

New Zealand.



ANALYSIS.

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1904, No. 4.—*Local.*

AN ACT to enable the Corporation of the City of Auckland to take, divert, and impound the Whole of the Water flowing into and in the Head-waters of the Streams called the Nihotupu, Huia, and Waitakerei, and all or any of the Tributaries of such Head-waters, for the Purpose of increasing the Supply of Water for the Inhabitants of the said City and for other Purposes in connection with the said Objects.

[31st October, 1904.]

WHEREAS it is expedient to enable the Corporation of the City of Auckland to take, divert, and impound the whole of the waters flowing into and in the head-waters of the said streams called the Nihotupu, Huia, and Waitakerei, and all or any of the tributaries of such head-waters (giving due compensation to the persons whose interests are injuriously affected as hereinafter mentioned of the properties mentioned in the Second Schedule hereto), for the purpose of increasing the supply of water for the use of the inhabitants of the said city; and for the last-mentioned purpose to empower the said Corporation to extend and lay mains and pipes from the present waterworks of the said Corporation to connect with such head-waters of the said streams: And whereas it is expedient that the said Corporation should be empowered to acquire the freehold and possession of the lands mentioned in the First Schedule hereto for the purpose of using the same as a catchwater or gathering-ground (giving to the respective owners thereof due compensation, to be ascertained in manner hereinafter mentioned):

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 Auckland Waterworks Extension Act, 1904.”

Interpretation.

2. The following words and expressions shall have the several meanings hereby assigned to them respectively, unless there shall be something in the subject or context repugnant to such construction, that is to say :—

The words “land” or “lands” include messuages, lands, tenements, and hereditaments of any tenure, and any estate or interest therein :

The expression “the said city” means the City of Auckland :
The expressions “the Corporation” or “the said Corporation” mean the Corporation of the City of Auckland :

The word “head-waters,” so far as the said Huia Stream is concerned, means all the waters thereof above the point where the northern boundary-line of Allotment 8A of the Parish of Karangahape, in the Provincial District of Auckland, abuts on the said stream ; and, so far as the said Nihotupu Stream is concerned, means all the waters thereof above the point where the north-western boundary-line of Lot 7 of the Parish of Waikomiti, in the said provincial district, abuts on the said stream ; and, so far as the said Waitakerei Stream is concerned, means all the waters thereof above the point where the southern boundary-line of the northern middle portion of Allotment 50 of the Parish of Waitakerei, in the said provincial district, abuts on the said stream :

The expressions “the Council” or “the said Council” mean the Council of the City of Auckland :

The words “the Mayor” mean the Mayor for the time being of the City of Auckland :

The words “the Town Clerk” mean the Town Clerk for the time being of the City of Auckland :

The expression “the waterworks” means the waterworks belonging to the Corporation of the City of Auckland, and all reservoirs, cisterns, tanks, aqueducts, drains, cuts, races, sluices, mains, pipes, plant, weirs, engines, and other works and appliances whatsoever connected therewith :

The word “stream” includes springs, brooks, and all other running waters :

The terms “plan” or “said plan” mean the plan deposited in the Local Bills Office at the same time as and with a view to the passing of this Act, showing the course or part of the course of the said streams called or known as Nihotupu, Huia, and Waitakerei, and certain tributaries thereof, and respectively delineating and specifying the lands adjacent thereto which the said Corporation is empowered by this Act to take and acquire for the purpose of a catchwater or gathering-ground.

3. The said Corporation is hereby empowered to take, divert, and impound the whole of the water flowing into and in the head-waters of the said streams called or known as Nihotupu, Huia, and Waitakerei (hereinafter called "the said streams"), and all and every of the tributaries thereof as shown in the said plan, and to alter the course of the head-waters of the said streams or either of them, their or either of their tributaries flowing into such head-waters, in such manner as to the said Corporation shall seem expedient for the purpose of increasing the supply of water for the use and benefit of the inhabitants of the said city as hereinafter mentioned; and full compensation shall be payable to all persons whose rights in respect to land and water are prejudicially affected, as provided in "The Public Works Act, 1894."

