

Mr. McDonald.

COUNTY OF COOK RIVERS.

ANALYSIS.

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A BILL INTITULED

Title.

AN ACT to make provision for the Management of certain Rivers in the County of Cook.

BE IT 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 County of Cook Rivers Act, 1881." 5

CONSTITUTION OF DISTRICTS AND BOARD.

Chairman to define districts.

2. The Chairman of the Council of the County of Cook (hereinafter called "the Chairman"), upon the recommendation of the County Council of Cook, (hereinafter called "the Council,") made under seal of the County of Cook, may, from time to time, decide that any part or parts of the County of Cook, (hereinafter called "the county,") shall be constituted a district or districts for the purposes of this Act, and shall describe the limits of such district or districts and designate the name by which each such district shall be known, and mention the number of Conservators, being not less than five nor more than seven, of which the Board of the district shall be constituted, and shall take the necessary steps for the constitution of a Board of Conservators for the district, as hereinafter provided: Provided that no decision to constitute a district or districts as herein provided shall be arrived at, unless public notice in one or more papers circulating in the county shall have been given one month at least before the Council shall have agreed to such recommendation, which notice shall be to the effect that the Council intends to consider the desirability of making such recommendation. 10 15 20 25

Constitution of Board.

3. The Conservators for each district shall be elected, and vacancies among them filled up by election, as hereinafter mentioned.

Qualification of voters.

4. Every county ratepayer who has a qualification as such ratepayer within any district to be constituted a district under this Act, within whose jurisdiction the district or any part thereof may be situate, shall be entitled to vote at the election of a member or members of the Board. If at any election any two or more candidates have the same number of votes, the member shall be chosen from such candidates by lot. 30

Council to make regulations.

5. The Council shall make regulations for conducting the elections of members of any Board, and such regulations may from time to time amend and alter, and may appoint fit persons to conduct such elections, and shall fix the time and place of every such election, and forthwith on any vacancy occurring among the elected members of such Board, the Council shall cause a fresh election to be held to fill up such vacancy. 35 40

The Treasurer of county to pay expenses.

6. The Treasurer of the county shall pay all expenses incidental to the constitution of the Board, or that the Council may be put to in carrying out this Act, out of the county funds, and may recover the same from the Board when constituted as a debt due. 45

Qualification of members.

7. Any person of full age, being a county ratepayer within any district proclaimed as hereinbefore provided, shall be capable of being nominated or elected a member of the Board of such district.

Council may nominate in certain cases.

8. If from any cause whatever the full number of members shall not be elected for any Board on its first constitution, or if the vacancies among members shall not be duly filled up by election, the 50

Council shall forthwith nominate a member or members to make up such number or fill up such vacancies, and the member or members so nominated shall hold office in all respects as if he or they had been elected members.

5 9. So soon as the full number of members of a Board has been filled up as is hereinbefore provided, the Chairman shall, by proclamation in the *New Zealand Gazette*, declare the Board to be duly constituted; and from and after the date of such last-mentioned proclamation the Board shall be a corporation under the name of "The Board of Conservators for the District," [the blank being filled up by the name by which the district is to be designated,] having perpetual succession and a common seal, with power to make, alter, and renew the same, to hold property, real and personal, for the purposes of this Act, and to sue and be sued, plead and be impleaded, in any Court of law or equity.

Board to be declared constituted in *New Zealand Gazette*.

10 10. Every member of a Board shall hold office for a period of four years from the date of his election or appointment: Provided nevertheless that if any member, elected or otherwise, shall become bankrupt or insolvent, or enter into any contract with the Board, or be employed by the Board, or share the profit of any contract entered into with the Board save as the member of any public registered company, or be convicted of felony or any infamous offence, or absent himself from six successive meetings of the Board without leave from the Board first obtained, or shall by writing under his hand addressed to the Chairman of the Board resign his seat thereat, his office shall be *ipso facto* vacant.

Duration and terms of tenure of office.

11. The Board shall have an office wherein to hold their meetings and transact business under this Act, in some convenient place within the County of Cook.

Board shall have office.

12. The Board shall at their first meeting, and on any vacancy in the chairmanship, elect from among themselves a Chairman, who shall, if present, preside at all meetings; but in the event of his absence the members of the Board present shall elect from among themselves a Chairman for that meeting. The Chairman of the Board shall hold office for the term of two years from the date of his election, unless he shall previously resign his office or his seat at the Board shall be vacated: Provided that the office of chairman shall be vacant at any general election of members of the Board.

Board shall elect Chairman.

13. The Board shall cause proper minutes to be taken and kept of the proceedings of each meeting.

Minutes to be kept.

