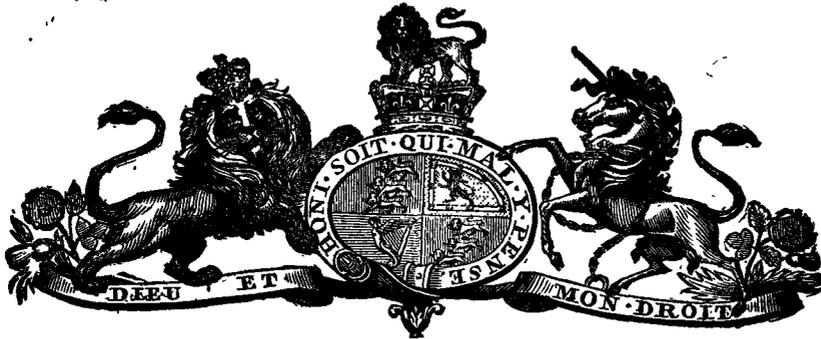


NEW ZEALAND.



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VICTORIÆ REGINÆ.

No. XXVI.

ANALYSIS.

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AN ACT to provide for the Drainage of the City of Christchurch and the Surrounding Districts.

[12th October, 1875.]

Preamble.

WHEREAS it is expedient to make provision for the improvement of the drainage of the City of Christchurch, and the lands surrounding the said city:

BE IT THEREFORE 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 shall be "The Christchurch District Drainage Act, 1875."

CONSTITUTION OF DISTRICT AND BOARD.

Drainage district.

2. The several districts described in the First Schedule hereto shall for the purposes of this Act be deemed to be one district, and are hereinafter referred to as "the district."

Constitution of Board.

3. There shall be for the district a Drainage Board, which shall consist of eight persons, to be elected as hereinafter mentioned, and such Board shall be a body corporate under the name of "The Christchurch Drainage Board," with perpetual succession and a common seal, having a capacity to hold lands for all the purposes of its constitution under this Act.

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4. The ratepayers of each of the said several districts described in the First Schedule hereto shall, on such day or days as the Superintendent shall appoint in that behalf, elect one person being a ratepayer in respect of property within the several districts respectively to be the first members of the Board for the said several districts respectively; and for this purpose a ratepayer shall be defined to be a person who has during the year immediately preceding such election been rated for Municipal or Road Board purposes in respect of property situate within the several districts respectively.

Election of the first members of the Board.

5. The Superintendent of the Province of Canterbury shall by Proclamation to be published in the Provincial Government *Gazette* of the Province of Canterbury, make regulations for conducting the elections of the first members of the Board, and may appoint fit persons to conduct such elections, and shall fix the polling places for every such election; and if from any cause whatever a member shall not be elected for any one or more of the said districts respectively, the Superintendent shall forthwith nominate a member or members, who shall be the first member or members of the Board for such districts respectively failing to elect as aforesaid, and shall hold office in all respects as if he or they had been elected members.

Superintendent to make regulations for first elections, and to nominate in certain cases.

6. The first members of the Board shall vacate their offices on the first Tuesday in the month of January, in the year of our Lord one thousand eight hundred and seventy-nine, and the members of every Board succeeding the first Board shall hold their offices for three years, and shall vacate the same on the first Tuesday in the month of January, and the offices of vacating members shall be filled up by an equal number of qualified persons, to be elected as herein mentioned.

Duration of office of members of Board.

7. In each of the said several districts, the electors of such districts respectively shall, for their several and respective districts, on the first Tuesday in January, in the year of our Lord one thousand eight hundred and seventy-nine, and the first Tuesday in January in every succeeding third year, and in the manner hereinafter mentioned, elect from the electors of the district one person to be a member of the Board.

Election of members of the Board.

8. Every member of the Board going out of office shall be re-eligible.

Members of Board re-eligible.

9. Any casual vacancy occurring in the Board for any of the said districts shall be filled up by a duly qualified person, upon a day to be appointed by the Board, in the manner herein provided for the triennial election of members, but any person so chosen shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred.

Casual vacancies.

10. During any vacancy in the Board, the continuing members shall act as if such vacancy had not occurred, and no act of the Board shall be invalid on account of any such vacancy.

Vacancies not to affect proceedings.

11. If a member of the Board is adjudged bankrupt, or applies to take the benefit of any Act for the relief or protection of insolvent debtors, or compounds with his creditors, such person shall cease to be a member of the Board, and his office shall thereupon become vacant.

Extraordinary vacancies.

12. Any person who acts as a member of the Board without being duly qualified, or after he has become disqualified, shall incur a penalty not exceeding fifty pounds sterling, and in any proceeding for the recovery of such penalty the burden of proving qualification shall be upon the person against whom such proceeding is taken.

Penalty for acting as a member being incapacitated.

13. All acts done by any meeting of the Board, of any committee of the Board, or by any person acting as a member of the Board, shall, notwithstanding it may be afterwards discovered that there was some

Validity of proceedings not to be affected by irregularities.

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defect in the election or appointment of any such Board or persons acting as aforesaid, or that they or any of them were or was disqualified, be as valid as if every such person had been duly elected or appointed and was qualified to be a member.

Board not dissolved by all the seats of the Board becoming vacant.

14. If from any cause whatever all the offices or seats of the Board shall become vacant, the Board shall not thereby be dissolved, but members thereof shall be forthwith elected for the said several districts respectively as aforesaid, at such times and places and in such manner as may be prescribed by the said Superintendent in that behalf.

Electors.

15. The electors for members of every Board succeeding the first Board for the said several districts respectively shall be the persons who have during the year immediately preceding such election been rated in respect of property situate within such district respectively to the rate payable under this Act, and have paid all rates due from them at the time of the election.

Votes of electors.

16. Each elector shall vote according to the following scale, that is to say,—

If the property in respect of which he is entitled to vote be rated upon a rateable value of less than fifty pounds, he shall have one vote.

If such rateable value amount to fifty pounds and be less than one hundred pounds, he shall have two votes.

If it amount to one hundred pounds and be less than two hundred pounds, he shall have three votes.

If it amount to two hundred pounds and be less than three hundred pounds, he shall have four votes.

If it amount to or exceed three hundred pounds, he shall have five votes.

Returning Officers.

17. After the election of the first members of the Board, all elections of members of the Board for any and every of the said several districts shall be held by and before such person or persons as the Board shall from time to time have appointed to hold elections in and for the said several districts respectively, and such person or persons may be called the Returning Officer or Officers for such districts respectively.

Superintendent to appoint Returning Officers in certain cases.

18. If at any time from any default of the Board, or from any reason whatever, there is no Returning Officer for any district, or such Returning Officer is unwilling or unable to act, the Superintendent of the Province of Canterbury for the time being may, on the application of any elector, appoint a Returning Officer for such district.

Returning Officer to convene meeting for election.

19. On every occasion of the election of any new members of the Board for any of the said districts the Returning Officer for such district shall convene a meeting of the electors of such district for the purpose of such election, and shall give at least seven clear days' notice of such meeting, and of the time and place at which it is to be held, by advertisement in some one or more of the newspapers circulating in the district.

Returning Officer to preside.

20. The Returning Officer for each district shall preside and regulate the proceedings at such meeting within his district, and at any such meeting as aforesaid any person or persons may if he or they consent thereto, be nominated by any elector and seconded by any other elector as a member or members of the Board. If more candidates are proposed than the number to be elected a poll may be demanded, and shall be taken in manner hereinafter mentioned, but if not, or if no poll is demanded, a declaration by the Returning Officer presiding at any such meeting that the candidate or candidates is or are elected a member or members of the Board for any such district shall be conclusive evidence of the fact.

Mode of nomination.

Poll, if demanded.

Declaration of election, if no poll demanded.

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21. When a poll is demanded, the Returning Officer shall direct the same to be taken at such place or places within his district on such day not exceeding seven clear days from the day appointed for the election as he may determine. Votes must be given personally. The poll shall be opened at nine o'clock of the forenoon of the appointed day, and shall close at four o'clock in the afternoon of the same day. The Returning Officer shall cause to be entered in the polling books the name and address of every voter and the manner in which he votes. At the close of the poll the Returning Officer shall sum up the votes, and as soon as possible publish the name or names of the candidate or candidates elected, by advertisement in some one or more newspaper or newspapers circulating in the district.

Contested election.

22. The first meeting of the Board shall be summoned by the Mayor of the City of Christchurch, at such time and place and in such manner as he may think fit; and the Board shall meet together for the despatch of business, and shall from time to time make such regulations with respect to the summoning notice place management and adjournment of such meetings, and generally with respect to the transaction and management of business, as they think fit, subject to the following conditions:—

First meeting of Board.

Board to make regulations for conduct of business.

(a.) No business shall be transacted at any meeting unless at least four members are present at the commencement and close of such business.

