

of the Land for Settlements Account. If you concur, a difference of opinion will have arisen between the Audit Office and the Treasury, and it will be necessary to obtain an order from His Excellency the Governor determining the question at issue.

2nd May, 1901.

JAS. B. HEYWOOD, Secretary.

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No. 20.

I AGREE. Prepare recommendation to the Governor.

2nd May, 1901.

C. H. MILLS.

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No. 21.

Memorandum for the Solicitor-General.

Wellington, 10th May, 1901.

THE Governor would be glad of further opinion on this matter. The Solicitor-General as well as the Audit Department refer to Acts now repealed. The Governor desires the sections relied on by the Solicitor-General in the consolidated Act of 1900 which give the power of road-making and of charging the cost to Land for Settlements Account.

RANFURLY.

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No. 22.

Crown Laws Office, Wellington, 10th May, 1901.

Memorandum for His Excellency the Governor.

IN compliance with His Excellency's memorandum of this date, the Solicitor-General begs to specify the following sections of "The Land for Settlements Consolidation Act, 1900," as giving the power to make roads and to charge the cost to the Land for Settlements Account:—

Section 29, (2), provides, as one of the conditions subject to which the owner may remain in possession of the land after it has been compulsorily acquired, that the Minister shall have the right to enter for the purpose of road-making. It is unreasonable to suppose that the power which is there clearly shown to exist in cases where the owner remains in possession should not exist in cases where he does not remain in possession.

Section 51 directs that the rental of land shall be based on its capital value, and that the capital value shall include the cost of roading. This clearly indicates that the cost of roading may be incurred, and therefore gives power to make the roads.

Section 65, (2), provides that, for the purpose of utilising and developing land acquired and preparing it for settlement, the Minister may deal with the land and carry on operations thereon in such manner in all respects as he deems expedient. This is a general power, and does not specifically mention any particular work. The operations referred to must therefore be gathered from the other parts of the Act. Reading this section with the above-quoted sections 29 (2) and 51, it is quite clear that road-making is one of the operations authorised.

Section 71 directs that, except where otherwise provided, all moneys payable under the Act shall be payable out of the Land for Settlements Account without further appropriation. As the Act gives the power to make roads, the costs incurred are necessarily moneys payable under the Act, and as there is no other provision for their payment they are payable under this section.

The Solicitor-General desires to explain that in his former opinions he was compelled to deal with the repealed Acts, because the objections of the Audit Office were based on them. The Audit Office held that the only authority to make roads under the repealed Acts was contained in section 29 of the Act of 1894, and as this section was not re-enacted in the Act of 1900 there was now no authority. The Solicitor-General had to analyse the repealed Acts in order to show that the authority to make roads was contained in other sections than the one relied on by the Audit Office, and that those other sections were re-enacted in the Act of 1900.

FRED. FITCHETT.

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No. 23.

Wellington, 3rd May, 1901.

His Excellency the Governor is respectfully advised to sign the attached instrument, under section 9 of "The Public Revenues Acts Amendment Act, 1900," deciding that the cost of making roads under "The Land for Settlements Consolidation Act, 1900," should be charged to the Land for Settlements Account.

J. B. H.

C. H. MILLS.

R.—10/5/1901.

RANFURLY, Governor.

WHEREAS by section nine of "Public Revenues Acts Amendment Act, 1900," it is provided that, in case any difference of opinion arises between the Audit Office and the Treasury as to the vote to which any expenditure ought to be charged, the question shall, if in the opinion of the Audit Office it involves questions of law, be determined by the Governor, having before him the opinion of the Attorney-General thereon: And whereas such difference of opinion as aforesaid has arisen as to whether the costs of making roads under "The Land for Settlements Consolidation Act, 1900," should be charged to the Land for Settlements Account: Now, therefore, I, Uchter John Mark, Earl of Ranfurly, the Governor of the Colony of New Zealand, in exercise of the powers hereinbefore recited, and having before me the opinion of the Solicitor-General, do hereby determine the said question by deciding that the said expenditure should be charged to the Land for Settlements Account.

Given under the hand of His Excellency the Governor, at the Government House, at Wellington, this                      day of May, one thousand nine hundred and one.

C. H. MILLS.