

Mr. Mason.

WAIKATO WATER - SUPPLY COMPANY LIMITED
EMPOWERING.

[PRIVATE BILL.]

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*Waikato Water-supply Company Limited
Empowering*

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A BILL INTITULED

Title.

AN ACT to empower an Intended Limited Liability Company, to be called the Waikato Water-supply Company Limited, to take, sell, and supply Water from the Waikato River.

WHEREAS Frederick Charles Buddle, of Auckland, ^{Preamble.}
Accountant, William Goodfellow, of Auckland, Company
Director, and Walter Nelson Gray, of Auckland, Broker
(hereinafter termed "the promoters"), propose to promote
5 and to incorporate under the provisions of the Companies
Act, 1908, a company limited by shares, to be called the
Waikato Water-supply Company Limited, and having
as its principal object the taking, selling, and supplying
of water from the Waikato River, and the doing of all
10 acts, matters, and things incidental to such object, or
conductive to the attainment thereof: And whereas it
is expedient that power should be given to enable the said
intended company to carry out, upon its incorporation,
the objects aforesaid:

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

1. (1) This Act may be cited as the Waikato Water- ^{Short Title.}
supply Company Limited Empowering Act, 1933.

20 (2) This Act is divided into Parts, as follows:—

PART I.—Preliminary. (Sections 2 to 8.)

PART II.—Construction of Waterworks. (Sections
9 to 47.)

25 PART III.—Management and Control of Waterworks.
(Sections 48 to 58.)

PART IV.—Contracts with Local Authorities. (Sec-
tions 59 to 63.)

PART V.—General Provisions. (Sections 64 to 72.)

PART I.

30 PRELIMINARY.

2. In this Act, unless the context otherwise requires,— ^{Interpretation.}

"Debenture" includes debentures, debenture-stock,
mortgage-debentures, and coupons; and any
mortgage or deed whereby the waterworks, or
35 the rights, powers, authorities, privileges, liabili-
ties, and obligations by this Act conferred or
imposed upon the company, may be charged
as security for any loan:

40 "Debenture-holder" includes the creditor under
any debenture or other deed as aforesaid:

- “Harbour” has the same meaning as in the Harbours Act, 1923 :
- “Lands” includes messuages, lands, interests in land, easements, tenements, hereditaments corporeal and incorporeal, and all rights annexed to the user, occupation, or ownership of lands : 5
- “Local authority” includes a Municipal Corporation, County Council, Road Board, Town Board, Water-supply Board, or Native Township Board constituted under any Acts for the time being in force relating to any such Corporation, Council, or Board : 10
- “Minister” means the Minister of Public Works :
- “Month” means calendar month :
- “Native” means an aboriginal Native of New Zealand, and includes half-castes and their descendants by Natives : 15
- “Person” includes a corporation, and also a body of persons, whether corporate or unincorporate :
- “Road” has the same meaning as is given to that word by section one hundred and ten of the Public Works Act, 1928 : 20
- “Street” includes any street, court, alley, lane, thoroughfare, public passage, or public place :
- “Surveyor” has the same meaning as in section two of the Public Works Act, 1928 : 25
- “The company” means the company intended to be incorporated under the name of the Waikato Water-supply Company Limited, its successors and assigns : 30
- “Tidal lands”, or “tidal waters”, has the same meaning as in the Harbours Act, 1923 :
- “Two Justices” means two or more Justices of the Peace sitting together, or a Stipendiary Magistrate : 35
- “Waterworks” includes all rights over streams, and over harbours, tidal lands, and tidal waters, and over streets and roads, and all lands, interests in land, easements, profits *à prendre*, corporeal and incorporeal rights, reservoirs, dams, tanks, aqueducts, conduits, mains, pipes, pipe-lines, buildings, erections, works, meters, 40

plant, machinery, fittings, chattels, and appliances of every kind, belonging to and used, acquired, or constructed by the company for the purpose of obtaining, conveying, selling, and supplying water.

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3. (1) Except as in this section provided, this Act shall become inoperative upon the expiration of the periods hereinafter stated—that is to say,—

Act to become inoperative in certain events.

10 (a) A period of six months calculated from the date of the commencement of this Act, unless the company is within that period incorporated and entitled to commence business; or

15 (b) A period of twelve months, calculated as aforesaid, unless the company shall within that period commence and carry on the construction of its waterworks; or

20 (c) A period of three years, calculated as aforesaid, unless the company shall within that period be ready and able to supply water from the waterworks to at least one of the local authorities with whom it may, prior to the expiration of such period, have contracted for the supply of water therefrom:

25 Provided that the Minister may from time to time extend all or any of the said periods, for such further period or periods as he may think fit, on application being made to him in writing by the company, or by the promoters, for such extension or extensions, if he is satisfied that such application is not rendered necessary

30 by reason of any undue delay or default on the part of the company or of the promoters.

(2) Upon this Act becoming inoperative in accordance with any of the provisions of the *last preceding* subsection, all the rights, powers, authorities, privileges, liabilities, and obligations conferred or imposed upon the company by this Act shall be cancelled as from the date upon which the same so becomes inoperative.

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The Board of Directors.

4. (1) Immediately after the company has entered into contracts with at least three local authorities for the sale and supply of water to them under the powers

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Appointment of director by local authorities.

conferred by this Act, it shall thereupon notify such several local authorities in writing that they are entitled to appoint a director of the company in accordance with the provisions hereinafter contained.

(2) Subject to the provisions of subsection *four* of this section, the mode of election, term of office, and conditions of appointment of such director (hereinafter termed "the appointed director") shall, as soon as may be practicable after the giving by the company of the aforesaid notice, be fixed and determined by agreement in writing made between the company and the said local authorities; and, in default of such agreement, shall be determined by the Minister.

(3) Every such agreement or determination made under the provisions of the *last preceding* subsection shall extend to, include, and bind all local authorities which subsequent to such agreement or determination may from time to time enter into contracts with the company for the sale and supply of water, and to every appointment of an appointed director:

Provided that such agreement or determination may at any time or times be altered or varied by subsequent agreement if the company and a majority in number of all local authorities which at the date of such subsequent agreement have entered into subsisting contracts with the company for the supply of water consent thereto; and such subsequent agreement or agreements shall thereafter be deemed to be substituted for such prior agreement or determination.

(4) The following special provisions shall apply to every appointed director:—

- (a) He shall not be subject to the provisions of the articles of association of the company as to qualification, remuneration, retirement, or removal:
- (b) He shall not, by reason of holding the position of a director of the company or of receiving any remuneration therefor, be disqualified from being, or continuing to be, a member of any of the local authorities so appointing him:
- (c) His remuneration, whilst he holds office, shall be at the rate of *one hundred* pounds per annum;

5 and, irrespective of such remuneration as aforesaid, he shall be entitled to receive, according to a scale to be fixed by resolution of the board, his travelling-expenses in respect of attending any meeting of the board, or when travelling on business connected with the company.

5. (1) From and after the date on which a director is first appointed under the provisions of the *last preceding* section the board of directors of the company shall consist of not more than seven and not less than three persons, of whom—

Constitution of board of directors.

- 15 (a) One shall be the appointed director :
(b) The remaining directors shall be elected by the holders of shares in the company in accordance with the provisions of, and in the manner provided by, its articles of association. Such remaining directors shall hold office subject to the articles of association of the company, and the number of such directors shall, subject to the foregoing provisions of this section, be determined from time to time by the holders of shares in the company.

20 6. With respect to the board as hereinbefore constituted under this Act, and the members thereof, the following provisions shall apply :—

Provisions as to directors.

