

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

11th September, 1906.

Hon. Mr. McNab.

WAIMUMU STREAM DRAINAGE.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to provide for the Administration of a Tail-race or Flood-
channel in the Waimumu Stream constructed by the Mataura
Borough Council under a Deed of Arrangement purporting to
be made in Pursuance of "The Mining Act, 1898," and for
the Formation of a Drainage District in the District drained
by the Waimumu Stream.

WHEREAS by a deed dated the thirteenth day of May, one thousand
nine hundred and two, and purporting to be made between the
Minister of Mines of the first part, the Corporation of the Borough
of Mataura, acting by the Borough Council, of the second part,
certain landowners therein described of the third part, and certain
mining companies therein described of the fourth part, after reciting
that by reason of the mining operations of the companies the riparian
or other rights of the landowners were or might be infringed and the
danger of flood increased, and that it was expedient to establish a
scheme to enable the companies to carry on mining operations and
at the same time protect the landowners from damage by such
mining operations or by floods, provision was made that the Council
should, in pursuance of "The Mining Act, 1898," and with the con-
sent of the landowners thereby testified, apply for a license for a
main tail-race, being partly a diversion of the Waimumu Stream and
partly in the bed thereof, as described in the *First* Schedule hereto,
and proceed to construct the said race and efficiently maintain the

same for the use of the companies and other persons in their mining operations, the companies and such other persons paying a proportion thereof: And whereas the Council, in pursuance and execution of the provisions of the said deed, applied for and obtained a grant of a license for such tail-race, and constructed the same, and have since controlled and managed the said race: And whereas by a Proclamation by His Excellency the Governor dated the fifth day of September, one thousand nine hundred and two, a portion of the Waimumu Stream was constituted and set apart under section one hundred and eight of "The Mining Act, 1898," to be a watercourse for the discharge of mining *débris* under such section: And whereas by an action in the Supreme Court of New Zealand it has been decided that the Council had no power to enter into the said deed or to hold such a license, and cannot recover in an action on the said deed for recovery of the cost of maintenance thereof: And whereas it is expedient to make provision for the administration, control, and management of the Waimumu Stream and the race so constructed, and generally for the efficient drainage of the lands within the area defined in the *Second* Schedule hereto:

BE IT THEREFORE 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 Waimumu Stream Drainage Act, 1906."

Constitution of district.

2. (1.) There is hereby constituted a district to be called "The Waimumu Stream Drainage District," comprising all that area described in the *Second* Schedule hereto.

(2.) The Governor may, on a petition in that behalf from a majority of the ratepayers of any area proposed to be included in or excluded from the district hereby constituted, alter the boundaries of such district.

Board of Trustees.

(3.) The Governor by Order in Council may, on a like petition, abolish the said district or any portion thereof.

3. (1.) For such district there shall be a Board of Trustees, consisting of a Chairman and four persons to be appointed in the manner hereinafter appearing

(2.) The Chairman shall preside at all meetings of the Board, and shall have a casting as well as a deliberative vote.

(3.) Such Chairman shall be from time to time appointed by the Governor, and shall hold office for three years from the date of his appointment, and may be reappointed; but shall be subject to removal at any time by the Governor, who may appoint another in his place or on his resignation, death, or incapacity to act.

First election.

(4.) The four persons forming with the Chairman the said Board shall be elected in the manner hereinafter directed.

4. The Governor shall appoint such person as he thinks fit to be the Returning Officer to hold the first election of Trustees, and appoint the day and place for such first election.

Ratepayers lists.

5. (1.) The Returning Officer forthwith on his appointment, and thereafter on or before the thirty-first day of August in every year, shall cause to be made out two lists, of which one, to be called

“the miners list,” shall contain the name of every person whose name appears on the valuation roll made under “The Government Valuation of Land Act, 1896,” and its amendments, or any statutory re-enactment thereof, as the occupier of any rateable property within
 5 the district in respect of any interest therein created for the purpose of mining as defined in “The Mining Act, 1905,” either by any mining privilege under the Mining Acts for the time being in force or by agreement or license from the owner in fee-simple of any such lands, and the other list, to be called “the ordinary list,”
 10 shall contain the name of every person whose name appears on such valuation roll as the occupier of any rateable property within the district other than as aforesaid, and the Returning Officer shall insert on each such list opposite the name of each person therein the amount at which his property is valued on such roll.

