

A BILL INTITULED

AN ACT to make provision for the Management of Rivers in the Province of Hawke's Bay.

WHEREAS it is expedient to make provision for the management of rivers in the Province of Hawke's Bay and for the construction and maintenance of works to lessen the damage which may be occasioned by the overflow of such rivers

5 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 Hawke's Bay Rivers Act 1868."

10 2. In interpreting this Act save where there is something in the context repugnant thereto or inconsistent therewith the following words and expressions shall mean or include the matters following—The word "Province" shall mean the Province of Hawke's Bay or any other Province within which this Act shall hereafter be brought into
15 operation the word "Board" shall mean the Conservators for any district to be created under the provisions of this Act the word "Superintendent" shall mean the Superintendent for the time being of the Province of Hawke's Bay or the Superintendent for the time being of any other Province within which this Act shall be brought into
20 operation.

3. For each district of the Province to be constituted as herein-
after mentioned there shall be a Board of Conservators two-thirds of
whom shall be elected and the remaining one-third nominated by the
Superintendent as hereinafter respectively provided.

25 4. Upon the petition of not less than fifty persons being owners or occupiers of property within any part of the Province intersected or bounded by any river or rivers from the overflow of which damage

may be apprehended or without such requisition upon a resolution to that effect by the Provincial Council of the Province the Superintendent may by proclamation in the Provincial *Gazette* declare that this Act shall come into operation within such part of the Province and shall by such proclamation define the boundaries of the same and declare the same to be a district under this Act and shall also fix the name by which such district shall be known. 5

Number of Board.

5. The Superintendent shall also in such proclamation determine the number of Conservators who are to constitute the Board for each such district but in no case shall the number be less than three nor more than six. 10

Election of first Board.

6. Within such number of days not exceeding thirty days after any such proclamation the owners and occupiers of property within the district shall meet for the purpose of electing two-thirds of the number of Conservators who are to constitute the Board for the district and the Superintendent shall in such proclamation as aforesaid direct at what times and places and in what manner such election shall take place. 15

Nomination of nominated Conservators.

7. The Superintendent shall also in such proclamation nominate some fit and proper person or persons to be Conservator or Conservators to act with the Conservators to be elected as aforesaid under the provisions of the Act the number so to be nominated to be equal to one-third of the total number of the Board for the district. 20

Names to be published.

8. Immediately after any such election as aforesaid the names of the persons elected as Conservators shall be published by the Superintendent in the Provincial *Gazette* and the persons nominated and elected respectively as aforesaid shall constitute the first Board for the district. 25

Board in office three years.

9. The members of the Board shall continue in office for three years and until the next election and appointment of Conservators. 30

Vacancies how occasioned.

10. If any Conservator either elected or appointed shall refuse to act or be absent from the Province for three months at any time or become bankrupt or a public defaulter or be convicted of any crime he shall cease to be a Conservator and another person shall be elected or appointed as the case may be to supply the vacancy occasioned thereby. 35

Board how to meet meetings.

11. The business of the Board shall be conducted at meetings to be held at such times and places as they shall appoint and any Conservator shall have power to convene a special meeting on giving five days' prior notice to the other Conservators stating therein the business to be transacted at such meeting. 40

Board to make rules for meetings.

12. At the first meeting of the Board they shall make such rules as may be necessary for the orderly conduct of their business but no meeting shall be deemed sufficient for the conduct of business unless two Conservators shall be present. 45

Board to appoint Secretary &c.

13. The Board may appoint a Secretary Treasurer and other necessary officers and may employ necessary servants and workmen and may fix the salaries and wages to be paid to each. 50

Rivers under control of Board.

14. All rivers streams and watercourses within any district constituted under this Act shall whether the same be navigable or not so far as may be requisite for the construction or maintenance of any works necessary to prevent or lessen any damage which may be occasioned by the overflow or the breaking of the banks of the same be to all intents and purposes within and subject to the jurisdiction of the Board. 55

Powers of Board.

15. The Board shall in addition to any other powers given to them by this Act have and possess the following powers that is to say—

- (1.) They may without any previous agreement with the owner or occupier of any land within the district enter upon any such land whether the same shall be waste lands of the Crown or not and take levels of the same 60

- (2.) They may enter upon take and hold any such land for the purposes of this Act
- (3.) They may from time to time make maintain alter or discontinue any defence works or any other works whatsoever upon any land to be taken as aforesaid or upon any land bounded or intersected by any stream or river under their control or within their jurisdiction or upon any such stream or river for the purpose of preventing or lessening any damage which may be threatened or which may actually have occurred by the overflow of any such streams or rivers or from the breaking of the banks of the same
- (4.) They may from time to time divert impound or take away any water from any such streams or rivers or alter the course of the same
- (5.) They may for any of the purposes aforesaid at all reasonable times by themselves their servants or workmen and with or without carriages loaded or unloaded enter into and pass through and over any lands within the district for the purpose of carrying out any works to be constructed under the provisions of this Act and for the purpose of maintaining and repairing any existing works doing thereby no unnecessary or avoidable damage to such lands
- (6.) They may lay or deposit upon any such lands any materials whatsoever to be used in the maintenance or construction of any such works and may erect thereon any temporary shelter for any workmen or persons engaged in such maintenance or construction causing thereby as little damage or inconvenience as may be.

