

New Zealand.



ANALYSIS.

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1900, No. 25.

Title.	AN ACT to make Provision for the Drainage and Sewerage of the District of Dunedin. [20th October, 1900.] 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. The Short Title of this Act is "The Dunedin District Drainage and Sewerage Act, 1900."
Extent of Dunedin Drainage District.	2. The City of Dunedin, together with the Boroughs of North-east Valley, Maori Hill, Roslyn, Mornington, Caversham, South Dunedin, and St. Kilda, shall, for the purpose of this Act, form one district, called "the Dunedin Drainage and Sewerage District," which is in this Act referred to as "the district."
Interpretation.	3. In this Act, if not inconsistent with the context,— "Board" means the Board constituted by this Act: "The city" shall mean the City of Dunedin as constituted by law, and the area within its limits: "The boroughs within the district" shall mean the boroughs hereinbefore named, and the areas within their several limits: "District" means the district as defined by this Act: "Elector" means an elector as defined by this Act: "The Corporation waterworks" shall mean the waterworks belonging to the City of Dunedin or any borough: "Local authority" shall mean the Council of the said city or of any borough within the district: "Public drain" means a public drain heretofore or hereafter vested in any Municipal Corporation within the district, and includes every channel used by any such Corporation for carrying sewage and drainage: "Private drain" means any drain, not being a public drain, whereby drainage or sewage of any land or building, or lands or buildings, is or are drained into a public drain, covered or other watercourse, or street-channel: "Right-of-way" shall include any land over which any right-of-way may exist, or by which access is given from any street or private street to any house or houses, and any lane or place popularly or usually called a right-of-way. "Sewage" means all sewage and drainage, not being surface-water, arising from any building: "Surface-water" includes rain-water from any roof: "Owner" of any land or building means the person for the time being entitled to the rack-rent thereof; and the entry of any person's name as owner in the valuation-roll for the time being in force in the borough or ward in which such land or building is situate, or in the valuation-roll of the district, shall, as against such person, be <i>prima facie</i> evidence of ownership: "Covered watercourse" means any stream or watercourse into which any sewage or surface-water is led, and which for

any portion of its length is enclosed or partly enclosed in any drive, tunnel, or piping, or by timberwork, brickwork, ironwork, or otherwise; but no portion of the length that is neither wholly nor partly enclosed shall be included in the term:

“Public notice,” or “published,” or “publicly notified,” means a notice published in some newspaper in general circulation in the district:

“Writing” includes printing and anything partly written and partly printed:

“Drainage Engineer” means the officer for the time being in charge of the main drainage-works of the Board.

CONSTITUTION OF THE BOARD.

4. There shall be for the district a Board, which shall consist of nine persons, to be elected from time to time in manner herein provided, of whom five shall form a quorum; and such Board shall be a body corporate, under the name of the Dunedin Drainage and Sewerage Board, with perpetual succession and a common seal, and with full power and capacity to purchase, take, acquire, hold, manage, and deal with lands and hereditaments of any tenure and all classes of personal property for all the purposes for which it is constituted, including the acquisition, holding, management, leasing, and otherwise dealing with endowments, and with full power to make all kinds of contracts connected with or incident to the carrying-out of the objects of this Act.

Constitution of Board.

ELECTION OF BOARD.

5. The citizens and burgesses for the time being entitled to vote for the election of City and Borough Councillors in the city and in each of the several boroughs forming parts of the district (herein called “the electors”) shall, at the time and in manner hereinafter set forth, elect the Board: Provided that in exercising his or her right as an elector no person shall have more than one vote.

Election of Board.

6. A roll, to be called the “district electoral roll,” shall be formed, upon which shall be entered the names of all persons having the qualifications hereinbefore described as electors, which roll shall be compiled from the several burgess rolls and lists of the city and the boroughs within the district, as the same are settled and signed, but so that each person’s name shall only be entered once; and the said rolls shall not be altered by the addition or erasure of any name therefrom, saving the erasure of the names of such persons as are known to be dead, until the following year.

District electoral roll.

7. The Governor shall by Order in Council appoint a day for the election of the first members of the Board, and thereupon such election shall, and all subsequent elections shall, be conducted in accordance with “The Regulation of Elections Act, 1876,” which is deemed to be incorporated herewith.

When election of Board to be held.

8. The Governor shall, in and by the said Order in Council, appoint a Returning Officer for the district, who shall hold office until a Returning Officer shall be appointed by the Board.

Returning Officer.

Polling-places.

9. The Returning Officer shall, at least one week before any election, by public notice, appoint such polling-places as he shall think necessary.

Tenure of Board.

10. One-third of the members of the Board who shall be first elected, to be determined by a ballot held by the Board at the first meeting which it shall hold in the month of December, one thousand nine hundred and one, or at some meeting held as soon thereafter as may be found convenient, shall vacate their offices on the third Wednesday in the month of January, one thousand nine hundred and two; and similarly one-third of the members of the Board, to be determined by a ballot held by the Board at the first meeting which it shall hold in the month of December, one thousand nine hundred and two, or at some meeting held as soon thereafter as may be found convenient, but excluding those elected to fill the places of the first-mentioned third, shall vacate their offices on the third Wednesday in the month of January, one thousand nine hundred and three; and the remaining third shall vacate their offices on the third Wednesday in the month of January, one thousand nine hundred and four; and upon each such retirement an election of one-third of the members of the Board shall be held on the third Wednesday in January in the years before mentioned; and thereafter one-third of the members of the Board, comprising those who have held office for three years since they were last elected, shall retire on the third Wednesday in January in each year, and on the same day an election shall be held to fill the vacancies thereby created: Provided that it shall, as to each and all of the aforesaid dates, be lawful for the Governor to appoint some later date for the holding of such election; and in such case, and in every case where no election shall take place on any day by this Act or otherwise appointed therefor, every member, save in the case of a casual vacancy, shall hold office until the election of his successor.

Casual vacancy.

11. Whenever any casual vacancy shall occur in the Board the Board shall appoint a day for the election of a member to fill such vacancy, and shall notify the Returning Officer thereof, whereupon such Returning Officer shall proceed to hold an election to fill the same; and the member so elected shall hold office until the period at which the person to succeed whom he was elected would have vacated his office, and, for the purpose of determining the period at which any member elected under this section shall vacate his office, be deemed to have been elected on the day on which the first person in whose place he holds office was elected.

Eligibility of
members of Board.

12. Every member of the Board going out of office shall be capable of being re-elected, but no person shall be capable of being elected who shall not at the date of his nomination be capable of being elected as a Borough or County Councillor of some borough or county, and no person shall hold office who shall have become incapable of holding the office of a Borough or County Councillor.

Persons ineligible
for election.

13. The following persons shall also be incapable of being elected to or of being members of the Board:—

- (1.) Any person holding any office or place of profit under or in the gift of the Board;

(2.) Any person concerned or participating (otherwise than as a mere shareholder in an incorporated company whereof he is not also a director or officer) in any contract with or work to be done for the Board, if the payment for such contract or work exceeds ten pounds in any year: Provided that the leasing of land from the Board or the lending of money to the Board by the holding of any debenture shall not constitute a disqualification under this subsection.

