

## CHAPTER XII.

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### *POWERS OF HARBOUR BOARDS, RIVER AND DRAINAGE BOARDS, STIPENDIARY MAGISTRATES AND DISTRICT LAND REGISTRARS OVER ROADS AND STREETS.*

#### POWERS OF HARBOUR BOARDS.

A Harbour Board can no doubt make any road or bridge upon land vested in it for harbour purposes which are required in connection with or for the purposes of its harbour works, but such a road is really a work for the improvement, protection, or management of its harbour, and is therefore a harbour work within the meaning of that definition in Section 8 of "The Harbour Act, 1878," and such a road is not apparently a public road in the general acceptance of the term, but a public road can exist upon lands vested in a Harbour Board as will now be shown.

Section 150 of "The Harbours Act, 1878," states that whenever any land adjacent to any land under the jurisdiction or control of a local governing body, has been reclaimed from the sea, so much thereof as has been reclaimed shall be and become subject to the jurisdiction of such body, who shall, if the land has been reclaimed for building purposes, have power at all times, and from time to time, to take and lay out roads, streets and drains on and through any part of the land so reclaimed, without making any compensation to the Board in respect thereof: Provided, always, that the position of the roads, streets, and drains shall only be fixed with the consent of the Harbour Board, and, in the event of the local governing body and Harbour

Roads on Harbour Board lands.

Power of adjacent local body to lay off roads on lands reclaimed from the sea.

Board disagreeing, then by the Minister of Marine: Provided, further, that streets or roads shall not, without the consent of the Harbour Board, be more than ninety-nine feet nor less than sixty-six feet in width: And further provided that no drainage works shall be allowed that will interfere with any works carried on by any Harbour Board and sanctioned by a Minister, without the consent of the Harbour Board or the Minister.

Harbour Board may contribute to roads on lands reclaimed from the sea.

Section 8 of "The Harbours Act Amendment Act, 1894," also provides that:—"Whenever it shall have been agreed between any Harbour Board and the local authority having jurisdiction over any land which may have been reclaimed from the sea by the Harbour Board, or held as an endowment for a Harbour Board, to construct any street or streets over such reclaimed land, or land vested or held as an amendment as aforesaid, it shall be lawful for the Harbour Board to contribute out of its revenue such proportion of the cost of any such street or streets as may be agreed on by the Harbour Board and the local authority: Provided that the amount to be so contributed in respect of any street or streets on any lands other than lands which may have been reclaimed from the sea by the Harbour Board shall not exceed fifty per centum of the cost of the construction of such street or streets."

#### POWERS OF RIVER BOARDS AND DRAINAGE BOARDS OVER ROADS AND STREETS.

River Boards etc., may contribute to construction or maintenance of roads.

"Whenever it is found desirable, in any case when any stream causes any damage to a road or highway to purchase land for the diversion of such road or highway, the Board or River Conservators of the district in which such road or highway lies may contribute from their funds to the purchase of the necessary land for such diversion, or the construction or maintenance thereof" (see Section 125 of "The Public Works Act, 1882").

Power to abate damage to road within district, where cause of damage is outside the district.

"Where any river, stream or watercourse extends beyond the limits of the district of the local authority, and its obstruction is likely to cause damage to any road or street within such district, such local authority nevertheless

may order the occupier, or when there is no occupier, the owner, of any land on the banks of such river, stream, or watercourse for the space of one mile beyond the upstream boundary of such district, to remove any earth or stone, and any driftwood, tree, shrub, or bush, or any part thereof, impeding the free flow of water in the said river, stream, or watercourse, or to lower or trim any part of a tree, shrub, or bush overhanging such river, stream, or watercourse, and likely to fall therein, within the space of the aforesaid mile; and in case of the owner or occupier failing to comply with such order within fourteen days from the receipt thereof, he shall be liable to the fines provided in Section 145 hereof (see Section 181 of "The Public Works Act, 1905").

Section 182 of the same Act provides that:—

Whenever it is found desirable, in any case when any river, stream, or watercourse causes any damage to a road, to purchase land for the diversion of such road, the River Board of the district in which such road lies may contribute from its funds to the purchase of the necessary land for such diversion, or the construction or maintenance of the diverted road." River Board may divert roads and take land for same.