14. No Act of the Board shall be invalid on account of any person acting as a member who is not legally qualified, or who has not been legally nominated or elected a member, or on account of any vacancy having occurred. If from any cause whatever all the seats on the Board shall become vacant, the Board shall not be thereby dissolved, but new members thereof shall be forthwith nominated and elected as hereinbefore mentioned, and the Board so reconstituted shall be considered in all respects to represent and be the successors of the original Board.

Validity of proceedings not to be affected by irregularities.

50 RATES.

15. All property within the district which, under any law now or hereafter to be in force, is or may be liable to be rated for local pur-

What property may be rated.

poses by the County Council, any Road Board, or City or Borough Council, shall be liable to be rated for the purposes of this Act: Provided that the total amount of rates levied under this Act in any one year, other than special rates as hereinafter provided, shall not exceed the value of one shilling in the pound on the annual rateable value of such property, calculated according to the provisions of any such law, which rates shall be the property of the Board. 5

Classification of lands
outside towns.

16. For the purposes of such rating, all lands without the limits of a town shall be annually classified by the Board, or by some person appointed by them in that behalf, into the following classes, that is to say:— 10

- (1.) Lands liable to great actual damage;
- (2.) Lands liable to less actual damage;
- (3.) Lands not liable to actual damage.

Rate on classified
land.

17. The rate payable in any one year in respect of lands outside the limits of a town shall be levied upon the several classes of land aforesaid in the proportion following, that is to say:— 15

Class I. shall be rated at double the amount per acre payable by Class II. :

Class II. shall be rated at one-half the amount per acre payable by Class I. : 20

Class III. shall be rated at one-fourth the amount per acre payable by Class I.

Board shall have
power to fix rates.

18. It shall be lawful for the Board from time to time to resolve that any such rate shall be made and levied, and to fix the amount in the pound of such rate; and the Board, after any such resolution shall have been passed, shall cause a copy of the same to be posted up in the office of the said Board, and in one other conspicuous place within the said district. 25

Special rates may be
levied.

19. From time to time, whenever it shall appear to the Board, upon the report of some competent person appointed or approved of by the Chairman, that any work or improvement which the Board is hereby authorized to do or execute is for the special benefit of any particular portion of the district within their respective jurisdiction, the Board may, for the purpose of defraying all or any part of the expenses incurred in so doing or executing such work, by resolution, declare that particular lands, to be defined by some competent person appointed or approved of by the Chairman as lands properly liable to contribute to such improvements, and which lands shall be described in such resolution, shall be so liable to contribute, and may therefore resolve that a special rate shall be made and levied equally upon all rateable property situated within such portion; and the same proceedings shall be had for making, levying, collecting, and recovering such rates as are hereinbefore enacted and set forth for making, levying, collecting, and recovering other rates under the authority of this Act, but as if the words "portion of the district" were substituted for the word "district:" Provided that the total amount of special rate to be levied in any one year shall not exceed the amount of one shilling in the pound on the annual rateable value of the property rated. And the Board is hereby authorized to apply the moneys to be collected and received from each such portion respectively, by virtue of any such special rate or rates, towards the expense of such work or improvement 30 35 40 45 50

as aforesaid, or towards recouping themselves the expense of any such work or improvement which may have been constructed and made before such special rate was resolved on.

20. All property belonging to or in the occupation of the Crown on behalf of the colony, which, if it did not so belong or were not so occupied would be liable to be rated, shall be liable to be rated for the purposes of this Act. Whenever the Board pass a resolution as above mentioned that a rate, either general or special, shall be levied, they shall forward copies of the same to the Colonial Secretary and to the Auditor-General, or to some other person appointed by the Governor for the purpose; and the Auditor-General or such other person shall award what amount would be paid for any such property in respect of any such rate, if such property were liable to be rated otherwise than under this present proviso and had been rated accordingly; and the Colonial Treasurer shall forthwith pay the amount awarded to the Board out of the Consolidated Fund. The Chairman and the Board shall furnish such information as the Auditor-General or such other person as aforesaid may require for enabling him to decide on the amount.

Crown property to be rated.

20 POWERS AND DUTIES OF BOARD.

21. As far as shall be necessary for the purpose of providing for the making, repairing, and maintaining of protective works, to prevent or lessen any damage which may be occasioned by the overflow, or by the breaking of the banks, of any river within any proclaimed district of the said county, whether such river shall or shall not in any part thereof be navigable or be altered by the flow or ebb of the tide, such rivers, and all streams, sewers, and watercourses which now do or hereafter shall or may directly or indirectly communicate with any such river, and all walls, banks, culverts, bridges, dams, floodgates, and other works erected or to be erected in, upon, over, or adjoining to any such rivers, and all other protective works, shall be, from and after the time of the incorporation of the Board, to all intents, constructions, and purposes, within and subject to the jurisdiction of the Board of the district within which the same may happen to be, or for the protection of which the same may be erected or made.

Streams, sewers, and watercourses to be in jurisdiction of Board.