14. Any person acting as a member who shall be or have become disqualified, save for unsoundness of mind, shall be liable to a penalty not exceeding fifty pounds for every such offence, which may be recovered, with costs of suit, in any Court of competent jurisdiction; and no person who shall be or become disqualified under subsection two of section thirteen shall be capable of recovering from the Board any sum in respect of work done, material supplied, or services rendered; and should the Board pay any such amount to any member, or on account or for the benefit of any member, the said amount shall be deemed to be moneys unlawfully paid away, and may be recovered at any time as a debt by the Controller and Auditor-General from any member or members of the Board who, directly or indirectly, sanctioned the payment thereof with knowledge or notice of such disqualification and of the interest of the member in the receipt of such moneys.

Penalty if ineligible person acts as member of Board.

15. A member of the Board shall in and for each year be chosen by the Board as its Chairman, and there shall also be a Deputy Chairman chosen in the same way, who shall act in the absence of the Chairman or when his office is vacant; and the offices of Chairman and Deputy Chairman shall be from time to time filled by the Board as they become vacant; and at all meetings the Chairman or Deputy Chairman shall have an original and casting vote.

Chairman and Deputy Chairman.

OFFICERS AND PREMISES.

16. The Board shall appoint for such period and on such terms as it thinks fit a Drainage Engineer, who shall be the principal officer of the Board, and whose acts shall *prima facie* be deemed to be authorised by the Board, and may further appoint and remove a Secretary and such other officers, servants, and workmen as it thinks fit, and may permanently or temporarily define the duties of any of its officers and servants: Provided that one person may, if the Board thinks fit, fill several offices.

Appointment of officers.

17. It shall be lawful for the Board from time to time to agree with the Council of the City of Dunedin, or of any borough in the district, for the occupation and use of offices, workshops, appliances, and premises belonging to the Corporation of the said city or such borough, and for the amount to be paid for such occupation and use, and also for the services of officers and servants of such Corporation, and for the amount to be paid for such services, and may appoint any such persons to hold the offices mentioned in section sixteen hereof either temporarily or for any term or generally; and all such officers and servants shall, with respect to and when

Offices and premises of Board.

engaged in the performance of duties for the Board, be deemed to be officers and servants of the Board, but in other respects shall remain the officers and servants of such Corporation.

VESTING OF WORKS AND POWERS.

Existing drainage-works to vest in Board.

18. All public drains within the district, and all appliances for carrying drainage or sewerage in or from the district, or for dealing with the same, and other appliances used in connection therewith, including all things constructed in the city and the several boroughs within the district which might have been constructed by the Board under the provisions of this Act, shall be vested in the Board.

Existing powers to vest in Board.

19. All the powers respecting drainage and sewage conferred on Municipal Corporations or the Councils thereof by virtue of "The Municipal Corporations Act, 1886," or by any other Act or Acts, and all powers by the said Act or any other Act vested in the city or in any of the boroughs comprised in the district shall be vested in the Board, and shall cease to be vested in the City of Dunedin and the boroughs within the district, and shall be deemed to extend to the whole district.

Existing drains and appliances deemed vested under this Act.

20. All public and other drains and appliances belonging to the Board, and heretofore constructed by or vested in any Municipal Corporation or other public body, shall be deemed to be constructed, maintained, and used under authority of this Act.

SPECIAL ORDERS.

Special orders.

21. The power hereby given to do anything by special order shall be exercised as follows:—

- (1.) The resolution to do such thing shall be passed at a special meeting called for the purpose by a notification, or at some meeting prior to which a notification shall have been sent to each member stating the nature of the proposed special order, or at a meeting of all the members of the Board.
- (2.) Such resolution shall be confirmed at a subsequent meeting, ordinary or special, held not sooner than four weeks thereafter.
- (3.) Public notice of such subsequent meeting and of such resolution shall be given once in each of the said four weeks, and a notice of such meeting given to each member of the Board, or sent to him through the post.
- (4.) Except in the case of a special order making a rate, any such resolution may be amended by the meeting confirming the same.

BY-LAWS.

Board may make by-laws.

22. The Board may make, alter, and repeal by-laws for all such purposes as are expressly provided for by this Act, and all such other by-laws as are in the opinion of the Board requisite for the protection of the property and interests of the Board and the good government and management of its affairs; and the Board may by any such by-law provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed the sum of five pounds for a single offence.

23. The power to make by-laws vested in the Board shall supersede any power possessed by the several Municipal Councils within the district to make similar by-laws; but the municipal by-laws in force in the district shall remain in force until superseded from time to time by by-laws inconsistent therewith made by the Board.

By-laws made by Board to supersede those made by Municipal Councils.

24. Such by-laws shall be made only in the manner and subject to the conditions following:—

Manner in which by-laws shall be made.

- (1.) They shall be made by special order only.
- (2.) They shall have the seal of the Board affixed thereto.
- (3.) They shall come into force on a day to be named therein, or in the special order making the same, which shall not be earlier than fourteen clear days after the making of such order
- (4.) They shall be published in the *New Zealand Government Gazette* within fourteen days after confirmation of the special order making the same.
- (5.) They may, within three months after such publication, be disallowed by the Governor.

POWERS OF BOARD.

25. It shall be lawful for the Board, notwithstanding anything contained in any public Act of the General Assembly, or in any by-law now in force, by notice in writing, to require the owner of any premises situate within the district to do all or any of the following things, that is,—

Powers vested in Board.

- (1.) Provide, construct, and lay any new private drains from any part or parts of such premises, and connect such new private drains with such public drain or covered watercourse or street-channel as the Board shall direct.
- (2.) Cleanse and repair and relay and alter the course and direction and outfall of, or take up and disconnect, any existing private drain of or belonging to such premises.
- (3.) Connect any existing private drain with any public drain or with any covered watercourse or street-channel other than the public drain, covered watercourse, or street-channel with which the same shall previously have been connected.
- (4.) Provide and affix in or to any such existing private drain, or in and to any such new private drain, all such traps, methods of ventilation, and other sanitary appliances whatever as the Board shall direct.
- (5.) Connect or disconnect any existing or new private drain with or from any bath, water-closet, urinal, sink, grease-trap, or other sanitary appliance.
- (6.) Execute, provide, and do generally any works, materials, and things which, in the opinion of the Board, shall be necessary or expedient for the efficient drainage of such premises, and every part thereof.

Every such notice as aforesaid shall specify the works, materials, and things to be executed, provided, or done thereunder, and the

public drain, or covered watercourse, or street-channel with which any private drain shall be required to be connected, and shall limit a time within which the same works, materials, and things shall be so executed, provided, and done.

The foregoing powers shall, amongst other things, enable the Board to require any owner of premises to cause the sewage and surface-water respectively arising therefrom to be drained by separate drains to separate outfalls: Provided always that the Board shall not in any such notice require any sewage to be carried into any street-channel.