(b.) No order involving an expenditure of more than five hundred pounds shall be made by the Board unless at the least seven days' previous notice, specifying the work to be undertaken or the other matters to which such order relates, and naming a day on which a meeting of the Board is to be held for considering the matter to be ordered, has been sent by circular to each member of the Board.

(c.) All questions shall be decided by a majority of votes of the members present.

23. The Board shall at their first meeting, and afterwards annually, in the month of January in each year, appoint one of their number to be chairman for the year following such choice.

Annual election of chairman.

24. If any casual vacancy occurs in the office of chairman, the Board shall, as soon as they conveniently can after the occurrence of such vacancy, choose some member of their number to fill such vacancy, and every such chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not occurred.

Casual vacancy in office of chairman.

25. If at any meeting the chairman is not present at the time appointed for holding the same, the members present shall choose some one of their number to be chairman of such meeting.

Chairman of meeting when the chairman not present.

26. In case of an equality of votes at any meeting, the chairman for the time being of such meeting shall have a second or casting vote.

Casting vote.

27. The Board may delegate any of their powers to committees, consisting of such member or members of their body as they shall think fit. Any committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Board.

Committees of Board.

28. A committee may elect a chairman of their meetings. If no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be the chairman of such meeting.

Chairman of committee.

29. A committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of the

Meetings and conduct of business of committees.

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votes of the members present, and in case of an equal division of votes, the chairman shall have a second or casting vote.

Minutes of Board.

30. The Board shall cause minutes to be made in books provided for that purpose—

- (a.) Of all the appointments of officers made by the Board;
- (b.) Of the names of the members present at each meeting of the Board and committees of the Board;
- (c.) Of all orders made by the Board and committees of the Board; and
- (d.) Of all resolutions and proceedings of meetings of the Board and of committees of the Board;

And any such minutes as aforesaid, if signed by any person purporting to be the chairman of any meeting of the Board, or committee of the Board, shall be receivable in evidence without any further proof.

OUSTER OF OFFICE.

Disputed elections or exercise of office.

31. Upon affidavit that any person declared elected to be member of any of the said several districts has been elected unduly or contrary to the Act, or that any person has been elected to or holds or exercises such office of member, being incapable under the provisions hereof of being or continuing such member, it shall be lawful for the Supreme Court or any Judge thereof to grant a rule or order calling upon such person to show cause to the Court why he should not be by the said Court ousted of the said office, and where upon the return of such rule or order it shall appear to the Court that such person so elected, or holding or exercising such office respectively, was elected unduly or contrary to this Act, or was at the time of his election or while holding or exercising such office respectively incapable under the provisions hereof of being or continuing such member, the Court may make such rule or order absolute, or if the matter shall not so appear, may discharge such rule or order, and in either and every of such case with or without the payments of costs to or by either party as the Court shall deem meet; and the person against whom any rule shall be made absolute as aforesaid, shall be deemed thereby to be ousted of such office accordingly: Provided that no such rule for ousting any person as having been elected unduly or contrary to this Act shall be granted after the expiration of three months from the declaration of such election.

Inquiry into matters of fact.

32. It shall be lawful for the Supreme Court, or any Judge thereof, where any proceeding, whether under this Act or not, with respect to any election, as having been made unduly or contrary to this Act, or with respect to the unlawful holding or exercise by any person of the office of member hereunder, shall be depending in such Court, to order from time to time that an inquiry be had by such fit person as shall be named by the said Court or Judge in the order, touching any matters of fact which it shall seem to the said Court or Judge necessary or expedient to ascertain for dealing with the proceedings so depending, and that such person do report to the said Court touching the said matters, and such inquiry may be made on oath upon interrogatories or otherwise; and it shall be lawful for such Court, or any Judge thereof, by the same or any subsequent order or orders, to give all such directions touching the time place or manner of holding such inquiry, and all other matters and circumstances connected with such inquiry as may appear reasonable and just; and it shall be lawful for every person authorized to hold such inquiry, by any such rule or order made or issued in pursuance of this Act, and he is hereby authorized and required to hold all such inquiries, and when any such rule or order as aforesaid shall be made for such

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inquiry by authority of this Act, it shall be lawful for the Supreme Court, or any Judge thereof, in and by the said rule or order to be made, or in any subsequent rule or order, to command the attendance of any person to be named in such rule or order for the purpose of being examined; or the production of any writings or other documents to be mentioned in such rule or order; and to direct the attendance of any such person at his own place of abode, or elsewhere if necessary or convenient so to do, and the wilful disobedience of any such rule or order shall be deemed a contempt of the Supreme Court, and proceedings may be thereupon had by attachment (the Judge's order being made a rule of the Court before or at the time of the application for an attachment); if in addition to the service of the rule or order an appointment of the time and place of attendance in obedience thereto, signed by the person or persons appointed to hold the inquiry, or by one or more of such persons, shall be also served together with or after the service of such rule or order: Provided always that every person whose attendance shall be so required shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in the Supreme Court.

33: And it shall and may be lawful for the person or persons to be named in any such rule or order as aforesaid for holding such inquiry, and he and they are hereby required to make, if need be, a special report to the Supreme Court touching the conduct at, or absence from, any such inquiry of any person required to attend thereat; and the Supreme Court is hereby authorized to institute such proceedings and make such order and orders upon such report as justice may require, and as may be instituted and made in any case of contempt of that Court; and whenever by virtue of this Act an examination of any person has been taken before any person or persons as aforesaid, the depositions taken down by the person holding the inquiry shall be returned to and filed and kept in the Office of the Registrar of the Supreme Court, and office copies of such depositions may be given out to any person.

Report may be made as to conduct or absence of witness.

POWERS OF THE BOARD.

34: Subject to the provisions restrictions and conditions contained in this Act, the Board may, for the purposes of this Act, from time to time, by themselves their surveyors agents officers and workmen, exercise the following powers, or any of them, and may execute do or cause to be executed or done any of the following matters works or acts, namely:—

Powers of the Board.

- (a.) The Board may cleanse repair or otherwise maintain in a due state of efficiency any existing watercourse or outfall for water, or any existing bank or defence against water.
- (b.) The Board may deepen widen straighten divert or otherwise improve any existing watercourse or outfall for water, or remove obstructions to watercourses or outfalls for water, or raise widen or otherwise alter any existing defence against water.
- (c.) The Board may make any new watercourse or new outfall for water, or erect any new defence against water, erect any machinery; or do any other act not hereinbefore referred to required for the drainage of the district.
- (d.) The Board may construct any sewers or drains of such construction and in such manner as the Board may think necessary or proper for carrying the purposes of this Act into execution, and may break up the soils and pavements of any public or private streets highways roads ways or foot-

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paths within the district, and excavate and sink trenches for the purpose of laying down making and constructing common sewers or drains therein, and may cause such common sewers or drains to communicate with the sea or any arm thereof, or with any stream or watercourse either within or without the limits of the district, and also from time to time may open cleanse and repair such drains or sewers or alter the position thereof; and may do all such acts matters and things as the Board shall judge expedient necessary or proper for making amending repairing completing or improving any watercourse sewer or drain or other works to be made done and provided for the purposes of this Act.

- (e.) The Board may purchase and hold any lands within or without the district, which in the Board's opinion may be required for the purposes of this Act.
- (f.) The Board may impound divert or take any water from any watercourse within the district as shall in the Board's opinion be required for the purposes of this Act.
- (g.) Without any previous payment tender or deposit, the Board may enter upon and use any land within the district for the purpose of taking any earth stone or clay therefrom, and the Board may enter upon and use any lands adjacent for making temporary roads or approaches to any works connected with any works constructed under this Act: Provided always that the Board shall pay reasonable compensation for the use of such land or otherwise, and such compensation if the parties cannot agree shall be settled by or before a Resident Magistrate or two Justices of the Peace in the district, who is or are hereby authorized to hear and determine the same.
- (h.) The Board may make, maintain, alter or discontinue, such dams tunnels drives reservoirs cisterns waterworks tanks aqueducts drains cuts sluices pipes culverts engines and other works of any kind or description, and may erect such buildings and machinery within the district as the Board may think proper for the purposes of this Act.

Power to enter lands
for survey &c.

35. For the purposes of any inspection survey or inquiry, directed as necessary under any of the provisions of this Act, the Board may by themselves, their surveyors agents officers and workmen, enter upon any lands or premises in the district within or upon which it is proposed that any works shall be executed under this Act, or any lands and premises adjoining thereto, and if necessary may dig or bore therein, and also examine any weir sluice or floodgate erected in or upon any river or stream which it shall seem to them to be necessary to examine, and may open or raise any such floodgate or sluice for the purposes of any such inquiry, and make any soundings, or bore the bed or channel of any part of any such river, or any mill course connected therewith, making reasonable compensation for any damage done thereby; and the amount of such compensation shall be ascertained by any Resident Magistrate, or by two or more Justices of the Peace in the district, and they are hereby authorized and required to inquire into and determine the same, and for that purpose to examine on oath or otherwise all such witnesses as shall be produced before them, and to make such order as to them shall seem just for the payment of the amount of such damage by the Board to the party aggrieved, which said order shall be final and conclusive: Provided always that the said Board, their surveyors agents engineers officers and workmen, may enter upon

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such lands as aforesaid, and do all necessary matters and things by this Act authorized previously to or pending the decision of such Resident Magistrate or Justices.

