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(As Reported by Committee 17th September, 1875.)

NOTE.—Words struck out are shown by lines, additions in italics.

THE DUNEDIN WATERWORKS EXTENSION BILL, 1875.

AN ACT to enable the Corporation of the City of Dunedin to take divert and impound the whole of the water flowing into and in the stream called “The Water of Leith” and all or any of the tributaries thereof for the purpose of increasing the supply of water for the inhabitants of the said City and for the purpose of supplying the inhabitants of the suburbs of the said City with water and for other purposes in connection with the said objects.

WHEREAS it is expedient to enable the Corporation of the City of Dunedin to take divert and impound the whole of the water flowing into and in the stream called “The Water of Leith” and all or any of the tributaries thereof (giving due compensation to riparian proprietors as hereinafter mentioned) for the purpose of increasing the supply of water for the use of the inhabitants of the said city: And also for the purpose of enabling the said Corporation to supply the inhabitants of the suburbs of the said city with water and for the last-mentioned purpose to empower the said Corporation to extend and lay mains and pipes from the present waterworks of the said Corporation into the suburbs of the said city and to levy such rates upon the inhabitants of the said suburbs as hereinafter mentioned: **AND WHEREAS** it is expedient that the said Corporation should be empowered to acquire the freehold and possession of the lands hereinafter mentioned for the purpose of using the same as a catchwater or gathering ground giving to the respective owners thereof due compensation to be ascertained in manner hereinafter mentioned: **AND WHEREAS** it is expedient to alter and amend certain clauses in the Acts incorporated with “The Dunedin Waterworks Act 1874” as hereinafter mentioned—

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

1. The short title of this Act shall be “The Dunedin Waterworks Title.
Extension Act 1875.”

2. This Act shall be read with and shall be deemed and taken to be supplementary to “The Dunedin Waterworks Act 1874.” This Act to be read with “The Dunedin Waterworks Act 1874.”

3. The following words and expressions shall have the several meanings hereby assigned to them respectively unless there shall be something in the subject or the context repugnant to such construction Interpretation.
(that is to say):—

Number.

Words importing the singular number only shall include the plural number and words importing the plural number only shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

Month.

The word "month" shall mean calendar month.

Person.

The word "person" shall include a corporation whether aggregate or sole.

Land or lands.

The word "land" or "lands" shall include messuages lands tenements and hereditaments of any tenure and any estate or interest therein.

Provincial Gazette.

The expression "Provincial Gazette" shall mean the Provincial Government Gazette of Otago.

The Resident Magistrate.

The expression "the Resident Magistrate" shall mean the Resident Magistrate for the time being duly authorised to preside at the Resident Magistrate's Court holden in the City of Dunedin.

The said City.

The expression "the said city" shall mean the City of Dunedin.

The Corporation.

The expression "the Corporation" or "the said Corporation" shall mean the Corporation of the City of Dunedin.

The Council.

The expression "the Council" or "the said Council" shall mean the Council of the City of Dunedin.

Mayor.

The words "the Mayor" shall mean the Mayor for the time being of the City of Dunedin.

Town Clerk.

The words "the Town Clerk" shall mean the Town Clerk for the time being of the City of Dunedin.

The Waterworks Acts.

The expression "the Waterworks Acts" shall mean "The Dunedin Waterworks Act 1864" "The Dunedin Waterworks Act Amendment Act 1866" "The Dunedin Waterworks Act Amendment Act 1871" and "The Dunedin Waterworks Act 1874" taken collectively.

The Waterworks.

The expression "the waterworks" shall mean the waterworks belonging to the Corporation of the City of Dunedin and all reservoirs cisterns tanks aqueducts drains cuts races sluices mains pipes plant weirs engines and other works and appliances whatsoever connected therewith

Stream.

The word "stream" shall include springs brooks and all other running waters.

Riparian proprietors.