15 (2.) Such lists, or true copies thereof, shall be deposited at the office of the Board (which need not necessarily be within the district) for inspection without fee, and public notice shall be given of the place where the said list is deposited.

20 6. In such notice the Returning Officer shall notify the day, not being earlier than fourteen days after the date of notice, and the place when and where the Magistrate will sit to hear objections and finally revise such list. Objections.

25 7. (1.) Any person who considers himself aggrieved by reason of the insertion or incorrectness of any matter in any such lists, or the omission of any matter therefrom, may object as herein provided. Appeal from list.

(2.) The Magistrate, on the day fixed for hearing objections, shall hear and determine all objections, and may alter the lists in respect of anything objected to by correcting anything therein,
 30 or by inserting any matter therein, or erasing any matter therefrom that appears to him ought to be altered, inserted, or erased, as the case may be, and his decision shall be final and without appeal.

(3.) The lists when so corrected shall be signed by the Magistrate, and when so signed shall for the purpose of this Act be
 35 conclusive evidence that the persons named therein are ratepayers, and of the valuation of their property; and such lists shall come into force immediately after the same are so signed, and shall be the roll of ratepayers for the district until a new roll comes into force in like manner.

40 8. (1.) Every person whose name appears on either of the above-mentioned lists shall be deemed to be a ratepayer within the meaning of this Act, and shall be an elector and entitled to vote in the election of Trustees, and shall exercise *one vote and no more* at every such election ~~the same number of votes as he could exercise in~~
 45 ~~respect of the same qualification at the election of a member of a County Council,~~ and if of full age shall be qualified to be elected a Trustee. Qualification of electors.

(2.) All provisions relating to the qualifications, disqualifications, and elections of members of a County Council shall, as herein modified or varied, apply *mutatis mutandis* and be in force in respect
 50 to elections of Trustees under this Act.

9. At every election to be held under this Act the ratepayers whose names appear on the ordinary list shall elect two persons, who Elections.

shall be electors upon such ordinary list, to be members of the Board of Trustees; and the ratepayers whose names appear on the miners list shall elect two additional persons to be members of the Board; and such four persons shall hold office until the election of their successors at the first triennial election held as hereinafter mentioned: 5

Provided that where the name of a person is entered on such miners list as the nominal occupier of any rateable property, any manager, director, shareholder, or partner of the company or partnership actually occupying such rateable property shall be qualified to be elected a Trustee by the persons whose names appear on the miners list. 10

Subsequent elections.

10. Every subsequent election of Trustees shall be held on the first Monday in the month of November in the third year following the year in which the first Trustees are elected, and on the same day in each succeeding third year thereafter. 15

Appointment by Governor.

11. If at any day appointed for any election under this Act no election is held, or if at any election of Trustees no persons are duly elected, or a less number is elected than is by law required, then the Governor may appoint such and so many qualified persons to be Trustees as the occasion may require, in order that there may be a Board so constituted that two members shall represent the ratepayers whose names appear on the miners list, and two other members shall represent the ratepayers whose names appear on the ordinary list, or so that the Board may be constituted in such manner as may from time to time by Proclamation under section five hereof be declared. 20 25

Election in case of vacancy.

12. If any Trustee dies or becomes incapable of acting, or by writing addressed to the Chairman resigns his office as such Trustee, or ceases to reside permanently in the Provincial District of Otago, or is absent without leave from three consecutive meetings of the Board, an election of a Trustee in his stead shall be held by the ratepayers on the list for the time being containing the class of ratepayers by whom the Trustee so dying or becoming incapable, or resigning, or ceasing to reside in the Provincial District of Otago, or being absent as aforesaid, shall have been elected, or whose interests he shall have been appointed to represent; and the person so elected shall hold office for so long only as his predecessor would have held office had he remained a Trustee. 30 35

Gazetting of election.

