

Mr. Macmillan.

KAITUNA RIVER DISTRICT.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

AN ACT to make Provision for the Improvement of the Waterways of the Kaituna River and its Tributaries, and for the Protection from Damage by Water of certain Lands in the Auckland District. Title

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

1. This Act may be cited as the Kaituna River District Act, 1926. Short Title.  
2. In this Act, if not inconsistent with the context,— Interpretation.

“District” or “river district” means the *Kaituna* River District constituted under this Act:

10 “Local authority” means any Council, Board, Trustees, Commissioners, company, body, or persons empowered to make and levy rates:

- “ Low-lying land ” means land of which the greater portion is not more than three feet above the level of high-water mark of ordinary spring tides :
- “ Protection works ” includes all banks, drains, erections, and other works constructed to prevent damage to land by water : 5
- “ River ” and “ stream ” include all artificial channels and drains constructed by the River Board :
- “ River Board ” means the Kaituna River Board constituted under this Act :
- “ River-works ” means the undertaking of the River Board, and includes all land, works, assets, and other things owned or in course of construction by or under the control of the River Board : 10
- “ Tidal land ” means any parts of the bed, shore, or banks of a tidal water which are covered and uncovered by the flow and ebb of the tide at ordinary spring tides : 15
- “ Tidal water ” means any part of the sea or of a river within the ebb and flow of the tide at ordinary spring tides :
- “ Valuation roll ” means the valuation roll made under the Valuation of Land Act, 1925 : 20
- “ Waste land ” means land the capital value of which does not exceed one pound per acre :
- “ Watercourse ” includes all overflow and other artificial channels, and notwithstanding that water flows through such channels intermittently. 25

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Constitution of district.

3. (1.) The area described in the Schedule hereto is hereby constituted and declared to be a special river district, to be called the Kaituna River District.

(2.) The Kaituna River District constituted under the River Boards Act, 1908, by Proclamation dated the first day of March, nineteen hundred and twenty-one, is hereby abolished. 30

Constitution of Board.

4. (1.) There shall be for the district hereby constituted a River Board, to be called the Kaituna River Board, consisting of nine members, who shall be elected by the ratepayers of the district. 35

(2.) The members of the Board (hereinafter referred to as “ the late Board ”) of the district abolished under the provisions of the *last preceding* section holding office at the time of the coming into force of this Act shall continue to be members of the Kaituna River Board constituted under this Act as if they had been duly elected thereto, and such members shall continue in office until the election of their successors under the provisions of the River Boards Act, 1908, hereinafter applied. 40

(3.) The Chairman of the late Board shall continue to be Chairman of the River Board until the next election of a Chairman under the provisions of the River Boards Act, 1908, hereinafter applied. 45

(4.) The Board of the Kaituna River District abolished under the *last preceding* section is hereby dissolved.

(5.) The River Board hereby constituted shall be deemed to be a River Board under the River Boards Act, 1908, and shall have all the powers conferred on a River Board by that Act, and all the provisions of that Act, except in so far as any of such provisions are expressly or impliedly extended, varied, or repealed by this Act, shall apply accordingly. 50

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5. (1.) All powers heretofore exercised and all appointments heretofore made by the Board dissolved as aforesaid which might lawfully have been exercised or made by a River Board constituted under the River Boards Act, 1908, are hereby declared to have been lawfully exercised or made, and all moneys heretofore borrowed and all loans heretofore raised by the so dissolved Board are hereby declared to have been lawfully borrowed or raised.

Confirming exercise of powers and appointments.

(2.) On the passing of this Act all property of the Board dissolved as aforesaid shall become vested in the Kaituna River Board constituted by this Act, and all liabilities and engagements of the Board so dissolved shall become the liabilities and engagements of the River Board, and all rates and other money payable to the Board so dissolved shall become payable to the River Board, and all actions and proceedings which are then pending or which might thereafter have been instituted by or against the Board so dissolved if it had continued to exist may be carried on or instituted by or against the River Board.

6. The River Board shall have full power, subject to the provisions in respect to local authorities herein contained, to execute all such works and do all such things as may, in its opinion, be necessary to—

General powers of Board.

(a.) Effectively prevent or minimize the flooding of the district either by surface water or floods and freshes in the Kaituna River or any of its tributaries; or

(b.) Improve the land in the district by lowering the surface level of the water of the Kaituna River or any of its tributaries.

7. In particular, and without restricting the general powers hereby given, the River Board shall, subject to the provisions in respect to local authorities herein contained, have and possess the following powers, that is to say:—

Special powers.

(a.) It may from time to time divert wholly or in part any drain, stream, or river, or close up any outlet or inlet to or from the same, or make any fresh outlet or inlet to or from the same.

(b.) It may from time to time make, maintain, alter, or discontinue in, on, over, through, or across any land within the district such overflow or other channels as it may consider necessary for the purpose of carrying out its operations.

