c.*—The Board shall have power from time to time to enter into any contracts for the execution of any work to be done under the authority of this Act; and to appoint and employ such treasurers, collectors, surveyors, clerks, and workmen as they may deem necessary to enable them to carry into execution the provisions of this Act, and, as they shall think proper and necessary, to remove any such officers or workmen and appoint others in their stead; and out of the moneys which shall come to their hands under or by virtue of this Act to pay such contractors, surveyors, clerks,

and workmen such remuneration as shall be reasonable.

14. *Collector and Treasurer to give Security.*—Every Collector, Treasurer, or other person appointed to levy or receive the said rates and dues, other than the Provincial Treasurer, shall give sufficient security to the satisfaction of the Board for the district, by bond, for the faithful execution of the said office; and every such Collector, Treasurer, or other person, shall, at such time or times as the said Board shall direct, deliver to them true and perfect accounts of all moneys which shall have been received by him by virtue of this Act, and of all moneys paid by him, together with the proper vouchers for such payments. And if any person shall refuse or neglect to produce or deliver the vouchers relating to the same, or to make payments as aforesaid, or shall not deliver to the said Board within ten days after being thereunto required all books, papers, and writings in his custody or power relating to the trust reposed in him, or shall refuse or neglect to pay such moneys as upon the balance of any account shall appear to be in his hands to the Board, or as they shall appoint, every such person shall for every such neglect respectively forfeit a sum not exceeding fifty pounds, to be recovered in a summary manner.

15. *Persons obstructing Work liable to Penalty.*—If any person shall obstruct or in any manner interfere with any such road, drain, watercourse, or other work, such person, on being convicted thereof before any Justice of the Peace, shall be liable to reimburse all charges and expenses which may be occasioned by reinstating and making good the work so altered, obstructed, or interfered with, and shall also forfeit any sum not exceeding £10 nor less than £5.

16. *Penalty for erecting Windmills, Limekilns, &c., in certain cases.*—It shall not be lawful for any person to erect, or cause to be erected, within fifty yards of any road or street, any steam-engine or windmill, unless such steam-engine or windmill shall be within some house or other building, or behind some wall or fence, sufficient to screen the same from the road, so that the same may not be dangerous to passengers, horses, or cattle; nor to make any fire for burning or calcining any limestone, bricks, or clay, or the making of coke or charcoal, within twenty-five yards of any road or street, unless the same shall be within some building, or behind some wall or fence sufficient to screen the same from such road; and any person offending against this enactment shall be liable to a penalty for every such offence not exceeding £10 nor less than £5, and a further penalty, not exceeding Forty Shillings, for every day during which the offence is continued,

after notice in writing from the Board for the district in this behalf.

17. *Materials may be taken from Waste Lands, Rivers, &c.*—It shall be lawful for the Board, and for every person acting under their authority, to enter in and upon any waste land, or any river or creek, to search for, dig, get, and carry away, any stones, gravel, sand, or other materials which may be required for making or repairing any road, so that such person doth not divert or interrupt the course of any such river or creek, or prejudice or damage any building, road, or ford, or the bank of any such river or creek, nor dig or get the same materials out of any river or creek within the distance of fifty yards from any bridge, dam, or weir.

18. *If sufficient Materials cannot be found in Waste Lands, &c., may be taken from Private Lands.*—If sufficient materials cannot be had conveniently within any such waste lands, rivers, or creeks, and such materials can or may be procured in or upon any private lands (such lands not being a garden, yard, or plantation), lying near to the road for which the materials shall be required, the Board shall give 14 days' notice of their intention to enter upon such land, in order to search for, dig, and carry away such materials, and shall cause such notice to be left at the last known place of abode in the province of the owner of such land, or his agent, if known, and also of the occupier of such land, which notice shall express the place from which it is proposed to take the materials; and if within such period of 14 days, such owner, agent, or occupier shall give notice to the Board, or to their clerk, of any objection to the taking such materials, then such objection shall be heard and determined by any two Justices of the Peace, at a time and place to be appointed by such Justices, and whereof five days' notice at the least shall be given; and if no such objection shall be made, or if the same shall be overruled by such Justices, then it shall be lawful for any person acting under the authority of the Board to enter upon such land, and to take and carry away so much of the said materials as shall be required for such roads, and the Board shall pay to the owner and occupier of such land for any damage they may sustain thereby.

19. *Pits and Holes to be fenced.*—If any person acting under such authority as aforesaid, shall make any pit or hole in any lands wherein such materials shall be found, the Board shall forthwith cause the same to be sufficiently fenced off, and such fence to be supported and repaired during such time as the said pit or hole shall continue open, and where no materials shall be found, shall cause such pit or hole to be forthwith filled up and levelled.

20. *Penalty for Danger at Night.*—If any

person shall lay, or cause to be laid, any heap of stones, or any other matter or thing whatsoever upon any road, and allow the same to remain at night, to the danger or the personal damage of any person passing thereon, all due and proper precaution not having been taken to guard against the same, he shall forfeit for every such offence any sum not exceeding £10.

