

Hon. Mr. McKenzie.

WATER-SUPPLY.

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A BILL INTITULED

Title. **AN ACT** to enable County Councils, and, in certain cases, Road Boards, to construct and maintain Works for Water-supply, and to make Provision for the Cost thereof.

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

Short Title. 1. The Short Title of this Act is “The Water-supply Act, 1891,” and it shall come into force on the *first* day of *October*, one thousand eight hundred and *ninety-one*. 10

Commencement. 2. Nothing contained in this Act shall restrict or interfere with the operation of Part VIII. of “The Public Works Act, 1882,” or of “The Mining Act, 1886;” nor apply to any water-race or portion of a water-race constructed or to be constructed within any mining district constituted under “The Mining Act, 1886.” 15

Acts incorporated. 3. Subject respectively to the special provisions of this Act, and in supplement thereof but not in supersession of any such special provisions,—

Parts I., II., III., and X. of “The Public Works Act, 1882,” and “The Rating Act, 1882,” with all amendments thereof respectively, are hereby incorporated with this Act; and also, in addition to the foregoing, “The Counties Act, 1886,” is hereby incorporated with Part I. of this Act; and Part IV. of “The Public Works Act, 1882,” and “The Road Boards Act, 1882,” and Part IX. of “The Counties Act, 1886,” are hereby incorporated with Part II. of this Act. 25

Interpretation. 4. In this Act, if not inconsistent with the context,—

“Corporation” means the body corporate of a county constituted under “The Counties Act, 1886;” or a Water-supply Board constituted under Part II. of this Act: 30

“Council” means the Council of a county; or a Water-supply Board constituted under Part II. of this Act:

“District” means a district constituted or deemed to be constituted a district under this Act:

“Land” includes any easement in land: 35

“Local authority,” where used with reference to any body, means the Board, Council, Trustees, or other persons or body, howsoever designated, having authority by law, whether by virtue of this Act or any other Act, to do the act or thing to which reference is made; and includes a Water-supply Board constituted under Part II. of this Act: 40

“Public notice,” or “published,” or “publicly notified,” means a notice published in some newspaper circulating in the county or water-supply district, or, where there is no such newspaper in general circulation, printed placards containing the notice affixed to public places in the county or district :

“Reserve” means land set apart for any public purpose or object under any Act or law for the time being in force authorising the making of such reserve, or that may heretofore have been in force :

“Vest” means vest in the Corporation in fee simple or for such lesser estate or interest as the said Corporation may at any time or in any manner have purchased, taken, or otherwise acquired.

“Water-race” means the land occupied by any natural or artificial channel (not being a main river), for the supply of water to be used in, upon, or through any land, and heretofore constructed or hereafter to be constructed by or under the authority of a County Council or a Water-supply Board, and all branch races taken or made through any lands for the purpose of supplying water as aforesaid, and includes any alteration, extension, or widening thereof respectively, and all flood-banks, dams, sluices, meters, reservoirs, or other waterworks, and all buildings and machinery, pipes, and other materials upon the land and within the limits of a water-race.

PART I.

POWERS OF COUNTY COUNCILS.

5. Every County Council, in the exercise of any power, duty, or authority conferred upon them by this Act, shall have all the powers, duties, and authorities conferred upon them by “The Counties Act, 1886;” and any such Council may, wherever necessary, do or perform any act, matter, or thing authorised by this Act by or through their officers, servants, or contractors, or by any other persons authorised or permitted by such Council to do or aid in doing the same respectively.

Council may exercise its powers through its officers. &c.

AS TO EXISTING WATER-RACES.

6. Every district constituted a district for the purpose of constructing a water-race therein under “The Counties Act, 1886,” or any Act theretofore in force, and existing at the time of the commencement of this Act, shall be deemed to be a district constituted under this Act.

Existing water-races to be deemed water-races under this Act.

7. Within three months after the commencement of this Act the Council of every county in which any water-race has been constructed, by or on behalf of the Corporation, shall deposit at the office of the Council and at the Resident Magistrate’s Courthouse within such county (if any), and if there be more than one such Courthouse, then in one of such Courthouses, and if there be no such Courthouse, then in such other public office or offices in the county as the Governor may appoint from time to time, plans showing the locality and direction

Council to deposit plans of existing water-races in Resident Magistrate’s Court.

of every water-race constructed by or under the authority of the Council, or which is the property of the Corporation of such county existing within the county at the date of the commencement of this Act, and also showing the outfall of every such water-race; and every such plan shall be certified under the hand of the Chairman of the County and the person acting as Engineer of the Council to be true and correct. 5

Public notice of the places of such deposit shall be given by the Council within seven days after such deposit is made, and the plans so deposited shall there remain and be open to public inspection free of all charge for a period of not less than *two* months. 10

Immediately upon the expiration of the said period of *two* months every water-race in a county shown in any plan deposited as aforesaid shall be deemed to be a water-race under this Act, and to have been constructed under the provisions thereof, and shall vest in the Corporation of the county in which it is situate, subject to all the rights, powers, obligations, agreements, and liabilities attaching thereto or affecting the same. 15

The provisions of this section shall apply to all water-races in course of construction by a Council at the date of the commencement of this Act, as well as to water-races constructed prior to such commencement, but without prejudice to any right, remedy, or liability in respect thereof acquired, accrued, or incurred before the said commencement. 20

For the purposes of the deposit of plans under this section a Court-house within a borough shall be deemed to be within the county in which such borough is comprised territorially, or to which it is immediately adjacent. 25

AS TO CONSTITUTING WATER-RACE DISTRICTS.

Council may constitute water-race districts and enlarge or alter same.

