

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

House of Representatives, 7th October, 1908.

Mr. Kidd.

AUCKLAND AND SUBURBAN DRAINAGE.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

Title.	AN ACT to provide for the Drainage of the City of Auckland and the Suburbs thereof.	
	BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—	5
Short Title.	1. This Act may be cited as the Auckland and Suburban Drainage Act, 1908, and it shall come into operation on the first day of November, 1908.	
Boundaries of drainage district.	2. The City of Auckland, together with the Boroughs of Parnell, Grey Lynn, Newmarket, and Mount Eden, and the Road Districts of Remuera, Epsom, Mount Albert, Arch Hill, Eden Terrace, Point Chevalier, Orakei , and the northern part of One-tree Hill, as the same is particularly described in the <i>First</i> Schedule hereto, shall, for the purposes of this Act, form one district, called the Auckland and Suburban Drainage District, which is referred to herein as the drainage district or the said drainage district, and which expressions shall extend to and include all extensions thereof.	10 15
Interpretation.	3. In this Act, if not inconsistent with the context,— “ The Drainage Board ” means the Board as constituted by this Act : “ By-laws ” means and includes the by-laws for the time being of the <i>Drainage</i> Board : “ Contributing bodies ” means every local authority of every city, borough, or road district the whole or any part whereof is for the time being comprised in or forming part of the drainage district : “ The Drainage Engineer ” means the officer for the time being in charge of the main drainage-works of the Drainage Board : “ Rateable property ” shall have the same meaning as the same words have in the Rating Act, 1894 1908 : “ Secretary ” shall include <i>means</i> the Secretary for the time being of the Drainage Board and <i>includes</i> any person for the time being appointed by the Drainage Board to perform the duties of the Secretary, and whether designated as acting-secretary or not : “ Works ” and “ work ” include <i>mean</i> the providing and doing of all such materials and things as shall be <i>are</i> required by the Drainage Board or deemed by it necessary in or incidental to the execution of works required or executed by the Drainage Board pursuant to this Act or the by-laws.	20 25 30 35 40
Parts of prior Acts embodied.	4. Parts I, II, III, IV, and V of the Public Works Act, 1905, shall be deemed to be incorporated with this Act, and the Drainage Board shall be deemed a local authority, and the construction of the main sewers, main drains, and works hereinafter referred to a public work within the meaning thereof.	45

Struck out.

Constitution of the Drainage Board.

Struck out.

5. There shall be for the drainage district a Drainage Board, which shall consist of the Mayor and Councillors for the time being of the City of Auckland as elected under the provisions of the Municipal Corporations Act, 1900; and such Drainage Board shall be a body corporate, under the name of the Auckland and Suburban Drainage Board, with perpetual succession and a common seal, and with full power and capacity to purchase, take, acquire, hold, manage, and deal with lands and hereditaments of any tenure and all classes of personal property for all the purposes for which it is constituted, including the acquisition, holding, management, leasing, and otherwise dealing with endowments, and with full power to make all kinds of contracts connected with or incident to the carrying-out of the objects of this Act; and the Mayor for the time being of the said city shall be the Chairman of the said Drainage Board.

New clause.

5A. (1.) There shall be for the drainage district a Drainage Board, which shall consist of the Mayor and Councillors for the time being of the City of Auckland, and the respective Mayors and Chairmen for the time being of the several contributing bodies other than the City of Auckland.

Constitution of Drainage Board.

(2.) Such Drainage Board shall be a body corporate under the name of the Auckland and Suburban Drainage Board, with perpetual succession and a common seal, and with full power and capacity to purchase, take, acquire, hold, manage, and deal with lands and hereditaments of any tenure and all classes of personal property for all the purposes for which it is constituted (including the acquisition, holding, management, leasing, and otherwise dealing with endowments), and with full power to make all kinds of contracts connected with or incidental to the carrying-out of the objects of this Act.

(3.) The Mayor for the time being of the said city shall be Chairman of the said Drainage Board, and shall have a deliberative and, in case of equality of votes, a second or casting vote.

Proceedings of Drainage Board.

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

First meeting of Board.

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

Minutes of proceedings to be kept.

Validity of proceedings.