13. Notice of every election or appointment of a Trustee shall be gazetted, and the *Gazette* containing such notice shall be conclusive evidence that such election or appointment has been duly made. 40

Alteration of manner of election.

14. If at any time hereafter owing to the extinguishment or diminution in number of the mining interests for the representation whereof on the Board provision is hereby made, or for other sufficient reason, the Governor may consider it desirable that the members of the Board should be elected in any other manner, he may from time to time proclaim and declare the manner in which and by whom such election shall thereafter be made. 45 50

Meetings of Board.

15. The Chairman, Clerk, or any two Trustees may convene a meeting of the Board by a notice delivered to each of the Trustees

or left at their usual place of residence not less than seven days before the time appointed for such meeting.

16. The Board shall be a body corporate under the name of "the Waimumu Stream Drainage Board," with perpetual succession and a common seal, having a capacity to hold lands and to do and suffer all things that a body corporate may do and suffer.

Board incorporated.

17. The Board, for the purposes of the administration of this Act, shall have and may exercise within the area of the said district all the powers and authorities conferred upon a County Council, and such powers and authorities may be exercised in such manner as the same could be exercised by a County Council.

Board to have within district powers of County Council.

18. The Board shall in particular, but without affecting howsoever the generality of the powers hereby conferred upon it, have the care, control, and management of the Waimumu Stream, and of the said tail-race or watercourse, and of all existing watercourses, drains, or outfalls for water to or from the said Waimumu Stream or within the said district.

Control of Waimumu Stream.

19. The Board shall have and may exercise all the powers, authorities, and privileges conferred upon a Drainage Board by "The Land Drainage Act, 1904," or any statutory modification or re-enactment thereof, so far as the same shall be applicable; and the provisions of the said Act (excepting sections three to fifteen, both inclusive, thereof) shall, *mutatis mutandis*, apply in the said district for the purpose aforesaid with the modifications and variations herein contained.

Board to have powers of Land Drainage Board.

20. In addition to its other powers, the Board may from time to time, by itself, its surveyors, agents, officers, and workmen, for any of the purposes of this Act, enter upon the said recited tail-race or watercourse, and upon a strip of land not exceeding twelve feet in width measured outwards from each bank thereof; and may for any of the purposes of this Act, with or without carriages loaded or unloaded, enter into and pass through and over any lands within the district for the purpose of carrying out any works to be constructed under the provisions of the Act, and for the purpose of maintaining and repairing any existing works, and to lay or deposit upon any such lands any materials whatsoever to be used in the maintenance or construction of any such works, and that without any payment for compensation for any such entry hereunder, but doing thereby no unnecessary or avoidable damage to such lands, it being hereby also declared that no compensation shall be payable in respect of any land occupied by the said recited tail-race or watercourse or by such strip of land aforesaid, anything to the contrary in "The Land Drainage Act, 1904," or any other Act notwithstanding.

Additional powers.

21. The Board shall not exercise any of the powers and authorities conferred upon it by sections *seventeen, eighteen, and twenty* hereof, and sections sixteen to twenty-eight, both inclusive, of "The Land Drainage Act, 1904," as hereby incorporated within such portion of the district hereby constituted as shall be within the Borough of Mataura, without the consent in writing of the Council of such borough from time to time first had and obtained

Resolution in exercise of power in Borough of Mataura.

to the undertaking by the Board of any works on pursuance of such powers and authorities.

Rates.

22. The rate which the Board may levy under this Act shall not be limited in amount as in section thirty-one of "The Land Drainage Act, 1904," provided, and shall be upon the unimproved value of all rateable property under "The Rating on Unimproved Value Act, 1896," and its amendments, howsoever the rateable property in the said district or any part or parts thereof may be rated by the local authority thereof. 5

Classification of lands.

23. (1.) The provisions of sections thirty-two, thirty-three, thirty-four, and thirty-five of "The Land Drainage Act, 1904," relating to classification of lands, shall be so read and construed that, whether the Board shall adopt a uniform scale or a graduated scale for rating purposes, the rateable properties of which the occupiers shall be persons whose names appear on the miners list shall be classified in an additional class as land receiving greater benefit than any of the classes referred to in section thirty-three of the said Act, and the rates shall be levied upon the properties in such additional class in a proportion greater than any one of the other classes, and as the Board in each case appoints. 10 15 20

(2.) In the case where the Board shall adopt a uniform scale with such additional class as aforesaid the provisions of section thirty-four of the said Act shall not apply to any proceeding by the Board for the adoption of such uniform scale with such additional class. 25

Assumption of liabilities by Board.