(c.) It may purchase from any local authority or ratepayer within the district any portion of the protection works erected by such local authority or ratepayer, without purchasing the land on which such protection work is erected, and with or without any easement over the land on which such protection works are erected, or any machinery or other assets of such local authority or ratepayer which in the opinion of the River Board are or are likely to be required for the efficient carrying-out of its operations under this Act. In such case the following provisions shall apply:—

(i.) If the River Board and such local authority or ratepayer cannot agree as to the price to be paid for such protection works, machinery, or assets, which price shall be such part of the sum actually paid by such local authority or ratepayer for such protection works, machinery, or assets as represents the value to the River Board thereof

as part of its undertaking, the dispute shall be referred to the determination and award of two arbitrators and their umpire, pursuant to and so as to have all the incidents and consequences of an arbitration under the Arbitration Act, 1908.

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(ii.) In case such purchase is made from a local authority the River Board, in lieu of paying for such protection works, machinery, or assets, may either take over and assume, as substitute for such local authority, the liability for a proportionate part or the whole, as the case may be, of the special loan out of which the protection works, machinery, or assets were paid for by such local authority, but subject always to the consent of the lender; or may issue debentures to such local authority on the same terms as to redemption and rate of interest as such local authority has contracted for in respect of such special loan; and any such local authority is hereby authorized to accept any such debentures in payment for such protection works, machinery, or assets.

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(iii.) In case such purchase is made from a ratepayer the River Board, in lieu of paying for such protection works, machinery, or assets, may issue debentures to such ratepayer for such period, on such terms, and at such rate of interest as the River Board and such ratepayer shall agree.

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(iv.) Nothing herein contained shall authorize the River Board to issue any debentures, save in accordance with subsections two, three, and four of section twenty-six and subsections one and two of section twenty-seven of the Local Bodies' Loans Act, 1913.

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(d.) It may purchase any low-lying, tidal, or waste land, whether within the river district, or within three miles of the boundaries thereof, that can, in its opinion, be advantageously reclaimed in the course of its operations, and may reclaim the same.

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(e.) It may order the occupier, or in case there is no occupier, then the owner, of any land on the bank of any river or stream within its jurisdiction to remove anything whatsoever, whether in such river or stream or (except in the case of buildings) within half a chain from the nearest margin of such river or stream, which obstructs or impedes the free flow of such river or stream, or damages or is likely, in its opinion, to damage the bed or banks thereof, or which has constricted or will be likely, in its opinion, to constrict the channel of such river or stream in such manner as to impede the free flow of the water. For the purposes of this paragraph the jurisdiction of the River Board shall extend for the space of one mile beyond the up-stream boundary of the district.

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(f.) It may, where it considers it expedient for the satisfactory carrying-out of its operations either on land owned, held, or occupied by it, or, subject to the consent of the owner, on any other land, plant or sow such trees, shrubs, or grasses or otherwise take such steps, as it may think desirable to check or prevent sand-drifts and minimize the damage

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resulting therefrom, or to carry out any other of its authorized objects whatsoever.

(g.) No person shall do anything to destroy or damage any such trees, shrubs, grasses, or other works referred to in paragraph (f) hereof, or any fences or other protection in connection therewith, or any trees, shrubs, *phormium tenax*, or grasses referred to in section *nineteen* of this Act.

8. (1.) Before exercising its powers under paragraphs (a), (b), and (e) of section *seven* hereof, or under paragraphs (c), (d), and (f) of section seventy-six of the River Boards Act, 1908, the River Board shall send to the occupier, or, if there is no occupier, then the owner of any land, drain, or other work affected, one month's notice of its intention to exercise any of the powers conferred upon it by any such paragraph.

Board to give notice before exercising certain powers.

(2.) Such notice shall specify in general terms the work contemplated by the River Board, and shall name a time and place where it will hear any objection to such work.

(3.) The decision of the River Board, after hearing any such objection, or if such occupier or owner shall not appear, shall be final.

9. (1.) The omission to send any notice or hear any objection mentioned in the *last preceding* section shall not render illegal the exercise by the River Board of any of its powers referred to in that section.

Failure to send notice or hear objection.

(2.) Nothing in section *eight* of this Act shall apply in respect of the carrying-out by the River Board of any urgent work to meet any emergency,

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or in respect of the carrying-out by the River Board of any work or scheme of operations in regard to which the River Board has obtained, or is moving to obtain, the consent of the ratepayers as hereinafter provided to the raising of a special loan.

10. (1.) No person and no local authority, save as herein provided, either within the district or within two miles beyond the up-stream boundary, shall cause, or shall in any case where the River Board shall have notified its intention in the manner provided by section *eight* permit, any drain or drains to empty into any river or stream or into any drain or drains under the control of the River Board, or shall make or erect in or adjoining such river or stream any lock, tide-gate, bridge, ferry, wharf, or other works, which drains, erections, or works might prejudicially affect the effective carrying-out of the River Board's operations, unless and until the River Board shall have approved thereof.

Board to approve of drains and other works.

(2.) In case any such local authority desires to make, erect, or maintain all or any of the matters in this section mentioned it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be made, erected, or maintained.

11. (1.) Unless with the written consent of the River Board, no person and no local authority, save as herein provided, shall make, erect, or maintain anything that will obstruct or will be likely to obstruct the free flow of flood-waters over any land within the district, or that will within the district obstruct or impede, or be likely to obstruct or impede, the free flow of the waters of the Kaituna River or its tributaries or any watercourse.

Obstruction of flow of waters.

(2.) In case any such local authority desires to do all or any of the matters in this section specified it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be carried out.

Property, works,  
&c., vested in Board.