- 25 (a) The directors shall, at their first meeting held after the appointment of the first appointed director, and in each subsequent year, at their first meeting held after the annual general meeting of the company, elect one of their number to be chairman, and another of their number to be deputy chairman, of the board. No appointed director shall be eligible to be appointed chairman or deputy chairman of the board.
- 30 (b) An ordinary meeting of the board shall be held at least once in each month on such day as may from time to time be fixed by the board.
- 35 (c) At all meetings of the board, whether ordinary or special, a quorum shall be an absolute majority of all the directors who for the time being shall be in office.
- 40 (d) If any director fails to attend three consecutive ordinary monthly meetings of the board, his

office shall thereupon become vacant, unless such non-attendance has been previously consented to by a resolution of the board.

(e) In all other respects the proceedings of the board shall be conducted as may be determined by the company's articles of association. 5

Chairman and deputy chairman.

7. The chairman and deputy chairman of directors shall hold their respective offices until the close of the first meeting of the board held after the annual general meeting of the company next following their election. 10
In the absence of the chairman from any meeting the deputy chairman shall preside as chairman of that meeting. In the event of the office of chairman of directors becoming vacant for any reason, the deputy chairman shall forthwith become chairman of directors, and shall hold that office until the expiration of the term for which the chairman was elected chairman of directors. 15
In the event of the office of deputy chairman of directors becoming vacant for any reason, the directors shall thereupon, as soon as is convenient, elect one of their number qualified to act to be deputy chairman of directors, to hold office until the expiration of the term for which his immediate predecessor in office was elected to hold office. Both the chairman and deputy chairman shall be eligible for re-election, and the offices shall be filled by election at the first meeting of the board held after the annual general meeting of the company. 20 25

Powers under Companies Act may be exercised.

8. Save as is otherwise expressly provided by this Act, the company may exercise all such powers as it may lawfully exercise under the Companies Act, 1908. 30

PART II.

CONSTRUCTION OF WATERWORKS.

Settlement of Route and Sites of, and taking Lands for, Waterworks.

Limitation of area within which powers may be exercised.

9. Nothing in this Act shall be deemed to authorize the company to exercise any of the rights, powers, authorities, or privileges by this Part of this Act conferred upon it at any place or places beyond the district defined in the *First* Schedule to this Act. 35

10. (1) Any surveyor, engineer, or other person appointed by the company may enter and re-enter from time to time during the daytime upon any land, with
5 such assistants as he thinks fit, and with or without horses, vehicles, and appliances, for the purpose of making a survey or inspection of any proposed site or sites for reservoirs, pumping-stations, or other like works, or for the purpose of inspecting or defining the route of any
10 proposed pipe-line, or for any other purpose in connection with any works proposed to be executed by the company.

Company may
make surveys.

(2) Such surveyor, engineer, or other person may affix or set up thereon trigonometrical stations, survey
15 pegs, marks, or poles, and may from time to time alter, remove, inspect, and repair the same, and may dig and bore into the land so as to ascertain the nature of the soil and set out the lines of any intended works thereon.

(3) When practicable, reasonable notice shall be
20 given to the owner or occupier of the land of the intention to enter thereon and the authority under which the person entering claims to enter, or has entered on such land, shall, if required by such owner or occupier, be produced and shown.

(4) In case any damage is done to or on such land
25 by any surveyor, engineer, or other person in the exercise of the powers hereby conferred upon him, the company shall be liable to make good the same; and the amount thereof shall, unless agreed upon, be ascertained in the
30 mode hereinafter provided for the assessment of compensation for land taken or injuriously affected by the waterworks.

(5) The power to enter upon land conferred by this section shall, *mutatis mutandis*, include the power to
35 enter upon any street, road, harbour, tidal lands, and tidal waters.

11. Every person who, without due authority, destroys, mutilates, defaces, takes away, or alters the position of any trigonometrical station, survey peg, mark,
40 or pole fixed or set up by any surveyor, engineer, or other person under the authority of the *last preceding* section shall for every such offence be liable to a fine not exceeding fifty pounds.

Penalty for
destroying
survey-marks.

Conditions on which company may exercise powers conferred by Part II of Act.

12. (1) It shall not be lawful for the company to exercise any of the powers conferred upon it by sections *thirteen to forty-seven*, both inclusive, of this Act, until—

(a) The company has satisfied the Minister that it has entered into a contract with a contractor or contractors financially strong enough to carry through and complete the same for the construction of water-works capable of supplying not less than the total requirements of those local authorities which, at the date upon which the company applies to the Minister for the issue of the certificate referred to in subsection *two* hereof, have entered into contracts with the company for the supply of water ; and

(b) The company has satisfied the Minister that the necessary finance has been provided for or obtained to pay the contract price payable to such contractor or contractors under the contract, and to pay or provide for all expenditure incidental to the construction of such waterworks, including therein all sums which may become payable by the company by way of compensation for, or the purchase price of, any lands or rights over lands, which may be required in connection with such construction.

(2) Upon being satisfied as to the matters provided for in paragraphs (a) and (b) of the *last preceding* subsection, the Minister shall, on the application of the company, cause to be issued to the company a certificate under his hand that his requirements have been complied with ; and the company may thereafter at any time, and from time to time, exercise, subject to the provisions of this Act, all or any of the powers conferred upon it by the said sections of this Act.

Company may take lands as if a local authority under Public Works Act.

13. For the purposes of this Act the company shall, except as to any harbours, tidal lands, or tidal waters to which the provisions of sections *thirty-four* and *thirty-five* of this Act apply, have all the powers and privileges, duties, and obligations vested in or imposed upon a local authority by Parts II, III, and IV of the Public Works Act, 1928, as if the company were a local authority,

and any works which by this Act the company is authorized to undertake were public works, within the meaning of that Act:

Provided that—

- 5 (a) The provisions of section twenty-two of the said Act shall not apply, and the provisions contained in sections *fourteen* to *nineteen* (both inclusive) of this Act shall be deemed to be substituted therefor; and any reference in
10 the Public Works Act, 1928, to the said section twenty-two shall be deemed to be, *mutatis mutandis*, a reference to the said sections *fourteen* to *nineteen* of this Act; and
- 15 (b) The requirements of the Public Works Act, 1928, contained in section twenty-three thereof, from the beginning of that section to the commencement of paragraph (a) of that section, shall be deemed to be satisfied by the making of an order in terms of section *nineteen* of this
20 Act.

25 **14.** (1) Subject to the provisions of this Act, whenever at any time or times the company requires to take any lands (other than Crown lands as defined in the Public Works Act, 1928) for the purposes of waterworks, or to exercise in respect of any streets or roads the powers hereinafter conferred upon it by this Act, then the company—

Procedure preliminary to execution of works.

- (a) Shall cause a survey to be made and a plan to be prepared, showing—
- 30 (i) The lands required to be taken for the same (if any), together with the names of the owners and occupiers of such lands so far as they can be ascertained; and
- 35 (ii) The streets and roads in respect of which it proposes to exercise all or any of the powers hereinafter conferred upon it by this Act, together with the names of the persons having control thereof; and
- 40 (b) Shall cause a copy of such plan (hereinafter termed the deposited plan) to be deposited in the office of the Magistrate's Court situate at Auckland, and in the offices of the several persons having the control of the streets and roads aforesaid; and

(c) Shall cause a notice to be published once in the *Gazette*, and once in each of two newspapers circulating in the district defined in the *First Schedule* to this Act, stating the places where the deposited plan is open for inspection, with a general description of the works proposed to be executed, and of the lands required to be taken, and of the streets and roads to be affected as aforesaid ; and 5

(d) Shall in such notice call upon all persons affected to set forth in writing any well-grounded objection to the execution of such works, or to the taking of such lands, or to the exercise of the powers hereinafter conferred by this Act in respect of such streets and roads, and to send such writing within forty days of the first publication of such notice to the company : 10 15

Provided that no objection as to the amount or payment of compensation in respect of the execution of such works, shall be deemed a well-grounded objection within the meaning of this section ; and 20

(e) Shall also cause a copy of such notice and description to be served upon the said owners and occupiers, and any other persons having an interest in the lands, so far as they can be ascertained, and on the persons having the control of the streets and roads so affected as aforesaid. 25

(2) The deposited plan shall be open to inspection by all persons at all reasonable hours ; and any person having custody thereof and refusing or obstructing such inspection shall for every such offence be liable to a fine not exceeding *five* pounds. 30

(3) The provisions of this section requiring the names of the owners and occupiers of the land to be shown on the plan thereof, and requiring copies of the notice and description referred to in this section to be served upon the said owners and occupiers, and upon all other persons having an interest in any land affected by the intended works, shall have no application to any Native who is an owner or occupier of such land or has an interest therein unless his title to the land is registered under 35 40

the Land Transfer Act, 1915. Entry on the Provisional Register shall not be deemed to be registration within the meaning of this subsection.