36. The Board may take and hold any lands within the district which may in their opinion be required for the purposes authorized by this Act. Power to take lands.

37. It shall be lawful for the Board, or any officer or officers who shall be appointed by the Board, from time to time to cut dig take and carry away, or cause to be cut dug taken or carried away, any quantity of earth or materials in upon out of or from any lands within the district of any person or persons whomsoever, and such reasonable satisfaction for digging and taking of earth or other materials therefrom for the purposes of this Act shall be made to the owner or owners occupier or occupiers of such lands for the damages he she or they shall thereby sustain as shall be agreed upon between the Board and the owner or owners occupier or occupiers of such lands; and if such owner or owners occupier or occupiers cannot agree concerning the amount of such damages, then the same shall be assessed adjudged and finally determined by any Resident Magistrate or any two Justices of the Peace within the district, upon complaint thereof made by such owner or owners occupier or occupiers, notice thereof in writing being given by him her or them to the Board fourteen days before such complaint be made. Power to Board to enter and take earth &c.

38. If any land within the district shall not, as to the drainage of surface and storm water, be drained by some efficient drain communicating with some public watercourse or main sewer or drain used or made under the authority of this Act, the Board may construct, through any land lying between such first-mentioned lands and the nearest such watercourse main sewer or drain, an open drain, paved or otherwise suited for draining therefrom and from the intermediate lands such surface and storm water as aforesaid, but so that such drain shall not pass through or under any house building or other like structure, and all expenses incurred by the Board in respect of any such drain or any part thereof made through the land of any separate owners shall be repaid to the Board by such owners. Power to make drains from private lands &c.

39. If it shall seem expedient to the Board, at any time or times within six months after any notice or contract shall be given or entered into under the provisions of this Act, not to take or injure the whole or any part of any land or other matter or things named or described in such notice or contract, it shall be lawful for the Board to serve a notice upon or cause the same to be left at the usual place of abode of the person or persons who are or appear by the said notice or contract to be interested in such land or other matters or things, stating that the same and what part thereof will not be taken for or injured by anything to be done under this Act, and the notice or contract mentioned in the said notice or such part thereof as shall relate to the part not required to be taken or injured as aforesaid (at the option of the Board) shall be utterly void and of none effect to all intents or purposes whatsoever; and in case a part only of any notice or contract shall become void as aforesaid, the Board shall fix and ascertain the portion of the sum mentioned in any such notice or contract which should be deducted on account of the part not required to be taken or injured and if necessary apportion the residue amongst the persons entitled thereto, and the Board shall amend such notice or contract accordingly, and such amended notice or contract shall have all the force and effect as any other notice or contract under this Act: Provided always that in all cases where the Board shall serve notice that it is not intended to take or injure the whole or any part of such land Power to relinquish lands or rescind contracts.

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matters or things the person or persons interested therein and incurring any loss or expense in consequence of the Board having previously required the same, shall be entitled to compensation for such loss and expenses, and in case the amount thereof cannot be agreed upon the same shall be ascertained and fixed by any Resident Magistrate or two Justices of the Peace within the district.

Power to make drains under public roads.

40. It shall be lawful for the Board from time to time to open the ground for the purpose of making and to change the level or otherwise amend or enlarge any sewer or drain under any of the public or private streets or roads within the district for improving the drainage thereof.

Watercourses and drains not to be allowed to become a nuisance.

41. The said Board shall cause all watercourses drains or sewers which shall from time to time be vested in them or under their management to be constructed and kept so as not to be a nuisance or injurious to health and to be properly cleared cleansed and emptied.

Watercourses and drains vested in Board.

42. All public drains and sewers now made or hereafter to be made within the district, and all watercourses, shall be and the same are hereby vested in the Board.

Penalty for interfering with drains &c.

43. Every person, not being authorized for that purpose by the Board, who shall, without the consent of the Board, make any drain into any watercourse sewer or drain vested in the Board by this Act, or who shall, without such consent, stop or obstruct any such last-mentioned watercourse sewer or drain, shall on conviction forfeit and pay for every such offence a penalty not exceeding fifty pounds, and the Board may cause such branch drain to be re-made as they think fit, and all expenses incurred thereby shall be repaid to the Board by the person making such branch drain, and may be recovered before any Justice in a summary way.

Board not liable for consequential damage.

44. Nothing herein contained shall be construed to render the Board liable for any consequential damages which may happen to any land or other property through or by the accidental overflowing of any river stream or watercourse, or by the sudden breaking of any bank dam sluice or reservoir whatsoever which under the provisions of this Act the Board may take upon them the duty of regulating maintaining or making: Provided nevertheless, that if the owner or occupier of such land shall have given notice in writing to the Board, warning them of the probability of such damage or the weakness or deficiency of any such dam reservoir bank or sluice, and requiring them to strengthen amend or repair the same, and the Board shall not within a reasonable time after the delivery of the said notice take proper precautions to prevent the same, then and in such case the amount of the consequential damages which shall happen through neglect thereof shall be made good out of the rates to be levied by the Board under this Act.

COMPENSATION.

Compensation.

45. The Board shall make to the owners of, and to all other persons having any less estate or interest in, any land or water taken or used for the purposes of this Act, or which may be damaged or injuriously affected by the construction or maintenance of any works for the purposes of this Act, compensation for such land water occupation or damage.

Claims to be made within twelve months.

46. All claims for compensation shall be made in writing to the Board within twelve calendar months from the time when such claim shall have arisen, and no claim for compensation shall be allowed unless made within that period.

How compensation to be ascertained.

47. The amount of compensation shall, unless the parties can agree thereon, be ascertained in the manner pointed out and set forth

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in "The Lands Clauses Consolidation Act, 1863," and "The Lands Clauses Consolidation Act Amendment Act, 1866," which Acts for that and other purposes are, so far as the same may be applicable to and not inconsistent with the provisions of this Act, incorporated with and shall be deemed to form part of this Act.

48. In the case of any infant claimant having no legal guardian resident within the colony, the word "guardian" when used in "The Lands Clauses Consolidation Act, 1863," shall, for the purposes of this Act, be held to mean the Registrar or Deputy Registrar of the Supreme Court of the Canterbury District.

Interpretation of "guardian" in certain cases.

RATES.

49. All land within the district shall be rateable property within the meaning of this Act, save and except land the property of Her Majesty and unoccupied, unless the same shall have been sold or leased or contracted to be sold or leased, land the property of Her Majesty and used for public purposes, land and buildings in occupation of the Crown or the Government of the colony: Provided that nothing herein contained shall exempt from being rated hereunder any lands of the Crown occupied under a license from the Crown or other lawful authority, nor lands of the Crown which have been or shall hereafter be sold or leased, or which have been or shall be contracted to be sold or leased, on the ground that no grant or lease from the Crown has been made to the purchaser or proposed lessee or tenant thereof, but such lands shall be liable to be rated as if a Crown grant or lease thereof had been made and issued.

Rateable property.

50. It shall be lawful for the Board, and they are hereby respectively authorized and required once in every year, for the purposes of this Act, to make and levy a rate equally upon all rateable property within the district, and no such rate made in any one year shall exceed the amount of one shilling in the pound on the annual value of such property.

Board may make and levy rates.

51. Every rate which the Board is by this Act authorized to make and levy shall be made payable and levied, at yearly half-yearly or such other periods less than a year as the Board shall think fit, upon every person who occupies, or if there be no occupier then upon the owner of any rateable property whatsoever within the district, and the said rates shall be vested in the Board and payable at such times as the Board shall appoint: Provided that notwithstanding any of the provisions thereof whereby the owner of rateable property is to be rated, or to pay any rate on the default or instead of the occupier thereof, the Crown shall not be rated to or pay any rate.

On whom rates may be made and levied.

52. Every rate shall be made for and in respect of such period after the making of such rate as the Board shall think fit.

Rate to be made for particular period.

53. Notice of the intention of making every rate and of the time at and the period for which the same is intended to be made, and of a place where a statement of the proposed rate is deposited for inspection by the ratepayers, shall be given by the Board by advertisement in some newspaper generally circulating within the district, one week at least previously to such rate being made.

Notice of intention to make rate.

54. Every such rate shall be fairly transcribed in a book to be called the "rate book" to be kept for that purpose, and may be in the form given in the Second Schedule hereto, or as near thereto as the circumstances of the case will permit; and every such rate shall contain an account of every particular set forth at the head of the respective columns as far as the same can be ascertained, and every such rate shall be signed by not less than two members of the Board.