12. Every protection-bank, drain, overflow-channel, tidal or flood gate, or box or valve, or lever, or other appliance, or any other work, property or thing whatsoever carried out, acquired, constructed, or maintained by the River Board, shall be deemed to be the property of the River Board.

Penalty for  
damaging property  
or doing act in  
contravention of  
the Act.

13. Any person doing any act whereby anything specified in the *last preceding* section may be damaged or its efficiency impaired, or doing any act, work, or thing forbidden by the provisions of this Act, shall be liable to a penalty of *one hundred* pounds.

Penalty for failing  
to comply with  
Board's order.

14. Any person failing to comply with any order that the River Board is hereby empowered to make within fourteen days from the receipt thereof shall be liable to a fine of *five* pounds per day for every day during which such order is not obeyed, and the River Board may itself do anything by such order directed to be done, and may recover the cost thereof from such person as a debt due to it.

Receipt of order or  
notice.

15. Any order or notice of the River Board sent by registered letter addressed to the last known address of the person to whom such order or notice is directed shall be deemed to have been received by him within twenty-four hours after the time such registered letter should have arrived at the post-office of address in the ordinary course of post.

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Observations and  
records.

16. The River Board may take all necessary observations and keep records that will assist in the study of the hydrology of the Kaituna River and its tributaries, changes in their regimen, height and duration of floods, rainfall, or any other information that may be of service to it.

Board may enter on  
lands.

17. The River Board may, for any of its purposes authorized by any Act, at all reasonable times by itself, its agents, servants, or workmen, and with or without carriages or other vehicles loaded or unloaded, and with or without horses or any other means of traction whatsoever, enter into and pass through or over any lands within the district, doing thereby no unnecessary or reasonably avoidable damage to such lands.

Purchase of lands in  
lieu of  
compensation.

18. (1.) In lieu of paying compensation to the owner or occupier of any land that may be damaged or injuriously affected by any work carried out under the provisions of this Act, the River Board is hereby empowered to purchase any such land.

(2.) If the owner of any such land and the River Board cannot agree as to the price to be paid for such land, the dispute shall be referred to the determination and award of two arbitrators and their umpire, pursuant to and so as to have all the incidents and consequences of an arbitration under the Arbitration Act, 1908.

Board may sell or  
lease lands.

19. (1.) The River Board may sell, convey, transfer, or lease any land or interest in land from time to time belonging to it, or grant any less estate or interest in, upon, or over the same.

(2.) The River Board may plant or sow and cultivate on any land from time to time owned, held, or occupied by it trees, shrubs, *phormium tenax*, or grasses; and may sell or otherwise dispose of the same or any of them, or the produce thereof, in such manner as it thinks fit.

(3.) All proceeds derived by the River Board under the powers conferred upon it by this section shall be applied in its discretion towards the furtherance of any of its authorized objects.

20. If any works ~~of~~ *proposed to be carried out by* the River Board will be likely to interfere with any road, bridge, or culvert or other work vested in any local authority, or if in the execution of any such works the River Board requires to lower or alter any such road, bridge, or culvert, or interfere with such work, then the River Board shall give not less than fourteen days' notice to such local authority, and there-  
 5 with shall supply particulars of the work proposed to be carried out.

Notice to be given to local authority of works likely to interfere with roads, &c.

21. Before the Board of any land-drainage district comprised in whole or in part within the river district commences any new work  
 10 in the district it shall give not less than fourteen days' notice to the River Board, and therewith shall supply particulars of the work proposed to be carried out.

Notice to be given by Drainage Board before construction of new work.

22. Nothing in the *last preceding* section shall apply to work in course of construction on the date of the coming into force of this Act,  
 15 or to any work of maintenance, repair, improvement, or reconstruction, or to the construction of subsidiary drains linking up with existing drains.

Saving of work under construction and of maintenance.

23. (1.) If the River Board or local authority giving fourteen days' notice as provided by this Act does not within the time specified  
 20 therein receive any objection in writing from the local authority or River Board to which such notice was given, it may forthwith proceed with or maintain the work the subject of such notice.

If no objection to notice, work may proceed.

(2.) If any objection is made in writing and an agreement between the River Board and any local authority concerned cannot  
 25 be reached, the River Board or local authority proposing to carry out or maintain the work shall refer the matter to the Engineer-in-Chief of the Public Works Department for decision.

(3.) The Engineer-in-Chief, or some other Engineer of the Department appointed by him, after making such inquiry as he thinks  
 30 fit, shall determine whether the work proposed by the River Board or local authority should or should not be carried out or maintained, and *that* with or without any modifications to be indicated by him.

(4.) If in accordance with the *last preceding* subsection it is determined that the work or the work with ~~or without~~ modifications  
 35 indicated should be carried out or maintained, the River Board or local authority which submitted the matter for determination may forthwith proceed to carry out or maintain the work in accordance with the determination.

(5.) Nothing herein shall apply in respect of the carrying-out by  
 40 the River Board or any local authority of any urgent work to meet any emergency.

24. Nothing in subsection two of section seventy-three of the River Boards Act, 1908, shall be so construed as to deprive the River Board of jurisdiction over any part of the river district.

Section 73 (2) of River Boards Act, 1908, not to deprive Board of jurisdiction.