(4) When any Native is an owner or occupier of such
5 land, or has an interest therein, and his title is not so registered under the Land Transfer Act, 1915, a notice to the same effect as the notice gazetted in accordance with the foregoing provisions of this section shall at the
10 same time, or as soon thereafter as practicable, be published in Maori in the *Gazette*, but no proceedings under or in pursuance of this section shall be invalidated by any failure to conform to the requirements of this subsection.

15 **15.** Within fourteen days after the expiration of the said period of forty days, the company shall file in the office of the Magistrate's Court at Auckland—

Procedure on
expiration of
time limited
for objections.

(a) An application in writing, addressed to the Senior Stipendiary Magistrate exercising jurisdiction in such Court, for an order that the works proposed to be executed shall be executed in
20 accordance with the deposited plan lodged in that Court under the provisions of the *last preceding* section; and

(b) A true copy of the certificate issued by the Minister under the provisions of section *twelve* hereof; and
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(c) A list setting out the names and descriptions of all persons who have been served with notice in accordance with paragraph (e) of subsection *one* of the *last preceding* section, and who have not, within the said period of
30 forty days, objected to the works proposed to be executed; and

(d) A list setting out the names and descriptions of all persons who have been served with notice
35 in accordance with the said paragraph (e), and who have, within the said period of forty days, objected to the works proposed to be executed; and

(e) A true copy of every notice published, or served
40 on any person or persons, in accordance with the provisions of the *last preceding* section; and

(f) All written objections to the works proposed to be executed which have been received by the
45 company within the said period of forty days; and

(g) A statutory declaration, duly stamped with the proper stamp fee, made by the chairman of directors or by the secretary of the company, that the provisions of the *last preceding* section have been complied with by the company and verifying the several documents or instruments lodged in the said Court under the foregoing provisions of this section. 5

Magistrate to
appoint date
for hearing
application.

16. The said Magistrate shall thereupon fix a place, time, and date, not being earlier than fourteen days after the filing of the said application, for the hearing thereof, and shall summon the persons referred to in paragraph (d) of the *last preceding* section to appear before him at such place, time, and date for the purpose of hearing their objections. 10
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Magistrate may
appoint
substitute
Magistrate.

17. (1) The said Magistrate may at any time or times, if he is unable to act in the matter of the said application, or of the hearing or determination thereof, appoint, by writing under his hand, some other Stipendiary Magistrate to act in his place and stead; and the Stipendiary Magistrate so appointed shall have, and may exercise, all or any of the powers which the Senior Stipendiary Magistrate may exercise in and about the matter of the said application and of the hearing and determination thereof. 20
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(2) Neither the Senior Stipendiary Magistrate, nor any Stipendiary Magistrate so appointed by him, shall be disqualified from so acting as aforesaid by reason of the fact that he may be a ratepayer, or may have any interest in any lands, property, or rights affected by the works proposed to be executed. 30

Powers of
Magistrate.

18. The Magistrate, in the matter of the said application and of the hearing and determination thereof, shall have and may from time to time exercise all or any of the following powers:— 35

(a) He may divide the works proposed to be executed into such sections or parts as he may consider convenient, and may, in respect of any such section or part, at any time or times exercise all or any of the powers conferred upon him by this Part of this Act, including the making of an order in terms of section *nineteen* hereof, 40

notwithstanding that he may not at such time or times exercise the said powers or any of them in respect of any other section or part.

- 5 (b) He may adjourn any hearing to such date, time, and place, and upon such terms and conditions, as he may think fit.
- (c) He may issue, or cause to be issued, any summons, or subpoena, and may order the production of any document.
- 10 (d) He may receive and admit any evidence, although such evidence might not be receivable or admissible in other proceedings, and may require any party to adduce such further or additional evidence as he may deem necessary.
- 15 (e) If he is of opinion that any undue hardship would be caused to any objector by the works proposed to be executed being executed in accordance with the deposited plan, and that such hardship might be obviated, either wholly or in part, by adopting some modification thereof or variation therefrom, he may direct the company to prepare, and to lodge in Court, a plan incorporating such modifications or variations as may be indicated by him.
- 20 (f) If it shall appear to him that any person is, or may be, adversely affected by the works proposed to be executed, or by any proposed modification of or variation therefrom, and that such person has not been served by the company with notice as provided by paragraph (e) of subsection *one* of section *fourteen* of this Act, he may—
- 25 (i) Direct the company to serve upon such person a sufficient description of the works proposed to be executed and, if he thinks fit, of any proposed modification of or variation therefrom, together with such additional particulars (if any) as he may consider necessary; and
- 30 (ii) Summon such person to appear before him at a place, time, and date to be named in such summons for the purpose of hearing any objection that such person may be entitled
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to make to the execution of the proposed works, or of any proposed modifications of or variations therefrom.

(g) He may make such order as to costs as he thinks fit, and may determine the fees payable to the Court in respect of the application and of all matters incidental thereto. 5

(h) He may generally determine the mode and order of the hearing and all matters relating thereto which may not be sufficiently provided for in this Act. 10

After hearing,
Magistrate to
make order.

19. (1) The Magistrate shall consider all objections made within the times, and in the manner, hereinbefore provided, and shall also hear the company and the objectors who appear before him, and also any counsel for any such party, and the evidence adduced, and shall thereupon order either— 15

(a) That the works proposed to be executed shall be executed in accordance with the deposited plan; or 20

(b) That they shall be executed in accordance with that plan, subject to such modifications or variations as he may direct.

(2) In arriving at his determination the Magistrate shall have regard to all the evidence, and in particular to— 25

(a) Any additional cost, difficulty, or inconvenience that would be caused to the company in executing such works in accordance with any proposed modifications of or variations from the deposited plan; and 30

(b) Any hardship that would be caused to any objector in or about the execution of such works, either in accordance with the deposited plan, or in accordance with any such proposed modifications or variations. 35

(3) Every determination and order of the Magistrate when made shall be final and conclusive against all persons having any interest, property, or right in any lands, streets, or roads affected by such works, or by any such modifications of or variations therefrom, and shall be conclusive evidence that all the provisions of this Act precedent to such determination and order have been complied with. 40

(4) Nothing in this section or in sections *thirteen* to *eighteen* inclusive of this Act shall confer any jurisdiction on the Magistrate to assess or award compensation against the company ; and compensation shall be assessed and paid in accordance with the provisions in this Act hereinbefore contained.

20. Notwithstanding anything hereinbefore in this Act contained, it shall be lawful for the company, without complying with the provisions of sections *thirteen* to *nineteen* inclusive of this Act,—

Company may acquire lands, &c., by private treaty.