8. The Council may, by special order, from time to time declare the whole county, or any part or parts of the county, to be a district or districts for the purpose of the construction of water-races therein; and by the same or any subsequent special order may fix the boundaries of any such district, and may assign a name thereto; and by any subsequent special order may enlarge, alter, or curtail the limits of any district, subject as hereinafter mentioned, and to the following conditions:— 30 35

(1.) That the special order shall fix the day from and after which such district shall be constituted, and shall also give a name to such district; 40

(2.) Before making such special order the Council shall cause a plan of the proposed district to be deposited in the office of the Council, and may deposit copies of such plan in the office of the Road Board or Boards within the county (if any) nearest to such proposed district, and such plan or plans shall be open to inspection by the public without fee. 45

Such plan or plans shall be so open for inspection for at least *thirty* days before the adoption of the resolution to make the special order, and public notice of the time when and the place or places where such inspection can be made shall be given by the Council. 50

No town district shall be included within any district to be declared under this section unless by a separate petition signed by not less than one-half of the ratepayers within such town district representing at least *three-fifths* of the rateable value of the rateable property in the town district.

Town districts to be excluded.

9. The Council also may, by special order, from time to time, as they think fit, divide any district or districts constituted under this Act into subdivisions, and may prescribe the boundaries of any such subdivisions, and assign names thereto.

Districts may be subdivided.

10. The Council may from time to time, by special order under section *eight*, subject as therein mentioned, declare any part of the county formerly included within any borough or town district which has become merged in the county to be constituted a district within the meaning of section *eight*.

Council may declare any borough or town district merged in county to be a water-race district.

11. The Council may from time to time enter into and make contracts with the Council or Board of any borough or town district for the supply of water to the residents therein for domestic use; and for such purpose shall have all the powers conferred by this Act or any Act incorporated herewith, and may execute all necessary works for the distribution of water from a water-race to any such borough or town district, and along, over, or under any street, road, or public place therein.

Council may contract for supply of water for domestic use to any borough, &c.

AS TO CONSTRUCTION, EXTENSION, AND MAINTENANCE OF WATER-RACES.

12. The Council may from time to time, for or on behalf of the Corporation, purchase for the Corporation, or make and maintain, or enlarge, or alter, extend, or repair any water-races vested or to be vested in the Corporation, as it may deem necessary; and for such purposes or any of them, and whether in respect of any water-race heretofore or hereafter to be constructed, acquired, enlarged, altered, extended, or repaired, may from time to time, either within or outside of the county,—

Powers of Council as to constructing water-races and taking lands therefor.

(1.) Purchase or otherwise acquire land, or any estate or interest therein, for the purpose of a water-race;

(2.) Contract with the owner of private lands for and acquire from him a grant in perpetuity or for a limited term to the Corporation of the use, occupation, and enjoyment of such lands for the purpose of a water-race, or of any easement in, through, or over any such lands;

(3.) Contract with the owner of any private lands for the acquisition in perpetuity or for a limited term of a right of water in or over such lands or in or over any races running through such lands or any easement therein.

(4.) Take and hold any land, or any estate, right, or interest therein, which is required to be taken for the purposes of a water-race, or for the extension or widening of any existing water-race, in manner as provided by this Act or "The Public Works Act, 1882," as the case may require.

13. Before proceeding to construct or extend any water-race, or interfere with any road or reserve for the purpose of constructing or extending or widening a water-race,—

Provisions to be complied with before making water-race or interfering with any road, public place, or reserve.

(1.) The Council shall prepare a plan showing the course of such water-race, and the lands, roads, or reserves over or

- through which it is intended that the said race shall pass ; and every such plan shall be certified under the hand of the Chairman of the County and the person acting as Engineer of the Council to be correct.
- (2.) The Council shall deposit such plan at the Resident Magistrate's Courthouse within the county (if any) within which such lands, roads, or reserves are situate ; and if there be more than one such Courthouse, then in one of such Courthouses, and if there be no such Courthouse, then in such other public office or offices in the county as the Governor may appoint from time to time, and also in any of such cases at the office of the Council, and keep the same so deposited for a period of *thirty* days after giving the public notice next hereinafter mentioned. 5 10
- (3.) The Council shall, within seven days after such deposit of plans as aforesaid, publicly notify the intention of the Council to make such race, and that the plans are so deposited as aforesaid, and in such notice shall indicate generally the course of the proposed water-race and the lands through which it is intended to course, and the estate or interest in such lands which it is desired to acquire or take. 15 20
- (4.) Every such plan shall be open to public inspection without any fee at all reasonable hours, and if any person having custody thereof refuses or obstructs inspection thereof he shall be liable for every such offence to a penalty not exceeding *five* pounds. 25
- (5.) Objections to the making of a water-race may be made by any officer whom the Governor may appoint on behalf of Her Majesty either generally or specially in that behalf, or by the local authority having the control of such road or reserve, or by any ratepayer of the district, by lodging at the aforesaid Courthouse or other public office or offices, at any time before the expiration of the said *thirty* days, a statement in writing specifying the particular nature of the objection, and signing the same. A copy of every such objection shall at the same time as it is lodged as aforesaid be delivered to or sent by the objector to the Clerk of the Council. 30 35
- (6.) At the expiration of such period of *thirty* days, if no objection has been made to the making of such water-race, the Council may proceed to make such race. 40
- (7.) If any such objections shall be made during the said period of *thirty* days, the Council shall appoint a time and place when and where it will sit to hear and determine such objections, and shall give at least *seven* days' public notice of the time and place so appointed. 45
- (8.) The Council shall at the time and place so appointed hear and determine all such objections as aforesaid, with power to the Council to adjourn the hearing of such objections from time to time and from place to place. Any objector may support his objection by such evidence as he may think fit. 50

(9.) If, after due consideration of all objections, the Council is of opinion that it is expedient that the proposed water-race should be made, the Council may proceed therewith, subject to the right of appeal hereinafter conferred in case the decision shall be adverse to any objection made as aforesaid. In determining the said objections the Council may alter the proposed course and direction of any such water-race, but every such alteration shall be marked upon the plan which has been deposited as aforesaid, and the alteration initialled by the Chairman of the Council.