Form of rate.

55. The statement of the proposed rate and the rate immediately

Rate to be open for inspection.

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after the same is made shall be open to the inspection of any person interested or rated in such rate at all reasonable times, and any such person may take copies of or extracts from such statement or rate without paying anything for the same; and any person having the custody of such statement or rate who shall refuse to permit, or shall not on request by any person so interested or rated as aforesaid, permit him to take copies of or extracts from such statement or rate, shall for every such offence be liable to a penalty of five pounds.

Rate may be amended
by Board.

56. The Board may from time to time amend any rate made by virtue of this Act by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated, if it appears to them that such person has been under-rated or over-rated, or by making such other amendments therein as will make such rate conformable to this Act, and no such amendment shall be held to avoid the rate: Provided always that every person aggrieved by any such alteration shall have the right of appeal therefrom as he would have had if his name had been originally inserted in such rate and no such alteration had been made, and as respects such person the rate shall be considered to have been made at the time when he received notice of such alteration; and every person whose rates are altered shall be entitled to receive seven days' notice of such alteration before the rate shall be payable by him.

Valuation of rateable
property.

57. The Board shall, within six months after the passing of this Act, and they may from time to time afterwards as shall seem fit, cause to be made a valuation of all rateable property within the district by competent persons to be called valuers, and the rates made by the Board for the purposes of this Act shall be made upon such valuation, and in every such valuation the property rateable shall be computed at its annual value, that is to say, at the rent at which the same might reasonably be expected to let from year to year: Provided that such annual value shall in no case be computed at less than five pounds per centum upon the fair capital value of the fee simple of such rateable property, and provided also that all rateable property, which shall not since the sale alienation or other disposition thereof by the Crown have been improved by building cultivation enclosure or in any other like manner, shall be computed as of the annual value of five pounds per centum upon the fair capital value of the fee simple thereof.

Form of valuation
and return.

58. Every valuer shall make and return his valuation in the form contained in the Third Schedule hereto, and shall also at the same time state in such return with regard to each rateable tenement or hereditament, the several particulars shown in the respective columns of the said Schedule.

Entry on premises by
valuer.

59. Every valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any rateable property within the district without being liable to any legal proceedings on account thereof.

Valuer empowered to
make inquiries.

60. It shall be lawful for any valuer to put to any person in occupation or charge, or being the owner of any rateable property which such valuer shall have been authorized under the provisions hereof to value, questions upon all such matters as shall be necessary to enable such valuer to state correctly the several particulars herein required to be stated in his valuation and return with regard to the premises, and if, after being informed by such valuer of his purpose in putting such questions, and of his authority under this Act to put the same, any such person in occupation or charge, or any such owner, shall

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refuse or wilfully omit to answer the same to the best of his knowledge or belief, or shall wilfully make any false answer or statement in reply to such question, such person shall on conviction forfeit and pay for every such offence a penalty not exceeding ten pounds. Whenever the name of any owner liable to be rated under the provisions of this Act is not known to the Board, it shall be sufficient to rate such owner as the owner of the property to be rated by the designation of "the owner" without stating his name.

APPEALS AGAINST RATES.

61. If any person think himself aggrieved on the ground of unfairness or incorrectness in the valuation of any rateable property included in any rate, or in the amount assessed thereon, he may at any time within one month after such rate is made appeal to the Resident Magistrate's Court or Court of Petty Sessions holden nearest to such rateable property; but no such appeal shall be entertained by such Court unless seven days' notice in writing of such appeal be given by the aggrieved party to the Board; and at the sittings of the Court for which such notice is given, or any adjournment thereof, the Court shall hear and determine all matters of complaint on the ground of unfairness or incorrectness in the valuation of such rateable property, or in the amount assessed thereon of which notice has been given, but no other objection, and its decision shall be final, but such Court shall not have power to quash any rate.

Appeal to Justices
for incorrectness in
valuation.

62. If any person think himself aggrieved for any cause of grievance not cognizable under the last section by any rate made by the Board under the authority of this Act, or by any matters included in or omitted from the same, he may, at any time within one month after the same is made, give notice of his intention to appeal to the next sitting of the District Court for the district in which the rateable property is situate, holden not less than fourteen clear days after such notice, but if the property is not within any district over which a District Court has jurisdiction, the last-mentioned appeal shall be to the next sitting of the Supreme Court appointed for such appeals within the judicial district within which the rateable property is situate, and shall be to such Supreme Court at a sitting thereof specially appointed by the Judge or Judges to whom such judicial district shall have been assigned for hearing appeals in hereunder, and, if sittings of the Supreme Court be usually holden at more places than one in such district, the appeal shall be to the sitting held at that place which is nearest to the rateable or rated property, and no such appeal shall be entertained at such Supreme or District Court unless seven clear days' notice in writing of such appeal, stating the nature of grounds thereof, be given by the aggrieved party to the Board: Provided always that no such notice of appeal shall prevent the recovery of any such rate as hereinafter provided, except when the ground of appeal is that the appellant is not the owner or occupier of the property rated, and in such case the rate shall not be recoverable until the determination of the appeal, but the appellant shall give security for the payment thereof, with sufficient sureties and in such manner and in such form as the Registrar of the Supreme Court, or Clerk of the District Court, as the case may be, shall in each case direct, and if such security be not given within seven days after the notice of appeal shall have been given, the appellant shall lose his right of appeal, and the rate thereupon become recoverable.

Appeal generally to
District or Supreme
Court.

63. The District Court or Supreme Court, as the case may be, shall hear and determine the appeal in a summary way at the sittings thereof for which any such notice of appeal is given, or at the following

Power of District or
Supreme Court.

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sitting, when the Court thinks fit to adjourn the appeal to the following sittings, and the decision of the Court shall be final and conclusive on all parties.

Amendment of rate
by Justices or Court.

64. Upon any such appeals as aforesaid, when there shall appear to be just cause for giving relief, the Resident Magistrate's Court, or Court of Petty Sessions, or District Court and Supreme Court respectively, shall have the power to amend the rate in respect of which the appeal is made, by altering the sum at which any person is rated therein, and the said Supreme Court and District Court respectively shall also have power to amend, by inserting therein or striking out the name of any person, or in any other manner which such Court respectively shall think necessary, for giving relief, and without quashing or wholly setting aside such rate: Provided always, that if any District Court shall be of opinion that it is necessary, for the purposes of giving relief to the person appealing, that the rate should be wholly quashed, then such Courts respectively may quash the same: Provided also, that if such Supreme Court or District Court shall quash such rate, then, notwithstanding the quashing of such rate, all sums of money charged by such rate, or any person charged by such rate, may, if such Courts respectively so order, be levied by such means and in the same manner as if no appeal had been made against such rate, and the money which any person charged in such rate pays or which is recovered from him shall be taken as a payment on account of the next effective rate made on him.

Quashing of rate by
District or Supreme
Court.

Costs of appeal.

65. It shall be lawful for the Resident Magistrate's Court, Court of Petty Sessions, District Court, and Supreme Court respectively, upon any such appeal as aforesaid, to order and award to the party for whom such appeal shall be determined, or upon proof there to be made of notice of any appeal having been given under the provisions hereinbefore contained where the person giving such notice has not afterwards prosecuted such appeal, to order and award to the person to whom such notice shall appear to have been given such costs and charges as by the said Courts respectively in their discretion shall be thought reasonable and just to be paid respectively by the party against whom such appeal shall be determined, or by the party so giving notice and not prosecuting, as the case may be, and all such costs and charges may be recovered by the like means and in like manner respectively as any costs awarded by such Courts in other cases may lawfully be recovered.

No order to be re-
moved by *certiorari*.

66. No order of the Resident Magistrate's Court, or Court of Petty Sessions, or District Court, upon any such appeal shall be removed by *certiorari* or otherwise into the Supreme Court.

RECOVERY OF RATES.

Recovery of rates by
action.

67. If any person rated under the provisions of this Act fail to pay any of the said rates due from him for the space of fourteen days after demand thereof in writing by the Board, or their collector duly authorized in that behalf, the Board may recover such rates from the person so making default before any Justice, or by an action of debt in any Court having jurisdiction, and upon any complaint or suit for the recovery of any rate from any person the invalidity or badness of the rate as a whole shall not avail to prevent such recovery.

Rate books to be
evidence.

68. In any proceeding to levy and recover, or consequent on the levying or recovering of, any rate under the provisions of this Act the books of rates of the Board, and all entries made therein in manner by this Act directed, sealed with the seal of the Board, by the production thereof alone shall be evidence of such rate and of the contents thereof, without any evidence that the notices required by or other requirements of this Act have been given or complied with.

