

(Mr. Peacocke.)

Canterbury Rivers.

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A BILL INTITULED

AN ACT to make provision for the Management of certain Rivers in the Province of Canterbury. Title.

WHEREAS it is expedient to make provision for the management of certain Rivers in the Province of Canterbury, and to provide for the making repairing and maintaining of protective works to lessen the damage occasioned by the overflow of such Rivers: Preamble.

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

INITIATORY AND REPEALING CLAUSES.

1. The Short Title of this Act shall be "The Canterbury Rivers Act, 1870." Short Title.

Repeal of former Acts.

2. "The Canterbury Rivers Act, 1868," and "The Canterbury Rivers Act Amendment Act, 1869," are hereby repealed; but all rates levied and all penalties incurred under the said Acts, or either of them, may be recovered and enforced as if this Act had not been passed.

Boundaries of South Waimakariri District.

3. The South Waimakariri District proclaimed under "The Canterbury Rivers Act, 1868," shall be considered to be a district constituted under this Act. The Northern boundary of such district, from the time the same was proclaimed, shall be considered to have extended and shall extend to the centre of the River Waimakariri, or where the river runs in two branches to the centre of the South branch. All debentures issued and all acts done and works made by the Conservators of such district under the said Acts, or either of them, shall be considered to have been issued done and made under this Act. The present Conservators for such district are hereby incorporated under this Act, under the title of "The Board of Conservators of the South Waimakariri District."

Limits may be defined afresh.

4. The Provincial Council may by resolution define afresh the limits of the South Waimakariri District, and the Superintendent shall, on such resolution being passed, forthwith publish a description of the district as so defined in the *New Zealand Gazette* and the *Gazette* of the Province, and on such publication the district so defined shall become to all intents and purposes the South Waimakariri District, as if the South Waimakariri District had been originally so defined. Until such resolution shall be passed, the members of the Board of Conservators of such district shall be appointed and removeable by the Superintendent as they now are. Immediately on such resolution being passed, all the Conservators except the Mayor of Christchurch shall vacate their office, and all such proceedings shall be forthwith taken for dividing the district into wards and for nominating and electing members as would be taken under this Act; when a new district is formed and one member is to be nominated and three elected, and henceforth the members of such Board shall hold office and be removeable and vacancies shall be filled up as in the case of a similar Board in a new district.

CONSTITUTION OF DISTRICTS AND BOARDS.

Provincial Council may decide upon district.

5. The Provincial Council may by resolution from time to time decide that any part or parts of the Province shall be constituted a district for the purposes of this Act. Such resolution shall describe the limits of such district and designate the name by which such district shall be known, and mention the number of Conservators, being not less than three nor more than five, of which the Board of the district shall be constituted. Forthwith, on any such resolution being passed, the Superintendent shall take the necessary steps for the constitution of a Board of Conservators for the district as hereinafter provided.

Constitution of Board.

6. If there are five Conservators, two shall be forthwith appointed by the Superintendent by warrant under his hand; if less than five, one shall be so appointed. The Superintendent may in like manner remove the persons so appointed, and their successors in office or any of them, and shall forthwith fill up all vacancies among the persons so appointed and their successors in office, whether caused by removal or otherwise. The rest of the Conservators for each district shall be elected and vacancies among them filled up by election as hereinafter mentioned. Provided that if any district shall include one or more cities or boroughs or any part of a city or borough incorporated under the provisions of "The Municipal Corporations Act, 1867," or any similar Act that may hereafter come into operation, the Mayor of such city or borough shall be *ex officio* a Conservator of such district in addition to the number of Conservators fixed by the Provincial Council.

7. Every member of any Road Board (but not of any City or Borough Council) within whose jurisdiction the district or any part thereof may be situate shall be entitled to vote at the election of a member or members of the Board. If at any election any two or more candidates have the same number of votes, the member shall be chosen from such candidates by lot. Any Commissioner appointed by the Superintendent to administer the affairs of any road district shall have the same number of votes at any election as the members of the Road Board whose place he occupied would have had collectively if such Road Board had been in existence and had contained its full number of members.

Election by Road Boards.

8. No alteration of the boundaries of any city or borough or of the jurisdiction of any Road Board within the district shall affect the status of the members of the Board, and shall only come into operation as regards the election of new members of such Board when any seat on the Board next becomes vacant.

Alteration of districts not to affect members.

9. The Superintendent shall, by Proclamation in the Provincial Gazette, make regulations for conducting the elections of members of a Board; and such regulations may from time to time in like manner amend and alter, and may appoint fit persons to conduct such elections, and shall fix the time and place of every such election. And forthwith, on any vacancy occurring among the elected members of the Board, the Superintendent shall cause a fresh election to be held to fill up such vacancy.

Superintendent to make regulations.

10. The Superintendent shall pay all expenses incident to the constitution of the Board or that he may be put to in carrying out this Act out of the Provincial Treasury, and may recover the same from the Board when constituted as a debt due.

Superintendent to pay expenses.

11. Any male person of full age shall be capable of being nominated or elected a member of any Board.

Qualification of members.

12. If from any cause whatever the full number of members shall not be elected for any Board on its first constitution, or if the vacancies among elective members shall not be duly filled up by election, the Superintendent shall forthwith nominate a member or members to make up such number or fill up such vacancies. And the member so nominated shall hold office in all respects as if they had been elected members.

Superintendent may nominate in certain cases.