(10.) If all the owners of the lands through which it is intended that any proposed water-race shall pass, shall in writing request the Council to construct, extend, or widen such water-race, and the Council shall agree to such request, the following provisions shall take effect:—

The Council shall prepare a plan showing the course of such water-race, and the lands over or through which it is intended that the said race shall pass, and such plan shall be certified under the hand of the Chairman of the Council, and the person acting as Engineer of the Council to be correct.

(11.) The Council shall deposit such plan at the Resident Magistrate's Courthouse (if any) within the county, or in any borough within the ambit of the county in which such lands are situate; and if there be more than one such Courthouse, then in one of such Courthouses; and if there be no such Courthouse, then in such other public office or offices in the county as the Governor may appoint from time to time, and also in any of such cases at the office of the Council.

(12.) The Council may, after depositing such plan as aforesaid, proceed with the construction, extension, or widening of the water-race shown on such plan; and upon the said water-race being constructed the same shall be deemed to be a water-race under this Act, and shall vest in the Corporation of the county in which it is situate, subject to all the rights, powers, obligations, agreements, and liabilities attaching thereto or affecting the same.

Nothing in this section contained shall be deemed to apply to any repair of any water-race.

14. If any person who has made an objection to the making of a water-race shall be dissatisfied with the decision of the Council thereon, such person may within *ten* days after such decision appeal against the same to the District Court, if there shall be such a Court holden in the district; and if there shall be no such Court so holden, then such appeal may be made to any Resident Magistrate's Court in such district, or to the Supreme Court, at the option of the party appealing.

15. Any such appeal may be either on matter of law or matter of fact, and shall be in the form of a case agreed on by the appellant and the Council, and if they cannot agree any Resident Magistrate upon being appealed to by the appellant or Council shall settle the case and sign it; and such case shall be transmitted by either party to the Court before which the appeal is to be heard, and such Court may dispose thereof and make such order in respect thereof, and of the

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Procedure thereon.

Costs.

costs incidental thereto, as to such Court may seem just. Any order for costs made by any Court before which any appeal is heard may be enforced by the process of such Court in like manner as any order or judgment of such Court in its ordinary jurisdiction could be enforced.

The case on appeal shall in the case of the Supreme Court be transmitted to the Registrar of such Court nearest to the place where the decision of the Council has been given; and, in the case of a District Court or Resident Magistrate's Court, shall be transmitted to the Clerk of the Court in which the appeal is to be heard. 5

The order of any Court made on such appeal shall be final and conclusive on the appellant and the Council, and no further appeal shall lie to any other Court. 10

Surveyor may enter upon land for making survey.

16. Any surveyor appointed by the Council may from time to time enter upon any land (whether before or after the deposit of a plan as before provided), with such assistance as he thinks fit, for the purpose of making any survey of any line or intended line of water-race, and to fix or set up thereon survey pegs, marks, or poles, and to dig or bore into such land so as to ascertain the nature of the soil, and to set out the lines of any works thereon. 15

Notice.

(1.) In all cases, where possible, reasonable notice shall be given by the surveyor to the occupier (if any) of the intention to enter upon such land, and such surveyor shall, when required to do so, produce to the owner or occupier of any land on which he has entered the written authority of the officer of the Council under whose authority he is making the survey. 20 25

Damage.

(2.) In case any damage shall be done by any surveyor in exercise of the powers hereby conferred upon him, the Corporation shall be liable to make good the same, and the amount thereof shall be ascertained in the mode hereinafter provided as to the assessment of compensation for land taken or affected by the works of the water-race. 30

Council may enter and take lands.

17. Subject to the provisions of this Act, the Council may exercise all or any of the powers hereby conferred by this Act for the construction, extension, alteration, widening, or repair of the water-race, and may enter upon or cause to be entered upon any lands for the purpose of making such surveys as may be necessary, and subject as aforesaid may take and hold all the lands specified in the plan and required for the water-race, and for such estate or interest therein as shall be specified in the notice respecting the same to be given as hereinbefore provided. 35 40

Certain lands not to be entered without consent.

Nothing in this Act contained shall authorise the entry upon any land occupied by any building or yard, or *bonâ fide* used and occupied as a garden, orchard, vineyard, ornamental park or pleasure-ground, or the cutting or injuring of any ornamental tree or shrub, or the taking of any stone or other material from any quarry, brick-field, or like place commonly used for the taking material therefrom for sale, without the consent in writing of the owner first obtained. 45

Fences to be erected in certain cases before entry.

18. Nothing in this Act shall authorise, without the previous written consent of the owner or occupier of the land, the commencement of any work, nor, without a like consent, the removal of any fencing upon any private land, until fences have been first made, so that all private lands adjacent to land taken or works executed under this Act shall be as effectually protected against damage by trespass as before the commencement of such works. 50

19. Every person having any estate or interest in any lands taken under the powers conferred by this Act, or injuriously affected thereby, or suffering any damage from the exercise of such powers, shall be entitled to full compensation for the same from the Corporation, the amount whereof shall be ascertained in the manner set forth in Part III. of "The Public Works Act, 1882."

Compensation to be given for land taken or affected.

In the application of such Part III. the Council shall be the respondent to any claim made for compensation under this Act.

20. The Court awarding the compensation may, after payment thereof in accordance with this Act, and on application by the Council for that purpose, make an order in the form or to the effect set forth in the Schedule hereto; and such order shall have the effect following:—

Upon ascertaining amount of compensation, and on payment thereof, Court may grant an order vesting the land in Corporation of county.

(1.) If the fee-simple shall be taken, such order shall vest the land in respect of which the same is made in the Corporation in fee-simple, and free from all mortgages, charges, claims, estates, or interests of any kind whatsoever.

(2.) If the property mentioned in the order is not subject to the provisions of "The Land Transfer Act, 1885," the order, with a map or plan of the land taken, may be registered with the Registrar of Deeds for the registration district in which such land is situated, and such Registrar shall cause an entry of the order and map to be made under the proper head or title of the Deeds Registry Office, and shall cause the same to be duly recorded.

