

New Zealand.

## ANALYSIS.

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1909, No. 23.—*Local.*

Title. AN ACT to amend the Dunedin District Drainage and Sewerage Act, 1900, and the Acts amending the Same.

[24th December, 1909.]

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. This Act may be cited as the Dunedin District Drainage and Sewerage Acts Amendment Act, 1909, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900.

Interpretation. 2. In this Act, if not inconsistent with the context,—  
 “The principal Act” means the Dunedin District Drainage and Sewerage Act, 1900:  
 “The Amendment Act, 1902,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1902:

“The Amendment Act, 1906,” means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1906 :

“The Amendment Act, 1907,” means the Dunedin District Drainage and Sewerage Act Amendment Act, 1907.

3. In this Act and the Acts hereby amended the following words and expressions, if not inconsistent with the context, shall be deemed to have, and to have had from the passing of the principal Act, the meanings hereby given thereto, in addition to any meaning given to the same words and expressions by the principal Act or any Act amending the same :—

“Drain in common ” means a private drain which serves or is proposed or intended to serve several separately owned premises :

“Sanitary convenience ” includes a water - closet, urinal, bath, lavatory, sink, and wash-tub :

“Sanitary appliance ” includes a drain, waste-pipe, soil-pipe, downpipe, trap, gully, grating, ventilation pipe and shaft, and every other appliance or fitting to or for a sanitary convenience or for or in connection with the discharge of surface water :

“ Sink ” includes a slop-sink, kitchen-sink, pantry-sink, trade sink, and medical sink.

4. (1.) The Board is hereby authorised to borrow further money for the purposes of the principal Act not exceeding the sum of one hundred and fifty thousand pounds, and section fifty-six of the principal Act shall be read and construed as if the words “four hundred and fifty thousand pounds” had been originally inserted therein instead of the words “two hundred thousand pounds.”

Borrowing-powers increased, and appropriation of loan-moneys.

(2.) All moneys heretofore or hereafter borrowed by the Board shall be deemed to have been and to be so borrowed subject to the appropriation thereof, at the absolute discretion of the Board, for all or any of the purposes mentioned in section sixty-three of the principal Act.

5. Before raising the loan hereby authorised the Board may make provision for the repayment thereof, either—

Sinking funds, &c.

(a.) By making, with or without a sinking fund, the whole loan repayable at a stated period, or any parts thereof at stated periods ; or

(b.) By making any debentures of such loan repayable by periodical drawings :

Provided that the Board shall not create a sinking fund as aforesaid unless the interest agreed to be paid in respect of such loan is four per centum per annum or less than that rate, and that such sinking fund shall not exceed the rate of one-half per centum per annum on the amount of the loan.

6. In order to provide funds for the creation of a sinking fund, or for the repayment of debentures becoming due by periodical drawings, the Board may permanently appropriate any part of the General Fund referred to in section fifty - five of the principal Act, or, without any such appropriation, may pay the same out of such fund.

Provision for sinking funds, &c.

Security on  
sinking fund.

7. Notwithstanding anything contained in the principal Act, any sinking fund created by the Board as aforesaid shall be available as a security only for the loan hereby authorised.

Sinking fund.

8. (1.) All moneys so appropriated as a sinking fund (if any), or, if there is no such appropriation, then such moneys as are required for the creation of such sinking fund, shall from time to time be paid by the Board to the Public Trustee as Commissioner of the said sinking fund.

(2.) The Public Trustee shall hold the said moneys and deal with the same in the manner provided by the Local Bodies' Loans Act, 1908, in the case of loans raised under that Act.

Accounts of  
Commissioner.

9. The Public Trustee shall send to the Board, at such times as the Board directs, accounts of all moneys and all securities in his 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. The Public Trustee shall, together with such balance-sheet, send to the Board a certificate, under the hand of some person appointed by the Audit Office, specifying all the securities held by the Public Trustee.

Application of  
sinking fund.

10. When the principal money of the loan becomes payable, the accumulated sinking fund (if any) provided for repaying the same shall be applied by the Public Trustee in the payment thereof; and, in case there is any surplus of such fund after such payment, such surplus shall be applied as shall be determined by special order to be passed by the Board in that behalf.

Signature of  
debentures.

11. If the loan hereby authorised, or any part thereof, is raised by or through any bank or company or any person or persons appointed to be an agent or agents under or by virtue of section fifty-nine of the principal Act, the debentures in respect of such loan shall, if so required and authorised by the resolution mentioned in such section, be signed or countersigned by such agent or agents or by any officer of such bank or company in such resolution named or referred to.

Power to reborrow.