16. In exercising the powers of compulsory taking of or entering upon or using lands hereinbefore conferred upon them the Board shall make to the owners and to persons having any lesser estate or interest therein compensation for such lands and for all damages sustained by such owners or other persons by reason of the powers vested in the Board by this Act the amount whereof shall be ascertained in the manner set forth in "The Lands Clauses Consolidation Act 1863."

Compensation to owners of land.

17. All land permanently taken for the purposes of this Act shall be conveyed to or vested in the Superintendent to be held by him upon trust for the purposes of this Act for the district within which the same shall be situated and the same shall be deemed to be from thenceforth a public reserve or public reserves for such purposes within the provisions of "The Public Reserves Act 1851." Provided always that upon any alienation of such lands whether absolute or otherwise the moneys to accrue from such alienation shall be paid over to the Board for the time being to be appropriated by them for the purposes of this Act.

Land to be vested in Superintendent.

18. For the purpose of creating and maintaining works to be constructed and maintained by any Board under the provisions of this Act and for the purpose of enabling the Board to carry out any other powers given to them by this Act there shall be levied upon all lands within the district the rates following that is to say upon lands in the district situated outside the limits of any town a rate not exceeding in any one year the sum of three shillings per acre and upon lands situated within the limits of any town comprised in such district a rate not exceeding one shilling in the pound upon the annual value of the same to be assessed as hereinafter mentioned.

Lands to be rated.

19. 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—

Classification of lands outside towns.

- (1.) Lands liable to great actual damage

Rate on classified
land.

(2.) Lands liable to less actual damage

(3.) Lands not liable to actual damage.

20. 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—

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Class 1 shall be rated at double the amount per acre payable by class 2

Class 2 shall be rated at one-half the amount per acre payable by class 1

Class 3 shall be rated at one-fourth the amount per acre payable 10 by class 1.

Classification how
made.

21. The Board may from time to time by warrant under their hands at a meeting to be held for that purpose appoint one or more fit person or persons to examine and report upon all lands to be classified or to classify the same in manner aforesaid and such person or person 15 shall within thirty days after the delivery to them of the warrant of appointment report to the Board thereon and the classification of such lands shall thereupon forthwith be made either by the Board or by such person or persons as aforesaid as the Board may direct.

Classification to be
published.

22. When any classification shall have been made as aforesaid 20 the Board shall sign the same at a meeting of the Board and the Board shall immediately thereafter cause public notice of such classification to be published in some newspaper generally circulated within the district and of a place where the same may be inspected for a period of twenty-one days and the person in whose custody such 25 classification shall be shall permit the same to be inspected by the owner or occupier of any land included therein during office hours.

Rating of lands in
towns.

23. For the purpose of fixing and determining the rates to be paid in respect of lands within the limits of any town comprised within the district the Board may from time to time either themselves 30 assess or by warrant under their hands at a meeting to be held for that purpose appoint one or more fit person or persons to be assessor or assessors to assess all such lands and such assessor or assessors shall within thirty days after the delivery to them of the warrant of appointment return to the Board an assessment for the said town. 35

Assessment to be
published.

24. When any assessment shall have been made the Board shall sign the same at a meeting of the Board and shall cause public notice to be given of the same in some newspaper published or generally circulated in the town so assessed and of a place in the said town where the same may be inspected for the period of twenty-one days 40 and the person in whose custody such assessment shall be shall permit the same to be inspected by every owner or occupier of property included therein during office hours.

Classification &c. to
specify lands &c.

25. Every such classification and assessment as aforesaid shall specify the lands comprised therein and the names of the owners and 45 occupiers where known.

Appeal.

26. If any person shall think himself aggrieved by such classification or assessment respectively upon any of the grounds expressly applicable thereto as hereinafter mentioned such person may appeal against the same on giving to the Board three days' notice of such 50 appeal setting forth the grounds for the same such notice to be given within seven days next after the expiration of the twenty-one days appointed for the publication of the same and the grounds of appeal shall be as follows and no others—

That the classification does not fairly specify the actual liability 55 to damage of the land of the appellant

That the land of any person is assessed below its full annual value

That the land of the appellant is assessed beyond its full annual 60 value

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That any land liable to be classified or assessed is omitted from the classification or assessment.