In the case herein provided for, the order shall operate as a conveyance to the Corporation.

(3.) If the property is subject to the provisions of "The Land Transfer Act, 1885," the order and map shall be filed with the District Land Registrar of the district in which the property is, and such Registrar shall register the order and map against the land.

(a.) In the case herein provided for, the District Land Registrar shall issue a certificate of title to the Corporation.

(b.) Any person in possession of the Crown grant, certificate of title, or other instrument evidencing the title to such land, shall, upon receiving notice from the District Land Registrar in that behalf, deliver up to him such grant, certificate of title, or other instrument, to be wholly or partially cancelled as the case may require; and any person refusing or neglecting so to deliver up any such instrument shall be liable to a penalty of not more than fifty pounds.

(c.) The District Land Registrar shall retain every such instrument, and shall, when required by the registered proprietor of the land not taken, issue to him free of charge a certificate of title for such land, unless the same is not Crown-granted.

(d.) No person having in his possession such Crown grant, certificate of title, or other instrument, shall be entitled to claim or receive any compensation under this Act until such certificate is delivered up to the District Land Registrar.

- (4.) If any estate, right, or interest less than the fee-simple in any land shall be taken under this Act, the nature thereof shall be expressed in the order to be made by the Court as aforesaid, and in any such case the order of the Court shall operate as a conveyance, transfer, or grant to the Corporation of such estate, right, or interest, and the like proceedings may be had and taken in respect of such estate, right, or interest so taken, *mutatis mutandis*, as could be had or taken in respect of an estate in fee-simple under the preceding provisions of this section. 5
- (5.) The fee-simple in any land taken under this Act or any lesser estate, right, or interest in any such land, shall be deemed to vest in the Corporation as from the date of the order made by the Court as aforesaid. 10

But nothing herein shall be deemed to restrict the operation of any deed or instrument made between the Corporation and any other person or body in respect of any land or any estate, right, or interest therein, whether taken, purchased, or acquired in any manner. 15

21. If any doubt or dispute arise as to the right or title of any person to receive any compensation, or in case the person entitled thereto shall be absent from the colony, the moneys payable as such compensation shall be paid into the Public Trust Office by the Council, as provided in Part III. of "The Public Works Act, 1882," and may be dealt with thereunder. 20

When title doubtful or owner absent, compensation to be paid to Public Trustee.

22. Moneys payable as compensation or as costs under the preceding provisions of this Act shall be paid out of the County Fund; but when the works in respect of which the compensation or costs paid affect a particular district only, the same shall be made a charge by the County Council against such district only. 25

Compensation to be paid out of County Fund.

23. Subject to the provisions of this Act, the Council may— 30

- (1.) Make a water-race upon, over, or under any land so purchased, acquired, or taken as aforesaid, or of which it shall have acquired the use, occupation, and enjoyment, or in or over which it shall have acquired a right of water, or any other easement, as aforesaid; 35
- (2.) Make a water-race over or under any public road or through any public reserve, subject as hereinafter mentioned;
- (3.) Alter the course or level of any road, and break up and dig into the surface thereof, and stop temporarily the traffic thereon respectively for such purpose within or beyond such limits; 40
- (4.) Make a water-race across or below any stream or river, but so as not to impede the navigation upon any navigable river; 45
- (5.) May alter the course or level of any river not navigable, or of any stream, ditch, or drain;
- (6.) Take, impound, or divert the water from any stream or river, subject as hereinafter mentioned; and make dams, sluices, reservoirs, or other waterworks in any such stream or river, whether within or without the limits of such water-race; 50
- (7.) Enter upon any lands for the purpose of removing any obstruction to the flow of water in any stream or river supplying water to a water-race; 50

Exercise of powers of constructing water-race.

(8.) Enter upon any lands for the purpose of making surveys, and of constructing, maintaining, extending, altering, enlarging, repairing, or inspecting any water-race;

(9.) Enter upon any lands and take therefrom any materials required for the construction or repair of a water-race, and may also enter upon and occupy any lands temporarily;

(10.) Construct all works, buildings, and machinery of every description and material, and generally do all things necessary for the construction, extension, alteration, maintenance, repair, and use of any water-race.

Subject to the foregoing provisions, every water-race shall, where necessary to prevent damage to any land, have an outfall to the sea, or to some river, creek, lake, lagoon, or public drain.

24. Before interfering with any stream or river, or diverting water therefrom, the like proceedings, *mutatis mutandis*, shall be taken and had by the Council as provided in section *thirteen*; and for the purpose of this section, and of the proceedings to be taken thereunder, the words "stream or river" shall be read in substitution for the words "road or reserve," and shall mean the part of the stream or river at or from which the water is intended to be taken, impounded, or diverted.

Provisions to apply before interfering with any stream or river.

The powers mentioned in this section may be exercised by the Council, after public notice of their intention to do so, which shall be given at least thirty days before the execution of any works for that purpose; and any person objecting to any interference with any stream or river, or diversion of water therefrom, may object thereto in the manner hereinbefore provided in section *thirteen*. And in case the Council shall decline to entertain such objection, any such person shall have the like right of appeal as provided for in section of this Act, and all the provisions of that section, and of any other section relating to appeals, shall, *mutatis mutandis*, extend and apply to the exercise by the Council of the powers conferred by this section.

Notice of intention to be given.

25. Before interfering with any road, or other public work lying or being outside of the boundaries of a county, for the purpose of constructing a water-race, the Council shall give not less than one month's notice in writing to the local authority having the control of such road or work.

Exercise of powers outside of county.

If such local authority objects to such interference, the matter shall be referred to the Minister for Public Works, whose decision thereon shall be final.

The Council, however, may at any time interfere with any such road or public work so far as to effect all necessary repairs in any water-race constructed or to be constructed on or under the same, on giving to such local authority three days' previous notice in writing of their intention so to do.

