

New Zealand.



ANALYSIS.

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1883, No. 36.

AN ACT to amend "The Counties Act, 1876," and the several Acts Title.
passed in Amendment thereof.

[8th September, 1883.]

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

Short Title.

1. The Short Title of this Act is "The Counties Acts Amendment Act, 1883." It shall be deemed to be incorporated with "The Counties Act, 1876" (hereinafter referred to as "the said Act").

Interpretation.

2. (1.) In this Act, if not inconsistent with the context,—

"Road district" and "Road Board" mean respectively a road district and Road Board constituted under any Act of the General Assembly providing for such constitution:

"Town district and "Town Board" mean respectively a town district and Town Board constituted under any Act of the General Assembly providing for such constitution:

(2.) Words in this or in any other Act referring to a county, County Council, authority, officer, or office, shall be construed distributively as referring to each county, County Council, authority, officer, or office, to which or to whom the provision is applicable:

(3.) Words in this or in any other Act relating to the presentation of documents to Parliament or the General Assembly within a certain number of days after its next sitting, or words to a similar effect, shall mean that such presentation is to be made within so many days after the then present time if the Assembly is in session, and, if not, then within so many days after its first meeting at the next session thereof:

(4.) Words in this or in any other Act referring to a county wherein the said Act is not in operation, or is not wholly in force, or has been suspended, or other words of similar purport, shall be construed distributively as a reference to one of the counties mentioned in the Second Schedule of the said Act in respect whereof a resolution under the sixth section thereof has not been passed, or to one of the counties mentioned in the fifth section of this Act, or to a county in respect whereof a Proclamation under the eighth section of "The Counties Act 1876 Amendment Act, 1882," has been issued.

Petitions may be rejected if insufficiently signed.

3. The Governor or County Council, as the case may be, shall not grant the prayer of any petition if the result of any inquiry into the validity of the signatures thereto proves that there are not sufficient true signatures to such petition to make up the number required by the said Act.

Powers of corporation to be exercised by Council.

4. The body corporate of a county shall be capable of acting by the Council of the county, and the Council shall exercise all powers vested in the corporation by this Act or otherwise.

Acts, &c., of Council deemed to be Acts of corporation.

And whenever any contract, debt, or other liability has been or is entered into or incurred, or any act or thing has been or is done or suffered by the Council under this or any other Act of the General Assembly, such contract, debt, liability, act, or thing shall, for all purposes, be deemed to have been and to be the contract, debt, liability, or act of the corporation which such Council represents.

Existing counties wherein the whole Act is not in force to be deemed to be counties where Act is suspended.

5. The Counties of Eden, Manukau, Raglan, Marlborough, Ashley, and Peninsula, being counties wherein the whole of the said Act is not in force, shall be deemed to be counties wherein the said Act has been suspended, as if a Proclamation by the Governor

under section eight of "The Counties Act 1876 Amendment Act, 1882," had been issued in respect of each of the said counties on the day of the coming into operation of this Act.

(1.) All the provisions of the Act last-mentioned shall apply in respect to the aforesaid counties and the Councils thereof, and to the Road Boards and Town Boards within such counties respectively, as if the said Act had been suspended in the said counties upon petition under the aforesaid section eight.

Administration therein.

(2.) The said Road Boards and Town Boards respectively shall forthwith on the passing of this Act assume and discharge the functions imposed upon them by section fourteen of the Act aforesaid.

6. Upon the union of two or more counties the Councils of the original counties shall be dissolved, and the Governor shall appoint the day for the election of the first Council of the united county, as hereinafter provided.

Councils of counties united to be dissolved.

7. When a part of a county is severed therefrom to be included in a new county, the remaining part of the original county, and the remaining part of any riding thereof which has been divided, shall be deemed to be the same county or riding, and the corporation of such county to be the same corporation, as before such severance, and the members of the Council of such remaining part of the county shall continue to be members thereof as though such severance had not been made.