Any notice, order, or direction purporting to be given or made by or with the authority of the Board, or any officer thereof, shall be deemed to be a notice within the meaning of this Act, or of any by-law under this Act, without proof of such authority, and the issue thereof by any officer of the Board shall be conclusive of the authority of such officer to issue the same, unless the same shall be proved to have been issued contrary to the directions of the Board.

26. In any case in which any such existing private drain passes through or serves several separately owned premises, or any such new private drain is to pass through or serve several such separately owned premises, the Board may notify the respective owners of such premises to execute, provide, and do such parts of the works, materials, and things under section twenty-five hereof as the Board shall in and by the respective notices served on such owners direct. The Board may in any such case elect to do the whole of the work without notifying such respective owners as aforesaid, such election to be signified by notice in writing served on each such owner. The Board may by any such notice as last aforesaid declare that any existing or new drain in question shall, as from the time to be mentioned in that behalf in the notice, become a public drain, and the same shall without any other proceeding become a public drain accordingly. Neither such election nor such declaration as aforesaid shall prevent the Board from imposing upon the said owners all or any part of the cost of such work under the provisions hereinafter contained.

27. The Board may enclose and cover in any stream or watercourse within the district which, by reason of sewage or other offensive matter therein, or from any other cause whatever, has, or in the opinion of the Board may, become a nuisance, or become offensive or dangerous to the public health, and for such purpose may make, construct, and lay down such drains or do such other works as may in the opinion of the Board be necessary for the covering of such stream or watercourse, and the removal therefrom of any sewage or other matter which in the opinion of the Board it may be advisable to exclude therefrom, and in connection with such works may straighten or otherwise alter the course and direction of such stream or watercourse, and take up, disconnect, alter, relay, or otherwise deal with any private drains communicating with such stream or watercourse; and the Board shall not be liable to pay compensation in respect of any one being deprived of the water flowing in such stream or watercourse, or of the right to such water, nor for any damage or inconvenience occasioned to the owners or occupiers of such lands or

Provision as to
existing private
drains.

Watercourse
dangerous to health
may be covered in.

premises, but shall nevertheless make good any damage or injury caused during the construction of the works.

28. Every sum of money payable by an owner of any premises under or by virtue of any provision of this Act, hereinbefore or hereinafter contained, for or in respect of any work, materials, or things executed, provided, or done by the Board in pursuance of this Act, or of any by-law made hereunder, or any agreement with the Board, may be divided into instalments extending over five, ten, or fifteen years as the Board may determine, with interest on any such instalment or balance at the rate of seven and a half per centum per annum added, and each such instalment and any such interest shall be recoverable in like manner in every respect as if it were a general rate of the city or borough in which the premises are situated, duly made in respect of the premises in question under the statutory provisions under which the general rate of such city or borough should or might for the time being be made, and shall generally be deemed to be a general rate within such statutory provisions, subject nevertheless to the following conditions:—

Cost of work may be paid by owner by instalments.

- (1.) The owner for the time being of the premises in question shall in all cases be deemed the person primarily liable for payment of all instalments and interest already due or falling due during his ownership.
- (2.) The first instalment shall become due on the first day for payment of such general rate after the date, to be certified in writing by the Drainage Engineer, of the completion of the work in respect whereof the payment is to be made. The remaining instalments shall respectively become due on the succeeding days for payment of the general rates, until the whole sum, with interest, is paid.
- (3.) A separate book shall be kept by the Board, in which particulars of all such instalments, and of the works in respect whereof they are payable, and of the dates for payment thereof, and of the names of persons paying the same, shall be entered, which book shall be *prima facie* evidence of the correctness of its contents.
- (4.) The instalments shall be recoverable as a debt in any Court wherein debts are recoverable by action in the corporate name of the Board, or in manner provided by section fifty-four hereof: Provided that no action shall be brought in respect of any instalment after the expiry of four years from the date when the same became recoverable.
- (5.) The owner for the time being may at any time, on giving to the Board one calendar month's previous written notice, pay to the Board, and the Board may receive, the whole of the unpaid parts of such sum of money, and such owner shall be entitled to a rebate representing the future interest.
- (6.) Every such instalment or sum, together with the interest thereon, shall, upon the registration of a memorandum thereof, be a charge on the land to which the same relates, whether the same has been sued for or not.

By-laws for certain purposes.

29. In particular, but not so as to limit the general power hereinbefore conferred thereon, the Board may, in manner by this Act provided, make, alter, and repeal all such by-laws as it shall think proper for the purpose of carrying out or giving further effect to the provisions of sections twenty-five, twenty-six, twenty-seven, and twenty-eight hereof, or any power vested in the Board by virtue of this Act or any law for the time being in force, and the Board may by any such by-law :—

- (1.) Prescribe the forms of any notices, orders, and directions required or contemplated by this Act or by "The Municipal Corporations Act, 1886," or by any other Act touching matters connected with the subject of this Act, and direct by whom the same shall or may be signed, and the manner of service thereof ;
- (2.) Direct in what cases the expense of the works described in all or any of such sections shall be borne by the Board, and in what cases by the owner or owners of the premises, and in what cases, if any, partly by the Board and partly by such owner or owners ;
- (3.) Provide for the conclusive ascertainment of the expense of such works, and of the portion payable by any owner or owners, and of the proportions payable by the respective owners of separately-owned premises ;
- (4.) Direct the mode of calculating and conclusively ascertaining the amount of the said instalments of principal and interest in respect of sums payable by owners, and the interest to be allowed on payment-off of the unpaid parts of any sum as aforesaid ;
- (5.) Prescribe the form and mode of demand for such instalments, and direct by whom the same shall or may be signed and the mode of service thereof.

By-laws as to drainage, &c.

30. The Board may, in manner hereinbefore provided, make, alter, and repeal all such by-laws as they shall think proper and reasonable with respect to the subject of drainage, sewerage, and sanitation ; and in particular, but without limiting the generality of this section, and without restrictively affecting any power now or at any time possessed by it, the Board may by any such by-law provide as to all or any of the following matters :—

- (1.) For prescribing the size, materials, construction, grade, ventilation, and other particulars of all private drains laid or to be laid within the district, and compelling the providing and laying of private drains by the owners or occupiers of private premises, and compelling the connecting thereof with any public drain ;
- (2.) For issuing licenses for the erection of water-closets and urinals in private premises, and for the connection thereof with the Corporation waterworks and the public drains respectively, at such rates as the Corporation owning such waterworks shall lawfully fix for making such connections, and for the supply of water to such water-closets and urinals ;

