

Mr. Roy.

LOWER CLUTHA RIVER IMPROVEMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to make Better Provision for the Improvement of the Waterway of the Lower Clutha River and the Protection and Drainage of certain Land adjacent thereto. 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 Lower Clutha River Improvement Act, 1938. Short Title.

No. 14—1.

Lower Clutha
River Trust
District
constituted.

2. (1) The areas described in the *First Schedule* hereto are hereby together constituted and declared to be a special river district, to be called "the Lower Clutha River Trust District" (hereinafter referred to as the Trust District).

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(2) The Trust District shall be divided into five subdivisions with the names and boundaries described in the *First Schedule*.

Lower Clutha
River Trust
constituted.

3. (1) There shall be for the Trust District a trust under the name of "the Lower Clutha River Trust" (hereinafter called the Trust) consisting of eight Commissioners, one of whom shall be elected by the ratepayers of each of the Otanomomo, Inchclutha, and Matau Subdivisions, one of whom shall be appointed by each of the Balclutha and Kaitangata Borough Councils, and three of whom shall from time to time be appointed by the Minister of Public Works.

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(2) The trust is hereby declared to be a body corporate under the name of "the Lower Clutha River Trust," with perpetual succession and a common seal and, subject to the provisions hereof, to be capable of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

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(3) The Trust shall from time to time establish and maintain and publicly notify an office at which notices and other documents may be served on the Trust.

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Provisions of
River Boards
Acts, 1908,
and Land
Drainage
Act, 1908,
incorporated.

4. (1) The Trust shall be deemed to be a local authority within the meaning of the River Boards Act, 1908, and shall have all the powers, privileges, and immunities conferred on a River Board by the said Act. The Trust shall also have all the powers, privileges, and immunities of a Drainage Board constituted under the Land Drainage Act, 1908, and, subject to the provisions of this Act, the provisions of such Acts shall apply accordingly.

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(2) If there shall be any conflict between the provisions of the River Boards Act, 1908, and the Land Drainage Act, 1908, or any amendments thereto respectively, the Trust may elect as to which of such provisions shall apply to the Trust, but any such election shall be final and binding on the Board in relation to the provisions in respect of which such election is made.

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5. The first Commissioners of the Trust shall come into office on the day fixed for the election of such Commissioners as require to be elected as hereinafter provided. Election of Commissioners.

5 6. (1) The Governor-General shall appoint such person as he thinks fit to be the returning officer to hold the first election of such Commissioners as require to be elected, and appoint the day for such first election, and do all such other things as are necessary for the holding of such election. Ratepayers' list.

10 (2) Such returning officer shall for the purposes of the first election as aforesaid prepare a list of all persons whose names appear on the valuation roll of any county in respect of lands included in the Otanomomo, Inchelutha, and Matau Subdivisions. 15

(3) For the purpose of such first election each person whose name appears on such list shall be entitled to one vote.

7. Except as hereinbefore set out in respect of such first election, no occupier who in accordance with any classification of lands made as hereinafter provided is so classed as to pay no rates to the Trust shall, so long as such classification is in force, be entitled to any vote. Voting.

8. (1) The Trust is hereby authorized and empowered to levy and collect the same special rates as were made as security for loans raised by the following Boards or local authorities hereinafter abolished by this Act, that is to say:— Rating-powers.

30 The Inchelutha Road, River, and Drainage Board:
The Otanomomo River and Drainage Board:
The Matau River and Drainage Board.

(2) The Trust shall levy and collect the said special rates until the loans in respect of which such special rates were made are fully paid off. 35

(3) Such rates shall be levied and collected on the basis of the classification in force in respect of such rates at the coming into operation of this Act.

9. The Trust is hereby empowered to make and levy the following additional rates:— Additional rating-powers.

(1) An administrative rate to provide for the whole of the general administrative charges of the Trust:

(2) A drainage rate to provide for the maintenance of any drainage work or works taken over by the Trust from any other Board or body, or for the construction of any drainage works by the Trust, or for the maintenance of any works constructed by the Trust: 5

(3) A river rate to provide for the maintenance of any embankments or other river works taken over by the Trust from any other Board or body, or for the construction or carrying-out of any works by the Trust for the purpose of protecting any lands within its district from flooding or from erosion, or for the maintenance of any such works constructed by it or by any such Board or body as shall require maintenance. 10 15

Classification
of land.