21. *Disputed Compensation to be settled by Arbitration.*—In case of any dispute as to the amount of any compensation to be made under the provisions of this Act, unless both parties concur in the appointment of a single arbitrator, each party on the request of the other shall, by writing under his hand, appoint an arbitrator, to whom the matter shall be referred, and such appointment shall be delivered to the arbitrators, and shall be deemed a submission to arbitration by the parties making the same: and, after the making of such appointment, the same shall not be revoked without the consent of both parties, nor shall the death of either party operate as a revocation.

22. *If either Party neglect to appoint Arbitrator, or if Owner absent, Resident Magistrate to appoint Arbitrator.*—In case either of the said parties shall refuse or neglect to appoint an arbitrator for the space of fourteen days after being requested so to do by the other party, the Resident Magistrate shall appoint an arbitrator to act on behalf of the party so refusing or neglecting as aforesaid.

23. *Arbitrators to appoint Umpire, and if Arbitrators do not make Award within Three Months, Umpire to make Award.*—In case there be more than one arbitrator, the arbitrators shall, before they enter upon the reference, appoint by writing under their hands an umpire, and if the person appointed umpire die or become incapable, or refuse to act, the arbitrators shall forthwith appoint another person in his stead; and in case the arbitrators cannot agree, or shall fail to make their award within three months from the day on which the last of them was appointed, the matters referred shall be determined by the umpire, and such umpire shall make his award within three months from the day on which the matters in dispute shall be referred to him as aforesaid.

24. *Costs of Reference in discretion of Arbitrators, and Submission may be made a Rule of Court.*—All costs consequent upon the reference shall be in the discretion of the arbitrator, or arbitrators, or umpire, as the case may be; and any submission to arbitration under the provisions of this Act may be made a rule of the Supreme Court of New Zealand.

25. *Board may impose Dues for Use of Market-places, &c.*—It shall also be lawful for the Board to impose such dues as they shall

deem reasonable, upon all persons making use of any market-place or other public work established within the district under the authority of this Act; and in case of non-payment of such dues, the same may be recovered in a summary manner before any Justice of the Peace.

26. *Board to levy Rates.*—If at the annual meeting in any district it shall be determined to levy a rate for the ensuing year, the Board shall make and levy, in manner hereafter provided, such rate on all lands, situated in the district (except such as belong to the Crown, or are reserved for public purposes, or are places set apart for public worship, or are vested in trust for any public object).

27. *Assessors may be appointed.*—The Board may from time to time, by warrant under their hands, or any three of them, appoint one or more fit person or persons to be assessor or assessors, to assess all such lands within the district; and such assessor or assessors shall, within thirty days after the delivery to them of the warrant of his or their appointment, return to the said Board an assessment for the district, or such part thereof as shall be named in such warrant; and the assessment shall specify the full and fair value to sell of all lands comprised in such assessment, and the names of the owners and occupiers, where known.

28. *Notice to be given of Place where Assessment may be inspected.*—When the assessment shall have been made, the chairman of the Board shall sign the same, and shall cause public notice to be given, in some newspaper published or generally circulated in the province, of such assessment, and of the place in the district where the same may be inspected for the period of twenty-one days; and the person in whose custody such assessment may be, shall permit every owner or occupier of property included in such assessment to inspect the same during office hours.

29. *Persons aggrieved may appeal.*—If any person shall think himself aggrieved by such assessment, on the ground that such assessment includes any property for which he is not ratable under this Act, or that it assesses his ratable property beyond its full and fair value, or that the name of any person is omitted out of such assessment, or that the property of any person is assessed below its full and fair value, the person so considering himself aggrieved, upon giving seven days' notice to the said Board of such his intention, may appeal to a bench of not less than three magistrates, within twenty-eight days after public notice of such assessment shall have been given as aforesaid; and in case the said Court of Appeal shall think the appellant entitled to relief, it shall order the assessment to

be amended in such manner as it may deem necessary; and in case he shall have appealed on the ground that the name of any person is omitted out of the assessment, the said Court of Appeal may order the name of such person to be inserted in the assessment, and to be therein assessed at such an amount as it shall deem just; and in case the appellant shall have appealed on the ground that the property of any person is assessed below its full and fair value, the said Court of Appeal may order the amount at which such person is assessed to be altered in such manner as it shall deem just; and the said Court of Appeal shall, in each of the cases aforesaid, forthwith cause the assessment to be amended accordingly, but the assessment shall not be questioned or altered with respect to any other person named therein; and the said Court shall have power to order the costs of such appeal to be paid by either party; and the determination of the said Court of Appeal shall be final and conclusive.

30. *Rate to be paid by Occupier.*—The rate shall be paid by the occupier of the land, or, in case there shall be no occupier, by the owner thereof.

31. *Rate to be paid as directed by the Board.*—The said rate shall be paid to some person appointed by the Board for that purpose by the persons liable to the payment thereof, on a day and at a place to be fixed for that purpose by the Board, by public notice in some newspaper published or generally circulated in the province, not being less than twenty-one days from the time of giving such notice; and such notice shall set forth the names of the persons liable for the payment of such rate, and the sums payable by each of such persons; and if the rate or any part thereof shall not be paid on the day so to be fixed for that purpose, the same may be recovered in a summary manner before any Justice of the Peace.