13. So soon as the full number of members of a Board has been filled up as is hereinbefore provided, the Superintendent shall, by Proclamation in the *New Zealand Gazette* and the *Gazette* of the Province, declare the Board to be duly constituted; and from and after the date of such last mentioned Proclamation, the Board shall be a corporation under the name of "The Board of Conservators for the District," (the blank being filled up by the name by which the district is to be designated,) having perpetual succession and a common seal, with power to make alter and renew the same, to hold property real and personal for the purposes of this Act, and to sue and be sued plead and be impleaded in any Court of Law or Equity.

Board to be declared constituted in *New Zealand Gazette*.

14. Every elected member of a Board shall hold office for a period of four years from the date of his election: Provided nevertheless, that if any member elected or otherwise shall become bankrupt or insolvent, or enter into any contract with the Board, or be employed by the Board, or share the profit of any contract entered into with the Board, save as the member of any public registered company, or be convicted of felony or any infamous offence, or absent himself from four successive meetings of the Board without leave from the Board first obtained, or shall by writing under his hand, addressed to the Chairman of the Board, resign his seat thereat, his office shall be *ipso facto* vacant.

Duration and terms of tenure of office.

15. The Board shall have an office wherein to hold their meetings

Board shall have office.

and transact business under this Act in some convenient place within their jurisdiction.

Board shall elect
Chairman.

16. The Board shall at their first meeting and on any vacancy in the Chairmanship, elect from among themselves a Chairman who shall if present preside at all meetings, but in the event of his absence, the members of the Board present shall elect from among themselves a Chairman for that meeting. The Chairman of the Board shall hold office for the term of four years from the date of his election, unless he shall previously resign his office, or his seat at the Board shall be vacated.

Minutes to be kept.

17. The Board shall cause proper minutes to be taken and kept of the proceedings of each meeting.

Validity of
proceedings not to
be affected by
irregularities.

18. No act of the Board shall be invalid on account of any vacancy having occurred, or on account of any person acting as a member who is not legally qualified or who has not been legally nominated or elected a member. If from any cause whatever all the seats on the Board shall become vacant, the Board shall not be thereby dissolved, but new members thereof shall be forthwith nominated and elected as hereinbefore mentioned, and the Board so reconstituted shall be considered in all respects to represent and be the successors of the original Board.

RATES.

What property
may be rated.

19. All property within the district which under any law now or hereafter to be in force is or may be liable to be rated for local purposes by any Road Board or City or Borough Council, shall be liable to be rated for the purposes of this Act: Provided that the total amount of rates levied under this Act in any one year shall not exceed the value of one shilling in the pound on the annual rateable value of such property calculated according to the provisions of any such law.

Board shall have
power to fix rates.

20. It shall be lawful for the Board from time to time to resolve that any such rate shall be made and levied, and to fix the amount in the pound of such rate; and the Board, after any such resolution shall have been passed, shall cause to be forwarded a copy of the same to the Mayor, Chairman or other head, or to the Clerk of any Road Board, City or Borough Council, within the limits of whose jurisdiction the district or any part or parts thereof may be situate. Every such Road Board or Council shall forthwith proceed to make levy and collect such rate in the part or parts of the district within their jurisdiction, in such manner as nearly as may be, and with such powers, and the rate shall be payable by and recoverable from such persons and in such manner in every respect as if the limits of the jurisdiction of such Road Board or Council were coincident with such part or parts of the district, and the rate were to be levied by such Road Board or Council for their own purposes under the powers of rating then by law vested in them: Provided always that when any person is liable to be rated in respect of property lying partly within and partly without the district, the Road Board or City or Borough Council within whose jurisdiction such property is situate shall deduct from the amount of the rates that would be levied on the property if it were wholly within the district such part as they may in their absolute discretion think fit.

Special rates may
be levied.

21. From time to time, whenever it shall appear to the Board that any work or improvement which the Board is hereby authorized to do or execute is for the special benefit of any particular portion of the district within their respective jurisdiction, the Board may, for the purpose of defraying all or any part of the expenses incurred in so doing or executing such work, by resolution particularly defining such portion of the district, resolve that a special rate shall be made and levied equally upon all rateable property situated within such portion: And the same proceedings shall be had for making levying

collecting and recovering such rate as are hereinbefore enacted and set forth for making levying collecting and recovering other rates under the authority of this Act, but as if in the section last preceding the words "portion of the district" were substituted for the word "district":

- 5 Provided that the total amount of special rate to be levied in any one year shall not exceed the amount of one shilling in the pound on the annual rateable value of the property rated, and the Board is hereby authorized to apply the moneys to be collected and received from each such portion respectively, by virtue of any such special rate or rates
 10 towards the expense of such work or improvement as aforesaid, or towards recouping themselves the expense of any such work or improvement which may have been constructed and made before such special rate was resolved on.

- 15 **22.** For the purposes of this Act only, the powers of making levying and recovering rates, now or hereafter, purporting to be given to any Road Board by Ordinance of the Provincial Council, shall be deemed to be legally given, notwithstanding any such Ordinance may be in excess of the legislative powers of the Provincial Council. Rates to be deemed legal.

- 20 **23.** All such rates shall be held by every Road Board or City or Borough Council as trustee for the Board of Conservators of the district, and shall be handed over to such Board of Conservators, as collected: And every such Road Board or Council shall be entitled to retain all reasonable costs and expenses incurred in and about making and levying collecting and recovering the same, and a reasonable remuneration for clerical and other work. If any dispute shall arise as to the amount so to be retained, or otherwise in relation thereto, the same shall be decided by the Provincial Auditor, or such other person as the Governor may appoint for the purpose. Rates to be handed to Board of Conservators.