The expression "riparian proprietors" or "the said riparian proprietors" shall mean all persons who at the time of the passing of this Act shall be lawfully entitled to take and use or to divert and use the water of the said stream called or known as "The Water of Leith" flowing by or near the said city or of any of the tributaries thereof for domestic manufacturing or industrial purposes or for turning water wheels or as a motive power for any kind of machinery from the said stream or its tributaries and whose respective rights will be extinguished abridged interfered with or otherwise prejudicially affected by the exercise or partial exercise of the power to take divert and impound the said stream and its tributaries hereinafter given to the said Corporation.

Suburbs.

The expression "the suburbs" or "the said suburbs" shall mean all those suburbs of the City of Dunedin lying within a radius of three miles and a half from that part of the said city commonly called or known as "the Octagon."

Suburban Area.

The expression "suburban area" shall mean any distinct portion of the said suburbs forming the whole or any part of any Road District or any Subdivision or part of a Subdivision of any Road District or any Ward or part of a Ward of any such Subdivision of a Road District within the meaning of "The Otago Roads Ordinance 1871" or any ordinance amending the same or which may hereafter be passed in substitution thereof.

Road Ratepayers.

The expression "road ratepayers" shall mean all those persons respectively owning or occupying land or premises within

any suburban area in respect of which said land or premises the names of such persons shall for the time being be lawfully enrolled or inscribed in any Voters' Roll made pursuant to the said "Otago Roads Ordinance 1871" or any ordinance amending the same or which may hereafter be passed in substitution thereof.

Street.

The word "street" shall include any square court alley highway lane road thoroughfare or public passage or place within the boundaries of the City of Dunedin or within the suburbs thereof.

Plan. Book of Reference.

The terms "plan" or "the said plan" and "book of reference" or "the said book of reference" shall mean the plan and book of reference respectively deposited in the Private Bill Office prior and with a view to the passing of this Act showing the course or part of the course of the stream called or known as "The Water of Leith" and certain tributaries thereof and respectively delineating and specifying the lands adjacent thereto which the said Corporation is empowered by this Act to take and acquire for the purpose of a catchwater or gathering ground.

Power to take divert and impound the whole of the "Water of Leith" and its tributaries.

4. The said Corporation is hereby empowered to take divert and impound the whole of the water flowing into and in the said stream called or known as "The Water of Leith" (hereinafter called "the said stream") and all and every of the tributaries thereof as shown in the said plan and to alter the course of the said stream and its said tributaries in such manner as to the said Corporation shall seem expedient for the purpose of increasing the supply of water for the use and benefit of the inhabitants of the said city and for the purpose of supplying with water the inhabitants of the suburbs of the said city as hereinafter mentioned.

Corporation at its option to compensate riparian proprietors in money or to supply them with an equal quantity of water from a compensation reservoir.

5. The said Corporation shall at its sole option either make compensation in money to riparian proprietors whose respective rights shall be extinguished abridged interfered with or otherwise prejudicially affected by the exercise of the power hereinbefore given to the said Corporation to take divert and impound the water of the said stream and its tributaries (such compensation in money to be ascertained as hereinafter mentioned) or shall provide and supply such riparian proprietors from the water mains of the said Corporation or from a compensation reservoir to be constructed by and at the expense of the said Corporation as hereinafter mentioned with the same quantity of water as such riparian proprietors respectively shall be entitled to take and use from the said stream or any of its tributaries at the time of the passing of this Act subject nevertheless to such regulations as are hereinafter mentioned: Provided always that in all cases in which riparian proprietors have heretofore used or diverted and used the water of the said stream or any of its tributaries as a motive power for any kind of machinery in the event of the said Corporation electing to supply such riparian proprietors with water from the said water mains or the said compensation reservoir for the same or similar purposes it shall not be

obligatory upon the said Corporation to do more than to provide such riparian proprietors with water power equivalent to that which they respectively formerly used as aforesaid regard being had only to the power which water supplied from the said water mains or the said compensation reservoir when properly applied is capable of exerting upon such machinery as aforesaid and not as in other cases to the volume or quantity of such water.

