

Mr. Postlethwaite.

GERALDINE COUNTY WATERWORKS.

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A BILL INTITULED

AN ACT to enable the Geraldine County Council to construct Works for supplying Water for the Use of the Ratepayers in various Parts of the County of Geraldine. Title.

WHEREAS it is expedient to empower the Geraldine County Council to construct waterworks, and to take water from various rivers and streams in the said county, for the purpose of giving a supply of water for domestic, agricultural, and pastoral purposes to the ratepayers and residents in various parts of the said county: Preamble.

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 is "The Geraldine County Waterworks Act, 1883." Short Title.

2. In this Act, if not inconsistent with the context,— Interpretation.
"County" means the County of Geraldine:
"Council" means the Geraldine County Council:

“Waterworks” means and includes all the races, aqueducts, culverts and drains (whether open or covered), streams, reservoirs, dams, sluices, wells, tanks, pipes, bridges, machinery, plant, buildings, and works that may be made, erected, or in any way belong to or be used in connection with the conveyance and supply of water by the Council under the authority of this Act, and all the land occupied by such works, and all rights appertaining thereto :

“Water-supply scheme” means any scheme of water-supply adopted by the Council under the provisions of this Act :

“District” means such part of the County of Geraldine as may be constituted into a district under this Act :

“Loans” means any sum of money to be borrowed under the provisions of this Act for the purpose of a water-supply scheme.

Council may constitute districts.

3. The Council may by special order from time to time declare any part of the county to be a district for the purposes of this Act, subject to the following conditions :—

- (1.) That a petition is presented to the Council, praying the Council to constitute such district under this Act :
- (2.) That such petition describes and defines the boundaries of the district which it is desired to constitute :
- (3.) That such petition is signed by not less than one-half of the ratepayers within the proposed district :
- (4.) That the special order shall fix a day from and after which such district shall be constituted, and shall also give a name to such district.
- (5.) Before making such special order the Council shall cause a plan of the proposed district to be deposited in the office of each Road Board (if any) within such proposed district, and, if there shall be no Road Board office in the proposed district, then in the two Road Board offices nearest to such proposed district, and such plan or plans shall be open to inspection by the public without fee. Such plan or plans shall be so open for inspection for at least one calendar month before the passing of the special resolution, and public notice of the time when and the place or places where such inspection can be made shall be given by the County Council.

Council may, with consent of ratepayers, undertake necessary works.

4. The Council, with the consent of the ratepayers of any district as hereinafter provided,—

- (1.) May purchase, undertake, construct, execute, enlarge, and from time to time alter, extend, or repair any waterworks it may deem necessary in such district for the purposes of this Act :
- (2.) May raise a loan for any district or districts ; but the loan for any district shall not exceed in amount a sum equal to ten shillings per acre on all the land in the district :
- (3.) May impose and levy on any district for the benefit of which such waterworks are to be constructed a separate rate as hereinafter provided, to secure and pay the interest on, and provide a fund for the repayment of, the loan raised for the benefit of the district on which such rate is levied.

5. Any person or persons duly authorized by the Council in writing, under the hand of the Chairman thereof, may enter at all reasonable hours upon any land or premises in any district, or within any part of the county, without the consent of the owner or occupier thereof, for the purpose of making such surveys, plans, and estimate of loans and rates as the Council may consider necessary before considering any water-supply scheme for any district, and the Council shall be responsible for any damage done by any person 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. When the Council shall have caused to be made a water-supply scheme, together with plans and estimates thereof, for the benefit of any district, the Council shall, before proceeding to execute the same, ascertain whether or not it is the wish of the ratepayers of the district that such water-supply scheme should be carried into effect, and the Council shall not undertake any scheme until the consent of a majority of votes of the ratepayers of such last-mentioned district shall have been obtained thereto.

Consent of majority of ratepayers to scheme must be obtained.

7. The method of ascertaining whether or not it is the wish of the ratepayers of the district that such water-supply scheme should be carried into effect, and a loan raised for the purpose, shall be the manner provided by Part IX. of "The Counties Act, 1876." But each ratepayer shall have the same number of votes as he is entitled to on an election for a member of the County Council, and the form of voting-paper and mode of procedure shall be adapted to allow of such votes being given; and such alterations shall be made as the circumstances of the case may require.

