

Mr. Lawry.

HOBSON BAY WATERSHED SEWAGE.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to provide for the Drainage of Hobson Bay Watershed.

Title.

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

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1. The Short Title of this Act is "The Hobson Bay Watershed Sewage Act, 1900."

Short Title.

2. In this Act, if not inconsistent with the context,—
 "The Board" means the Board constituted by this Act:
 No. 163.—2.

Interpretation.

“Contributing bodies” means every local authority of every city, borough, or ~~other~~ road district for the time being comprised within or forming part of the district constituted by this Act:

“The said district” means the district constituted by this Act. 5

Parts of “The Public Works Act, 1894,” incorporated.

3. Parts I., II., III., IV., and V. of “The Public Works Act, 1894,” shall be deemed to be incorporated with this Act, and the Board shall be deemed a local authority, and the construction of the main sewers, main drains, and works hereinafter referred to, a public work within the meaning thereof. 10

CONSTITUTION OF DISTRICT.

Area defined.

4. The area defined in the *First* Schedule hereto is hereby constituted a district for the purposes of this Act, and the said district shall be called the “Hobson Bay Watershed Sewage District.”

CONSTITUTION OF BOARD.

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Constitution of Board.

5. There shall be a Board for the said district, to consist of the respective Mayors and Chairmen for the time being of the contributing bodies.

Chairman.

6. The Board shall from time to time appoint any one of their number who may be willing to act in such capacity as Chairman, 20 who shall preside at all meetings of the Board, and shall have a casting as well as a deliberative vote, and shall hold office until the appointment of his successor.

Acting-Chairman.

7. The Board may also, from time to time, appoint one of their number an Acting-Chairman to act in the absence of the Chairman 25 from any meeting.

Chairman to hold office for a year.

8. The Chairman shall hold office for one year from the date of his election, but shall be eligible for re-election provided he be a member of the Board.

PROCEEDINGS OF BOARD.

30

First meeting of Board.

9. The first meeting of the Board shall be held within one month after the coming into operation of this Act, and shall be convened by the Town Clerk of the Borough of Parnell at such time and place as he may appoint; and if no quorum shall be present within half an hour of the time fixed for the holding of such meeting, the same shall 35 stand adjourned from day to day at the same time and place until a quorum shall be assembled.

Minutes of proceedings.

10. The Board shall cause to be kept minutes of its proceedings in a book in which shall be entered the names of the members attending each meeting; and every resolution, order, or other proceedings 40 of the Board, and the minutes and proceedings of every meeting, shall be read at the next meeting, and if approved by the Board, or when amended as directed by the Board, shall be signed by the Chairman of such succeeding meeting.

Validity of proceedings.

11. The minutes of the said proceedings, kept as hereinbefore 45 provided, shall be read as evidence of such proceedings, and the validity of all such proceedings shall be presumed unless the contrary is proved.

12. The Board may from time to time make, alter, and repeal Regulations.
regulations—

- 5 (1.) For the holding and conduct of its meetings, proceedings, and business, and for fixing the quorum necessary for the transaction of business, and until such regulations shall be made an absolute majority of the Board shall be a quorum ;
- 10 (2.) To regulate the duties, duration, and conditions of service, and the salaries or other remuneration of officers and servants of the Board.

INCORPORATION OF BOARD.

13. The Board shall be a body corporate under the name of the "Hobson Bay Watershed Sewage Board," with perpetual succession and a common seal, having a capacity to acquire and hold land, and Board deemed body corporate.
15 to do and suffer all things which a body corporate may do or suffer.

POWERS OF BOARD.