- 30 **24.** If any Road Board or Municipal or Borough Council shall refuse or neglect to make and levy and to take all necessary steps to collect and recover any such rate as aforesaid, every member thereof, at the time of such neglect or refusal, shall be liable to a penalty of not exceeding fifty pounds. Board to be liable to penalty in case of neglect.

- 35 **25.** All property belonging to or in the occupation of the Provincial Government, or the Superintendent on behalf of the Province, which, if it did not so belong, or were not so occupied, would be liable to be rated, shall be liable to be rated for the purposes of this Act. Whenever the Board pass a resolution, as above mentioned, that a rate, either general or special, shall be levied, they shall forward copies of the same to the Superintendent and to the Provincial Auditor, or to some other person appointed by the Governor for the purpose; and the Provincial Auditor or such other person shall award what amount would be paid for any such property in respect of any such rate, if such property were liable to be rated
 40 otherwise than under this present proviso, and had been rated accordingly; and the Superintendent shall forthwith pay the amount awarded to the Board out of the Provincial Treasury. The Superintendent and the Board shall furnish such information as the Provincial Auditor or such other person as aforesaid may require, for enabling
 45 him to decide on the amount. Provincial Government property to be rated.

POWER AND DUTIES OF BOARD.

- 55 **26.** As far as shall be necessary for the purpose of providing for the making repairing and maintaining of protective works to prevent or lessen any damage which may be occasioned by the overflow or by the breaking of the banks of any river within any proclaimed district of the said Province, whether such river shall or shall not in any part thereof be navigable or be altered by the flow or ebb of the tide, such rivers, and all streams sewers and watercourses which now do or hereafter shall or may directly or indirectly communicate with Streams, sewers, and watercourses to be in jurisdiction of Board.

any such river, and all walls banks culverts bridges dams flood-gates and other works erected or to be erected in upon over or adjoining to any such rivers, and all other protective works, shall be, from and after the time of the incorporation of the Board, to all intents constructions and purposes, within and subject to the jurisdiction of the Board of the district within which the same may happen to be, or for the protection of which the same may be erected or made. 5

Powers of Board.

27. It shall and may be lawful for the Board to decree and ordain any works aids and defences, or any alteration in the gauge dimension course direction or situation of any old or existing works aids and defences, to be constructed made and done for the more effectually defending and securing any lands or tenements within the district against the irruption or overflowing of any rivers, or for draining and carrying off the superfluous fresh waters according to the discretion of such Board; and also in like manner and at their discretion to decree and ordain any former works aids or defences against any rivers streams sewers or watercourses within their jurisdiction to be abandoned and given up, and new works aids and defences to be made and continued in lieu thereof; and any such aids or defences may be erected made and maintained by the Board without their district, if in the opinion of the Board they shall be required for protecting any lands or tenements within the district. 10 15 20

Road Boards to have control of water-courses until taken over by Conservators.

28. Notwithstanding anything in this Act, or in any Act or Ordinance contained to the contrary all rivers streams drains and watercourses shall be under the control and management of the Road Board, City or Borough Council, or other local governing body within the limits of whose jurisdiction such rivers streams drains or watercourses may be situate: Provided always, that the Board may from time to time, by notice in writing addressed to the Chairman of any such body, state their-intention of taking over the control or management of any such rivers streams drains and watercourses, or any part of them, within their district, either generally or for some particular purpose or purposes; and after such notice has been given, all such rivers streams drains and watercourses, or such parts thereof respectively, shall, either for general purposes or for the particular purpose mentioned in such notice, be under the sole control and management of the Board. 25 30 35

Board may borrow moneys.

29. It shall and may be lawful for the Board, from time to time as occasion shall require, to borrow and take up at interest any sum or sums of money, on the security of the rates and other moneys to be raised by the Board by virtue of this Act, for the purchase of messuages lands tenements or hereditaments, or for defraying the costs charges and expenses of any work or works required to be done, or for making repairing and maintaining any sea-bank wall or other defence or defences against any violent eruption or encroachment, or apprehended encroachment, of the sea or rivers, or for the making and maintaining any new cut, or for the more effectual and better draining and carrying off the floods and superfluous fresh waters, or for the building constructing repairing amending renewing and maintaining any flood-gates sluices bridges dams or other necessary works, or for any other construction work matter or thing which the Board shall judge necessary or expedient for the more effectual defence security and improvement of the lands grounds tenements and hereditaments within the jurisdiction of the Board; and the repayment of such sum and sums of money with interest may be secured to the party lending the same upon or by debentures in the form marked A in the Schedule hereto, or to the effect thereof, under the common seal of the Board (which debentures they are hereby authorized to issue): Provided that the sum or sums of money so borrowed and taken up as aforesaid shall be repaid within a time to be named in such debentures, not being for 40 45 50 55 60

a longer period than fourteen years from the making thereof, together with interest thereon, or coupons may be attached for payment of interest yearly or half-yearly or otherwise. The principal and interest of the money so borrowed shall be a first charge on the general rates received by the Board, and the Board shall every year cause to be made and levied a rate or rates of sufficient amount, after payment of the expenses of levying and collection, to pay the interest on the money for the time being owing on the security of such debentures. If the interest or any part thereof, on any such debentures or borrowed moneys, shall remain unpaid for two calendar months after any of the half-yearly days of payment, or the principal or any part thereof for two calendar months after the same shall become due, the borrowing powers of the Board shall for the time cease, and the Board shall cause to be made and levied the full amount of rates that can be made or levied under this Act until the principal and interest on such debentures or borrowed moneys shall be repaid.