- (3.) For prescribing the materials, construction, and ventilation of water-closets and urinals and cisterns connected therewith respectively, and compelling the providing and affixing thereof by the owners or occupiers of private premises, and the removal or disuse of privies or earth or other closets ;
- (4.) For prescribing the traps, ventilation pipes and shafts, and any other sanitary appliances to be provided and affixed in such premises in connection with private drains, water-closets, urinals, or otherwise, and for compelling the providing and affixing thereof by the owners or occupiers ;
- (5.) For prescribing the times, modes, and conditions of connecting and disconnecting private drains with or from public drains, and of connecting or disconnecting closets, urinals, drains, baths, sinks, rain-water pipes, and other sanitary conveniences and appliances, and stables, factories, workshops, workrooms, and other buildings with or from private drains, and for compelling such connection and disconnection by the owners or occupiers of private premises ;
- (6.) For compelling the maintenance, repairs, cleansing, and renewal of all private drains, water-closets, urinals, and other sanitary conveniences now or hereafter to be laid, erected, or affixed, and the appliances thereof respectively ;
- (7.) For providing that any work to be done by any owners or occupiers of private premises in connection with the drainage or sanitation thereof shall only be done subject to the direction of some officer of the Board ;
- (8.) For requiring owners or occupiers of private premises to alter the existing drainage and sanitation works of or connected with such premises in such manner as the Board may determine, and also in such manner as may be necessary to bring any private drain, water-closet, urinal, cistern, or other work into conformity with such requirements as to size, material, construction, grade, or ventilation as may be required for any new appliance or work of a similar character ;
- (9.) To provide for any injury to any part of a public drain, or any displacement of the ground in which the same is laid, being made good by or at the expense of the person doing or causing such injury or displacement ;
- (10.) For protecting the public drains and covered watercourses, and pumping stations and machinery, and all ventilating shafts, traps, manholes, gratings, and other appliances and works respectively from trespass or injury ;
- (11.) For preventing the sweeping, raking, or placing of dust, earth, or rubbish into or in public drains, covered watercourses, water-closets, urinals, drains, or any other appliances directly or indirectly connected therewith respectively ;

- (12.) For directing in what manner and under what conditions private streets and rights-of-way shall be drained into the public drains and covered or other watercourses;
- (13.) For prescribing the lowest levels, either for the district generally or as to certain parts or streets of the district, and either with or without leaving such levels to be ascertained in particular cases by the Board or any officer of the Board or other person, at which any part of any building, erection, cellar, or structure may, with regard to interference with public or private drains or covered watercourses, be erected within the district;
- (14.) For qualifying and authorising qualified persons to do work comprised in any of the foregoing subsections, and any other work connected with drainage or sanitation, and for preventing persons not possessed of such qualification or authority as may be prescribed from doing any such work;
- (15.) For appointing fees payable to the Board for any inspection, superintendence, or other service performed by the Drainage Engineer or other officer of the Board under any by-law, and for the licenses of qualified persons, and any other matter or thing specified in such by-law;
- (16.) For regulating the proceedings of the Board and the conduct of its officers and servants, and the powers and duties of Committees.

By-laws may specify materials, &c.

31. Any by-law made under this Act may require any works or things to be done of materials or within a time or in a manner to be directed or approved of by the Board or any officer of the Board, or other person nominated or designated in that behalf in such by-law, and may authorise any matter or thing to be determined, applied, or regulated by the Board by resolution in that behalf; and for any failure to comply with any such by-law or with any such direction the Board may, in addition to any other remedy, obtain a writ of mandamus to compel any person in default to comply with such by-law or direction. Every by-law made under this Act shall take effect and be construed as if the same were part of this Act.

Evidence of by-laws.

32. The production of any document purporting to be a copy of any by-law made in whole or in part under the authority of this Act, and to be sealed with the common seal of the Board, shall, in so far as the by-law of which the same purports to be a copy is authorised to be made by this Act, be conclusive evidence of such by-law having been duly made, and that the same duly came into force on the day mentioned in that behalf in such copy of by-law, or in any certificate or memorandum attached thereto; and any Court sitting within the district shall take judicial notice of all by-laws of the Board.

Occupier may recover from owner.

33. If an owner shall by the order or direction of the Board execute any work under this Act, or under any by-law made in pursuance hereof, or shall pay any instalment under section twenty-eight hereof, and at the time (to be certified under the hand of the Drainage Engineer) of the completion of such work the premises whereon or for which such work has been executed shall be held by a tenant

under him, having a term of at least three years then unexpired, such owner may recover from such tenant, in like manner as if the same were rent reserved under the tenancy, seven and a half per centum per annum during the unexpired term of such tenancy on the cost of the work so executed by him, or, as the case may be, on each such instalment paid by him, such percentage to be computed from the date of the payment of such cost or instalment, and to be payable at the end of each year during the residue of the said term. If the tenant paying such percentage shall, at the time of such payment, have a tenant under him with at least three years' unexpired tenancy, he may recover the amount so paid by him from such last-mentioned tenant.

SPECIAL POWERS OF BOARD.

34. The Board may also, without liability to compensation, erect and use any buildings, structures, machinery, manholes and other entrances, light- and lamp-holes, ventilating-grids, furnaces, destructors, buildings, and places for the generation and distribution of electricity and electrical power, and other works and things of every description in connection with drainage, sewerage, and sanitation, in, upon, or under any public or private street or public place and other place within or without the district, and may in like manner treat and deal with, in such manner as to it shall seem best, all sewage, refuse, and other matter, whether for the purpose of deodorising, or disinfecting, or destroying such sewage, refuse, or other matter, or of disposing of the same, and shall not be liable for any nuisance or injury necessarily created or caused in so doing; and in particular, and without restricting the general powers herein given, it shall have power to treat sewage refuse and other matter by the precipitation process and by electricity.

Special powers of Board.

35. The Board may, by notice in writing, from time to time require the owners of land or buildings abutting on such private street to construct or repair or provide for the proper drainage of the same, within a time named in such notice, with materials and in a manner satisfactory to the Board. Every such owner shall be liable for the construction, repair, and drainage of so much of such private street as lies between his land and the middle line of the street. Every person failing to comply with such notice shall be liable to a penalty of not more than twenty pounds for the first offence, and of not more than forty pounds for any subsequent offence.

Owner may be required to drain.

36. Whenever, under this or any other Act, or any by-law, any owner or occupier of private premises in the district shall be liable to execute, provide, or do any works, materials, or things on or in connection with such premises with respect to the drainage, sewerage, or sanitation thereof, and shall make default in commencing so to do for seven days after the expiration of the notice requiring him to do the work, or if the work shall be certified in writing by any duly qualified medical practitioner or any officer of the Board to be of an urgent nature, and the contents of such certificate shall have been communicated to such owner or occupier, then, if such default shall be made for twenty-four hours from the time of such communication, and if in either case such owner or occupier shall not thenceforth proceed with such work with all reasonable expedition, then the Board may, if it

On default of owner Board may execute work.

shall think fit, itself execute, provide, or do such works, materials, and things, and recover the cost thereof, to be conclusively certified in writing under the hand of the Drainage Engineer, with interest thereon at ten per centum per annum, from such owner or occupier in any Court of competent jurisdiction. Such cost and interest shall, until payment thereof, be a charge upon the said premises as from the registration of a memorandum thereof. The Board may, if the work comes within sections twenty-five to twenty-nine hereof, both inclusive, elect to recover such cost and interest under section twenty-eight hereof.

Owner may agree with Board as to execution of work.

37. It shall be lawful for the Board, if it shall think fit, by agreement with and at the expense of the owner or occupier of any premises within the district, to execute on or in connection with such premises any works in connection with the drainage or sanitation thereof which such owner or occupier may be desirous of having executed, or may be liable under this or any other Act, or under any by-law of the city, to execute, and in the case of such an agreement with an owner the Board may stipulate that the expense of the work shall come within the operation of section twenty-eight hereof.

