

1880, No. 2.—*Private.*

**ASHBURTON COUNTY COUNCIL WATERWORKS ACT 1879 AMENDMENT.** AN ACT to amend "The Ashburton County Council Waterworks Act, 1879." [1st September, 1880.]

Preamble.

WHEREAS it is expedient to amend "The Ashburton County Council Waterworks Act, 1879 :"

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

Short Title.

1. The Short Title of this Act is "The Ashburton County Council Waterworks Act 1879 Amendment Act, 1880."

Act of 1879 incorporated.

2. This Act shall be read and construed as part of "The Ashburton County Council Waterworks Act, 1879," hereinafter called "the said Act."

Interpretation.

3. In this Act, if not inconsistent with the context,—

"Loan" means the sum of money to be borrowed under the provisions of this Act for the purposes of such water-supply scheme, and the purchase and execution of the works therewith connected :

"District" means the district described in the Second Schedule hereto :

"Council" means the County Council of the County of Ashburton,

4. The Council, with the consent of the ratepayers as hereinafter provided,—
- (a.) May purchase, undertake, execute, enlarge, and from time to time alter, extend, or repair the works it may deem necessary for the purposes of this Act : Council may, with consent of ratepayers, undertake necessary works.
- (b.) May raise a loan not exceeding the sum of fifty thousand pounds sterling to enable the Council to purchase, execute, and complete the works required for such water-supply scheme and the purposes of this Act : May borrow £50,000 for purposes of this Act.
- (c.) May impose and levy on the district a separate rate, as hereinafter provided, to secure and pay the interest on and provide a fund for the repayment of such loan and for all the purposes of this Act. And may levy separate rate as security.
5. Any person or persons, duly authorized by the Council in writing under the hand of the chairman thereof, may and are hereby empowered to enter, at all reasonable hours, upon any land or premises in the district or upon any land or premises within any part of the County of Ashburton between the Ashburton and Rakaia Rivers, without the consent of the owner or occupier thereof, for the purpose of making such survey, plans, and estimates of loan and rate; and the Council shall be responsible for any damage done by any such persons lawfully acting under such authority, and such damages shall be assessed and recovered in the manner hereinafter provided for the recovery by any person of damage caused by the exercise of the powers given under and by this Act. Power to enter upon lands.
6. As soon as the Council shall have made or caused to be made such water-supply scheme, plan, and estimates, the Council shall and must at once proceed to obtain the consent of an absolute majority of the ratepayers of the district, representing at least one-half of the rateable property in the district, to the Council undertaking and executing such water-supply scheme and raising such loan; and the Council shall not undertake any such scheme until the consent of the ratepayers shall have been obtained in the manner provided by Part IX. of "The Counties Act, 1876." Consent of majority of ratepayers to water-supply scheme must be obtained.
7. The voting-papers shall be printed in the form provided in the First Schedule to this Act. Form of voting papers.
8. Any ratepayer entitled to vote shall have only one vote, but may and can vote by proxy; and every proxy must produce to the Returning Officer his power of attorney in that behalf or a written authority to vote for his principal, duly signed or marked by such principal, and the principal's signature or mark duly witnessed by a Justice of the Peace, and such authority shall state how the principal wishes his proxy to vote; and such proxy shall erase the voting-paper in accordance with his principal's instructions and in the presence of the Returning Officer, who shall take and deposit such authority with the voting-papers, but if the proxy's authority be deficient in any of the above particulars the Returning Officer shall refuse to accept his vote as such proxy. Regulations as to voting. Proxies.
9. If the number of votes consenting to the proposal aforesaid be an absolute majority of the whole ratepayers, and representing more than one-half of the value of the rateable property of the district, the proposal shall be deemed consented to, and the Council shall proceed with the proposed scheme accordingly; but if there is no such majority of votes in favour thereof the proposed scheme shall be deemed rejected, and the Council shall not begin or undertake any such water-supply scheme. If majority of ratepayers not in favour of scheme Council may not proceed.
10. If the proposed scheme is carried, the chairman of the Council shall send a notice thereof and the particulars of the voting to the Colonial Secretary, who shall cause the same to be published in the *New Zealand Gazette*; and when such notice has been so published the Council is hereby expressly authorized If voting in favor of scheme Council may proceed to raise loan, &c.

to provide such water-supply, and to borrow a sum of money not exceeding the amount of the proposed loan for the purpose of beginning and carrying out the works of such water-supply scheme, and to make and levy on the district separate rates, not exceeding the amount of the proposed separate rates for the purpose of securing and paying the interest on the said loan, for providing a fund for the payment of the same; and such notices so published shall be *prima facie* evidence that the Council is duly and lawfully authorized as aforesaid under the provisions of this Act; and such loan, when obtained, shall be applied solely to defray the costs and expenses incurred by the Council in connection with undertaking and carrying out such water-supply scheme and works.