22. It shall and may be lawful for the Board to decree and ordain any works, aids, and defences, or any alteration in the gauge, dimension, course, direction, or situation of any old or existing works, aids, and defences to be constructed, made, and done for the more effectually defending and securing any lands or tenements within the district against the irruption or overflowing of any rivers, or for draining and carrying off the superfluous fresh-waters, according to the discretion of such Board; and also in like manner, and at their discretion, to decree and ordain any former works, aids, or defences against any rivers, streams, sewers, or watercourses within their jurisdiction to be abandoned and given up, and new works, aids, and defences to be made and continued in lieu thereof; and any such aids or defences may be erected, made, and maintained by the Board without their district if, in the opinion of the Board, they shall be required for protecting any lands or tenements within the district.

Powers of Board.

23. It shall and may be lawful for the Board, from time to time, as occasion shall require, to borrow and take up at interest any sum

Board may borrow moneys.

or sums of money on the security of the rates and other moneys to be raised by the Board by virtue of this Act, for the purchase of messuages, lands, tenements or hereditaments, or for defraying the costs, charges, and expenses of any work or works required to be done, or for making, repairing, and maintaining any sea-bank, wall, or other defence or defences against any violent irruption or encroachment, or apprehended encroachment, of the sea or rivers, or for the making and maintaining any new cut, or for the more effectual and better draining and carrying off the floods and superfluous fresh-waters, or for the building, constructing, repairing, amending, renewing and maintaining any flood-gates, sluices, bridges, dams, or other necessary works, or for any other construction, work, matter or thing, which the Board shall judge necessary or expedient for the more effectual defence, security, and improvement of the lands, grounds, tenements, and hereditaments within the jurisdiction of the Board; and the repayment of such sum and sums of money, with interest, may be secured to the party lending the same upon or by debentures in the form marked A in the Schedule hereto, or to the effect thereof, under the common seal of the Board, which debentures they are hereby authorized to issue: Provided that the sum or sums of money so borrowed and taken up as aforesaid shall be repaid within a time to be named in such debentures, not being for a longer period than fifty years from the making thereof, together with interest thereon, or coupons may be attached for payment of interest yearly or half-yearly or otherwise. The principal and interest of the money so borrowed shall be a first charge on the general rates received by the Board, and the Board shall every year cause to be made and levied a rate or rates of sufficient amount, after payment of the expenses of levying and collection, to pay the interest on the money for the time being owing on the security of such debentures.

If the interest or any part thereof on any such debentures or borrowed moneys shall remain unpaid for two calendar months after any of the half-yearly days of payment, or the principal or any part thereof for two calendar months after the same shall become due, the borrowing powers of the Board shall for the time cease, and the Board shall cause to be made and levied the full amount of rates that can be made or levied under this Act until the principal and interest on such debentures or borrowed moneys shall be repaid: Provided that before any Board shall proceed to borrow money under the provisions hereof, the intention to borrow such money shall be published in some newspaper having circulation in the district to be affected thereby; and such loan shall not be proceeded with if a majority of the ratepayers in value, by notice in writing, shall within thirty days of the publication of such intention announce their opposition thereto.

Debentures may be transferred.

24. Every person or corporation who shall be entitled to the money thereby secured, and his, her, or their executors, administrators, and successors, may, from time to time, personally or by attorney thereunto lawfully authorized, sign or transfer his or their right, title, interest, or benefit to the said principal and interest-money thereby secured to any person whomsoever, by an indorsement on the back of such security in the form marked B in the Schedule hereto, or to the like effect, which transfer shall be produced and notified to the clerk for the time being of the said Board before the party holding the same

transfer shall be entitled to receive any principal or interest due or owing as aforesaid; and every such clerk shall make an entry amongst the records of the said Board of the particulars of every such transfer, and indorse a minute of such entry upon the back of every such transfer, signed by such clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more.

25. The Board shall and may at their discretion by and out of the taxes and rates to be raised under this Act, and any other moneys which may come to their hands as such Board, pay and allow to clerks and other persons employed by the Board, such recompense, sum, and sums of money from time to time, for their several salaries, expenses, and loss of time, as to the said Board shall seem just, and also all such costs charges and expenses as shall be incurred preparatory to or in or about the making, collecting, and expending such rates as aforesaid, or the hearing of objections to such rates, or in or about the carrying on of any litigation or controversy arising out of the duties imposed on the Board by virtue of this Act, and for the payment of all other necessary allowances, charges, and expenses of putting this Act into execution.

26. All and every sum and sums of money which shall or may be raised or levied or paid to the Board under the provisions of this Act shall be paid into some bank to be appointed by the Board, and shall not be paid, applied, and disposed of except by cheque drawn on the bank wherein such money shall have been deposited; and such cheques shall be signed by at least two members of the Board, and shall be countersigned by their clerk.