6. Before proceeding to exercise the said power hereinbefore given to take divert and impound the water of the said stream and of its tributaries or any part thereof respectively the said Corporation shall cause a notice in writing to be given to each of the riparian proprietors stating the election made by the said Corporation either to make compensation in money to such riparian proprietors or to supply them with water from the water mains of the said Corporation or from a compensation reservoir as aforesaid as the case may be: Provided always that such notice may be given by serving the same personally upon or by leaving the same at the last known place of business or abode of the riparian proprietors respectively or *if the place of business or abode of such riparian proprietors be not known* by publishing the same once twice in some newspaper circulating in the said city.

Corporation to give riparian proprietors notice of election.

7. If the said Corporation shall elect to make to riparian proprietors such money compensation as aforesaid the amount thereof shall forthwith after the service of such notice as aforesaid or as soon thereafter as may be convenient be ascertained in the manner set forth in "The Lands Clauses Consolidation Act 1863" or as near thereto (*mutatis mutandis*) as may be which said Act for that and other purposes shall so far as the same may be applicable to and not inconsistent with the provisions of this Act be deemed to be incorporated with and form part of this Act: Provided always that immediately from and after giving such notice as aforesaid whereby the said Corporation shall signify its election to make such money compensation as aforesaid: *After service of a notice or notices as last mentioned shall have been made the said Corporation shall with all convenient speed proceed to ascertain the amount of such money compensation as aforesaid in manner set forth in "The Lands Clauses Consolidation Act 1863" or as near thereto (mutatis mutandis) as may be which said Act for that and other purposes shall so far as the same may be applicable to and not inconsistent with the provisions of this Act be deemed to be incorporated with and form part of this Act: Provided also that immediately from and after giving such notice as aforesaid the rights of all and singular the said riparian proprietors shall thenceforth and for ever be effectually extinguished.*

Money compensation how ascertained.

8. If the said Corporation shall elect to supply riparian proprietors with water from the water mains of the said Corporation or from such compensation reservoir as aforesaid the said Corporation shall not interfere with obstruct or hinder the enjoyment by the riparian proprietors of their respective riparian rights but shall allow them the full free and uninterrupted use exercise and enjoyment thereof until the said Corporation shall either be able and shall commence to supply the riparian proprietors from the water mains of the said Corporation with a quantity of water equal in volume or in motive power as the case may require as aforesaid to the quantity which at the time of giving such notice of election in that behalf as aforesaid they shall respectively be entitled to take and use from the said stream or any tributary thereof (such quantity of water being hereinafter called "a proper quantity of

Riparian rights not to be disturbed until Corporation shall be able and commence to supply riparian proprietors from water mains or until completion of compensation reservoir and all necessary appliances.

water") or until the said Corporation shall have caused to be constructed and thoroughly completed a compensation reservoir (hereinafter called "the compensation reservoir") of sufficient capacity to supply the riparian proprietors with a proper quantity of water and the said Corporation shall have caused all cuts races trenches aqueducts sluices pipes and other works machinery and appliances necessary to give to each of such riparian proprietors a proper quantity of water in a reasonably beneficial and convenient manner according to the purpose for which the same shall be required to be duly dug made constructed laid fitted and adjusted and fully ready to be used: And it is hereby declared that immediately from and after the said Corporation shall have commenced supplying riparian proprietors from the said water mains or immediately from and after the the completion of the compensation reservoir and such cuts races trenches aqueducts sluices pipes and other works machinery and appliances as aforesaid the rights of all and singular the said riparian proprietors shall thenceforth and for ever cease determine and be effectually extinguished.

Corporation to supply riparian proprietors with water from water mains or from compensation reservoir.