27. Within three days after the expiration of such seven days as last aforesaid in case any notices of appeal shall have been given as
5 aforesaid the Board shall publish a notice in some newspaper published and generally circulated as aforesaid of a day for the hearing of such appeals and such appeals may be heard by any two or more Justices of the Peace at any place within the district to be notified in such notice and such Justices may after hearing such appeals cause the
10 classification or assessment to be amended in such manner as may appear to them to be reasonable and shall sign such amended classification or assessment and the determination of the said Justices shall be final and conclusive.

Appeal to be heard by Justices.

28. In case upon any appeal as aforesaid the classification or
15 assessment as the case may be shall be confirmed all costs and expenses whatsoever necessarily incurred by the Board in supporting such classification or assessment shall be paid and defrayed by the appellant and may be recovered as costs awarded upon such appeal and subject thereto the Justices by whom any appeals shall be heard
20 shall have full power to award the costs incident to such appeal and the hearing thereof to either of the parties.

Costs of appeal.

29. Every classification and assessment when signed by the Board as aforesaid in case there be no appeal and when signed by the Justices as aforesaid after any appeal shall for the purpose of any
25 proceedings for the recovery of rates payable under this Act be conclusive evidence of the liability of the person named therein.

Classification &c. when confirmed conclusive.

30. All rates payable under this Act shall in the first instance be paid by the occupiers of the property rated but where any occupier shall hold the land rated for any term of which less than five years
30 shall be unexpired he shall be entitled notwithstanding any contract to the contrary to deduct such rate from the rent payable by him to his immediate landlord.

Rates by whom payable.

31. Every rate shall be paid by the person liable for the same to some person to be appointed by the Board for that purpose on a day
35 and at a place or places to be fixed for that purpose by the Board by public notice in some newspaper published or generally circulated within the district the day of payment not being less than twenty-one days after the notification of such notice.

Rates to whom payable.

32. The Board shall cause to be posted up at each place appointed
40 for the payment of rates on the day of publication of such notice of payment as aforesaid a list setting forth the names of the persons liable for the payment of such rates and the sum payable by each person which list may be inspected during office hours on each day during the twenty-one days aforesaid by any person requiring to
45 inspect the same.

List to be published.

33. If the rate or any part thereof payable by any ratepayer shall not be paid on the day fixed for that purpose the same may be recovered in a summary way before any Justice of the Peace at the suit of the person appointed by the Board to receive the same.

Rates recoverable summarily.

34. The Board may from time to time as occasion shall require
50 borrow and take up at interest any sum or sums of money on the security of the rates both general and special to be raised within the district to be applied for the purposes of this Act and may thereupon give to the person advancing or lending the same a mortgage for
55 securing the amount advanced with interest thereon in the meantime after such rate as the Board may think reasonable Provided always that every sum so advanced shall be made repayable and be repaid by not less than ten nor more than fifteen yearly instalments exclusive of the annual interest from time to time payable in respect of the moneys
60 remaining due upon the security.

Board may borrow.

Special rate.

35. The Board may for the purpose of providing for the repayment of any such loan as aforesaid make and levy in addition to the ordinary rates hereinbefore authorized to be raised a special rate chargeable in respect of the lands within the district in the same proportion in all respects and payable and recoverable in like manner as the ordinary rates to be levied under this Act but no such special rate shall in any year exceed the amount of principal and interest money payable for such year by virtue of such mortgage. 5

Money to be paid to Board.

36. All moneys received under this Act shall be paid over by the person receiving the same to the Board for the district for which the same shall be received and shall be appropriated by such Board in carrying out the objects and purposes of this Act. 10

Superintendent may commit works to Board.

37. It shall be lawful for the Superintendent if he shall think fit to commit to the Board for any district the expenditure of any moneys especially appropriated by the Provincial Council to purposes within the provisions of this Act and to pay over the same to such Board to be expended accordingly. 15

Works exceeding £10 to be by contract.

38. All works involving the expenditure of any sum exceeding ten pounds shall be carried out under contract in writing and all contracts for works entered into by the Board shall be in the name of one of the Conservators who shall sue and be sued on such contracts in his own proper name in like manner as if such contracts were personal contracts by such Conservator but no execution upon mesne or final process in any action upon or arising out of such contract shall be issued or enforced against the person or property of such Conservator. 20 25

Actions not to abate.

39. No action against any Conservator upon or in relation to any such contract shall abate by his death or by reason that he has ceased to be a Conservator but the same may proceed against or in the name of any Conservator to be appointed or elected in his place or stead upon his being made a party to the said action by suggestion either as plaintiff or defendant as the case may be. 30

Judgment to be satisfied.