30. Every person or corporation who shall be entitled to the money thereby secured, and his her or their executors administrators and successors, may from time to time personally, or by attorney thereunto lawfully authorized, sign or transfer his or their right title interest or benefit to the said principal and interest money thereby secured to any person whatsoever, by an indorsement on the back of such security in the form marked B in the Schedule hereto or to the like effect, which transfer shall be produced and notified to the Clerk for the time being of the said Board before the party holding the same transfer shall be entitled to receive any principal or interest due or owing as aforesaid, and every such Clerk shall make an entry amongst the records of the said Board of the particulars of every such transfer, and indorse a minute of such entry upon the back of every such transfer signed by such Clerk, and for which entry and minute he shall be entitled to a fee of five shillings, and no more.

Debentures may be transferred.

31. The Board shall and may at their discretion, by and out of the taxes and rates to be raised under this Act, and any other moneys which may come to their hands as such Board, pay and allow to clerks and other persons employed by the Board such recompense sum and sums of money from time to time for their several salaries expenses and loss of time as to the said Board shall seem just, and also all such costs charges and expenses as shall be incurred preparatory to or in or about the making collecting and expending such rates as aforesaid, or the hearing of objections to such rates, or in or about the carrying on of any litigation or controversy arising out of the duties imposed on the Board by virtue of this Act, and for the payment of all other necessary allowances charges and expenses of putting this Act into execution.

Conservators may order payment of salaries of clerks or other expenses.

32. All and every sum and sums of money which shall or may be raised or levied or paid to the Board under the provisions of this Act, shall be paid into some bank to be appointed by the Board, and shall not be paid applied and disposed of except by cheque drawn on the bank wherein such money shall have been deposited, and such cheques shall be signed by at least two members of the Board, and shall be countersigned by their Clerk.

Moneys to be paid into bank and drawn by Conservators.

33. It shall be lawful for the occupier for the time being of land lying next and adjoining to any river sewer or watercourse within and subject to the jurisdiction of the Board, at any time within one calendar month from and after any gravel soil mud or earth shall have been cast or deposited upon the banks of such river sewer or watercourse by the order of any surveyor bailiff or other officer of the Board, at any time within one week from and after any rushes flags or other weeds shall have been cast or deposited upon such banks as aforesaid, to take and remove for his own use such gravel soil mud and earth, and such rushes flags and weeds respectively: Provided always that

Occupier may appropriate gravel, &c., on banks of river, or require Conservators to remove.

such gravel soil mud and earth, and such rushes flags and weeds respectively, shall be removed at least ten feet from the land side of the banks of such river sewer or watercourse: That if any such occupier shall neglect to remove such gravel soil mud or earth as aforesaid within one calendar month as aforesaid, or such rushes flags or other weeds as aforesaid within one week as aforesaid, for his own use, then and from thenceforth respectively it shall be lawful for any such surveyor bailiff or other officer of the Board, with workmen horses carts carriages barrows and other necessary tools and implements, at any time or times in the day-time to enter upon the land of such occupier, and to take away and remove therefrom such gravel soil mud and earth, and such rushes flags and weeds respectively, and also for such purposes to pass and repass at any time or times in the day-time through and over any other lands lying between the nearest highway and the banks of such river sewer or watercourse: Provided always that if the owner or occupier of the land upon which any such gravel soil mud earth rushes flags or weeds shall have been deposited shall require the Board to remove the same, such Board shall, within one calendar month after such requisition as aforesaid, cause the same to be removed from and off the said land.

Conservators may
contract for purchase.

34. It shall be lawful for the Board to treat contract and agree with the owners of and persons interested in any messuages lands tenements hereditaments and premises, with their appurtenances, for the purchase thereof, for the purpose of widening deepening strengthening maintaining repairing and amending any rivers streams watercourses walls banks and other works aids and defences within their jurisdiction, and for the loss or damage which such owners or persons may sustain thereby respectively, and it shall be lawful for all bodies politic, corporations aggregate or sole, tenants for life or in tail, husbands guardians trustees executors administrators and all other persons whomsoever, and not only for or on behalf of themselves their heirs and successors, but also for or on behalf of the person entitled in reversion remainder or expectancy after them, and for or on behalf of the *cestui que* trusts, whether *femes covert* infants or issue unborn, lunatics idiots or other persons whomsoever, and to and for all *femes covert* who are or shall be seised of or interested in their own rights, and to and for every person whomsoever who is or shall be possessed of or interested in any such lands tenements hereditaments or premises, or who shall sustain any damage as aforesaid, to contract with the said Board for the sale thereof respectively, or for the satisfaction to be made for the same or for such damage as aforesaid, and by conveyance to convey unto the said Board all or any of such messuages lands tenements hereditaments or premises or any part thereof for the purposes aforesaid in manner hereinafter mentioned, and all contracts sales and conveyances which shall be so made shall be good valid and effectual to all intents and purposes, and shall be a complete bar to all estates tail and other estates rights titles trusts and interests whatsoever, any law statute or other matter to the contrary notwithstanding; and all such bodies politic, corporations aggregate or sole, tenants for life or in tail, husbands guardians trustees committees executors administrators and all other persons, shall be and are hereby indemnified for what they or any of them shall do by virtue or in pursuance of this Act.

Compensation to be
settled by two
Justices.