And, in any sudden emergency or danger to the water-race or property adjoining, the Council may, without any previous notice, proceed to effect the necessary repairs, but shall as soon as practicable give notice to such local authority of their having so proceeded.

26. Nothing in this Act contained shall be construed to authorise any interference with any Government work without the sanction of the Minister for Public Works, nor with any Government railway without the sanction of the Railway Commissioners appointed under "The Government Railways Act, 1887."

Act not to authorise interference with Government work or railway.

Entry upon private lands.

27. In the case of private lands purchased or taken, or over which the Council have acquired rights of user or water-rights, the Council shall have all such rights of entry as if such lands had been granted to them; and all parts of water-races at any time put on, in, or under such private lands shall be deemed to belong to the Corporation as part of such water-races. 5

Saving as aforesaid, no entry shall be made on any private lands without the consent of the owner, except for the purpose of making surveys.

Land to revert to owner if Council cease for twelve months to use it for a water-race.

28. In case the Council shall at any time cease for a period of two years to use any land over which it has acquired rights as a water-race, such land shall, subject, however, to any special agreement made in respect thereof with the owner or owners from whom such rights were originally acquired, upon the expiration of such period of twelve months, revert to the then owner or owners of the land from which the same was originally severed; but the Council shall not be liable to such owners or other persons for so ceasing to use such land. 10 15

Council not responsible for failure of water-supply.

29. The Council shall not be responsible for the failure of any water-supply, from whatever cause the same may arise.

Plan of every water-race made to be lodged at Resident Magistrate's Court.

30. A plan of every water-race made, and of every stream or river taken, impounded, or diverted as aforesaid, certified to be true and correct by the Chairman of the County and the person acting as Engineer of the Council shall, within one month after the construction of such water-race, be deposited at the office of the Council and a copy thereof at the Resident Magistrate's Courthouse, or other public office or offices mentioned in section *seven*, and shall there remain and be open to public inspection free of charge. 20 25

Upon such deposit being made of the plan of any water-race, such water-race shall be deemed to be a water-race within the meaning of this Act, and shall vest in the Corporation of the county wherein it is situated. 30

SPECIAL LOANS FOR WATER-SUPPLY, AND MAINTENANCE OF WATER-RACES.

Council may raise special loan for water-supply, and levy special rate.

31. The Council may, in the manner and subject to the terms and conditions provided by "The Counties Act, 1886," in relation to special loans,— 35

(1.) From time to time raise a special loan for the purpose of exercising any of the powers conferred on the Council by this Act within any district or any subdivision of a district.

But the aggregate amount of all loans to be raised for such purposes respectively shall not exceed in any district or subdivision a sum equal to *one-half the value of the fee simple* of all the land in the district or subdivision as appearing in the valuation roll for the time being in force. 40 45

The consent of the ratepayers of any district or subdivision to the raising of any such special loan shall be determined as mentioned in section two hundred and one of "The Counties Act, 1886," in respect of raising a loan within any particular portion of a county, and the same proportion of votes shall be sufficient to affirm the proposal: Provided always that at any poll taken hereunder it shall be lawful for the attorney of any ratepayer 50

who shall be absent from the district or subdivision of a district in which the poll is being taken to vote in the name and on behalf of such ratepayer; and every act done by any such attorney in the name and on behalf of his principal shall, so far as the vote given is concerned, be as effectual as if the ratepayer had voted in person.

(2.) Impose and levy on all lands in the district or subdivision (except as hereinafter mentioned) a special rate to secure and pay the interest on and provide a fund for the repayment of any such loan.

Any such special rate may be levied in manner as may be directed by special order, which may from time to time be altered or revoked by the Council either—

(1.) On a uniform scale; or,

(2.) On a graduated scale according to the classification of lands in the district.

Every such rate shall be deemed to be a rate made under "The Rating Act, 1882," and may be levied, sued for, and recovered under the said Act.

Where any special rate is levied under this section, according to the classification of lands in the district, sections ninety-seven to one hundred and four of "The River Boards Act, 1884," shall apply, as if the same were incorporated with this section *mutatis mutandis*.

All lands in any district or subdivision which by their altitude, configuration, or other physical causes, are excluded from deriving any possible benefit from a water-race, shall be exempted from all rates to be levied in respect of such water-race; and also all lands which are supplied with water from springs, streams, or private water-races thereon shall also be so exempted from rates unless the owners thereof respectively consent to the same being rated.

Lands exempt from rate.

32. For the purpose of repairing any extraordinary damage done by flood, tempest, or accident to any water-race, the Council may from time to time raise a special loan without first obtaining the consent of the ratepayers of the district, or of any subdivision of a district, to the doing of such work, or to the raising of such loan; and, to secure the interest and the repayment of such loan, may levy a rate in manner as in the *last-preceding* section mentioned, and all provisions of the said section shall apply in respect of any such rate.

In case of extraordinary damage special loan may be raised without consent of ratepayers.

CHARGES FOR WATER-SUPPLY.

33. The Council may from time to time, in manner provided by "The Counties Act, 1886," make, alter, or repeal by-laws,—

To prescribe the terms and conditions upon which any water-race made by it may be used, and upon which water may be supplied, and the rates and charges to be paid for water supplied, and the area of land which shall be liable to such rates and charges, and to provide, if advisable, for a scale of rates or charges differing in any district from those in another, or differing in the several subdivisions of any district according to circumstances.

Council may make by-laws as to rates and charges for supply of water.

Such charges may be estimated to cover the interest and sinking-fund on any loan raised to provide for the cost of construction, maintenance, and repair of water-races, and shall be applicable for such of the said purposes as may be necessary.

Occupier of land through which water-race constructed liable to pay charges for water.

34. Every occupier and every owner of land in, through, over, under, upon, or along which a water-race has been or shall be constructed shall be liable to pay the aforesaid charges unless such land is already provided with water by a stream, spring, or private water-race. But if the owner or occupier of land so provided has applied to and obtained from the Council a supply of water to such land he shall be liable to pay the charges as aforesaid. 5 10

Occupier of land abutting on road on which water-race constructed also liable.