27. It shall be lawful for the occupier for the time being of land lying next and adjoining to any river, sewer, or watercourse within and subject to the jurisdiction of the Board, at any time within one calendar month from and after any gravel, soil, mud, or earth shall have been cast or deposited upon the banks of such river, sewer, or watercourse, by the order of any surveyor, bailiff, or other officer of the Board, at any time within one week from and after any rushes, flags, or other weeds shall have been cast or deposited upon such bank as aforesaid, to take and remove for his own use such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively: Provided always that such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, shall be removed at least ten feet from the land side of the banks of such river, sewer, or watercourse: That if any such occupier shall neglect to remove such gravel, soil, mud, or earth as aforesaid, within one calendar month as aforesaid, for his own use, then and from thenceforth respectively it shall be lawful for any such surveyor, bailiff, or other officer of the Board, with workmen, horses, carts, carriages, barrows, and other necessary tools and implements, at any time or times in the daytime, to enter upon the land of such occupier and to take away and remove therefrom such gravel, soil, mud, and earth, and such rushes, flags, and weeds respectively, and also for such purposes to pass and repass at any time or times in the daytime through and over any lands lying between the nearest highway and the banks of such river, sewer, or watercourse: Provided always that if the owner or occupier of the land upon which any such gravel, soil, mud, earth, rushes, flags, or weeds shall have been deposited shall require the Board to

Conservators may order payment of salaries of clerks, or other expenses.

Moneys to be paid into bank and drawn by Conservators.

Occupier may appropriate gravel, &c. on banks of river, or may require Conservators to remove same.

remove the same, such Board shall within one calendar month after such requisition as aforesaid cause the same to be removed from and off the said land.

Conservators may
contract for purchase.

28. It shall be lawful for the Board to treat, contract, and agree with the owners of and persons interested in any messuages, lands, tenements, hereditaments and premises, with their appurtenances, for the purchase thereof, for the purpose of widening, deepening, strengthening, maintaining, repairing, and amending any rivers, streams, water-courses, walls, banks, and other works, aids, and defences within their jurisdiction, and for the loss or damage which such owners or persons may sustain thereby respectively; and it shall be lawful for all bodies politic, corporations aggregate, or sole tenants for life or in tail, husbands, guardians, trustees, executors, administrators, and all other persons whomsoever, and not only for and on behalf of themselves, their heirs, and successors, but also for or on behalf of the person entitled in reversion, remainder, or expectancy after them, and for or on behalf of the *cestui que* trusts, whether *femes covert*, infants, or issue unborn, lunatics, idiots, or other persons whomsoever, and to and for all *femes covert* who are or shall be seized of or interested in their own rights, and to and for every person whomsoever who is or shall be possessed of or interested in any such lands, tenements, hereditaments, or premises, or who shall sustain any damage as aforesaid, to contract with the said Board for the sale thereof respectively, or for the satisfaction to be made for the same or for such damage as aforesaid, and by conveyance to convey unto the said Board all or any of such messuages, lands, tenements, hereditaments, or premises, or any part thereof, for the purposes aforesaid, in manner hereinafter mentioned; and all contracts, sales, and conveyances which shall be so made shall be good, valid, and effectual to all intents and purposes, and shall be a complete bar to all estates tail and other estates, rights, titles, trusts, and interests whatsoever, any law, statute, or other matter to the contrary notwithstanding; and all such bodies politic, corporations aggregate, or sole tenants for life or in tail, husbands, guardians, trustees, committees, executors, administrators, and all other persons, shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act.

Compensation to be
settled by two
Justices.

29. If no agreement be come to between the Board and the owners of or parties by this Act enabled to sell and convey or release any lands, or any interest in such lands, taken or required for or injuriously affected by the execution of the works authorized by this Act, as to the value of such lands, or of any interest therein, or as to the compensation to be made in respect thereof, the same shall be settled by two Justices, subject to the provisions hereinafter contained as to cases where the compensation offered or claimed exceeds the sum of fifty pounds.

Arbitration where
claim exceeds £50.

30. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration, and signify such desire by notice in writing to the Board, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly: Provided such notice be given before the expiration of

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seven days after such compensation shall have been claimed or offered, as the case may be.

31. It shall be lawful for any Justice, upon the application of either party, with respect to any question of disputed compensation by this Act authorized to be settled by two Justices, to summon the other party to appear before two Justices, at a time and place to be named in the summons; and upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Justices to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, upon oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall settle the amount thereof.

When compensation paid, land to vest in Conservators.

32. When any question of disputed compensation by this Act authorized to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute shall be referred; and every appointment of an arbitrator shall be made on the part of the Board under the common seal, and, on the part of any other party, under the hand of such party, or, if such party be a corporation aggregate, under the common seal of such corporation; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have the power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing in which shall be stated the matter so required to be referred to arbitration shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then, upon such failure, the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of any such single arbitrator shall be final.