Mode of obtaining consent of ratepayers.

8. If the ratepayers shall refuse to give their consent to carrying out the proposed scheme, no fresh proceedings to obtain consent to the same or a like scheme shall be commenced for at least twelve calendar months from the time when consent was refused.

If negatived no application can be made for twelve months.

9. If there shall be a majority of not less than one-fourth of the votes polled in favour of proceeding with the water-supply scheme in a district, the ratepayers of such district shall be deemed to have consented thereto, and the Council shall proceed with it accordingly; but not otherwise.

Council to proceed with water-supply scheme if majority in favour of it.

10. If the ratepayers in the district consent to the proposed water-supply scheme, 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 to provide such water-supply, and to borrow a sum of money not exceeding the amount of the proposed loan, for the purpose of executing and carrying out the works of such water-supply scheme, and to make and levy on the district to be benefited by such works separate rates, not exceeding the amount of the proposed separate rate, for the purpose of securing and paying interest on the said loan, and for providing a fund for repaying the same; and such notice so published shall be *prima facie* evidence that the Council is duly and lawfully authorized as aforesaid under the provisions of this Act.

If consent given Council may proceed to raise loan.

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 in the particular district for which such loan was raised.

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 any loan under this Act, of issuing debentures for the payment of 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 be inconsistent with the provisions of this Act.

Water-supply rate.

12. The Council, notwithstanding anything contained in "The Counties Act, 1876," may, for the purposes of this Act, levy on the rateable property in the district a separate rate, to be called "the water-supply rate," not exceeding *twopence halfpenny* in the pound on the rateable property in the district, according to the provisions of "The Rating Act, 1882."

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 from the county or Road Board rate-rolls a separate list of the ratepayers in the district.

Extended powers to enable Council to carry out water-supply scheme.

14. In order to carry into effect any such water-supply scheme as aforesaid, the Council, in addition to the powers conferred on them by other sections of this Act, may—

- (1.) Make surveys upon any lands in the county :
- (2.) Purchase or take under the provisions of "The Public Works Act, 1882," any land, or any estate or interest therein, whether within or without the district :
- (3.) 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 :
- (4.) 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 :
- (5.) 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 :
- (6.) 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 :

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(7.) Divert and lead away for the purpose of any water-supply scheme any water from any river, stream, or natural water-course in the county :

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

15. Any lands so taken for such works as aforesaid shall be taken under the provisions of "The Public Works Act, 1882."

Land or water for works to be taken under "The Public Works Act, 1882."

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, 1882," and the Council shall be deemed the respondent in any proceeding to recover such compensation.

Compensation.

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 five pounds for the breach of any 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 and subject to the conditions mentioned in sections one hundred and seventy-seven, one hundred and seventy-eight, one hundred and seventy-nine, and one hundred and eighty of "The Counties Act, 1876," and may be made to apply to the whole of any district or any part of any district specified in such by-law.

By-laws relating to 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 any of such waterworks; and any person who, without such consent, does, or causes to be done, any act whereby the water in any such waterworks is drawn off, or diminished in quantity, or polluted, or dirtied, shall be liable to a penalty of not exceeding ten pounds for every day during which the supply of 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 damage sustained by reason of the taking, diverting, polluting, or dirtying such water.

Protection of water.

19. When the said water-supply scheme shall have been completed the Council, on the written request of any ratepayer of the district or person outside of the district, and if there is a sufficient supply of water, 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 ratepayers or person at the sole cost and charges of such ratepayers or person, and such costs and charges shall be recoverable by the Council in the same manner as the county rates are recoverable.

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

Council sole judge of sufficiency of water-supply.

shall, by by-laws made in manner hereinbefore provided, regulate the size of such branch-races or service-pipes, 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 moneys received by the Council from the ratepayers and residents of each 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:—

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

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." The proceeds of such rate shall not be paid into nor form part of the County Fund of the County of Geraldine, but shall be paid into a separate account for each district, to be called "The District Water-Supply Account," mentioning the name of the district in respect of which such rate is levied.

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

23. 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.

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

Obtaining water without payment.

25. 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 or they shall be liable to a penalty of not exceeding *twenty* pounds.

Penalty, how recoverable.

26. 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, 1882."