

[AS REPORTED FROM THE WASTE LANDS COMMITTEE.]

(*Mr. Rolleston.*)

Water Rights.

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A BILL INTITULED

AN ACT to provide for the granting of Water Rights and the taking of Water Races through Waste Lands of the Crown.

WHEREAS it is expedient to enable the Governor to grant Water-rights in certain cases through Waste Lands of the Crown, and also to reserve the right of taking Water-races through lands which may hereafter be granted:

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

1. The Short Title of this Act shall be “The Water Rights Act, 1870.”

10 2. The Governor may, from time to time by Proclamation in the *New Zealand Gazette*, declare this Act to be in operation in any district of the Colony to be defined in such Proclamation, and on and after a day to be fixed in any such Proclamation, this Act shall come into operation within the district defined therein.

15 3. From and after the coming into operation of this Act in any district of the Colony, all lands which shall be sold in such district shall be subject to a right on the part of the Crown in every case to take a percentage not exceeding five per centum of the area sold for the purpose of constructing watercourses: Provided that such right shall cease and determine at the termination of a period of twenty years from the sale of such lands if the said right shall not have been previously exercised: Provided also that the holder of the land shall receive from the Receiver of Land Revenue as compensation for the

land taken, an amount equal to that paid by him to the Government for the land; and also compensation for any special damage he may sustain in connection with rights affected as hereinafter provided.

Power to grant water-rights.

4. It shall be lawful for the Governor, on the recommendation of a Commissioner of Crown Lands or the Superintendent and Provincial Council of any Province, to grant to any person the right to form any dam reservoir lead or flume in through or over any Crown Lands, or in through or over any lands belonging to any person who shall apply for such right, or in through or over any lands which shall under this Act be subject to such right, or under or over any public road, and to take divert or use the water of any stream for the purpose of such dam reservoir lead or flume: Provided that such taking use or diversion shall not interfere with any use to which any other proprietor on the said stream had previously applied the water of such stream, or with any right of any other proprietor, unless with the consent of such proprietor.

Notice to be given before granting water-rights, and objection how to be decided.

5. Upon any application being made for a water-right as aforesaid, such application shall be publicly notified in the *Gazette* and principal newspapers of the Province or County within which the proclaimed district is situate for two months prior to the recommendation of the grant, and by advertisement inserted in three consecutive issues of some newspaper circulating in the district, the first of which insertion shall be made not less than two months prior to the recommendation of the grant; and any person objecting thereto shall be entitled to have such objection referred by the Commissioner of Crown Lands to a commission consisting of the Commissioner of Crown Lands and two Justices of the Peace resident near to the place where such water-right is situate, and the decision of the Commissioner and such two Justices shall be final provided they are unanimous, otherwise no recommendation shall be made.

Commissioner of Crown Lands to fix prices of water-right.

6. Upon recommendation of any such grant as aforesaid, the grantee shall pay to the Receiver of Land Revenue such sum in respect of such grant as the Commissioner of Crown Lands shall fix as a reasonable consideration therefor.

7. The owner of any land proposed to be taken for the purposes aforesaid shall be entitled to compensation on account of such taking, and the amount of such compensation shall be determined by agreement between the owner of such land or any person appointed by him and any person appointed for that purpose by or on behalf of the Crown, and such compensation, when ascertained, shall be paid by the Crown previous to commencing such work.

8. In case the amount of such compensation shall not be fixed by agreement as aforesaid within one month after the date of notice as aforesaid, the question of compensation shall be referred to two arbiters, one to be chosen by the owner of such land or any person appointed by him, and the other by the Crown, and an umpire to be chosen by the arbiters before they shall enter upon the reference; and if any arbiter shall die or neglect or refuse to act, another person shall forthwith be appointed to supply the place of the person so dying or refusing or neglecting to act in the same manner as such last mentioned person was appointed; and such compensation, when ascertained as last aforesaid, shall be paid in like manner as compensation ascertained under the last preceding section. And the said arbiter and umpire may summon and examine upon oath any witness, and administer an oath for that purpose.

9. In the determination of the matter referred to them, the arbiters and umpire shall be guided by equity and good conscience, after full deliberation upon all the circumstances which shall be brought under their consideration; and in determining the compensation to be awarded the arbiters shall take into consideration only the original

cost of the land proposed to be taken and any special damage that may be done to homesteads gardens or buildings by such watercourse.

5 **10.** Any person intending to divert and use water for irrigation mining sheep-washing or other purpose by any water-race to be
10 constructed under authority of this Act, shall give notice thereof in writing to the Commissioner of Crown Lands and to the person or
persons through whose lands it is proposed to carry such watercourse, and to any person whose interests may be affected by the diversion of
such water, and such notice shall be in the form set forth in the
15 Schedule, and copies of such notice shall be posted and maintained for fourteen clear days at the source whence it is proposed to obtain
water ; and the intended course thereof shall be indicated by pegs not less than two inches square or by large stones marked Λ and placed
not more than two hundred yards apart, and such notices shall state
20 the mean breadth and depth of the proposed water-race ; and if no valid objection be entered against the construction of such water-
race within fourteen clear days from the delivery of such notice, a license in the form of Schedule may be granted by the Commis-
sioner of Crown Lands, subject to the provisions and conditions therein
contained.

11. It shall be lawful for the Commissioner of Crown Lands in any district, by writing under his hand, to authorize any person or
persons to enter upon any lands which are subject to the provisions of
this Act for the purpose of surveying and taking levels. on the same,
25 provided that not less than twenty-four hours' notice shall be given to the owner or occupier of his intention to enter upon such lands for
the said purpose.

SCHEDULES.