

New Zealand.**WATER-SUPPLY.****1908, No. 205.**

AN ACT to consolidate certain Enactments of the General Assembly relating to the Construction and Maintenance of Works for Water-supply.

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

Short Title.

1. (1.) The Short Title of this Act is "The Water-supply Act, 1908."

Enactments consolidated.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply :—

Savings.

(a.) All districts, Boards, Corporations, offices, appointments, licenses, regulations, rules, by-laws, Proclamations, Orders in Council, orders, special orders, warrants, registers, resolutions, lists, rolls, petitions, polls, titles, rates, scales, records, instruments, and generally all acts of authority which originated under any of the said enactments or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated :

Provided that every such Board and Corporation shall be deemed to be the same Board and Corporation respectively under this Act without change of corporation entity or otherwise :

Provided also that in the case of members elected or appointed, or licenses granted, for a specified term the current term shall be computed from the date of its commencement.

(b.) All members of Boards holding office under any such enactment on the coming into operation of this Act shall continue in office until their successors under this Act come into office.

(c.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) This Act is divided into Parts, as follows:—

PART I.—County Councils. (Sections 5 to 65.)

PART II.—Road Boards. (Sections 66 to 77.)

(4.) Nothing in this Act shall restrict or interfere with the operation of Part X of “The Public Works Act, 1908,” or of “The Mining Act, 1908”; nor apply to any water-race or portion of a water-race constructed or to be constructed within any mining district constituted under “The Mining Act, 1908.”

Limitation of Act.
1891, No. 42, sec. 2

2. Subject respectively to the special provisions of this Act, and in supplement thereof, but not in supersession of any such special provisions,—

Acts incorporated.
Ibid, secs. 3, 58

Parts I, II, III, IV, and XIII of “The Public Works Act, 1908,” and “The Rating Act, 1908,” respectively are hereby incorporated with this Act; and also, in addition to the foregoing, “The Counties Act, 1908,” is hereby incorporated with Part I of this Act: and

Part V of “The Public Works Act, 1908,” “The Road Boards Act, 1908,” “The Local Bodies’ Loans Act, 1908,” and “The Local Elections and Polls Act, 1908,” are hereby incorporated with Part II of this Act.

3. In this Act, if not inconsistent with the context,—

Interpretation.

“Corporation” means the body corporate of a county constituted under “The Counties Act, 1908,” or a Water-supply Board constituted under Part II of this Act:

Ibid, sec. 4
1898, No. 12, sec. 22

“Council” means the Council of a county, or a Water-supply Board constituted under Part II of this Act:

“District” means a district constituted or deemed to be constituted a district under this Act, being in Part I a water-race district and in Part II a water-supply district:

“Land” includes any easement in land:

“Local authority,” where used with reference to any body, means the Board, Council, trustees, or other persons or body, howsoever designated, having authority by law, whether by virtue of this Act or any other Act, to do the act or thing to which reference is made; and includes a Water-supply Board constituted under Part II of this Act:

“Public notice,” or “published,” or “publicly notified” means a notice published in some newspaper circulating in the county or water-supply district, or, where there is no such newspaper in general circulation, printed placards containing the notice affixed to public places in the county or district:

“Reserve” means land set apart for any public purpose or object under any Act or law for the time being in force

authorising the making of such reserve, or that may heretofore have been in force :

“ Vest ” means vest in the Corporation in fee-simple or for such lesser estate or interest as the said Corporation may at any time or in any manner have purchased, taken, or otherwise acquired :

“ Water-race ” means the land occupied by any natural or artificial channel (not being a main river) for the supply of water to be used in, upon, or through any land, and constructed by or under the authority of a County Council or a Water-supply Board, and all branch races taken or made through any lands for the purpose of supplying water as aforesaid ; and includes any alteration, extension, or widening thereof respectively, and all flood-banks, dams, sluices, meters, reservoirs, or other waterworks, and all buildings and machinery, pipes, and other materials upon the land and within the limits of a water-race :

“ Water-race ” also extends to and includes any natural or artificial water race or channel purchased or acquired by the Council, or any such race or channel constructed in, upon, or through any private lands with the permission of the owner thereof, or constructed by the Council in, upon, or through land vested in the Council.

Regulations respecting irrigation.

1894, No. 33, sec. 8

4. The Governor may from time to time make regulations under this Act to provide that any lessee of pastoral land held under any Land Act may construct water-races to irrigate the land so leased, and may agree that on the expiration of any such lease the outgoing tenant shall be entitled to valuation for the benefit which any such races are to the land comprised in the lease, anything in the Land Acts or in the lease to the contrary notwithstanding.

PART I.

COUNTY COUNCILS.

General Powers.

Council may exercise its powers through its officers, &c.

1891, No. 42, sec. 5

5. Every County Council, in the exercise of any power, duty, or authority conferred upon it by this Act, shall have all the powers, duties, and authorities conferred upon it by “ The Counties Act, 1908,” and any such Council may, wherever necessary, do or perform any act, matter, or thing authorised by this Act by or through its officers, servants, or contractors, or by any other persons authorised or permitted by such Council to do or aid in doing the same respectively.

Water-race Districts.

Council may constitute water-race districts and enlarge or alter same.

Ibid, sec. 8

1898, No. 12, sec. 2

6. (1.) The Council may by special order from time to time declare the whole county or any part of the county to be a district for the purpose of the construction of water-races therein ; and by the same or any subsequent special order may fix the boundaries of any such district, and may assign a name thereto ; and by any subsequent special order may enlarge, alter, or curtail the limits of any district, subject as hereinafter mentioned, and to the following conditions :—

- (a.) That the special order shall fix the day from and after which such district shall be constituted, and shall also give a name to such district.
- (b.) Before making such special order the Council shall cause a plan of the proposed district to be deposited in the office of the Council, and may deposit copies of such plan in the office of the Road Board or Boards within the county (if any) nearest to such proposed district, and such plan or plans shall be open to inspection by the public without fee.
- (c.) Such plan or plans shall be so open for inspection for at least fourteen days before the adoption of the resolution to make the special order, and public notice of the time when and the place or places where such inspection can be made shall be given by the Council.
- (2.) No town district shall be included within any district to be declared under this section unless by a separate petition signed by not less than one-half of the ratepayers within such town district representing at least three-fifths of the rateable value of the rateable property in the town district.
- (3.) The Council may from time to time by special order, subject as mentioned in this section, declare any part of the county formerly included within any borough or town district which has become merged in the county to be constituted a district within the meaning of this section.
7. The Council may, if it thinks fit, by the same special order as that whereby a water-race district is constituted, enlarged, altered, or curtailed, or from time to time by any subsequent special order, also divide the district so constituted, enlarged, altered, or curtailed into subdivisions, or abolish or alter existing subdivisions, and may prescribe the boundaries of such subdivisions, and assign names thereto.
8. When a special order is made by the Council for any of the purposes mentioned in section six or seven hereof, the meeting at which the resolution is confirmed shall be held not sooner than the fourteenth day after the special meeting at which the resolution was originally passed, anything in "The Counties Act, 1908," to the contrary notwithstanding.
9. The boundaries of any water-race district, or subdivision thereof, as set forth in any special order made under section six or seven hereof may be altered, and the description thereof amended, before the adoption of the resolution making such special order.
10. Any owner or occupier (such occupier being liable to be rated) of land included within any area constituted a district under this Act for the purpose of the construction of water-races therein, or within any enlargement or alteration of such a district, or within any subdivision of such a district, may, within ten days after the passing of the special order constituting such district or enlargement or alteration thereof, or such subdivision, object to his land being included therein; and with respect to every such objection the following provisions shall apply:—
- (a.) The objection shall be in writing under the hand of such owner or occupier, or of his authorised agent, and shall specify with reasonable particularity the grounds upon which it is

Town districts to be excluded.

Council may declare any borough or town district merged in county to be a water-race district. 1891, No. 42, sec. 10

Water-race districts may be subdivided. Ibid, sec. 9 1898, No. 12, sec. 4

Reduction of time to elapse between adoption and confirmation of resolution making special order. Ibid, sec. 3

Boundaries may be altered before adoption of special order. Ibid, sec. 5

Owner or occupier may object to inclusion of his land within any water-race district or subdivision. Ibid, sec. 6

Appellant and respondent may agree to arbitration.

based, and shall, within the aforesaid period of ten days, be lodged at the principal office of the Council by which such special order was made.

(b.) Unless within the period of fourteen days after the objection is lodged as aforesaid the matters in difference are settled by agreement between the objector and the Council for the inclusion or exclusion of his land in whole or in part, they shall be referred to arbitration under "The Arbitration Act, 1908"; and in such case the objection shall be deemed to be a submission under that Act by the objector and the Council; and the reference shall be deemed to be to two arbitrators.

(c.) The award made under the arbitration may amend the description of the boundaries of the water-race district or subdivision of a district set forth in the special order, and such special order shall thenceforth be read as if the amended description had originally been inserted therein.

(d.) If the matters in difference are settled by agreement between the parties as aforesaid, the Council shall amend the aforesaid special order in so far as is necessary for the purpose of giving effect to the terms of the agreement.

Council may contract for supply of water for domestic use to any borough, &c.
1891, No. 42, sec. 11

11. (1.) The Council may from time to time enter into and make contracts with the Council or Board of any borough or town district for the supply of water to the residents therein for domestic use; and for such purpose shall have all the powers conferred by this Act or any Act incorporated therewith, and may execute all necessary works for the distribution of water from a water-race to any such borough or town district, and along, over, or under any street, road, or public place therein.

Council may supply water to persons and lands outside district.

1895, No. 35, sec. 2
1897, No. 15, sec. 4

(2.) The Council may supply water to persons and lands outside a water-race district on such terms as it thinks fit:

Provided that this power shall not be exercised save as to surplus water available after supplying the requirements of all persons and lands in the district and entitled to be supplied.

Construction, Extension, and Maintenance of Water-races.

Powers of Council as to constructing water-races and taking lands therefor.
1891, No. 42, sec. 12

12. The Council may from time to time, for or on behalf of the Corporation, purchase for the Corporation, or make and maintain, or enlarge, or alter, extend, or repair, any water-races vested or to be vested in the Corporation, as it may deem necessary; and for such purposes or any of them, and whether in respect of any water-race heretofore or hereafter to be constructed, acquired, enlarged, altered, extended, or repaired, may from time to time, either within or outside of the county,—

(a.) Purchase or otherwise acquire land, or any estate or interest therein, for the purpose of a water-race:

(b.) Contract with the owner of private lands for and acquire from him a grant in perpetuity or for a limited term to the Corporation of the use, occupation, and enjoyment of such lands for the purpose of a water-race, or of any easement in, through, or over any such lands:

(c.) Contract with the owner of any private lands for the acquisition in perpetuity or for a limited term of a right of water

in or over such lands or in or over any races running through such lands or any easement therein :

- (d.) Take and hold any land, or any estate, right, or interest therein, which is required to be taken for the purposes of a water-race, or for the extension or widening of any existing water-race, in manner as provided by this Act or "The Public Works Act, 1908," as the case may require.