14. The Board may from time to time, by themselves, their surveyors, engineers, agents, officers, and workmen, exercise the following Powers of Board.
powers, or any of them, and may execute, do, or cause to be executed
20 or done, any of the following matters, works, or acts:—

- (1.) Construct, maintain, and alter main sewers or main drains for draining the said district ;
- (2.) Construct and maintain sewage works for the disposal and purification of the sewage of the said district ;
- 25 (3.) Break up the soil of any roads, streets, ways, or footpaths within the said district, and excavate and sink trenches for the purpose of laying down, making, constructing, altering, cleansing, maintaining, or repairing the said main sewers or main drains:

30 Provided that, before interfering with any such road, street, way, or footpath the Board, except in cases of emergency, of which the Board shall be sole judge, shall give two weeks' notice in writing to the local authority having control thereof;

- 35 (4.) Without any previous payment tender or deposit—
(a.) Enter upon and use any land within the said district for the purpose of taking any earth, stone, clay, or scoria therefrom ;

40 (b.) Enter upon and use any land adjacent to the site of any sewer or drain hereby authorised to be constructed, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary roads or approaches to any works or storing any material therefor ;

45 (c.) Enter upon any lands or premises within the said district within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose to
50 bore therein ;

(5.) Make or construct the said main sewers or main drains, or any part thereof, upon or under any private lands or buildings within the said district, subject to the following conditions :—

(a.) A plan and description of such main sewers or main drains, showing how they affect any such land or buildings, shall be deposited for public inspection at some place within the said district. 5

(b.) The Board shall give notice in writing to the occupier, and also to the owner, when known, of such land or buildings, of the intention to construct such main sewers or main drains, and shall refer in such notice to such plan and description, and state where the same are on view. In the case of unoccupied land or buildings of which the owner is not known, such notice may be served by being affixed in a conspicuous place thereon or thereto. 10 15

(c.) If within one month after such notice is given, the said owner or occupier serves on the Board a written objection to the proposed work, the Board shall appoint a day for hearing such objection, and shall give notice of the same to the objector. 20

(d.) The Board shall hold a meeting on the day so appointed, and may, after hearing any person making such objection, if present, determine to abandon the work proposed, or to proceed therewith, with or without such alterations as the Board thinks fit. 25

COMPENSATION.

Compensation.

15. The Board shall pay such reasonable compensation in respect of the exercise of all or any of the powers conferred by subsection four and five of section fourteen as shall be agreed upon between the Board and the owner or occupier of such land, and if such owner or occupier and the Board cannot agree concerning the amount of such compensation, then the owner or occupier shall be entitled to sue for such compensation in the Magistrate's Court, and the same proceedings may be had and taken in any such suit as are applicable in cases within the ordinary jurisdiction of such Court, notwithstanding that the amount claimed may exceed such jurisdiction, but no compensation shall be payable by reason only of the construction of an underground covered sewer or drain through any private land, provided that such sewer or drain when carried under any building shall be constructed of brick, concrete, or stone. 30 35 40

Limitation of compensation

16. Compensation when payable shall be limited to the actual value of the injury, spoil, or damage, actually proved to have been done, permitted, or suffered.

Provisions applicable to lands taken by Board.

17. The following provisions shall apply in the case of lands taken by the Board :— 45

(1.) The Board shall make compensation to the owners of and to all persons having any less estate or interest in any land taken.

(2.) Every such claim for compensation shall be made in writing to the Board within twelve months from the time when 50

such claim shall have first arisen, and no claim for compensation shall be allowed unless made within that period.

CONTRIBUTIONS.