A Drainage Board is by Sub-section (d) of Section 17 of "The Land Drainage Act, 1904," empowered to break up the soil of any roads, ways or footpaths within its district and excavate and sink trenches thereon, for the purpose of laying down, making and constructing drains therein. Drainage Board may break up roads.

Before interfering with any road or footpath the Board is, however, required to give one month's notice in writing to the local authority having control thereof, and if such local authority objects to the proposed work the matter shall be referred to the Minister for Public Works, whose decision shall be final (see Section 20 of "The Land Drainage Act, 1904"). Notice to be given.

A Drainage Board or County Council may make a public drain under any road, and for such purpose may cut through such road and alter the level thereof and temporarily stop the traffic thereon. The Board or Council may also make and use temporary roads for the purpose of Board may make drains under road or make temporary road.

constructing or repairing any drain, bank or dam (see Sub-sections (c) and (j) of Section 234, and also Section 239 of "The Public Works Act, 1905," and the County Council may delegate its powers hereunder to a Road Board.

### POWERS OF STIPENDIARY MAGISTRATES OVER ROADS.

Source of such powers.

The powers are for the most part limited to such authority as may be granted by "The Public Works Act, 1905," "The Counties Act, 1886," "The Road Boards Act, 1882," "The Police Offences Act, 1884," "The Municipal Corporations Act, 1900," etc., and their amendments, to inflict penalties for offences thereunder, or for offences against by-laws made thereunder. There are, however, a few cases where the Magistrate has other duties.

Cases where Magistrate is to decide if road is to be stopped.

Where steps have been taken by a Road Board to stop a road under the provisions of Sections 130 or 131 of "The Public Works Act, 1905," in a county where "The Counties Act, 1886," is suspended, the Magistrate exercising jurisdiction in the district is empowered to decide whether or not the road should be stopped; and if he considers it should be stopped he is, by Sections 134 and 135 of "The Public Works Act, 1905," empowered to certify in writing that the road has been stopped as required by law, and to order that the land be sold or exchanged for other land.

Or trees or hedges overshadowing roads to be removed.

A Magistrate is also empowered by Sections 146 and 147 of the Act to decide whether trees or hedges overshadowing a road should be removed or lowered. He may also order the occupier of any land fronting a road upon which gorse or plants are growing to remove and destroy the same up to the middle of the road (see also Section 254 of "The Municipal Corporations Act, 1900").

Or illegal occupation of road to be given up.

A Magistrate is also authorised by Section 275 of the same Act to order that possession be given up in any case where a person is in illegal occupation of a public road.

Or apportioning cost of maintaining boundary roads.

Section 217 of "The Municipal Corporations Act, 1900," also provides that in default of any agreement being come to between the local authorities in the case of the

apportionment of the cost of constructing or maintaining public highways on the boundaries between boroughs and districts, the Stipendiary Magistrate is to hear and decide the matter.

*POWERS OF DISTRICT LAND REGISTRARS OR REGISTRARS OF DEEDS OVER ROADS.*

When an owner of land sells or leases for 14 years or over any part of such land which has no frontage to an existing road, he is compelled by law to dedicate and form a road to give access to the land so sold, and the Registrar is required by Sub-section 4 of Section 116 of "The Public Works Act, 1905," to refuse to register any instrument affecting the land unless and until he is satisfied that the owner has complied with the requirements of the law.

Power to refuse to register title to land until road is dedicated, etc.

The same provisions apply also to the case where the road or street is less than a chain wide, and the owner wishes to subdivide land fronting thereon, for sale or lease. In such case unless the road or street is exempted by the Governor-in-Council from the operation of the statute, and unless the owner has set back his frontage for 33 feet from the centre of the road or street, the Registrar is required to refuse to register any instrument affecting the land until he is satisfied that the law has been complied with (see Section 117 of the Act).

Or where road is less than one chain wide.

In cases where the road or street is less than 66 feet wide and it has been exempted by Order-in-Council from the operation of Section 117 of the Act, on condition that the building line is set back for 33 feet from the centre of the road or street, there is power to register this condition against the title to all lands affected thereby, and to restrain any infringement of such condition (see Section 3 of "The Public Works Act Amendment Act, 1906"). After the Order-in-Council has been issued the Department of Roads takes all the necessary steps to instruct the District Land Registrar to register the same.

Cases in which registration may be allowed where road is less than one chain wide.