13. (1.) Before proceeding to construct or extend any water-race, or interfere with any road or reserve for the purpose of constructing or extending or widening a water-race,—

Provisions to be complied with before making water-race or interfering with any road, public place, or reserve.

1391, No. 42, sec. 13
1398, No. 12, sec. 13

- (a.) The Council shall prepare a plan showing the course of such water-race, and the lands, roads, or reserves over or through which it is intended that the said race shall pass ; and every such plan shall be certified under the hand of the Chairman of the county and the person acting as Engineer of the Council to be correct.
- (b.) The Council shall deposit such plan at the Magistrate's Court-house within the county (if any) within which such lands, roads, or reserves are situate ; and if there is more than one such Courthouse, then in one of such Courthouses ; and if there is no such Courthouse, then in such other public office or offices in the county as the Governor from time to time appoints, and also in any of such cases at the office of the Council, and keep the same so deposited for a period of fourteen days after giving the public notice next hereinafter mentioned.
- (c.) The Council shall, within seven days after such deposit of plans as aforesaid, publicly notify the intention of the Council to make such race, and that the plans are so deposited as aforesaid, and in such notice shall indicate generally the course of the proposed water-race and the lands through which it is intended to pass, and the estate or interest in such lands which it is desired to acquire or take.
- (d.) Every such plan shall be open to public inspection without any fee at all reasonable hours, and if any person having custody thereof refuses or obstructs inspection thereof he shall be liable for every such offence to a fine not exceeding five pounds.
- (e.) Objections to the making of a water-race may be made by any officer whom the Governor appoints on behalf of His Majesty either generally or specially, or by the local authority having the control of such road or reserve, or by any ratepayer of the district, by lodging at the aforesaid Courthouse or other public office or offices, at any time before the expiration of the said fourteen days, a statement in writing specifying the particular nature of the objection, and signing the same.
- (f.) A copy of every such objection shall at the same time as it is lodged as aforesaid be delivered to or sent by the objector to the Clerk of the Council.
- (g.) At the expiration of such period of fourteen days, if no objection has been made to the making of such water-race, the Council may proceed to make such race.

- (h.) If any objection is made during the said period of fourteen days, the Council shall appoint a time and place when and where it will sit to hear and determine such objections, and shall give at least seven days' public notice of the time and place so appointed.
- (i.) The Council shall at the time and place so appointed hear and determine all such objections as aforesaid, with power to the Council to adjourn the hearing of such objections from time to time and from place to place. Any objector may support his objection by such evidence as he thinks fit.
- (j.) If, after due consideration of all objections, the Council is of opinion that it is expedient that the proposed water-race should be made, the Council may proceed therewith, subject to the right of appeal hereinafter conferred in case the decision is adverse to any objection made as aforesaid. In determining the said objections the Council may alter the proposed course and direction of any such water-race, but every such alteration shall be marked upon the plan which has been deposited as aforesaid, and the alteration shall be initialled by the Chairman of the Council.
- (k.) If all the owners of the lands through which it is intended that any proposed water-race shall pass, in writing request the Council to construct, extend, or widen such water-race, and the Council agrees to such request, the following provision shall take effect :—

The Council shall prepare a plan showing the course of the water-race, and the lands over or through which it is intended that the said race shall pass, and such plan shall be certified under the hand of the Chairman of the Council and the person acting as Engineer of the Council to be correct.

- (l.) The Council shall deposit such plan at the Magistrate's Courthouse (if any) within the county, or in any borough within the ambit of the county in which such lands are situate ; and if there is more than one such Courthouse, then in one of such Courthouses ; and if there is no such Courthouse, then in such other public office or offices in the county as the Governor from time to time appoints, and also in any of such cases at the office of the Council.
- (m.) The Council may, after depositing such plan as aforesaid, proceed with the construction, extension, or widening of the water-race shown on such plan ; and upon the said water-race being constructed the same shall be deemed to be a water-race under this Act, and shall vest in the Corporation of the county in which it is situate, subject to all the rights, powers, obligations, agreements, and liabilities attaching thereto or affecting the same.

(2.) Nothing in this section shall be deemed to apply to any repair of any water-race.

14. Where any part of a road is vested in the Corporation of a county as a water-race by virtue of this or any other Act, but is not for the time being used by the Council for the purposes of a water-race, the fact that such part of the road is so vested shall not take away or

affect the control and jurisdiction of the Road Board or of any other local authority over that part of the road, or the duty of the Road Board or other local authority to construct and maintain the same as a road.

15. (1.) If any person who has made an objection to the making of a water-race is dissatisfied with the decision of the Council thereon, he may within ten days after such decision appeal against the same to the District Court, if such a Court is held in the district; and if there is no such Court so held, then such appeal may be made to any Magistrate's Court in such district, or to the Supreme Court, at the option of the party appealing.

Any person objecting may appeal against making of water-race.

1891, No. 42, sec. 14

(2.) Such appeal may be either on matter of law or matter of fact, and shall be in the form of a case agreed on by the appellant and the Council; and if they cannot agree, any Magistrate on being appealed to by the appellant or Council shall settle the case and sign it.

Appeal to be by case stated.

Ibid, sec. 15

(3.) Such case shall be transmitted by either party to the Court before which the appeal is to be heard, and such Court may dispose thereof and make such order in respect thereof, and of the costs incidental thereto, as it deems just.

Procedure thereon.

(4.) Any order for costs made by any Court before which an appeal is heard may be enforced by the process of such Court in like manner as any order or judgment of such Court in its ordinary jurisdiction could be enforced.

Costs.

(5.) The case on appeal shall, in the case of the Supreme Court, be transmitted to the Registrar of such Court nearest to the place where the decision of the Council has been given; and, in the case of a District Court or Magistrate's Court, shall be transmitted to the Clerk of the Court in which the appeal is to be heard.

(6.) The order of the Court made on such appeal shall be final and conclusive on the appellant and the Council, and no further appeal shall lie to any other Court.

16. (1.) Any surveyor appointed by the Council may from time to time enter upon any land (whether before or after the deposit of a plan as before provided), with such assistance as he thinks fit, for the purpose of making any survey of any line or intended line of water-race, and to fix or set up thereon survey pegs, marks, or poles, and to dig or bore into such land so as to ascertain the nature of the soil, and to set out the lines of any works thereon.

Surveyor may enter upon land for making survey.

Ibid, sec. 16

(2.) In all cases, where possible, reasonable notice shall be given by the surveyor to the occupier (if any) of the intention to enter upon such land; and such surveyor shall, when required to do so, produce to the owner or occupier of any land on which he has entered the written authority of the officer of the Council under whose authority he is making the survey.

Notice.

(3.) In case any damage is done by any surveyor in exercise of the powers hereby conferred on him, the Corporation shall be liable to make good the same, and the amount thereof shall be ascertained in the mode hereinafter provided as to the assessment of compensation for land taken or affected by the works of the water-race.

Damage.

17. (1.) Subject to the provisions of this Act, the Council may exercise all or any of the powers hereby conferred by this Act for the construction, extension, alteration, widening, or repair of the water-

Council may enter and take lands.

Ibid, sec. 17

race, and may enter upon or cause to be entered upon any lands for the purpose of making such surveys as may be necessary, and subject as aforesaid may take and hold all the lands specified in the plan and required for the water-race, and for such estate or interest therein as is specified in the notice respecting the same to be given as hereinbefore provided.

Certain lands not to be entered without consent.

(2.) Nothing in this Act shall authorise the entry upon any land occupied by any building or yard, or *bona fide* used and occupied as a garden, orchard, vineyard, ornamental park or pleasure-ground, or the cutting or injuring of any ornamental tree or shrub, or the taking of any stone or other material from any quarry, brickfield, or like place commonly used for the taking material therefrom for sale, without the consent in writing of the owner first obtained.

Fences to be erected in certain cases before entry.

1891, No. 42, sec. 18

18. Nothing in this Act shall authorise, without the previous written consent of the owner and occupier of the land, the commencement of any work, nor, without a like consent, the removal of any fencing upon any private land, until fences have been first made so that all private lands adjacent to land taken or works executed under this Act shall be as effectually protected against damage by trespass as before the commencement of such works.

Compensation to be given for land taken or affected.

Ibid, sec. 19

19. (1.) Every person having any estate or interest in any lands taken under the powers conferred by this Act, or injuriously affected thereby, or suffering any damage from the exercise of such powers, shall be entitled to full compensation for the same from the Corporation, the amount whereof shall be ascertained in the manner set forth in "The Public Works Act, 1908."

(2.) In the application of such Act the Council shall be the respondent to any claim made for compensation under this Act.

Compensation for land taken, how determined.

1894, No. 33, sec. 6

(3.) The compensation to be paid shall not exceed the value of the land according to the valuation thereof in force under "The Valuation of Land Act, 1908," or the improved value of the land as assessed under "The Land and Income Assessment Act, 1908," as the case may be, at the date of the gazetting of the Proclamation first taking such land for the said water-race as aforesaid.

(4.) If there is no such valuation, then the Compensation Court may determine what is the improved value of such land for the purposes of this Act as nearly as may be as if such improved value had been assessed under "The Land and Income Assessment Act, 1908."

Upon ascertaining amount of compensation, and on payment thereof, Court may grant an order vesting the land in Corporation of county.

1891, No. 42, sec. 20

20. The Court awarding the compensation may, after payment thereof in accordance with this Act, and on application by the Council for that purpose, make an order in the form or to the effect set forth in the Second Schedule hereto; and such order shall have the effect following:—

(a.) If the fee-simple is taken, such order shall vest the land in respect of which the same is made in the Corporation in fee-simple, and free from all mortgages, charges, claims, estates, or interests of any kind whatsoever.

(b.) If the property mentioned in the order is not subject to the provisions of "The Land Transfer Act, 1908," the order, with a map or plan of the land taken, may be registered with the Registrar of Deeds for the registration district in which the land is situated, and such Registrar shall cause an entry of the order and map to be made under the proper

head or title of the Deeds Registry Office, and shall cause the same to be duly recorded; and in the case herein provided for the order shall operate as a conveyance to the Corporation.