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69. If any person quit or be about to quit any rateable property before he have paid the rates then payable by him in respect thereof, and do not pay the same to the Board or their collector on demand, any Justice may order the same to be paid by such person.

Remedy against persons quitting before payment of rates.

70. When the occupier or owner who is rated to any rate ceases to be the occupier or owner of the property in respect whereof he is rated before the end of such period, such occupier or owner shall be liable to pay a portion only of the rate payable for the whole of the period for which such rate was made proportionate to the time during which he continued to be the occupier or owner, and in every such case the person who after the making of such rate shall be the occupier or owner of any property so rated as aforesaid during part of the period for which such rate was made and liable to be rated in respect thereof, shall pay a portion of such rate proportionate to the time during which he occupied or held the property so rated, and the same shall be recovered from him in the same manner as if he had been originally rated for such property.

Rates to be apportioned on the holder quitting.

71. When the occupier of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the Board or their collector may demand the amount of such or any part thereof from the owner of the rateable property, and on non-payment thereof may recover the same from such owner, before any Justice, and subject to any agreement previously made between the said owner and occupier, the said owner may recover the sums so paid, if not paid on demand from such occupier, as arrears of rent could be recovered from the said occupier by the said owner.

Owner to pay rates in default of occupier.

72. When the owner of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the Board or their collector as aforesaid may demand the amount of such rate or any part thereof from the occupier for the time being of such rateable property, and on non-payment thereof may recover the same before any Justice in like manner as rates may be recovered from any occupier liable to be rated, and every such occupier shall be entitled to deduct from the rent payable by him to such owner so much as was so paid by or recovered from him.

Rates due from owner may be recovered from occupier.

73. Provided always that no such occupier shall be required to pay any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which after such demand, and after notice not to pay the same to his landlord, at any time accrues and becomes payable by him, unless he refuse, on application being made to him for that purpose by or on behalf of the Board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable, but the burden of proof that the sum demanded of such occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall be upon such occupier.

But occupier not to be required to pay more than the amount of rent due from him.

74. The provisions contained in the sections numbered from three to seven inclusive of "The Sale of Land for Non-payment of Rates Act, 1862," and the Schedule thereto, shall apply to any rate imposed under this Act, whether such rate shall have been made on the occupier or owner of the rateable property. The word "collector" where used in the said section shall, in the application thereof hereunder, be deemed to mean the Clerk of the Board.

"The Sale of Land for non-payment of Rates Act, 1862," to be applicable.

BORROWING POWERS.

75. It shall and may be lawful for the Board from time to time to borrow and take up at interest, on the security or credit of the rates authorized to be made and levied by the Board, any sum or sums of

Board may borrow moneys.

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money necessary for defraying the costs charges and expenses of any work or works executed or to be executed by the Board under the authority of this Act, for paying for any lands purchased or injuriously affected, and for defraying the costs charges and expenses of and incidental to the purchasing building constructing repairing amending renewing and maintaining any buildings drains sewers flood gates dams reservoirs machinery steam engines bridges and other necessary works authorized by this Act, and for the purpose of securing the repayment of any sums of money so borrowed, together with such interest as aforesaid, the Board may issue debentures in the form in the Fourth Schedule hereto, or to the effect thereof, to the person or persons by or on behalf of whom such sums are advanced: Provided that the sums of money so borrowed and taken up as aforesaid shall be repaid within a time to be named in such debentures, not being for a longer period than fifty years from the making thereof, together with interest thereon, and coupons may be attached to such debentures for payment of interest yearly or half-yearly or otherwise, as the Board shall direct: Provided also that the rate of interest to be paid on such sums of money shall not exceed seven per centum per annum.

Borrowed moneys
charged upon rates.

76. The principal moneys so borrowed, with interest as aforesaid, shall be a first charge on the rates authorized by this Act to be levied by the Board, and from and after the exercise by the Board of the power of borrowing hereby conferred, it shall be the duty of the Board, and they are hereby required, pursuant to the powers in that behalf hereinbefore conferred on them, annually to make and levy a rate which shall produce and realize sufficient moneys to pay the interest on the sums which may for the time being have been borrowed and owing by the Board, and to provide a sinking fund for the repayment of the sums so borrowed as herein provided.

Sale of debentures.

77. The Board may from time to time, at such times and places as they shall appoint in that behalf, offer or cause to be offered for sale such debentures.

Debentures may be
transferred.

78. Every person or corporation who shall be entitled to any debentures, and the money thereby named, may transfer the same to any person whatsoever, by an indorsement on the back of such debenture.

Sinking fund.

79. In order to discharge the principal money borrowed as aforesaid on security of any of the rates, the Board shall every year appropriate and set apart out of such rates respectively a sum being not less than equal to one-sixtieth part of the sums so borrowed respectively as a sinking fund to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of the debentures of the colony of New Zealand or of any other of Her Majesty's British colonies, and the interest of the moneys so invested, when and as the same becomes due, shall from time to time be recovered and invested in like manner in order that the moneys so set aside and invested may accumulate at compound interest, and no such debentures or securities shall be sold or disposed of by the Board except for the purposes hereinafter mentioned.

Government debentures
to be sold to pay
off debentures.

80. As often as any moneys shall become due and payable as principal money secured by any debentures as aforesaid the Board shall cause the Government debentures or other securities in which the said sinking fund shall have been invested, or such part thereof as may be required for that purpose, to be sold or otherwise converted into money, and shall apply the moneys arising from such sale or conversion, and if requisite any other moneys received by the Board by virtue of any rates, to the payment and satisfaction of the debentures upon which the principal money shall have become due and payable.

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81. If and whenever the Board shall refuse or neglect to make and levy a rate of sufficient amount to comply with the provisions of this Act, or shall refuse or neglect to do or cause to be done any act deed matter or thing necessary to be done or caused to be done by the Board in connection with the making levying recovering or appropriation of any such rate or rates, it shall and may be lawful for any holder or holders of any two or more debentures so secured upon rates to apply to the Supreme Court of New Zealand, or any Judge thereof, for a writ of *mandamus* ordering the Board and the members thereof to do or cause to be done all or any of the acts before mentioned, or any acts necessary for the proper compliance with the provisions of this Act; and such Court, or any Judge thereof, is hereby empowered to grant such writ of *mandamus* for all or any of the purposes for which it may have been applied for as such Court or Judge may deem fit and proper, and if necessary to enforce the performance or the doing of such matters and things.

Writ of *mandamus* may be obtained.

82. If at the expiration of one week from the time when any principal money which may be borrowed as aforesaid, or any interest thereon has become due upon any debenture issued under the provisions of this Act, and after demand in writing by the holder or holders thereof, the same be not paid, the holder or holders thereof may, without prejudice to any other mode of recovering, apply for the appointment of a Receiver to the Supreme Court, and the said Court, or any Judge thereof, is hereby empowered, after notice to the Board of such application and after hearing the parties appearing, to appoint some person to make levy collect and receive any rate and to order that all or a sufficient part of the moneys the produce of any rate in the hands of any person for or on behalf of the Board, and all or a sufficient part of the moneys and securities for money constituting for the time being the sinking fund aforesaid, shall be forthwith transferred to and vested in such Receiver solely; and every such order, after such Receiver shall have given security for the execution of the duties of his office, shall take effect accordingly until the whole of the principal and interest moneys for the time being due, together with the costs of such application and the costs of collection and charges of such Receiver are fully paid.

Receiver may be appointed by Supreme Court.

83. Every Receiver so appointed as aforesaid shall, subject to the order of the Supreme Court of New Zealand have, for the purposes of the payment of any such principal and interest moneys, all the powers and authorities of making and levying rates, and of doing and performing all acts matters and things necessary for or preliminary to the making and levying of a rate, which by this Act are conferred upon or given to the Board, and such powers and authorities shall continue in such Receiver during the term of his office.

Powers and duties of Receiver.

84. If the Board shall refuse, or wilfully neglect to make or levy or to take any necessary steps to collect and recover, any such rate or rates by this Act required to be made and levied, every member of the Board so refusing or neglecting shall be liable to a penalty not exceeding fifty pounds.

Penalty on members of Board.

85. The costs of and incidental to any application under this Act shall be in the discretion of the Supreme Court or the Judge hearing such application, and any costs awarded shall be recoverable by the process of the Court.

Costs of applications.

CONTRACTS.

86. It shall be lawful for the Board to contract with and employ such engineers contractors surveyors agents and workmen as they shall think fit and to enter into such contracts with any such persons

Mode in which Board may enter into contracts.