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

New Clause.

Majority vote to decide.

8A. All acts of the Drainage Board and of any committee thereof and all questions coming or arising before such Board or committee may be done or decided by the majority of such members of the Board or committee as are present and vote at a meeting held in pursuance of this Act.

Regulations.

9. The Drainage Board may from time to time make, ~~alter and repeal regulations~~ *by-laws*—

- (a.) For the holding and conduct of its meetings, proceedings, and business, and for fixing the quorum necessary for the transaction of business; and until such ~~regulations shall be~~ *by-laws are made*, an absolute majority of the Drainage Board or any committee thereof shall be a quorum: 15
- (b.) To regulate the duties, duration, and conditions of service, and the salaries or other remuneration of officers and servants of the Drainage Board. 20

Committees: Delegation of Powers.

Forming of and powers of committees.

10. The Drainage Board may form committees of its own members, and may generally or in any particular matter confer upon and delegate to them such of its powers, duties, and functions as it ~~shall~~ from time to time thinks fit, and may associate with such committees such of its officers as it ~~shall~~ thinks fit, and may similarly define the powers, duties, and functions of such persons. 25

By-laws.

By-laws.

11. The Drainage Board may make, ~~alter, and repeal~~ by-laws for all such purposes as are expressly provided for by this Act, and all such other by-laws as are in the opinion of the Drainage Board requisite for the protection of the property and interests of the Drainage Board and the good government and management of its affairs; and the Drainage Board may by any such by-law provide a penalty for every breach thereof to an amount which shall be in the discretion of the Court inflicting the same, and shall in no case exceed the sum of *five* pounds for a single offence. 30 35

Form of making by-laws.

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

- (a.) They shall be made by special order only. 40
- (b.) They shall have the seal of the Drainage Board affixed thereto.
- (c.) They shall come into force on a day to be named therein, or in the special order making the same, which shall not be earlier than seven clear days after the making of such order. 45
- (d.) They shall be published in the ~~New Zealand Government Gazette~~ within fourteen days after confirmation of the special order making the same.
- (e.) They may, within three months after such publication, be disallowed by the Governor. 50

Special Orders.

13. Every special order made hereunder may be made and proved in the same way, *mutatis mutandis*, as a special order of a Borough Council is required to be made and proved by ~~sections seventy-two, seventy-three, and seventy-four~~ of the Municipal Corporations Act, 1908. Special orders.

Powers of the Drainage Board.

14. (1.) The Drainage Board may by resolution from time to time appoint and remove and reappoint a Drainage Engineer, a Secretary, and all such other officers, servants, and workmen as may in the opinion of the Drainage Board be necessary or desirable. Appointment of officers of the Board.

(2.) Any such appointment may be made for such period and on such terms as the Drainage Board may deem proper.

(3.) One person may be appointed to fill several offices or positions.

(4.) The Drainage Board may, when making any such appointment, or at any time afterwards, define the duties of any officer, servant, or workmen so appointed, and may from time to time revoke and redefine such duties.

(5.) The production of any document purporting to be a copy of a resolution appointing the person therein named to be an officer, servant, or workman of the Drainage Board, and to be sealed with the common seal of the Drainage Board, shall be conclusive evidence of the fact of such appointment and of such resolution having been duly passed.

15. It shall be lawful for the Drainage Board from time to time to agree with the Council of the City of Auckland, or of any borough or the Board of any road district, for the occupation and use of offices, workshops, appliances, and premises belonging to the said ~~city Council or such road district or borough~~ Board, and for the amount to be paid for such occupation and use, and also for the services of officers and servants of such local authority, and for the amount to be paid for such services, and may appoint any such persons to hold the offices mentioned in section *fourteen* hereof either temporarily or for any term or generally; and all such officers and servants shall, with respect to and when engaged in the performance of duties for the Drainage Board, be deemed to be officers and servants of the Drainage Board, but in other respects shall remain the officers and servants of such local authority. Powers of Board to use offices belonging to local boroughs.