Appointment of arbitrator when questions are to be determined by arbitration.

33. If, before the matter so referred shall be determined, any arbitrator appointed by either party die or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in manner aforesaid some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

Vacancy of arbitrator to be supplied.

34. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an umpire, to decide on any such matters on which they shall differ or which shall be referred to him under the provisions of this Act; and if such umpire shall die or become incapable to act, they shall forthwith, after

Appointment of umpire.

such death or incapacity, appoint another umpire in his place; and the decision of every such umpire on the matter so referred to him shall be final.

Two Justices to appoint umpire in certain cases.

35. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect, to appoint an umpire, any two Justices shall, on the application of either party to such arbitration, appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this Act, shall be final. 5

In case of death of single arbitrator the matter to begin *de novo*.

36. If, when a single arbitrator shall have been appointed, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such arbitrator had not been appointed. 10

In case of refusal one arbitrator to proceed *ex parte*.

37. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse, or for seven days neglect, to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties. 15

If arbitrators fail to make award within twenty-one days matter to go to umpire.

38. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid. 20

Power of arbitrators to call for books, &c.

39. The said arbitrators or their umpire may call for the production of any documents in the possession of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose. 25

Arbitrator or umpire to make declaration.

40. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him he shall in the presence of a Justice make and subscribe the following declaration, that is to say:— 30

“I, A. B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of ‘The County of Cook Rivers Act, 1881.’” 40

A.B.

“Made and subscribed in the presence of .”

And such declaration shall be annexed to the award when made, and if any arbitrator or umpire, having made such declaration, shall wilfully act contrary thereto he shall be guilty of a misdemeanour. 45

Costs of arbitration.

41. All the costs of any such arbitration and incident thereto, to be settled by the arbitrators, shall be borne by the Board, unless the arbitrators shall award the same or a less sum than shall have been offered by the Board, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions. 50

42. The arbitrators shall deliver their award in writing to the Board, and the said Board shall retain the same, and shall forthwith on demand, at their own expense, furnish a copy thereof to the other party of the arbitration, and shall at all times on demand produce the said award and allow the same to be inspected or examined by each party or any person appointed by him for that purpose.

Award to be delivered to Board.

43. The submission to any such arbitration may be made a rule of the Supreme Court of New Zealand on the application of either of the parties.

Submission to be made a rule of Court.

44. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Award not void through error.

45. Every sum of money and recompense to be agreed for or assessed as aforesaid shall be paid out of any moneys in the hands of the said Board which may be applicable for the purposes of this Act; and upon payment to such parties or persons, or their agents, or left at their respective usual places of abode, or with the tenant in possession of such lands, tenements, hereditaments and premises, or into the bank in manner directed by this Act, as the case may be, then such lands, tenements, hereditaments, and premises respectively shall be vested in such Board, and shall and may be taken and used for straightening, widening, deepening, repairing, and amending such rivers, streams, ditches, gutters, sewers, and watercourses, or for making and maintaining any new walls, banks, sewers, gats, gotes, calcies, sluices, floodgates, cuts, and other works, aids, and defences, or for any other purposes within the scope of this Act; and all parties and persons whomsoever shall be divested of all right and title to such lands, tenements, and hereditaments.

When compensation paid, land to vest in Conservators.

46. If any money shall be agreed or assessed to be paid for the purchase of any lands, tenements, or hereditaments purchased, taken, or used by virtue of the powers of this Act by any Board, which shall belong to any trustee, executor, administrator, husband, guardian, committee, or other trustee, or for or on behalf of any infant, lunatic, idiot, *feme covert*, *cestui que* trust, or to any other person whose lands, tenements, or hereditaments are or may be limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, such money shall, with all convenient speed, be paid into the Public Trust Office, to the intent that such money shall be applied, under the direction and with the approbation of the Supreme Court of New Zealand, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands, tenements, and other hereditaments, in the discharge of any debt or debts, or other incumbrances, or part thereof, as the said Court shall authorize to be paid, affecting the same lands, tenements, or hereditaments, or affecting other lands, tenements, or hereditaments standing settled therewith, to the same or the like uses, trusts, intents, or purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction and approbation of the said Court, in the purchase of other lands, tenements, or hereditaments, which shall be conveyed and settled to, for, and upon such and the like uses, trusts, intents, and purposes, and in the same manner as the lands, tenements,

In case of lands held in trust, money to be paid to Public Trust Office.

or hereditaments which shall be so purchased, taken, or used as aforesaid stood settled or limited, or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime, and until such purchase shall be made, the said purchase-money shall, by order of the said Court, upon application thereto, be invested by the Public Trustee in the purchase of Government securities, and in the meantime and until the said securities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said securities shall from time to time be paid by the order of the said Court to the person who would for the time being have been entitled to the said rents and profits of the lands, tenements, or hereditaments to be purchased as aforesaid, in case such settlement or purchase were made.