- 5 18. The income and revenue of the Board shall consist of contributions to be levied upon and paid by the contributing bodies as hereinafter provided. Revenue of Board.
- 10 19. The Board shall, on or before the last Wednesday of March in each year, cause an estimate to be prepared of the proposed expenditure of the Board for the ensuing year, showing— Estimate of yearly expenditure.
- 15 (1.) The permanent appropriations for payment of interest and the creation of a sinking fund, and for such other purposes as may be required ;
- (2.) Any sums already available for such purposes ;
- (3.) The additional sum required.
- All expenditure incurred between the coming into operation of this Act and the thirty-first day of March, one thousand nine hundred and one, may be included in the first estimate.
- 20 20. Upon the last Wednesday of March in each year the Board shall hold a meeting, at which the contribution payable for the ensuing year, commencing on the first day of April, by the contributing bodies shall be assessed, and written notice shall forthwith be given to each contributing body showing the amount to which every contributing body is assessed, together with a copy of the estimate of expenditure for the year. Assessments of contribution payable.
- 25 21. If any contributing body shall be dissatisfied with such assessment, such contributing body may, within fourteen days after notice of such assessment shall have been given to it, appeal to the Stipendiary Magistrate at Auckland against such assessment. Such appeal shall be commenced by notice of appeal being given to the Clerk of the Magistrate's Court, who shall fix a day for the hearing thereof, and the contributing body appealing shall give notice in writing to the Board and to each of the other contributing bodies stating the date when the same shall be heard and the grounds of such appeal, and thereupon the whole of such assessment shall be deemed to be set aside and the contribution to be paid by every contributing body shall be settled by the Stipendiary Magistrate, whose decision shall be final and binding upon the Board and all the contributing bodies. Right of contributing body to appeal.
- 30 22. The Stipendiary Magistrate shall have power from time to time to make regulations for the conduct of such appeals and the costs thereof. Appeal, regulations for.
- 35 23. The Board may, notwithstanding that the amount sought to be recovered is in excess of the jurisdiction of any Magistrate's Court, sue for and recover the amount of any contribution in any such Court as a debt, ~~together with the costs of the suit.~~ Power of Board to sue for contributions.
- 45 24. The aggregate amount of contributions shall not in any year be less than *the permanent appropriation together with the additional sum required as set forth in the estimates referred to in section nineteen of this Act for the same year.* Amount of yearly contributions.

BORROWING POWERS.

- Board may borrow on debentures. 25. To enable the Board to carry out the powers conferred by this Act, the Board may borrow money, *not exceeding fifteen thousand pounds*, and for that purpose may issue debentures under the common seal of the Board. 5
- Form of debenture. 26. Every debenture under this Act shall be *for a sum of not less than twenty pounds nor more than five hundred pounds, and shall be in the form in the Second Schedule or to the effect thereof*, and shall be numbered consecutively so that no two debentures shall at any time bear the same number. 10
- Sale of debenture. 27. No such debenture shall be sold at such a price as to produce to the purchaser a greater interest than five pounds per centum per annum on the price paid. 10
- Term of debenture. 28. Every debenture shall be repayable at a time named therein not longer than fifty years from the issue thereof. 15
- Coupons for interest to be attached to debentures. 29. Separate coupons for the interest payable in respect of each debenture, and numbered consecutively for each debenture, shall be attached thereto. Signatures to coupons attached to debentures may be made by *fac similes* of the signature or signatures of the person or persons authorised by the Board to sign the same, and no coupon shall be issued until the debenture shall be sealed with the common seal of the Board. 20
- Debentures and coupons transferable. 30. Debentures and coupons respectively shall be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the Board of all liability in respect of such debenture or coupon. 25
- Sinking fund. 31. Before borrowing any money the Board shall make provision for the repayment thereof by the creation of a sinking fund, and by making the whole loan repayable at a stated period, or any parts thereof, at stated periods. 30
- Appropriation for payment of interest and sinking fund. 32. The Board shall permanently appropriate out of its income a sum sufficient for the periodical payment of interest and the creation of a sinking fund, and no such appropriation shall, without the consent of the lenders, be afterwards rescinded or lessened; but the Board may, if it thinks proper, from time to time appropriate further sums towards the sinking fund in order to maintain the accumulation thereof at proper rates. 35
- Commissioners. 33. The Board shall appoint and may from time to time remove and re-appoint Commissioners to whom they shall pay all moneys so appropriated as a sinking fund, and such Commissioners shall dispose of such moneys by investing the same, together with all interest and profits accruing therefrom, in such securities as the Board from time to time directs. 40
- Commissioners may mean Public Trustee. 34. The Commissioners to be appointed under this section may be interpreted to mean the Public Trustee. 45
- Vacan. 35. All vacancies arising in the office of any Commissioner of sinking funds under this Act shall be filled up as they arise by new appointments to be made by the Board.
- Balance-sheets, &c. 36. Such Commissioners shall send to the Board at such time as the Board directs accounts of all moneys and all securities in their hands, and shall immediately after the thirty-first day of March in each year send to the Board a balance-sheet showing all transactions in respect of such moneys or securities during the year ending on