9. That from and for ever after such cesser and extinction of the rights of the said riparian proprietors as last aforesaid the said Corporation shall supply to each of such riparian proprietors from the said water mains or from the compensation reservoir as the case may be a proper quantity of water in a reasonably beneficial and convenient manner (regard being had to the purpose for which such supply of water shall in each case be required): Provided always that if the said Corporation shall at any time hereafter wilfully or negligently fail to supply the said riparian proprietors or any of them with a proper quantity of water as aforesaid the said Corporation shall be liable to compensate the said riparian proprietors respectively in damages which may be recovered against the said Corporation at the option of the said riparian proprietors respectively either in the Supreme Court of New Zealand or any other Court of competent jurisdiction in the said city or in a summary way under "The Justices of the Peace Act 1866" and the Acts amending the same which have since been or may hereafter be passed: But the said Corporation shall not be liable to make any compensation to riparian proprietors in the event of a dry season making it impossible to supply them with a proper quantity of water.

Council empowered to make regulations.

10. The said Council are hereby empowered from time to time to make such regulations as they shall think proper for preventing water in or from the said water mains or the compensation reservoir from being wasted by the said riparian proprietors and for preventing the said riparian proprietors or any other persons whomsoever from interfering with or destroying or damaging any of the sluices races aqueducts pipes works or appliances which shall belong or appertain to or be used by the said Corporation in connection with the said water mains or the compensation reservoir: And it is hereby declared that any person who shall wilfully commit a breach of any of such regulation as aforesaid shall be liable to forfeit and pay to the said Corporation any penalty not exceeding Ten Pounds such penalty to be recoverable by the said Corporation in a summary way under "The Justices of the Peace Act 1866" or any Act or Acts amending the same as aforesaid: Provided always that no such regulation as aforesaid shall acquire any force until and unless the same shall have been first laid before the Superintendent of the Province of Otago and shall have been approved by him by proclamation to be published in the Provincial Gazette: Provided always that in case there shall cease to be any Superintendent of the

Province of Otago no such regulation as aforesaid shall acquire any force until and unless the same shall have been first laid before the Governor of New Zealand and shall have been approved by him by proclamation to be published in the New Zealand Gazette: And it is hereby declared that the Provincial Gazette or the New Zealand Gazette as the case may be containing any such regulation as aforesaid purporting to have been made by the said Council and to have been approved of by the said Superintendent or the Governor of New Zealand as the case may be shall be sufficient *prima facie* evidence that such regulation has been duly made and approved of in accordance with the provisions of this Act.

11. The said Corporation is hereby empowered forthwith to take possession and acquire the fee simple of all the any lands shown or delineated and specified or comprised in the said plan and book of reference if necessary and to use the same for the purpose of a catch-water or gathering ground in connection with the said waterworks. *Notice of election to take such lands to be given to owners and others within twelve months from passing of this Act.*

Corporation empowered to take lands comprised in plan and book of reference.

12. All persons being owners in the fee simple of or having any less estate or interest in any of the lands taken under the authority of this Act shall be entitled to receive compensation for such lands the amount whereof shall be ascertained in the manner set forth in "The Lands Clauses Consolidation Act 1863" so incorporated with this Act as aforesaid.

Compensation to be given for lands taken.

13. The said Corporation is hereby empowered from time to time to sink such wells or shafts and make maintain procure or alter such reservoirs dams weirs waterworks cisterns tanks aqueducts drains cuts races sluices pipes culverts engines and other works and appliances and to erect such buildings upon the said land which the said Corporation is empowered to take under this Act as the said Corporation shall think proper for the purpose of providing the inhabitants of the said city and the suburbs thereof with a supply or increased supply of water: And for all or any of the purposes aforesaid it shall be lawful for the said Corporation to lay out and expend so much of the monies which under and by virtue of the Waterworks Acts or any of them the said Corporation is empowered to raise by way of rates loan or otherwise howsoever as shall be sufficient for those purposes and as shall for the time being be available for the same: *Provided that all plans for such reservoirs and dams and other works for storing water shall be subject to the approval of the Governor in Council and such dams reservoirs and other works shall not be used for the actual storage of water until approved of by the Governor in Council.*

Corporation empowered to construct reservoirs and other works and to pay for same out of monies raised under the Waterworks Acts.