12. (1.) When the principal money of any loan raised or to be raised by the Board becomes payable, except where the debentures of such loan are paid by periodical drawings as above provided, it shall be lawful for the Board from time to time to reborrow moneys under the provisions of the principal Act for the purpose of paying so much of the said principal moneys as is not provided for by any accumulated sinking fund held for the payment thereof.

Power to invest.

(2.) Moneys borrowed by the Board may, until the same are required for the purposes for which the same were borrowed, be invested in such manner as the Audit Office approves.

Section 30 of  
principal Act to  
apply to sanitary  
conveniences and  
appliances.

13. (1.) Section thirty of the principal Act shall extend and apply, and be deemed from the passing of the principal Act to have extended and applied, to all sanitary conveniences and sanitary appliances.

Amendment of  
section 35,  
Amendment Act,  
1902.

(2.) The words "where no other penalty is provided" in section thirty-five of the Amendment Act, 1902, are hereby repealed, and the following words substituted therefor: namely—"where no monetary penalty is provided by such by-law or regulation."

(3.) The principal Act shall, as from the commencement thereof, be deemed to have conferred upon the Board the power in making a by-law to provide that the same shall apply only to properties which then or thereafter shall be sewered properties within the meaning of section forty-eight of the principal Act as extended by section ten of the Amendment Act, 1906.

By-laws may be restricted to sewered properties.

(4.) By-laws of the Board affecting sewered properties and the owners thereof respectively shall extend and apply to sewered properties and the owners thereof respectively for the time being, and whether the notice relating to any such property under the provisions of section forty-eight of the principal Act was given before or after the making of such by-laws.

By-laws to apply to sewered properties for the time being.

14. The connection of one or more private drains to another private drain, whether before or after the commencement of this Act, and whether with or without the consent of the Board, shall not of itself convert or be deemed to have converted such last-mentioned drain into a public drain or sewer.

Connection of private drain to another not to make the latter a sewer.

15. (1.) Any notice or order given by the Board under or by virtue of the said Acts or the by-laws, requiring the execution of works, shall be sufficient if it describes generally the works required to be executed, and may (with or without any such description) refer to a plan attached thereto, or indorsed thereon, or deposited in the office of the Board.

Contents of notices and orders.

(2.) In any such notice as aforesaid the Board may, as an alternative, permit existing works to be used, provided the same, as so existing or as altered, are proved to the satisfaction of the Drainage Engineer to comply with the by-laws; the burden of which proof shall be on the owner.

16. Any agreement heretofore or hereafter entered into between the Board and the owner of any premises relating in any way to the drainage of such premises or any part thereof, or any sanitary convenience or sanitary appliance thereon, therein, or thereunder, including the removal of any sanitary convenience or sanitary appliance for which a temporary permit has been or may be given by the Board, shall enure for the benefit of and bind the owner for the time being of such premises, or the part thereof affected by such agreement, from and after the entry of a note or memorandum of such agreement in the Register of Charges of the Board, any other Act to the contrary notwithstanding.

Agreements between the Board and owners.

17. Whenever any notice or order is given by the Board under or by virtue of section twenty-six of the principal Act and section twelve of the Amendment Act, 1907, or either of such sections, and the Board elects to do the work itself, and whenever the Board has agreed to do any work in connection with the drainage of two or more separately owned premises, the Board may delay the execution of any part of such work for so long as the Board thinks fit; and in such case the apportionment of the cost of such works shall, as regards any such premises or part thereof which the Drainage Engineer certifies does not or would not derive any immediate benefit from such works, be deemed to be an interim apportionment only, and such apportionment shall not prejudice or affect the power

Suspension of works.

or duty of the Drainage Engineer to make further apportionments from time to time if and whenever any further portions of such works are executed.

Amendment of section 45 and repeal of section 46 of principal Act.

18. (1.) The words "on the registration of the memorandum hereinafter mentioned," in section forty-five of the principal Act, and the words "and when any sum" and the following words in such section to the end thereof, and also the whole of section forty-six of the said Act, are hereby repealed, except so far as regards any charge heretofore created under such sections and the release of any such charge.

(2.) The receipt by the Board under its seal for the amount of any charge hereafter created, or part thereof, and the entry of a note or memorandum thereof in the Register of Charges, shall be a release of such charge to the extent of the amount received.

Powers exercisable from time to time.

19. The powers vested in the Board to require the execution of works shall be exercisable from time to time.

Section 12 of Amendment Act, 1902, amended.

20. Section twelve of the Amendment Act, 1902, is hereby amended by adding thereto, after the word "Act," the words "and section twelve of the Dunedin District Drainage and Sewerage Act Amendment Act, 1907."