On connecting premises with public drain.

38. The Board may, in its discretion, require any person whose premises are, or are intended to be, connected with any public drain or covered watercourse to construct such work, or to do such things as may be by the said Board deemed necessary for deodorising, disinfecting, or rendering as innocuous as possible any sewage, refuse, or other matter, other than ordinary household sewage or drainage, before it enters the same.

Board may protect drain.

39. The Board may refuse to admit into any public drain or covered watercourse any solid or liquid matter (other than ordinary household sewage or drainage) which would, in the opinion of the Board, prejudicially affect the same, or which would, from its temperature or nature or otherwise, be, in the like opinion, injurious. For the purposes of this section the Board may direct any private drains to be disconnected or closed by the owners or occupiers thereof without being liable to pay any compensation therefor. Every person who, after being notified in writing by the Board or the Drainage Engineer of its objection to receive any such matter as aforesaid into any public drain or covered watercourse, shall lead or cause or suffer any such matter to be led into the same shall for each such offence be liable to a penalty not exceeding five pounds for every day or part of a day during which such offence shall continue.

Board may erect reservoirs.

40. The Board, without being liable to pay any compensation in respect of so doing, may make and erect such dams, tanks, reservoirs, and other works and appliances as it may think fit across and in the bed of any stream or watercourse within the district or contiguous thereto, for the purpose of retaining water to flush and cleanse any public drain or covered or open watercourse, and may lay pipes therefrom for the purpose of conducting water to any of the said drains and watercourses.

Penalty for injuring watercourse, &c.

41. If any person wilfully or negligently destroys or injures any public or private drain or covered watercourse, or any building, erection, structure, method of ventilation, machinery, dam, tank, reservoir, or other work, appliance, or thing being part of or connected

with any drainage, sewerage, or sanitation works vested in or under the control of the Board, or, not having the written authority of the Board in that behalf, makes any private drain connected with a public or private drain or covered watercourse, or in any way stops or obstructs or otherwise interferes with the same, he shall be liable to a penalty of not more than twenty pounds; and the Board may replace or repair the property so destroyed or injured, or remove or alter, as it thinks fit, such private drain, and may recover from such person, in any Court of competent jurisdiction, the full cost of any such work, or of removing any stoppage or obstruction effected by him, and of all damage done or caused by such person, the amount of such cost and damage to be conclusively ascertained by writing under the hand of the Drainage Engineer.

42. The Board may lead any surface-water into any stream or watercourse, whether covered or open.

Power to drain surface-water.

43. If the occupier of any premises shall refuse or neglect to allow the owner thereof to carry into effect with respect to such premises any of the provisions of this Act or of any by-law made hereunder, he shall be liable to a penalty not exceeding five pounds for every day during the continuance of such refusal or neglect; and if the occupier of any premises, when requested by any officer of the Board to state the name and address of the owner thereof, shall refuse or wilfully omit to disclose or wilfully misstate the same he shall be liable to a penalty not exceeding five pounds.

Occupier to disclose name of owner.

44. Whenever the Board shall, under the authority of this or any other Act or of any by-law, execute any drainage, sewerage, or sanitation works by agreement with any person, or in consequence of any default or offence by any person, there shall be added to the actual cost of such work, in respect of the supervision thereof by the Board or its officers, a sum equal to such a percentage as the Board shall by any by-law fix, not exceeding ten per centum of such actual cost, such sum, for all purposes of this Act, to be deemed part of such cost, and to be recoverable accordingly: Provided that the percentage in case of default may be higher, and in case of agreement may be lower, than in other cases.

Interest may be charged.

45. Any sum of money recoverable under this Act or any by-law shall, unless any special provision shall be made for the recovery thereof, be recoverable as a debt by action at the suit of the Board, and every judgment obtained in any such action shall, on the registration of the memorandum hereinafter mentioned, be a charge on the land of the debtor in connection with which the indebtedness arose; and when any sum is by this Act made a charge on any land, such charge may be registered by the Board in the Deeds Register Office or Lands Registry Office at Dunedin, as the case may be. A memorandum under the seal of the Board stating the amount of such charge and describing generally the land shall be presented to the Registrar of Deeds or District Land Registrar, as the case may be, and there shall be payable by the Board to the Registrar the sum of two shillings and sixpence in respect of each such charge, which sum shall be added to the amount of such charge; and when it is desired to discharge any land from such

Charges, how recoverable.

charge, or any part thereof, the receipt of the Board under its seal for any such sum shall be a discharge or a *pro tanto* discharge thereof, and may be similarly registered by delivering the same to such Registrar, and in respect of every such discharge there shall likewise be payable by the party registering the same the sum of two shillings and sixpence, and no such memorandum of charge or receipt shall be liable to stamp duty.

Memorial of charge.

46. Upon receipt of any such memorandum of charge or receipt the Registrar of Deeds, if the land shall not be under the provisions of "The Land Transfer Act, 1885," shall register the same against the section or allotment to which the same relates; and the District Land Registrar, if the same shall be under the provisions of the Land Transfer Acts, shall register the memorandum of charge or receipt by making a memorandum thereof upon the folium of the register-book relating to the said land.

Board to pay
interest on existing
drainage-works.

47. Any borough, including herein the city, which before the passing of this Act has constructed permanent sewerage or drainage works shall, subject to the provisions hereinafter set forth, be entitled to receive from the Board interest at a rate not exceeding four per centum per annum upon the value to the Board of all such works as are capable of being utilised by the Board in carrying out its operations under this Act: Provided as follows:—

- (1.) This section shall not apply to open drains or ditches, nor to anything constructed of timber or other perishable material.
- (2.) The value of such works shall in no case be fixed at more than one-half the cost of constructing the same, excepting in the case of brick or masonry sewers, as to which it shall not exceed two-thirds of such cost.
- (3.) Such interest shall not commence to run until one year after the Board shall have commenced to levy in the borough making the claim rates in respect of sewered properties.
- (4.) The value of such works shall be fixed by a Stipendiary Magistrate, and when such value is fixed such fixing shall be final unless appealed from.
- (5.) The rate of interest on the value of such works may be agreed upon or shall be similarly fixed from time to time, but when fixed shall not be altered save by agreement until the expiry of ten years from the date of the Stipendiary Magistrate's decision or the expiry of any agreement.
- (6.) The Board, or any borough, or any party interested, may as to any matter herein mentioned appeal by summons to a Judge of the Supreme Court, whose decision shall be final: Provided that such appeal shall be commenced within six months from the date of the decision appealed from.
- (7.) When any such work has been executed by means of money contributed by several boroughs, the value thereof shall be separately ascertained, and such boroughs shall share

rateably in any interest payable hereunder according to the proportions in which they have respectively so contributed.

RATING-POWERS.