14. Subject to the provisions hereinafter contained the said Corporation is hereby empowered to extend and lay mains and pipes from the said waterworks into the suburbs for the purpose of supplying the inhabitants of such suburbs with water and for that purpose from time to time as and when the said Corporation shall think fit to open the ground and dig sufficient trenches in all roads streets and footpaths in the said suburbs and to do all other acts and things necessary for laying and fixing originally and afterwards from time to time as occasion may require taking up repairing altering or improving and replacing the said mains and pipes and all or any of the appliances connected therewith: *Provided always that any roads streets and footpaths so opened up or dug as aforesaid shall be forthwith placed in as good condition as before the same were opened and dug upon:* And it is hereby further enacted that (subject

Subject to certain conditions Corporations empowered to lay mains and pipes in suburbs and to have same rating powers over suburbs as over city.

as aforesaid) the said Corporation shall have and exercise over and in respect of the said suburbs and the inhabitants thereof all such or similar rating and other powers as the said Corporation had and now has under similar circumstances over or in respect of the said city and the inhabitants thereof by virtue of the Waterworks Acts or any of them the true intent of this Act being that for the purposes of this Act but not further or otherwise the said suburbs shall (subject as aforesaid) be deemed and taken to be included within the boundaries of the said city in the same manner as if the said suburbs had been in fact so included at the time of the passing of "The Dunedin Waterworks Act 1864": Provided always and it is hereby expressly declared that the said Corporation shall not exercise any of the powers intended to be conferred by this section until and unless the following requirements shall first have been duly complied with—*i.e.* to say: in case a majority of *not less than three-fourths* of the road ratepayers in any or every suburban area shall sign a memorial addressed to the Resident Magistrate to the effect that such memorialists are desirous of being supplied with water by the said Corporation the Resident Magistrate upon receipt of such memorial or memorials shall forthwith cause a notice under his hand to be published in two consecutive numbers of the Provincial Gazette to the effect that such memorial or respective memorials has or have been presented to him and in and by such notice he shall appoint a certain place in the said city and a day and hour not less than thirty nor more than forty-two days from the first publication of such notice where and when he will be ready to hear any person who may there and then offer to prove to the satisfaction of the Resident Magistrate that such memorial or memorials as aforesaid is or are not subscribed by the *bona fide* signatures of such majority of *not less than three-fourths* of ratepayers as aforesaid: Provided always that the Resident Magistrate shall publish a separate notice to the effect aforesaid in respect of each such memorial in case more than one shall be received by him as aforesaid and each of such notices shall describe in general terms the particular suburban area to which the same shall relate: And it is hereby enacted that at the place and time so to be appointed as aforesaid the Resident Magistrate shall hear all parties who shall or may appear either in opposition to or in support of such memorial or memorials respectively as aforesaid and any evidence which may then be adduced on either side and shall afterwards determine whether or not in his opinion such memorial or memorials has or have respectively been duly signed by such majority of road ratepayers as aforesaid: Provided always that the Resident Magistrate may adjourn such hearing and determination as aforesaid from day to day or from time to time to such convenient day or days not later than fourteen days after the day first appointed for hearing as aforesaid as he shall think fit: And it is hereby further enacted that such determination of the Resident Magistrate as aforesaid shall be final and conclusive and shall forthwith be notified by him by a separate notice under his hand in respect of each such memorial which notice he shall cause to be published once in the Provincial Gazette and it is hereby declared that in case such determination shall be to the effect that such memorial or respective memorials as aforesaid has or have in the opinion of the Resident Magistrate been duly signed as aforesaid then immediately from and after the publication of such last-mentioned notice it shall be lawful for but not obligatory upon the said Corporation forthwith or at