County from which part or entire riding is severed to remain the same county.

The Governor may, if he think fit,—

Where a part of a riding or ridings is severed, redivide any county from which part has been severed into fresh ridings, and in such case a new election shall be held as hereinafter provided; or

Elections.

Annex any remaining part of a riding or ridings to another riding or other ridings of the original county, and increase the number of Councillors to represent any of the ridings of such original county, so as to make up the full number of the Council required by the said Act; or

Where an entire riding or ridings has or have been severed, increase the number of Councillors to represent the remaining ridings so as to make up the full number of the Council required by the said Act.

In the last two cases mentioned elections of additional members only shall be held, as if extraordinary vacancies to the number of such additional members had been created in the riding or ridings affected by such increase.

8. Whenever a road district or town district, or the Road Board or Town Board thereof, having a right to elect or nominate a member of any other public body, is merged into a county, such county or the Councillors thereof shall be entitled to elect or nominate a member in respect of the incorporated district.

Exercise of franchise on merging of road district or suspension of Act.

Whenever the county electors of a whole county or of any of its ridings are entitled as aforesaid, such electors respectively may exercise such right notwithstanding the suspension of the said Act in such county.

Whenever a County Council is entitled as aforesaid, and the said Act becomes suspended in such county, the Chairmen of the Road Boards and Town Boards becoming *ex officio* Councillors of the county shall be entitled to make such election or nomination, as the case may be.

Effect of award apportioning assets and liabilities.

9. Every award made under the twenty-first section of the said Act may provide for all or any of the matters included in the subject for inquiry, and may declare in whom any property shall be vested, and by whom any moneys shall be paid, or other acts and things done, including the payment by either party of the whole or any part of the expenses of such inquiry; and the person making such award may make and give such directions generally as may be necessary for giving full effect to the objects of the inquiry.

Every such award shall be final, and shall from the date thereof have the operation of, and be enforceable as, and held to be, a judgment of the Supreme Court.

How county electors entitled to vote.

10. Every county elector shall be entitled to vote at every election of a member of the County Council for the riding in which he is entitled according to the following scale, that is to say,—

- (1.) If his rateable property, whether in one or more tenements, is valued on any valuation roll at not more than one thousand pounds, he shall have one vote :
- (2.) If such property is so valued at more than one thousand but not more than two thousand pounds, he shall have two votes :
- (3.) If such property is so valued at more than two thousand but not more than three thousand pounds, he shall have three votes :
- (4.) If such property is so valued at more than three thousand but not more than seven thousand five hundred pounds, he shall have four votes :
- (5.) If such property is valued at seven thousand five hundred pounds or upwards, he shall have five votes.

In any case where there is more than one person appearing on the valuation roll as the occupier of any one property, then, for the purpose of voting, only the person whose name appears first on such roll shall be deemed to be entitled to vote in respect of such property.

Votes forfeited if rates not paid.

No elector shall be entitled to vote at any election in respect of any rateable property, unless he shall have previously paid all rates then due by him to the county in respect of such property.

New rolls to be made on formation of new ridings.

11. When a county is redivided into ridings the Clerk shall forthwith make up from the electors' rolls in force in the several ridings of the county new electors' rolls for each such new riding, and shall place on the roll of each such riding the name of each county elector who appears from such rolls respectively to be entitled to vote in any such new riding, and shall assign to each the number of votes to which he is entitled in respect of such property.

Rolls to be revised on incorporation of district into county.

12. Whenever any adjoining district is incorporated into a county the Clerk shall forthwith make up from the electors' roll or rolls in force in the several ridings of such county, or any riding thereof, and from the ratepayers' roll which, immediately prior to such incorporation, was in force in any such district, new electors'

rolls for the ridings of the county, or a new electors' roll for the riding, as the case may be, and shall place on the roll for such ridings or riding the name of each county elector or ratepayer who appears from such rolls respectively to be entitled to vote therein, and shall assign to each such person the number of votes to which, under this Act, he is entitled in respect of his property situated in such ridings or riding, or in the part of the district incorporated therein as aforesaid.