48. The Board shall from time to time, after sewers have been laid in any street or part of a street, cause a public notice to be given as hereinafter mentioned that the Board has made provision for carrying off the sewage of each and every property which or any part of which abuts on such street or part of a street in which sewers have been so laid, and after such time as has been fixed by the Board each and every property which or any part of which abuts on such street or part of a street shall be deemed and taken to be a sewered property within the meaning of this Act.

Notice as to sewered property.

49. For the purpose of carrying on the operations of the Board, and paying interest on any moneys borrowed by it, the Board may, by special order, annually make and levy, or order to be made and levied, a general rate or rates upon the district, to such amounts as it shall determine, not exceeding the following amounts:—

Power to levy sewage rate.

- (1.) Upon every sewered property, a rate, called "the general sewage rate," not exceeding eightpence in the pound of the annual rateable value of such property :
- (2.) Upon every unsewered property, save such as are mentioned in subsection three hereof, a rate not exceeding fourpence in the pound of the annual rateable value of such property :
- (3.) Upon every unsewered property in the outer drainage area, a general drainage rate not exceeding twopence in the pound of the annual rateable value of such property :

Provided that in making rates of less amount than the maximum the Board shall not necessarily make them bear the same ratio towards each other as the above-mentioned maxima: Provided also that the above limits as to amount, save the last-mentioned, shall not apply to any rate ordered by the Court or a Judge to be made in case of default in payment of interest on or principal of any debentures.

50. It shall be lawful for the Board to define, and from time to time to alter and redefine, the outer drainage area, which shall include such land as is in the opinion of the Board capable of being benefited by the construction and maintenance of drains, but is not capable of being benefited by the construction and maintenance of sewers: Provided that from any determination of the Board so defining, altering, or redefining the outer drainage area any owner or occupier of property in the district, or any judgment creditor of the Board, or any Receiver appointed under this Act, may appeal to a Judge of the Supreme Court, whose decision on such appeal shall take the place and have the effect of a decision of the Board: Provided further that in defining such outer area the Board shall not include any lands which are not capable of being benefited by such sewage or drainage system.

Outer drainage area.

51. Such appeal shall be by summons, which shall be served on such parties or publicly notified in such manner as the Judge shall

Appeal.

direct, and before the hearing thereof such Judge shall fix a sum to be lodged by the appellant as security for such costs thereof as may be awarded by any such Judge, and upon such appeal the Judge hearing the same may receive such evidence and hear such parties as he shall think fit.

Valuation-roll.

52. For the purpose of rating, the valuation-roll and the rate-book for the district shall be compiled by combining the valuation-rolls and rate-books respectively of the City of Dunedin and the boroughs within the district, and a copy of any valuation-roll or rate-book or part thereof in force in any borough or ward, certified as correct by the Mayor or Town Clerk of such borough, shall be conclusive so far as it extends, and shall be receivable as evidence in proof of the facts therein appearing.

Collection of rate
may be delegated.

53. The Board may, at its option, either make, levy, and collect its own rates in manner provided for the making and collection of rates by "The Rating Act, 1894," which for all the purposes of this Act is deemed to be incorporated herewith, or may by special order fix the amount thereof, and direct the same to be made, levied, and collected by the several local bodies named in such special order, and it may exercise the option hereby given in different ways as to the several boroughs within the district.

Provision on
delegation.

54. When the Board shall by special order have directed any general rate to be levied, and shall have fixed the amount in the pound of such rate according to the provisions hereof, and shall determine that the same shall be collected by the several local bodies within the district in respect of their several boroughs, it shall cause a copy of such special order to be forwarded separately to each local authority within the district which it desires to collect such rates, whereupon the following duties shall arise and the following consequences shall ensue :—

- (1.) Every such local authority shall proceed to make, levy, and collect such rate in the part of the district within its jurisdiction as nearly as may be, and with such powers, and the rate shall be payable by and recoverable from such persons, and in such manner in every respect, as if the rate were levied by such local authority for its own purposes under the powers of rating then vested in them: Provided that no limitation of the rating-powers of any borough shall be deemed to affect any such rate.
- (2.) Every such local authority shall be entitled to retain all reasonable costs and expenses incurred in and about making, levying, collecting, and recovering the same, and reasonable remuneration for clerical and other work.
- (3.) Such costs, expenses, and remuneration may form the subject of an agreement between the Board and any such local authority; but if any dispute shall arise as to the amount so to be retained, or otherwise in relation thereto, the same shall be decided by the Controller and Auditor-General, or some other person to be from time to time appointed by the Governor in that behalf.

AGGREGATE FUND.

55. A fund shall be established called "the Aggregate Fund of the Dunedin Drainage and Sewerage Board," an account for which shall be kept at a bank from time to time selected by the Board, into which shall be paid all rates and revenues received by the Board, and the proceeds of all debentures issued by it, and all sums paid to it on whatsoever account, and proper accounts shall be kept in form to be approved by the Controller and Auditor-General, which shall, amongst other things, show clearly what sums are available for the Board's general expenditure and indebtedness, and what sums are not so available, which two classes of sums shall be respectively designated the Board's "General Fund" and the Board's "Trust Fund."

Aggregate Fund.

BORROWING.

56. The Board may for the purposes of this Act from time to time borrow such money, not exceeding in the whole the sum of two hundred thousand pounds, as it shall from time to time by special order in that behalf determine.

Borrowing-powers.

57. A copy of the special order of the Board authorising the borrowing of the said sum, purporting to be sealed with the seal of the Board and signed by the Chairman and two members, shall, without further authentication, be sufficient authority for the raising of the loan hereby authorised or any part thereof, and shall bind the Board accordingly.

Special order to be sufficient authority

58. The following provisions shall apply to any loan raised under the provisions hereof:—

Provisions as to debentures.

- (1.) The debentures and coupons issued under the provisions of this Act shall be in or to the effect of the form of debenture and coupon in the Schedule hereto.
- (2.) They need not be under the seal of the Board, but shall be signed either by the Chairman and two members or by the Agents, and the debentures shall be numbered consecutively, so that no two debentures shall at any time bear the same number, and each debenture shall be for a sum of not less than twenty-five pounds, and shall have attached thereto coupons for interest, payable half-yearly, at a rate not exceeding four pounds ten shillings per centum per annum on the amount of such debenture, and the coupons shall be numbered consecutively for each debenture, and no debenture or coupon shall be liable to stamp duty.
- (3.) The signature of any person to any coupon may be lithographed or impressed thereon.
- (4.) The principal and interest represented by each debenture and coupon shall be payable at a place or places within or without the colony named in the debenture, and shall have such currency as shall appear therein, and may state alternative places for payment, and the place or places for payment of principal need not be the same as for payment of interest: Provided also that no debenture shall

be sold by the Board at a price that will produce to the purchaser a greater interest than four pounds ten shillings per centum per annum.

