

NEW ZEALAND.



TRICESIMO NONO
VICTORIÆ REGINÆ.

[*Local and Personal.*]

No. V.

ANALYSIS.

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AN ACT to enable the Corporation of the City of Dunedin to take divert and impound the whole of the Water flowing into and in the Stream called "The Water of Leith," and all or any of the Tributaries thereof, for the purpose of increasing the Supply of Water for the Inhabitants of the said City, and for the purpose of supplying the Inhabitants of the Suburbs of the said City with Water, and for other purposes in connection with the said objects.

[21st October, 1875.]

WHEREAS it is expedient to enable the Corporation of the City of Dunedin to take divert and impound the whole of the water flowing into and in the stream called "The Water of Leith," and

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all or any of the tributaries thereof (giving due compensation to riparian proprietors as hereinafter mentioned), for the purpose of increasing the supply of water for the use of the inhabitants of the said city, and also for the purpose of enabling the said Corporation to supply the inhabitants of the suburbs of the said city with water, 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 into the suburbs of the said city, and to levy such rates upon the inhabitants of the said suburbs as hereinafter mentioned: And whereas it is expedient that the said Corporation should be empowered to acquire the freehold and possession of the lands hereinafter mentioned 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: And whereas it is expedient to alter and amend certain clauses in the Acts incorporated with "The Dunedin Waterworks Act, 1874," as 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 shall be "The Dunedin Waterworks Extension Act, 1875."

This Act to be read with "The Dunedin Waterworks Act, 1874."

2. This Act shall be read with and shall be deemed and taken to be supplementary to "The Dunedin Waterworks Act, 1874."

Interpretation.

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

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number.

Words importing the masculine gender shall include females.

The word "month" shall mean calendar month.

The word "person" shall include a corporation whether aggregate or sole.

The word "land" or "lands" shall include messuages lands tenements and hereditaments of any tenure, and any estate or interest therein.

The expression "Provincial Gazette" shall mean the Provincial Government Gazette of Otago.

The expression "the Resident Magistrate" shall mean the Resident Magistrate for the time being duly authorized to preside at the Resident Magistrate's Court holden in the City of Dunedin.

The expression "the said city" shall mean the City of Dunedin.

The expression "the Corporation" or "the said Corporation" shall mean the Corporation of the City of Dunedin.

The expression "the Council" or "the said Council" shall mean the Council of the City of Dunedin.

The words "the Mayor" shall mean the Mayor for the time being of the City of Dunedin.

The words "the Town Clerk" shall mean the Town Clerk for the time being of the City of Dunedin.

The expression "the Waterworks Acts" shall mean "The Dunedin Waterworks Act, 1864," "The Dunedin Waterworks Act Amendment Act, 1866," "The Dunedin Waterworks Act Amendment Act, 1871," and "The Dunedin Waterworks Act, 1874," taken collectively.

The expression "the waterworks" shall mean the waterworks

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belonging to the Corporation of the City of Dunedin, 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" shall include springs brooks and all other running waters.

The expression "riparian proprietors," or "the said riparian proprietors," shall mean all persons who at the time of the passing of this Act shall be lawfully entitled to take and use, or to divert and use, the water of the said stream called or known as "The Water of Leith," flowing by or near the said city, or of any of the tributaries thereof, for domestic manufacturing or industrial purposes, or for turning water wheels, or as a motive power for any kind of machinery, from the said stream or its tributaries, and whose respective rights will be extinguished abridged interfered with or otherwise prejudicially affected by the exercise or partial exercise of the power to take divert and impound the said stream and its tributaries hereinafter given to the said Corporation.

The expression "the suburbs," or "the said suburbs," shall mean all those suburbs of the City of Dunedin lying within a radius of three miles and a half from that part of the said city commonly called or known as "The Octagon."

The expression "suburban area" shall mean any distinct portion of the said suburbs forming the whole or any part of any road district, or any subdivision or part of a subdivision of any road district, or any ward or part of a ward of any such subdivision of a road district, within the meaning of "The Otago Roads Ordinance, 1871," or any Ordinance amending the same, or which may hereafter be passed in substitution thereof.