16. Every officer employed by the Drainage Board who exacts or accepts on account of anything done by virtue of his office, or in respect of the matters to be done under this Act, any fee or reward other than the salary or allowance allowed by the Drainage Board, or who is in anywise concerned or interested in any bargain or contract made by the Drainage Board, is liable to a fine not exceeding one hundred pounds, and shall be incapable of being afterwards employed by the Drainage Board. Such fine, together with full costs of suit, may be recovered by any person who sues for the same. Penalty on officer of Board receiving gift other than salary.

17. No member of the Drainage Board shall hold any office of profit under the Drainage Board. Honorary members.

Works to be
undertaken by
Drainage Board.

18. The principal work hereby authorised is the construction of one or more main lines of sewers or drains, made of such dimensions and materials, and at such depth below or height above the surface of the ground, as the Drainage Board or its Engineer may consider advisable and proper, the route whereof is approximately shown by the red line or lines on the *amended plan approved by the Chief Surveyor at Auckland on the eighteenth day of September, nineteen hundred and eight, and deposited in the District Survey Office at Auckland as No. 14596, and without any consent of any local authority or of the Auckland Harbour Board being first given or required thereto,* 5
New. 10

and such other main sewers or drains as in the opinion of the Drainage Engineer are necessary or advisable to enable the contributing bodies to connect the drainage of their respective districts with the main line shown on the said plan, and in particular the following main sewers or drains:— 15

- (a.) Main branch sewer from the main outfall sewer at Wilson's Point East to the junction of the Great South Road and Green Lane. 20
- (b.) Hobson Bay main sewer from the main outfall sewer at Campbell Terrace to the north-east end of existing tunnel. 25
- (c.) Main branch sewer from the head of the Hobson Bay main sewer near Newmarket Station to the junction of the Great South Road and Manukau Road. 25
- (d.) Main branch sewer from the main outfall sewer where it crosses Napier Street along the north-east front of Ponsonby and terminating at Cremorne Street. 30
- (e.) Main branch sewer from the main outfall sewer at Cox's Creek and Richmond Road round the south-west front of Ponsonby to Herne Bay Road. 30
- (f.) Main branch sewer from the main outfall sewer at the point where it crosses the Arch Hill Gully to the junction of the City Council boundary and Arch Hill Gully; and the construction of this main branch sewer shall be commenced at or about the same time as the main sewer, and shall be completed with all reasonable despatch. 35
- (g.) Main branch sewer from the main outfall sewer where it crosses Meola Creek, along the valley of the said creek to the boundary of Mount Eden Borough at Edendale Road, which last-mentioned sewers are approximately shown by red lines on the said plan. 40

Works in Remuera
Road Board
District.

18A. In addition to the works mentioned in the *last preceding* section, the Drainage Board shall, as soon as the reasonable requirements of the inhabitants of the present Remuera Road District demand it, construct in a proper and workmanlike manner a sewer— 45

- (a.) From the boundary of One-tree Hill Road District on the South Road near Mapou Road, thence to the west of Green Lane Railway-station in a north-easterly direction to Green Lane, thence along Green Lane in a north- 50

New.

5 easterly direction to Mr. McCulloch's old residence (such portion of the sewer to have an area of at least two and a half square feet of clear opening), thence from Mr. McCulloch's old residence in tunnel under Remuera Road to afford gravitation to Hobson Bay watershed (the portion of the sewer in tunnel to have an area of at least four square feet of clear opening), and thence from the end of such tunnel in Section 115 generally in a westerly and north-westerly direction across the Orakei Road near its junction with Russell Road, and thence down the low-lying area to the west of Orakei Road to its junction with the main intercepting sewer between Wilson's Point and Orakei Bridge (such last-mentioned portion of the said sewer from the end of the said tunnel to have an area of at least six square feet of clear opening):

10 (b.) From the west end of Selwyn Road, thence generally in a northerly direction following the gully leading to Hobson Bay to junction with the main intercepting sewer to the west of Wilson's Point, such sewer to have an average area of at least three and three quarters square feet of clear opening.

