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*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

*Legislative Council,  
16th October, 1878.*

*Hon. Mr. Hall.*

## Malvern Water-Race Transfer.

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### A BILL INTITULED

AN ACT to authorize the Transfer of a certain Water-race, known as the Malvern Water-race, to the Corporation of the County of Selwyn. Title.

WHEREAS a certain water-race, known as the Malvern Water-race, has been constructed in the Provincial District of Canterbury, for the purpose of supplying water to landowners, farmers, and others, and such water-race has been hitherto maintained by the Government, and it is expedient for the better management thereof that such water-race should be handed over to the Corporation of the County of Selwyn, wherein the same is situate : Preamble.

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

1. The Short Title of this Act shall be "The Malvern Water-race Transfer Act, 1878." Short Title.

2. The word "water-race" includes the land occupied by the water-race, and all streams, waters, and rights appertaining thereto, and all reservoirs, dams, tanks, and pipes, and all machinery and appliances of every kind connected therewith acquired or constructed by the Council under the authority of this Act for conveying water to or through the county. "Council" means the County Council of the County of Selwyn. Definition of "water-race."

3. The Governor, by order in Council, may vest the Malvern Water-race aforesaid in the Corporation of the County of Selwyn, upon such terms and conditions as the Governor in Council thinks fit. When so vested, such water-race shall, subject to the terms and conditions mentioned in such Order in Council, be deemed to be the property of such Corporation for the purpose of all actions, suits, and proceedings in respect thereof or in relation thereto, so long as such water-race remains so vested; and the Council shall have and exercise over such water-race the powers and authorities conferred by any such Order in Council and by this Act. Malvern Water-race may, by Order in Council, be vested in Corporation of County of Selwyn.

## Powers of Council.

4. The Council may complete, extend, and enlarge the said water-race, and may keep the same in good repair, and may from time to time do all things necessary thereto; and therein especially may do the following things:—

- (1.) May make surveys upon any lands within the county. 5
- (2.) May purchase or take under the provisions of "The Public Works Act, 1876," land or any estate or interest therein.
- (3.) May break-up or dig into the surface of any public place or road within the county, and temporarily stop the traffic on any such public place or road so far as is necessary for the construction or repair of any part of the water-race, and alter any drain or sewer on or under any public place or road so far as is necessary for such construction or repair, and alter the course or level of such public place or road for such purpose. 10  
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- (4.) May, with the consent of the Governor, make such water-race over or under or through any public reserve.
- (5.) May alter the course or level of any stream or river, or of any ditch or drain, and take, impound, or divert the water from any stream, river, ditch, or drain, and make dams, sluices, reservoirs, or other water-race in any such stream or river. 20
- (6.) May enter upon any lands and take therefrom any materials required for the construction or repair of the water-race.
- (7.) May construct all works, buildings, and machinery, of every description and material, and generally may do all things necessary for the construction, repair, maintenance, and use of the water-race. 25

Any land or water so taken for waterworks shall be taken under the provisions of "The Public Works Act, 1876," and Acts amending the same. 30

Persons suffering damage or loss to be compensated.

5. Every person having any estate or interest in any land, water, or buildings taken under the authority of this Act, or suffering any damage by the exercise of any of the powers hereby given, shall be entitled to full compensation for the same, which may be claimed and shall be determined in the manner provided by the Third Part of "The Public Works Act, 1876"; and in any such proceeding the Council shall be deemed to be the respondent within the meaning of the said "Public Works Act, 1876." 35

Private land not to be entered without consent of owner.

6. Nothing herein shall authorize the entering upon any private land without the consent of the owner, except for the purpose of making surveys, or until such land is taken by the Council as above provided; but if any part of the water-race is at any time, with such consent, put on or under any private land, the Council may thereafter enter thereon to repair such part when required. 40  
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By-laws as to rates and charges.

7. The Council may from time to time make, alter, and repeal by-laws prescribing the terms and conditions upon which the water-race may be used, and prescribing the rates and charges to be paid for water supplied, and may fix a penalty of not exceeding *ten* pounds for the breach of such by-laws. 50

All such rates and charges may be recovered by and in the name of any person duly authorized by the Council in that behalf as an ordinary debt in any Court of competent jurisdiction.

Penalty for taking water from water-race without consent of Council.

8. It shall not be lawful without the consent of the Council or of some person appointed by the Council, for any person to take or divert any water from the water-race; and any person who, without such consent as aforesaid, does or causes to be done any act whereby the water in any such water-race is drawn off or diminished in quantity, shall be liable to a penalty of not more than *five* pounds for 55  
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every day during which the supply of such water is so drawn off or diminished. The Council may recover from such person the amount of any damage sustained by reason of the taking or diverting of such water.

5     **9.** If any person wilfully or maliciously destroys or does any damage to the water-race, or if any person permits his cattle to trespass on the water-race and thereby any damage is done to the water-race, such person shall be liable to a penalty of not more than *one hundred* pounds, and in addition to pay the whole cost of  
10 restoring such damage.

Penalty for damage done to water-race.

10     **10.** If any person unlawfully obtains water from the water-race without payment of the lawful charges, or in other manner than as provided by the by-laws made by the Council, he shall be liable to a penalty of not more than *fifty* pounds.

Person taking water from water-race without paying charges to be fined.

15     **11.** All penalties under this Act, or any by-laws made thereunder, may be recovered in a summary manner before two or more Justices of the Peace, in the manner provided by "The Justices of the Peace Act, 1866."

Penalties to be recovered in a summary manner.