The expression "road ratepayers" shall mean all those persons respectively owning or occupying land or premises within any suburban area, in respect of which said land or premises the names of such persons shall for the time being be lawfully enrolled or inscribed in any voters' roll made pursuant to the said "Otago Roads Ordinance, 1871," or any Ordinance amending the same, or which may hereafter be passed in substitution thereof.

The word "street" shall include any square court alley highway lane road thoroughfare or public passage or place within the boundaries of the City of Dunedin, or within the suburbs thereof.

The terms "plan," or "the said plan," and "book of reference," or "the said book of reference," shall mean the plan and book of reference respectively deposited in the Private Bill Office, prior and with a view to the passing of this Act, showing the course or part of the course of the stream called or known as "The Water of Leith," 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.

4. The said Corporation is hereby empowered to take divert and impound the whole of the water flowing into and in the said stream called or known as "The Water of Leith" (hereinafter called "the said stream"), and all and every of the tributaries thereof, as shown in

Power to take divert and impound the whole of the "Water of Leith" and its tributaries.

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the said plan, and to alter the course of the said stream and its said tributaries 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, and for the purpose of supplying with water the inhabitants of the suburbs of the said city, as hereinafter mentioned.

Corporation to compensate riparian proprietors in money.

5. The said Corporation shall make compensation in money to riparian proprietors whose respective rights shall be extinguished abridged interfered with or otherwise prejudicially affected by the exercise of the power hereinbefore given to the said Corporation to take divert and impound the water of the said stream and its tributaries (such compensation in money to be ascertained as hereinafter mentioned).

Corporation to give riparian proprietors notice of election.

6. Before proceeding to exercise the said power hereinbefore given to take divert and impound the water of the said stream, and of its tributaries, or any part thereof respectively, the said Corporation shall cause a notice in writing to be given to each of the riparian proprietors: 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 riparian proprietors respectively, or, if the place of business or abode of such riparian proprietors be not known, by publishing the same twice in some newspaper circulating in the said city.

Money compensation how ascertained.

7. 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 Lands Clauses Consolidation Act, 1863," 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 of 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 riparian proprietors shall thenceforth and for ever be effectually extinguished.

Council empowered to make regulations.

8. The said Council are hereby empowered from time to time to make such regulations as they shall think proper for preventing water in or from the said water mains 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 water mains. And it is hereby declared, that any person who shall wilfully commit a breach of any of such regulations, as aforesaid shall be liable to forfeit and pay to the said Corporation any penalty not exceeding ten pounds, such penalty to be recoverable by the said Corporation in a summary way under "The Justices of the Peace Act, 1866," or any Act or Acts amending the same as aforesaid: Provided always, that no such regulation as aforesaid shall acquire any force until and unless the same shall have been first laid before the Superintendent of the Province of Otago, and shall have been approved by him by Proclamation to be published in the *Provincial Gazette*: Provided always, that in case there shall cease to be any Superintendent of the Province of Otago, no such regulation as aforesaid shall acquire any force until and unless the same shall have been first laid before the Governor of New Zealand, and shall have been approved by him by Proclamation to be published in the *New Zealand Gazette*. And it is hereby declared that the *Provincial Gazette* or the *New Zealand Gazette*, as the case may be, containing any such regulation as aforesaid, purporting to have been made by the

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said Council and to have been approved of by the said Superintendent, or the Governor of New Zealand, as the case may be, shall be sufficient *prima facie* evidence that such regulation has been duly made and approved of in accordance with the provisions of this Act.

9. The said Corporation is hereby empowered forthwith to take possession and acquire the fee simple of any lands shown or delineated and specified or comprised in the said plan and book of reference, if necessary, for the purpose of a catchwater or gathering ground in connection with the said waterworks. Notice of election to take such lands to be given to owners and others within twelve months from the passing of this Act.

Corporation empowered to take lands comprised in plan and book of reference.

10. All persons being owners in the fee simple of, or having any less estate or interest in, any of the lands taken 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 Lands Clauses Consolidation Act, 1863," so incorporated with this Act as aforesaid.

Compensation to be given for lands taken.