15 19. ~~From and after the coming into operation of this Act The~~ Hobson's Bay Watershed Sewage Act, 1900, ~~shall be, and the same is~~ as from that date, hereby repealed, and the Board thereby constituted and incorporated is ~~from that date~~ hereby dissolved. The sewer or drain and all other works in connection therewith constructed by the said Board, and all the assets and liabilities of the said Board, shall from such date be transferred and assigned to and vest in and be imposed upon the Drainage Board. All debentures issued by the first-mentioned Board under the powers created by the said Act shall from and after the date of the coming into operation of this Act be deemed to have been issued by the Drainage Board under the powers hereby conferred, and as though the drain or sewer constructed there- under had been authorised and constructed hereunder, and all powers and remedies hereby given to secure the payment of the principal and interest moneys secured by any debentures issued hereunder shall operate, apply, and extend to secure the payment of the principal and interest moneys secured by any debentures issued by the first-mentioned Board under the said Act as though they had been issued under this Act by the Drainage Board hereby created.

Repeal: Board to take over works of Hobson's Bay Watershed Sewage Board.

New.

20 20. The Drainage Board shall be deemed a local authority, and the construction of the main sewers, main drains, and works hereby authorised a public work, within the meaning of the Public Works Act, 1908, and in addition to its powers under the said Act. The Drainage Board may from time to time, by itself, its surveyors, engineers, 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:—

Powers of Board.

- (a.) Construct, maintain, and alter main sewers or main drains for draining the drainage district :
- (b.) Construct and maintain sewage-works and storage-tanks for the disposal and purification of the sewage of the drainage district, including the erection and working of any machinery in connection therewith : 5
- (c.) Break up the soil of any roads, streets, ways, or footpaths within the drainage district, and excavate and sink trenches and make and construct tunnels and subways for the purpose of laying down, making, constructing, altering, 10
cleansing, maintaining, or repairing the said main sewers or main drains ;

Provided that before interfering with any such road, street, way, or footpath the Drainage Board, except in cases of emergency, of which the Drainage Board shall 15
be sole judge, shall give two weeks' notice in writing to the local authority having control thereof :

- (d.) Without any previous payment, tender, or deposit—
- (i.) Enter upon and use any land within the drainage district for the purpose of taking any earth, stone, clay, or scoria therefrom ; 20
- (ii.) Enter upon and use any land adjacent to the site of any sewer or drain hereby authorised to be constructed, or while it is in course of construction, or when it is actually constructed, for the purpose of making temporary 25
roads or approaches to any works or storing any material therefor ;
- (iii.) Enter upon any lands or premises within the drainage district within or upon which it is proposed that any works shall be executed under this Act, or any lands 30
and premises adjacent thereto, and make an inspection, survey, and examination thereof, and for that purpose to bore therein :
- (e.) Make or construct the said main sewers or main drains, or any part thereof, upon or under any private lands or 35
buildings within the drainage district, subject as to any such sewer or drain as is not shown on the plan referred to in section *eighteen* hereof to the following conditions : - -
- (i.) A plan and description of such main sewers or main drains, showing how they affect any such land or 40
buildings, shall be deposited for public inspection at some place within the drainage district.
- (ii.) The Drainage Board shall give notice in writing to the occupier, and also to the owner, when known, of 45
such land or buildings, of the intention to construct such main sewers or main drains, and shall refer in such notice to such plan and description, and state where the same are on view. In the case of unoccupied land or buildings of which the owner is not known, such notice may be 50
served by being affixed in a conspicuous place thereon or thereto.

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

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

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

Powers of Board to erect works for carrying on drainage.

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

Disposal of surface water.

23. The Drainage Board shall have power by by-law to regulate the management and use of inlet-appliances giving access to the sewers and drains of the Drainage Board, including grids, and to prevent the putting of anything into such sewers or drains, or allowing anything to enter such sewers or drains by means of such appliances, save such matter as may be carried in with water entering in the course of the legitimate use of such appliances.

By-laws to prevent the access of foreign matter entering drains.

24. The Drainage Board shall have further power to carry any ventilating shaft, pipe, or tube up or upon any external wall of any building, whether private or public, and affix the same thereto, provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any window situated within a distance of thirty feet therefrom, and where attached to a house shall be higher than the eaves or parapet thereof; ~~and also to pierce and use as a ventilating shaft or tube the chimney of any factory or tramway,~~ and in like manner may, during the construction of its works, use any private drain or watercourse within or without the district to carry water from such works.