(a) To acquire from any person or persons by private treaty, and upon terms agreed between such person or persons and the company, any lands or interests in lands :

(b) To exercise in respect of any streets or roads, the powers hereinafter conferred upon it by this Act, upon obtaining the consent in writing of the person having the control of any such street or road.

20 *General Powers of the Company.*

21. (1) Subject to the provisions of this Act, the company may purchase, acquire, construct, and maintain waterworks, and may enter into contracts with any person for the purchase, acquisition, construction, or maintenance of waterworks for the sale and supply of water therefrom, and may keep the same in good repair ; and may from time to time do all things necessary or incidental thereunto ; and, in particular, for the purposes aforesaid the company may—

Company may acquire waterworks, &c.

(a) Take water from the Waikato River at a point within the limits defined in the *Second* Schedule hereto ; or, with the consent of the Minister, from any stream, lake, pool, spring, or other source :

Provided that nothing in this Act shall authorize the company to alter the level or flow of the Waikato River so as to appreciably diminish the existing facilities for the navigation thereof :

(b) Make, construct, use, and maintain such dams, weirs, intakes, abutments, or other works on or in the banks, bed, or flow of the Waikato

-
- River, or, with the consent in writing of the Minister, of any stream, lake, pool, spring, or other source as may be necessary for the taking of water therefrom :
- (c) Erect and construct waterworks and all other works authorized by this Act, on, over, or under any lands necessary for the construction thereof. 5
- (d) Break up or dig into and under the surface of any street or road : 10
- (e) Do all things necessary to secure the rights of, and utilize any water intended or required to be used for the purposes of this Act :
- (f) Lay, erect, or construct pipes or pipe-lines along, on, over, or under any street, road, tramway, private or other land, or public reserve, and alter the levels thereof : 15
- (g) Lay, erect, or construct mains, pipes, pipe-lines, and other works across any river, stream, harbour, tidal waters, or tidal lands : 20
- (h) Alter the course or level of any river not navigable, or of any stream, watercourse, ditch, or drain :
- (i) Make and maintain drains or conduits on or under any land adjacent to, and for the purpose of carrying water from off, the works and undertakings of the company : 25
- (j) Remove or alter any tramway, drain, or sewer, or any pipes or other material for the supply of water, gas, or electricity belonging to any body or person : 30
- (k) Provide all buildings, engines, stations, machinery, appliances, piers, wharves, roads, bridges, approaches, and other works :
- (l) Make, construct, use, alter, and maintain roads, bridges, tramways, or other means of access and transit : 35
- (m) Generally do all acts, matters, and things required for making, constructing, extending, altering, repairing, maintaining, or using the waterworks.
- (2) The powers granted by this Act for the construction of waterworks shall extend to any extension, alteration, or enlargement of such waterworks. 40

22. For the purposes specified in the *last preceding* section, and subject to the conditions hereinafter provided, the company and any person or persons authorized by it in writing, may temporarily occupy and use any lands
5 which could be taken by it under this Act, without taking the same, and may do the following things thereon :—
- (a) May take therefrom or deposit thereon stone, gravel, earth, or other materials.
- 10 (b) May store, manufacture, adapt, or use any articles or things.
- (c) May erect workshops, sheds, and other buildings or erections of a temporary nature thereon.
- (d) May form temporary roads or other means of access thereon.
- 15 (e) May by itself, its contractors, employees, agents, servants, and other persons authorized by it or by its contractors, from time to time in the daytime, enter thereon with or without horses and vehicles, laden or unladen.
- 20 (f) May cut down and remove any tree, or any part thereof, which causes or is likely to cause damage or obstruction to the waterworks.
23. (1) The company shall, before occupying or using any land under the provisions of the *last preceding* section,
25 give to the owner and occupier thereof not less than fourteen days' notice in writing, and shall state in such notice the use proposed to be made of such land :
- 30 Provided that no notice shall be necessary in cases where the entry is made for the purpose of examination or to execute repairs.
- (2) The said owner or occupier may within seven days after the company shall have given such notice, and after giving notice to the company of his intention so to do, apply to any Justice of the Peace, who may
35 thereupon summon the company to appear before a Stipendiary Magistrate at a time and place to be named in the summons.
- (3) If it appears to the Magistrate that the use proposed to be made of the said land is unreasonable
40 and unnecessary, or that other neighbouring lands are more fitting to be used for the purpose proposed, the Magistrate may, by writing under his hand, order that the land in question shall not be occupied or used in the manner proposed.

Right to temporarily occupy land.

Notice to be given to occupier of intention to occupy lands.

(4) If it appears to the Magistrate that the use proposed to be made of the said land is reasonable and necessary, he may, in like manner, order that the said land may be occupied and used in such manner and to such extent only, and subject to such limitations and restrictions as he thinks fit; and all persons affected shall be bound by any such order. 5

Company to pay compensation for lands taken or injuriously affected.

24. Every person suffering any damage from the exercise of any of the powers conferred by sections *twenty-one, twenty-two, twenty-three, or twenty-five* hereof shall be entitled to compensation for the same from the company, and the amount thereof shall, unless agreed upon, be ascertained in the mode hereinbefore provided for the assessment of compensation for land taken for or injuriously affected by the waterworks. 15

Special Provisions as to Streets and Roads.

When powers may be exercised.

25. The company may exercise all or any of the powers conferred upon it by this Act—

(a) In respect of any streets or roads specified in an order made by a Magistrate under the provisions of section *nineteen* of this Act, at any time or times after the making of such order; or 20

(b) In respect of any streets or roads with respect to which the person having the control thereof has consented in writing to the exercise of the said powers, at any time or times after the date of such consent in writing. 25

Power to open up streets, &c., under superintendence.

26. For the purpose of laying any mains, pipes, pipelines or other works in and about the construction of waterworks and of thereafter using, repairing, maintaining, inspecting, altering, or replacing the same the company, under such superintendence as is hereinafter specified, may open and break up the soil, pavement, and flooring of any street or road, and may also cut through, lift, alter, or disturb any tramway, sewer, drain, water-pipe, gas-pipe, or electric main on, within, or under any such street or road, and lay down and place under, through, and across any such street or road, any main, pipe, pipe-line or other works, and thereafter use, repair, maintain, inspect, alter, or replace the same. 30 35 40

27. Before the company proceeds to exercise any of the powers conferred by the *last preceding* section, it shall give to the persons under whose control or management the portion of the street or road so to be opened
5 and broken up, and the tramway, sewer, drain, water-pipe, gas-pipe, or electric main so to be cut through, lifted, altered, or disturbed, may be, notice in writing of the intention of the company to exercise such powers and sufficiently describing the nature of the work pro-
10 posed to be done. Except in case of emergency, every such notice shall be given not less than forty-eight hours before such work shall be begun.

Notice to be served on persons having control, &c., before opening streets, &c.

28. Except in cases of emergency, the company shall carry out such work under the superintendence of the
15 persons having such control or management as aforesaid, and not otherwise :

Streets, &c., not to be opened except under superintendence of persons having control.

Provided always that if the persons having such control or management as aforesaid, or their responsible officers, fail to attend at the time and place mentioned
20 in such notice, or shall refuse or neglect to superintend the operation of the work, the company may perform the work specified in such notice without the superintendence of such persons or their responsible officers.

29. Whenever the company exercises any of the
25 powers conferred by section *twenty-six* of this Act, it shall with all convenient speed and in a proper and workmanlike manner carry out the works undertaken by it, and shall—

Streets, &c., broken up to be reinstated without delay.