Part IX. of "The Counties Act, 1876," to be applied in raising the loan.

11. Subject to the provisions of this Act, the provisions of Part IX. of "The Counties Act, 1876," so far as they are applicable, shall be applied under this Act by the Council in the matter of raising the aforesaid loan, of issuing debentures for the payment of the interest on such loan, of the repayment of the loan, of keeping the accounts of the said loan, and of all such other matters and things as are provided for in the said Part IX. of "The Counties Act, 1876," relating to loans raised under the authority of the said Part of the said Act, save and except where such provisions would repeal or be inconsistent with the provisions of this Act.

"Water-supply rate."

12. The Council, notwithstanding "The Counties Act, 1876," can levy for the purposes of this Act on the rateable property in the district a separate rate, to be called the "Water-supply Rate," not exceeding two shillings in the pound on lands in the district.

Rate-list for water-supply rate.

13. Before making or levying any such water-supply rate the Council shall cause to be prepared every year a separate rate-list of the ratepayers in the district.

Extended powers granted to Council that water-supply scheme may be carried out.

14. In order to carry into effect the aforesaid water-supply scheme, the Council, in addition to the powers conferred on them by sections three and five of the said Act, may—

- (a.) Make surveys upon any lands within that part of the Ashburton County between the Ashburton and Rakaia Rivers :
- (b.) Purchase or take under the provisions of "The Public Works Act, 1876," any land, or any estate or interest therein, whether within or without the district :
- (c.) Break up or dig into the surface of any public place or road within the county, and temporarily stop the traffic on any such public place or road, so far as is necessary for the construction, enlargement, alteration, or repairs of such works or any part thereof, and cross, bridge over, or alter any drain, sewer, or race on or under any public place or road, so far as is necessary for such construction, enlargement, alteration, or repair, and make such works over, under, through, or along any such public place or road, and alter the course or level of such public place or road, for the purpose of providing or maintaining such water-supply :
- (d.) With the consent of the Governor, make such works over, or under, or through, or along any reserve; and notice in the *Gazette* of such consent shall be sufficient evidence thereof :
- (e.) While constructing or repairing the works authorized by this Act, take, impound, or divert the water from, or turn water into any stream, river, ditch, or drain :
- (f.) Enter upon any lands for the purpose of construction, maintenance, or inspection of the works authorized by this Act, and take therefrom

any material required for the construction, enlargement, alteration, or repair of the works :

- (g.) Construct all works and do all things necessary for the construction, enlargement, alteration, repair, maintenance, and use of such works, for the purpose of procuring such water-supply for the district.

15. Any lands or water so taken for such works as aforesaid, shall be taken under the provisions of "The Public Works Act, 1876," and any Act or Acts amending the same.

Land or water for works shall be taken under "Public Works Act, 1876," and amending Acts. Compensation.

16. Every person suffering any damage by the exercise of any of the powers given under this Act may recover full compensation for the same in the manner provided by Part III. of "The Public Works Act, 1876," and the Council shall be deemed the respondent in any such proceeding under the said Part III. of the said "Public Works Act, 1876."

17. The Council may charge all persons supplied with or using water over and above the amount of water which may from time to time be supplied by the Council to each ratepayer, and may from time to time make, alter, amend, and repeal by-laws prescribing the terms and conditions upon which the water will be supplied or may be used, and prescribing the rates and charges to be paid for the water so supplied or used, and generally for the purposes of this Act and the working and giving effect thereto, and may fix a penalty of not exceeding fifty pounds for the breach of each of such by-laws ; and all such rates, charges, and penalties may be recovered by and in the name of the Council in any Court of competent jurisdiction ; and any and every by-law shall be made in the manner prescribed by section one hundred and seventy-six of "The Counties Act, 1876," and may be made to apply to the whole district, or any part of the district specified in such by-law ; and a copy of any by-law, sealed with the common seal of the Council and countersigned by the chairman for the time being, shall be received in evidence of such by-law having been duly made as provided by this Act, unless the contrary be proved.