10. Subject to the provisions hereinafter contained as to the administrative rate, the Board shall, before making and levying any of the rates referred to in the *last preceding* section, effect a classification of all lands included in the Trust District into three classes, namely:— 20

(1) Lands receiving or likely to receive a benefit from the maintenance, improvement, or construction of any of the said drainage-works; 25

(2) Lands receiving or likely to receive a benefit from the maintenance, improvement, or construction of any of the said river works; and

(3) All other lands:

And it is hereby declared that such other lands shall not be rateable for any of the purposes of the Trust. 30

Incidence
of rates.

11. (1) The said administrative rate shall be levied uniformly on the land included in classifications (1) and (2) aforesaid on a capital value basis.

(2) The said drainage rate shall be levied uniformly on the lands included in classification (1) aforesaid on a capital value basis. 35

(3) The said river rate shall be levied on the land included in classification (2) aforesaid on a capital value basis. 40

(4) It is hereby expressly declared that an occupier may appear in both classifications (1) and (2) and be rateable in respect of each of the said administrative, drainage, and river rates applicable thereto.

12. (1) For the purpose of providing the interest and other charges on any loan or loans authorized by the ratepayers to be raised for any work or works the Trust shall by resolution, which shall be published in the *Gazette*, describe the boundaries of the area to be benefited by such work or works, and shall declare the area so described to be a special area and shall cause to be made a classification of the benefits to be derived by each property within such special areas. In such classification there shall be specified the amount to be paid by the owner or occupier of each property, and such amount shall be deemed to be a special annual recurring rate within the meaning of the Local Bodies' Loans Act, 1913, and shall be payable at such intervals as the Trust by resolution determines, and shall be levied year by year without further proceeding by the Trust until the loan in respect of which the classification is made is fully paid off. Such rates on each property shall be made in the ratio of the individual benefit to the total estimated benefits in such special area. After adoption by the Trust and before entering upon any scheme of improvement in or for the benefit of any district as defined in this subsection the lands shall be classified as herein provided.
13. (1) Every classification shall be dealt with by the Trust, and every person who thinks himself aggrieved thereby may appeal against the same in the manner provided by the River Boards Act, 1908.
- (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 Trust and the other by the Minister of Public Works.
- (3) Every classification list when signed by the Trust in case there is no appeal, and when signed by the Magistrate and assessors after an 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 under the provisions of this Act.
- (4) The Trust shall cause separate accounts to be kept for all administrative, drainage, river, and special rates made and levied.

Classification
of land
in respect
of loans.

Further
provisions
as to
classification.

Provision
as to
administrative
rate pending
classification.

14. Pending the making of a classification as hereinbefore set out, the Trust is empowered to make and levy an administrative rate on all lands in the said district, which rate shall be computed on a capital value basis.

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Special
provisions as
to Balclutha
and
Kaitangata
Boroughs.

15. The following provisions shall apply in relation to the boroughs of Balclutha and Kaitangata:—

- (1) The Trust shall have no jurisdiction in regard to any matters of drainage over the land comprised in either of the said boroughs: 10
- (2) It is expressly declared that the land within the said boroughs shall be classified in manner hereinbefore set out with reference, however, to the river rate only, and the occupiers thereof shall be liable in respect of administrative and river rates accordingly: 15
- (3) The Trust shall direct that any rates to be levied upon ratepayers within either of the said boroughs be made, levied, and collected by the Borough Councils of such boroughs respectively, and the said boroughs shall pay the same to the Trust. 20

General powers
of Trust.

16. The Trust shall have full power to do all such things as may in its opinion be necessary effectively to cope with the possible flooding of the Trust District or any part thereof and with the drainage of the whole district or any part thereof (excluding as to drainage only the Boroughs of Balclutha and Kaitangata), whether such flooding or the necessity of such drainage shall or may arise either from surface water or by floods and freshes in the Clutha River or any of its tributaries. 25 30

Particular
powers of
Trust.