30 (a) Fill in the ground, and reinstate and make good the soil, pavement, or flooring of any street or road opened or broken up ; and

35 (b) Keep that portion of the street or road which has been opened or broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so opened or broken up shall continue to subside ; and

40 (c) Reinstate and make good any tramway, sewer, drain, water-pipe, gas-pipe, or electric main cut through, lifted, altered, or disturbed, so as to afford to the public and to every person entitled to use the same an equal use and

convenience as before, and generally carry out any such work of cutting through, lifting, altering, or disturbing so as to interfere as little as possible with the use of the same by the public and such persons ; and

(d) Remove and carry away all surplus soil, materials, rubbish, and debris occasioned by the operations of the company ; and

(e) Fence in and guard, and keep fenced in and guarded, at all hours of day and night, any excavation, obstruction to traffic, or other source of danger, and cause to be displayed during such hours sufficient flags, lamps, or other efficient warnings of the existence of any such excavation, obstruction, or other source of danger.

Penalty for non-compliance by company.

30. If the company exercises any of the powers aforesaid without (save in cases of emergency) giving such notice as aforesaid, or in a manner not in accordance with such notice, or shall make default in complying with any of the provisions of the *last preceding* section, after receipt of notice from the persons having such control or management as aforesaid calling on the company to comply with such provisions, then the company shall forfeit to such persons a sum not exceeding *five* pounds for each day or part of a day during which any such default or delay shall continue.

In case of delay other parties may carry out work and recover expenses.

31. If any such default or delay on the part of the company takes place after receipt of notice as aforesaid, the persons having such control or management as aforesaid may cause the work, matter, or thing delayed or omitted by the company to be executed, and may recover from the company the costs and expenses occasioned by the execution thereof in the same manner as damages are recoverable by action in any Court of competent jurisdiction.

Company to alter mains, &c., on notice.

32. The persons having the control or management of any street or road aforesaid may, if deemed necessary, raise, sink, or otherwise alter the situation of any main, pipe, or pipe-line laid by the company in any such street or road, and may from time to time, by notice in writing, require the company to cause forthwith, or as soon as conveniently may be, any such

main, pipe, or pipe-line to be raised, sunk, or otherwise altered in position in such manner as such persons as aforesaid may direct :

5 Provided that such raising, sinking, or alteration in position be not such as to permanently injure such main, pipe, or pipe-line, or to prevent the water from flowing as freely and conveniently as before ; and the expenses attending such raising, sinking, or altering in position, and full compensation for every damage done
10 thereby, shall be paid by such persons as aforesaid as well to the company as to all other persons suffering such damage.

33. If the company does not proceed forthwith, or as soon as conveniently may be, after receipt of such
15 notice to comply with the same, the persons giving such notice may themselves cause such mains, pipes, or pipe-lines to be so raised, sunk, or altered in position :

Provision if company fails to comply.

Provided that the same be not permanently injured thereby, or the water prevented from flowing as freely
20 and conveniently as before.

Special Provisions as to Harbours.

34. (1) Upon complying with the provisions of the Harbours Act, 1923, and obtaining the approval of the Governor-General in Council in accordance with the
25 said Act, the company may from time to time, make construct, and place, and thereafter use, maintain, and repair—

Company may construct works on Waikato River and harbours.

(a) On or in the banks, bed, or flow of the Waikato River, such dams, weirs, intakes, abutments,
30 or other works as may be required for the purposes of its waterworks and for taking water from the said river :

(b) In, on, over, through, or across, any tidal lands, or tidal waters, or in or upon the bottom or
35 bed of any harbour (other than the Auckland Harbour and the Manukan Harbour) such pipes, pipe-lines, and other works as may be necessary for the purpose of conveying water across any such tidal lands, tidal waters, or
40 bottom or bed of any such harbour.

(2) The Minister of Marine, on behalf of His Majesty the King, may, for the aforesaid purposes, grant to the

company such perpetual or other easements or licenses, and on such terms and conditions as he may consider necessary, to enable the company to carry out the provisions of, and enjoy the privileges and benefits conferred upon it by, this Act. 5

Special provisions as to Auckland and Manukau Harbours.

35. The company may, subject to the provisions hereinafter contained, from time to time make, construct, and place, and thereafter use, maintain, and repair, such pipes, pipe-lines, and other works in or upon the bottom or bed of the Auckland Harbour and the Manukau Harbour, and in, on, over, through, or across any tidal lands, or tidal waters, from time to time vested in or under the control of the Auckland Harbour Board (hereinafter in this Part of this Act called "the said Board"), as may be necessary for the purpose of conveying water across the said harbours, tidal lands, or tidal waters. 10 15

Plans, &c., to be submitted to Harbour Board.

36. (1) Before commencing any of the works referred to in the *last preceding* section, the company shall submit plans and specifications and conditions of contract of the said works for the approval of the said Board. 20

(2) If the said Board requires any modification of or variation from the said plans, specifications, or conditions of contract, it shall forthwith notify the company of the same, and the company may thereupon alter the said plans, specifications, or conditions of contract in accordance with such requirements and submit the same to the said Board. 25

(3) Upon the said Board being satisfied with the plans, specifications, and conditions of contract as first submitted, or upon the receipt by the said Board of plans, specifications, and conditions of contract altered in accordance with the provisions of subsection *two* hereof, the said Board shall forthwith notify the company in writing of its approval thereof. 30

(4) If the said Board requires any modifications of or variations from the said plans, specifications, or conditions of contract, and the company is unwilling to accept the same, then the matter shall be referred to arbitration in accordance with the provisions of section *forty-seven* of this Act. 35 40

(5) The arbitrators shall, upon such arbitration, either—

(a) Award that the plans, specifications, and conditions of contract submitted by the company

to the said Board be approved, in which case they shall endorse thereon and execute a certificate of their approval; or

- 5 (b) Award that the plans, specifications, and conditions of contract so submitted by the company be amended as required by the said Board or as the arbitrators may direct; in which case the company shall forthwith again submit to the arbitrators the said plans, specifications,
10 and conditions of contract, but amended in accordance with such award, and the arbitrators shall thereupon endorse thereon and execute a certificate of their approval.

- 15 **37.** The company shall thereupon comply with the requirements of the Harbours Act, 1923, for the purpose of obtaining the approval of the Governor-General in Council of the plans, specifications, and conditions of contract approved by the said Board under subsection *three*, or certified to by the arbitrators under the provisions
20 of subsection *five*, of the *last preceding* section.

Company to submit plans for approval of Governor-General in Council.

- 38.** The said plans, specifications, and conditions of contract thus approved, together with any modifications or variations thereof duly approved from time to time in the manner hereinafter set forth, are hereinafter
25 referred to as the approved plans.

"Approved plans" defined.

- 39.** If the company at any time, or from time to time, desires or is required by the Minister of Marine to add to, vary, delete, substitute, or otherwise make any alteration in the approved plans, or in the pipe-line or
30 other works after the completion thereof, the company shall cause plans, specifications, and conditions of contract of the proposed additions, variations, deletions, substitutions, or alterations to be prepared, and approval obtained in the manner set forth in sections *thirty-six*
35 and *thirty-seven* hereof.

Minister of Marine may require amendment of approved plans.

- 40.** For any purpose whatsoever a copy of the approved plans deposited in the office of the Minister of Marine shall be conclusive and exclusive evidence of their accuracy and contents and of the approval of the said Minister and
40 of the Governor-General in Council in accordance with the Harbours Act, 1923.

Approved plans conclusive evidence.

Easements and licenses to be granted to company.

41. (1) For the purposes specified in section *thirty-five* hereof the Minister of Marine, on behalf of His Majesty the King, may, and the said Board shall, when requested so to do by the company, grant perpetual or other easements over, or licenses of, the strip of land defined in the approved plans, and vested either in the said Board, or the Minister of Marine, or the Crown; such strip of land to have a width of the pipes or pipe-line or other works specified in the approved plans, together with two further strips of ten feet each—one strip on each side of the said pipes, pipe-line, or other works. The actual boundaries of the said parcel of land shall be settled between the company, the Minister of Marine, and the said Board, and shall be defined accurately by survey, which shall be made by the company and at its expense.