The expression "district" means any district which previously was in existence as a borough, or formed part thereof; and "ratepayers' roll" means the roll in force in the district the whole or part of which has been so incorporated as aforesaid, and upon which the ratepayers in such district would have been entitled to vote for the election of members of the Council of such borough.

13. When a new county is constituted, or two or more counties are united, such person as the Governor may appoint shall forthwith, from the electors' roll or rolls, or ratepayers' rolls, which, immediately before such constitution or union, were in force in any riding or district included within such new county or united county, make up electors' rolls for each riding in such county, and shall place on the roll for each riding the name of each county elector who appears from such roll respectively to be entitled to vote in any such riding, and shall assign to each the number of votes to which he is entitled in respect of such property.

New rolls on constitution of new counties.

14. The electors' rolls made under the three preceding sections, when signed by the Clerk, or by such person as the Governor appoints, as the case may be, shall be the electors' rolls for such ridings or riding, as the case may be, until new rolls are made up in accordance with the said Act and this Act.

Rolls signed by the Clerk to be rolls till new rolls made.

15. Any written or printed copy attested by the Clerk, or by such person as the Governor appoints as aforesaid, to be a correct copy of the electors' roll for any riding, or of any roll of county electors formed under the said Act, or this Act, shall be evidence that the said roll has been duly made, unless the contrary is proved; and no defect in the title to office of any person making, correcting, or signing such roll shall invalidate such roll.

Copy of roll to be evidence.

16. Whenever the several events mentioned in this section shall happen in or in respect of any county, fresh elections of Councillors shall be held, as hereinafter provided, in like manner as if extraordinary vacancies had occurred in the offices of the Councillors by resignation in the respective cases mentioned, that is to say,—

Extraordinary vacancies in Council created on alteration of county or ridings.

- (1.) Whenever a county is redivided into new ridings, all the Councillors in office in any ridings or riding affected by such redivision respectively shall go out of office, and an election of Councillors shall be held in respect of such ridings, or such of them as may be affected by the operation of the said Act or any amendment thereof:
- (2.) Whenever any riding is subdivided into two ridings, the Councillors in office for such riding shall go out of office, and new elections of Councillors for each of the new ridings shall be held:
- (3.) Whenever any adjoining district or area is incorporated into a county and forms part of any existing riding, all the

Councillors in office for such riding shall go out of office, and an election of Councillors in and for such riding shall be held :

- (4.) Whenever any such district or area is incorporated into a county and forms a new riding or several ridings, an election of Councillors shall be held in and for such riding or ridings.

Provisions for elections when Act not in force.

17. For the purposes of every election in a county in which the the said Act is not in force, or is suspended, the following persons shall be deemed to be county electors within each riding :—

- (1.) Every person who is entitled for the time being to vote at a Road Board or Town Board election in any road district or town district in the riding ;
- (2.) Every person not so entitled who is for the time being entitled to vote at an election of a member of the House of Representatives upon a qualification in any outlying district in the riding ;
- (3.) Any legal holder of a miner's right which shall have been issued within the electoral district in which the riding or part thereof is included not less than three months prior to the election.

Governor to provide for first elections.

18. For the purposes of such elections, or where any first general election is to be held in a new county, or where two or more counties are united, the Governor shall appoint such Returning Officer as may be necessary, and generally shall do all things which may be necessary in order to bring this Act into operation in each such county.

Expenses of first elections to be advanced out of Consolidated Fund.

19. The Colonial Treasurer may issue and pay, by way of advance out of the Consolidated Fund, all expenses incurred in any such elections, and otherwise in bringing this Act into operation in each such county ; and the amount of such advance shall be deemed to be a debt due to the Crown, and may be recovered from the corporation of the county accordingly, or deducted from any moneys at any time payable to such corporation by the Government of the colony.

