

251

Mr. A. McDonald.

COOK COUNTY RIVERS.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Acts incorporated. 3. Interpretation. 4. Constitution of Boards of Conservators. 5. Act brought into operation in district upon petition of ratepayers. 6. Number of Conservators. 7. Qualification of voters. 8. Names of property-owners to be posted. 9. First meeting. 10. Retirement. 11. Extraordinary vacancies. 12. Chairman. 13. Meetings of Board. 14. Rules of procedure. 15. Officers. 16. Rivers subject to jurisdiction of Board. 17. Rates. 18. Classification of lands. 19. Levying of rates. 20. Report on lands to be classified. 21. Classification to be published. 22. Appeal against classification. | <ol style="list-style-type: none"> 23. Hearing of appeals. 24. Recovery of costs by Board if classification confirmed. 25. Classification evidence of liability of person named therein. 26. Rates payable by occupiers. 27. Board may borrow upon security of rates. 28. Special rate may be levied. 29. Moneys received paid to Board. 30. Contracts. 31. Actions. 32. Board to pay moneys payable in action by or against Conservator. 33. Election of Conservators. 34. Electoral roll. 35. Accounts. 36. Auditors. 37. No member of Board may become contractor under or hold paid office in gift of Board. 38. Recovery of fines and penalties. 39. Debenture-holders no claim on colony or County of Cook. 40. In case of default Receiver may be appointed. Schedule. |
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A BILL INTITULED

AN ACT to make Provision for the Management of certain Rivers Title. in the County of Cook.

BE IT ENACTED by the General Assembly of New Zealand in 5 Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Cook County Rivers Act, Short Title. 1883."

2. "The Public Works Act, 1882," and "The Regulation of Acts incorporated. 10 Local Elections Act, 1876," shall be read with and form part of this Act.

3. In this Act, if not inconsistent with the context,— Interpretation. "Board" means the Conservators for any district to be created under the provisions of this Act:

15 "Council" means the Cook County Council: "County" means the County of Cook.

4. For each district of the county to be constituted as hereinafter mentioned there shall be a Board of Conservators, who shall be elected as hereinafter provided. Constitution of Boards of Conservators.

Act brought into operation in district upon petition of ratepayers.

5. Upon the petition of the owners or occupiers, being not less than two-thirds of the ratepayers of any district therein defined, any part of the county intersected or bounded by any river or rivers from the overflow of which damage may be apprehended, the County Council shall, after one month's public notice of their intention, by notice in the Government *Gazette*, declare that this Act shall come into operation within such part of the county, and shall in such notification define the boundaries of the same, and declare the same to be a district under this Act, and shall also fix the name by which such district shall be known. 5 10

Number of Conservators.

6. The Council shall also in such notification determine the number of Conservators who are to constitute the Board for each such district, but in no case shall the number be less than five nor more than seven.

Qualification of voters.

7. For the purpose of electing the first Board under the Act the County Council shall, within one month after the notification as aforesaid, cause a list to be made of the owners or occupiers of property within such district; and every person whose name shall appear therein shall be entitled to vote at the election of the first Board in the manner and according to the scale hereinafter provided. 15 20

Names of property-owners to be posted.

8. As soon as the list as aforesaid is completed, the Council shall cause a copy thereof to be posted up in some conspicuous place in the district, and shall within fourteen days, by public notice, appoint a Returning Officer, and fix the time and place for holding the first election. 25

First meeting.

9. Whenever a Board shall have been elected under the provisions of this Act the Council shall, by public notice, appoint the day, time, and place for the first meeting of the Board, and such meeting shall be held on such day and at the time and place in the notice mentioned. 30

Retirement.

10. On the first Thursday in the month of January, one thousand eight hundred and eighty-four, and on the first Thursday in January of each succeeding year, two members of the Board of each district the Board whereof shall consist of five members, and three of the members of the Board whereof shall consist of more than five members, shall go out of office; and the members who shall so go out of office shall always be the members who have been the longest time in office without re-election; and if, by reason of two or more members having become members at the same time, it shall not be apparent under the foregoing part of this section which of such last-mentioned members ought at any time to go out of office, then those who at their election received a lesser number of votes shall be deemed to have been longer in office than those who received a higher number, and if any such members have received an equal number of votes the Chairman shall decide the matter by lot in the presence of the Board. 35 40 45

Extraordinary vacancies.