17. In particular and without restricting the general powers hereby given, the Trust may—

- (1) Enter upon any land within the Trust District, divert any drains, stream, or river, and close up any outlet or inlet to or from the same without payment of any compensation for loss of riparian or other water rights. 35
- (2) Divert, raise, lower, or alter roads, bridges, and culverts where in the opinion of the Trust they interfere with the proper discharge of flood-waters. 40

(3) Carry out dredging operations on the Clutha River and purchase or construct any dredges or equipment which may be necessary for such purpose.

- 5** **18.** All proposals by any person or body for any drain or drains to empty into the rivers or streams or into any drain or drains under the control of the Trust, and all plans for locks, tide-gates, bridges, ferries, or wharves, shall be submitted to and approved Trust to approve of proposed works.
- 10** by the Trust before being carried out.
- 15** **19.** It shall not be competent for any person to do or erect anything that will obstruct or will be likely to obstruct the free flow of flood-waters over any land within the Trust District unless with the written consent Obstruction of flow of flood-waters.
- 20** of the Trust.
- 20** **20.** Every drain, tidal, or flood-gate, or box or valve or levee or other appliance constructed or maintained by the Trust, shall be deemed to be the property of the Trust; and any person doing any act whereby any such Penalty for damage of Trust property.
- 20** drain, gate, box, levee, or appliance may be damaged or its efficiency impaired, or doing any work or thing in contravention of this Act, shall be liable to a penalty not exceeding *five hundred* pounds.
- 25** **21.** The Trust is hereby empowered to call on and compel the occupier of any land through which any drain is constructed to erect along either or both sides thereof a fence in such position and of such a nature as to prevent cattle, sheep, or other animals from Power to compel erection of fences.
- 30** damaging the sides of such drain, and in the event of such occupier not erecting such a fence within *three* months of being so called upon to do so, the Trust may erect the same and the cost thereof shall be a debt recoverable by the Trust from such occupier.
- 35** **22.** The Trust may from time to time make by-laws concerning the taking or diverting of waters from any drain within the district, and may by any such by-law prescribe a fine not exceeding *fifty* pounds for any breach thereof. By-laws.
- 40** **23.** It shall not be lawful for any local authority or other public body or any person to construct in or about the beds of the Clutha River or its tributaries within the Trust District any protective works of such a nature as are likely to interfere with or affect the flow of the water in such river or tributary without Approval of Minister of Public Works required before certain work commenced.
- 45** the consent of the Minister of Public Works.

Railway lands
safeguarded.

24. It shall not be lawful for the Trust or any local authority or other public body or any person to execute any work upon or affecting any railway land 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 railways as he may think fit. **5**

Hydrological
records.

25. It shall be the duty of the Trust to take all necessary observations and keep records that will assist in the study of the hydrology of the Clutha River or any of its tributaries, changes in their regimen, heights, and duration of floods, rainfalls, or any other information that will be of service to the Trust. **10**

Power to
purchase land.

26. (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 Trust is hereby empowered to purchase any such land. **15**

(2) If the owner of any such land and the Trust 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 or their umpire pursuant to and so as to have all the incidents and consequences of an arbitration under the Arbitration Act, 1908. **20**

(3) The Trust shall have the power to lease or to sell, convey, and transfer any lands (other than endowments) belonging to it. **25**

Certain
Boards
abolished.

27. The following Boards are hereby dissolved as from the date of the commencement of this Act:— **30**

The Clutha River Board:

The Otanomomo River and Drainage Board:

The Inchclutha Road, River, and Drainage Board:

The Matau River and Drainage Board.

Vesting of
property of
abolished
Boards.

28. (1) All loans heretofore raised by any of the aforesaid Boards are hereby declared to have been legally raised and all rates made as security for such loans are declared to have been legally made. On the dissolution of the said Boards all their property, real and personal, shall become the property of the Trust, and all liabilities and engagements of the said Boards shall become liabilities and engagements of the Trust, and all actions and proceedings pending by or against **35**

any of the aforesaid Boards may be carried on and prosecuted by or against the Trust, and all rates payable to any of the said Boards shall be paid to the Trust.

- 5 (2) All notices and acts of authority given or done by any of the said Boards shall be deemed to have been given and done by the Trust so far as is necessary to enable the Trust to claim from any person or body
10 any of the property of the said Boards or to recover any moneys due to the said Boards, or which would have been due to them but for their dissolution, or to enforce any right now vested in the Trust by virtue of the *last preceding* subsection.