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for the execution of any works directed or authorized by this Act to be done by the Board, or for furnishing materials, or for any other thing necessary for the purposes of this Act; and every such contract for the execution of any work shall be in writing, and shall specify the work to be done, and the materials to be furnished, and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof and the power hereby granted to the Board to enter into contracts may lawfully be exercised as follows, that is to say,—

- (a.) Any contract which if made between private persons would be by law required to be in writing and under seal, the Board may make in writing and under the common seal of the Board, and in the same manner may vary or discharge the same.
- (b.) Any contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, the Board may make in writing signed by the members or any two of their number acting by the direction and on behalf of the Board, and in the same manner may vary or discharge the same.
- (c.) And all contracts made according to the provisions herein contained being only executed by the persons contracting to perform the works therein comprised respectively shall be effectual in law, and shall be binding on the Board and their successors and all other parties thereto, their successors heirs executors or administrators, as the case may be, and in case of default in the execution of any such contract either by the Board or by any other party thereto, such actions or suits may be maintained therein, and damages and costs recovered by or against the Board or the other parties failing in the execution thereof, as might have been maintained and recovered had the same contracts been made between private persons only.

OFFICERS.

Appointment of officers &c.

87. The Board may from time to time appoint and employ a treasurer clerk surveyor engineers valuers collectors and all such other officers to assist in the execution of this Act as they shall think proper and necessary, and from time to time to remove any of such officers and appoint others in the room of such as shall be so removed, or as may die resign or discontinue their offices, and may pay such salaries and allowances to the said officers respectively as the Board shall think reasonable which said 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.

Security to be given by officers.

Member of the Board cannot be paid officer.

88. No member shall be capable of being or continuing a paid clerk or treasurer or any other such officer of the Board as in the last preceding section mentioned.

Officers accepting or exacting fees.

89. Every officer employed by the Board who shall exact or accept on account of anything done by virtue of his office, or in relation to the matters to be done under this Act, any fee or reward whatsoever other than the salary or allowance allowed by the Board, or who shall be in anywise concerned or interested in any bargain or contract made by the Board, shall be incapable of being afterwards employed by the Board and shall forfeit the sum of one hundred pounds, and any person may sue for such penalty by action of debt in any Court of competent jurisdiction, and shall on recovery thereof be entitled to full costs of suit.

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90. Every collector appointed or employed by the Board by virtue of this Act to collect any rate shall, within seven days after he shall have received any moneys on account of any such rates, pay over the same to the Board, in such manner as the Board shall direct, and every such collector shall, in such time and in such manner as the Board shall direct, deliver to them true and perfect accounts in writing under his hand of all moneys received by him, and of all moneys paid over by him, by virtue of this Act, and also a list of the names of all persons who have neglected or refused to pay any rate or money owing to them, with a statement of the moneys due from them respectively, and in respect of what several periods and rates the same are due respectively.

Collectors to pay over moneys.

91. If any such officer fail to render such accounts as aforesaid, or to produce and deliver up the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for five days after being thereunto required any officer of the Board fail to deliver up to the Board or to any person appointed by them to receive the same, all papers and writings property matters and things in his possession or power relating to the execution of this Act or belonging to the Board, any two Justices may hear and determine the matter in a summary way, and may order such officer to render such accounts, or to deliver up such vouchers and receipts as aforesaid, or to pay over the balance owing by him, or to deliver up all such papers writings property matters and things, and if such officer shall neglect or refuse to obey such order he may by such Justices be committed to gaol for any period not exceeding six months.

Officer failing to render accounts or to pay balance and deliver over property.

Penalty.

92. No such proceeding against or dealing with any officer as aforesaid shall deprive the Board of any remedy which they might otherwise have against any surety of such officer.

Proceeding not to deprive the Board of other remedies.

ACCOUNTS.

93. The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid which books shall at all reasonable times be opened to the inspection of any of the members of the Board or ratepayers and any holder of debentures or other creditor of the Board without fee or reward, and the members and persons aforesaid, or any of them, may take copies of or extracts from the said books without paying anything for the same, and any clerk or other person having the custody of the said books, who shall not, on every reasonable demand of any member ratepayer holder of debentures or creditor as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty of five pounds for every such offence.

Books of account to be kept.

94. The Board shall cause their accounts to be balanced in each year to the thirty-first day of December, and the Board shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made, and of all contracts entered into, and of all moneys received or expended by virtue of this Act, during the preceding year, and of all available assets and of all debts then owing by the Board, and such statement and account shall be laid before the two persons to be appointed as auditors of the district, who are hereby required to attend at the office of the Board as soon as conveniently may be after the balancing of the said accounts, and drawing out of the said statement and account, and who shall, in the presence of the clerk of the Board, if he desires to be present, proceed to audit the accounts of the year preceding such balancing; and the Board shall produce and lay before the auditors the accounts so balanced as afore-

Accounts to be balanced annually.

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said, together with the said statement and account, accompanied with proper vouchers in support of the same, and all books papers and writings in their custody or power relating thereto; and any person interested in the said accounts either as a holder of debentures, or a creditor of the body corporate, or as a ratepayer, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such accounts, and if the accounts of the Board be found correct, such auditors shall sign the same in token of their allowance thereof; but if such auditors think there is just cause to disapprove of any part of the said accounts, they may disallow any such parts of the said accounts as shall be so disapproved of.

Examination and settlement of accounts.

95. The accounts of the Board so balanced as aforesaid and audited, and either allowed or disallowed by the auditors as aforesaid, together with the said statement and account, shall be produced at the next meeting of the Board after such audit, at which meeting all such holders of debentures creditors and ratepayers, and other persons interested as aforesaid, may be present, and the accounts shall be then finally examined and settled by the Board, and if the same be found just and true they shall be allowed by the Board and certified accordingly under the hand of the chairman or person who shall act as chairman at such meeting, and after such accounts have been so allowed and signed by such chairman, and also by the auditors as hereinbefore provided, the same shall be final in regard to all persons whomsoever.

Appointment of auditors.

96. The Superintendent of the Province of Canterbury may from time to time appoint for the district two persons to be auditors of the accounts of the district, and may from time to time remove such auditors from office.

NOTICES AND LEGAL PROCEEDINGS.

Service of notices and legal proceedings.

97. Any summons or notice of any writ or other legal proceedings requiring to be served upon the Board may be served by the same being left at their office, or by being given personally to the chairman or the clerk of the Board.

Certain documents, how authenticated by Board.

98. Every order summons notice or other such document requiring authentication by the Board shall be sufficiently authenticated if signed by two members, or by the clerk of the Board, and it need not be under the common seal of the Borough, and may be in writing or in print, or partly in writing or partly in print.

Proceedings in estates of bankrupts.

99. If any person against whom the Board has any claim or demand become bankrupt or take the benefit of any Act for the relief of insolvent debtors, the chairman or clerk of the Board, in all proceedings against the estate of such bankrupt or insolvent, or under any petition sequestration or act of insolvency, or any other proceeding respecting or against such bankrupt or insolvent, may represent the Board, and act in their behalf in all respects as if such claim or demand had been the claim or demand of such chairman or clerk and not of the Board.

Proceedings in Resident Magistrates' Courts &c.

100. In all proceedings in any Resident Magistrate's Court or Court of Petty Sessions, or before any Justice under this Act in which the Board shall be concerned the chairman or the clerk of the Board may represent the Board and act in their behalf in all respects as though he, and not the said Board, had been the party concerned.

Reimbursement of officer.

101. The chairman or clerk shall be reimbursed all damages costs charges and expenses to which he shall be put, or with which may become chargeable, by reason of anything contained in either of the two last preceding sections.

In what newspaper

102. In all cases in which any matter or thing is hereby required

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to be published advertised or inserted by the Board in a newspaper generally circulating in the district, the said newspaper shall be such newspaper as the Board shall from time to time have appointed in that behalf, or where there shall be no Board at the time when such matter or thing ought to be advertised the said newspaper shall be such as the said Superintendent shall have appointed in that behalf.

advertisements shall be published.

LIMITATION OF ACTIONS, ETC.

103. That no plaintiff shall recover in any action to be brought against the Board or any other person for anything done in execution of the powers vested in the Board under this Act if tender of sufficient amends shall be made by or on behalf of the Board or other person before such action is brought, and in case no tender shall have been made, it shall be lawful for the defendant in any action, by leave of the Court in which such action shall depend, at any time before issue joined, to pay into Court such sum of money as they or he shall think fit, whereupon such proceedings order and adjudication shall be had and given in and by such Court as in actions where the defendant is allowed to pay money into the Court.

No action against Board if tender of sufficient amends be made.

104. That no action suit or information shall be brought commenced or prosecuted by any person for anything done in pursuance of this Act, or in execution of the powers or authorities herein contained, unless notice in writing of such action suit or information, specifying the ground or cause thereof and signed by the plaintiff or his attorney, shall be given to the Board or persons against whom proceedings are intended to be commenced at least one calendar month before such action suit or information shall be commenced.

Notice of action.