Triennial election not to be held if within two months after a general election.

20. Where any general election of Councillors take place within two months of the period fixed for the triennial general election of Councillors, it shall not be necessary to hold such triennial election as prescribed ; but the Councillors in office at the time appointed for the triennial election shall remain in office till the next succeeding triennial election.

Disqualification during tenure of office.

21. If any person while holding office as Councillor or Chairman shall become incapable under section sixty-two of the said Act, his office shall be thereby vacated, and such vacancy shall be deemed an extraordinary vacancy.

Revocation of resolutions of Councils.

22. Any resolution of a meeting of the Council may be revoked or altered at a subsequent meeting by the vote of the members present at such subsequent meeting, or of a majority of them.

Provided that notice of such subsequent meeting, and of the proposal to revoke or alter such resolution, shall be given to each Councillor seven days at least before such subsequent meeting.

When resolution for a special loan deemed to be carried.

23. If, for any proposal to raise a special loan, the number of votes given within the several ridings taken together exceed two-thirds of the total number of votes exercisable by the voters of the whole

county, the resolution in favour of the proposal shall be deemed to be carried, and the Council may proceed with the proposal accordingly; but, if not, then the resolution shall be deemed to be rejected, and the Council shall not so proceed.

24. The Council may agree with the Town Board of any town district within the county for the execution of any public work by such Board within such district, and may pay to any such Town Board subsidies to be expended in such works in the same manner as the Council is authorized in respect to Road Boards under sections one hundred and eight and one hundred and eighty-nine respectively of the said Act.

County Council may contract with Town Boards for execution of works.

25. The Council, with the consent of the ratepayers of the county, to be ascertained as provided by the said Act in relation to a proposal to raise a special loan, may contract with any person or persons or body corporate for the advance of the moneys necessary for the construction of a bridge or bridges in connection with any county road or roads, and in such contract may covenant, on behalf of the corporation of the county, to levy and collect tolls or charges for the use of such bridges on completion thereof, and may pledge such tolls and charges in security for the repayment of any such moneys advanced as aforesaid.

County Council may raise moneys for construction of bridges on security of tolls thereof.

Every such contract shall be made upon such terms and conditions as may be agreed upon, but subject to the condition that the tolls and charges aforesaid shall be pledged only for some specified time; and every such contract shall be valid and binding notwithstanding that no bridge was erected or tolls collected at the time of the making of such contract.

26. The amendments following are hereby made in the said Act, that is to say,—

“Counties Act, 1876,” amended.

- (1.) The words “The Rating Act, 1882,” shall be read in lieu of the words “The Rating Act, 1876,” wherever these occur in the said Act:
- (2.) Section nineteen is amended by the addition of the following words: “and shall appoint the day for the election of the first Council”:
- (3.) Section forty is amended by the insertion of the words “or town district” after the words “road district”:
- (4.) Section forty-three is hereby amended by the addition of the words “or town” after the word “road” where it occurs in the first two places in the said section; and by the insertion before the word “assign” of the words following: “place the names of such persons on the electors’ roll of the riding in which such outlying district is included, and shall”:
- (5.) Section forty-five is hereby amended by the insertion of the words “or town districts” after the words “road districts,” and of the words, “or Town Board” after “Road Board”:
- (6.) Section one hundred and fifty-three is hereby amended by the omission of all the words from the beginning of the section to the words “within or without the colony” inclusive, and the insertion of the words following in lieu thereof:—

“The Council or, in the case of a joint special loan, the Councils of the counties jointly raising such loan may appoint any incorporated company or association, or any such company or association, together with one or more persons, or any two or more persons, within or without the colony.”

Repeals.

Sections eleven, twelve, thirteen, twenty, twenty-eight, forty-one, fifty to fifty-three both inclusive, and seventy-eight of the said Act are hereby repealed.