15 **29.** The following special provisions shall apply as to the Clutha River Board:—

Special provisions as to Clutha River Board.

- (1) The endowments of the said Clutha River Board shall as from the commencement of this Act be vested in the Trust and the income thereof shall be applied as follows—

20 (a) In payment of the interest and sinking fund and other charges on any loan or loans raised by the said Clutha River Board;

25 (b) Towards the payment of interest, sinking fund, and other charges on any loan raised by the Trust for river works only; and

(c) In such other manner as the Trust may think fit for the carrying-out or maintenance of any drainage or river works by the Trust or towards its general administrative expenses:

30 (2) The Trust shall be in respect of such endowments a leasing authority within the meaning of the Public Bodies' Leases Act, 1908:

35 (3) All leases granted by the Clutha River Board in respect of such endowments and subsisting at the commencement of this Act shall be deemed to have been granted by the Trust:

40 (4) The motor-transport license of the said Clutha River Board and its motor-transport business shall become vested in the Trust as at the commencement of this Act, and the Trust is hereby empowered to carry on the motor-transport service heretofore carried on by the said Clutha River Board:

Provided, however, that it shall be the duty of the Trust, with all convenient speed, to sell the transport license and transport business of the Board to such licensed operator as is in the opinion of the Trust most likely to render efficient service to the persons hitherto served by such motor-transport service. 5

Expenses of promoting Act.

30. The Trust is hereby empowered to pay out of its funds all costs, charges, and expenses reasonably incurred by any of the Boards hereby abolished in connection with the promotion of this Act. 10

Coming into operation of Act.

31. This Act shall come into operation on the day fixed by the Governor-General for the first election of members of the Board hereby constituted, but all things necessary for such first election may, notwithstanding this section, be done in anticipation thereof. 15

Repeals.

32. The enactments specified in the *Second* Schedule hereto are hereby repealed.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

1. *Balclutha Subdivision*.—The area included in the Borough of Balclutha.

2. *Kaitangata Subdivision*.—The area included in the Borough of Kaitangata.

3. *Inchclutha Subdivision*.—The area now administered by the Inchclutha Road, River, and Drainage Board, being the area included between the Koau and Matau branches of the Clutha River.

4. *Matau Subdivision*.—The area now administered by the Matau River and Drainage Board as defined in *New Zealand Gazette*, 1919, Vol. 2, page 1767, together with Sections 17A, 19A, 20A, 21A, 22A, 23A, 24A, 25A, 26A, 27A, 28A, 29A, 31A, 32A, 33A, and 41A, Barnego Settlement, and together also with the lands bounded by the Matau branch of the Clutha River from its mouth to the commencement of the area administered by the Matau River and Drainage Board; thence along the south-eastern boundary of the said area to the first range of hills; thence along the base of the said range of hills to the coast, but excluding any part of the Borough of Kaitangata included in the said area administered by the Matau River and Drainage Board.

5. *Otanomomo Subdivision*.—The area now administered by the Otanomomo River and Drainage Board as defined in *New Zealand Gazette*, 1914, Vol. 1, page 294, together with the area bounded by the northern boundary of the said area administered by the Otanomomo River and Drainage Board, the Catlins River Railway-line, the Borough of Balelutha, and the Clutha River, and together also with Sections 9, 10, and 11, Block XXXV, Clutha Survey District.

The Trust District shall include also the Clutha River and the Matau and Koau branches thereof from a line drawn at right angles across the Clutha River at a point opposite the northernmost corner of Section 9, Block XXXVI, Clutha Survey District, down to and including the mouth of the said Clutha River.

SECOND SCHEDULE.

CLUTHA River Trust Reserves Act, 1874, No. 40.
Clutha River Conservators Board Act, 1875, No. 55.
Clutha River Board Empowering Act, 1898, No. 15.
Clutha River Board Empowering Act 1898 Amendment Act,
1900, No. 10.
Clutha River Board Empowering Act, 1923, No. 6.
Clutha River Board Empowering Act, 1930, No. 9.
Inchelutha Road, River, and Drainage Act, 1901, No. 14.
Inchelutha Road, River, and Drainage Act 1901 Amendment
Act, 1903, No. 33.
Inchelutha Road, River, and Drainage Amendment Act,
1921-22, No. 15.