40. In case any moneys shall become payable under any order or decree in any action by or against such Conservator it shall be the duty of the Board to pay and satisfy the same out of the first moneys at their disposal. 35

Plans of works &c. exceeding value.

41. The plans specifications and estimates of any works intended to be carried out by the Board of any district where the estimated cost shall exceed the sum of five hundred pounds shall be submitted to the Superintendent of the Province before any contract for such works shall be made and such Superintendent shall for a period of twenty-one days thereafter have a power to veto such works and no contract for the construction of the same shall thereafter be entered into according to such plans and specifications. 40

Superintendent and Provincial Council to provide for protection of works.

42. The Superintendent and Provincial Council of the Province may by any Act or Ordinance to be passed by them in that behalf make all such provisions as may be necessary for ensuring the due protection of any works to be constructed or carried out by any Board and for imposing penalties upon persons obstructing interfering with or injuring such works Provided such provisions be not repugnant to the laws for the time being in force in New Zealand relating to the powers in that behalf of Superintendents and Provincial Councils. 45 50

Future election of Conservators.

43. For the purpose of the elections of Conservators after the first elections under the provisions of this Act all persons who at the time appointed for any such future election shall appear upon the classification or assessment as the case may be of lands within the district as owner or occupier of any lands liable to be rated shall be entitled to vote in the election of each Conservator in manner following that is to say— 55

Voting at elections.

44. In respect of lands outside the limits of a town where the voter shall be assessed 60

- For less than forty acres of land one vote
 For forty acres and less than one hundred acres ... two votes
 For one hundred acres and less than two hundred
 acres three votes
 5 For two hundred acres and less than five hundred
 acres four votes
 For five hundred acres and upwards five votes
 and in respect of lands within the limits of a town where the amount
 of rate payable by the voter shall be
- 10 Under two pounds one vote
 Above two pounds and under five pounds ... two votes
 Above five pounds and under fifteen pounds ... three votes
 Above fifteen pounds and under thirty pounds ... four votes
 Thirty pounds and upwards five votes
- 15 45. In order to provide for the registration of electors under this
 Act and for the due and orderly conduct of elections of Conservators after
 the first election as aforesaid the Superintendent acting with the advice
 of the Executive Council shall make and publish in the *Gazette* of the
 Province all such regulations as may be necessary for that purpose but
 20 so nevertheless that such regulations shall not be repugnant to or
 inconsistent with the provisions of this Act. Superintendent and
 Executive Council to
 make regulations for
 elections.
46. The Board shall in books to be kept for that purpose enter
 true accounts of all sums of money by them received paid and expended
 by them and of the several matters in respect whereof such sums
 25 shall have been received paid and expended and all such accounts
 with all vouchers and papers relating thereto together with a full
 abstract or balance sheet thereof signed by the Board shall yearly be
 submitted to examined and audited by the Provincial Auditor. Accounts to be kept
 audited.
47. All moneys found by the Auditor to be due by any retiring
 30 Board together with all books of account vouchers and papers and all
 plans and other documents and all other property whatsoever
 belonging to or in the custody of the retiring Board shall be forthwith
 delivered and paid over to the Board for the time being. Moneys &c. to be
 paid over to new
 Board.
48. No member of the Board shall during the continuance of
 35 his office become a contractor or hold any paid office in the gift of the
 Board. Members of Board
 not to be contractors.
49. No Judge Resident Magistrate or Justice of the Peace shall
 be disqualified from acting in pursuance of any of the provisions of
 this Act by reason of his being assessed as a ratepayer under this Act. Judge &c. not to be
 disqualified.
- 40 50. All fines forfeitures and penalties imposed by this Act or by
 any Act of the Provincial Council passed under the provisions of this
 Act shall be recovered before any Resident Magistrate or any two
 Justices of the Peace at the suit of any Conservator for that purpose
 appointed at a meeting of the Board and shall be paid over to the
 45 Board to be expended by them for the purposes of this Act and it shall
 be lawful for the Board out of moneys received by them under the
 provisions of this Act to indemnify any Conservator suing as aforesaid
 from any costs charges or expenses necessarily incurred by him in
 respect of any such action or suit.
- 50 51. It shall be lawful for the Superintendent and Provincial
 Council of any Province in the Colony by any Act or Ordinance in
 that behalf to bring this Act into operation within such Province and
 thereupon this Act shall come into operation in such Province in like
 manner to all intents and purposes as if the name of such Province
 55 had been inserted therein in lieu of the Province of Hawke's Bay. Superintendent and
 Provincial Councils
 of other Provinces
 may adopt Act.