By-laws relating to the supply of water.

18. It shall not be lawful, without the consent of the Council or of some person appointed by the Council, to take or divert any water from such works ; and any person who, without such consent as aforesaid, does or causes to be done any act whereby the water in any such works is drawn off or diminished in quantity, or polluted, or dirtied, shall be liable to a penalty of not more than ten pounds for every day during which the supply of any such water is so drawn off, diminished, polluted, or dirtied ; and the Council shall be entitled to recover from such person or persons in any Court of competent jurisdiction the amount of damages sustained by reason of taking, diverting, polluting, or dirtying such water.

Protection of water.

19. When the said water-supply scheme shall have been completed, the Council, at the written request of any ratepayer of the district, or person outside the district, and if there is a sufficient supply of water so to do, and it can be done, may convey by means of service-pipes or branch races a supply of water to the lands or premises of such ratepayer or person, at the sole cost and charges of such ratepayer or person, and such costs and charges shall be recoverable by the Council in the same manner that the county rates are made recoverable under "The Counties Act, 1876," "The Rating Act, 1876," and "The Rating Act 1876 Amendment Act, 1879," or in any Court of competent jurisdiction.

Water may be conveyed to premises of ratepayers.

20. The Council shall be sole judge of the sufficiency of the supply of water for the purposes in the last section mentioned, and shall by by-laws made in the manner hereinbefore provided regulate the size of such races or service-pipes,

Council sole judge of sufficiency of water-supply.

and the time when water shall be supplied through such branch races and service-pipes, and all other matters and things whatsoever relating to supplying water to such ratepayers or persons.

Accounts.

**21.** A separate account of the money received by the Council from the rate-payers and residents of the district by way of special rates, water-rates and charges, or otherwise accruing from the works, shall be kept, and such money shall be applied as follows:—

Application of moneys.

- (1.) To pay the interest on the loan ;
- (2.) To provide a sinking fund of not less than one pound per centum per annum upon such sum or sums as shall from time to time be raised under the authority of this Act for the repayment of such loan ;
- (3.) To keep the works in good and sufficient repair, and defray all expenses connected with supplying water ;
- (4.) To alter, enlarge, and extend the works.

Rate to be a special rate.

**22.** The rate to be levied under this Act shall be a special rate within the meaning of sections one hundred and twelve, one hundred and thirteen, and one hundred and fourteen of "The Counties Act, 1876 :—" But the proceeds of such rate shall not be paid into nor form part of the County Fund of the County of Ashburton, and shall be paid into a separate account to be called "The Ashburton Water-supply Account."

County Fund and property not liable.

**23.** The County Fund of the County of Ashburton shall not nor shall any property of the county be liable for the repayment of the loan hereby authorized to be raised or any part thereof.

"Counties Act, 1876," to apply where no other provision is made.

**24.** When the Council is by this Act directed or permitted to do any matter or thing, and no mode is prescribed by the Act for doing such matter or thing, the Council may proceed as is provided in "The Counties Act, 1876," for the doing of such matter or thing, and if there be no such provision in "The Counties Act, 1876," the Council may and can by resolution or by-laws made under the provisions of "The Counties Act, 1876," from time to time prescribe the mode or modes in which such matters or things shall be done.

Penalty for damage done to works.

**25.** If any person wilfully or maliciously destroys or does any damage to the works, or if any person permits his cattle to trespass on the works, and thereby any damage is done to the works, such person shall be liable to a penalty of not exceeding fifty pounds, and in addition to pay the whole cost of restoring such damage.

Obtaining water without payment.

**26.** If any person or persons obtain water from the works without payment of the lawful charges, or in any other manner than as provided by the by-laws made by the Council, he shall be liable to a penalty of not exceeding twenty pounds.

Penalties, how recoverable.

**27.** All penalties under this Act, or any by-laws made thereunder, may be recovered in a summary manner before two or more Justices of the Peace, in the manner provided by "The Justices of the Peace Act, 1866."

Schedules.

## SCHEDULES.

### FIRST SCHEDULE.

#### FORM OF VOTING PAPER FOR SPECIAL LOAN.

PROPOSAL to raise a Special Loan, upon which a poll will be taken on the day of \_\_\_\_\_, 18 \_\_\_\_\_.