35. If no agreement be come to between the Board and the owners of or parties by this Act enabled to sell and convey or release any lands, or any interest in such lands, taken or required for or injuriously affected by the execution of the works authorized by this Act, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, the same shall be settled by two Justices subject to the provisions hereinafter contained

as to cases where the compensation offered or claimed exceeds the sum of fifty pounds.

36. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration and signify such desire by notice in writing to the Board, stating in such notice the nature of the interest in respect of which such party claims compensation and the amount of the compensation so claimed, the same shall be so settled accordingly: Provided such notice be given before the expiration of seven days after such compensation shall have been claimed or offered as the case may be.

Arbitration where claim exceeds £50.

37. It shall be lawful for any Justice upon the application of either party, with respect to any question of disputed compensation by this Act authorized to be settled by two Justices, to summon the other party to appear before two Justices at a time and place to be named in the summons; and upon the appearance of such parties or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Justices to hear and determine such question, and for that purpose to examine such parties or any of them and their witnesses upon oath, and the cost of every such inquiry shall be in the discretion of such Justices, and they shall settle the amount thereof.

A Justice may summon either party to appear.

38. When any question of disputed compensation by this Act authorized to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single Arbitrator, each party, on the request of the other party, shall nominate and appoint an Arbitrator to whom such disputes shall be referred; and every appointment of an Arbitrator shall be made on the part of the Board under the common seal, and on the part of any other party under the hand of such party, or, if such party be a corporation aggregate, under the common seal of such corporation, and such appointment shall be delivered to the Arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an Arbitrator, such last-mentioned party fail to appoint such Arbitrator, then upon such failure the party making the request, and having himself appointed an Arbitrator, may appoint such Arbitrator to act on behalf of both parties, and such Arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of any such single Arbitrator shall be final.

Appointment of Arbitrator when questions are to be determined by arbitration.

39. If before the matter so referred shall be determined, any Arbitrator appointed by either party die or become incapable, the party by whom such Arbitrator was appointed may nominate and appoint in manner aforesaid some other person to act in his place; and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other Arbitrator may proceed *ex parte*, and every Arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former Arbitrator at the time of such his death or disability as aforesaid.

Vacancy of Arbitrator to be supplied.

40. Where more than one Arbitrator shall have been appointed, such Arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing under their hands an Umpire to decide on any such matters on which they shall differ or which shall be referred to him under the provisions of this Act; and if such Umpire shall die or become incapable to act, they shall forthwith after such

Appointment of Umpire.

death or incapacity appoint another Umpire in his place, and the decision of every such Umpire on the matters so referred to him shall be final.

Two Justices to appoint Umpire in certain cases.

41. If in either of the cases aforesaid the said Arbitrators shall refuse or shall for seven days after request of either party to such arbitration neglect to appoint an Umpire, any two Justices shall on the application of either party to such arbitration appoint an Umpire, and the decision of such Umpire on the matters on which the Arbitrators shall differ, or which shall be referred to him under this Act, shall be final.

5

In case of death of single Arbitrator, the matter to begin *de novo*.

42. If when a single Arbitrator shall have been appointed such Arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration under the provisions of this Act in the same manner as if such Arbitrator had not been appointed.

10

In case of refusal, one Arbitrator to proceed *ex parte*.

43. If where more than one Arbitrator shall have been appointed either of the Arbitrators refuse or for seven days neglect to act, the other Arbitrator may proceed *ex parte*, and the decision of such other Arbitrator shall be as effectual as if he had been the single Arbitrator appointed by both parties.

15

If Arbitrators fail to make award within twenty-one days, matter to go to Umpire.

44. If where more than one Arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such Arbitrators shall fail to make their award within twenty-one days after the day on which the last of such Arbitrators shall have been appointed, or within such extended time, if any, as shall have been appointed for that purpose by both such Arbitrators under their hands, the matters referred to them shall be determined by the Umpire to be appointed as aforesaid.

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25

Power of Arbitrators to call for books, &c.

45. The said Arbitrators or their Umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

30

Arbitrator or Umpire to make declaration.

46. Before any Arbitrator or Umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a Justice make and subscribe the following declaration, that is to say—
“ I A.B., do solemnly and sincerely declare that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of ‘The Canterbury Rivers Act, 1870.’

35

40

“ A.B.

“ Made and subscribed in the presence of . . . ”

And such declaration shall be annexed to the award when made; and if any Arbitrator or Umpire having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanour.

45

Cost of Arbitration.

47. All the costs of any such arbitration and incident thereto to be settled by the Arbitrators shall be borne by the Board, unless the Arbitrators shall award the same or a less sum than shall have been offered by the Board; in which case each party shall bear his own costs incident to the Arbitration, and the costs of the Arbitrators shall be borne by the parties in equal proportions.

50

Award to be delivered to Board.

48. The Arbitrators shall deliver their award in writing to the Board, and the said Board shall retain the same, and shall forthwith on demand at their own expense furnish a copy thereof to the other party to the arbitration, and shall at all times on demand produce the said award and allow the same to be inspected or examined by such party or any person appointed by him for that purpose.

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Submission to be made a rule of Court.

49. The submission to any such arbitration may be made a rule of the Supreme Court of New Zealand, on the application of either of the parties.

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50. No award made with respect to any question referred to arbitration under the provisions of this Act shall be set aside for irregularity or error in matter of form.

Award not void through error.