When parties refuse to convey, or do not show title, or cannot be found, the purchase-money to be deposited.

47. In case the person to whom any sum or sums of money shall be assessed or agreed to be paid for the purchase of any lands, tenements, or hereditaments to be purchased by virtue of this Act shall refuse to accept the same, or shall not be able to make a good title to the premises to the satisfaction of the solicitor of the said Board, or in case such person to whom such sum or sums of money shall be so assessed or agreed to be paid as aforesaid cannot be found, or if the person entitled to such lands, tenements, or hereditaments be not known or discovered, then and in every such case it shall and may be lawful to and for the said Board to order the said sum or sums of money, so assessed or agreed to be paid as aforesaid, to be paid into the said Public Trust Office, to the credit of the parties interested in the said lands, tenements, or hereditaments, subject to the order, control, and disposition of the said Court, which said Court, on the application of any person making claim to such sum or sums of money, or any part thereof, by motion or petition, shall be and is hereby empowered in a summary way of proceeding or otherwise, as to the said Court shall seem meet, to order the same to be laid out and invested in Government securities, and to order distribution thereof, or payment of the dividends thereof, according to the estate, title, or interest of the person making claim thereunto, and to make such other order in the premises as to the said Court shall seem just and reasonable.

Supreme Court may order expenses of purchase in certain cases.

48. Provided always that where, by reason of any disability or incapacity of the person or corporation entitled to any lands, tenements, or hereditaments to be purchased under the authority of this Act, the purchase-money for the same shall be required to be paid into the Public Trust Office, and to be applied in the purchase of other lands, tenements, or hereditaments to be settled to the like uses in pursuance of this Act, it shall and may be lawful to and for the Supreme Court, or any Judge thereof, to order the expenses of purchases from time to time to be made in pursuance of this Act, or so much of the expenses as the said Court shall deem reasonable, together with the necessary costs and expenses of obtaining such order, to be paid by the said Board, who shall from time to time pay such sum or sums of money for such purposes as the said Court shall direct; and the said Board shall and may reimburse themselves all such payments as shall be so made by them as aforesaid in the manner directed, out of the rates to be raised, levied, and collected for such purposes respectively under the powers and provisions of this Act.

49. It shall not be lawful for any Board, in making any new walls, banks, sewers, cuts, gotes, calcies, sluices, floodgates, tumbling bays, and other works, reparations, amendments, aids, and defences authorized to be made and executed by this Act, to take down, remove, or make use of any house or building, or any garden, yard, or paddock, or any park, planted walk, or avenue to a house, or any enclosed ground planted as an ornament or shelter to a house, or planted or set apart as a nursery for trees, or any part thereof respectively, without the consent in writing of the owner or proprietor thereof respectively, or of the person or corporation hereby authorized to sell and convey as aforesaid, first had and obtained.

Conservators may not interfere with houses or pleasure grounds without written consent of owners.

50. Upon payment or legal tender of such sum or sums of money as shall have been contracted or agreed for between the parties, or assessed in manner aforesaid, for the purchase of any such messuages, lands, tenements, hereditaments, and premises, or as a compensation for losses or damages as herein mentioned, to the proprietor or proprietors of such messuages, lands, tenements, hereditaments, and premises, or to such other person or persons, bodies politic, or corporation who shall be interested therein, or entitled to receive such money or compensation respectively, within thirty days next after the same shall be so agreed for or assessed, or upon payment of such sum or sums of money within the said thirty days into the bank in manner herein directed and required, for the use of the persons entitled thereto, it shall be lawful for the said Board, and their agents, servants, and workmen, to enter upon such messuages, lands, tenements, hereditaments, and premises respectively, and thenceforth such messuages, lands, tenements, hereditaments, and premises, together with the yearly profits thereof, and all the estate, use, trust, and interest of any person or corporation therein, shall become and be vested in the said Board and their successors for ever; and such payment or tender shall not only bar all right, title, claim, interest, and demand of the person or corporation to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of every such person and all estates tail, and all other estates in reversion and remainder of his or their issue, and of every other person or corporation whomsoever therein.

Upon payment or legal tender within thirty days, Conservators may enter.

51. It shall and may be lawful for the Board in whom any lands and hereditaments shall be vested by virtue of this Act, to sell and dispose of the same, or any part thereof, either together or in parcels, as they shall find most convenient and advantageous, to such person as shall be willing to contract for and purchase the same; and the money to arise and be produced by the sale or sales which may be made by the said Board of any lands or hereditaments, as aforesaid, shall be applied to the purposes of this Act.

Conservators may sell lands vested in them.

52. Provided always that such land shall be first offered for sale to the adjoining owners, and the Board shall not sell such lands to any other person for a lower price than the same shall have been offered at to an adjoining owner and refused.