Power to take water.

4. Before proceeding to exercise the said power hereinbefore given to take, divert, and impound the head-waters of the said streams and of their tributaries flowing into such head-waters, or any part or parts thereof respectively, the said Corporation shall cause a notice in writing to be given to each of the persons prejudicially affected: Provided always that such notice may be given by serving the same personally upon or by leaving the same at the last known place of business or abode of the persons prejudicially affected respectively, or, if the place of business or abode of such persons be not known, by publishing the same twice in some newspaper circulating in the said city.

Notice to be given of intention to take water.

5. After service of a notice or notices as last mentioned shall have been made, the said Corporation shall with all convenient speed proceed to ascertain the amount of such money compensation as aforesaid in manner set forth in "The Public Works Act, 1894," or any statutory amendment thereof, or as near thereto, *mutatis mutandis*, as may be, which said Act for that and other purposes shall, so far as the same may be applicable to and not inconsistent with the provisions in this Act, be deemed to be incorporated with and form part of this Act: Provided also that immediately from and after giving such notice as aforesaid the rights of all and singular the said persons prejudicially affected to whom such notice shall have been given shall thenceforth and for ever be effectually extinguished.

Amount of compensation payable to be ascertained

6. The said Council are hereby empowered from time to time to make such by-laws as they shall think proper for preventing the water in or from the said streams from being wasted by and for preventing any persons whomsoever from interfering with or destroying or damaging any of the sluices, races, aqueducts, pipes, works, or appliances which shall belong or appertain to or be used by the said Corporation in connection with the said streams; and it is hereby declared that any person who shall wilfully commit a breach of any of such by-laws as aforesaid shall be liable to forfeit and pay to the said Corporation any penalty not exceeding twenty pounds, such penalty to be recovered by the said Corporation in a summary way under "The Justices of the Peace Act, 1882," or any Act or Acts amending the same or passed in lieu thereof.

By-laws as to preventing waste of water.

7. The said Corporation is hereby empowered forthwith to take possession and acquire the fee-simple of any of the lands mentioned in the First Schedule hereto shown or delineated and specified or com-

Power to acquire fee-simple of lands.

prised on the said plan, being the parts thereof tinted brown, pink, and green respectively, if considered by the said Corporation necessary for the purposes of a catchwater or gathering-ground in connection with the said waterworks. Notice of election to take such lands to be given to the owners and others having any interest therein within six months from the passing of this Act.

Compensation to persons interested other than as owners in fee-simple.

8. All persons being owners in fee-simple of or having any less estate or interest in any of the lands taken or injuriously affected under the authority of this Act shall be entitled to receive compensation for such lands, the amount whereof shall be ascertained in the manner set forth in "The Public Works Act, 1894," or any amendment thereof so incorporated with this Act as aforesaid.

Power to Corporation to do all necessary works.

9. The said Corporation is hereby empowered from time to time to sink such wells or shafts, and make, maintain, procure, or alter such reservoirs, dams, weirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, races, sluices, pipes, culverts, engines, and other works and appliances, and to erect such buildings, upon the said lands which the said Corporation is empowered to take under this Act as the said Corporation shall think proper for the purpose of providing the inhabitants of the said city and the suburbs thereof with a supply or increased supply of water; and for all or any of the purposes aforesaid it shall be lawful for the Corporation to lay out and expend so much of the moneys which under or by virtue of this Act or of any other Act the said Corporation is empowered to raise by way of rates, loan, or otherwise howsoever as shall be sufficient for those purposes and as shall for the time being be available for the same.

Officer who is empowered to give necessary notices.

