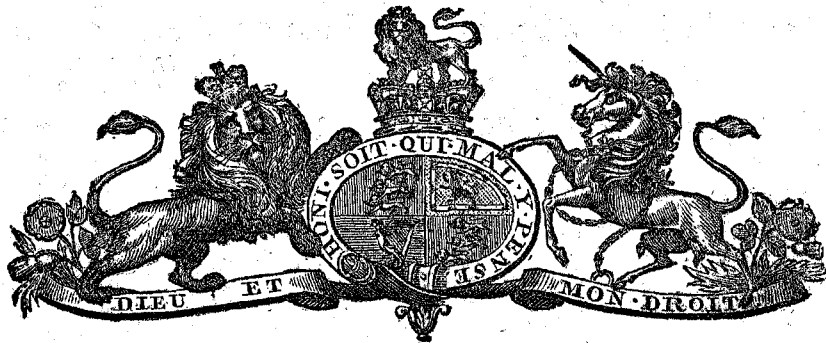


NEW ZEALAND.



QUADRAGESIMO

VICTORIÆ REGINÆ.

No. IV.

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Wellington Rivers.

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

[17th July, 1876.]

Preamble.

WHEREAS it is desirable to amend the law providing for the management of certain rivers in the Province of Wellington, and to provide for the making repairing and maintaining of protective works to lessen the damage occasioned by the overflow of such rivers :

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 Wellington Rivers Act, 1876."

Repeal.

2. "The Wellington Rivers Act, 1875," is hereby repealed, but nothing herein contained shall affect any proceedings or things taken or commenced under the said repealed Act before the coming into operation of this Act, and all such proceedings and things and all rates made or levied under the said repealed Act shall be valid notwithstanding such repeal: and provided that proceedings heretofore commenced and in progress under the said repealed Act, before the repeal of the same, may be continued and perfected under this Act so far as this Act extends and the circumstances of each case are compatible with the objects and provisions of this Act: and provided also that the election of the present members of the Board of Conservators held under the said repealed Act is hereby declared to be valid for all intents and purposes.

Interpretation.

3. 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,—

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

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

The words "Superintendent" and "Provincial Gazette" shall mean the Superintendent and the Provincial Gazette of the Province of Wellington.

The words "Road Board" shall mean any Board constituted or to be constituted under an Act of the Superintendent and Provincial Council of Wellington, intituled "The Highways Act, 1874," or an Act of the said Superintendent and Provincial Council, intituled "The Local Boards Act, 1873," or any Warden or Commissioner appointed under the said Acts, or any body corporate or other authority that may be hereafter constituted by law for the purposes of local government.

CONSTITUTION OF DISTRICTS AND BOARDS.

Superintendent may decide on district.

4. The Superintendent may from time to time decide that any part or parts of the province shall be constituted a district for the purposes of this Act, and 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, and shall take the necessary steps for the constitution of a Board of Conservators for the district as hereinafter provided: Provided that the Superin-

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tendent may from time to time alter extend or define afresh the limits of any such district, and immediately thereafter a description of the district as so altered extended or defined afresh shall be published in the *Provincial Gazette*.

5. The Conservators for each district shall be elected and vacancies among them filled up by election as hereinafter mentioned.

Constitution of Board.

6. Every ratepayer of any district to be constituted under this Act, 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.

Election of Road Boards.

7. 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.

8. Any male person of full age, being a ratepayer within any district proclaimed as hereinbefore provided, shall be capable of being nominated or elected a member of the Board of such district.

Qualification of members.

9. 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 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 or members so nominated shall hold office in all respects as if he or they had been elected members.

Superintendent may nominate in certain cases.

10. 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*.

11. Every member of a Board shall hold office for a period of four years from the date of his election or appointment: 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 six 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.

12. The Board shall have an office wherein to hold their meetings and transact business under this Act, in some convenient place within the district.

Board shall have an office.

13. 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

Board shall elect Chairman.

Wellington Rivers.

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 as a member of the Board, unless he shall previously resign his office, or his seat at the Board shall be vacated.

Minutes to be kept.

14. 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.

15. 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.

16. 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, other than special rates as hereinafter provided, shall not exceed the value of one shilling in the pound on the annual rateable value of such property, or twopence in the pound on the actual value of such property, calculated according to the provisions of any such law, which rates shall be the property of the Board: Provided that no rates levied or to be levied under this Act, nor the making levying or collecting thereof, nor the election of any member of the Board, or any other matter or thing done under this Act, shall be in anywise affected by reason of any irregularity or informality in the election of any Road Board, or City or Borough Council, or any member thereof respectively.

Board shall have power to fix rates.

17. 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 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.

18. From time to time whenever it shall appear to the Board, upon the report of some competent person appointed or approved of by the Superintendent, that any work or improvement which the Board is hereby authorized to do or execute is for the special benefit

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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 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 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 rates as are hereinbefore enacted and set forth for making levying collecting and recovering other rates under the authority of this Act, but as if the words "portion of the district" were substituted for the word "district": 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, or twopence in the pound on the actual value of such property, 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, 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.

19. When at the time appointed for the payment of any rate the term for which any tenant or occupier liable to pay such rate shall then be entitled to occupy the property rated shall be less than five years computed from the time so appointed, such tenant or occupier shall, notwithstanding any contract to the contrary as between himself and his immediate landlord, be entitled to deduct and retain out of the rent payable by him, or recover from his landlord in case such rent shall not be sufficient for the purpose, the amount of such rate paid by him: Provided always that if such tenant or occupier shall have the power or right to purchase the property rented, the rate paid shall not be so recovered.

Tenant may recover rates against landlord in certain cases.

20. 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.