25. (1.) Every person of the full age of twenty-one years whose name appears on the valuation roll as the occupier (or if there is no person whose name is so entered as the occupier, then as the owner) of any land within the district, shall be deemed to be a ratepayer, so long as such roll is in force and his name so appears thereon.

Ratepayers and their voting-powers.

(2.) The River Board shall immediately on the coming into force of this Act, and thereafter in the month of April in each year, cause to be prepared a roll of the ratepayers, and there shall be entered on

such roll the area of each tenement held by each ratepayer and such other particulars or information as the River Board from time to time may determine.

(3.) For the purposes of any poll of ratepayers or of any election of a member or members of the River Board, in any case where there is more than one person whose name appears on the valuation roll as occupier of any one property (or if there is no person whose name so appears as occupier, then as owner), then only the person whose name first so appears shall be entitled to vote. 5

(4.) Notwithstanding anything in this or any other Act to the contrary, no ratepayer who is in default in payment of any rate whatsoever or any part thereof made and levied by the River Board for a period of six months after the said rate became due and payable shall be entitled to vote at any election of a member or members of the River Board or at any poll of ratepayers. 10 15

(5.) Save as in subsections *three* and *four* of this section provided, every ratepayer shall be entitled to vote at any election of a member or members of the River Board according to the following scale, that is to say:—

(a.) If his rateable property whether in one or more tenements is of an area of not more than one hundred acres, he shall have one vote: 20

(b.) If such property is of an area of more than one hundred acres but not more than two hundred acres, he shall have two votes: 25

(c.) If such property is of an area of more than two hundred acres, he shall have three votes:

Provided that for the purposes of this subsection the words “rateable property” shall, before any special rate shall have been made and levied by the River Board consequent upon any classification made as in this Act provided, mean all the lands in respect of which that ratepayer’s name appears on the ratepayers roll; and, after any special rate shall have been made and levied as aforesaid, shall mean all the lands in respect of which that ratepayer is a payer of special rates. 30

(6.) Save as in subsections *three* and *four* of this section provided, every ratepayer shall be entitled to vote at any poll in respect of a proposal to raise a special loan according to the following scale, that is to say:— 35

(a.) If his property or that part of his property, whether in one or more tenements, which by reason of the classification thereof for rating purposes, is liable to be rated if the proposal to raise that special loan shall be carried, is of an area of not more than one hundred acres, he shall have one vote: 40

(b.) If such property or part is of an area of more than one hundred acres but not more than two hundred acres, he shall have two votes: 45

(c.) If such property or part is of an area of more than two hundred acres, he shall have three votes:

(d.) If no part of his property is, by reason of the classification thereof for rating purposes, liable to be rated if the proposal to raise that special loan shall be carried, he shall not have any vote. 50



26. (1.) Without in any way restricting the powers of the River Board to make and levy rates, it is hereby empowered to make and levy the following rates to provide for the payment of general—administrative administrative or general charges and expenses :—

Special powers of rating.

5 (a.) Before any rate has been made and levied consequent upon any classification of the lands or any part thereof within the district made as hereinafter provided : A uniform administrative or general rate or rates over the whole of the lands included within the river district or over such

10 part or parts of the district as the River Board may decide, whether any such part is a legal subdivision or is known by a distinctive name or not.

(b.) After any rate has been made and levied consequent upon any classification of the land or any part thereof within the

15 district made as hereinafter provided :

(i.) A uniform administrative or general rate or rates over all the lands or any part or parts thereof which for the time being are liable or have at any time been liable for or subject to the payment of any special rate or rates consequent upon any classification or classifications then subsisting made

20 by the River Board ; and for this purpose the whole of any property the subject of a separate assessment on the valuation roll may if a portion only thereof is classified under any classification then subsisting be liable for or subject to the payment of any such administrative or general rate as if the whole of such property had been so classified ; or

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(ii.) In respect of the lands the subject of any one classification made by the River Board and then subsisting, a graduated administrative or general rate or rates over all the said lands or any part or parts thereof which for the time being are liable or have at any time been liable for or subject to the payment of any special rate consequent upon such classification, and each such graduated rate shall be in accordance with that classification. The Board may at the same or any time separately exercise the powers in this

30 paragraph conferred in respect of lands the subject of other classifications (whether the same lands wholly or in part or not) made by it and then subsisting, and if any land or part thereof is subject to more than one such classification then that land shall not be exempt from payment or liability in respect of any such graduated rate or rates merely because it is so subject.

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45 (2.) The River Board shall have all the powers that were vested in the Board dissolved by section *four* of this Act to make and levy a rate or rates or to do any other thing whatsoever in respect of antecedent liability under the provisions of the Local Bodies' Finance Act, 1921-22.

27. (1.) A separate rate or rates may be made and levied within any separate rating-area hereafter created within the district either in lieu of or in addition to any maintenance or administrative rates, and

50 so that the separate rates to be levied in one such rating-area may vary from those in other such areas.

Separate rates.