35. Every occupier and every owner of land abutting on a road upon which a water-race has been constructed adjacent to such land, shall be at liberty to use the water in such race; and, unless he gives a written notice to the Council that he will not use such water, and does not use the same, shall be liable to pay the aforesaid charges. 15

Charges over two years in arrear not recoverable.

36. No occupier shall be liable for any such charges in arrear for any period exceeding *two* years from the time when such charges first became due.

Council may supply owner of land granted for water-race with water free of charge.

37. Notwithstanding anything herein contained, the Council from time to time may agree and contract with the owner or owners of any private land who shall have granted the use thereof in perpetuity or for a limited term for the construction thereon of a water-race to have the use of any part not exceeding one-tenth of the water in a water-race, either without charge or on such terms and at such rates and charges as may be agreed upon between the Council and such owner or owners, and every such contract or agreement heretofore made by the Council with any such owner or owners is hereby declared to be valid and effectual. 20 25

Proceeds from water-race to go to County Fund.

38. All moneys accruing from, or received in respect of, any water-race shall be paid into the separate District Account of the County Fund, and shall be applied for the purposes hereinbefore mentioned. 30

Payment of rates and charges for water.

Payment of rates and charges for water shall be made at the office of the Council, or at such other place as shall be appointed by the Council for that purpose, on such day or days in every year as the Council shall by resolution from time to time appoint; and any charges remaining unpaid for fourteen days after the day so appointed for payment thereof may be recovered by the Corporation as an ordinary debt to it in any Court of competent jurisdiction. 35 40

Water-supply charges raised in any district may be wholly expended in such district.

39. If the Council shall constitute districts in the county in which different scale of charges shall be imposed for the supply of water from particular water-races or systems of water-races, or for convenience of administration or any other purpose, the water-supply charges raised in any such district may be wholly expended upon the races in that district, notwithstanding that such district may comprise more than one of the ridings or parts of more than one of the ridings in the county. Separate accounts shall be kept for each of such districts of the income and expenditure thereof in each year. 45

AS TO MANAGEMENT OF WATER-RACES.

50

Powers of Council as to inspection, alteration, &c., of water-races.

40. In respect of all water-races the Council shall have the following powers, and such powers may be exercised from time to time, that is to say:—

- 5 (1.) To enter upon any lands through which any water-race is constructed and to inspect such race, and all reservoirs for water, on such lands, and to cleanse, repair, and maintain such race and such reservoirs for water, and all works connected therewith respectively.
- (2.) To stop the flow of water in any water-race for the purpose of executing extensions, alterations, enlargements, or repairs, or for any other purpose which the Council shall deem necessary.
- 10 (3.) To stop, reduce, or alternate the flow of water in any water-race, and to control and manage all water-races in the county in such manner as they shall deem best adapted for the purpose of providing a fair supply of water.
- 15 (4.) In case any person shall—
 (a.) Make default in payment of the charges which he is from time to time liable to pay ;
 (b.) Make default in payment of any rate or rates imposed on his or their lands within the county in respect of water-supply ;
 20 (c.) Fail or refuse to do and perform any act or thing which he or they is or are required to do by this Act, or by any by-laws to be made hereunder ;
 (d.) Fail to do and perform any matter or thing which he or they shall undertake or agree to do in respect of the supply of water to his or their lands ;
 25 (e.) Commit any offence under this Act, or under any such by-laws ;
 to stop the supply of water to the land of such person and prevent him from using the water until he has ceased to make default or failure as aforesaid.
- 30

41. In case any water-race may be no longer needed, or is abandoned, the Council may sell or otherwise dispose thereof, and of the lands through which it passes, if the same shall be the property of the Corporation, and of all the material appertaining thereto or forming part thereof, by public auction or public tender, after not less than *sixty* days' public notice has been given weekly of the intended sale, and the Council may execute all necessary documents and instruments to give effect to any such sale or the transfer of any easement. All proceeds of any such sale shall be paid into the District Account of the county fund :

35

Provided that where any lands through which such a water-race passes are vested in the Corporation, the Council shall, before proceeding to a sale of such land, cause the same to be valued by a competent valuer to be nominated by any Resident Magistrate, and shall offer such land at the price fixed by such valuation first to the person then entitled to the land from which such land was originally severed or formed part ; and, if there be no such person, or if he refuse to purchase, or cannot after due inquiry be found, then such land shall be offered to the adjacent owner, or if there be more than one such owner, then to each of such owners in such order as the Council thinks fit ; and, if no such owner accepts such offer, then the land may be sold by public auction as aforesaid.

45

50

Council may sell disused water-race.

Original owner to have first offer.

AS TO WATER-RACES IN SEVERAL COUNTIES.

Councils of counties may unite to make water-races.

42. The Councils of any two or more counties may unite for the construction, use, maintenance, and repair of water-races constructed in any one or more of such counties.

To be vested in such county as agreed upon between them.

43. All such water-races shall be deemed to be vested in the Corporation of such one or more of the counties as may be agreed upon between the Councils thereof respectively, or, in case of dispute, as the Minister for Public Works shall determine, at the request of either Council.

Expenses of construction, &c., to be in proportions agreed upon.

44. Such water-races shall be constructed, maintained, and repaired by and at the expense of the Council or Councils of such county or counties in the proportion to be agreed on between them, or, in case of dispute, to be fixed by the Minister for Public Works.

If Council refuse to keep portion within county in repair other county interested may do so, and recover cost.

45. In case the Council of any county shall refuse, neglect, or omit to maintain and keep in good repair the portion of such a water-race which is within such county, the Council of any other county interested in the water-race, at any time after *seven* days' notice given to the Council making default, requiring them to make the necessary repairs, may do and execute all works, acts, or things necessary for such purpose, and recover from the Council of the county so refusing, neglecting, or omitting as aforesaid all costs and expenses incurred in such maintenance and repair.