Amendment Act
1877 amended.

27. “The Counties Act Amendment Act, 1877,” is hereby amended as follows: In section two the first two subsections amending sections ten and twelve of the said Act are hereby repealed.

Amendment Act
1880 amended.

28. Section twenty-four of “The Counties Act Amendment Act, 1880,” is hereby repealed.

Amendment Act
1882 amended.

29. “The Counties Act 1876 Amendment Act, 1882,” is hereby amended as follows:—

- (1.) In section fourteen the words following shall be omitted: “and also the Road Boards and Town Boards in any county in which the whole of the said Act is not now in force.”
- (2.) Section sixteen is hereby repealed.
- (3.) In section twenty the words from “or, in the case of” inclusive to the words “of the said Act” inclusive shall be omitted.
- (4.) The whole of section sixty after subsection seven is hereby repealed, and the following proviso substituted therefor:

Provided that no by-laws appointing the several sums to be paid to county funds for the licensing of vehicles shall come into force before the same are approved of by the Governor, by notice published in the *Gazette*.

WATER-SUPPLY FOR IRRIGATION.

Powers of County
Councils as to
irrigation works.

30. In addition to other powers and functions under the said Act every County Council shall have the powers following in respect to the construction and maintenance of irrigation works:—

Definition of water-
race.

31. The term “water-race” means the land occupied by any channel, natural or artificial, for the supply of water, proclaimed to be a water-race constructed by a County Council under the said Act and this Act, and all branch races taken or made through any private lands for the purpose of supplying water thereto or to adjacent lands, and includes all dams, sluices, reservoirs, or other waterworks, and all buildings and machinery upon the land and within the limits so proclaimed.

Water-races to be
proclaimed.

32. The Governor, at the request of any County Council, may, by Proclamation publicly notified and gazetted, declare any land therein specified to be a water-race, and may declare any stream therein specified to be taken for the purpose of supplying a water-race.

Power to County
Council to make
water-races.

33. The Council may, in the manner provided by the said Act and this Act and “The Public Works Act, 1882,” from time to time make and maintain, enlarge, alter, extend, and repair water-races for the supply of water for irrigation and otherwise for the use and convenience of the public; and all such water-races shall be deemed to be vested in the Corporation of the county making the same.

34. The Council may, by special order, from time to time declare the whole county or any part of the county to be a district for the purposes of this part of this Act, and may divide the same into subdivisions, and assign names to any such district or subdivisions, subject as hereinafter mentioned and to the following conditions:—

- (1.) That a petition is presented to the Council praying the Council to constitute such district;
- (2.) That such petition describes and defines the boundaries of the district which it is desired to constitute;
- (3.) That such petition is signed by not less than one-half of the ratepayers within the proposed district;
- (4.) That the special order shall fix a day from and after which such district shall be constituted, and shall also give a name to such district;
- (5.) Before making such special order the Council shall cause a plan of the proposed district to be deposited in the office of each Road Board and Town Board (if any) within such proposed district, and, if there shall be no Road Board office in the proposed district, then in the two Road Board offices nearest to such proposed district, and such plan or plans shall be open to inspection by the public without fee.

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

No town district shall be included within any district to be declared under this section unless, by a separate poll taken within the town district, a majority of the ratepayers therein have expressed their consent to be so included.

35. The Council also may, by subsequent special order, subject as in the last preceding section mentioned, enlarge, alter, or curtail the limits of any district.

36. The Council, with the consent of the ratepayers of the district, to be ascertained as provided by the said Act, in relation to a proposal to raise a special loan,—

- (1.) May purchase, or make and maintain, or enlarge, and from time to time alter, extend, or repair any water-races it may deem necessary in such district;
- (2.) May raise a special loan for the aforesaid purpose not exceeding in any district a sum equal to ten shillings per acre on all the land in the district; and may impose and levy on the district a separate rate to secure and pay the interest on and provide a fund for the repayment of such loan;

Any such separate rate may be for any amount not exceeding six farthings in the pound on the rateable property in the district, anything in the said Act or any other Act contained notwithstanding.