(2.) Before directing such separate rate to be made the River Board shall cause an estimate to be prepared of the proposed expenditure of such rate, the period for which the rate is to be made, showing any sums already available for such purpose, the additional sum required, the rateable property within the area affected, and the rate thereon necessary to raise the money required; and such estimate, being approved by the River Board, shall, for at least fourteen days before the River Board directs the proposed rate to be made, be left at its office, or at some other place in the district to be publicly notified, and be open for inspection of all ratepayers. 5

(3.) For the purposes of this section the River Board may at any time and from time to time by special order constitute any part or parts of the district to be a separate rating-area and the boundaries thereof shall be defined in the special order. 10

(4.) The River Board may at any time and from time to time by special order abolish any such separate rating area or areas, and may if it see fit constitute another or others in lieu thereof. 15

(5.) Any such separate rate may be either a uniform or a graduated rate over all the rateable lands within the separate rating-area, provided that if the rate be a graduated rate then the lands within the separate rating-area shall, before such rate is made and levied, be classified or shall have previously been classified in accordance with the provisions of section *twenty-eight* of this Act, and such graduated rate shall be in accordance with the classification. 20

Classification of  
lands.

28. (1.) Before making and levying any rate other than is provided in sections *twenty-six* and *twenty-seven* hereof the River Board shall cause or shall have previously caused the lands proposed to be rated to be classified into four or (at its option) more than four classes by reference to the degree, if any, to which those lands have received or are likely to receive any increase in value or any benefit direct or indirect from the works or operations carried out or proposed to be carried out by the River Board and in respect of which the proposed rate is to be made and levied. Rates other than those referred to in sections *twenty-six* and *twenty-seven* of this Act shall be *made and* levied on a graduated scale upon all the said classes of land (other than lands classified as not having received and not being likely to receive any increase in value or any benefit direct or indirect from the said works and operations) and shall (unless otherwise provided by this Act) be *made and* levied in such proportions as the River Board in each case determines. 30

(2.) Notwithstanding anything to the contrary in this or any other Act contained, it shall be lawful for the River Board to cause, either simultaneously or at different times, more than one such classification to be made of all or any part or parts of the lands within the district or any part thereof in respect of simultaneous, alternative, or subsequent works or operations carried out or proposed to be carried out by the River Board so that more than one classification may subsist at the same time affecting different lands or affecting wholly or in part the same lands, and no variation between any such classifications in respect of any of the lands included therein shall in any way invalidate all or any of such classifications; and a rate or rates may be made and levied accordingly over all or any part or parts of the rateable lands included in any or all of such classifications. 45 50

(3.) No entry shall be made on any classification list prepared in pursuance of the provisions of this section in respect of any property the subject of a separate assessment on the valuation roll if no portion thereof is classified as *having received or being* likely to receive any increase in value or any benefit direct or indirect from the said works or operations.

(4.) It shall not be necessary that any part of the district in which part the lands may be classified as aforesaid shall be a legal subdivision of the district or shall be known by a distinctive name.

29. In carrying out any classification of land in accordance with the provisions of this Act the persons appointed to make the classification may, in their discretion, treat each property as a whole and classify it accordingly or divide each property into parts and classify each part separately. In any appeal against the classification of any property there shall be no appeal against any decision of the classifiers under this section as to the method of classification to be adopted.

Properties may be classified as a whole or may be divided into parts for classification.

30. (1.) Every classification shall be dealt with by the River Board, and every person who thinks himself aggrieved thereby may appeal against the same, in the manner provided by the River Boards Act, 1908.

Appeals against classification.

(2.) All appeals against any classification shall be decided by a Stipendiary Magistrate sitting with two assessors, one of whom shall be appointed by the River Board and the other by the Minister of Public Works.

(3.) Every classification list, when signed by the River Board in case there is no appeal, and when signed by the Magistrate and assessors after any appeal, shall, for the purpose of any proceedings for the recovery of rates payable under this Act, be conclusive evidence of the liability of the owner or occupier for the time being of the property described therein, and every such list shall remain in force until another is made by direction of the River Board to replace the same.

31. (1.) Where the River Board is of opinion that under any classification made under this Act minor anomalies and injustices have resulted by reason of the fact that a property classified as a whole receives varying degrees of benefit, it may modify the classification by classifying the property into more than one class, provided always that no modification shall be made which will increase the total rates payable in respect of the property.

Board may adjust anomalies in classification.

(2.) Any modification made as aforesaid shall be noted on the classification list and the entry thereon signed by the River Board, and shall thereupon take effect accordingly.

(3.) Where the classification of any property is modified as aforesaid it shall not be deemed to be a reclassification of the property, and there shall be no right of appeal against such modification.

32. The River Board shall cause separate accounts to be kept for all administrative, maintenance, separate, and special rates made and levied: *by it.*

Separate accounts to be kept.

33. All rates whatsoever of the River Board shall be made and levied on an acreage basis, except any rate made and levied under the provisions of subsection two of section twenty-six of this Act. *for the purpose of extinguishing the antecedent liability of the River Board under the Local Bodies' Finance Act, 1921-22.*

Rating to be on acreage basis.

*Struck out.*

Consent of ratepayers before special loan.

34. Before a special loan is raised by the River Board the consent thereto of the ratepayers in the area affected shall be obtained in the manner provided by the Local Bodies' Loans Act, 1913, subject to the provisions of this Act, provided that a majority of the valid votes recorded shall suffice to carry the proposal.

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Raising special loans.