105. If any action suit or information shall be commenced or prosecuted against any person or persons for anything done or to be done in pursuance of this Act or in execution of the powers and authority hereby given, every such action suit or information shall be commenced or made within twelve calendar months next after the fact committed and not afterwards, and shall be tried in the province where the cause of action shall have arisen, and not elsewhere, and the defendant and defendants in such action or suit shall and may plead the general issue, and give this Act and the special matter in evidence without specially pleading the same otherwise than as aforesaid, at any trial to be had thereupon, and that the fact alleged to have been done in pursuance and by the authority of this Act, and if the same, shall appear to have been so done, or if any action or suit shall be brought after the time hereinbefore limited for bringing the same, or shall be brought and tried in any other place than as aforesaid, the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall become nonsuit or forbear prosecution, or discontinue his her or their action or actions suit or suits, or if judgment shall be given against him her or them upon demurrer or otherwise, then and in any of the said cases the defendant or defendants shall recover double costs for which he she or they shall have the like remedy as where costs by law are awarded.

Limitation of actions.

Place of trial.

Board may plead general issue.

106. If any action or actions suit or suits shall be commenced or prosecuted touching or concerning the right title or interest of any owner or proprietor of or in any lands taken or injuriously affected by anything done in pursuance of this Act, or in execution of the powers or authorities herein contained, such action or actions suit or suits shall not impede delay or hinder the Board from proceeding in the execution of the powers vested in them by this Act, but that the works or the exercise of the powers and authorities shall be proceeded with notwithstanding such action or actions suit or suits.

Actions not to delay works.

Christchurch District Drainage.

POWER OF PRIVATE OWNERS TO PROCURE OUTFALL.

Application for outfall to adjoining owner.

107. Any person interested in land in the district who is desirous to drain the same, and in order thereto deems it necessary that new drains should be opened through lands belonging to another owner, or that existing drains in lands belonging to another owner should be cleansed widened straightened or otherwise improved, may apply to such owner, who is hereinafter referred to as "the adjoining owner," for leave to make such drains or improvements in drains through or on the lands of such owner.

Mode of making application.

108. Any such application as aforesaid shall be by notice in writing under the hand of the applicant, and shall be served on the owner, and also on the occupier if the owner be not the occupier. The notice shall state the nature of such drains or improvements in drains, be accompanied by a map on which the length width and depth of the proposed drains or improvements in drains shall be delineated, and shall further state the compensation (if any) which the applicant proposes to pay.

Assent of adjoining owner.

109. The adjoining owner may by deed under his hand and seal, assent to such application upon such terms and on payment of such compensation as he may require, and any assent so given shall be binding on all parties having any estate or interest in the land, subject to the following provisions—

Firstly—That any arrangement entered into by any adjoining owner under any disability or incapacity, or not having power to assent to such application except under the provisions of this Act shall not be valid unless the same is approved by two surveyors, one of whom is to be nominated by the applicant and the other by the adjoining owner, and each of such surveyors, if they approve of the arrangement, shall annex to the document containing the same a declaration to that effect subscribed by them.

Secondly—That any compensation to be paid by the applicant to the adjoining owner in cases where such owner is under any disability or incapacity, or has not power to assent to such application except under the provisions of this Act, shall be applied in manner in which the compensation coming to parties having limited interests or prevented from treating and not making title, is applicable under "The Lands Clauses Consolidation Act, 1863."

Thirdly—That any owner or person other than the owner interested in the lands shall be entitled to compensation for any injury he may sustain by the making of the proposed drains or improvements in drains so that the claim therefor be made within twelve months after completion of such drains or improvements in drains, the amount of such compensation to be determined, in case of dispute, in the manner in which disputed compensation for land is required to be determined by the said "Lands Clauses Consolidation Act, 1863."

Record of assent of adjoining owner.

110. The applicant shall deposit in the office of the Registrar of Deeds at Christchurch the deed containing the assent of the adjoining owner to the proposed drains or improvements in drains, who shall keep the same in his office as a record of the proceedings between the parties, the applicant paying the deposit fees (if any).

Dissent of adjoining owner, and reference to Resident Magistrate &c.

111. The adjoining owner shall be deemed to have dissented from the application made to him if he failed to express his assent thereto within one month after the service of the notice of application on him,

Christchurch District Drainage.

and in the event of such dissent, there shall be decided by any Resident Magistrate or two or more Justices, unless the adjoining owner require the same within such period of one month to be decided by arbitration, the question following, that is to say,—

- (a.) Whether the proposed drains or improvements in drains will cause any injury to the adjoining owner or to the occupier or other person interested in the lands.
- (b.) Whether any injury that may be caused is or is not of a nature to admit of being fully compensated for by money.

112. The result of any such decision shall be as follows; that—

- (a.) If the decision is that no injury will be caused to the adjoining owner, to the occupier, or other parties interested in the lands, the applicant may proceed forthwith to make the proposed drains or improvements in drains.
- (b.) If the decision is that injury will be caused to the adjoining owner or other parties interested in the lands, but that such injury is of such a nature as to admit of being fully compensated by money, the Resident Magistrate Justices or arbitrators shall proceed to assess such compensation and to apportion the same amongst the parties in their judgment entitled thereto, and on payment of the sum so assessed, the applicant may proceed to make the proposed drains or improvements in drains.
- (c.) If the decision is that injury will be caused to the adjoining owner occupier or other parties interested in the lands, and that such injury is not of a nature to admit of being fully compensated by money, the applicant shall not be entitled to make the proposed drains or improvements in watercourses.

Result of decision of Resident Magistrate.

113. Where the compensation assessed by the Resident Magistrate, Justices, or arbitrators under the last preceding section is payable to any owner or other person who is under any disability or incapacity, or is not entitled to receive the same for his own benefit, such compensation shall be applied in the manner in which the compensation coming to parties having limited interests, or prevented from and not making title, is applicable under "The Lands Clauses Consolidation Act, 1863."

Application of compensation in case of owners under disability.

114. The Resident Magistrate, Justices, or arbitrators, as the case may be, in the event of their approving of a scheme of drainage as proposed by the applicant, or as modified by themselves shall cause a map thereof to be prepared, and it shall be the duty of the applicant to forward the same to the Registrar of Deeds at Christchurch, who shall, upon the payment of the fee of ten shillings, keep the same in his office as a record of the proceedings between the parties.

Duty of Resident Magistrate &c.

115. After drains have been opened or improvements in drains made in pursuance of this Act, it shall be lawful for the applicant, his heirs and assigns for ever thereafter, from time to time as it becomes necessary, to enter upon the lands through which such drains have been opened or improvements made for the purpose of, clearing out scouring and otherwise maintaining the same in a due state of efficiency, and if such drains or improvements in drains are not kept so cleared scoured or maintained in a due state of efficiency, the owner or occupier for the time being of the lands through or on which such drains or improvements in drains are made may clear out scour and otherwise maintain the same in a due state of efficiency, and recover the expenses incurred in such clearing out scouring or maintenance in a summary manner from the applicant, his heirs or assigns.

Power of applicant to clear drains.

Christchurch District Drainage.

Power of adjoining owner to divert drains.

116. The owner for the time being of the land through or in which any drain may be opened, or improvements in drains made in pursuance of this part of this Act, may fill up divert or otherwise deal with such drains or improvements in drains on condition of first making and laying down in lieu thereof drains equally efficient, and any dispute as to the efficiency of drains so laid down shall be decided by any Resident Magistrate or by two or more Justices.

Penalty for obstructing or injuring drains.

117. Any person who wilfully obstructs any person making any drain or improvements in drains in pursuance of this part of this Act and any person who wilfully dams up obstructs or in any way injures any drains or improvements in drains so opened or made shall for each offence incur a penalty not exceeding ten pounds to be recovered in a summary manner.

Costs of application.

118. All costs charges or expenses reasonably incurred by the adjoining owner in respect of any application made in pursuance of this part of this Act shall be defrayed by the applicant.

Provision in case of change of natural outfall.

119. Where any person is desirous, in pursuance of this part of this Act, of constructing any drain by means whereof any brook river or other natural watercourse will be diverted from its ordinary channel into any other brook river or natural watercourse, he shall cause a copy of the notice hereby required to be served on the adjoining owner to be published by advertisement, once at least in each of three successive weeks, in some local newspaper circulating in the district, and to be served on all owners of land abutting upon the brook river or other natural watercourse into which the diversion is made and situate, within four miles of the point of junction, and it shall be lawful for any person being the owner of land capable of being injured by the proposed drain, within eight weeks after the first notice of the proposed drain appears in the newspaper, to serve notice that he apprehends injury from such drain on the person proposing to make the same, and thereupon such owner shall be deemed to have dissented, and shall be entitled to the same rights and privileges under this part of this Act as if he were the adjoining owner.

MISCELLANEOUS.

Judges and Justices to hear and determine though liable to be rated.