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

Districts to be constituted on petition of ratepayers.

Town districts to be excluded.

Districts may be enlarged, altered, or curtailed.

Special loans may be raised on security of separate rates.

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

- 37.** For the purposes aforesaid, the Council may—
- (1.) Take any land either within or outside of the county in manner provided by “The Public Works Act, 1882;”
 - (2.) Purchase or otherwise acquire any such land;
 - (3.) Contract with the owner of any private lands for and acquire from him by deed duly executed the grant in perpetuity to the Corporation of the county of the use, occupation, and enjoyment of such lands, for the purpose of constructing and maintaining water-races thereon;
 - (4.) Contract with the owner of any private lands for the acquisition of a right of water over any water-races running through such lands;
 - (5.) May make surveys upon any lands;
 - (6.) May make a water-race upon, over, or under any land within the limits defined in a Proclamation as aforesaid;
 - (7.) May make such water-race over or under any road or place to which the public have general access, or through any public reserve within such limits;
 - (8.) May alter the course or level of any road or public place, and may break up and dig into the surface thereof, and stop temporarily the traffic thereon respectively for such purpose within or beyond such limits;
 - (9.) May make the water-race across any stream or river, but so as not to impede the navigation upon any navigable river, except under the provisions of a special Act;
 - (10.) May alter the course or level of any such stream or river, or of any ditch or drain;
 - (11.) May take, impound, or divert the water from any stream specified in a Proclamation as aforesaid;
 - (12.) May make dams, sluices, reservoirs, or other waterworks in any such stream or river, whether within or without the limits of such water-race;
 - (13.) May enter upon any lands for the purpose of constructing, maintaining, inspecting, or repairing any water-race;
 - (14.) May enter upon any lands and take therefrom any materials required for the construction or repair of a water-race, and may also enter upon and occupy any lands temporarily;
 - (15.) May construct all works, buildings, and machinery of every description and material, and generally may do all things necessary for the construction, repair, maintenance, and use of any water-race.

Exercise of powers
outside of county.

38. As to such parts of the water-race as lie beyond the county the following provisions shall apply:—

- (1.) Before interfering with any road or other public work for the purpose of constructing any water-race, the Council shall give not less than one month's notice to the County Council or Road Board or Town Board having the control of such road or work:
- (2.) If such Council or Board objects to such interference, the matter shall be referred to the Minister for Public Works, whose decision thereon shall be final:
- (3.) The Council may at any time interfere with any such road or

public work so far as to effect all necessary repairs in any water-race theretofore lawfully constructed on or under the same, but shall give to such Council or Board three days' notice of their intention so to do :

- (4.) But in any sudden emergency or danger to the water-race or to property adjoining, the Council may effect the necessary repairs forthwith, but shall as soon as possible give notice of their so doing to such Council or Board.

39. Nothing herein shall authorize the entering upon any private land without the consent of the owner, except for the purpose of making surveys, unless such land, or the right of constructing water-races over such land, or the right of water over any water-races running through any such land is acquired by the Council as above provided.

Entry upon private land.

In any of the last-mentioned cases the Council may at any time enter upon any such land for the purpose of constructing, maintaining, inspecting, or repairing any water-race, as if such land had been purchased by the Council; and every pipe or other part of a water-race at any time put on or under any such private land shall be subject to the provisions of the said Act and this Act.

40. Compensation, to be assessed in manner provided by "The Public Works Act, 1882," shall be paid by the County Council to all persons suffering injury or damage by or in the construction of any water-race.

Compensation to be paid.

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

Destroying water-race, misdemeanour.