5 51. Every sum of money and recompense to be agreed for or assessed as aforesaid, shall be paid out of any moneys in the hands of the said Board which may be applicable for the purposes of this Act; and upon payment to such parties or persons or their agents, or left at their respective usual places of abode, or with the tenant in possession of such lands tenements hereditaments and premises, or into the bank in manner directed by this Act, as the case may be, then such lands tenements hereditaments and premises respectively shall be vested in such Board, and shall and may be taken and used for straightening widening deepening repairing and amending such rivers streams ditches gutters sewers and watercourses, or for making and maintaining 10 any new walls banks sewers guts gotes calcies sluices floodgates cuts and other works aids and defences, or for any other purposes within the scope of this Act, and all parties and persons whomsoever shall be divested of all right and title to such lands tenements and hereditaments.

When compensation paid, land to vest in Conservators.

20 52. If any money shall be agreed or assessed to be paid for the purchase of any lands, tenements, or hereditaments purchased taken or used by virtue of the powers of this Act, by any Board, which shall belong to any trustee executor administrator husband guardian committee or other trustee, or for on behalf of any infant lunatic idiot *feme covert*, *cestui que* trust, or to any other person whose lands tenements or hereditaments are or may be limited in strict or other settlement, or to any person under any other disability or incapacity whatsoever, such money shall, in case the same shall amount to or exceed the sum of two hundred pounds, with all convenient speed be paid into the said Bank, to be placed to the account there of the Registrar of the Supreme Court at Christchurch, *ex parte* the Board of Conservators of the district within which any such lands may be situate (describing the district by its proper names), in the matter of "The Canterbury Rivers Act 1868," to the intent that such money shall be applied 35 under the direction and with the approbation of the Supreme Court of New Zealand, to be signified by an order made upon a petition to be preferred in a summary way by the person who would have been entitled to the rents and profits of the said lands tenements and other hereditaments in the discharge of any debt or debts or other incumbrances or part thereof, as the said Court shall authorize to be paid affecting the same lands tenements or hereditaments, or affecting other lands tenements or hereditaments standing settled therewith to the same or the like uses trusts intents or purposes, or where such money shall not be so applied, then the same shall be laid out and 40 invested under the like direction and approbation of the said Court in the purchase of other lands tenements or hereditaments which shall be conveyed and settled to for and upon such and the like uses trusts intents and purposes, and in the same manner as the lands tenements or hereditaments which shall be so purchased taken or used as aforesaid stood settled or limited or such of them as at the time of making such conveyance or settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the said purchase money shall by order of the said Court upon application thereto, be invested by the said Registrar in the 45 purchase of Government securities; and in the meantime, and until the said securities shall be ordered by the said Court to be sold for the purposes aforesaid, the dividends and annual produce of the said securities shall from time to time be paid by the order of the said Court to the person who would for the time being have been entitled 50 to the said rents and profits of the lands tenements or hereditaments,

In case of lands held in trust, money to be paid to account of Registrar of Supreme Court, if more than £200.

to be purchased as aforesaid in case such settlement or purchase were made.

Provision when less than £200.

53. Provided always that if any money so agreed or assessed to be paid for any lands tenements or hereditaments, purchased taken or used for the purpose aforesaid belonging to any person under any disability or incapacity as aforesaid, shall be less than the sum of two hundred pounds, and shall amount to or exceed the sum of twenty pounds, then and in all such cases the same shall at the option of the person for the time being entitled to the rents and profits of the lands tenements or hereditaments so purchased taken or used, or of his guardian or committee in cases of infancy idiocy or lunacy, to be signified in writing under their respective hands, be paid into the said bank in the name and with the privity of the said Registrar, and be placed to his account as aforesaid in order to be applied in manner hereinbefore directed, or otherwise the same shall be paid at the like option to two or more trustees, to be nominated by the person making such option and approved by the Board taking such lands tenements or hereditaments, such nomination and approbation to be signified in writing under the hands of the nominating and approving parties, in order that such principal money and the dividends and interest arising therefrom may be applied in manner hereinbefore directed, so far as the case be applicable, without obtaining or being required to obtain the direction or approbation of the said Court.

Further provision when less than £20.

54. Provided also that when such money so agreed or assessed to be paid as before mentioned shall be less than the sum of twenty pounds, then and in every such case the same shall be applied to the use of the person who would for the time being have been entitled to the rents and profits of the lands tenements or hereditaments so purchased taken or used as aforesaid, in such manner as the Board shall think fit; or in case of lunacy idiocy or infancy, then to his guardian or committee, to and for the use and benefit of such person so entitled.

Possessor to be considered the person entitled till proved to the contrary.

55. Where any question shall arise touching the title of any person to any money to be paid into the said bank in the name and with the privity of the said Registrar in pursuance of this Act, for the purchase of any lands tenements or hereditaments to be purchased in pursuance of this Act, or to any Government Securities to be purchased with any such money, or to the dividends or interest of any such Government Securities, the person who shall have been in possession of any such lands tenements or hereditaments at the time of such purchase, and all persons claiming under such person or under the possession of such person, shall be deemed and taken to have been lawfully entitled to such lands tenements or hereditaments according to such possession until the contrary shall be shown to the satisfaction of the said Court, and the dividends or interest of the Government Securities to be purchased with such money, and also the capital of such Government Securities, shall be applied and disposed of accordingly, unless it shall be made to appear to the said Court that such possession was a wrongful possession, and that some other person was lawfully entitled to such lands tenements or hereditaments, or to some estate or interest therein.

When parties refuse to convey, or do not show title, or cannot be found, the purchase money to be deposited.