such day. Such Commissioners shall, together with such balance-sheet, send to the Board a certificate under the hand of the Controller and Auditor-General, or such person as he may appoint for the purpose, of all securities held by the Commissioners.

5 37. When all the borrowed money shall have been repaid, in case there shall be any surplus after such payment the same shall be distributed among the contributing bodies in the proportion that the aggregate of the contributions of each contributing body bears to the aggregate of the contributions of all the contributing bodies.

Surplus, disposal of.

10 38. If default be made by the Board for the period of three months in the payment of any money borrowed, or of any interest thereon, the lender may apply to a Judge of the Supreme Court by petition for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint a Receiver of such contributions as have been permanently appropriated under this Act as security for the money borrowed.

Provision in case of default.

39. Upon the making of any such appointment, —

Powers of Receiver.

(1.) The right to recover and receive such contributions,

20 (2.) All securities held by any Commissioners as above provided as accumulated sinking fund for the repayment of such loan, and

(3.) Any uninvested moneys in the hands of such Commissioners,

25 shall from the date of such appointment vest in the Receiver, and shall cease to be vested in the Board or in the said Commissioners.

Powers of Board to vest in Receiver.

40. All powers for the assessment and the recovery of contributions shall, after the appointment of a Receiver and in respect to all moneys hereby vested in him, cease to be exercised by the Board, and shall be exercised by the Receiver.

30 41. Every Receiver, unless he be the Public Trustee, shall, before entering on his office, give such security for the faithful execution thereof as the Judge directs.

Receiver to give security.

42. All moneys received by the Receiver shall be applied only under the order of a Judge of the Supreme Court, as follows: —

Moneys to be applied under order of Supreme Court.

35 (1.) In payment of the expenses of the application and appointment;

(2.) In the payment of such remuneration to the Receiver, and in the expenses of his office, as the Judge directs;

40 (3.) In the payment of the principal and interest of the loan in respect of which the Receiver was appointed.

(4.) The residue after payment of the above shall be paid to the Board,

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

45 43. When all the principal and interest of the loan in respect of which the Receiver was appointed is paid, or at any time by an order of a Judge of the Supreme Court upon the application of the Board, the powers of the Receiver shall cease, and shall revert in the Board, and he shall forthwith pay any money in his hands to the Board.

When Receiver's powers revert in Board.

50 44. The Board shall be deemed to be a local authority within the meaning of "The Government Loans to Local Bodies Act, 1886," and its amendments, hereinafter referred to as "the said Act,"

Board deemed local authority.

Colonial Treasurer may grant loan to Board.

45. The Colonial Treasurer may, under the said Act, grant any loan to the Board upon being satisfied that the provisions of this Act have been complied with, and ~~the provisions of the said Act with regard to security being given by a special rate shall not apply.~~

POWERS OF CONTRIBUTING BODIES.

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Sewage: connecting drains.

46. For the purpose of carrying off any sewage from any part of its district within the Hobson Bay Watershed Sewage District every contributing body may from time to time connect sewers and drains with the said main sewers or main drains, provided that fourteen days' notice, in writing, be given to the Board of the intention 10 of the contributing bodies to exercise the powers conferred by this section.

Work subject to approval of Board's engineer.

47. In making any such connection the contributing body shall cause the same to be done in a skilful, efficient, and workmanlike manner, and so that the efficiency and construction of such main 15 sewers or main drains may be in no wise impaired, and to the approval of the Board's engineer.