35. (1.) The River Board shall have all the powers conferred by the Local Bodies' Loans Act, 1913, on a local authority as in that Act defined, and the provisions of that Act, except as in this Act or the River Boards Act, 1908, expressly or impliedly extended, varied, or repealed, shall apply to any loan raised or proposed to be raised by the River Board.

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*Struck out.*

(2.) A bare majority of the valid votes recorded shall suffice to carry any proposal to raise a special loan.

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(3.) The River Board may raise a special loan for more than one of its authorized objects whether for the benefit of the whole district or any part or parts thereof, but the amount applicable to each such object shall be stated when the proposal for the loan is submitted to the ratepayers.

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(4.) For the purpose of raising such a loan as in the last preceding subsection mentioned, the River Board may cause separate classifications to be made in respect of the lands to be affected by each one of such objects whether such lands are wholly or partly identical or not.

(5.) The ratepayers entitled to vote on any proposal mentioned in subsection *three* of this section shall be all the ratepayers who are entitled to vote in respect of any of the land or lands comprised within the areas classified as aforesaid, and the votes of such ratepayers may be taken on the proposal as a whole and not necessarily in respect of each separate object.

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(6.) For the purposes of subsections *three*, *four*, and *five* of this section ~~every ratepayer shall be entitled to vote~~ any ratepayer entitled to vote may vote as for the whole of each one of his properties the subject of a separate assessment on the valuation roll if any portion of such one property is shown by more than one of the said classifications (mentioned in the said subsection *four*) as likely to receive any increase in value or any benefit direct or indirect from the carrying-out of the proposed purposes or any of them :

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Provided that no ratepayer shall be entitled to exercise more votes than provided in subsection *six* of section *twenty-five* of this Act.

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(7.) If a special loan proposed to be raised as mentioned in subsection *three* of this section is for the benefit of two or more parts of the district (whether some of the lands in any or all of such parts are identical or not) those parts together shall, for the purposes of subsection *three* of section *three* of the Local Bodies' Loans Act, 1913, and consequential enactments, be deemed to be a defined part of the district.

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Person on ratepayers roll not entitled to vote if exempted from rates.

36. (1.) After any special rate shall have been made and levied by the River Board consequent upon any classification made as in this Act provided, no ratepayer shall, except as in this Act provided, be entitled to vote at any election of a member of the River Board, or at any poll upon a proposal submitted to the ratepayers of the district or of any part or parts thereof, or shall be capable of being elected or of

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holding office as a member of the River Board while all the land in respect of which his name appears on the ratepayers roll is exempt from or not liable for payment of all special rates.

5 (2.) Anything in the *last preceding* subsection to the contrary notwithstanding, a ratepayer shall, subject to the provisions of subsections *three* and *four* of section *twenty-five* of this Act, be entitled to vote on any proposal to raise a special loan if the land or any part thereof in respect of which his name appears on the ratepayers roll is by reason of the classification of that land for rating purposes liable to be rated if the  
10 proposal to raise that special loan shall be carried.

*Struck out.*

15 37. (1.) If the River Board is of opinion that lands not included in the district have derived or may derive benefit from the operations carried out or proposed to be carried out under the powers conferred on it by any Act, the River Board may present a petition to the Governor-General praying that the boundaries of the district may be altered so as to include such lands in the district or in any subdivision thereof.

Lands benefited may be included in district.

20 (2.) Every such petition shall define with reasonable certainty the boundaries of the lands proposed to be included.

25 (3.) On presentation to the Governor-General of such petition by the River Board the Governor-General may, if he thinks fit, direct a Commission, consisting of the Commissioner of Crown Lands and the District Land Valuer for the district in which the lands proposed to be included are situated, and some third person whom the Governor-General deems qualified for the purpose, to inquire and report to him as to whether the lands defined in the petition or any part thereof have derived or may derive substantial benefit from the operations carried out or proposed to be carried out by the River Board, and  
30 whether such lands or part thereof should be included in the district, and accordingly become liable to levy of rates thereafter to be made by the River Board, and to what extent (if any) such lands ought to become liable for the future levy of rates already made by the River Board.

35 (4.) Such Commission shall have all the powers, authorities, and functions of a Commission under the Commissions of Inquiry Act, 1908.

40 (5.) If the Commission reports to the Governor-General that such lands or any part thereof ought to be included in the district, the Governor-General may, by Order in Council, alter the boundaries of the district by including therein such lands or any part thereof. All lands so included may, as from the date of the Order in Council, be liable to the levy of all rates thereafter made by the River Board.

45 (6.) If the Commission reports to the Governor-General that such lands or any part thereof ought to become liable for the future levy of rates theretofore made by the River Board, the Governor-General may, by Order in Council, direct that such lands or part thereof shall be so liable and the same shall be so liable for all levies of such rates after the date of the Order in Council.

50 (7.) On any alteration of the boundaries of the district under the provisions of this section the Governor-General may, by the same or any other Order in Council, alter the boundaries of the subdivisions of the district, if any.

(8.) Any such Order in Council may be varied or revoked.

Petition for amendment of classification.

38. If the River Board at any time is of opinion that any land or lands omitted from any classification made under this Act should be included in such classification, or if it is of opinion that any classification of lands theretofore made should be amended, the River Board may present a petition to the Governor-General praying that any such classification may be amended by the inclusion of such other lands therein or in any other manner whatsoever, and the provisions of section *thirty-seven* of this Act shall, *mutatis mutandis*, apply to such petition accordingly.