[Insert the notice required by the 9th section of the Act.]

1. I vote *for* the above proposal.
2. I vote *against* the above proposal.

(Signature of Voter.)

N.B.—If the voter consents, erase line 2; if the voter disapproves, erase line 1.

#### SECOND SCHEDULE.

ALL that piece of land situate in the County of Ashburton. Bounded by a line commencing at the northern corner of Rural Section 33767; thence along the north-eastern boundary of Rural Sections 33767 and 33185, continuing the same line 16890 chains to the north-western corner of Rural Section 23514, through Rural Sections 24404, 20508, 21495, then in the same direction along the boundary-line between Rural Sections 23514 and 23724; thence along the public road running in the same direction along the western boundaries of Rural Sections 27638, 27637, 26236, 26715, 26957, 28620, to the south-eastern corner of Rural Section 28886, where it meets the public road, along the southern boundary of Rural Section 28886, thence along that road 62 chains; thence bearing 162° East, 63 chains, through Rural Sections 34168, 25416, 25896, 28552, 27537, and 29565; thence bearing 167° South, 320 chains, through Sections 25565, 29643, 23845, 28473, 27577, 29254, 28865, 28864, 28863, 29902, 28722, 29930, and 29929; thence bearing 128° South, 154 chains, through Rural Sections 29929, 27963, and 28054; thence bearing 155° East, 174 chains, through Rural Sections 28054, 27907, 26930, 28219, 27233, 24439, 27651, 26164; thence bearing 159° East, 190 chains, through Rural Sections 26164, 27249, 27325, 23990, along the western boundary of Rural Sections 24028 and 25274, through Rural Sections 17225, 16478, 16913, 16126; thence bearing 143° East, 146 chains, through Rural Section 16126, Reserve 1318, Reserve 1775, Rural Sections 24503 and 25108, to the south-western corner of Rural Section 24669; thence along the public road running along the south-western boundary of Rural Sections 24669, 25104, 25108, 22209, 23472, 25108, 25917, 22468, and the western boundaries of Rural Sections 22750, 22208, the southern boundary of Rural Sections 22208, 23566, the north-west boundary of Reserve 1767 to the western corner thereof; thence bearing 141° East, 197 chains, through Rural Sections 21688, 21888, 21851, 21889, 22223, 25920, 22641, 22717, 22718, 23494; thence bearing 56° East, 730 chains, through Rural Sections 23494, 26578, 28403, 25503, 25334, 25241, 25230, 25092, 25159, 25228, 25233, 28560, 27251, 27229, 27228, 27201, 26909, 26934, 25131; thence bearing 30° West, 230 chains, through Rural Sections 25131, 26784, 27236, 25373, 25379, and 25333; thence bearing 17° West, 339 chains, through Rural Sections 25333, 25284, 25283, 25272, 25163, 25327, 24976, 24430, 24788, 15838, 16124; thence bearing 43° West, 113 chains, through Rural Section 16124, and along the south-west boundary of Rural Sections 16203, 15847; thence in a north-easterly direction along the north-west boundary of the Railway Reserve to the north-east corner of Rural Section 27119; thence along the public road to the western corner of Rural Section 27118; thence bearing 30° West, 95 chains, through Rural Sections 17353, 16539, 16538; thence bearing 82° West, 127 chains, through Rural Sections 16538, 15496, 15399, 15400; thence bearing 85° West, 185 chains, through Rural Sections 15400, 15596, 22737, 26938, 26456, 23437, 23438, 23439, 23440, and 23470; thence bearing 45° West, 305 chains, through Rural Sections 23437, 23438, 23439, 23440, 23470, 25364, 25137, 27330, 18465, 18466, 18467, 18468, 18469, 18470, 18171, 18472; thence bearing 71° West, 50 chains; thence

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bearing  $44^{\circ}$  West, 269 chains, through Rural Sections 18465, 18466, 18467, 18468, 18469, 18470, 18471, 18472, 27400, 26764, 26775, 21082, 28333, 26634; thence bearing  $60^{\circ}$  West, 603 chains, through Rural Sections 26634, 27306, 27115, 26906, 26904, 18022, 30313, 30772, and 17229; thence bearing  $120^{\circ}$  West, 159 chains, through Rural Sections 17229, 17232, 17231; thence bearing  $120^{\circ}$  East, 17 chains; thence along the public road to the first-mentioned or starting-point.

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