56. In case the person to whom any sum or sums of money shall be assessed or agreed to be paid for the purchase of any lands tenements or hereditaments to be purchased by virtue of this Act, shall refuse to accept the same or shall not be able to make a good title to the premises to the satisfaction of the said Board or any two or more of them, or in case such person to whom such sum or sums of money shall be so assessed or agreed to be paid as aforesaid cannot be found, or if the person entitled to such lands tenements or hereditaments be not known or discovered, then and in every such

case it shall and may be lawful to and for the said Board to order the said sum or sums of money so assessed or agreed to be paid as aforesaid to be paid into the said bank in the name and with the privity of the said Registrar, to be placed to his account to the credit of the parties interested in the said lands tenements or hereditaments (describing them), subject to the order control and disposition of the said Court; which said Court, on the application of any person making claim to such sum or sums of money or any part thereof, by motion or petition, shall be and is hereby empowered, in a summary way of proceeding or otherwise as to the said Court shall seem meet, to order the same to be laid out and invested in Government Securities, and to order distribution thereof or payment of the dividends thereof according to the estate title or interest of the person making claim thereunto, and to make such other order on the premises as to the said Court shall seem just and reasonable, and the cashier of the bank who shall receive such sum or sums of money is hereby required to give a receipt for the same (mentioning and specifying for what and for whose use the same is received), to such person as shall pay any sum or sums of money into the bank as aforesaid.

57. Provided always that where, by reason of any disability or incapacity of the person or corporation entitled to any lands tenements or hereditaments to be purchased under the authority of this Act, the purchase money for the same shall be required to be paid into the Supreme Court, and to be applied in the purchase of other lands tenements or hereditaments to be settled to the like uses in pursuance of this Act, it shall and may be lawful to and for the said Court to order the expenses of purchases from time to time to be made in pursuance of this Act, or so much of the expenses as the said Court shall deem reasonable, together with the necessary costs and expenses of obtaining such order, to be paid by the said Board, who shall from time to time pay such sum or sums of money for such purposes as the said Court shall direct, and the said Board shall and may reimburse themselves all such payments as shall be so made by them as aforesaid in the manner directed out of the rates to be raised levied and collected for such purposes respectively, under the powers and provisions of this Act.

Supreme Court may order expenses of purchaser in certain cases.

58. It shall not be lawful for any Board, in making any new walls banks sewers cuts gates sluices floodgates tumbling bays and other works reparations amendments aids and defences authorized to be made and executed by this Act, to take down remove or make use of any house or building, or any garden yard or paddock, or any park planted walk or avenue to a house, or any enclosed ground planted as an ornament or shelter to a house or planted or set apart as a nursery for trees or any part thereof respectively, without the consent in writing of the owner or proprietor thereof respectively, or of the person or corporation hereby authorized to sell and convey as aforesaid, first had and obtained.

Conservators may not interfere with houses or pleasure grounds without written consent of owners.

59. Upon payment or legal tender of such sum or sums of money as shall have been contracted or agreed for between the parties, or assessed in manner aforesaid for the purchase of any such messuages lands tenements hereditaments and premises, or as a compensation for losses or damages as herein mentioned to the proprietor or proprietors of such messuages lands tenements hereditaments and premises, or to such other person or persons, bodies politic, or corporations who shall be interested therein or entitled to receive such money or compensation respectively, within thirty days next after the same shall be so agreed for or assessed, or upon payment of such sum or sums of money within the said thirty days into the bank in manner herein directed and required for the use of the persons entitled thereto, it shall be lawful for the said Board, and their agents servants and

Upon payment or legal tender within thirty days, Conservators may enter.

workmen, to enter upon such messuages lands tenements hereditaments and premises respectively, and thenceforth such messuages lands tenements hereditaments and premises, together with the yearly profits thereof, and all the estate use trust and interest of any person or corporation therein, shall become and be vested in the said Board and their successors for ever, and such payment or tender shall not only bar all right title claim interest and demand of the person or corporation to whom the same shall or ought to have been made, but also shall extend to and be deemed and construed to bar the dower of the wife of every such person, and all estates tail and all other estates in reversion and remainder of his or their issue, and of every other person or corporation whomsoever therein.

Conservators may sell lands vested in them.

60. It shall and may be lawful for the Board in whom any lands and hereditaments shall be vested by virtue of this Act to sell and dispose of the same or any part thereof, either together or in parcels as they shall find most convenient and advantageous to such person as shall be willing to contract for and purchase the same, and the money to arise and be produced by the sale or sales which may be made by the said Board of any lands or hereditaments as aforesaid shall be applied to the purposes of this Act.

Adjoining owners to have refusal.

61. Provided always that such land shall be first offered for sale to the adjoining owners, and the Board shall not sell such lands to any other person for a lower price than the same shall have been offered at to an adjoining owner and refused.

GENERAL.

Property to be vested in Conservators.

62. The property of and in all lands tenements and hereditaments which shall have been or which shall hereafter be purchased, and of and in all buildings erections works and other things which shall have been or which shall hereafter be purchased obtained erected constructed and made by or by the order, or which are or shall be within or under the view cognizance or management of any Board, with the several conveniences and appurtenances thereunto respectively belonging, and also all and singular the goods tools utensils materials and things whatsoever had and to be had bought procured or provided by or by the order of or which are or shall be within or under the view cognizance or management of such Board, and all rates and other moneys raised or levied by virtue of this Act, shall be and the same are hereby vested in the Board and their successors, who are hereby empowered to bring or cause to be brought any action or actions, or to prefer or order the preferring of any bill or bills of indictment against any person who shall dig up break or pull down damage destroy injure spoil steal take or carry away, or wilfully and wrongfully buy or receive any such lands tenements hereditaments buildings erections works goods tools utensils materials money and things whatsoever as aforesaid or any part thereof.