42. If any foul liquid or matter is suffered to flow into water, being a part of any water-race, from any gasworks or any other works or manufactory, the person carrying on such works or manufactory shall be liable to a penalty not exceeding one hundred pounds, and to a further penalty not exceeding ten pounds for every day during which such offence is continued after such person has received notice in writing from the Council to discontinue the same.

Penalty for allowing refuse from works to flow into race.

43. It shall not be lawful for any person, without the consent in writing of the Council or of some person duly authorized by the Council in that behalf, to take or divert any water from a water-race, or any water in, or supplying or flowing into, a stream declared in a Proclamation as aforesaid to be taken for the supply of a water-race; and any person doing or causing to be done any act whereby the water in any such water-race or stream is drawn off or diminished in quantity, and refusing or neglecting, when so required by the Council or any other person authorized by it, to restore the waters of such water-race or stream to the state in which they were before the said act, shall be liable to a penalty of not more than twenty pounds for such offence, and to a further penalty not exceeding ten pounds for every day during which the supply of such water is so drawn off or diminished.

Penalty for diverting water from race or stream supplying race.

If such person refuses or neglects so to restore the waters of such water-race or stream, after receiving notice from the Council or any person authorized by it to do so, the Council may, at any time after one week from the serving of such notice, execute all works necessary so to restore the said waters, and may recover from such person the whole cost of such works, together with the amount of any damage sustained by reason of the taking or diverting of such water.

Cost of repair.

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

44. If any person does any of the following things,—

- (1.) Wilfully or negligently allows any pipe or apparatus on his premises to be out of repair so that water is wasted, or alters any meter, or does or suffers any act whereby his supply of water is improperly increased ;
- (2.) Not having agreed to be supplied with water from the water-race, takes any such water from the supply furnished to another person, or from such water-race ;
- (3.) Being supplied with water from the water-race, supplies another person who has not agreed to be so supplied with or permits him to take any such water ;
- (4.) Does, or causes or suffers to be done, anything whereby the water in any water-race shall or may be fouled or polluted or rendered unfit for use ;
- (5.) Obstructs any person acting under the authority of the Council in doing anything which the Council is hereby empowered to do,—

he shall be liable to a penalty of not more than twenty pounds for each such offence, and to a further sum equal to the cost incurred by the Council in repairing the injury done to any part of the water-race by any such act.

Right of supply of water.

45. Every occupier of any land which can be supplied with water from a water-race shall be entitled to be so supplied, subject to any by-laws for the time being in force, and subject also to the right of all other occupiers of any such lands to be equally supplied with a share of such water in proportion to the acreage of the land occupied by them.

Rates and charges for supply of water.

46. The Council may from time to time—

- (1.) Prescribe the terms and conditions upon which any water-race made by it may be used, and the rates and charges to be paid for water supplied ;
- (2.) Agree and contract with the owner or owners of any private land who shall have granted the use thereof in perpetuity for the construction thereon of a water-race, to have the use of any part not exceeding one-tenth of the water in a water-race, on such terms and at such rates and charges as may be agreed upon between the Council and such owner or owners.

All such rates and charges may be sued for and recovered by the Council as an ordinary debt to the Corporation of the county before any two Justices of the Peace.

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

47. The Council may also from time to time make, alter, and repeal by-laws—

- (1.) To prevent the obstruction of water-races ;
- (2.) To prevent the pollution of water in water-races ;

- (3.) To prevent the driving of vehicles, and the conveying of machinery and other material across water-races, except at the appointed crossings ;
- (4.) To punish persons for interfering with dams, reservoirs, headworks, and buildings connected with water-races without the consent of the Council ;
- (5.) To prevent bathing in reservoirs and other part of water-races ;
- (6.) To protect rangers and other persons employed by the Council in connection with water-races in the discharge of their duties, and for this purpose to empower all such persons to enter upon private lands ;
- (7.) To prevent the widening and deepening of water-races, or the alteration of the course thereof, without the consent of the Council ;
- (8.) To prevent trespasses upon water-races on roads ;
- (9.) Generally, to prevent trespasses, nuisances, and obstructions to water-races, and to make all such provision as to the Council may seem necessary or expedient for the protection and proper management of water-races.