21. 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.

POWERS AND DUTIES OF BOARD.

22. 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

Streams, sewers, and watercourses to be in jurisdiction of Board.

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thereof be navigable or be altered by the ebb and flow of the tide, such rivers and all streams sewers and watercourses which now do or hereafter shall or may directly or indirectly communicate with 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.

Powers of Board.

23. 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.

Board may borrow money

24. 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 thereto, 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 a longer period than fifty 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

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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: Provided that, before any Board shall proceed to borrow money under the provisions thereof, the intention to borrow such money shall be published in some newspaper having circulation in the district to be affected thereby, and such loan shall not be proceeded with if a majority of the ratepayers, by notice in writing, shall, within thirty days of the publication of such intention, announce their opposition thereto.

25. 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.

26. 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 the said Board shall deem 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.

27. 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.

28. 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 such gravel soil mud and earth, and such rushes flags and weeds

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

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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.

29. 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.

30. 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

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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.

31. 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 fifty pounds.

32. 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.

33. 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.

34. 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.

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Appointment of
Umpire.

35. Where more than one Arbitrator shall have been appointed such Arbitrators shall, before they enter upon the matters referred to, then 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 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 ap-
point Umpire in
certain cases.

36. 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.

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

37. 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.

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

38. 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.

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

39. 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 matter referred to them shall be determined by the Umpire, to be appointed as aforesaid.

Power of Arbitrators
to call for books &c.

40. 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.

Arbitrator or Umpire
to make declaration.

41. 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 Wellington Rivers Act, 1876.’

“ 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.

Cost of arbitration.

42. 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.

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43. 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.

Award to be delivered to Board.

44. 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.

Submission to be made a rule of Court.

45. 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.

46. 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 Public Trust Office, 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 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 whosoever shall be divested of all right and title to such lands tenements and hereditaments.

When compensation paid, land to vest in Conservators.

47. 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 or on behalf of any infant lunatic idiot *feme covert cestuique* 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, with all convenient speed, be paid into the Public Trust Office, to the intent that such money shall be applied 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 encumbrances 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 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 Public Trustee in

In case of lands held in trust, money to be paid to Public Trust Office.

Wellington Rivers.

the 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 to the said rents and profits of the lands tenements or hereditaments to be purchased as aforesaid in case such settlement or purchase were made.

48. 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 solicitor of the said Board, 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 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 Public Trust Office, to the credit of the parties interested in the said lands tenements or hereditaments, 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 in the premises as to the said Court shall seem just and reasonable.

49. 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 Public Trust Office, 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 Supreme Court or any Judge thereof 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.

50. 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 inhabited house or building, or any garden, or any park planted walk or avenue to a house, or any enclosed ground planted as an ornament or a 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.

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

Supreme Court may order expenses of purchaser in certain cases.

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

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51. 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 seven 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 seven days into the Public Trust Office 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 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.

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

52. 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.

Conservators may sell lands vested in them.

53. 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.

Adjoining owners to have refusal.

GENERAL.

54. The property in and of 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 and materials and things whatever 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 or destroy injure spoil steal take or carry away or wilfully and wrongfully buy or receive any such lands tenements here-

Property to be vested in Conservators.

Wellington Rivers.

ditaments 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.

55. 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 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.

Board shall take bonds from officers.

56. 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 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.

Audit.

57. The Provincial Auditor for the time being shall be auditor of the accounts of the Treasurer under this Act, and shall report upon the same from time to time to the Superintendent of the Province of Wellington.

Board to be paid.

58. 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 Superintendent may from time to time determine.

Sinking fund.

59. For the purpose of providing a fund for paying the principal money from time to time becoming due in respect of the debentures so charged upon the rates as before mentioned, the Board shall in each year set apart so much of the moneys received in such year as such rates as shall be fixed by the Board, and shall invest the money so set apart in the purchase of General Government debentures, or in such other securities as shall be previously approved of by the Superintendent; and the interest of the money so invested, when and as the same becomes due, shall from time to time be received and invested in like manner, in order that the moneys so set aside and invested may accumulate at compound interest, and no such debentures or securities shall be sold or disposed of by the Board except for the purposes hereinafter mentioned.

Board may buy up debentures.

60. As often as any moneys shall become due and payable as principal money secured by any debentures aforesaid, the Board shall cause the said Government debentures, or other securities in which the said accumulated fund is invested, as may be required for the purpose, to be sold or otherwise converted into money, and shall apply the moneys arising from such sale or conversion, and any other moneys

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Borough Council to levy and recover the rates necessary for such payment, and ordered by the said Board to be levied and recovered by the said Road Board or City or Borough Council, the holder of such debenture may, or if there be more than one holder the holders thereof jointly may, without prejudice to any other mode of recovery, apply for the appointment of a Receiver to the Supreme Court; and the said Court or any Judge thereof is hereby empowered, after hearing the parties, to appoint some person to collect and receive the rates, if such be not then levied and recovered, and to order that all moneys the produce of such rates and in the hands of any officer of the Board or other person, and all moneys or securities for money constituting for the time being the accumulated fund aforesaid, shall be forthwith transferred to and vested in such Receiver solely; and every such order, after such Receiver shall have given security for the execution of his office, shall take effect accordingly till the whole of the principal or interest or both, as the case may be, due for the time being, together with the costs of the application and the costs of collection, and all costs of and occasioned by such order, are fully paid.

Schedules.

SCHEDULES.

SCHEDULE A.

FORM OF DEBENTURE.

By virtue of the Wellington 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 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, with the said , executors administrators and assigns (as the case may be).

As witness my hand this day of 18 .

WELLINGTON, NEW ZEALAND:

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