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*Struck out.*

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Local authorities to contribute to cost of works in certain cases.

39. (1.) If the River Board is of opinion that any local authority, whether within the district or outside the district, is deriving or will derive benefit from the operations carried out or proposed to be carried out under the powers conferred on the River Board by this or any other Act, then and in every such case the River Board may apply to the Governor-General to apportion the cost of such operations between the River Board and the said local authority; and the Governor-General may thereupon, but subject to the provisions of subsection *three* hereof, by notice gazetted apportion such cost accordingly, and the apportionment so gazetted shall be final and binding on all parties concerned, and may be enforced by the River Board as if it were a judgment of the Supreme Court.

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(2.) When making any such apportionment the Governor-General may apportion such cost among all or any of the subdivisions of the district of such local authority so as to show the proportion of such cost fairly chargeable to each subdivision.

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(3.) Before making the apportionment aforesaid the Governor-General may, if he thinks proper, appoint some fit person or persons to be a Commissioner or Commissioners with all the powers of a Commission appointed by the Governor-General in Council under the Commissions of Inquiry Act, 1908, for the purpose of inquiring into the proportion of the said cost, if any, fairly chargeable to the said local authority and the various subdivisions of the district, and the Commissioners so appointed shall inquire into the said matters, and shall report to the Governor-General thereon.

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*New.*

Cost of raising loan to be paid out of preliminary expenses.

39A. (1.) In respect of any special loan raised by the River Board the term "preliminary expenses," as used in paragraph (a) of subsection one of section four of the Local Bodies' Loans Act, 1913, shall be interpreted and construed as including all costs, fees, charges, and expenses incurred or payable by the River Board in obtaining the consent of the ratepayers to the raising of that loan.

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(2.) The River Board is hereby empowered to pay out of the moneys of the first special loan raised by it all costs, fees, charges, and expenses incurred or payable by it in respect of the preparation, promotion, and enactment of this Act.

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*Struck out.*

Local authority may apply for a Commission.

40. (1.) If any local authority exercising jurisdiction over any area wholly or partly within the district of the Kaituna River Board, or any ratepayer in such district, claims that any protection works carried out by such local authority or ratepayer within the district

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are or are likely to be required for the efficient carrying-out of the River Board's operations under its statutory powers, or are or may be of substantial benefit to such operations, such local authority or ratepayer may request the River Board to bear a proportion of the cost of such protection works.

(2.) On receipt of such request the Board shall apply to the Governor-General for the appointment of some fit person or persons to be a Commission to investigate and determine the matter, and the Governor-General may make such appointment accordingly. Such Commission shall have all the powers of a Commission appointed under the Commissions of Inquiry Act, 1908 :

Provided that the River Board need not apply for the appointment of a Commission if the Engineer-in-Chief of the Public Works Department, or some other Engineer of the Department appointed by him, gives a certificate in writing that the said works have not been and are not likely to be of substantial benefit to the efficient carrying-out of the River Board's operations under its statutory powers.

(3.) There may also be referred to any Commission appointed as aforesaid the question of the value of any river protection works carried out by any other local authority or any other ratepayer in the River Board's district and required or likely to be required for or which are or may be of substantial benefit to the efficient carrying-out of the River Board's operations under its statutory powers, and the Commission shall determine what proportion of the cost of such works should be borne by the River Board, or what other relief should be granted by the River Board, in consideration of such works.

(4.) When the Commission decides that any protection works are or are likely to be required for or of substantial benefit to the efficient carrying-out of the River Board's operations it may recommend that an adjustment be made either in connection with the classification of lands for rating or in some other manner, and the recommendation of the Commission shall be given effect to by the River Board. If the Commission recommends that a proportion of the cost of any such works should be borne by the River Board it shall also, if so requested, determine what part or parts of the river district, and in what manner those parts or that part, should bear such proportion of the cost.

*New.*

40A. Inasmuch as the Board has in progress a certain scheme of operations (hereinafter in this section referred to as the outlet scheme) for the diversion of the outlet of the Kaituna River so as to reopen the old outlet at Maketu of that river, which said old outlet was entirely closed in or about the year nineteen hundred and seven by the action of natural forces and has since remained closed: And inasmuch as the River Board is proceeding and intends to proceed with the outlet scheme: And inasmuch as the Arawa District Trust Board (being the Board constituted under the provisions of section twenty-seven of the Native Land Amendment and Native Land Claims Adjustment Act, 1922, and hereinafter in this section referred to as the Trust Board), has undertaken to pay by way of contribution towards the cost of the outlet scheme the sum of one thousand pounds (hereinafter referred to as the said contribution):

On payment of £1,000 by Arawa District Trust Board towards Maketu outlet Native lands owned by members of Arawa Tribe not to be rated.

