

161

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL and having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

*Legislative Council,
24th August, 1874.*

(Hon. Dr. Pollen.)

Canterbury Water Supply.

ANALYSIS.

<p>Title.</p> <p>Preamble.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Power to construct waterworks. Proviso as to deposit of plans. Notice to be given.</p> <p>4. Compensation to be made.</p> <p>5. Damage to be compensated by rate.</p> <p>6. Maintenance of works.</p> <p>7. When claims to be made.</p> <p>8. Amounts, how ascertained.</p>	<p>9. Infant claimants.</p> <p>10. Waterworks, &c., deemed to be property of the Superintendent.</p> <p>11. Penalty for obstructing Superintendent.</p> <p>12. Penalty for diverting water, &c.</p> <p>13. Prohibition against use of water without authority.</p> <p>14. Penalty for fouling water.</p> <p>15. Penalty for waste of water.</p> <p>16. Legislature of province may pass Ordinance for regulation of certain matters.</p> <p>17. Summary procedure.</p> <p>18. Saving of other remedies.</p>
---	---

A BILL INTITULED

AN ACT to provide for supplying certain Districts of the Province of Canterbury with Water. Title.

WHEREAS it is expedient to make provision for supplying certain districts of the Province of Canterbury with water: Preamble.

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

1. The Short Title of this Act shall be “The Canterbury Water Supply Act, 1874.” Short Title.

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

The words “the province” shall mean the Province of Canterbury.

15 The word “districts” shall mean those districts or parts of the province lying between the Rivers Waimakariri and Rakaia, and the Rivers Rakaia and Ashburton, or either of such districts, the boundaries of which districts shall be defined by an Ordinance of the Legislature of the province, as hereinafter provided.

20 The word “Superintendent” shall mean the Superintendent for the time being of the Province of Canterbury.

The word “waterworks” shall mean any waterworks by this Act authorized to be made and constructed, and all reservoirs water-races bridges dams cisterns tanks aqueducts drains cuts sluices pipes conduit service-pipes culverts engines wells shafts buildings and other works connected therewith.

39 The word “lands” shall mean lands messuages tenements and hereditaments of any tenure in the said districts, and any estate or interest therein.

The word "owners" shall mean the owner lessee or occupier of, or any person having any estate or interest in, any land.

The word "rivers" shall mean rivers streams brooks springs and other running waters and watercourses.

The word "road" shall mean any road street bridge highway lane thoroughfare and other public passage or place within the said districts. 5

The expression "Justices of the Peace" shall mean and include any two or more Justices of the Peace for the colony sitting and acting together, or a Resident Magistrate. 10

Power to construct waterworks.

3. It shall be lawful for the Superintendent, out of any moneys to be appropriated for that purpose as hereinafter provided, to make construct and maintain waterworks in the said districts for the purpose of supplying the said districts with water; and in and about the execution of such works he shall have power— 15

- (1.) To enter upon any land in the said districts, and to take the levels thereof: 15
- (2.) Without any previous payment or consent, to take possession of hold occupy and use any land which he may require for the purposes of this Act: 20
- (3.) To dam divert convey away and impound any part of the water of any river not exceeding one-half. 20
- (4.) Without previous payment tender or deposit, to enter upon any land and to take therefrom any earth stone gravel or clay, and to make temporary roads or approaches to the works, and to construct and maintain thereon bridges dams sluice-gates weirs and other works: Provided always that he shall give to the occupiers of such land ten days' previous notice in writing of his intention to occupy the same; and during any temporary occupation of such land he shall pay to the owner or occupier thereof reasonable compensation for the use thereof; and for any damage or injury to the crops (if any) growing thereon, or to the surface thereof, the amount of which compensation shall in case of disagreement be settled by arbitration in manner hereinafter provided: 25 30 35
- (5.) To reserve any part or parts of the waste lands of the Crown in the said districts which he may think proper for the purpose of constructing waterworks therein under this Act: 40
- (6.) To contract with any person or persons or body corporate for the execution of all or any part of the said works. 40
- (7.) To open and break up the surface and soil of any road and reserves in the said districts, and any sewer drain and tunnel upon in or under any such road; and to lay down and place pipes conduit service-pipes engines and other works, and from time to time to repair alter or remove the same; and to remove and use all earth and material upon in and under such roads and reserves; and to do all other acts which he shall deem necessary for the purposes of this Act: Provided that (except in the cases mentioned in the fourth subsection) not less than three calendar months before any waterworks shall be undertaken or commenced under the provisions of this Act, the Superintendent shall cause plans showing by metes and bounds the land intended to be taken or used for the purposes of this Act, and the locality from which any supply of water is intended to be derived, together with a book of reference, to be deposited in the office of the Superintendent at Christchurch, in the said province, to be there kept open to public inspection at all reasonable hours for not less than one calendar month after the same shall 55 60

Proviso as to deposit of plans. Notice to be given.