Power to Board to execute extra works.

21. It shall be lawful for the Board, by agreement with and at the expense of the owner of any premises, to execute, provide, and do on or in connection with such premises any work, materials, and things which such owner may desire to have executed, provided, and done, in addition to works in connection with the drainage, sewerage, or sanitation of such premises; and in the case of such an agreement the Board may stipulate that the expense of the work, materials, and things shall come within the operation of section twenty-eight of the principal Act. All the provisions of the principal Act and the amendments thereof shall apply to such agreement, and the works, materials, and things provided and done in pursuance thereof, and the cost thereof.

Amendment of section 22, Amendment Act, 1907.

22. The word "six" in section twenty-two of the Amendment Act, 1907, is hereby repealed, and the word "fix" substituted therefor.

Alteration of district.

23. All that part of the Borough of Roslyn lying to the westward of the line described in the Schedule hereto is hereby excluded from the district.

Applications under Land Drainage Act.

24. (1.) Whenever the Board, under or by virtue of any of the provisions of the said Acts, proposes to construct or lay a private drain, the Board may make all necessary applications under section sixty-seven of the Land Drainage Act, 1908, and section eleven of the Amendment Act, 1906, and shall for that purpose have all the rights and powers of the owner or owners of the premises which such drain is intended to serve.

(2.) Any compensation paid by the Board shall be repaid to the Board by the owner or respective owners of the premises which such drain is intended to serve, and, if more than one, in such proportions as the Drainage Engineer certifies either at the time of certifying the cost of such drain, or at any time afterwards, and until so repaid shall be a first charge upon such premises respectively.

(3.) After drains have been opened or improvements made, the owner or respective owners of the premises which the same are intended to serve, and his and their successors in title for ever thereafter, shall have and may exercise all the powers contained in section seventy-six of the Land Drainage Act, 1908.

25. (1.) The owners of any adjoining premises, whether such premises are actually contiguous or not, may, subject to the approval of the Board, agree that such premises or any part thereof respectively shall be drained by means of a drain in common. The approval of the Board may be given on such conditions as the Board may think fit. Drains in common.

(2.) The said agreement shall be in writing, and may be in such form as the Board may by resolution or by-law prescribe.

(3.) The said agreement may be registered in the office of the Board by depositing the same with the Secretary, together with a request for such registration, signed by such owners, and payment of a fee of five shillings; and the Secretary shall thereupon enter in the Register of Charges a note or memorandum of such agreement.

(4.) From and after the entry in the Register of Charges of a note or memorandum of such agreement the said agreement shall, without any further procedure, and notwithstanding the provisions of any other Act, bind the premises described or referred to therein and the respective owners for the time being of such premises.

(5.) Whenever a drain in common is constructed or laid by or by order or direction of the Board, such drain may be used by the owners for the time being of the respective premises to serve which the same was constructed or laid, as an easement appurtenant thereto, notwithstanding the provisions of any other Act.

(6.) A drain in common may, either as to the whole or part thereof, be constructed or laid in a street.

(7.) Whenever the Board, under or by virtue of the provisions of the said Acts, proposes to construct or lay a drain in common, and there is in existence a drain serving premises adjoining the premises, or any of them, to serve which such drain in common is proposed to be constructed or laid, and whether contiguous or not, the Board may connect the new drain with such existing drain, or otherwise include the same in the combined operation; and in such case the owner or owners of such last-mentioned premises, and, if more than one, in such shares and proportions as the Drainage Engineer certifies in writing, shall pay to the Board such proportion of the then value of such existing drain as the Drainage Engineer certifies in writing; and all moneys paid to the Board under or by virtue of this subsection shall be held in trust for such person or persons as would be entitled to any compensation payable under the said Acts if the premises on which such existing drain is situated had been taken by the Board.

26. The provisions of section four of the Amendment Act, 1902, shall apply to any number of vacancies; and if the first vacancy has been filled up by the election of the person who at the last preceding election of members received the nearest number of votes to any person elected, any subsequent vacancy may be filled Vacancies in Board

up by the Board by electing the person who at the last preceding election received the nearest number of votes to the person elected to fill up the last preceding vacancy, and so on.

Penalty for false statement.

27. Every person making an application to the Board shall be responsible for the truth of the statements therein contained, and any person making a false statement to the Board or any officer thereof in connection with any application to the Board for a permit or certificate, and whether such statement is contained in an application or not, is liable to a fine not exceeding twenty pounds.

Falsely pretending to be licensed.