(2) Such easements or licenses shall be granted at such fair annual rental, payable by the company, as may be agreed upon, or, in default of agreement, as may be determined by the Minister of Marine and on such terms and conditions as will enable the company to carry out the provisions of, and to enjoy the privileges and benefits conferred upon it by, this Act.

Company may maintain and repair pipe-line and works.

42. At all times after the construction of the said pipe-line and works in accordance with the approved plans, the company and all persons thereunto authorized by it may enter into and upon the harbour, where such pipe-line and other works are situate, for the purpose of maintaining, repairing, or reinstating the same:

Provided, however, that, except in cases of emergency, the company shall give to the said Board not less than forty-eight hours' previous notice in writing of its intention so to enter and the purposes of such intended entry.

Company to comply with Harbour Board requirements.

43. The company and its servants or contractors shall comply with all reasonable requests, stipulations, and requirements of the said Board for the purpose of ensuring that there will be no needless interference on the company's part with shipping and navigation, and for the ensuring also of the preservation of the harbour-bed, embankments, breakwaters, tidal flow and ebb, and for the safe-guarding of the Auckland Harbour and the Manukau Harbour, and the wharves and works therein situated, on the part of the company.

44. If the company does or permits to be done any act, or fails to prevent any act being done, which the said Board considers to be a breach of the provisions of sections *thirty-six* or *forty-three* hereof, it may forward
5 particulars of the matter complained of to the Minister of Marine, who may deal with such complaints in the manner set forth in the Harbours Act, 1923.

Harbour Board to forward complaints to Minister of Marine.

45. Should the said Board be of opinion that any of the breaches mentioned in the *last preceding* section
10 is of such a serious nature that the delay that would be caused by its compliance with the provisions of the *last preceding* section may result in serious damage or loss of life, limb, or property, or interference with navigation, the said Board may forthwith take such
15 reasonable steps as it deems necessary to prevent such damage or loss being sustained.

Harbour Board may act in case of emergency.

46. Nothing in this Act shall be deemed to interfere with or affect the control and jurisdiction of the Crown or of the said Board over the said harbours, except
20 as such control and jurisdiction may be necessarily restricted by reason of the construction or existence of the said works; nor shall it be lawful for the company or any other person to prevent, hinder, or in any way interfere with such control and jurisdiction, or the passage
25 or repassage of any boat, ship, vessel, craft, or floating thing over the said works.

Savings as to control of Auckland Harbour Board.

47. Any dispute that may arise between the company and the said Board, touching or concerning any alleged breach of or variation from the approved plans, or any
30 approval or disapproval of any of the plans, specifications, or conditions of contract, or the plans, specifications, and amended conditions of contract of any proposed additions, variations, deletions, substitutions, or alterations, or any other engineering question whatsoever,
35 shall be referred to the determination of two experienced civil engineers, one to be appointed by the company, and the other by the said Board, or of an umpire to be appointed by such engineers before proceeding in the reference, and in accordance with the provisions of the
40 Arbitration Act, 1908; and this Act shall be deemed to be a submission within that Act if and when any such dispute arises.

Disputes to be referred to arbitration.

PART III.

MANAGEMENT AND CONTROL OF THE WATERWORKS.

General.

Company to
have control
of waterworks
and sell water.

48. Subject to the provisions of this Act, the company shall have the full control and management of the waterworks, and may sell and supply water therefrom to such persons as are desirous of taking water from the company : 5

Provided that the company shall not sell and supply water to any premises situated within the boundaries of the City of Auckland, as constituted at the date of the commencement of this Act, without the previous consent in writing of the Auckland City Council. 10

Company to
maintain
waterworks.

49. From the date the company is ready and able to supply water from the waterworks the company shall keep all parts of the waterworks which should be maintained in good order, condition, and repair in such good order, condition, and repair. 15

Minister may
inspect
waterworks.
Minister may
require work to
be done.

50. For the purpose of ascertaining whether the company is complying with its obligations under the *last preceding* section the Minister may from time to time appoint an officer of his Department to inspect the waterworks, and may require the company to do such work or attend to such matters within such period as he determines. 20

Penalty for
non-compliance.

51. For every day or part of a day the company fails to remedy the said matters complained of, after the expiration of the said period, the Minister may, in his discretion, impose upon the company a penalty not to exceed the sum of *five* pounds a day. 25

Company may
enter premises
and inspect
meters.

52. Any person employed or duly appointed for the purpose by the company may at all reasonable times enter upon any lands or premises in order to inspect any meter fittings and works for regulating the supply of water and for the purpose of ascertaining the quantity of water consumed or supplied. 30

Power to take
away pipes, &c.

53. Whenever the company is entitled to cut off the supply of water to any consumer, the company, its agents, or workmen, after giving forty-eight hours' previous notice in writing to the occupier, may enter into any house, building, or premises between the hours of nine 35
40

in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the company.

By-laws.

- 5 **54.** Subject to the provisions of this Act, the company may from time to time make by-laws in respect of its waterworks for the following purposes, that is to say:— Company may
make by-laws.
- 10 (a) Regulating the use, management, and control of its waterworks, and the supply of water therefrom.
- (b) Protecting its waterworks from trespass, damage, or injury.
- (c) Preventing the improper or unauthorized use or waste by any person of any water.
- 15 (d) Maintaining the purity of the supply of water.
- (e) The more effectually carrying out any of the objects of this Act.
- 55.** (1) By-laws shall be made only in the manner Procedure. and subject to the conditions following:—
- 20 (a) All proposed by-laws shall be adopted by the directors of the company, at a meeting of the directors called for that purpose.
- (b) The proposed by-laws as adopted shall be forthwith submitted for the approval of the Governor-General in Council.
- 25 (c) Upon the company obtaining the approval of the Governor-General in Council to the proposed by-laws, whether as originally submitted or as amended, the directors shall, at their
- 30 next meeting, declare that such by-laws have been made in accordance with this Act, and shall affix the common seal of the company to such by-laws.
- 35 (d) Such by-laws thus approved and sealed shall thereupon come into force on a day to be fixed by the directors at such last-named meeting, but not being earlier than seven clear days after the date of such meeting, and three clear days after public notification thereof
- 40 has been published by the company once at least in each of two newspapers circulating in the district defined in the *First* Schedule to this Act.

(2) Any by-law may in like manner be amended or revoked.

How by-laws
to be notified.

56. In giving public notice of such by-laws as provided by the *last preceding* section it shall not be necessary to set forth the whole of the by-laws, if the object or purport of the same is stated in such notice and if a true copy of such by-laws is before the date of such notice deposited at the office of every local authority to which the company is then bound to supply water, and it is stated in such notice that the copies aforesaid have been so deposited.

Proof of
by-laws, &c.

57. (1) A copy of any such by-laws, sealed with the common seal of the company, shall, until the contrary is shown, be sufficient evidence of such by-laws having been duly made and that the same duly came into force on the day mentioned in that behalf in such copy of the by-laws.

(2) The company shall cause printed copies of all such by-laws to be kept at the registered office of the company and to be sold at a reasonable charge to any person applying for the same in business hours.

Savings.

58. Nothing contained in this Act shall be deemed to restrict or prohibit the directors of the company from making any by-laws, rules, or regulations for the control of their meetings, or the management of the business of the company, in accordance with the provisions of the company's articles of association.

PART IV.

CONTRACTS WITH LOCAL AUTHORITIES.

Interpretation
of certain terms
used in Part IV.