10. All notices required to be given, served, or sent by post by the said Corporation under or in pursuance of this Act shall be deemed to be sufficiently signed by or on behalf of the said Corporation if the same shall be signed or purport to be signed by the Town Clerk, or by an officer of the said Corporation who shall be specially appointed in that behalf by any writing under the hand of the Mayor and seal of the said Corporation, and it shall not be necessary to affix the corporate seal to any of such notices as aforesaid: Provided always that in any case in which any notice may, under the provisions of this or any other Act, be inserted in the *New Zealand Gazette* or any newspaper, the *Gazette* or newspaper, as the case may be, containing any such notice with the name of the Town Clerk, or of such officer to be so specially appointed as aforesaid, printed at the foot thereof shall be deemed and taken in any Court of law or equity to be sufficient *prima facie* evidence that the original of such notice was duly signed by the Town Clerk or such officer as aforesaid on behalf of the said Corporation.

Power to borrow.

11. The Council is hereby empowered to borrow, at a rate of interest not exceeding four pounds ten shillings per centum per annum, for the purpose of purchasing the properties and paying the compensation therefor, and for the interests of the persons prejudicially affected herein mentioned, and for the purpose of constructing and carrying out the works necessary to obtain and utilise such increased supply of water, a sum of one hundred and fifty thousand pounds; but no money shall be borrowed under the

authority of this Act which shall produce to the lender a higher rate of interest than four pounds ten shillings per centum per annum. All moneys borrowed under this section shall be devoted exclusively to the purposes authorised by this Act.

12. Before any moneys shall be borrowed under this Act the Council shall take a poll of the ratepayers in the manner provided by section eleven of "The Local Bodies' Loans Act, 1901" (which Act and the amendments thereof are incorporated herein and shall be read herewith *mutatis mutandis*, except that the words "the day of the said meeting" therein mentioned shall be read for the purposes of this Act as "the day this Act comes into operation," and the words "the Chairman" in that section and in sections thirteen and fourteen thereof shall be read as "the Mayor"), and the result of such poll shall be in favour of the proposal.

Poll of ratepayers.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that area in the Auckland Land District, being Sections Nos. 69, 70, 73, 74, the north-west portion of Section No. 75, the whole of Section No. 76, the north-west portion of Section No. 78, and the north-west portion of Section No. 79, all of the Parish of Karangahape, Waitakerei and Titirangi Survey Districts: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon coloured brown.

Also all that area in the Waitakerei and Titirangi Survey Districts, Auckland Land District, being Sections Nos. 72, 89, 90, 91, and 92, and the whole of the portions comprising Section No. 75, Parish of Waitakerei; the whole of the portions comprising Sections Nos. 93 and 94, Sections Nos. 96 and 97, Parish of Waikomiti; and part of the north-eastern portion of Section No. 36, Parish of Karangahape: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon coloured red.

Also that area in the Auckland Land District, being Sections Nos. 51, 52, 62, 64, 65, 76, 77, 78, 79, 80, and 83, and the whole of the portions comprising Sections Nos. 63, 81, and 82, and the south middle portion of Section No. 50, and the southern portion of Section No. 50, all of the Parish of Waitakerei, Waitakerei and Titirangi Survey Districts: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon coloured green.

SECOND SCHEDULE.

Also all that area in the Auckland Land District, being Sections Nos. 1, 1A, 2, 3, 6, 7, 8, 9, 35, 36, 84, 85, and 86, the southern portion of Section No. 30, and the northern, the northern middle, and western middle portions of Section No. 50, all of the Parish of Waitakerei, Waitakerei and Kumeu Survey Districts: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon bordered brown.

Also all that area in the Auckland Land District, being Sections Nos. 8A, north portion 8, south portion 8, 9A, 12, 13, 14, 17, and 109, and part of 9, all of the Parish of Karangahape, Titirangi Survey District: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon bordered green.

Also all that area in the Auckland Land District, being Sections Nos. 33 and 37, and part of Section No. 38, Parish of Waikomiti, and Section No. 7 and part of Section No. 6, Parish of Karangahape, Titirangi Survey District: as the same is delineated on the plan deposited in the District Lands and Survey Office, Auckland, and thereon bordered purple.