Adjoining owners to have refusal.

GENERAL.

53. The property in and of all lands, tenements, and hereditaments which shall have been or which shall hereafter be purchased, and of and in all buildings, erections, works, and other

Property to be vested in Conservators.

things which shall have been or which shall hereafter be purchased, obtained, erected, constructed, and made by or by the order, or which are or shall be within or under the view, cognizance, or management, of any Board, with the several conveniences and appurtenances thereunto respectively belonging, and also all and singular the goods, tools, utensils, and materials and things whatsoever had and to be had, bought, procured, or provided by or by the order of, or which are or shall be within or under the view, cognizance, or management, of such Board, and all rates and other moneys raised or levied by virtue of this Act, shall be and the same are hereby vested in the Board and their successors, who are hereby empowered to bring, or cause to be brought, any action or actions, or to prefer or order the preferring of any bill or bills of indictment, against any person who shall dig up, break, or pull down, damage, or destroy, injure, spoil, steal, take, or carry away, or wilfully and wrongfully buy or receive any such lands, tenements, hereditaments, buildings, erections, works, goods, tools, utensils, materials, money, and things whatsoever as aforesaid, or any part thereof.

Proceedings in case of refusal by officer to give up possession.

54. If any officer or servant of the Board who shall be discharged from his office shall be in possession of any houses, buildings, lands, flood-gates, sluices, works, dams, materials, tools, implements, moneys, or things so belonging to or vested in any such Board as aforesaid, and shall refuse to deliver up the possession thereof within two days after notice of his being discharged, and of his being required to deliver up the same, shall be given to him or left at his last or most usual place of abode, or if the wife, widow, family, or representative of any such officer or servant who shall happen to die shall, after like notice given to her, them, any or either of them, refuse to deliver up possession of the same within the like time after she, they, or either of them shall be required so to do, then and in either of the said cases it shall and may be lawful for the Board, by warrant under their common seal, to order a constable or other peace officer, with such assistance as shall be deemed necessary, to enter any such houses, buildings, lands, flood-gates, sluices, dams, or other works so refused to be delivered up, in the daytime, and to remove the persons who shall be found therein together with their goods out of such premises, and also to take possession of the same, and of all such other property matters and things belonging to or vested in the said Board as shall be so refused to be delivered up as aforesaid, and to put the said Board or their officer or servant in possession thereof.

Board shall take bonds from officers.

55. It shall be lawful for the Board to take such security by bond or bonds from every Treasurer, Receiver, Collector, and other ministers and officers as to such Conservators shall seem meet for the just and faithful execution of such office or trust; and in case of forfeiture it shall be lawful for the Board to sue upon such bond or bonds in the name of the Board, and to carry on such suit at the cost and charges and for the use and benefit of the fund, for the security of which such bond or bonds shall have been taken.

Audit.

56. The County Auditor for the time being shall be auditor of the accounts of the Treasurer under this Act, and shall report upon the same from time to time to the Chairman of the County of Cook.

Board to be paid.

57. The members of the Board shall be entitled to be paid for

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their services such sum or sums of money out of the funds of the Board as the Council may from time to time determine.

58. For the purpose of this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there shall be something in the subject-matter or context repugnant to such construction, that is to say:—

Interpretation.

The word "Board" shall mean the Board of each several district constituted under this Act.

10 The word "Justice," and "Justices of the Peace," shall mean a Justice of the Peace for the Colony of New Zealand.

59. For the purpose of providing a fund for paying the principal money from time to time becoming due in respect of the debentures so charged upon the rates as before-mentioned, the Board shall in each year set apart so much of the money received in such year as such rates as shall be fixed by the Board, and shall invest the money so set apart in the purchase of General Government debentures, or in such other securities as shall be previously approved of by the Council; and the interest of the money so invested, when and as the same becomes due, shall from time to time be received and invested in like manner, in order that the money so set aside and invested may accumulate at compound interest; and no such debentures or securities shall be sold or disposed of by the Board except for the purposes hereinafter mentioned.

Sinking fund.

60. As often as any moneys shall become due and payable as principal money secured by any debentures aforesaid, the Board shall cause the said Government debentures, or other securities in which the said accumulated fund is invested, as may be required for the purpose, to be sold or otherwise converted into money, and shall apply the moneys arising from such sale or conversion, and any other moneys proceeding from such rates and in the hands of the Board, over and above any other sums which such rates may be chargeable with, to the payment of the debentures upon which such principal money shall have become so due and payable.

Board may buy up debentures.