- (c.) (i.) If the property is subject to the provisions of "The Land Transfer Act, 1908," the order and map shall be filed with the District Land Registrar of the district in which the property is, and such Registrar shall register the order and map against the land; and in the case herein provided for, the District Land Registrar shall issue a certificate of title to the Corporation.

(ii.) Any person in possession of the Crown grant, certificate of title, or other instrument evidencing the title to such land, shall, upon receiving notice from the District Land Registrar in that behalf, deliver up to him such grant, certificate of title, or other instrument to be wholly or partially cancelled, as the case may require; and every person who refuses or neglects so to deliver up any such instrument is liable to a fine not exceeding fifty pounds.

(iii.) The District Land Registrar shall retain every such instrument, and shall, when required by the registered proprietor of the land not taken, issue to him free of charge a certificate of title for such land, unless the same is not Crown-granted.

(iv.) No person having in his possession such Crown grant, certificate of title, or other instrument shall be entitled to claim or receive any compensation under this Act until such instrument is delivered up to the District Land Registrar.

- (d.) If any estate, right, or interest less than the fee-simple in any land is taken under this Act, the nature thereof shall be expressed in the order to be made by the Court as aforesaid, and in any such case the order of the Court shall operate as a conveyance, transfer, or grant to the Corporation of such estate, right, or interest; and the like proceedings may be had and taken in respect of the estate, right, or interest so taken, *mutatis mutandis*, as could be had or taken in respect of an estate in fee-simple under the preceding provisions of this section.

- (e.) The fee-simple in any land taken under this Act, or any lesser estate, right, or interest in any such land, shall be deemed to vest in the Corporation as from the date of the order made by the Court as aforesaid; but nothing herein shall be deemed to restrict the operation of any deed or instrument made between the Corporation and any other person or body in respect of any land or any estate, right, or interest therein, whether taken, purchased, or acquired in any manner.

21. If any doubt or dispute arises as to the right or title of any person to receive any compensation, or if the person entitled thereto is absent from New Zealand, the moneys payable as such compensation shall be paid into the Public Trust Office by the Council, as provided in "The Public Works Act, 1908," and may be dealt with thereunder.

When title doubtful or owner absent, compensation to be paid to Public Trustee.

1891, No. 42, sec. 21

Compensation to be paid out of County Fund.

1891, No. 42, sec. 22

Exercise of powers of constructing water-race.

Ibid, sec. 23

22. Moneys payable as compensation or as costs under the preceding provisions of this Act shall be paid out of the County Fund; but when the works in respect of which the compensation or costs paid affect a particular district only, the same shall be made a charge by the County Council against that district only.

23. (1.) Subject to the provisions of this Act, the Council may—

- (a.) Make a water-race upon, over, or under any land so purchased, acquired, or taken as aforesaid, or of which it has acquired the use, occupation, and enjoyment, or in or over which it has acquired a right of water, or any other easement, as aforesaid:
- (b.) Make a water-race over or under any public road or through any public reserve, subject as hereinafter mentioned:
- (c.) Alter the course or level of any road, and break up and dig into the surface thereof, and stop temporarily the traffic thereon respectively for such purpose within or beyond such limits:
- (d.) Make a water-race across or below any stream or river, but so as not to impede the navigation on any navigable river:
- (e.) Alter the course or level of any river not navigable, or of any stream, ditch, or drain:
- (f.) Take, impound, or divert the water from any stream or river, subject as hereinafter mentioned; and make dams, sluices, reservoirs, or other waterworks in any such stream or river, whether within or without the limits of such water-race:
- (g.) Enter upon any lands for the purpose of removing any obstruction to the flow of water in any stream or river supplying water to a water-race:
- (h.) Enter upon any lands for the purpose of making surveys, and of constructing, maintaining, extending, altering, enlarging, repairing, or inspecting any water-race:
- (i.) Enter upon any lands and take therefrom any materials required for the construction or repair of a water-race, and may also enter upon and occupy any lands temporarily:
- (j.) Construct all works, buildings, and machinery of every description and material, and generally do all things necessary for the construction, extension, alteration, maintenance, repair, and use of any water-race.

(2.) Subject to the foregoing provisions, every water-race shall, where necessary to prevent damage to any land, have an outfall to the sea, or to some river, creek, lake, lagoon, or public drain.

24. (1.) Before interfering with any stream or river, or diverting water therefrom, the like proceedings, *mutatis mutandis*, shall be taken and had by the Council as provided in section thirteen hereof; and for the purpose of this section, and of the proceedings to be taken thereunder, the words "stream or river" shall be read in substitution for the words "road or reserve," and shall mean the part of the stream or river at or from which the water is intended to be taken, impounded, or diverted.

(2.) The powers mentioned in this section may be exercised by the Council, after public notice of its intention to do so, which shall be given at least thirty days before the execution of any works for that purpose; and any person objecting to any interference with any stream or river, or diversion of water therefrom, may object thereto in the manner hereinbefore provided in section thirteen hereof.

Provisions to apply before interfering with any stream or river.

Ibid, sec. 24

Notice of intention to be given.

(3.) In case the Council declines to entertain such objection, any such person shall have the like right of appeal as provided for in section fifteen hereof; and all the provisions of that section, and of any other section relating to appeals, shall, *mutatis mutandis*, extend and apply to the exercise by the Council of the powers conferred by this section.

25. (1.) Before interfering with any road, or other public work lying or being outside of the boundaries of a county, for the purpose of constructing a water-race, the Council shall give not less than one month's notice in writing to the local authority having the control of such road or work.

Exercise of powers
outside of county.
1891, No. 42, sec. 25

(2.) If such local authority objects to such interference, the matter shall be referred to the Minister of Public Works, whose decision thereon shall be final.

(3.) The Council, however, may at any time interfere with any such road or public work so far as to effect all necessary repairs in any water-race constructed or to be constructed on or under the same, on giving to such local authority three days' previous notice in writing of its intention so to do; and in any sudden emergency or danger to the water-race or property adjoining, the Council may, without any previous notice, proceed to effect the necessary repairs, but shall as soon as practicable give notice to such local authority of its having so proceeded.

26. (1.) In every case where the Council constructs or maintains any water-race, it shall be the duty of the Council to prevent low-lying lands being thereby flooded, water-logged, or otherwise injuriously affected.

Prevention of injury
to low-lying lands.
1898, No. 12, sec. 15

(2.) Any person owning or occupying land, whether within the boundaries of a water-supply district or not, which he has reason to believe will be injuriously affected by the construction of any water-race may apply to the District Court, if there is such a Court exercising jurisdiction in the district, or, if not, to the Supreme Court, for an injunction to prevent such water-race being proceeded with unless adequate provision is made to prevent such land being flooded, water-logged, or otherwise injuriously affected; and the Court may thereupon grant such injunction or make such order as best meets the circumstances of the case.

27. Nothing in this Act shall be construed to authorise any interference with any Government work without the sanction of the Minister of Public Works, nor with any Government railway without the sanction of the Minister of Railways.

Act not to authorise
interference with
Government work
or railway.

1891, No. 42, sec. 26

28. (1.) In the case of private lands purchased or taken, or over which the Council has acquired rights of user or water-rights, the Council shall have all such rights of entry as if such lands had been granted to it; and all parts of water-races at any time put on, in, or under such private lands shall be deemed to belong to the Corporation as part of such water-races.

Entry upon private
lands.

Ibid, sec. 27

(2.) Saving as aforesaid, no entry shall be made on any private lands without the consent of the owner, except for the purpose of making surveys.

29. If the Council at any time ceases for a period of two years to use any land over which it has acquired rights as a water-race, such land shall, subject, however, to any special agreement made in respect thereof with the owner from whom such rights were originally acquired,

Land to revert to
owner if Council
ceases for two years
to use it for a
water-race.
Ibid, sec. 28

upon the expiration of such period of two years, revert to the then owner of the land from which the same was originally severed; but the Council shall not be liable to such owner or any other person for so ceasing to use such land.

Council not responsible for failure of water-supply.
1891, No. 42, sec. 29
Map of district and races.
1904, No. 17, sec. 5

30. The Council shall not be responsible for the failure of any water-supply, from whatever cause the same may arise.

31. (1.) The Council shall, within three months after the constitution of a water-supply district, cause to be made a map of such district, showing its boundaries and the course of every water-race therein, and shall from time to time cause every new water-race and every alteration of any existing water-race to be marked on such map.

(2.) Every water-race shown on such map shall be deemed to be a water-race within the meaning of this Act, and shall vest in the Corporation of the county, subject to all the rights, powers, agreements, obligations, and liabilities attaching thereto or affecting the same.

(3.) Every such map shall be open for public inspection, without fee, at all reasonable hours at the office of the Council.

(4.) All maps made under "The Water-supply Act, 1891," and deposited in the Magistrate's Court may, on the application of the Council, be removed from such Court to the Council offices, and shall be deemed to be maps under this section.

Special Loans for Water-supply and Maintenance of Water-races.

Council may raise special loan for water-supply.
1891, No. 42, sec. 31

32. (1.) The Council may, in the manner and subject to the terms and conditions provided by "The Local Bodies' Loans Act, 1908," from time to time raise a special loan for the purpose of exercising any of the powers conferred on the Council by this Act within a district or any subdivision of a district:

Attorney may vote for absent ratepayer.

Provided that where under that Act a poll of the ratepayers is taken, the attorney of any ratepayer who is absent from the district or subdivision in which the poll is being taken may vote in the name and on behalf of such ratepayer; and every act done by such attorney in the name and on behalf of his principal shall, so far as the vote given is concerned, be as effectual as if the principal had voted in person.

Aggregate of loans.
1898, No. 12, sec. 7

(2.) The aggregate amount of all loans to be raised for such purposes respectively shall not exceed in any district or subdivision a sum equal to one-half the value of the fee-simple of all the land in the district or subdivision as appearing in the valuation roll for the time being in force.