Erection of ventilating-shafts.

25. The Drainage Board shall cause all watercourses or drains from time to time vested in it or under its management to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared and cleansed and maintained in proper order; and in default shall be liable to the owners or occupiers of any land for damage done thereto in consequence of or through the disrepair of any such watercourse or drain.

Board to keep all drains in proper repair.

Provisions
regarding disposal
of storm-waters, and
the obstruction of
any watercourses.

26. (1.) No person shall fill in or cover over, or in any way (whether by filling in or otherwise) obstruct, or cause to be filled in, covered over, or obstructed, any natural watercourse, stream, creek, or gully, or part thereof, in the drainage district without having first made provision to the satisfaction of the Drainage Engineer for the disposal of the storm-water now flowing, or which under the conditions existing at the time of the passing of this Act would flow, or but for such obstruction would have flowed, in such watercourse, stream, creek, or gully. 5

(2.) If any natural watercourse, stream, creek, or gully, or part thereof, in the district ~~shall be~~ is filled in, covered over, or obstructed without provision having been made to the satisfaction of the Drainage Engineer for the disposal of storm-water as aforesaid, the Drainage Board shall be at liberty to make provision for the disposal of such storm-water in, along, or through the land in which such watercourse, stream, creek, or gully, or part thereof, is situated, and either in the line thereof or in any other line, by such means and in such manner as the Board ~~shall~~ thinks fit. 15

(3.) The cost of all works, materials, and things executed, provided, or done by the Drainage Board under or by virtue of this section, together with interest thereon after the rate of six pounds per centum per annum, shall be paid to the Drainage Board by the owner of the land on which the watercourse, stream, creek, or gully, or part thereof, is situated. 20

(4.) Supervision of any such works by the Drainage Engineer, or the execution thereof by the Drainage Board, shall not impose upon the Drainage Board any liability whatever in respect of such watercourse, stream, creek, or gully, or storm-water, or the provision made for the disposal of such storm-water; and any such works if executed by the Drainage Board shall be deemed to be executed as agent for and on behalf of the owner of the land on which such watercourse, stream, creek, or gully, or part thereof, is situated. 25 30

(5.) In addition to any other remedies, the Drainage Board shall be entitled to apply to the Supreme Court to restrain any person from doing or causing to be done anything in contravention of this section, and the said Court may on any such application make such order as ~~to it shall seem~~ *deems* just. 35

(6.) If the Drainage Board shall at any time makes use of the works executed by virtue of this section for the purpose of conveying sewage therein, the Drainage Board shall thereupon pay to the owner of the land on which such works are executed the then value of such works, such value in case of dispute to be decided by a *Stipendiary Magistrate's Court* in the same manner as is provided by section twenty-seven *eight A* hereof. 40

Compensation.

Struck out.

Compensation.

27. The Drainage Board shall pay such reasonable compensation in respect of the exercise of all or any of the powers conferred by subsections *four* and *five* of section *twenty* hereof as shall be agreed upon between the Drainage Board and the owner or occupier of the land affected thereby, and if such owner or occupier and the 45 50

Struck out.

Drainage Board cannot agree concerning the amount of such compensation, then the owner or occupier shall be entitled to sue for such compensation in the Magistrate's Court, and the same proceedings may be had and taken in any such suit as are applicable in cases within the ordinary jurisdiction of such Court, notwithstanding that the amount claimed may exceed such jurisdiction; but no compensation shall be payable by reason only of the construction of an underground covered sewer or drain through any private land, provided that such sewer or drain when carried under any building shall be constructed of iron, brick, concrete, or stone.

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

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

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

(b.) Every such claim for compensation shall be made in writing to the Drainage Board within twelve months from the time when such claim shall have first arisen, and no claim for compensation shall be allowed unless made within that period.

Compensation to be limited to actual damage.

Provision in regard to lands taken by Drainage Board.

New clauses.