Construction of drains by local authority of another district.

48. The Board may permit any local authority to connect any drain or sewer within the district of such local authority with any drain or sewer constructed by the Board upon such terms as may be 20 agreed upon between the Board and such local authority.

CONTRACTS.

Contracts for execution of works.

49. The Board from time to time may enter into such contracts with any such persons as they think fit for the execution of any works directed or authorised by this Act to be done by the Board or for 25 furnishing materials or for any other thing necessary for the purposes of this Act.

Certain contracts to be made by public tender.

50. No contract, the amount whereof exceeds fifty pounds, except in cases of urgent necessity, shall be made except after public tender, of which due public notice shall be given, but the Board shall 30 not be compelled to accept the lowest or any tender.

Contracts: whether in writing or verbally.

51. Any contract which, if made between private persons,—
First, must be in writing under seal ;
Secondly, must be in writing signed by the parties thereto ;
Thirdly, may be made verbally without writing, 35
when made with the Board—

In the first case, shall be in writing under the common seal of the Board ;

In the second case, shall be signed by two members of the Board on behalf of and by the direction of such Board ; 40

In the third case, may be made verbally without writing by the Board or by any two members thereof on behalf of and by the direction of the Board.

OFFICERS.

Officers of Board.

52. The Board may from time to time appoint and employ a 45 treasurer, clerk, surveyors, engineers, and all such other officers to assist in the execution of this Act as they shall think proper and necessary ; and may from time to time remove any of such officers and appoint others in the room of such as have been so removed, or as may die, resign, or discontinue their offices, and may pay such 50

salaries and allowances to the said officers respectively as the Board shall think reasonable. Such officers shall, before they act in the execution of their respective offices, give such security for the due execution thereof as the Board shall require.

5 53. No member of the Board shall hold any office of profit under the Board: Provided that any solicitor being a member of the Board may act as solicitor to the Board. Office of profit not to be held by member of Board.

ACCOUNTS.

10 54. The Board shall cause books to be provided and kept, and true and accurate accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money shall have been received and paid. Book of accounts to be kept.

15 55. Such books shall at all reasonable times be open to the inspection of any member of the Board, who may take copies of or extracts from the same; and any person having the custody of the said books who does not, on the reasonable demand of any member of the Board, permit him to inspect or take copies of or extracts from the same shall for every such offence be liable to a penalty not exceeding Books open to inspection by member of Board.

20 56. All moneys received by the Treasurer of the Board shall be paid by him into such one of the public banks of the colony as shall be appointed by the Board, and no part of such moneys shall be drawn out of such bank except by cheque signed by the Chairman or two members of the Board, and by the Treasurer of the Board. Moneys received to be paid into banking account.

25 57. The accounts of the Board for the past year shall be audited in the month of January in each year by the Controller and Auditor-General. Accounts to be audited.

30 58. The Board shall, before the end of the second week in January in each year, cause the accounts of the Board for the past year, up to and including the last day of December, to be balanced, and also a full and true statement and account of all contributions paid to and of all moneys received and expended by the Board during the past year, and also of all debts owing by and to the Board; and Yearly accounts to be submitted to Controller and Auditor-General.

35 59. The Treasurer shall forthwith, after such audit, make out a full abstract of the accounts for the year as audited and cause a copy hereof to be submitted to each contributing body. Abstract of accounts to be submitted to each contributing body.

LEGAL PROCEEDINGS.

45 60. The provisions of sections fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, and sixty of "The Land Drainage Act, 1893," shall be deemed to be incorporated herein, and shall apply to the Board in the same manner as if they were fully set out in this Act. Sections of "The Land Drainage Act, 1893," incorporated.