11. 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 land 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 said Corporation to lay out and expend so much of the moneys which under and by virtue of the Waterworks Acts, or any of them, 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: Provided that all plans for such reservoirs and dams and other works for storing water shall be subject to the approval of the Governor in Council, and such dams reservoirs and other works shall not be used for the actual storage of water until approved of by the Governor in Council.

Corporation empowered to construct reservoirs and other works, and to pay for same out of moneys raised under the Waterworks Act.

12. Subject to the provisions hereinafter contained, the said Corporation is hereby empowered to extend and lay mains and pipes from the said waterworks into the suburbs for the purpose of supplying the inhabitants of such suburbs with water, and for that purpose from time to time, as and when the said Corporation shall think fit, to open the ground and dig sufficient trenches in all roads streets and footpaths in the said suburbs, and to do all other acts and things necessary for laying and fixing originally, and afterwards from time to time, as occasion may require, taking up repairing altering or improving and replacing the said mains and pipes, and all or any of the appliances connected therewith: Provided always, that any roads streets and footpaths so opened up or dug as aforesaid shall be forthwith placed in as good condition as before the same were opened and dug upon. And it is hereby further enacted that (subject as aforesaid) the said Corporation shall have and exercise over and in respect of the said suburbs, and the inhabitants thereof, all such or similar rating and other powers as the said Corporation had and now has under similar circumstances over or in respect of the said city, and the inhabitants thereof, by virtue of the Waterworks Acts, or any of them, the true intent of this Act being that for the purposes of this Act, but not further or otherwise, the said suburbs shall (subject as aforesaid) be deemed and taken to be included within the boundaries of the said city in the same manner as if the said suburbs had been in fact so included at the time of the

Subject to certain conditions, Corporation empowered to lay mains and pipes in suburbs, and to have same rating powers over suburbs as over city.

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passing of "The Dunedin Waterworks Act, 1864:" Provided always, and it is hereby expressly declared, that the said Corporation shall not exercise any of the powers intended to be conferred by this section until and unless the following requirements shall first have been duly complied with—that is to say, in case a majority of not less than three-fourths of the road ratepayers in any or every suburban area shall sign a memorial, addressed to the Resident Magistrate, to the effect that such memorialists are desirous of being supplied with water by the said Corporation, the Resident Magistrate, upon receipt of such memorial or memorials, shall forthwith cause a notice under his hand to be published in two consecutive numbers of the *Provincial Gazette* to the effect that such memorial or respective memorials has or have been presented to him, and in and by such notice he shall appoint a certain place in the said city, and a day and hour not less than thirty nor more than forty-two days from the first publication of such notice, where and when he will be ready to hear any person who may there and then offer to prove to the satisfaction of the Resident Magistrate that such memorial or memorials as aforesaid is or are not subscribed by the *bonâ fide* signatures of such majority of not less than three-fourths of the ratepayers as aforesaid: Provided always, that the Resident Magistrate shall publish a separate notice to the effect aforesaid in respect of each such memorial in case more than one shall be received by him as aforesaid, and each of such notices shall describe in general terms the particular suburban area to which the same shall relate. And it is hereby enacted that, at the place and time so to be appointed as aforesaid, the Resident Magistrate shall hear all parties who shall or may appear either in opposition to or in support of such memorial or memorials respectively as aforesaid, and any evidence which may then be adduced on either side, and shall afterwards determine whether or not in his opinion such memorial or memorials has or have respectively been duly signed by such majority of road ratepayers as aforesaid: Provided always, that the Resident Magistrate may adjourn such hearing and determination as aforesaid from day to day or from time to time to such convenient day or days, not later than fourteen days after the day first appointed for hearing as aforesaid, as he shall think fit. And it is hereby further enacted that such determination of the Resident Magistrate as aforesaid shall be final and conclusive, and shall forthwith be notified by him by a separate notice under his hand in respect of each such memorial, which notice he shall cause to be published once in the *Provincial Gazette*; and it is hereby declared that in case such determination shall be to the effect that such memorial or respective memorials as aforesaid has or have, in the opinion of the Resident Magistrate, been duly signed as aforesaid, then, immediately from and after the publication of such last-mentioned notice, it shall be lawful for, but not obligatory upon, the said Corporation forthwith or at any time thereafter to exercise all the powers conferred by this section as aforesaid, or such of the same as shall for the time being be applicable, but nevertheless only within or with respect to the particular suburban area or respective suburban areas to which such memorial or respective memorials shall relate: Provided always, that in case the determination of the Resident Magistrate shall be that such memorial or respective memorials as aforesaid has or have not in his opinion been duly signed as aforesaid, it shall be lawful for the majority of not less than three-fourths of the road ratepayers in the same suburban area or respective suburban areas, at any future time, and as often as need shall be, to sign and present to the Resident Magistrate a new memorial or new memorials to the effect aforesaid, whereupon the Resident Magistrate shall deal with such new memorial or respective memorials in the