48. All moneys accruing from any water-race vested in a County Council shall be paid into a separate account of the County Fund, which shall be charged with all cost of maintaining such water-race in good repair.

Proceeds from race to go to County Fund.

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

Councils of counties may unite to make water-races.

All such water-races shall be deemed to be vested in the Corporation of such one of the counties as may be agreed upon between the respective Councils thereof, or in case of dispute as the Governor shall determine, at the request of either Council ; and shall be kept in good repair by and at the expense of the Council or Councils of such county or counties.

All moneys accruing from a water-race vested jointly in two or more counties shall be divided between the County Funds of such counties in such proportion as the several County Councils agree on, or, if they cannot agree, then in such proportion as the Governor determines.

50. The Governor may, upon petition of the Council of any county in which is vested any water-race constructed under the provisions of any special Act of the General Assembly, by Proclamation, declare such water-race to be subject to the foregoing provisions of this Act, as from a day to be named in such Proclamation.

Existing water-races may be brought under this Act.

From and after such day any such special Act shall be repealed as to any such water-race saving as to anything done, or any loan raised, or rate authorized to be levied as security for any such loan.

COUNTY RIVER BOARDS.

51. The Governor, if he thinks fit, may by Proclamation declare the Council of any county to be the Board of Conservators under any Act for the time being in force relating to the management of rivers (herein referred to as a " Rivers Act "), in respect of any river district constituted under such Act the limits whereof are entirely included within the limits of such county, subject to the conditions following :—

Governor may proclaim County Council to be Board of River Conservators.

- (1.) That a petition of the majority of the ratepayers of the river district is presented to the Governor in that behalf, after such petition has been previously publicly notified in the district for not less than thirty days; and
- (2.) That a resolution of the County Council to be affected by such petition, concurring in the prayer thereof, is transmitted to the Governor:

Provided that, on the proposed constitution of a new river district, it shall be sufficient if the matter of the above-mentioned petition be included in any petition presented to the Governor praying him to constitute such district; and in such case a separate petition shall not be necessary, but the resolution of the Council shall be indispensable in all cases.

Effect of Proclamation.

52. Every Proclamation issued under the foregoing section shall take effect on a day certain, to be specified therein; and on the coming into effect of such Proclamation—

- (1.) All provisions of the Rivers Act under which the river district is constituted which relate to the election of members of Boards of Conservators, their number, their continuance in office or retirement therefrom, shall be suspended from operation within the district for the whole time wherein the Proclamation aforesaid remains in force.
- (2.) The County Council for the time being in office shall be the Board of Conservators for the river district, and shall have and may exercise all the functions, powers, and duties granted to such Board by the Rivers Act which is in force within the provincial district wherein the county is situated, subject as follows:—

The Council may exercise all such powers and duties, in addition to their ordinary jurisdiction under "The Counties Act, 1876"; and their proceedings as a Board of Conservators shall be regulated under such last-named Act, instead of under the Rivers Act aforesaid; excepting that—

All property rateable under the Rivers Act within the river district shall be rated under the said Act, and not under "The Counties Act, 1876"; but the rates when collected shall be paid into a separate account in the County Fund, and may be administered under "The Counties Act, 1876," but shall be applied only for the purposes for which the same were levied.

- (3.) Every County Council constituted a Board of Conservators shall have not only the powers of such Boards under the Rivers Act in force in the river district, but also all powers granted to such Boards under any other Act of the General Assembly.

Proclamation may be revoked.

53. The Governor, if he think fit, may revoke any Proclamation in whole, or as to so much thereof as declares a County Council to be a Board of Conservators; whereupon all suspended provisions of any Rivers Act shall be revived and come into operation again on the day of the coming into effect of such Proclamation in the river district affected thereby.