Power to raise special loans for certain purposes.
1894, No. 33, sec. 2
1898, No. 12, sec. 10

33. (1.) Notwithstanding anything to the contrary in the last preceding section, the Council may, in the manner and subject to the terms and conditions provided by "The Local Bodies' Loans Act, 1903," raise a special loan sufficient to pay all preliminary expenses or liabilities incurred in constituting any district or subdivision under this Act, or for preliminary surveys, plans, or other expenses of a similar character incurred in formulating or inaugurating any scheme or schemes of water-supply for such district, or for trial or other works executed or to be executed in connection therewith, notwithstanding that such expenses may have been incurred before the constitution of the district, and before or after the consent of the ratepayers is given to the raising of any special loan, and notwithstanding that such works or liabilities are not specially mentioned in the proposal for which such consent is given, or that such consent is not given to such proposal; and may

raise such special loan without being compelled to raise the whole loan authorised by the ratepayers to be raised under the said last preceding section :

Provided that the consent of the ratepayers of the district or subdivision to a loan under this section shall not be necessary in any case where such preliminary expenses or liabilities have been incurred pursuant to a petition signed by not less than two-thirds of such ratepayers; and a certificate under the seal of the Council that such petition has been duly made and signed shall be conclusive evidence of the fact. 1898, No. 12, sec. 9

(2.) A certificate under the seal of the Council of the amount of the preliminary expenses and liabilities incurred as aforesaid shall be conclusive evidence that such amount has been so incurred. Certificate of Council. 1894, No. 33, sec. 3

(3.) Out of the special loan so raised the Council shall pay and discharge all such expenses and liabilities as aforesaid as have been properly incurred. Expenses and liabilities to be paid. Ibid, sec. 4

(4.) The Council shall not raise any loan under this section without the consent first obtained of the Governor in Council. Consent of Governor in Council. Ibid, sec. 5

34. (1.) The Council may impose and levy on all lands in the district or subdivision (except as hereinafter mentioned) a special rate to secure and pay the interest on and provide a fund for the repayment of any loan raised under the authority of this Act. Special rate. 1898, No. 12 sec. 9 1891, No. 42, sec. 31

(2.) Any such special rate may be levied in manner as may be directed by special order, which may from time to time be altered or revoked by the Council, either—

(a.) On a uniform scale; or

(b.) On a graduated scale according to the classification of lands in the district or subdivision as hereinafter mentioned.

(3.) Every such rate shall be deemed to be a rate made under "The Rating Act, 1908," and may be levied, sued for, and recovered under that Act.

(4.) All lands in any district or subdivision which by their altitude, configuration, or other physical causes are excluded from deriving any possible benefit from a water-race shall be exempted from all rates to be levied in respect of such water-race; and all lands which are supplied with water from springs, streams, or private water-races thereon shall also be so exempted from rates unless the owners thereof respectively consent to the same being rated. Lands exempt from rate.

35. (1.) Within any division or subdivision where rates are to be levied on lands according to their classification the Council may from time to time, as it thinks fit, classify or cause to be classified all lands in the district or subdivision into the following classes, that is to say :— Council to classify land. Ibid, sec. 32

(a.) Lands receiving or supposed to receive immediate and direct benefit :

(b.) Lands receiving or supposed to receive less direct benefit :

(c.) Lands receiving only an indirect benefit from the construction of the water-race :

(d.) All other lands :

and the rates shall be levied upon the three classes of lands first aforesaid in such proportion as the Council in each case appoints.

(2.) The Council may from time to time, by warrant under its hand at a meeting to be held for that purpose, appoint one or more

fit persons to examine and report upon all lands to be classified, or to classify the same in manner aforesaid; and such persons shall, within thirty days after the delivery to them of the warrant of appointment, report to the Council thereon; and the classification of such lands shall thereupon forthwith be made, either by the Council or by such persons as aforesaid as the Council directs.

(3.) When any classification is made as aforesaid the Chairman shall sign the same at a meeting of the Council; and the Council shall immediately thereafter cause public notice of such classification to be given, and of the place where the same may be inspected for a period of twenty-one days; and the person in whose custody such classification list is shall permit the same to be inspected during office hours by the owner or occupier of any land included therein.

(4.) Any person who thinks himself aggrieved by such classification may appeal against the same on the grounds following, and no other:—

(a.) That the classification does not fairly classify the land of the appellant:

(b.) That any land liable to be classified is omitted from the classification, or is not fairly classified.

(5.) A notice of appeal setting forth the matter objected to, and the cause of objection, shall be given to the Clerk of the nearest Magistrate's Court, within seven days next after the expiration of the twenty-one days appointed for the publication of the classification list; and not less than seven clear days' notice of such appeal shall be given to the Council before the time of hearing appeals.

(6.) Within three days after the expiration of such seven days as last aforesaid the Magistrate of the aforesaid Court shall give public notice of a day for the hearing of such appeals, and such appeals may be heard at the Magistrate's Court to be notified in such notice; and such Court may, after hearing such appeals, cause the classification to be amended in such manner as appears to it to be reasonable, and the Magistrate shall sign such amended classification, and the determination of the said Court shall be final and conclusive.

(7.) The Court by which any appeal is heard shall have full power to award the costs incidental to such appeal and the hearing thereof to either of the parties.

36. Every classification list, when signed by the Chairman as aforesaid in case there is no appeal, and when signed by the Magistrate as aforesaid after any appeal, shall, for the purpose of any proceedings for the recovery of rates payable under this Act, be conclusive evidence of the liability of the person named therein; and every such list shall remain in force until another is made under the provisions of this Act.

37. For the purpose of repairing any extraordinary damage done by flood, tempest, or accident to any water-race the Council may from time to time raise a special loan without first obtaining the consent of the ratepayers of the district, or of any subdivision of a district, to the doing of such work or to the raising of such loan; and, to secure the interest and the repayment of such loan, may levy a rate in manner provided in section thirty-four hereof, and all provisions of that section shall apply in respect of any such rate.

Classification list
to remain in force
till another made.
1891, No. 42, sec. 33

In case of
extraordinary
damage special
loan may be raised
without consent of
ratepayer.
Ibid, sec. 34

Charges for Water-supply.

38. (1.) The Council may from time to time, in manner provided by "The Counties Act, 1908," make by-laws—

Council may make by-laws as to rates and charges for supply of water.

To prescribe the terms and conditions on which any water-race made by it may be used, and on which water may be supplied, and the rates and charges to be paid for water supplied, and the area of land which shall be liable to such rates and charges, and to provide, if advisable, for a scale of rates or charges differing in any district from those in another, or differing in the several subdivisions of any district according to circumstances.

1891, No. 42, sec. 35
1904, No. 17, sec. 2

(2.) Such charges may be estimated to cover the cost of maintaining and repairing the water-race, and the interest and sinking fund on any loan raised to provide for the cost of its construction, and shall be applicable for such of the said purposes as may be necessary.

39. Every occupier and every owner of land in, through, over, under, upon, or along which a water-race has been or is constructed shall be liable to pay the aforesaid charges unless such land is already provided with water by a stream, spring, or private water-race; but if the owner or occupier of land so provided has applied to and obtained from the Council a supply of water to such land, he shall be liable to pay the charges as aforesaid.

Occupier of land through which water-race constructed liable to pay charges for water.

1891, No. 42, sec. 36

40. Every occupier and every owner of land abutting on a road upon which a water-race has been constructed adjacent to such land shall be at liberty to use the water in such race; and, unless he gives a written notice to the Council that he will not use such water, and does not use the same, shall be liable to pay the aforesaid charges.

Occupier of land abutting on road on which water-race constructed also liable.

Ibid, sec. 37

41. No occupier shall be liable for any such charges in arrear for any period exceeding two years from the time when such charges first became due.

Charges over two years in arrear not recoverable.

Ibid, sec. 38

42. Notwithstanding anything herein, the Council from time to time may agree and contract with the owner of any private land who has granted the use thereof in perpetuity or for a limited term for the construction thereon of a water-race to have the use of any part of the water in a water-race, either without charge or on such terms and at such rates and charges as may be agreed upon between the Council and such owner.

Owner of land granted for water-race may have water free of charge.

Ibid, sec. 39
1907, No. 71, sec. 4

43. (1.) All moneys accruing from or received in respect of any water-race shall be paid into the separate District Account of the County Fund, and shall be applied for the purposes hereinbefore mentioned.

Proceeds from water-race to go to County Fund.

1891, No. 42, sec. 40

(2.) Payment of rates and charges for water shall be made at the office of the Council, or at such other place as is appointed by the Council for that purpose, on such day or days in every year as the Council by resolution from time to time appoints; and any charges remaining unpaid for fourteen days after the day so appointed for payment thereof may be recovered by the Corporation as an ordinary debt to it in any Court of competent jurisdiction.

Payment of rates and charges for water.

44. (1.) If the Council constitutes districts in the county in which different scales of charges are imposed for the supply of water from particular water-races or systems of water-races, or for convenience of administration or any other purpose, the water-supply charges raised

Water-supply charges raised in any district may be wholly expended in such district.

Ibid, sec. 41

in any such district may be wholly expended on the water-races in that district, notwithstanding that such district may comprise more than one of the ridings or parts of more than one of the ridings in the county.

(2.) Separate accounts shall be kept for each of such districts of the income and expenditure thereof in each year.

Council may levy
separate rate
towards cost of
water-race.

1904, No. 17, sec. 3

45. (1.) The Council may, in lieu of making by-laws fixing the charge to be paid for water in any district, make and levy on all lands in any district (other than those exempted under section thirty-four hereof) a separate rate to provide for the cost of maintaining and repairing any water-race within such district.

(2.) Every such rate shall be deemed to be a rate made under "The Rating Act, 1908."

Management of Water-races.

Powers of Council
as to inspection,
alteration, &c., of
water-races.

1891, No. 42, sec. 42
1898, No. 12, sec. 12

46. (1.) In respect of all water-races the Council shall have the following powers, and such powers may be exercised from time to time, that is to say:—

- (a.) To enter upon any lands and roads in any water-race district through, over, or along which any water-race is constructed (including water-races constructed upon roads as mentioned in section forty hereof), and inspect such race, and all reservoirs for water, on such lands, and cleanse, repair, and maintain such race and such reservoirs for water, and all works connected therewith respectively:
- (b.) To stop the flow of water in any water-race for the purpose of cleansing, repairing, altering, enlarging, or extending any such water-race or reservoir for water as aforesaid, or for any other purpose which the Council deems necessary or proper:
- (c.) To stop, reduce, or alternate the flow of water in any water-race, and control and manage all water-races in the county in such manner as it deems best adapted for the purpose of providing a supply of water:
- (d.) To allocate to, between, and among the occupiers and owners of such lands as aforesaid the cost incurred by the Council in and about the execution of the works mentioned in this section, and of any other works which the Council undertakes, constructs, and carries out for all or any of the purposes aforesaid.

Recovery of moneys.
Ibid, sec. 14

(2.) In case any such occupier or owner, upon demand in writing made upon him by the Council, or within such time after the making of such demand as the Council by resolution appoints, fails to pay at the office of the Council, or at such other place as is appointed by the Council for that purpose, the amount so allocated to be paid by him as aforesaid, the amount so allocated may be recovered by the Council as a debt due by such occupier or owner to the Council, in any Court of competent jurisdiction.