Proceedings in case of refusal by officer to give up possession.

63. If any officer or servant of the Board who shall be discharged from his office shall be in possession of any houses buildings lands floodgates sluices works dams materials tools implements moneys or things so belonging to or vested in any such Board as aforesaid, and shall refuse to deliver up the possession thereof within two days after notice of his being discharged and of his being required to deliver up the same shall be given to him, or left at his last or most usual place of abode, or if the wife widow family or representative of any such officer or servant who shall happen to die shall, after like notice given to her them any or either of them, refuse to deliver up possession of the same within the like time after she they or either of them shall be required so to do, then and in either of the said cases it shall and may be lawful for the Board, by warrant under their common seal, to order a

constable or other peace officer, with such assistance as shall be deemed necessary, to enter any such houses buildings lands floodgates sluices dams or other works so refused to be delivered up in the day-time, and to remove the persons who shall be found therein, together
 5 with their goods, out of such premises, and also to take possession of the same, and of all such other property matters and things belonging to or vested in the said Board as shall be so refused to be delivered up as aforesaid, and to put the said Board or their officer or servant in possession thereof.

10 **64.** It shall be lawful for the Board to take such security by bond or bonds from every Treasurer, Receiver, Collector, and other ministers and officers as to such Conservators shall seem meet for the just and faithful execution of such office or trust; and in case of forfeiture it shall be lawful for the Board to sue upon such bond or bonds in the
 15 name of the Board, and to carry on such suit at the costs and charges and for the use and benefit of the fund for the security of which such bond or bonds shall have been taken.

Board shall take bonds from officers.

65. The Provincial Auditor for the time being shall be Auditor of the Accounts of the Treasurer under this Act, and shall report upon
 20 the same from time to time to the Superintendent and Speaker of the Provincial Council.

Audit.

66. The members of the Board shall be entitled to be paid for their services such sum or sums of money out of the funds of the Board as the Provincial Council may from time to time by resolution
 25 determine.

Board to be paid.

67. For the purposes of this Act, the following words and expressions shall have the several meanings hereby assigned to them unless there shall be something in the subject matter or context repugnant to such construction, that is to say—

Interpretation.

30 The word "Board" shall mean the Board of each several district constituted under this Act.

The words "Road Board" shall mean any Road Board constituted or to be constituted under an Ordinance of the Superintendent and Provincial Council of Canterbury, intituled "The Roads Ordinance, 1869," or any Commissioner appointed by the Superintendent under the said
 35 Ordinance, or any body corporate or other authority that may be hereafter constituted by law for the purposes of local government.

40 The words "City or Borough Council" shall mean any Corporation now hereafter to be constituted under "The Municipal Corporations Act, 1869," or any body corporate or other body in the nature of a City or Borough Council that may be hereafter lawfully constituted.

45 The words "Justice and Justice of the Peace" shall mean a Justice of the Peace for the Colony of New Zealand.

The word "Bank" shall mean any Bank appointed by the Board.

50 The words "Superintendent," "Provincial Council," and "Provincial Gazette" shall mean the Superintendent, the Provincial Council, and the Provincial Gazette of the Province of Canterbury.

SCHEDULE A.

FORM OF DEBENTURE.

By virtue of the Canterbury Rivers Act, the Board of Conservators of the District, in consideration of the sum of _____ lent and paid by _____ of _____, do hereby certify that the several general rates to be made and levied within the said district, under and by virtue of the said Act, are become charged with the repayment of the said sum of _____ on the _____ day of _____ in the year 18____, together with interest on the said principal money, at and after the rate of _____ per centum per annum, until the whole thereof shall be repaid by equal half-yearly payments on the _____ day of _____ and _____ day of _____ in every year, which sum so lent and advanced as aforesaid is part of a capital sum of _____ which at a meeting of the said Board holden on the _____ day of _____ was decreed and ordered to be taken up and borrowed.

In witness whereof the Common Seal of the Board of Conservators of the District, hath been hereunto affixed, the _____ day of _____, 18____.

SCHEDULE B.

FORM OF TRANSFER.

I, _____ of _____, in consideration of the sum of _____ paid to me by _____ of _____ do hereby transfer the within certificate of charge, with all my right and title to the principal money thereby secured and now remaining due thereon and to all the interest money now due or hereafter to become due unto the said _____ executors, administrators, and assigns (as the case may be).

As witness my hand this _____ day of _____, 18____.

**Amendments of the Legislative Council in the Canterbury
Rivers Bill.**

————— *fn*

In clause 4, line 13, omit the words, “~~dividing the district into wards and.~~”

In clause 11, line 1, after “age” insert “being a ratepayer within any district proclaimed as hereinbefore provided.” In line 2, to omit “any Board,” and insert “the Board of such district” in lieu thereof.

In clause 19, line 5, after “year” insert “other than special rates, as hereinafter provided.”

In clause 21, after “Boards” in line 1, insert “upon the report of some competent person appointed or approved of by the Superintendent.” In lines 6 and 7, erase the words “particularly defining such portion of the district,” and insert “declare that particular lands, to be defined by some competent person appointed or approved of by the Superintendent, as lands properly liable to contribute to such improvements, and which lands shall be described in such Resolution, shall be so liable to contribute, and may therefore.”

Erase clause 22.