28. Every person who wilfully and falsely pretends to be licensed by the Board as a drainer or as a plumber, or uses any name, title, or description implying that he is so licensed, is liable to a fine not exceeding twenty pounds.

Kaikorai watershed.

29. (1.) Section twenty-five of the Amendment Act, 1902, is hereby amended by omitting the words "the watershed of the Kaikorai Stream," and substituting the words "that portion of the Kaikorai watershed within the Borough of Mornington."

(2.) Every property within such part of the Kaikorai watershed in the Borough of Maori Hill as is within the district as altered by this Act, and the owner of every such property, shall be and continue charged with and liable for the payment of the rates for the respective years ending on the thirty-first day of March, nineteen hundred and nine and nineteen hundred and ten, which would have been payable in respect of or leviable upon such property under or by virtue of the said Acts if the Amendment Act, 1902, had not been passed:

Provided that the rates payable for the respective years ending on the thirty-first day of March, nineteen hundred and four, nineteen hundred and five, nineteen hundred and six, nineteen hundred and seven, nineteen hundred and eight, nineteen hundred and nine, and nineteen hundred and ten, shall be payable to the Mayor, Councillors, and Burgesses of the Borough of Maori Hill (hereinafter called the said Corporation) by the persons who shall be the owners of such properties respectively at the time of the passing of this Act, and shall be recoverable by such Corporation (notwithstanding the expiration of any time limited for the recovery of rates) in like manner as if the same were rates levied by such Corporation, and as if all conditions precedent to the recovery thereof had been complied with.

(3.) The said Corporation shall pay to the Board the sum of fifty pounds, which sum the said Corporation is hereby authorised to pay, and which shall be accepted by the Board in satisfaction of the rates mentioned in the last preceding subsection (that is to say, up to and inclusive of the thirty-first day of March, nineteen hundred and ten), whether such rates be collected by the said Corporation or not.

## SCHEDULE.

Schedule.

COMMENCING at a point on the boundary-line between the Boroughs of Mornington and Roslyn 185 links west of High Street; thence by a right line crossing Epsilon Street to the southernmost corner of Allotment 19; thence along the south-eastern boundary of Allotments 19 to 35 (inclusive), Block II, Anderson's Extension of Roslyn; thence along the north-eastern boundary of Allotment 35 to Beta Street; thence along Beta Street, and across Alpha Street, and along the south-eastern boundary of Allotment 8, Block I, Anderson's Extension of Roslyn; thence along the north-eastern boundary of Allotments 8, 9, 10, and 11; thence 200 links along a line at right angles to the north-east boundary of Allotments 8, 9, 10, and 11, through Section 9, Block IV, Upper Kaikorai District; from thence to the intersection of the south-west boundary of Section 8, Block IV, Upper Kaikorai District, with the right-of-way (continuation of Ann Street); thence along the right-of-way to James Street; thence south-easterly along and across James Street to the south corner of Allotment 6, Livingstone's Subdivision, and along the south-eastern boundary of Allotments 6, 7, 8, 9, and 10, Livingstone's Subdivision, and Allotments 14, 15, 16, and 17 of Section 2, and Sections 6, 5, and 4 of Sunnyside, to William Street; thence across William Street and along the south-eastern boundary of Allotment 8, Wright's Subdivision, and Allotments 15, 14, 13, and 12 of Section 2, Block IV, Upper Kaikorai District; thence in an easterly direction to the southernmost corner of Allotment 7, Section 2, Block IV, Upper Kaikorai; thence in a north-easterly direction to a point 100 links west from the intersection of School Street and District Road on the boundary of Allotment 1, Linden; thence in a north-westerly direction along School Street to Tay Street; thence in a north-easterly direction along Tay Street to Tweed Street; thence south-easterly along Tweed Street to the easternmost corner of Allotment 25, Linden; thence across Tweed Street, and along the south-east boundary of Allotments 24 to 17 (inclusive), and that boundary produced across Clyde Street; thence in a north-westerly direction along Clyde Street to the west boundary of Allotment 87, Linden, and along the west boundary of Allotment 87, Linden; thence along the north boundary of Allotments 86, 85, and 84; thence in a north-easterly direction by the production of the north-western boundary of the last-mentioned allotment through Section 1, Bishops court, across Albert Street, to the south-east corner of Allotment 19, Bishops court; thence in an easterly direction along the north boundary of Albert Street to the District Road; thence in a northerly direction along the District Road to the south corner of Allotment 10, Bishops court; thence along the south boundary of Allotments 10 and 9; thence along the western boundary of Allotment 9 to McMillan Street; thence across McMillan Street and along the west boundary of Allotments 14, 29, and 30, Bishops court Subdivision, to the Wakari Road.