Power to stop water.
1891, No. 42, sec.
42 (4)

(3.) In case any person—

- (a.) Makes default in payment of the charges which he is from time to time liable to pay:
- (b.) Makes default in payment of any rate imposed on his land within the county in respect of water-supply:

(c.) Fails or refuses to do and perform any act or thing which he is required to do by this Act, or by any by-laws made thereunder :

(d.) Fails to do and perform any matter or thing which he has undertaken or agreed to do in respect of the supply of water to his land :

(e.) Commits any offence against this Act, or any such by-laws,—
the Council may stop the supply of water to the land of such person and prevent him from using the water until he has ceased to make default or failure as aforesaid.

47. In addition to the powers elsewhere conferred by this Act, the Council is hereby authorised and empowered, so far as relates to all waters within or bounding the district,—

Further powers of Council.
1894, No. 33, sec. 7

(a.) To prevent the diversion of any stream, or any portion thereof, without the consent of the Council :

(b.) To remove or cause to be removed any channel, intake, weir, or other works which cause any river or stream to be diverted :

and generally to do and permit to be done anything necessary for the efficient use by the Council of the whole of the waters in any river or stream.

48. (1.) If any dispute arises between the Council and any other local authority respecting the user of the waters of any stream or river, such dispute shall be decided by arbitration, which shall be conducted in accordance with the provisions of "The Arbitration Act, 1908."

Disputes about right of user of waters of streams or rivers to be submitted to arbitration.
1898, No. 12, sec. 11

(2.) The reference shall be to as many arbitrators as there are parties to the dispute, one to be appointed by each party, unless the parties agree to refer the matters in difference to a single arbitrator.

(3.) Where more than one arbitrator is appointed, the arbitrators shall be at liberty to appoint an umpire.

(4.) If any party to a dispute refuses to appoint an arbitrator, or to concur in the appointment of a single arbitrator where it has been previously agreed to refer the matters in difference to a single arbitrator, or neglects to make or concur in making such appointment, after notice in writing requiring it so to do has been served upon it by any other party to the dispute, such other party may appeal to the Minister of Public Works to appoint an arbitrator, or to concur in the appointment of a single arbitrator, in place of the party so refusing or neglecting as aforesaid ; and the said Minister shall thereupon appoint an arbitrator, or concur in appointing a single arbitrator, in place of the party so refusing or neglecting as aforesaid, and the arbitrator so appointed shall have the like powers to act in the reference and make an award and otherwise as if the party so refusing or neglecting as aforesaid had appointed or concurred in appointing him.

(5.) Nothing herein shall be deemed to affect or lessen the powers conferred upon any Council by the last preceding section, or by any other Act, with respect to any river or stream within or bounding the district of a Council.

49. (1.) The Council may by special order appoint not less than five nor more than seven ratepayers, who shall have the management on behalf of the Council of any water-race vested in the Corporation, and

Managing ratepayers may be appointed.
Ibid, sec. 17

for that purpose may confer on such managing ratepayers all or any of the powers of management possessed by the Council.

(2.) A notification in the *Gazette*, signed by the Chairman of the Council, shall be sufficient evidence of the appointment of such managing ratepayers and of the powers conferred on them.

(3.) Any such special order may from time to time be varied or rescinded by special order.

(4.) No such special order for the management of any such water-race by managing ratepayers shall be made unless a requisition signed by a majority of ratepayers supplied by such water-race has been received by the Council requesting that the management be given to such managing ratepayers.

Water-channel may
be declared
water-race.
1898, No. 12, sec. 18

50. Where a natural water-channel exists within a district the following provisions shall apply, anything in this Act or any other Act to the contrary notwithstanding:—

(a.) On the written application of not less than two-thirds of the occupiers and owners of such of the land through which the water-channel runs as is within the district, the Council may, with the written consent of all the owners of such land, by special order declare the water-channel to be a water-race.

(b.) So long as such special order continues in operation, every owner or occupier of land through which such water-race runs shall be entitled to use the water, in so much of the water-race as is within the boundaries of his land, for domestic purposes, or for the purpose of watering stock, or for any other purpose not involving the diversion of the water; but shall not be entitled to divert the water except at such times, to such extent, and subject to such conditions as are prescribed by by-laws, which the Council is hereby empowered to make.

(c.) The water-race shall be under the control of the Council, who may from time to time increase, diminish, or stop the supply of water therein as it thinks fit.

(d.) In every case where the Council increases the supply of water section twenty-six hereof shall apply in like manner as if the water-race were constructed or maintained by the Council.

Council may sell
disused water-race.
1891, No. 42, sec. 43

51. (1.) In case any water-race is no longer needed or is abandoned, the Council may sell or otherwise dispose thereof, and of the lands through which it passes if the same are the property of the Corporation, and of all the material appertaining thereto or forming part thereof, and the Council may execute all necessary documents and instruments to give effect to any such sale or the transfer of any easement.

(2.) Such sale or other disposition shall be by public auction or public tender after not less than sixty days public notice has been given weekly of the intended sale or disposition.

(3.) All proceeds of any such sale or disposition shall be paid into the District Account of the County Fund.

Original owner to
have first offer.

(4.) Where any land through which such a water-race passes is vested in the Corporation, the Council shall, before proceeding to a sale of such land under subsection one hereof, cause the same to be

valued by a competent valuer, and shall offer such land at the price fixed by such valuation first to the person then entitled to the land from which such land was originally severed or of which it formed part; and if there is no such person, or if he refuses to purchase, or cannot after due inquiry be found, then such land shall be offered to the adjacent owner, or if there is more than one such owner, then to each of such owners in such order as the Council thinks fit; and if no such owner accepts such offer, then the land may be sold by public auction or public tender as aforesaid.

Water-races in several Counties.

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

Councils may unite to make water-races. 1891, No. 42, sec. 44

53. All such water-races shall be deemed to be vested in the Corporation of such one or more of the counties as is agreed on between the Councils thereof respectively, or, in case of dispute, as the Minister of Public Works, at the request of any such Council, determines.

To be vested in such county as agreed upon between them. Ibid, sec. 45

54. Such water-races shall be constructed, maintained, and repaired by and at the expense of the Councils of such counties in the proportion to be agreed on between them, or, in case of dispute, to be fixed by the Minister of Public Works.

Expenses of construction, &c., to be in proportions agreed on. Ibid, sec. 46

55. In case the Council of any county refuses, neglects, or omits to maintain and keep in good repair the portion of such a water-race which is within such county, the Council of any other county interested in the water-race, at any time after seven days' notice given to the Council making default, requiring it to make the necessary repairs, may do and execute all works, acts, or things necessary for such purpose, and recover from the defaulting Council all costs and expenses incurred in such maintenance and repair.

If Council refuses to keep portion within county in repair, other county interested may do so, and recover cost. Ibid, sec. 47

56. All moneys accruing from a water-race vested jointly in the Councils of two or more counties shall be divided between the county funds of such Councils, in such proportion as the several County Councils agree on, or in case they cannot agree, then in such proportion as the Minister of Public Works determines.

Proceeds from joint race to be apportioned. Ibid, sec. 48

Provisions for the Protection of Water-races.

57. Every person who wilfully or maliciously destroys or injures, or does or permits or suffers to be done any wilful damage or injury to a water-race, or does or permits or suffers to be done any act whereby any reservoir, dam, weir, sluice, pipe, culvert, or other thing used for storing or supplying water is destroyed, broken, or injured, commits an indictable offence, and on conviction is liable to imprisonment for any term not exceeding three years with or without hard labour, or to such fine as the Court imposes not exceeding five hundred pounds, and in addition to pay the whole cost of restoring or repairing such damage or injury.

Destroying water-race. Ibid, sec. 49

58. If any foul liquid or matter is thrown or poured or suffered to fall or flow into water being a part of or taken or used for supplying water to any water-race, from any works or manufactory, slaughter-yard, cowshed, stable, or piggery, the person carrying on or managing such works or manufactory, or having the charge or control of such

Allowing refuse from works to be thrown or to flow into water-race. Ibid, sec. 50

slaughter-yard, cowshed, stable, or piggery respectively, or throwing, pouring, or suffering to fall or flow such matter into such water or water-race, is liable to a fine not exceeding one hundred pounds, and to a further fine not exceeding ten pounds for every day during which such offence is continued after he has received notice in writing from the Council to discontinue the same.

Diverting water
from race or stream
supplying race.
1891. No. 42, sec. 51

59. Every person who, without the consent in writing of the Council,—

- (a.) Takes or diverts any water from a water-race, or from any stream supplying such water-race, so as to diminish to a large extent the amount of water flowing into such race ; or
 - (b.) Does or causes, permits, or suffers to be done any act whereby the water in any such water-race is drawn off or diminished in quantity ; or
 - (c.) On being required by the Council, or any officer in charge of the water-race, to restore the waters of such water-race to the state in which they were before the doing of such unlawful act as aforesaid, refuses, neglects, or fails so to do—
- is liable to a fine not exceeding twenty pounds for every such offence, and to a further fine not exceeding ten pounds for every day during which the supply of such water is so drawn off or diminished.

Cost of restoring
water so taken.
Ibid, sec. 52

60. (1.) If any such person as aforesaid, after having received notice from the Council or any officer in charge as aforesaid, requiring him to restore the waters of such water-race, refuses, neglects, or fails for the space of twenty-four hours to comply with such notice, the Council may, at any time after the lapse of such period of twenty-four hours from the giving of such notice, execute all the works necessary to restore the said waters, and may recover from such person the whole cost of such works, together with the amount of any damage sustained by reason of the taking or diverting of such water.

(2.) No proceedings which may be taken by the Council against any such person as aforesaid shall prejudice or affect any other remedy, either civil or criminal, which it may have against him on account of the doing any such act as aforesaid.

Damaging pipes, &c.,
connected with race.
Ibid, sec. 53

61. Every person who does, permits, or suffers to be done any of the following things :—

- (a.) Permits any water-race pipe or apparatus on his premises or which he may have agreed to maintain, to be out of repair so that water is wasted :
- (b.) Alters any meter, or does or permits or suffers any act to be done, whereby his supply of water is unduly increased :
- (c.) Not having been authorised in writing by the Council to take or be supplied with water from a water-race, takes any such water from the supply furnished to another person, or from a water-race :
- (d.) Being supplied with water from a water-race, supplies another person who is not entitled by authority in writing from the Council to be so supplied with or permits him to take any such water :
- (e.) Does or causes, permits, or suffers to be done anything whereby the water in any water-race is or may be fouled, polluted, or rendered impure or unfit for use :

(f.) Obstructs or interferes with any person acting under the authority of the Council in doing anything which the Council is hereby empowered to do—
is liable to a fine not exceeding twenty pounds for each such offence, and to a further sum equal to the cost incurred by the Council in repairing the injury done to any water-race, or any part thereof, by any such act.