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any time thereafter to exercise all the powers conferred by this section as aforesaid or such of the same as shall for the time being be applicable but nevertheless only within or with respect to the particular suburban area or respective suburban areas to which such memorial or respective memorials shall relate: Provided always that in case the determination of the Resident Magistrate shall be that such memorial or respective memorials as aforesaid has or have not in his opinion been duly signed as aforesaid it shall be lawful for the majority of *not less than three-fourths* of the road ratepayers in the same suburban area or respective suburban areas at any future time and as often as need shall be to sign and present to the Resident Magistrate a new memorial or new memorials to the effect aforesaid whereupon the Resident Magistrate shall deal with such new memorial or respective memorials in the same manner as he is hereinbefore required to deal with the first of such memorials: Provided also that in case there shall cease to be any Provincial Gazette all such notices as aforesaid shall be published in three consecutive numbers of some daily or other newspaper circulating in the said city: And it is hereby declared that the Provincial Gazette or any such newspaper as aforesaid containing any such notice as aforesaid purporting to have been signed by the Resident Magistrate shall be sufficient *prima facie* proof of the statements therein respectively contained and of due compliance with the several and respective requirements contained in this section.

15. The 3rd section of "The Dunedin Waterworks Act Amendment Act 1871" is hereby repealed and in lieu thereof it is hereby enacted: That notice of the amount of such valuation shall be given to the occupier or occupiers of the land message or tenement rated and assessed by delivering the same to him or them or by leaving the same for him or them at his or their last known place or places of business or abode or if the land message or tenement be unoccupied by affixing the same to some part of the land message or tenement rated or assessed or by sending the same through the medium of the General Post-office in the said city to the last known place of business or abode of the owner or owners or reputed owner or owners of such message or tenement or by publishing on two consecutive days in some two daily (or other) newspapers printed and published in the said city a reference to or description of the land message or tenement rated and assessed the amount of the valuation placed upon such land message or tenement together with the name or names of the supposed or reputed owners of the said land message or tenement: And it is hereby declared that every such notice as shall be served as aforesaid upon the occupier or occupiers of the land message or tenement rated or assessed shall be binding as well upon the owner or owners of such land message or tenement as upon the occupier or occupiers thereof: Provided always that the failure of the said Corporation to give send or publish any such notice as aforesaid shall not exonerate the said occupier or occupiers or the said owner or owners or any of them from his or their liability in respect of rates assessed and leviable under the said Waterworks Acts or any of them.

Repeal of 3rd section of "The Dunedin Waterworks Act Amendment Act 1871" and substitution of other provisions in lieu hereof.

16. The fourteenth section of "The Dunedin Waterworks Act Amendment Act 1871" is hereby repealed and in lieu thereof it is hereby enacted: That all water rates payable to the said Corporation under the Waterworks Acts or any of them shall be payable in advance by equal half-yearly payments on the first day of January and the first day of July in each year: Provided that in the event of any land message or tenement becoming liable to a water rate during the cur-

Repeal of 14th section of "The Dunedin Waterworks Act Amendment Act 1871" and substitution of other provisions in lieu thereof.

rency of either of the half-yearly periods hereinbefore mentioned a proportionate part of the rate payable in respect of such land messuage or tenement to be calculated in respect of the unexpired portion of such half-yearly period shall be payable and paid to the said Corporation in advance upon such liability accruing.

Notices to be signed by Town Clerk or Officer specially appointed.

17. All notices required to be given served or sent by post by the said Corporation under or in pursuance of this Act or of any of the Waterworks Acts shall be deemed to be sufficiently signed by or on behalf of the said Corporation if the same shall be signed or purport to be signed by the Town Clerk or by any officer of the said Corporation who shall be specially appointed in that behalf by any writing under the hand of the Mayor and the seal of the said Corporation: And it shall not be necessary to affix the said Corporate Seal to any of such notices as aforesaid: Provided always that in any case in which any notice may under the provisions of this Act and of the said Waterworks Acts or any of them be inserted in the New Zealand Gazette or the Provincial Gazette or any newspaper the Gazette or newspaper as the case may be containing any such notice with the name of the Town Clerk or of such officer to be so specially appointed as aforesaid printed at the foot thereof shall be deemed and taken in any Court of law or equity to be sufficient *prima facie* evidence that the original of such notice was duly signed by the Town Clerk or such officer aforesaid on behalf of the said Corporation.

Gazette or newspaper *prima facie* evidence of due signature of notice.