61. If and whenever any Board shall refuse or neglect to resolve that a rate or rates of sufficient amount for the purposes in the *fourth* section of this Act mentioned, or, after any such resolution, shall refuse or neglect to forward a copy of the same, in compliance with the requisitions of the *twentieth* section of the said Act, to the Mayor, Chairman, or other head, or to the clerk of any Road Board, City or Borough Council, within the limits of whose jurisdiction the district or any part or parts thereof may be situate, or shall refuse or neglect to do or cause to be done any other act, deed, matter, or thing necessary to be done or caused to be done by the Board in connection with the making, raising, levying, or recovering of such rate or rates, it shall and may be lawful for any holder or holders of any two or more debentures so secured upon such rates, the principal or interest of which has been due for any period over a week, to apply to the Supreme Court or any Judge thereof for a writ of *mandamus*, ordering the Board to do or cause to be done all or any of the acts before-mentioned or referred to in this section of this Act which such Board may have refused or neglected so to do or cause to be done; and such Court or a Judge thereof is hereby empowered, after hearing the parties, to grant

In case of neglect or default by Board, debenture-holders may apply to Supreme Court for relief.

such writ of *mandamus* for all or any of the purposes for which it may have been applied for, as such Court or a Judge thereof may deem fit and proper.

Board may apply to Supreme Court to appoint a Receiver of rates in certain cases.

62. Whenever the Board shall by resolution have ordered that any rates should be levied under the authority of the said Act, and shall, in compliance with the requisitions of the *twentieth* section of the said Act, have caused to be forwarded a copy of the same to the Mayor, Chairman, or other head, or to the clerk of any Road Board, City or Borough Council, within the limits of whose jurisdiction the district or any part or parts thereof shall be situate, and any such Road Board or Council shall have refused or neglected for a period of three calendar months after the receipt of such copy to levy the same on behalf of the said Board, as directed by the said Act, it shall be lawful for the Board, without prejudice to any other remedy, to apply for the appointment of a Receiver to the Supreme Court; and the said Court or any Judge thereof is hereby empowered, after hearing the parties, to appoint some person to collect and receive such rates so ordered to be levied, and to order that all moneys the produce of such rates, and in the hands of any officer or agent of the Road Board, or City or Borough Council, shall be transferred to and vested in such Receiver solely; and every such order, after such Receiver shall have given security for the execution of his office, shall take effect accordingly, until the whole of the rates so ordered to be levied and so refused to be levied and recovered shall have been levied and recovered.

Holders of debentures may apply to Supreme Court to appoint a Receiver of rates in certain cases.

63. If at the expiration of two months from the time when any principal money or interest has become due upon any two or more debentures secured upon the rates levied under the authority of the said Act, and after demand in writing by the holder, or, if there be more holders than one, by the holders thereof severally, the same be not paid, and whether such default be occasioned by the neglect or refusal of the Board to pay over moneys already in their hands for the purpose, or by the neglect or refusal of the Road Board, or City or Borough Council, to levy and recover the rates necessary for such payment, and ordered by the said Board to be levied and recovered by the said Road Board, or City or Borough Council, the holder of such debenture may, or if there be more than one holder the holders thereof jointly may, without prejudice to any other mode of recovery, apply for the appointment of a Receiver to the Supreme Court; and the said Court or any Judge thereof is hereby empowered, after hearing the parties, to appoint some person to collect and receive the rates, if such be not then levied and recovered, and to order that all moneys the produce of such rates and in the hands of any officer of the Board or other person, and all moneys or securities for money constituting for the time being the accumulated fund aforesaid, shall be forthwith transferred to and vested in such Receiver solely; and every such order, after such Receiver shall have given security for the execution of his office, shall take effect accordingly, till the whole of the principal or interest or both, as the case may be, due for the time being, together with the costs of the application and the costs of collection, and all costs of and occasioned by such order, are fully paid.

SCHEDULES.

Schedules.

SCHEDULE A.

FORM OF DEBENTURE.

By virtue of "The County of Cook Rivers Act, 1881," the Board of Conservators of the _____ District, in consideration of the sum of _____ lent and paid by _____ of _____, do hereby certify that the several general rates to be made and levied within the said district, under and by virtue of the said Act, are become charged with the repayment of the said sum of _____ on the _____ day of _____ in the year one thousand eight hundred and _____, together with interest on the said principal money at and after the rate of _____ per centum per annum, until the whole thereof shall be repaid, by equal half-yearly payments on the _____ day of _____ and _____ day of _____ in every year, which sum so lent and advanced as aforesaid is part of a capital sum of _____ which, at a meeting of the said Board holden on the _____ day of _____, was decreed and ordered to be taken up and borrowed.

In witness whereof the common seal of the Board of Conservators of the District hath been hereunto affixed, the _____ day of _____ 18 _____.

SCHEDULE B.

FORM OF TRANSFER.

I _____ of _____, in consideration of the sum of _____, paid to me by _____, of _____, do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured and now remaining due thereon, and to all the interest money now due or thereafter to become due, unto the said _____, executors, administrators, and assigns [as the case may be].

As witness my hand this _____ day of _____, 18 _____.