62. Every person who does or causes or procures, permits, or suffers to be done any of the following things :—

- (a.) Bathes in any reservoir or water-race :
- (b.) Suffers any drainage to pollute the water in any water-race :
- (c.) Suffers any goats, pigs, or geese in his possession or care to trespass, stray, or be in or upon any water-race, or to destroy or injure the same or the banks thereof, or to pollute the water in such race :
- (d.) Washes, scours, or cleanses any animal, carcase, wool, hide, skin, or other substance or thing in any water-race :
- (e.) Throws, pours, or places or causes, or permits to be thrown, poured, or placed, into or in any water-race any substance whatever :
- (f.) Takes or conveys any machinery through or across any water-race, except at an appointed crossing-place :
- (g.) By any means obstructs the flow of water in any water-race, or permits any gorse, broom, tree, plant, or other matter to grow or spread from land in his occupation, or from any hedge or fence growing on such land or on the boundary thereof, into, on, or over any water-race, or into, on, or over any land reserved or used for the purpose of a water-race :
- (h.) Without the consent of the Council, interferes with any dam, reservoir, headworks, or buildings connected with any water-race :
- (i.) Without the consent in writing of the Council, widens or deepens any water-race, or alters the course thereof :
- (j.) Commits a nuisance in or near any water-race :
- (k.) Obstructs any field-crossing over a water-race :
- (l.) Destroys or injures anything constructed, erected, made, put, or placed by the Council in, upon, or about or in connection with any water-race :
- (m.) Removes, displaces, alters, injures, or interferes with any water-gauge, dam, sluice, pipe, or other works or things used in supplying or distributing water from any water-race :
- (n.) Does anything not authorised by this Act whereby the flow of water in any water-race is increased or diminished—

is liable to a fine not exceeding five pounds for each such offence, and to a further sum equal to the damage sustained by the Council by any such act.

Bathing in, suffering horses, &c., to injure, or polluting, &c., water-race.

1891, No. 42, sec. 54
1904, No. 17, sec. 6

By-laws.

63. (1.) The Council may from time to time, in the manner provided by "The Counties Act, 1908," make by-laws—

- (a.) To prevent the obstruction of water-races :
- (b.) To prevent the pollution of water in races ;

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

1891, No. 42, sec. 55

- (c.) To prevent the driving of animals or vehicles, and the conveying of machinery and other material, through or across water-races, except at the appointed crossings :
- (d.) To punish persons for interfering with dams, reservoirs, head-works, and buildings, machinery, or any appliances connected with water-races, without the consent of the Council :
- (e.) To prevent bathing in reservoirs and other parts of water-races :
- (f.) To protect rangers and other persons employed by the Council in connection with water-races in the discharge of their duties, and, for the purpose of enabling them to discharge such duties, to empower all such rangers and other persons to enter upon private lands :
- (g.) To prevent the widening and deepening of water-races, or the alteration of the course thereof, without the consent of the Council :
- (h.) To prevent trespasses upon water-races through, over, upon, or under roads :
- (i.) Generally to prevent trespasses, nuisances, and obstructions to water-races, and to make all such provision as to the Council seems necessary or expedient for the proper protection and proper management of water-races :
- (j.) To provide for the cleansing, repair, or maintenance of any water-race by the owner or occupier of land on which such race is situate, or on any road or reserve adjacent thereto.

(2.) Any such by-law may empower the Council, in case the owner or occupier of land on which any water-race is situate, or the water of which he is at liberty to use, makes default in cleansing, repairing, or maintaining the same, to do the work and recover the cost thereof from such owner or occupier as a debt in any Court of competent jurisdiction.

Continuing
breaches.

1891, No. 42, sec. 55
1898, No. 12, sec. 21

64. (1.) Any such by-law may provide a fine not exceeding five pounds for any breach thereof, and where the breach is a continuing one, not exceeding five pounds for every day or part of a day during which such breach continues.

(2.) After conviction for any continuing breach the Council may apply to any Court of competent jurisdiction for an order restraining the further continuance of such breach by the person convicted.

Special as to Borough of Greytown.

Powers of Council
of Borough of
Greytown extended.
Ibid, sec. 20

65. The Council of the Borough of Greytown shall have all the powers, duties, and authorities conferred on a Council by this Act ; and for the purpose of this section the following provisions shall apply :—

- (a.) All references in this Act to a Council, or the Corporation, Chairman, or district of a county, or to any of the provisions of "The Counties Act, 1908," shall be construed to apply to the Council, Corporation, Mayor, or district of the aforesaid borough, or to the corresponding provisions of "The Municipal Corporations Act, 1908," as the case may require.
- (b.) The powers and authorities by this section conferred on the Council of the aforesaid borough shall be exercisable in addition to and irrespective of any powers or authorities conferred on such Council by "The Municipal Corporations Act, 1908," or any other general, local, or special Act,

- (c.) Nothing in this section shall operate or be construed to empower the Council of the Borough of Greytown to divert water from any river or stream within the County of Featherston or of Wairarapa South except with the consent of the County Council concerned, and upon such terms and conditions as are agreed on between the Councils of the said borough and the county concerned.

PART II.

ROAD BOARDS.

Water-supply Districts and Water-supply Boards.

66. (1.) On receipt of a resolution passed by any two or more Road Boards representing road districts which adjoin each other within any county wherein "The Counties Act, 1908," is not in operation or is suspended, the Governor, by Proclamation, may declare the whole or any part of such road districts to be a water-supply district under this Act by the name of "The Water-supply District."

When Counties Act suspended, Road Boards may amalgamate for purposes of Act. 1891, No. 42, sec. 57

(2.) The Governor, by the same or any subsequent Proclamation, shall determine the number of members of the Water-supply Board (hereinafter called "the Board"), not in any case being less than one nor more than three, to be elected by each road district or part of a road district respectively forming part of the water-supply district.

67. (1.) In every water-supply district there shall be a Board consisting of not less than five nor more than nine members, whereof the members to represent each road district or part of a road district shall be elected respectively by the ratepayers of such road district or part of such road district, in the same manner as the members of Road Boards are elected from time to time.

Water-supply Boards elected. Ibid, sec. 58

(2.) All elections under this Part of this Act shall be conducted under "The Local Elections and Polls Act, 1908"; and the Governor may from time to time appoint Returning Officers for the first election and appoint the time and place for holding such election, and may do all things necessary for the formation of rolls, fixing polling-places, and otherwise for the conduct and completion of such election.

(3.) The members first elected shall come into office on their election, and shall hold office from such date until the election of their successors.

(4.) On some day in the last week of April in the year one thousand nine hundred and nine as is fixed by the Board, and on the same day in every third year thereafter, a general election of members of the Board shall be held, who shall come into office on their election, when their predecessors shall go out of office.

(5.) In the case of Boards hereafter constituted the first meeting of the Board shall be held on such day and at such place as the Governor fixes; and at such meeting the Board shall elect a Chairman, who shall hold office for so long as he continues to be a member of the Board, unless he previously resigns such office, in which case a new Chairman shall be elected by the Board.

(6.) Vacancies in the office of any member of the Board shall be created and filled in the same manner respectively as is provided in "The Road Boards Act, 1908," with respect to members of Road Boards.

Incorporation of
Boards.
1891, No. 42, sec. 59

68. Every Water-supply Board shall be a Corporation under the name of "The Water-supply Board," having perpetual succession and a common seal, with power to make, alter, or renew the same, and with power to purchase, take, hold, and transfer real and personal property, and to sue and be sued, plead and be impleaded, in any Court, and to do and suffer all other acts and things which a body corporate may lawfully do and suffer.

Annual meeting of
ratepayers of water-
supply district.
1897, No. 15, sec. 5

69. A meeting of the ratepayers of every water-supply district shall be held each year, on such day in the second week in April and at such place in the district as the Board appoints in that behalf by at least seven days' previous notice, advertised in some newspaper circulating in the district; and at such meeting the Board shall submit a statement of the Board's receipts and disbursements, and a report of its operations for the preceding year ending the thirty-first day of March.

Travelling-expenses
of members.
1895, No. 35, sec. 3

70. Out of moneys received in respect of any water-race the Board may pay as travelling-expenses the actual cost of the fare by road or (unless he is the holder of a free pass) by railway incurred by any member of the Board in going to or returning from any meeting of the Board (other than committee meetings), when duly summoned to attend, or by the Chairman in travelling on the business of the Board: Provided—

Limitation.

- (a.) That such member resides not less than three miles from the place of meeting:
- (b.) That before any member is paid any money for travelling-expenses under this Act he delivers to the Chairman a statutory declaration that he has not been paid, and is not entitled to receive, any sum in respect of the same travelling-expenses from any other Corporation or Board:
- (c.) That the total sum paid in any one year to any member other than the Chairman does not exceed fifteen pounds, and to the Chairman does not exceed twenty-five pounds.

Water-supply Board
to have powers of
County Councils
under Part I to be
exercised under
Road Boards Act.
1891, No. 42, sec. 60

71. (1.) Except as provided in this Part of this Act, every Water-supply Board shall have all the powers, duties, and authorities conferred on County Councils by Part I of this Act, which shall be read for such purpose as if the words "Water-supply Board" or "Board" and "water-supply district" or "district" had been inserted in such Part for the words "County Council" or "Council" and "county" or "water-race district" respectively wherever the latter words occur in the said Part and all other consequential alterations had been made.

(2.) In the exercise of any such power, duty, or authority every Water-supply Board shall have all the powers, duties, and authorities conferred on a Road Board by "The Road Boards Act, 1908," and may exercise the same within any road district or part of a road district comprised within the limits of the water-supply district, notwithstanding any change or alteration in the boundaries of such road district or in the constitution thereof, and notwithstanding also the merger or abolition of any such road district.

Power to extend
boundaries.
1892, No. 29, sec. 5

72. No Water-supply Board shall have power to extend the boundaries of the district under its control, or to take possession of any water-races theretofore under the control of any Road Board, unless and until a poll of the ratepayers within the area of such proposed extension shall have been taken as provided under "The Local Elections

and Polls Act, 1908," upon the question of such proposed extension, and the same is sanctioned by two-thirds of the total number of such ratepayers, representing at least one-half of the rateable value of the area included within such proposed extension; and if any such proposal is affirmed by the requisite number of votes, representing not less than the rateable value aforesaid, then the Water-supply Board shall pay to such Road Board an amount equal to the total sum of all liabilities on the part of such Road Board in respect of such water-races as have been taken possession of as aforesaid.