32. *If Rate in arrear, Property may be sold.*—In case any part of the amount to be recovered as aforesaid shall remain unpaid for the space of twelve calendar months, the whole amount due, together with interest thereon, at the rate of ten per centum per annum, from the time at which the same became due, and all expenses incurred and to be incurred in recovering the same, shall be leviable by sale of a sufficient portion of the property upon or in respect of which such amount shall have been imposed, and such sufficient portion shall be set out by the Resident Magistrate or any two Justices of the Peace having jurisdiction within the province, upon requisition to be made to him or them by the Board. Provided always, that before any such property shall be sold, one calendar

month's notice of such sale shall be given in the *Government Gazette* of the province.

33. *Superintendent may execute Conveyance.*—Such property shall be sold by the Treasurer of the Province, by public auction; and a conveyance thereof, signed by the Superintendent, shall vest the property so conveyed in the purchaser, free from all incumbrances whatsoever.

34. *Moneys to be paid to the Treasurer of the Province.*—All moneys levied or received under this Act shall be paid to the Treasurer of the Board for the district for which the same shall be received, to be appropriated by such Board in defraying the expenses of carrying out the provisions of this Act; and the said Board, or any three of them, may from time to time issue their warrant to the said Treasurer for the payment of such moneys.

35. *Superintendent may pay Money appropriated for Roads, &c., to the Board.*—It shall be lawful for the Superintendent, if he shall think fit, to commit to the Board the expenditure of any moneys appropriated to the construction and maintenance of roads, bridges, drains, or other public works within the district, and to pay over the same to the account of the Board, to be appropriated in such manner and for such purposes as the Superintendent shall direct or appoint.

36. *Meetings of Board.*—The business of the Board shall be transacted at meetings, which shall be holden at such times and places, and shall be adjourned in such manner, as the Board shall direct or appoint. Any two of the members shall have power to call a special meeting of the Board, by giving to the other members, or leaving at their places of abode, notices in writing, signed by the members calling the meeting, specifying the time and place thereof, which notices shall be given three clear days at least before such meeting; and no business shall be done at any meeting unless three members at least be present.

37. *Questions to be decided by a Majority present, and Minutes to be kept.*—All questions which shall come before such meeting shall be decided by a majority of the members who shall be present thereat, and a minute of every resolution agreed to shall be entered in a book to be kept for that purpose, and shall be signed by the chairman.

38. *Accounts to be kept and audited.*—The Board shall, in books to be kept by them for that purpose, enter true accounts of all sums of money by them received and paid, and of the several matters in respect whereof such sums shall have been received and paid. All such accounts, with all vouchers and papers relating thereto, together with a full abstract or balance sheet thereof, signed by three at least of the members of such Board, shall

yearly, at such general meeting as aforesaid, be submitted to such meeting, and shall (as soon thereafter as conveniently may be) be examined and audited by two or more persons to be appointed for that purpose by such meeting.

39. *Copy of Balance Sheet to be published.*—A copy of such Abstract or Balance Sheet shall be posted up by such Board, at or before the commencement of such meeting as aforesaid, upon some conspicuous part of the place in which such meeting shall be held.

40. *Money, Books, &c., to be handed over to new Board.*—All moneys found by the auditors to be due from any retiring Board, together with all such books of account, vouchers, and papers, shall be forthwith paid and delivered over to the Board for the time being.

41. *Board may sue and be sued in the name of their Secretary, &c.*—The Board may sue and be sued in the name of their clerk, or any member of such Board for the time being; and legal or equitable proceedings taken by or against the Board, in the name of any one of the Board or their clerk, shall not abate or be discontinued by the death or removal of such clerk or member; but the clerk for the time being, or any member of such Board, shall always be deemed to be the plaintiff or defendant (as the case may be) in any such proceedings: Provided always, that the said

Board and their clerk, respectively, shall in no case be personally liable; nor shall the private estate and effects of any of them be liable for the payment of any moneys, or costs, or otherwise, in respect of any contract which shall be made by them or any of them, or for any act, deed, or matter done or executed by them or any of them, in their or his official capacity, and on the public service.

42. *No Judge, Resident Magistrate, or Justice to be disqualified from acting under this Act.*—No Judge, Resident Magistrate, or Justice of the Peace shall be disqualified from acting in pursuance of any of the provisions of this Act, by reason of his being assessed as a ratepayer under this Act.

43. *Proceedings for Penalties.*—All proceedings under this Act, except as hereinbefore is otherwise provided, shall be regulated by Ordinance No. 5, Session II., of the Council of New Zealand, for the regulation of Summary Proceedings before Justices of the Peace; and all fines, forfeitures, and penalties to be had and received under this Act, shall be recovered in a summary way, and be paid to the Treasurer of the Province, to be appropriated by the Board for the district in which the same shall be incurred.

44. *Short Title.*—This Act shall be intituled and may be cited as the "Country Roads Act, 1856."