27A. (1.) Every person having any estate or interest in any land or water taken or used by the Drainage Board for the purposes of this Act, or injuriously affected thereby, or suffering any damage from the construction or maintenance of any works by that Board or the exercise by that Board of any of the powers given by this Act, shall be entitled to full compensation for the same from that Board; but no compensation shall be payable by reason only of the construction of an underground covered sewer or drain under any private land, provided that such sewer or drain when carried under any building shall be constructed of iron, brick, concrete, or stone.

(2.) Every claim for compensation shall be made in writing to the Drainage Board within twelve months from the time when such claim arose, and no claim for compensation shall be allowed unless made within that period.

(3.) Subject to the *next succeeding* section the amount of compensation shall, unless the parties agree thereon, be ascertained in the manner provided by the Public Works Act, 1908, and the provisions of that Act shall accordingly apply.

28A. In claims for compensation in respect of the exercise by the Drainage Board of any of the powers conferred by paragraphs (d) and (e) of section *twenty* hereof, if the parties are unable to agree as to the amount of compensation, the claimant may sue for the same in the Magistrate's Court, and the same proceedings may be had and taken in any such suit as are applicable in cases within the ordinary jurisdiction of such Court, notwithstanding that the amount claimed may exceed such jurisdiction or that title to land may be involved.

Compensation.

Claimant may sue for amount of compensation.

Auckland Harbour.

Disposal of sewage.

30. (1.) The Drainage Board ~~will~~ shall cause all sewage discharged from its sewers into the Waitemata Harbour to be so discharged at least twelve feet below the surface of low water at ordinary spring tides. 5

(2.) The Drainage Board shall prevent the discharge of sewage into the said harbour at any other time than during the period of two and a half hours before and four hours after high water, or at such other times or periods as shall be mutually agreed upon by the said Drainage Board and the Auckland Harbour Board. 10

(3.) The Drainage Board shall prevent the creation of any nuisance upon the adjacent shores of the said harbour through such discharge.

(4.) The Drainage Board shall cause such sewage to be properly screened before its discharge into the said harbour. 15

(5.) The Drainage Board shall, at its own cost, as and when required by the Auckland Harbour Board, dredge and remove all silt deposited within the said harbour ~~within a radius of two hundred yards of at or from the mouth of the outfall-pipes in consequence of the Drainage Board's sewage system, at Okahu Point,~~ or pay to the said Harbour Board the costs of such removal. 20

(6.) The Drainage Board shall erect, and at all times maintain, a beacon at the outfall of the Drainage Board's sewer in the said harbour to the satisfaction of *the Marine Department* and the said Auckland Harbour Board. 25

(7.) Navigation in the said harbour shall not be interfered with by any operations of the Drainage Board hereunder further than is absolutely necessary by the construction and maintenance of the works hereby authorised. The working-plans showing the proposed line of sewer across any part of the Waitemata Harbour and the outfall-pipes to be first submitted to and approved of by the *Marine Department and the Auckland Harbour Board*. 30

(8.) Should it be found at any time that the discharge of sewage by the Drainage Board into the said harbour creates a nuisance the said Drainage Board shall take such steps as may be necessary to treat the sewage before being discharged into the said harbour. 35

(9.) The Drainage Board shall so construct the sewer across Hobson Bay, on the foreshore of such harbour, *up to the western side of the Orakei Basin Channel*, as to form such a reclamation wall as will enable the Auckland Harbour Board to reclaim land inside such wall. 40

(10.) The Drainage Board shall be entitled to recover from the Auckland Harbour Board, and the said Harbour Board shall, and will, upon demand, pay to the Drainage Board one-half of any amount that may be paid by the Drainage Board to any person on account of any injury to or interference with riparian rights or rights of access to water on the foreshore of the said harbour by any of the operations of the Drainage Board hereunder *and of any costs that New.* 45

may be incurred by it in connection with any such claim; but the Drainage Board shall not, without the previous written consent or approval of the Auckland Harbour Board, make any such payment unless the amount has been fixed and determined by some competent tribunal. 50

(11.) The Drainage Board shall be entitled to occupy, free of rent to any person or corporation, *all lands in the said Auckland Harbour on, over, or under which any of the said sewers are constructed or laid* and all land reclaimed by the Drainage Board to the east of Pokenoa Point that may, in the opinion of the Drainage Board, be required for use by the Drainage Board in connection with any of the works hereby authorised. But any land reclaimed by the Drainage Board and not so required, *and not being to the east of the said Pokenoa Point*, shall be the property of the Auckland Harbour Board and under its sole control.