- (5.) The debentures representing the loan or loans hereby authorised, whether created at one time or as successive issues, shall rank *pari passu*, and have no preference or priority the one over the other by reason of date of issue or otherwise. They shall be payable to bearer, and shall be transferable by delivery.
- (6.) The sum of money named in any debenture and in any coupon shall, when the same respectively becomes payable, be a debt of the Board to the holder of such debenture or coupon for the amount named therein.
- (7.) When the principal-money secured by the debentures issued hereunder becomes payable the Board shall have power to reborrow moneys under the provisions of this Act for the purpose of paying the same.
- (8.) No claim of any holders of debentures or coupons issued under the authority hereof, or of any creditor of the Board, shall attach to or be paid out of the public revenues of New Zealand or the Government thereof.
- (9.) Trustees may invest in debentures or other instruments representing loans raised under this Act as if the same were mentioned in section fourteen of "The Trustees Act 1883 Amendment Act, 1891."

Appointment of Agent.

59. The Board may by resolution, to be evidenced by an instrument purporting to be under its seal, appoint any bank or company, or any person or persons, in England or elsewhere, to be an Agent or Agents for the purpose of raising any loan authorised by this Act or any future Act giving the Board power to borrow money, and doing all things necessary in connection therewith, and each such Agent may exercise all such authority as is hereby conferred on the Board, unless the Board shall limit the authority of such agents.

Overdraft on credit of debentures.

60. The Board shall have power for its temporary accommodation to obtain advances by way of overdraft or otherwise from any bank or other institution upon the credit of its debentures, but not to a greater extent than the amount of the debentures deposited to secure such advance, and shall keep a separate account of such advances:

Provided that in anticipation of the first rate which it is empowered to make, and prior to making the same, it may borrow up to two thousand pounds for temporary purposes.

Overdraft on ordinary revenue.

61. The Board may in like manner, in anticipation of its ordinary revenue, from time to time borrow from any bank, by way of overdraft, any amount not exceeding the amount of the rates for the time being outstanding.

Recovery of overdraft.

62. In the event of any bank making any advance to the Board by way of overdraft and failing to obtain payment thereof, such bank may, after obtaining a judgment for the amount owing to it, make a demand in writing for the amount of such judgment, and thereafter it shall have the same rights and remedies for the recovery thereof as is

by this Act given to debenture-holders in case of default: Provided that the provisions of this section shall not prejudice the priorities of any secured creditors, and any such judgment shall be subject to be questioned by any other creditor upon the ground that such overdraft exceeded the amount which the Board was empowered to borrow.

63. The moneys borrowed under this Act shall be appropriated as follows:—

Appropriation of loan-moneys.

- (1.) In providing, in exercise of the power given to the Board by this Act, and of all other powers enabling it in that behalf, an efficient system of drainage for the district, whereby the sewage and drainage thereof, and of such districts beyond the district as the Board may be authorised to drain, may be conveyed away, treated, destroyed, or otherwise dealt with.
- (2.) In providing, in the discretion of the Board, either an outfall into the Pacific Ocean for such sewage, or a system or series of septic tanks or other appliances for the treatment thereof, or such other means or appliances for dealing therewith as to the Board shall seem best.
- (3.) In the acquisition by purchase, lease, or taking of land, and of any interest on land, within or without the district, convenient for the collecting, treating, destroying, or otherwise dealing with and of utilising and selling sewage and other matter conveyed thereto, or for fertilising or improving the land so acquired.
- (4.) In providing the cost of the connection of private premises situate within the district with new sewers and drains in cases where existing connections made by private owners or occupiers at their own expense will be interfered with.
- (5.) In the acquisition in connection with such system of drainage of lands situate within or without the district, and of rights, easements, or appurtenances in respect of any land situate within or without the district, and of any buildings, engines, machinery, appliances, and other things.
- (6.) In the payment of compensation to any person legally entitled thereto for land taken or injuriously affected under or by the operation of this Act.
- (7.) In the establishment, within or without the district, of furnaces or destructors for the purpose of destroying refuse matter.
- (8.) In reimbursing to the city the cost of competitive designs, and the premiums paid therefor, and the cost of obtaining this Act, and all other expenses incurred by it in connection with the drainage and sewerage of the district, all such costs and expenses to be settled by the Controller and Auditor-General.
- (9.) For any other purpose incidental to or in relation to any of the purposes hereinbefore defined.

64. No lender of any money borrowed under the provisions of this Act, whether by the issue of debentures or otherwise, shall be

Lender not concerned as to legality of loan.

concerned to inquire as to the purpose for which the same is raised, nor as to the proposed expenditure thereof, and the issue of a debenture or of the receipt of the Board therefor shall effectually discharge the lender from being concerned to see to the application thereof.

Power of Court to
appoint Receiver.

65. In every case in which default shall be made in the payment of any interest on any of the debentures issued under the provisions hereof, and in every case in which default shall be made in the payment of any principal secured by any of such debentures, the following provisions shall have effect:—

- (1.) The Court or any Judge thereof shall have power by order to direct the Board to make and levy a rate or rates upon all lands, buildings, and other rateable property within the said district, according to the annual rateable value thereof, for the purpose of meeting such interest or repaying such principal as the case may be, and in so doing to determine the amount required to be levied to provide such interest, and the amount which shall annually be levied for the purpose of repaying such principal: Provided that if there shall happen to be no valuation of such rateable property applicable to the power hereby given the Court or Judge may order one to be made: Provided further that such rate shall not extend to or be levied on property within the outer drainage area beyond the limit mentioned in section forty-nine hereof.
- (2.) Every such order for the making of a rate shall take the place and have the effect of a special order under section forty-nine hereof.
- (3.) The Court or any Judge thereof shall have power by order to vest such rate in any Receiver who may be appointed under the powers hereof.
- (4.) Any person to whom such principal or interest is overdue may apply *ex parte* by petition or similarly by motion or summons in any action to the Court or any Judge thereof for relief under this Act, and the Court or Judge may, if satisfied of the truth of the matters alleged in support of such application, appoint, upon such terms as to security and remuneration as it or he shall think fit, a Receiver of the rates and revenues liable for the payment of such principal or interest, and the said Court or Judge shall have full power and jurisdiction to make such orders from time to time that complete justice shall be done to all parties interested, and to determine in what manner the revenues of the Board shall be collected and received, and what sums are properly available out of such revenues for the payment of the principal and interest secured by the debentures issued hereunder.
- (5.) Subject to the foregoing provisions, such rates and revenues shall, from the date of the appointment of a Receiver, and upon its being publicly notified by the Receiver, vest in the Receiver, and cease to be vested in the Board, and the Receiver shall have and exercise all such of the powers

as the Court is capable of conferring upon a Receiver as may be given to him by an order of the Court or Judge.

- (6.) All powers and remedies for the recovery of such rates, including those conferred by section fifty-four thereof, and revenues shall, after the appointment of the Receiver and upon its being publicly notified, cease to be exercised by the Board, and shall be exercisable by the Receiver.
- (7.) The remedies hereinbefore provided shall be in addition and without prejudice to any other lawful remedy competent for the recovery of the overdue principal and interest.

66. All moneys received by the Receiver in respect of rates and other revenues, and declared by the Court or a Judge to be properly available for the payment of the indebtedness in respect of which he is appointed and acting, shall be applied under the order of the Court or a Judge thereof—

Application of revenues.