59. In this Part of this Act, unless the context otherwise requires,

“Accumulated sinking fund” means the amount which from time to time has accumulated in the sinking fund to be established in accordance with the provisions of section *sixty-two* of this Act, together with any amount or amounts theretofore paid out of such sinking fund in reduction or redemption of debentures of the company:

“Board” means a Water Board established in pursuance of the provisions of section *sixty-one* of this Act:

“ Capital cost ” means and includes—

5 (a) All moneys from time to time expended in or about the acquisition or construction of the waterworks, and the rights appertaining or incidental thereto ; and

10 (b) All engineering and survey expenses, legal costs, and other charges from time to time paid or incurred by the company in or about the acquisition or construction of the waterworks or any matters preliminary and incidental thereto ; and also

15 (c) All costs, commission, brokerage, and expenses of and incidental to the promotion, incorporation, and establishment of the company, and procuring any moneys borrowed by the company on the security of debentures, and issuing such debentures ; and also

20 (d) All costs and expenses incurred by the company in and about the promotion and enactment of this Act ; and also

25 (e) All moneys paid or payable by the company in respect of the period commencing from the date of its incorporation and ending on the date of supply for—

(i) All working, overhead, and other expenses of the company, including interest on borrowed money, rates, land-tax, income-tax, and directors' fees ; and

30 (ii) Payments to the sinking fund hereinbefore referred to—

in so far as, and to the extent that, the income of the company from all sources for such period is insufficient to meet the moneys so paid or payable ; and also

35 (f) All moneys from time to time expended by the company upon the replacement of any part or parts of the waterworks, where such replacement is rendered necessary not by fair wear-and-tear, but by season of fire, earthquake, tempest, accident, or civil commotion ; but less any moneys recovered by the company in respect of such replacements under any policies of insurance or otherwise howsoever ;
40 and also

(g) Any bonus or premium interest paid or payable by the company in respect of any debenture or debentures issued by it, if and so far as such bonus or premium interest is payable by the company as a condition of repayment of such debenture or debentures on the date of the acquisition by the Board of the waterworks instead of on the date of maturity of such debenture or debentures : 5

“ Date of supply ” means the thirty-first day of March next after the expiration of two years from the first Proclamation made under this Act taking land for the purposes of the waterworks :

“ Extinction date ” means the thirty-first day of March next after the date on which the accumulated sinking fund is equal to the capital cost as at such thirty-first day of March, plus any deficiency of dividends payable to the company under the provisions of subsection *three* of section *sixty-one* of this Act : 15

“ Financial year ” means the period intervening between any annual-balance date of the company and the next such date :

“ Purchasing local authorities ” means and includes all local authorities which, at the date of the resolution referred to in subsection *one* of section *sixty-one* of this Act are entitled to the supply of water by the company under contracts made with the company. 25

Company may contract with local authorities.

60. (1) Notwithstanding any provision to the contrary in any Act relating to any local authority, it shall be lawful for any local authority now constituted or hereafter to be constituted, and in addition to the powers conferred upon it by any other Act, from time to time to contract with the company for the sale and supply of water by the company to such local authority in accordance with the provisions hereinafter contained ; and it shall not be necessary for such local authority to obtain the consent of the ratepayers or inhabitants of its district to such contract, whether by poll or otherwise. 30 35 40

(2) The following provisions shall apply to every contract so made :—

- (a) The term may be for any period or periods, ending not later than the extinction date.
- 5 (b) The price to be charged to any such local authority shall not, except with the previous consent in writing of the Minister, exceed one shilling for each one thousand gallons of water supplied by the company to such local
- 10 authority.
- (c) It may contain such other terms and conditions as may be agreed upon between such local authority and the company.
- (d) It shall be in writing under the seal of the local
- 15 authority and of the company.

61. (1) If during the currency of any agreement or agreements made under the authority of the *last preceding* section a two-thirds majority in number of the purchasing local authorities shall pass a resolution in favour

20 of incorporating a Water Board for the purposes hereinafter mentioned, and if such of the following local authorities as may be desirous of acting in that behalf—namely, the purchasing local authorities, the Auckland City Council, and the other local authorities within the

25 district defined in the *First* Schedule to this Act—shall thereupon procure the incorporation of a Water Board under the requisite statutory authority for the purpose of acquiring the waterworks, then, and in such case, the Board shall have the right, on the thirty-first day of

30 March, ten years after the date of supply, and on the thirty-first day of March in every fifth year thereafter, and also upon, but in no case later than, the extinction date, to acquire the waterworks in their then existing state and condition in accordance with the provisions

35 hereinafter contained.

(2) The Board shall give to the company not less than nine months' notice in writing of its intention to exercise the said right of purchase, such notice to expire on some one of the dates upon which it is entitled to acquire the

40 waterworks.

(3) The price to be paid to the company shall be such sum as, together with the accumulated sinking fund

Waterworks may be purchased by Water Board incorporated by local authorities.

at the date the Board acquires the waterworks, shall be sufficient to repay to the company the capital cost :

Provided that if out of the profits derived by the company from the sale and supply of water for any one or more of the ten financial years commencing next after the date of supply, the company shall not have declared a dividend to its shareholders of a sum equal to the maximum dividend as provided in section *sixty-three* hereof, then the deficiency of dividend for such financial year or years (save in so far as it may have been made good out of such profits of subsequent financial years) shall be deducted from the amount of the accumulated sinking fund in so far as such sinking fund will extend, and shall be paid to the company as an addition to the said price.

(4) The purchase price shall be paid, and all rates, taxes, rents, insurance premiums, and other outgoings shall be apportioned between the company and the Board, on the date upon which the notice to be given by the Board under subsection *two* of this section expires, or on such other date as may be agreed upon between the parties ; and upon such payment the waterworks shall vest in the Board freed from any debts, debentures, or similar obligations of the company ; and all the rights, powers, authorities, privileges, liabilities, and obligations conferred or imposed upon the company by this Act shall absolutely cease and determine ; and the Board shall take over from the company all unexpired contracts of the company for the sale or supply of water, or in respect of the operation or the maintenance of the waterworks, and shall indemnify the company against all further liability thereunder.

(5) If any doubt, difference, or dispute shall arise between the company and the Board as to the capital cost, or as to whether any property, right, or thing is included in the waterworks, or as to any other matter arising out of the provisions of this section, then such doubt, difference, or dispute shall be referred to the determination of two arbitrators, one to be appointed by the company and one by the Board, or of an umpire to be appointed by such two arbitrators before proceeding in the reference, and in accordance with the Arbitration Act, 1908 ; and this Act shall be deemed to

be a submission within that Act if and when such doubt, difference, or dispute arises.

62. (1) The company shall establish a sinking fund for the purpose of repaying any debenture or debentures from time to time given by it, and repayable by instalments or at any fixed date or dates, and thereafter of extinguishing the capital cost; and shall in each year, before making any distribution of profits to its shareholders, pay to the Commissioners of the said sinking fund such sum as may be fixed by such debenture or debentures, but in no case less than one per centum per annum of the capital cost as at the end of its preceding financial year.

Company to establish sinking fund.

(2) The first of such payments shall be made not later than a date six months after the date of supply, and the company shall continue to make such payments to the said sinking fund until all debentures issued by it have been repaid, or until the extinction date, whichever of such events shall last occur.

(3) The Commissioners of the said sinking fund, and the terms and conditions thereof, shall be as determined by the debenture-holders, and in default of such determination, by the board of directors of the company.

63. (1) Save as is in this section provided, it shall not be lawful for the company to declare a dividend to its shareholders out of the profits derived by it from the sale or supply of water for any financial year commencing after the date of supply, in excess of a sum which, together with the interest paid or payable for such financial year on any moneys borrowed by it, and expended on items which may be included in the capital cost, equals seven per centum per annum on the capital cost as at the end of such financial year.