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same manner as he is hereinbefore required to deal with the first of such memorials: Provided also that, in case there shall cease to be any Provincial Gazette, all such notices as aforesaid shall be published in three consecutive numbers of some daily or other newspaper circulating in the said city. And it is hereby declared that the Provincial Gazette or any such newspaper as aforesaid containing any such notice as aforesaid, purporting to have been signed by the Resident Magistrate, shall be sufficient *prima facie* proof of the statements therein respectively contained, and of due compliance with the several and respective requirements contained in this section.

13. The third section of "The Dunedin Waterworks Act Amendment Act, 1871," is hereby repealed, and in lieu thereof it is hereby enacted that notice of the amount of such valuation shall be given to the occupier or occupiers of the land messuage or tenement rated and assessed, by delivering the same to him or them, or by leaving the same for him or them at his or their last-known place or places of business or abode, or, if the land messuage or tenement be unoccupied, by affixing the same to some part of the land messuage or tenement rated or assessed, or by sending the same through the medium of the General Post Office in the said city to the last-known place of business or abode of the owner or owners, or reputed owner or owners, of such messuage or tenement, or by publishing on two consecutive days, in two daily newspapers printed and published in the said city, a reference to or description of the land messuage or tenement rated and assessed, the amount of the valuation placed upon such land messuage or tenement, together with the name or names of the supposed or reputed owners of the said land messuage or tenement. And it is hereby declared that every such notice as shall be served as aforesaid upon the occupier or occupiers of the land messuage or tenement rated or assessed shall be binding as well upon the owner or owners of such land messuage or tenement as upon the occupier or occupiers thereof: Provided always, that the failure of the said Corporation to give send or publish any such notice as aforesaid shall not exonerate the said occupier or occupiers, or the said owner or owners, or any of them, from his or their liability in respect of rates assessed and leviable under the said Waterworks Acts, or any of them.

14. The fourteenth section of "The Dunedin Waterworks Act Amendment Act, 1871," is hereby repealed, and in lieu thereof it is hereby enacted that all water rates payable to the said Corporation under the Waterworks Acts, or any of them, shall be payable in advance, by equal half-yearly payments, on the first day of January and the first day of July in each year: Provided that, in the event of any land messuage or tenement becoming liable to a water rate during the currency of either of the half-yearly periods hereinbefore mentioned, a proportionate part of the rate payable in respect of such land messuage or tenement to be calculated in respect of the unexpired portion of such half-yearly period shall be payable and paid to the said Corporation in advance upon such liability accruing.

15. All notices required to be given served or sent by post by the said Corporation under or in pursuance of this Act, or any of the Waterworks Acts, 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 any officer of the said Corporation who shall be specially appointed in that behalf by any writing under the hand of the Mayor and the seal of the said Corporation; and it shall not be necessary to affix the said 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 Act and of the said Water-

Repeal of 3rd section of "The Dunedin Waterworks Act Amendment Act, 1871," and substitution of other provisions in lieu thereof.

Repeal of 14th section of "The Dunedin Waterworks Act Amendment Act, 1871," and substitution of other provisions in lieu thereof.

Notices to be signed by Town Clerk or officer specially appointed. Gazette or newspaper *prima facie* evidence of due signature of notice.

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works Acts, or any of them, be inserted in the *New Zealand Gazette*, or the *Provincial 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 aforesaid on behalf of the said Corporation.

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