24. Upon the passing of this Act all liabilities and engagements of the Mataura Borough Council in connection with the said tail-race shall become and be the liabilities and engagements of the Board.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

MAIN tail-race or watercourse situate near Mataura Township, partly in the Waimumu Hundred and partly in the Lyndhurst Hundred, starting in the Waimumu Stream about 7 chains above the Ritchie's Road Bridge and terminating at the junction of the Waimumu Stream with the Mataura River, the length and course of the race being as follows: From the commencing-point running in a straight line in a southerly direction, cutting the said stream again at a total distance of 12 chains; thence following for a distance of 4 chains, more or less, the said stream to what is known as "the Lagoon"; thence in a straight line in a south-westerly direction for a distance of about 58 chains through Section 34 to a point being the eastern corner of Section 33; thence following the boundary-line between Sections 33 and 35 in a south-westerly direction a distance of about 30 chains, and crossing the Mataura Road; thence in a straight line in a southerly direction for a distance of about 99 chains through Sections 46, 38, 39, 40, and the south-east corner of Section 41, cutting again the Waimumu Stream; thence following the apexes of the bends of the stream and its bed for a distance of about 22 chains, more or less; thence following the bed of the said stream to the terminating-point aforesaid, and having a width at top thereof of 20 ft.

SECOND SCHEDULE.

ALL that area in the Southland Land District bounded by a line commencing at the north-west corner of Lot 16 on plan deposited in the Lands Registry Office at Invercargill as No. 132; running thence due south to the south boundary of Lot 15

on said plan; thence due west to the north-west corner of Lot 22; thence in a south-easterly direction along the south-west boundaries of Lots 22, 24, 30, 29, and 29A on Plan No. 133 to a point on the north boundary of Lot 32 in line with these boundaries; thence in a south-westerly direction along the north boundary of Lot 32 to the north-west corner of the said Lot 32; thence in a south-easterly direction along the south-west boundary of Lot 32 and along portion of the south-west boundary of Lot 33 on Plan No. 134 to a point in line with the north-west boundaries of Lots 45 and 46 on said Plan No. 134; thence in a south-westerly direction along the north-west boundaries of Lots 46, 45, 44, 43, 47, and 48 on said Plan No. 134 to the south-west corner of Lot 48; thence in a south-easterly direction along the south-west boundaries of Lots 48, 49, 50, 52, and 53 on said Plan No. 134 and continued to a point in the centre of the Main Trunk Railway reserve; thence in a north-easterly direction along the centre of the Railway Reserve to a point in line with the south-east boundary of Section 1, Block VII, Town of Maitara; thence in a north-easterly direction along the south-east boundaries of Sections 1 and 2, Block VII, of the said town to the east corner of Section 2; thence in a south-easterly direction to a point on the bank of the Maitara River in line with the north-east boundary of Section 2, Block VII, of the said town; thence in a north-easterly direction along the bank of the Maitara River to a point in line with the north-east boundary of Lot 57 on Plan No. 82; thence in a north-westerly direction through Lot 59 on Plan No. 135 and along the north-east boundary of Lot 57 aforesaid to the north angle of said Lot 57; thence in a south-westerly direction along the north-west boundary of said Lot 57 to the east angle of Lot 33 on Plan No. 82; thence in a north-westerly direction along the north-east boundary of said Lot 33 to the north angle of said Lot 33; thence in a south-westerly direction along the north-west boundary of said Lot 33 to a point in line with the north-east boundaries of Lots 30 and 31 on said Plan No. 82; thence in a general north-west direction along the easterly boundaries of Lots 31, 30, 29, 28, 27 on Plan No. 82, and Lots 26, 25, and 24 on Plan No. 83, and the north-easterly boundary of Lot 16, Plan No. 132, home to the commencing-point.