120. Any Justice or Resident Magistrate, and any Judge of any District Court, and any Judge of the Supreme Court, notwithstanding that such Justice or Resident Magistrate or Judge is or is liable to be rated within the district under any of the provisions of this Act contained, or is a resident or is owner or occupier of land within the district, may hold any Court or do any act matter or thing, or adjudicate in the recovery of rates, and in appeals against rates, and in revising lists of voters, and may hear and determine informations and complaints, and hear and adjudicate upon all other matters and things which such Justice, Resident Magistrate, Judge of a District Court, or a Judge of the Supreme Court might hold do or adjudicate upon if he had not been liable to be so rated or had not been such resident owner or occupier.

Malicious destruction of property.

121. If any person or persons whomsoever shall at any time or times hereafter wilfully and maliciously cut break down destroy or damage any bank drain sewer dam mill engine building sluice or any other of the works which shall be erected or made for the purposes of this Act or any part thereof, such person or persons shall be guilty of felony, and being convicted thereof shall be liable at the discretion of the Court to be imprisoned for any term not exceeding three years or a penalty not exceeding five hundred pounds.

Penalty for obstruction.

122. Every person who shall at any time obstruct the Board, or any person appointed by them, in the performance of anything which

Christchurch District Drainage.

they are respectively empowered or required to do by this Act shall be liable to a penalty not exceeding ten pounds.

123. Every offence hereby made punishable by a penalty shall be prosecuted, and all fines and penalties imposed by this Act shall be recoverable in a summary way before any two Justices of the Peace in the manner provided by "The Justices of the Peace Act, 1866," or by an Act for the time being in force for the like purposes as those of the said last-mentioned Act.

Penalties recoverable summarily.

124. The following works constructed and made by the Mayor, Councillors, and Burgesses of the City of Christchurch, namely,—

Certain works constructed by the Christchurch City Council to be taken over and paid for by the Board.

The main outfall drain commencing from Tuam Street in the said city and extending to the estuary at the confluence of the rivers Avon and Heathcote, and the brick sewers constructed on the East and South Town Belts respectively of the said city—

are hereby declared to be transferred to and vested in the Board, and the Board shall, out of the first moneys received by them by the exercise of the borrowing powers hereby conferred on them, pay to the said Mayor, Councillors, and Burgesses of the said city the sum of eighteen thousand pounds, being actual costs of such works :

Provided that the said sum of eighteen thousand pounds when so paid shall be deemed to be money borrowed under the provisions of "The City of Christchurch Loan Act, 1871," and shall be expended in permanent works or undertakings connected with sewerage and drainage within the City of Christchurch.

Proviso.

125. No person shall, without the consent of the Board, cause any filthy or unwholesome water or washings of manufactories or breweries, or other foul or impure liquid, to flow into any natural watercourse within the district, and any person offending against this enactment shall incur a penalty not exceeding seventy pounds, and a further penalty of forty shillings for every day during which the offence is continued.

Penalty for draining into rivers without consent of the Board.

INTERPRETATION.

126. Save where there is something in the context repugnant thereto or inconsistent therewith, the following words and expressions shall mean or include the matters following :—

Interpretation.

The word "owner," where used in the provisions relating to rating, shall mean the person for the time being entitled to receive, or who, if the land were let to a tenant at a rack rent, would be entitled to receive the rack rent from the occupier thereof; and where the word "owner" is otherwise used throughout this Act, it shall have the same meaning as it has in "The Lands Clauses Consolidation Act, 1863."

"Watercourse" shall include all rivers streams drains sewers and passages through which water flows.

"Person" shall include any body of persons, corporate or unincorporate, unless there is something in the context inconsistent therewith.

"The Board" shall mean "The Christchurch District Drainage Board" as constituted by this Act.

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Schedules.

SCHEDULES.

FIRST SCHEDULE.

NORTH-EAST CHRISTCHURCH DISTRICT.

Bounded on the East by the eastern side of the East Town Belt; on the North by the northern side of the North Town Belt; on the South by a line in the middle of Worcester Street; and on the West by a line in the middle of Colombo Street.

SOUTH-EAST CHRISTCHURCH DISTRICT.

Bounded on the North by the North-East Christchurch District; on the East by the eastern side of the East Town Belt; on the South by the southern side of the South Town Belt; and on the West by a line in the middle of Colombo Street.

NORTH-WEST CHRISTCHURCH DISTRICT.

Bounded on the North by the northern side of the North Town Belt, and on the north side of the river Avon; on the East by the North-East Christchurch District; on the South by a line in the middle of Worcester Street, continued westerly to Rural Section No. 10; and on the West by Rural Sections Nos. 10 and 163.

SOUTH-WEST CHRISTCHURCH DISTRICT.

Bounded on the North by the North-West Christchurch District; on the East by the South-East Christchurch District; on the South by the south side of the South Town Belt; and on the West by Rural Sections Nos. 9 and 10.

HEATHCOTE DISTRICT.

Bounded on the North by the Avon District and the City of Christchurch; on the East by the sea; on the South by the south side of the Avon and Heathcote Estuary, and the south side of the River Heathcote; and on the West by the City of Christchurch, and the continuation of Colombo Street South.

SPREYDON DISTRICT.

Bounded on the North by the City of Christchurch and the Riccarton District; on the East by the Heathcote District; on the South-East and South-West by the south side of the River Heathcote from the continuation of Colombo Street South to Archer's Bridge on the Lincoln Road.

AVON DISTRICT.

Bounded on the North by an east and west line running from the sea to the intersection of the western side of the North Road by the north side of the Purarekanui Stream, thence by the northern side of that stream to the western boundary of Section 243; on the East by the sea; on the South by the north boundary of the City of Christchurch and the River Avon to the sea; and on the West by the western boundaries of Sections 6, 52, 105, 133, 142, 299, 135, 151, and the northern boundary of Section 151 to the north-western boundary of the Papanui Church Reserve, by the north-western boundary of that Reserve, and by the eastern side of the Harewood Road by Papanui to the western boundary of Section No. 203, by that boundary and by the western boundaries of Sections Nos. 203, 5, 3, 25, 292, 291, 290, 280, 279, and 243, to the northern side of the Purarekanui Stream.

RICCARTON DISTRICT.

Bounded on the North by the road separating Sections 3668 and 277 from Sections 902 and 533A, by the road forming the western boundary of Sections 533A, 566, 734, 1165, 529, 226c, and a line in continuation of the eastern side thereof, by the south side of the Harewood Road to the eastern side of the road separating Sections 57A and 140; on the East by the Avon Ward and the west boundary of the City of Christchurch; on the South by the City of Christchurch and the Lincoln Road to Archer's Bridge; on the West by the road separating Sections 57A and 140, the road separating Sections 2373 and 2457, by the road running north-easterly and south-westerly through Section 199, the road forming the south-western boundary of the latter section, the south-western side of the stream south-west of Section 117, the road east of Section 22, and a line in continuation of the eastern boundary thereof to the southern side of the Riccarton Road, by that road and the Lincoln and Riccarton Junction Road to the Lincoln Road at Archer's Bridge.

Christchurch District Drainage.

SECOND SCHEDULE.

FORM OF RATE.

AN Assessment to the Drainage Rate made this day of in the year of our Lord 18 , after the rate of pence in the pound, by virtue of "The Christchurch District Drainage Act, 1875."

No. on the Rate.	Surname of Person rated.	Christian Name of Person rated.	Trade or Occupation.	Name of Owner of Rateable Property.	Description and Situation of Rateable Property.	Annual Value.	Rate of —d. in the pound.

Signed by us this day of in the year of our Lord 18 .

A.B. }
C.D. } Members of the Christchurch District
E.F. } Drainage Board.

THIRD SCHEDULE.

FORM OF VALUATION AND RETURN.

VALUATION by me , a Valuer for the Christchurch Drainage District, of the under-mentioned Rateable Properties therein situated, under "The Christchurch District Drainage Act, 1875."

Surname of Occupier.	Christian Name of Occupier.	Occupier's Trade or Occupation.	Owner.				Description and Situation of Rateable Property.	If let, for what term or in what manner.	Annual Value.
			Surname.	Christian Name.	Residence.	Trade or Occupation.			

Returned this day of A.D. 18 .

A.B., Valuer.

FOURTH SCHEDULE.

FORM OF DEBENTURE.

By virtue of "The Christchurch District Drainage Act, 1875," the Christchurch District Drainage Board, in consideration of the sum of £ , lent and paid by , of , do hereby certify that the several rates to be made and levied within the said district, under and by virtue of the said Act, are become charged with the repayment of the said sum of on the day of , in the year 18 , together with interest on the said principal money at and after the rate of pounds per centum per annum until the whole thereof shall be repaid by equal half-yearly payments on the day of , and the day of , in every year, which sum so lent and advanced as aforesaid is part of a capital sum of , which at a meeting of the said Board holden on the day of was decreed and ordered to be taken up and borrowed.

In witness whereof the common seal of the Christchurch District Drainage Board hath been hereto affixed the day of 187 .

WELLINGTON, NEW ZEALAND :

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