Limitation of profits.

(2) If in any such financial year the said profits which would otherwise be available for dividend exceed such sum aforesaid, then the surplus shall be applied, first, in making up any deficiency or deficiencies of dividend for any such previous year or years, and any surplus then remaining shall from time to time be applied in reducing the price charged to the purchasers of water in such manner as the board of directors of the company may consider just and equitable.

PART V.

GENERAL.

Borrowing-powers.

Company may
borrow on
security of
waterworks.

64. (1) The company shall have and may exercise the borrowing-powers conferred by clauses one hundred and one to one hundred and four (both inclusive) of Table A of the Companies Act, 1908, and for such purposes and in furtherance thereof, in any debenture or other charge given by it, may validly and effectually— 5

(a) Charge the waterworks, both present and future, or any part thereof, and the rights, powers, authorities, privileges, liabilities, and obligations conferred or imposed on it, its officers, agents, or servants, by this Act : 10

(b) Confer a power to appoint a receiver or receivers of the waterworks by any debenture-holder, and upon any such appointment the vesting in and imposition on such receiver or receivers, his or their officers, agents, or servants, and as the agent or agents of the company, of the said rights, powers, authorities, privileges, liabilities, and obligations : 15 20

(c) Confer a power of sale of the waterworks, or any portion thereof, and, upon the exercise thereof, the vesting in and imposition on any purchaser, of the waterworks and of the said rights, powers, authorities, privileges, liabilities, and obligations to the exclusion of the company. 25

(2) The debenture-holders shall appoint some person, resident in New Zealand, on whom any notices required by this Act to be given to them may be served ; and shall from time to time notify the Minister, in writing, of the name and address of such appointee and of any substituted appointee. Service on such appointee or substituted appointee at the address last furnished to the Minister shall be deemed to be sufficient service on the debenture-holders. 30 35

Powers
exercisable on
company's
default.

65. (1) If at any time the company makes default in providing a satisfactory and sufficient supply of water in accordance with the provisions of its contracts with those local authorities which, at such time, are purchasers 40

of water from the company, then any three or more of the said local authorities may apply to the Minister for permission to exercise the right of purchase conferred by section *sixty-one* of this Act, and for the appointment
5 of a committee of management of the waterworks pending the exercise of such right of purchase.

(2) The Minister may thereupon direct—

(a) That the said right of purchase may be exercised and the waterworks acquired, at such date
10 (not being more than twelve months from the date of such direction), and on giving such notice, as he shall determine, and notwithstanding that the date so fixed by him may not be a date upon which a Water Board would be entitled
15 to acquire the waterworks under the provisions of section *sixty-one* hereof :

(b) That until the date so determined by the Minister all rights, powers, authorities, privileges, liabilities, and obligations conferred or imposed
20 upon the company by this Act, with such modifications (if any) as he may consider necessary, shall, to the exclusion of the company, be conferred or imposed upon a committee of management ; such committee to be deemed
25 to be the agent of the company and to be appointed by the Minister :

Provided that, except in cases of emergency, the powers by this section conferred upon the Minister shall not be exercised until he has afforded to the company
30 and to the debenture-holders a reasonable opportunity of making good such default :

And provided further that if the waterworks are not acquired by a Water Board by the date fixed in pursuance of paragraph (a) of this subsection, then the right of
35 purchase conferred by this section and by section *sixty-one* of this Act shall absolutely cease and determine.

(3) For the purposes of this section the words “ the company ” shall extend to and include any person or persons in or upon whom are vested and imposed under
40 the provisions of the *last preceding* section the rights, powers, authorities, privileges, liabilities, and obligations by this Act conferred or imposed upon the company.

(3) The Clerk or other proper officer of the Court in which any such fines are inflicted shall once in every three months furnish the company with a written statement, signed by him, of all such fines, distinguishing therein those that have from those that have not been paid to the company.

(4) When any fines which ought to be paid to the company are by law required or permitted to be paid in stamps, and have been so paid, the Clerk, or other proper officer aforesaid, shall certify to the Minister of Finance the amount of the same; that they have been so paid, and that the company is entitled to receive the same; and thereupon the said Minister without further appropriation by Parliament than this Act, shall pay the amount of such fines out of the Consolidated Fund to the company.

(5) This section shall be read subject to the provisions of subsection two of section thirteen of the [Finance Act, 1927 (No. 2).

20

Notices.

71. (1) Where not otherwise required by this Act, any notice, order, or document required or authorized to be served upon any body or person under this Act may be served by the same being addressed to such body or person, and being left at or transmitted through the post to the following addresses respectively:—

Service of notices.

- (a) In the case of any Minister of the Crown, the office of such Minister:
- (b) In the case of any local authority, the office of such authority:
- (c) In the case of the company, or any other company having a registered office, the registered office of the company or such other company:
- (d) In the case of a company having an office or offices but no registered office, the principal office of that company:
- (e) In the case of any other person, the usual or last known place of abode or business of such person.

(2) Where any notice is served by post it shall be deemed to have been served at the time when the letter containing the notice would be delivered in the ordinary

course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put in the post.

(3) A notice, order, or document by this Act required or authorized to be served on the owner or occupier of any lands or premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the lands or premises (naming the lands or premises) without further name or description. 5

(4) A notice, order, or document by this Act required or authorized to be served on the owner or occupier of lands or premises may be served by delivering the same, or a true copy thereof, to some person on such lands or premises; or, if there is no person thereon to whom the same can, with reasonable diligence, be delivered, by fixing the notice on some conspicuous part thereof. 10 15

(5) Subject to the provisions of this Act as to cases of emergency, where the interval of time between the service of any notice or document under the provisions of this Act and the execution of any works or the performance of any duty or act is less than seven days, the following days shall not be reckoned in the computation of such time—that is to say, Sunday, Christmas Day, Good Friday, Anzac Day, and bank holidays under and within the meaning of the Banking Act, 1908, and any day appointed for public fast, humiliation, or thanksgiving. 20 25

Act to be Private Act.

72. This Act is hereby declared to be a private Act.

Act to be a private Act.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ALL that district, being the area of the Provincial District of Auckland, in the Dominion of New Zealand, comprised in—

- (a) The City of Auckland; and
- (b) The Boroughs of Devonport, Takapuna, Northcote, Birkenhead, Newmarket, Mount Albert, Mount Eden, One Tree Hill, Onehunga, Otahuhu, and Pukekohe; and
- (c) The Town Districts of Glen Eden, Henderson, New Lynn, Howick, Ellerslie, Papatoetoe, Manurewa, Papakura, Waiuku, and Tuakau; and

(d) The Counties of Franklin, Manukau, and Waitemata ; and
(e) The Road Districts of Mount Wellington and Mount Roskill ;
as such city, boroughs, town districts, counties, and road districts are
constituted as at the date of the commencement of this Act :

Together with—

(f) All harbours, tidal lands, and tidal waters contiguous or adjacent
to any part of the area comprised in the city, boroughs,
town districts, counties, and road districts above referred to :

Provided that the Governor-General may at any time and from
time to time, by Proclamation published in the *Gazette*, with the con-
sent of the company and of the local authority of the area concerned,
alter the boundaries of the said district by including therein any local
district not now included therein or by excluding therefrom any local
district now included therein.

SECOND SCHEDULE.

SUCH point on the northern bank of the Waikato River as may be
determined by the company after making all necessary preliminary
surveys and explorations, but lying within a distance of six miles
upstream, or six miles downstream, measured from the existing con-
crete bridge spanning the Waikato River at or in the vicinity of the
Town of Tuakau, and commonly known as the Tuakau Bridge.