Proceeds from joint race to be apportioned.

46. All moneys accruing from a water-race vested jointly in the Councils of two or more counties shall be divided between the county funds of such Councils, in such proportion as the several County Councils shall agree on, or, in case they cannot agree, then in such proportion as the Minister for Public Works shall determine.

PROVISIONS FOR THE PROTECTION OF WATER-RACES.

Destroying water-race a misdemeanour.

47. If any person wilfully or maliciously destroys or injures, or does or permits or suffers to be done any wilful damage or injury to a water-race, or does or permits or suffers to be done any act whereby any reservoir, dam, weir, sluice, pipe, culvert, or other thing used for storing or supplying water is destroyed, broken, or injured, he shall be guilty of a misdemeanour, and shall be liable on conviction to imprisonment for any term not exceeding *three* years with or without hard labour, or to such penalty as the Court may impose not exceeding *five hundred* pounds, and in addition to pay the whole cost of restoring or repairing such damage or injury.

Penalty for allowing refuse from works to be thrown or to flow into water-race.

48. If any foul liquid or matter is thrown or poured or suffered to fall or flow into water being a part of or taken or used for supplying water to any water-race, from any works or manufactory, slaughter yards, cowsheds, stables, or piggeries, the person carrying on or managing such works or manufactory, or having the charge or control of such slaughter yards, cowsheds, stables, or piggeries respectively, or throwing, pouring, or suffering to fall or flow such matter into such water or water-race shall be liable to a penalty not exceeding *one hundred* pounds, and to a further penalty not exceeding *ten* pounds, for every day during which such offence is continued after such person has received notice in writing from the Council to discontinue the same.

49. If any person, without the consent in writing of the Council,—

Penalty for diverting water from race or stream supplying race.

5 Takes or diverts any water from a water-race, or from any stream supplying such water-race, so as to diminish to a large extent the amount of water flowing into such race; or

Does or causes, permits, or suffers to be done any act whereby the water in any such water-race is drawn off or diminished in quantity; or

10 Upon being required by the Council, or any officer in charge of the water-race, to restore the waters of such water-race to the state in which they were before the doing of such unlawful act as aforesaid, refuses, neglects, or fails so to do;

15 He shall be liable to a penalty not exceeding *twenty* pounds for every such offence, and to a further penalty not exceeding *ten* pounds for every day during which the supply of such water is so drawn off or diminished.

50. If any such person as aforesaid, after having received notice, from the Council or any officer in charge as aforesaid, requiring him to restore the waters of such water-race, shall refuse, neglect, or fail for the space of twenty-four hours to comply with such notice, the Council may, at any time after the lapse of such period of twenty-four hours from the giving of such notice, execute all the works necessary to restore the said waters, and may recover from such person the whole cost of such works, together with the amount of any damage sustained by reason of the taking or diverting of such water:

Cost of restoring water so taken.

30 No proceedings which may be taken by the Council against any such person or persons as aforesaid shall prejudice or affect any other remedy, either civil or criminal, which it may have against him or them on account of the doing any such act as aforesaid.

51. If any person does, permits, or suffers to be done any of the following things:—

Penalty for damaging pipes, &c., connected with race.

35 (1.) Permits any water-race pipe, or apparatus on his premises, or which he may have agreed to maintain, to be out of repair so that water is wasted;

(2.) Alters any meter, or does or permits or suffers any act to be done, whereby his supply of water is unduly increased;

40 (3.) Not having been authorised in writing by the Council to take or be supplied with water from a water-race, takes any such water from the supply furnished to another person, or from a water-race;

45 (4.) Being supplied with water from a water-race, supplies another person who is not entitled by authority in writing to be so supplied with or permits him to take any such water;

(5.) Does or causes, permits, or suffers to be done anything whereby the water in any water-race is or may be fouled, polluted, or rendered impure or unfit for use;

50 (6.) Obstructs or interferes with any person acting under the authority of the Council in doing anything which the Council is hereby empowered to do:

he shall be liable to a penalty of not more than *twenty* pounds for each such offence, and to a further sum equal to the cost incurred by

the Council in repairing the injury done to any water-race, or any part thereof, by any such act.

Penalty for bathing in, suffering horses, &c., to injure, or polluting, &c., water-race.

52. If any person shall do or cause or procure, permit, or suffer to be done any of the following things:—

- (1.) Bathe in any reservoir or water-race : 5
- (2.) Suffer any goats, pigs, or geese in his possession or care to trespass, stray, or be in or upon any water-race, or to destroy or injure the same or the banks thereof, or to pollute the water in such race :
- (3.) Wash, scour, or cleanse any animal, carcase, wool, hide, skin, or other substance or thing in any water-race : 10
- (4.) Throw, pour, or place, or cause or permit to be thrown, poured, or placed, into or in any water-race any substance whatever :
- (5.) Take or convey any machinery through or across any water-race, except at an appointed crossing-place : 15
- (6.) By any means obstruct the flow of water in any water-race, or permit any gorse, broom, tree, plant, or other matter to grow or spread from land in his occupation, or from any hedge or fence growing on such land or on the boundary thereof, into, on, or over any water-race, or into, on, or over any land reserved or used for the purpose of a water-race : 20
- (7.) Without the consent of the Council, interfere with any dam, reservoir, headworks, or buildings connected with any water-race : 25
- (8.) Without the consent in writing of the Council, widen or deepen any water-race, or alter the course thereof :
- (9.) Commit a nuisance in or near any water-race :
- (10.) Obstruct any field-crossing over a water-race :
- (11.) Destroy or injure anything constructed, erected, made, put, or placed by the Council in upon or about or in connection with any water-race : 30
- (12.) Remove, displace, alter, injure or interfere with any water-gauge, dam, sluice, pipe, or other works or things used in supplying or distributing water from any water-race : 35
- (13.) Do anything not authorised by this Act whereby the flow of water in any water-race shall be increased or diminished :
he shall be liable to a penalty of not more than *five* pounds for each such offence, and to a further sum equal to the damage sustained by the Council by any such act. 40

BY-LAWS.