73. (1.) In the districts of such local authorities or Water-supply Boards as the Governor, by Order in Council gazetted, names in that behalf the last preceding section shall be deemed to be amended by substituting the words—

Last preceding section amended as to certain districts.
1897, No. 15, secs. 2, 6
1898, No. 12, sec. 16

"a majority in number of the valid votes recorded at such poll, representing not less than three-fifths of the rateable value of the rateable property (situate within the area of such proposed extension) of all the ratepayers whose votes are so recorded,"

in lieu of the words—

"two-thirds of the total number of such ratepayers, representing at least one-half of the rateable value of the area included within such proposed extension."

(2.) No such Order in Council shall be made except at the request of the local authority or Water-supply Board named therein.

74. (1.) The Governor may from time to time by Proclamation extend the boundaries of any water-supply district by adding thereto any road district or defined part of a road district adjoining the water-supply district:

Water-supply district may be extended.
1907, No. 71, sec. 2

Provided that no such Proclamation shall be made except on the petition of a majority of the ratepayers within the area proposed to be so added, nor unless the Water-supply Board, within two months after notice of such petition, signifies to the Governor in Council by resolution its assent to the prayer of such petition.

(2.) The Governor, by the same or any subsequent Proclamation, may determine, in accordance with the prayer of the said petition, how many additional members (if any) of the Water-supply Board shall be elected to represent the road district or part of a road district so added to the water-supply district, notwithstanding the fact that the total number of members of the said Board may thereby exceed the maximum number permitted by section sixty-seven hereof.

(3.) For the purpose of the first election of any such additional member or members the Governor may exercise the powers conferred upon him by the said section sixty-seven in the case of the first election of a Water-supply Board.

75. (1.) In any case where prior to the passing of "The Water-supply Act, 1891," any Road Board had, under the powers then vested in it by virtue of "The Counties Act, 1886," constructed water-races or irrigation-works the following special provisions shall apply:—

Where Road Boards had constructed water-races, &c., before 1891, and to provide for the future working of such races, &c.
1892, No. 29, sec. 2

(a.) Such Road Board and the road district which it represents shall be deemed not to have been or to be affected by the provisions of "The Water-supply Act, 1891," or the foregoing provisions of this Act.

(b.) Such Road Board shall have and may continue to exercise in the road district it represents all the jurisdiction, powers, duties, and authorities conferred on such Road Board by or under "The Counties Act, 1908," and shall be subject to all liabilities thereby imposed upon such Board.

(c.) For such purposes sections two hundred and sixty-six to two hundred and eighty-eight and subsections two and three of section three hundred and eleven of "The Counties Act, 1886," shall be deemed not to have been repealed as to water-races or irrigation, but to stand in "The Counties Act, 1908," in their original form (with necessary modifications) as shown (for convenience of reference) in the Third Schedule hereto, in lieu of sections one hundred and sixty-six to one hundred and seventy-nine and clause thirty-one of the Fourth Schedule to that Act.

(d.) Such sections, and all other provisions of "The Counties Act, 1908," or of any other Act in force requisite or necessary to give full effect to this section, shall be deemed to be in full force and operation so far as respects such Road Board and the road district which it represents.

Not to interfere with any part of road district forming part of a water-supply district, or to prevent the future modification of such a district.

1892, No. 29, sec. 3

Road Board to have power to levy water rates.

Ibid, sec. 4

(2.) Nothing in the last preceding subsection shall be deemed to affect or interfere with any portion of any such road district which has been or is hereafter constituted part of a water-supply district under "The Water-supply Act, 1891," or this Act, or to prevent the whole or any portion of such road district from becoming part of any such water-supply district; in any of which events this section shall not have any operation so far as respects the road district or portion thereof which forms part of a water-supply district.

(3.) Notwithstanding anything in this section, any Road Board which has constructed water-races under any Act in force prior to the passing of "The Water-supply Act, 1891," shall have full power to make and levy water rates upon any land supplied with water by such races (notwithstanding that such land may be included in a water-supply district) until such time as the Board having control of such water-supply district is able to provide for such land a sufficient supply of water from races under its control.

Special as to Water-supply Boards in the County of Eden.

Water-supply districts in County of Eden may be extended.

1898, No. 12, sec. 19

76. (1.) Any Water-supply Board within the County of Eden shall have power to extend the boundaries of the water-supply district under its control so as to take in the whole or a portion of any road district adjoining such water-supply district, upon and subject to the conditions following:—

Upon a resolution favouring the taking of a poll, as hereinafter mentioned, being passed by the Water-supply Board and by the Road Board of the district wherein the area of such proposed extension is situated, a poll of the ratepayers within the area of such proposed extension shall be taken as provided under "The Local Elections and Polls Act, 1908."

Mode of taking poll.

(2.) Such poll shall be taken upon the proposals following:—

(a.) Agreeing or otherwise to such proposed extension:

(b.) Agreeing or otherwise to a loan of such specified amount as may be deemed necessary for the purpose of constructing water-races within the area of such proposed extension :

(c.) Agreeing or otherwise to the levying of a special rate on the rateable value of the land within the area of such proposed extension equal to any special rate or special rates levied by the Water-supply Board of the water-supply district whose boundaries are proposed to be extended as aforesaid.

(3.) The provisions of "The Local Bodies' Loans Act, 1908," shall, so far as applicable, apply in respect of the taking of the poll upon the proposals for such loan and special rate, and generally in respect of the raising of such loan and the making and levying of such special rate, and otherwise as by such Act provided; and the Water-supply Board of the water-supply district whose boundaries are proposed to be extended shall in respect of the area of such proposed extension be deemed to be the local authority thereof within the meaning and for the purposes of "The Local Bodies' Loans Act, 1908"; and the area of such proposed extension shall be deemed to be a district within the meaning and for the purposes of such Act:

Provided that the said proposals shall be deemed to be carried if a majority in number of the valid votes recorded at such poll, representing not less than three-fifths of the rateable value of the rateable property (situated within the area of such proposed extension) of all the ratepayers whose votes are so recorded, vote for the proposals.

(4.) If such proposals are carried, upon receipt of such resolutions as aforesaid, and upon proof by affidavit of the Chairman of the Water-supply Board of such proposals having been carried, the Governor by Proclamation shall declare the boundaries of the water-supply district to be extended so as to include the area of such proposed extension, and thereafter the water-supply district and the area of such proposed extension shall form one water-supply district.

(5.) The Water-supply Board may raise upon the security of such rate or otherwise any amount not exceeding the sum sanctioned by any such proposals as aforesaid for the purpose of constructing water-races in the area of such extension, and such sum so raised shall become portion of the funds of the Water-supply Board, and the Water-supply Board shall have full power to levy and collect the said special rate in respect of such extended area.

77. (1.) In addition to the powers vested in a Water-supply Board by this Act, every Water-supply Board within the County of Eden which has heretofore constructed or hereafter constructs a water-race may make and levy water rates within its water-supply district upon the principle and according to the scale prescribed by section eighty-three of "The Municipal Corporations Act, 1908," and may make by-laws in that behalf. The words "annual rateable value" in that section shall, for the purposes of this section, have the same meaning as "rateable value" as defined by paragraph (a) of the definition of "rateable value" contained in section two of "The Rating Act, 1908."

(2.) Any such water rate shall be additional to any special rate levied by the Water-supply Board as security for any special loan.

(3.) Sections thirty-nine and forty hereof shall not apply to a water-supply district situate within the County of Eden.

Extension of district
to be gazetted

Loan may be raised.

County of Eden:
power to levy rate.
1904, No. 17, sec. 7

Security for special
loan.

Exemptions.

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

- 1891, No. 42.—“The Water-supply Act, 1891.”
 1892, No. 29.—“The Water-supply Act Amendment Act, 1892.”
 1894, No. 33.—“The Water-supply Act Amendment Act, 1894.”
 1895, No. 35.—“The Water-supply Act Amendment Act, 1895.”
 1897, No. 15.—“The Water-supply Act Amendment Act, 1897.”
 1898, No. 12.—“The Water-supply Act Amendment Act, 1898.”
 1904, No. 17.—“The Water-supply Act, 1904.”
 1907, No. 71.—“The Water-supply Act Amendment Act, 1907.”

SECOND SCHEDULE.

ORDER BY COMPENSATION COURT.

Section 20.
 1891, No. 42,
 Schedule

WHEREAS, under the provisions of “The Water-supply Act, 1908,” the land [*or State the estate, right, or interest taken in certain land*] described in the plan drawn in the margin of this order [*or indorsed upon the order, or attached thereto*] was taken by the Council of the County [*or the Water-supply Board of the Water-supply District*] for the purposes of a water-race from to : And whereas the compensation payable in respect of the interest of [*Owner of land, or of the estate, right, or interest taken*] in the said land has been assessed in accordance with the said Act at £ , and such compensation has been paid by the aforesaid Council [*or Board*] [*State mode of payment*]: In exercise of the authority conferred on it by or under the said Act, this Court doth therefore order that the parcel of land described in the said plan [*or State the estate, right, or interest taken in the land described in the said plan*] shall be vested in the corporation of the said county [*or in the said Board*] for the purposes of the said Act.

Dated this day of , 19 A. B.,
 President of the Compensation Court.

(Plan.)

THIRD SCHEDULE.

CERTAIN PROVISIONS OF “THE COUNTIES ACT, 1886” (WITH NECESSARY MODIFICATIONS), WHICH FOR THE PURPOSES OF SECTION 75 HEREOF ARE DEEMED TO FORM PART OF “THE COUNTIES ACT, 1908,” IN LIEU OF SECTIONS 166 TO 179 AND CLAUSE (31) OF THE FOURTH SCHEDULE TO THAT ACT.

Irrigation and Drainage.

Definition of
 water-race.

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

Water-races to be
 proclaimed.

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

Every water-race so declared shall from the date of such Proclamation vest in the Council, together with the right to the water therein, and the right to enter upon all lands for any purposes in connection with the water-race; and the Council shall in respect of any such water-race have, from the date aforesaid, all the powers, authorities, and responsibilities which such Council may have under this or any other Act in relation to water-races.

Powers of County
 Council as to
 irrigation and
 drainage works.

268. In addition to other powers and functions the Council shall have the powers following in respect to the construction and maintenance of irrigation works and drainage

works respectively; and may, in the manner provided by this Act and "The Public Works Act, 1908," from time to time make and maintain, enlarge, alter, extend, and repair—

- (1.) Drainage works of any sort, including the making of drains for receiving water in its natural flow on or from any hills or other sloping lands, and diverting the same to prevent its overflow on to any other lands on a lower level, as well as drains for carrying off water from any lands;
- (2.) Water-races for the supply of water for irrigation and otherwise for the use and convenience of the public; and all such water-races shall be deemed to be vested in the corporation of the county making the same.