1873

- have been deposited : Provided also that immediately after such deposit the Superintendent shall cause notice in writing, stating the fact of such deposit, to be sent through the Post Office by registered letter to all persons named in the book of reference as owners or occupiers of any lands mentioned therein, or of any water intended to be taken for the purposes of this Act; and shall also cause a notice of the fact of such deposit to be published for at least three consecutive weeks in the *Gazette* of the province, and in some newspaper circulating in the said district.
- 5
10
4. The Superintendent shall make to the owners and occupiers of and all other persons interested in any lands taken or used as aforesaid, or injuriously affected by the construction and maintenance of the said works, or otherwise by the exercise of the powers hereby conferred, full compensation for all damage sustained by them by reason or in consequence of the taking or using of such land, or of the exercise of the powers aforesaid. Compensation to be made.
- 15
5. If any damage shall arise from overflow or otherwise to any property whatever, and compensation should be demanded, any amount awarded shall be collected and paid by a rate to be levied upon property in any district benefited by the water supply. Damage to be compensated by rate.
- 20
6. The said works shall be maintained by any moneys arising from sale of rights to use the water, or from a rate levied upon the district for the purpose. Maintenance of works.
- 25
7. All claims for compensation as aforesaid shall be made in writing and delivered to the Superintendent within twelve calendar months after the taking or using of such land, or other exercise of the powers aforesaid, in case the person or persons entitled to make such claim shall be resident within the province, and in other cases within three years thereafter. When claims to be made.
- 30
8. So much and such parts of "The Lands Clauses Consolidation Act, 1863," as relate to the taking and using of land, and the ascertaining of the amount of compensation and mode of payment thereof, and the vesting of land taken in the Superintendent, shall, so far as the same may be applicable to and consistent with the provisions hereof, be incorporated in and be deemed to be part of this Act. Amounts, how ascertained.
- 35
9. In the case of any infant claimant having no legal guardian within the colony, the word "guardian," where used in "The Lands Clauses Consolidation Act, 1863," shall for the purposes of this Act mean the Public Trustee. Infant claimants.
- 40
10. All waterworks, and all water flowing or being in any waterworks, shall, subject to the provisions of this Act, and of "The Lands Clauses Consolidation Act, 1863," relating to the payment of compensation and the acquisition of the land for the said works, be vested in, and shall for all purposes whatsoever be deemed to be the property of, the Superintendent. Waterworks, &c., deemed to be property of the Superintendent.
- 45
11. No person shall obstruct the Superintendent or any person acting under his authority in the execution of the said works or the exercise of the said powers, or shall pull up break down level alter remove or injure any pole stake peg cutting earthwork or other landmark matter or thing used in the execution of the said works; and every person wilfully offending against the provisions of this section shall for every such offence forfeit and pay a penalty not exceeding twenty pounds sterling. Penalty for obstructing Superintendent.
- 50
12. No person shall divert dam take away or impound any water in or from any waterworks, nor do any act whereby such water may be drawn or allowed to flow out of such waterworks, or whereby the flow of such water may be intercepted or diminished, without authority in writing for that purpose under the hand of the Superintendent; and every person offending against any of the provisions of this section shall for every such offence forfeit and pay a penalty Penalty for diverting water, &c.
- 55
60

not exceeding one hundred pounds sterling for every day or part of a day during which such water or the flow thereof shall be so affected as aforesaid.

Prohibition against use of water without authority.

13. No person shall use the water flowing or being in any waterworks as water-power without authority in writing for that purpose under the hand of the Superintendent, or in such other manner as may be prescribed by any Ordinance to be passed as hereinafter provided; and every person offending against the provisions of this section shall for every such offence forfeit and pay a penalty not exceeding twenty pounds sterling for every day or part of a day during which such water shall be so used.

Penalty for fouling water.

14. No person shall wilfully foul or pollute, nor do any act which shall occasion or have the effect of fouling or polluting, the water flowing or being in any waterworks; and every person offending against the provisions of this section shall for every such offence forfeit and pay a penalty not exceeding fifty pounds sterling.

Penalty for waste of water.

15. No person shall do any act or knowingly or wilfully suffer any act to be done whereby the water in any waterworks shall be negligently or wilfully wasted; and every person offending against the provisions of this section shall for every such offence forfeit and pay a penalty not exceeding ten pounds sterling.

Legislature of Province may pass Ordinance for regulation of certain matters.

16. It shall be lawful for the Legislature of the Province of Canterbury, by Act or Ordinance, from time to time to provide for the following matters:—

- (1.) To describe and define the districts between the rivers mentioned in the second section of this Act which shall be subject to the operation of this Act. 25
- (2.) To provide for the appointment of engineers, surveyors, managers, overseers, workmen, and such other persons as may be necessary to be employed in or about the waterworks to be constructed under this Act or in the management thereof. 30
- (3.) To prescribe regulations for the sale use and management of water flowing or being in any waterworks, and the times and mode at or in which the same may be disposed of. 35
- (4.) To prescribe penalties not exceeding one hundred pounds for the breach of any such Ordinance or of any regulations made thereunder.
- (5.) To appropriate moneys for the construction and maintenance of any such waterworks or the management thereof; and 40
- (6.) Generally to make all such provisions as may be thought reasonable or necessary for giving effect to this Act.

Provided that no such Ordinance shall be repugnant to or inconsistent with the express provisions of this Act. 45

Summary procedure.

17. All penalties incurred under the provisions of this Act, or under any such Ordinance to be passed as aforesaid, shall be recovered in a summary way under the provisions of "The Justices of the Peace Act, 1866."

Saving of other remedies.

18. Notwithstanding anything herein contained, it shall be lawful for the Superintendent to bring commence and prosecute any action suit or other proceeding in any Court having competent jurisdiction against any person or persons for the recovery of damages which may be sustained by him by reason or in consequence of the doing of any act matter or thing which is hereby made penal, and in any such action suit or other proceeding the conviction of any offender or offenders, on the payment of any penalty or penalties incurred under the provisions hereof, shall not be pleadable, nor shall any such conviction, or the payment of any such penalty or penalties, be matter for mitigation of damages. 55