Council may make by-laws for protection of water-races.

53. The Council may from time to time, in the manner provided by "The Counties Act, 1886," make, alter, and repeal by-laws,—

- (1.) To prevent the obstruction of water-races :
- (2.) To prevent the pollution of water in races : 45
- (3.) To prevent the driving of animals or vehicles, and the conveying of machinery and other material, through or across water-races, except at the appointed crossings :
- (4.) To punish persons for interfering with dams, reservoirs, headworks, and buildings, machinery, or any appliances connected with water-races, without the consent of the Council : 50
- (5.) To prevent bathing in reservoirs and other parts of water-races :

- (6.) To protect rangers and other persons employed by the Council in connection with water-races in the discharge of their duties, and, for the purpose of enabling them to discharge such duties, to empower all such rangers and other persons to enter upon private lands :
- 5 (7.) To prevent the widening and deepening of water-races, or the alteration of the course thereof, without the consent of the Council :
- 10 (8.) To prevent trespasses upon water-races through, over, upon, or under roads :
- (9.) Generally to prevent trespasses, nuisances, and obstructions to water-races, and to make all such provision as to the Council may seem necessary or expedient for the proper protection and proper management of water-races :
- 15 (10.) To provide for the cleansing, repair, or maintenance of any water-race by the owner or occupier of land on which such race is situate, or on any road or reserve adjacent thereto.

Any such by-law may provide a penalty not exceeding *five* pounds for any breach thereof.

20 REPEAL.

54. Sections two hundred and sixty-six to two hundred and eighty-eight, and subsections two and three of section three hundred and eleven, of "The Counties Act, 1886," so far as all the said sections and subsections respectively relate to water-races or irrigation-works, are hereby repealed. But this section shall not come into operation until the expiration of three months after the commencement of this Act.

Repeal.

PART II.

POWERS OF ROAD BOARDS.

30 55. On receipt of a resolution passed by any two or more Road Boards representing road districts which adjoin each other within any county wherein "The Counties Act, 1886," is not in operation or is suspended, the Governor by Proclamation gazetted may declare the whole or any part or parts of such road districts to be a water-supply district under this Act by the name of "The Water-supply District."

When Counties Act suspended, Road Boards may amalgamate for purposes of Act.

35 56. In every water-supply district there shall be a Board consisting of not less than seven nor more than nine members, to be elected by the ratepayers of such district, in the same manner as the members of Road Boards are elected from time to time.

Water-supply Boards elected.

45 (1.) All elections under this Part of this Act shall be conducted under "The Regulation of Local Elections Act, 1876," which is hereby incorporated with this Part of this Act for the purpose; and the Governor may from time to time appoint Returning-officers for the first election and appoint the time and place for holding such election, and may do all things necessary for the formation of rolls, fixing polling-places, and otherwise for the conduct and completion of such election.

50 The members first elected shall come into office on their election, and shall hold office from such date until the election of their successors.

(2.) On some day in the last week of April, in the year one thousand eight hundred and ninety-four, as shall be fixed

by the Board, and on the same day in every third year thereafter a general election of members of the Board shall be held who shall come into office on their election, when their predecessors shall go out of office.

(3.) The first meeting of the Board shall be held on such day and at such place as shall be fixed by the Governor, and at such meeting, and at every first meeting thereafter of a new Board, the Board shall elect a Chairman, who shall hold office for so long as he shall continue to be a member of the Board; unless he shall previously resign such office, in which case a new Chairman shall be elected by the Board.

(4.) Vacancies in the office of any member of the Board shall be created and supplied in the same manner respectively as is provided in "The Road Boards Act, 1882," with respect to members of such Boards.

Incorporation of Boards.

57. Every Water-supply Board shall be a corporation under the name of "The Water-supply Board," having perpetual succession and a common seal, with power to make, alter, or renew the same, and with power to purchase, take, hold, and transfer real and personal property, and to sue and be sued, plead and be impleaded in any Court of law or equity, and to do and suffer all other acts and things which a body corporate may lawfully do and suffer.

Water-supply Board to have powers of County Councils, under Part I., to be exercised under Road Boards Act.

58. Every Water-supply Board shall have all the powers, duties, and authorities conferred upon County Councils by the First Part of this Act, which shall be read for such purpose as if the words "Water-supply Board" or "Board," and "Water-supply District" or "district," had been inserted in such Part for the words "County Council" or "Council" and "county" respectively wherever the latter words occur in the said Part.

In the exercise of any such power, duty, or authority, every Water-supply Board shall have all the powers, duties, and authorities conferred upon a Road Board by "The Road Boards Act, 1882," and may exercise the same with any road district or part of a road district comprised within the limits of a water-supply district, notwithstanding any change or alteration in the boundaries of such road district, or in the constitution thereof, and notwithstanding also the merger or abolition of any such road district.

Schedule.

SCHEDULE.

ORDER BY COMPENSATION COURT.

WHEREAS, under the provisions of "The Water-supply Act, 1891," the land [*or state the estate, right, or interest taken in certain land*], described in the plan drawn in the margin of this order [*or indorsed upon the order, or attached thereto*] was taken by the Council of the County [*or the Water-supply Board of the water-supply district*] for the purposes of a water-race from to : And whereas the compensation payable in respect of the interest of [*owner of land, or of the estate, right, or interest taken*] in the said land has been assessed in accordance with the said Act at £ , and such compensation has been paid by the aforesaid Council [*or Board*] [*State mode of payment*]: In exercise of the authority conferred upon it by or under the said Act, this Court doth therefore order that the parcel of land described in the said plan [*or state the estate, right, or interest taken in the land described in the said plan*] shall be vested in the Corporation of the said county [*or in the said Board*] for the purposes of the said Act.

Dated this day of , 18 .

(Plan.)

A.B.,
President of the Compensation Court.