

New Zealand.

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1905, No. 4.—Local.

Title.

AN ACT to confer upon the Council of the Borough of Eltham Power to borrow Money for Drainage and Water-supply Connections, and other Powers in relation to Drainage, Sanitation, and Water-supply.

[7th September, 1905.]

Preamble.

WHEREAS the Council of the Borough of Eltham is constructing drainage-works and waterworks for the said borough: And whereas the said Council desires to execute for owners of premises situate within the said borough who may be unable to immediately pay the cost thereof connections with the said drainage-works and waterworks, and to allow such owners to repay such cost with interest thereon by instalments: And whereas the said Council desires to borrow money for the purpose of providing the cost of executing such works, and to obtain other powers in relation to the drainage and sanitation of the said borough and the supply of water to premises situate therein:

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 is “The Eltham Borough Drainage and Water-supply Empowering Act, 1905.”

Interpretation.

2. In this Act, if not inconsistent with the context,—

“Borough” means the Borough of Eltham, and includes all areas that may hereafter be added thereto:

“Corporation” means the Mayor, Councillors, and Burgesses of the Borough of Eltham:

"Council" means the Council of the Borough of Eltham:

"Cost" of any work payable by an owner of premises includes an additional sum equal to five per centum of such cost for supervision:

"Owner" of any premises means the person for the time being entitled to receive the rack-rent thereof, or who would be so entitled if the premises were let to a tenant at a rack-rent.

3. Where an owner of any premises situate within the borough is liable by law to execute any work for the drainage or sanitation of such premises or the supply of water thereto and makes default in so doing, or where an owner of any such premises requests the Council to execute any such work, it shall in either case be lawful for the Council to execute the work.

Power for Council to execute drainage, sanitation, and water-supply works for owners of premises.

4. Where the Council executes any such work as aforesaid there shall be added to the cost of such work a sum equal to five per centum of such cost for supervision.

Cost of supervision.

5. (1.) By agreement between the Council and the owner of the premises, the cost of any such work may be divided into equal annual instalments extending over a period of ten years. Interest at a rate not exceeding six per centum per annum on the principal money for the time being unpaid shall be included in such instalments, yearly rests being taken.

Provision for repayment of cost by instalments.

(2.) Each such instalment shall for the purpose of the recovery thereof be deemed to be a general rate of the borough payable primarily by the owner of the premises.

(3.) Particulars of all such instalments and of the dates on which they fall due and are paid respectively shall be entered in a book kept by the Collector of Rates to the Council, and such book shall be *prima facie* evidence of the correctness of its contents.

6. The owner for the time being of the premises may, at the expiration of three months' notice in writing of intention in that behalf given by him to the Council, discharge all instalments remaining unpaid by paying to the Council the amount thereof less a rebate in respect of the future interest.

Power for owner to pay off instalments

7. (1.) Where an owner of premises pays the cost of any such work as aforesaid, or pays any instalment in respect of such cost, and at the date of the completion of the work the premises are held by a tenant under such owner having a term of at least three years then unexpired, such tenant shall pay to the owner during such unexpired term an annual sum of equal to five per centum of such cost or of such instalment (as the case may be) computed from the date of the completion of the work.

Power for owner to recover percentage of cost of work from tenant.

(2.) Such sum shall be payable on each anniversary of the date of such completion, and a proportionate part thereof shall be paid for any fraction of a year.

(3.) Such percentage in case of non-payment shall be recoverable by the owner as if it were rent in arrear payable to him by the tenant in respect of the premises.

8. (1.) Where at the date of the completion of the work the premises are sublet for an unexpired term of at least three years, or

Power for tenant to recover percentage from subtenant.

are sublet by different landlords for similar unexpired terms respectively, any such percentage paid by the tenant shall be repaid to him by his subtenant, and the percentage so paid by any subtenant shall be repaid to him by his subtenant.

(2.) Every such percentage shall be recoverable as if the same were rent in arrear in respect of the premises payable by the subtenant to the person to whom such percentage ought to be paid as aforesaid.

**Power for Council
to borrow upon the
security of instal-
ments.**

9. (1.) The Council, for the purpose of the immediate payment for any works the cost whereof is payable by any owners of premises, may from time to time borrow, at interest not exceeding five per centum per annum, any sums of money, not exceeding in the whole the sum of five thousand pounds, upon the security of any instalments payable to it under this Act; but no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds per centum per annum. All moneys borrowed under this section shall be devoted exclusively to the purposes authorised by this Act.

(2.) Any instrument securing the repayment of any such sum and interest may be in such form and may contain such covenants by the Corporation (including covenants for the repayment of such sum and interest) and such powers and provisions as the Council shall think fit.

(3.) The resolution to borrow any such sum shall be passed by way of special order under "The Municipal Corporations Act, 1900," but it shall not be necessary to take any poll under "The Local Bodies' Loans Act, 1901," or otherwise in connection with such borrowing.

(4.) The Council shall apply all such instalments upon the security of which it borrows any money as aforesaid towards repayment of such money and the interest thereon, until such money and interest shall be paid and satisfied.

(5.) A person lending any sum of money to the Council upon the security of any instalments as aforesaid shall not be concerned to inquire as to the necessity or propriety of the transaction, or to see to the application of the money so lent.

**Power to make
by-laws.**

10. (1.) The Council may in manner provided in "The Municipal Corporations Act, 1900," make any by-laws,—

- (a.) Directing in what manner and under what conditions private streets and private ways may be drained into public drains and covered or other watercourses;
- (b.) Prescribing the lowest levels at which any part of any building may be constructed with a view to the drainage thereof;
- (c.) Forbidding the leading into any public drain or covered watercourse of any matter (other than ordinary household sewage or drainage) that in the opinion of the Council is likely to injuriously affect the same;
- (d.) Providing for the protection from injury in any other way of any public drain or covered watercourse;

(e.) For any purpose in relation to the drainage or sanitation of the borough, or the connection of private drains with public drains or covered or other watercourses, or the supply of water to premises.

(2.) The provisions of Part XLV. of "The Municipal Corporations Act, 1900," shall, *mutatis mutandis*, apply to every by-law made under this Act, and every such by-law shall be enforceable in like manner as if it were a by-law made under "The Municipal Corporations Act, 1900."

11. The valuation roll for the time being in force in the borough shall be *prima facie* evidence that any person appearing thereon as the owner of any property is the owner thereof for the purposes of this Act or of any by-law made thereunder.

Valuation roll to
be evidence.

12. Nothing contained in this Act shall take away from the Council or the Corporation any power or remedy possessed by it under "The Municipal Corporations Act, 1900," or any other general Act.

Saving of powers of
general Acts.