11. If any Conservator shall resign, or shall refuse to act, or absent himself from three ordinary meetings of the Board at any time without leave, or become bankrupt or a public defaulter, or be convicted of any crime, he shall cease to be a Conservator, and there shall be deemed to be an extraordinary vacancy. 50

077

12. Every Board at its first meeting, and from time to time whenever the office becomes vacant, shall elect one of its members to be the Chairman thereof, who shall preside at the meetings of the Board, and shall have an original and also a casting vote thereat:
- 5 Provided that if the Chairman shall be absent from any meeting the members present shall appoint an Acting Chairman, who during such absence may exercise the powers by this Act vested in the Chairman.
13. The business of the Board shall be conducted at meetings to be held at such times and places as they shall appoint, and a minute of every resolution agreed to shall be entered in a book to be kept for that purpose and signed by the Chairman; and any two Conservators shall have power to convene a special meeting on giving five days' prior notice to the other Conservators, stating therein the business to be transacted at such meeting.
14. At the first meeting of the Board they shall make such rules as may be necessary for the orderly conduct of their business, but no meeting shall be deemed sufficient for the conduct of business unless three Conservators shall be present.
15. The Board may appoint a Secretary, Treasurer, and other necessary officers, and may employ necessary servants and workmen, and may fix the salaries and wages to be paid to each.
16. All rivers, streams, and watercourses within any district constituted under this Act shall, whether the same be navigable or not, so far as may be requisite for the construction or maintenance of any works necessary to prevent or lessen any damage which may be occasioned by the overflow or the breaking of the banks of the same, be to all intents and purposes within and subject to the jurisdiction of the Board.
17. The Board of every district may from time to time, as it thinks fit, make and levy general rates on all rateable property within its district for carrying into effect the general purposes of this Act; but the total amount of such rates made for any one year shall not exceed three farthings in the pound on the rateable value under "The Property Assessment Act, 1879."
18. All lands shall be annually classified by the Board, or by some person appointed by them in that behalf, into the following classes, that is to say: (1) Lands liable to great actual damage; (2) lands liable to less actual damage; (3) lands not liable to actual damage.
19. The rate payable in every year shall be levied upon the several classes of land aforesaid in the proportion following, that is to say: Class 1 shall be rated at double the amount payable by Class 2; Class 2 shall be rated at one-half the amount payable by Class 1; Class 3 shall be rated at one-fourth the amount payable by Class 1.
20. The Board may from time to time, by warrant under their hands, at a meeting to be held for that purpose, appoint one or more fit person or persons to examine and report upon all lands to be classified, or to classify the same in manner aforesaid; and such person or persons shall, within thirty days after the delivery to him or them of the warrant of appointment, report to the Board thereon; and the classification of such lands shall thereupon forthwith be made either by the Board or by such person or persons as aforesaid as the Board may direct.

Chairman.

Meetings of Board.

Rules of procedure.

Officers.

Rivers subject to jurisdiction of Board.

Rates.

Classification of lands.

Levying of rates.

Report on lands to be classified.

- Classification to be published. **21.** When any classification shall have been made as aforesaid the Chairman shall sign the same at a meeting of the Board; and the Board 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 shall be shall permit the same to be inspected by the owner or occupier of any land included therein during office-hours. 5
- Appeal against classification. **22.** If any person shall think himself aggrieved by such classification, upon any of the grounds expressly applicable thereto as hereinafter mentioned, such person may appeal against the same on giving to the Board three days' notice of such appeal in the form set forth in the Schedule hereto, such notice to be given within seven days next after the expiration of the twenty-one days appointed for the publication of the same, and the grounds of the appeal shall be as follows 15 and no other:—
That the classification does not fairly specify the actual liability to damage of the land of the appellant;
That any land liable to be classified is omitted from the classification, or is not fairly classified. 20
- Hearing of appeals. **23.** Within three days after the expiration of such seven days as last aforesaid, in case any notices of appeal shall have been given as aforesaid, the Board shall give public notice of a day for the hearing of such appeals, and such appeals may be heard at the nearest Resident 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 may appear to them to be reasonable, and shall sign such amended classification, and the determination of the said Court shall be final and conclusive. 25
- Recovery of costs by Board if classification confirmed. **24.** In case upon any appeal as aforesaid the classification shall be confirmed, all costs and expenses whatsoever necessarily incurred by the Board in supporting such classification shall be paid and defrayed by the appellant, and may be recovered as costs awarded upon such appeal; and subject thereto the Court by which any appeals shall be heard shall have full power to award the costs incident to such appeal and the hearing thereof to either of the parties. 30 35
- Classification evidence of liability of person named therein. **25.** Every classification when signed by the Board as aforesaid in case there be no appeal, and when signed by the Court 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. 40
- Rates payable by occupiers. **26.** All rates payable under this Act shall in the first instance be paid by the occupiers of the property rated, but, when any occupier shall hold the land rated for any term of which less than two years shall be unexpired, he shall be entitled, notwithstanding any contract to the contrary, to deduct such rate from the rent payable by him to his immediate landlord, unless by virtue of such contract he shall, either during or at the expiration of his term, be entitled or compellable to purchase the said land. 45
- Board may borrow upon security of rates. **27.** The Board may from time to time, as occasion shall require, borrow and take up at interest any sum or sums of money on the security of the rates, both general and special, to be raised within the district to be applied for the purposes of this Act, and may thereupon 50

235

give to the person advancing or lending the same a mortgage for securing the amount advanced with interest thereon in the meantime after such rate as the Board may think reasonable.

28. The Board may, at the request of a majority in number and value of the ratepayers of the district, for the purpose of providing for the repayment of any such loan as aforesaid, make and levy, in addition to the ordinary rates hereinbefore authorized to be raised, a special rate chargeable in respect of the lands within the district in the same proportion in all respects, and payable and recoverable in like manner, as the ordinary rates to be levied under this Act; but no such special rate shall in any year exceed the amount of principal and interest money payable for such year by virtue of such mortgage.