- (1.) In payment of the expenses of the application and order ;
- (2.) In payment of the Receiver's remuneration, fixed as aforesaid, and his reasonable and necessary expenses ;
- (3.) In payment of the sums then overdue, which are secured by such rates, rents, and revenues ;
- (4.) The residue, after payment of the above, to the Board :

and the Receiver shall account for all such moneys in such manner as the Court or Judge directs.

67. When all sums then overdue are paid, or at any time by an order of the Court or a Judge thereof on the application of the Board, if it shall appear to the said Court or a Judge thereof that such order should be made, the rates and revenues vested in the Receiver shall revert in the Board, and the powers of the Receiver shall cease, and he shall forthwith pay any money in his hands to the Board, who shall again be capable of exercising the powers and remedies of which his appointment had deprived them, without prejudice, however, to any appointment of a Receiver subsequently if occasion shall arise.

Receiver's powers to cease on payment.

68. No Judge or Magistrate shall, solely on account of his liability to pay rates, be deemed to be interested in any proceeding in which he is judicially concerned.

When Judge not interested.

69. No objection shall be allowed in any Court to any rate which the Board or any local authority or a Receiver shall purport to strike, make, or levy under the provisions of this Act; and no informality or irregularity, whether in form or in substance, in the making, striking, or levying of such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceeding for the recovery of such rate, or be entertained as a ground for quashing such rate or restraining the recovery thereof.

Rate not invalid for irregularity.

70. The Board, for the purpose of the immediate payment for work the cost whereof the owner or occupier is by this Act required to repay by instalments, may from time to time borrow, at interest not exceeding the rate of five per centum per annum, and upon such terms and conditions as it shall think fit, any sums of money not exceeding in the whole twenty-five thousand pounds, and shall apply

Power to borrow for immediate purposes.

any moneys and interest payable to the Board by owners or occupiers under the provisions of this Act or of any by-law made hereunder to the repayment of the moneys so borrowed, and may execute and do such instruments and things for securing the sums so borrowed and the interest thereon as the Board shall think fit, and may by any such instrument covenant for the repayment thereof respectively.

MISCELLANEOUS.

Existing by-laws to be by-laws under this Act.

71. All by-laws in force on the coming into operation of this Act, and which would have been valid if made under this Act, shall be, and as from the original coming into force thereof shall be deemed to have been, valid, and may be proved under section thirty-two hereof, or in any manner now allowed by law.

Power to take land.

72. The Board shall have power from time to time to take all such lands, hereditaments, and easements within and without the district, including Crown lands, as it shall think requisite or desirable for the purpose of carrying out the objects of this Act.

Certain provisions of "The Public Works Act, 1894," to apply.

73. The provisions of "The Public Works Act, 1894," so far as the same are consistent with this Act, shall be deemed to be incorporated herewith, and sections eighty-three, eighty-four, eighty-five, and eighty-six thereof so incorporated shall extend and apply to any case in which any compensation may become payable by the Board in respect of any land situate within or without the district taken by it for any purpose in connection with drainage, sewerage, or sanitation, or in respect of any damage done by reason of the construction or use of any work, either within or without the district, constructed by it for any such purpose which may properly form the subject of compensation, the Board being substituted for the Minister, the Governor, and the Government respectively, and the provisoes at the end of sections eighty-three, eighty-five, and eighty-six being deemed to be omitted.

Board a local authority.

74. All lands or other property which the Board is hereby authorised to acquire may be acquired either by purchase or under the provisions of "The Public Works Act, 1894," for all the purposes of which the Board is declared to be a local authority.

Governor may extend time to do certain things.

75. It shall be lawful for the Governor, for any reason which to him shall seem sufficient, to extend the time for doing any act, including the time for holding any election, and appoint another day therefor, whether the time for doing such act shall have passed or not.

Lands may be leased.

76. The power to acquire land given by subsection three of section sixty-three hereof shall include the power to acquire by license permission to use the same for the purposes for which land may be acquired, and any land so acquired may be let or leased by the Board by public auction, or public tender, or private contract, as it shall deem proper, for such term or terms, and at such rent or rents, upon and subject to such terms and conditions in every respect, as the Board shall think fit.

Condition in lease as to sewage.

77. In any lease of any lands acquired as last aforesaid, or any part thereof, the Board may stipulate that the lessee shall, on such terms and subject to such conditions in every respect as the Board

shall think fit, receive all or any part of the sewage matter discharged at such lands or at any part thereof, and dispose of the same upon all or any part of such lands for fertilisation or other purposes.

78. The Board shall have the same power of leasing any land vested in it as is for the time being possessed by the Council of the City of Dunedin. Power to lease lands.

79. For the breach of any duty imposed by this Act, whether of something commanded or of something forbidden to be done, for which no special penalty is provided, a penalty of not more than twenty pounds shall be recoverable; but this shall not, nor shall the imposition of a special penalty, prevent resort to any other remedy for the same breach of duty. Where penalty not otherwise imposed.

80. All the fines and penalties imposed by this Act or by any by-law made under the authority hereof may be recovered in a summary manner under "The Justices of the Peace Act, 1882." Recovery of fines and penalties.

81. Wherever there shall be any provision of any public Act contrary to any provision of this Act, such latter provision shall prevail. This Act to supersede other Acts.

SCHEDULE.

Schedule.

FORM OF DEBENTURE.

DUNEDIN Drainage and Sewerage Board's Debenture, secured upon the Board's General Fund and upon all Rates leviable by the Board upon the City of Dunedin and the Suburban Boroughs.

No. Transferable by delivery. £

Under the authority of "The Dunedin District Drainage and Sewerage Act, 1900."

N.B.—No claim of any holders of debentures or coupons issued by the Board under the authority of the above Act, or of any creditor of the Board, shall attach to or be paid out of the public revenues of New Zealand or the Government thereof.

THIS debenture entitles the bearer to the sum of £ on the day of, with interest thereon in the meantime at the rate of per centum per annum, payable half-yearly on the day of and the day of in every year, as per coupons annexed, which principal sum and interest are hereby charged and secured upon the General Fund of the Dunedin Drainage and Sewerage Board, and upon all rates leviable by the said Board in the City of Dunedin and the Suburban Boroughs of North-east Valley, Maori Hill, Roslyn, Mornington, Caversham, South Dunedin, and St. Kilda. The said sums are further specially secured by the power of the Supreme Court to rate the said city and boroughs in case of default, and such principal sum and interest are payable at the bankers for the time being of the Board in the City of London [or, as the case may be].

Given under the seal of the Board, at Dunedin, in New Zealand, this day of, 19

[Or, Dated at, this day of, 19]

The seal of the Dunedin Drainage and Sewerage Board was hereto affixed in the presence of—

(L.S.)

., Chairman.
., Secretary.

[Or, E. F., } Agents.
G. H., }

FORM OF COUPON.

DUNEDIN Drainage and Sewerage Board's Debenture, 19 , No. , issued under
"The Dunedin District Drainage and Sewerage Act, 1900," of the Colony of
New Zealand.

ON presentation of this coupon at , on or after the day of
19 , the bearer hereof will be entitled to receive £

A. B., Chairman.

C. D., Secretary.

[Or, E. F., } Agents.]
G. H., }

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