(1.) Upon and after payment by the Trust Board to the River Board of the said contribution, or of that sum which together with any sum or sums paid by the Trust Board to the Board makes up the amount of the said contribution, the River Board shall not make on any Native any demand of payment of any rate whatsoever made and levied in respect of the outlet scheme by reason of the fact that such Native is the owner or occupier of any Native land or of any share or interest therein, notwithstanding that such Native land or any part thereof may have been included in any classification made in respect of the outlet scheme pursuant to the provisions of this Act or in any separate rating-area; but this subsection shall not be construed to exempt from payment of rates any owner or occupier (other than a Native) of any Native land or any interest therein. 5

(2.) If the River Board shall raise a special loan in respect of the outlet scheme, any rate made and levied as security for such loan shall be so calculated as to yield a sufficient sum annually after allowing for the exemptions provided for in subsection *one* of this section. 15

(3.) The said contribution or any part thereof, as and when received by the River Board from the Trust Board, shall be expended by the River Board solely in or towards the furtherance of the outlet scheme and not otherwise. 20

(4.) For the purposes of this section the term "Native land" shall have the meaning ascribed to it by section two of the Native Land Act, 1909; and the word "Native" shall mean a member of the Arawa Tribe, or a descendant of a member of that tribe. 25

When works affect railways, consent of Minister required.

41. (1.) When any works authorized by this Act or any other Act, and contemplated by the River Board, interfere with or affect any railway-work the property of His Majesty the King, the River Board shall, before commencing the same, give notice of its intention so to do to the Minister of Railways, together with a plan and section showing the nature of such interference. 30

(2.) It shall not be lawful for the River Board to execute any work upon or affecting any railway in any part of the district, except with the previous consent and approval in writing of the Minister of Railways, who may impose such conditions for the protection and safety of the railway as he may think fit. 35

Power to make by-laws.

42. The River Board may from time to time by special order make by-laws—

- (a.) To regulate the use of any river-works;
- (b.) To determine the conditions on which other constructed public or private drains may be connected or continue to be connected with any river, stream, or constructed drain under the control of the River Board, including in such conditions the payment to the River Board of any annual or other charges; 40
- (c.) To compel owners of properties on or adjoining which there are any watercourses or drains under the control of the River Board to construct, maintain, and renew crossings thereover at places and in manner approved by the River Board; 45
- (d.) To regulate the construction and maintenance of crossings over any river-works, watercourses, and drains; 50



- (e.) To provide that, in the case of specified watercourses or drains or parts thereof, such crossings shall be bridges or culverts constructed at places and in manner approved by the River Board ;
- 5 (f.) To prohibit the passing over any of the works or things specified in section *twelve* hereof, or over any watercourse or drain, except at appointed crossings ;
- (g.) To protect rangers and other persons employed by the River Board in connection with river-works in the discharge of their duties ;
- 10 (h.) To regulate the use of any of the works or things specified in section *twelve* hereof, and, in particular, to order such fencing or other protection of any of such works to be done by any adjoining owner as the River Board in each particular case shall consider essential ;
- 15 and may by any such by-law impose a fine not exceeding *twenty-five* pounds for any breach thereof :

Provided always that no such by-law shall contravene any of the provisions herein contained with regard to local authorities.

*Struck out.*

**SCHEDULE.**

ALL that area in the Auckland Land District bounded by a line commencing at a point on the high-water mark of the Bay of Plenty in line with the western boundary of Section 9, Block I, Te Tumu Survey District, and proceeding thence south-easterly along the said high-water mark to the eastern side of the old outlet of the Kaituna River at Maketu ; thence south-westerly along the eastern bank of the old course of the said river to the Maketu-Paengaroa Road, and along that road to the south-eastern corner of Section 9, Block IV, Maketu Survey District ; along the southern boundaries of Sections 9 and 10, Block IV, and Section 1, Block III, Maketu Survey District, to the Te Puke - Paengaroa main road ; along that road in a north-westerly direction to the south-eastern boundary of Paengaroa North D 1 Block, along that boundary to the Kaituna River, and down that river to the north boundary of Rangiuru No. 3 ; thence along that boundary to the Waiari Stream, and up that stream to the northern boundary of Te Puke No. 2 C 1, and along that boundary to the No. 1 Road ; thence northerly along the said No. 1 Road to northern boundary of Section 19, Block II, and along the said boundary to a point in line with the eastern boundary of the Town of Te Puke Extension No. 1 ; thence to and along the said eastern boundary to the main road, and easterly along the said main road to the eastern boundary of the Te Puke Town District ; thence following along the eastern, northern, and part of the western boundary of the said Town District of Te Puke to the northern boundary of Section 3, Block II, Maketu Survey District, and westerly along said boundary and its production across the Atuaroa Stream, and across a road to a point on its western side ; thence south-westerly along a right line to the southernmost corner of Section 17, Block I, Maketu Survey District ; thence along the southern boundary of the said Section 17, the north-western boundaries of Sections 17, 17A, 30, across a road, and again of Section 17 ; thence along the south-western boundary of Karamuramu No. 2 for a distance of seventy-five chains, and north-easterly along a right line parallel to the north-western boundary of the Hikutawatawa Block to the south-western boundary of Section 12, Block III, Te Tumu Survey District ; thence south-westerly along that boundary and its production to the eastern side of a public road fronting said Section 12, and along the said eastern side of road to the south-western corner of Section 1 ; thence northerly along the western boundaries of Sections 1 and 15, Block III, Te Tumu Survey District, across a road, and along the western boundaries of Sections 4 and 9, Block I, and the production of the last-named to the high-water mark of the Bay of Plenty, being the point of commencement.

Schedule.