Special rate may be levied.

29. All moneys received under this Act shall, within ten days after the receipt thereof, be paid over by the person receiving the same to the Board for the district for which the same shall be received, and shall be appropriated by such Board in carrying out the objects and purposes of this Act.

Moneys received paid to Board.

30. All works involving the expenditure of any sum exceeding ten pounds shall be carried out under contract in writing, and all contracts for works entered into by the Board shall be in the name of one of the Conservators, who shall sue and be sued on such contracts in his own proper name in like manner as if such contracts were personal contracts by such Conservator; but no execution upon mesne or final process in any action upon or arising out of such contract shall be issued or enforced against the person or property of such Conservator.

Contracts.

31. No action against any Conservator upon or in relation to any such contract shall abate by his death or by reason that he has ceased to be a Conservator, but the same may proceed against or in the name of any Conservator to be appointed or elected in his place or stead upon his being made a party to the said action by suggestion either as plaintiff or defendant as the case may be.

Actions.

32. In case any moneys shall become payable under any order or decree in any action by or against such Conservator, it shall be the duty of the Board to pay and satisfy the same out of the first moneys at their disposal.

Board to pay moneys payable in action by or against Conservator.

33. For the purpose of the elections of Conservators after the first elections under the provisions of this Act, all persons who, at the time appointed for any such future election, shall appear upon the classification-list of lands within the district as owner or occupier of any lands liable to be rated, shall be entitled to vote in the election of each Conservator in manner following, that is to say,—

Election of Conservators.

In respect of lands within the district where the amount of general rate payable by the voter shall be—

45	Under two pounds	One vote.
	Above two pounds and under five pounds	Two votes.
	Above five pounds and under fifteen pounds	Three votes.
	Above fifteen pounds and under thirty pounds	Four votes.
50	Above thirty pounds	Five votes.

34. The Secretary of the Board shall, on or before the fifteenth day of April in each year, cause a roll to be prepared, containing the names, arranged in the alphabetical order of their surnames, of all the

Electoral roll.

electors in the district, and shall enter thereon the number of votes each elector is entitled to give at an election of a member of the Board. Any copy of such roll, signed by the Chairman of the Board, shall be evidence that the roll has been duly made under the provisions of this Act, and shall be the electors' roll for the district until a roll for the succeeding year is made. The roll of electors shall come into force on the first day of May in each year. 5

Accounts.

35. The Board shall, in books to be kept for that purpose, enter true accounts of all sums of money by them received, paid, and expended, and of the several matters in respect whereof such sums shall have been received, paid, and expended. 10

Auditors.

36. At the first meeting of a Board, and afterwards at the annual meeting to be held on the fourth Thursday in the month of April in each successive year, there shall be elected two or more Auditors to examine into and audit the accounts of the Board, and in each successive year the balance-sheet, examined and audited, shall be submitted to such meeting, and three copies thereof, signed by the Chairman, shall be forwarded to the Colonial Treasurer: Provided that in case of the resignation or otherwise of any Auditor it shall be competent for the Board to appoint an Auditor in his stead, who shall act until the next general meeting of the Board. 15 20

No member of Board may become contractor under or hold paid office in gift of Board.
Recovery of fines and penalties.

37. No member of the Board shall, during the continuance of his office, become a contractor under or hold any paid office in the gift of the Board.

38. All fines, forfeitures, and penalties imposed by this Act shall be recovered before any Resident Magistrate or any two Justices of the Peace at the suit of any Conservator for that purpose appointed at a meeting of the Board, and shall be paid over to the Board, to be expended by them for the purposes of this Act; and it shall be lawful for the Board, out of moneys received by them under the provisions of this Act, to indemnify any Conservator suing as aforesaid from any costs, charges, or expenses necessarily incurred by him in respect of any such action or suit. 25 30

Debenture-holders no claim on colony or County of Cook.

39. No claim of any holder of debentures secured on the funds of any River Board or of any creditor of any River Board constituted under this Act shall attach to or be paid out of the public revenues of New Zealand, or by the General Government thereof, or the revenue of the County of Cook. 35

In case of default Receiver may be appointed.

40. In case default shall be made in payment of the moneys borrowed under the authority of this Act, or any instalment thereof, or of the interest which may become payable in respect thereof, for the space of six calendar months after the same shall become due, it shall be lawful for the Supreme Court, on the application of the holders of securities to the amount of not less than five hundred pounds, to appoint a Receiver of all rates and moneys upon which the same shall be secured. 40 45

201

SCHEDULE.

Schedule.

To the Clerk of the Resident Magistrate of .
I HEREBY give you notice that I object to the following portion of the classification-
list of the River Board, 18 [*Here state part or parts objected to*], and
the following is the ground of my objection: [*State ground of objection*]; and that I
shall appear in support of such objection at the meeting of Justices to be holden under
the provisions of this Act.

(Signature.)
(Description.)
(Place of abode.)

Dated this day of 18 .