50 61. Any Judge or Stipendiary Magistrate, or Justice may, notwithstanding that he is a corporator of any contributing body, or an owner or occupier of land within the said district and liable for the payment of rates to any such contributing body, hear, adjudicate upon, and determine all matters, proceedings, and things which such Judge or Stipendiary Magistrate or Justice might hear, adjudicate upon, and determine if he were not such corporator, or such owner or occupier of land, and liable for the payment of rates as aforesaid. Judge, Stipendiary Magistrate, or Justice may adjudicate.

Penalty for injury
to sewer.

62. Any sewer or drain constructed or maintained by the Board shall be deemed to be the property of the Board, and any person doing any act whereby such sewer may be injured or its efficiency impaired shall be liable to a penalty not exceeding *twenty pounds*, without prejudice to the right of the Board to recover by action 5 damages for any trespass or injury to the said sewer.

Governor may extend time for holding meetings, or for removing obstacles for proper carrying out provisions of Act.

63. Within the period of twenty-one days before or after the day appointed for the holding of any meeting of the Board, or for the doing of any act, matter, or thing by this Act required to be done on or before a day certain, it shall be lawful for the Governor to extend 10 the time allowed or fix a later day for the holding of such meeting or for the doing of any such act, matter, or thing as aforesaid, notwithstanding the day may have passed on which the same ought to have 15 been held or done, and to adopt or cause to be adopted such measures as may be necessary to remove any obstacle of a technical or formal 15 nature by which the carrying-out of the provisions of this Act may be impeded, and to supply any deficiency which may be required to be supplied in order to enable the said provisions to be carried out.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ALL that area of land, being parts of the City of Auckland, the Boroughs of Newmarket and Parnell, and the Road Districts of Mount Eden, Epsom, One Tree Hill, and Remuera, commencing at the junction of St. Stephen's Road ~~and with~~ Brighton road, and bounded towards the north-east by Brighton Road to its crossing with Batkins Gully Creek; thence by that creek to Sea View Road; thence towards the east by Sea View Road and by Hobson Bay Road to Remuera Road; thence towards the north-east, by the ~~line of summit of the~~ watershed from the junction of Hobson Bay Road ~~and with~~ Remuera Road to the summit of Mount Hobson; thence towards the south-east by the ~~line of summit of the~~ watershed from Mount Hobson to Mount St. John; thence towards the south-west by the ~~line of summit of the~~ watershed from Mount St. John to Mount Eden; ~~thence~~ again towards the south-west by the line of watershed from Mount Eden to the junction of Khyber Pass Road ~~and with~~ Symonds Street; thence towards the north by Khyber Pass Road ~~to~~ Grafton Road; thence towards the west by Grafton Road ~~to~~ Carleton Gore Road; thence generally towards the north by the ~~line of summit of the~~ watershed from the junction of Grafton Road ~~and with~~ Carleton Gore Road to the junction of Carleton Gore Road ~~and with~~ Park Road East; thence towards the north-west by the ~~line of summit of the~~ watershed from the junction of Carleton Gore Road ~~and with~~ Park Road East to the junction of Manukau Road ~~and with~~ Ayr Street; ~~and~~ thence towards the north-west by Manukau Road ~~and to~~ St. Stephen's Road, ~~and thence by the last-mentioned road to the~~ point of commencement.

SECOND SCHEDULE.

HOBSON BAY WATERSHED SEWAGE BOARD LOAN OF

No.

DEBENTURE for £ , payable at on , issued by the Hobson Bay Watershed Sewage Board, under an Act of the General Assembly of New Zealand, intituled "The Hobson Bay Watershed Sewage Act, 1900." Secured on contributions to the revenues of the Board levied upon contributing Local Bodies.

N.B.—The holder of this debenture has no claim in respect thereof on the public revenues of New Zealand or on the General Government thereof.

On presentation of this debenture at on or after the day of 19 , the bearer hereof will be entitled to receive £ . Interest on this debenture will cease after the day when the payment falls due, unless default is made in payment.

Issued under the seal of the Board the day , 19

A. B.,
Chairman of the Board.

C. D.,
Treasurer of the Board.