269. The Council may, by special order, from time to time declare the whole county or any part or parts of the county to be a district or districts for the purpose of the construction of irrigation works or drainage works therein; and by the same or any subsequent special order may fix the boundaries of any such district, and may assign names thereto, and by any subsequent special order may enlarge, alter, or curtail the limits of any district, subject as hereinafter mentioned, and to the following conditions:—

Districts for irrigation or drainage to be constituted on petition of ratepayers.

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

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

No town district shall be included within any district to be declared under this section unless, by a separate petition signed by not less than one-half of the ratepayers within such town district.

Town districts to be excluded.

270. The Council also may, by special order from time to time without petition as it thinks fit, divide any district or districts constituted under the powers of the last-preceding section into subdivisions, and may prescribe the boundaries of any such subdivisions, and assign names thereto.

Districts may be subdivided.

271. The Council from time to time by special order under section two hundred and sixty-nine, subject as therein mentioned, and defining the limits thereof respectively, may declare any borough or town district which has become merged in the county, or any other town or place which the Council thinks has sufficient population, to constitute a district within the meaning of the section last aforesaid, and may make special agreements for the supply of water to the residents therein for domestic use.

Council may declare boroughs or town districts to be special districts.

For the purposes of this section the powers conferred by section two hundred and seventy-two shall be deemed to include the laying down piping for the distribution of water from a water-race to any town or place, and along, over, or under any street, road, or public place in such town or place.

272. The Council may purchase, or make and maintain, or enlarge, and from time to time alter, extend, or repair any water-races or drainage works (and hereafter the words "water-races" or "water-race" shall be deemed to include drainage works) it may deem necessary in such district; and for the said purposes, or any of them, may—

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

- (1.) Take any land either within or outside of the county in manner provided by "The Public Works Act, 1908";
- (2.) Purchase or otherwise acquire any such land;
- (3.) Contract with the owner of any private lands for and acquire from him by deed duly executed the grant in perpetuity to the corporation of the county of the use, occupation, and enjoyment of such lands, for the purpose of constructing and maintaining water-races thereon;

- (4.) Contract with the owner of any private lands for the acquisition of a right of water over any water-races running through such lands ;
- (5.) Make surveys upon any lands ;
- (6.) Make a water-race upon, over, or under any land within the limits defined in a Proclamation as aforesaid ;
- (7.) Make such water-race over or under any road or place to which the public have general access, or through any public reserve within such limits ;
- (8.) Alter the course or level of any road or public place, and break up and dig into the surface thereof, and stop temporarily the traffic thereon respectively for such purpose within or beyond such limits ;
- (9.) Make the water-race across any stream or river, but so as not to impede the navigation upon any navigable river, except under the provisions of a special Act ;
- (10.) Alter the course or level of any such stream or river, or of any ditch or drain ;
- (11.) Take, impound, or divert the water from any stream specified in a Proclamation as aforesaid ;
- (12.) Make dams, sluices, reservoirs, or other waterworks in any such stream or river, whether within or without the limits of such water-race ;
- (13.) Enter upon any lands for the purpose of constructing, maintaining, inspecting, or repairing any water-race ;
- (14.) Enter upon any lands and take therefrom any materials required for the construction or repair of a water-race, and also enter upon and occupy any lands temporarily ;
- (15.) Construct all works, buildings, and machinery of every description and material, and generally do all things necessary for the construction, repair, maintenance, and use of any water-race.

Special loans for irrigation or drainage.

273. (1.) The Council, with the consent of the ratepayers of any district constituted for irrigation purposes, or for the construction of drainage works, or of any subdivision of any such districts, to be ascertained as provided by "The Local Bodies' Loans Act, 1908," *mutatis mutandis*, in relation to a proposal to raise a special loan,—

- (a.) May from time to time raise a special loan for the purpose of exercising any of the powers conferred on the Council by the last-preceding section, or by Part X of "The Public Works Act, 1908" :

Provided that the aggregate amount of all loans to be raised for such purposes respectively shall not exceed in any district or subdivision a sum equal to ten shillings per acre on all the land in the district or subdivision.

- (b.) May impose and levy on all lands in the district or subdivision a special rate to secure and pay the interest on and provide a fund for the repayment of any such loan.

Any such special rate may be for any amount not exceeding six farthings in the pound on the rateable property in the district or subdivision, anything in this Act or any other Act contained notwithstanding ; and may be levied in manner as may be directed by special order, which may from time to time be altered or revoked by the Council, either on a uniform scale, or on a graduated scale according to the classification of lands in the district or subdivision.

(2.) Where any special rate is levied under this section, according to the classification of lands in the district, sections ninety-three to one hundred of "The River Boards Act, 1908," shall apply as if the same were incorporated with this section *mutatis mutandis*.

(3.) Every such loan shall be raised under and subject to the provisions of "The Local Bodies' Loans Act, 1908," and the provisions of that Act as to obtaining the consent of the ratepayers and as to making the special rate shall accordingly apply.

In case of extraordinary damage, special loan may be raised without consent of ratepayers.

274. For the purpose of repairing any extraordinary damage done by flood, tempest, or accident to any water-race, the Council may from time to time raise a special loan without first obtaining the consent of the ratepayers of the district to the doing of such work, or to the raising of such loan ; and to secure the interest and the repayment of such loan may levy a rate in manner as in the last-preceding section mentioned.

Exercise of powers outside of county.

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

- (1.) Before interfering with any road or other public work for the purpose of constructing any water-race, the Council shall give not less than one month's notice to the local authority having the control of such road or work :

- (2.) If such local authority objects to such interference, the matter shall be referred to the Minister of Public Works, whose decision thereon shall be final :
- (3.) The Council may at any time interfere with any such road or public work so far as to effect all necessary repairs in any water-race theretofore lawfully constructed on or under the same, but shall give to the aforesaid local authority three days' notice of its intention so to do :
- (4.) But in any sudden emergency or danger to the water-race or property adjoining, the Council may effect the necessary repairs forthwith, but shall as soon as possible give notice of its so doing to such local authority.

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

(2.) Where such right has been acquired the Council may at any time enter upon any such land for the purpose of constructing, maintaining, inspecting, or repairing any water-race, as if such land had been purchased by the Council ; and every pipe or other part of a water-race at any time put on or under any such private land shall be subject to the provisions of this Act.

277. Compensation, to be assessed in manner provided by "The Public Works Act, 1908," shall be paid by the County Council to all persons suffering injury or damage by or in the construction of any water-race. Compensation to be paid.

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

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

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

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

281. If any person does any of the following things :—

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

	(5.) Obstructs any person acting under the authority of the Council in doing anything which the Council is hereby empowered to do,— he shall be liable to a penalty of not more than twenty pounds for each such offence, and to a further sum equal to the cost incurred by the Council in repairing the injury done to any part of the water-race by any such act.
Right of supply of water.	282. Every occupier of any land which can be supplied with water from a water-race shall be entitled to be so supplied, subject to any by-laws for the time being in force, and subject also to the right of all other occupiers of any such lands to be equally supplied with a share of such water in proportion to the acreage of the land occupied by them.
Rates and charges for supply of water.	283. The Council may from time to time— (1.) Prescribe the terms and conditions upon which any water-race made by it may be used, and the rates and charges to be paid for water supplied ; (2.) Agree and contract with the owner or owners of any private land who shall have granted the use thereof in perpetuity for the construction thereon of a water-race, to have the use of any part not exceeding one-tenth of the water in a water-race, on such terms and at such rates and charges as may be agreed upon between the Council and such owner or owners. All such rates and charges may be sued for and recovered by the Council as an ordinary debt to the corporation of the county before any two Justices of the Peace.
County Council may make by-laws for protection of water-races.	284. The Council may also from time to time make, alter, and repeal by-laws— (1.) To prevent the obstruction of water-races ; (2.) To prevent the pollution of water in water-races ; (3.) To prevent the driving of vehicles and the conveying of machinery and other material across water-races, except at the appointed crossings ; (4.) To punish persons for interfering with dams, reservoirs, headworks, and buildings connected with water-races without the consent of the Council ; (5.) To prevent bathing in reservoirs and other parts of water-races ; (6.) To protect rangers and other persons employed by the Council in connection with water-races in the discharge of their duties, and for this purpose to empower all such persons to enter upon private lands ; (7.) To prevent the widening and deepening of water-races, or the alteration of the course thereof, without the consent of the Council ; (8.) To prevent trespasses upon water-races on roads ; (9.) Generally, to prevent trespasses, nuisances, and obstructions to water-races, and to make all such provision as to the Council may seem necessary or expedient for the protection and proper management of water-races.
Proceeds from race to go to County Fund.	285. All moneys accruing from any water-race vested in a County Council shall be paid into a separate account of the County Fund, which shall be charged with all cost of maintaining such water-race in good repair.
Councils of counties may unite to make water-races.	286. The Councils of any two or more counties may unite for the construction, use, maintenance, and repair of water-races constructed in any of such counties. All such water-races shall be deemed to be vested in the corporation of such one of the counties as may be agreed upon between the respective Councils thereof, or, in case of dispute, as the Governor determines, at the request of either Council ; and shall be kept in good repair by and at the expense of the Council or Councils of such county or counties.
Proceeds from joint race to be apportioned.	287. All moneys accruing from a water-race vested jointly in two or more counties shall be divided between the County Funds of such counties in such shares as the several County Councils agree on, or, if they cannot agree, then in such proportion as the Governor determines.
Existing water-races may be brought under this Act.	288. The Governor may, upon petition of the Council of any county in which is vested any water-race constructed under the provisions of any special Act, by Proclamation declare such water-race to be subject to the foregoing provisions of this Act, as from a day to be named in such Proclamation. From and after such day any such special Act shall be repealed as to any such water-race saving as to anything done, or any loan raised, or rate authorised to be levied as security for such loan.
On what subjects Council empowered to make by-laws.	311. The Council may, from time to time, make, alter, or repeal by-laws on the following subjects :—

- (2.) To prescribe the terms and conditions upon which any works constructed by the Council for the purpose of water-supply, irrigation, or drainage of land may be used, and the rates to be charged, levied, and paid for the use of such works, and for the water supplied to any person by such works :
- (3.) To prescribe, in addition to any penalty imposed for breach of a by-law, that the Council may sue any person for the amount of damage done by such person to any such works, or in respect of any water unlawfully taken or diverted by any person from any such works.

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