(12.) From and after the first day of November, one thousand nine hundred and twenty-three, no local authority of any district within the drainage district shall be entitled to discharge any drainage or sewage into the said harbour, except through the main drains or sewers of the Board.

(13.) Should any dispute or difference arise or occur between the Drainage Board and the Auckland Harbour Board as to the observance or performance by either Board of any of the provisions of this section, the same shall be referred to and determined by arbitration under the Arbitration Act, ~~1890~~ 1908, and this section shall be deemed a submission within the meaning of ~~the~~ that Act.

New clause.

30A. Notwithstanding anything in the Harbours Act, 1908, it shall be lawful for the Auckland Harbour Board and for the Drainage Board to reclaim any land in the Waitemata Harbour between the line of sewer hereby authorised and the mainland on the south side of such Harbour without obtaining a special Act, but either of the said Boards so desiring to reclaim any such land shall before commencing operations deposit at the office of the Marine Department in Wellington a plan, on a scale of not less than three chains to the inch, prepared by a competent surveyor authorised by the Surveyor-General for the time being or some person discharging his duties, showing all tidal waters coloured blue and the extent of the land proposed to be reclaimed, and obtain the consent of the Marine Department to such reclamation.

Power to reclaim land.

Contracts.

31. The Drainage Board from time to time may enter into such contracts with any such persons as it thinks fit for the execution of any works directed or authorised by this Act to be done by the Drainage Board, or for furnishing materials, or for any other thing necessary for the purposes of this Act.

Board may make contracts.

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

Public tender

33. Any contract made by the Drainage Board which, if made between private persons,—

Provision regarding private contracts.

Firstly, must be by deed;

Secondly, must be in writing signed by the parties thereto or some agent thereunto lawfully authorised;

Thirdly, may be made verbally without writing—

shall, when made by the Drainage Board, in the first case be in writing under the seal of the Drainage Board; in the second case be signed by two members of the Drainage Board or some officer, agent, or delegate of the Drainage Board, on behalf and by direction of the Drainage Board; in the third case may be made verbally by the Drainage Board or any committee or two members thereof, or by the Drainage Engineer on behalf and by direction of the Drainage Board; but, save in the case of evident emergency, no verbal contract shall be made for any sum exceeding twenty pounds.

5

Struck out.

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No contract, agreement, receipt, or other instrument made or executed by or for the Drainage Board shall be liable to stamp duty.

Accounts.

Books of accounts to be kept.

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

15

Books to be open for inspection to members of Board.

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

20

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All moneys to be banked.

36. All moneys received by the Treasurer of the Drainage Board shall be paid by him into such one of the public banks of the Dominion as shall be appointed by the Drainage Board, and no part of such moneys shall be drawn out of such bank except by cheque signed by the Chairman or two members and by the Treasurer of the Drainage Board.

30

Annual audit.

37. The accounts of the Drainage Board for the past year shall be audited in the month of May in each year by the Controller and Auditor-General.

35

Accounts to be submitted to Controller and Auditor-General.

38. The Drainage Board shall, before the end of ~~the third week~~ in April in each year, cause the accounts of the Drainage Board for the past year, up to and including the last day of March, to be balanced, and also a full and true statement and account of all contributions paid to and of all moneys received and expended by the Drainage Board during the past year, and also of all debts owing by and to the Drainage Board; and such statement and account, signed by the Chairman and Treasurer of the Drainage Board, shall be submitted by such Chairman to the Controller and Auditor-General.

40

Abstract of accounts.

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

45

Aggregate Fund.

40. A fund shall be established called the Aggregate Fund of the Auckland and Suburban Drainage Board, an account for which shall be kept at a bank from time to time selected by the Drainage Board, into which shall be paid all income and revenues received by the Drainage Board, and the proceeds of all debentures issued by it, and all sums paid to it on whatsoever account, and proper accounts shall be kept in form to be approved by the Controller and Auditor-General, which shall, amongst other things, show clearly what sums are available for the Drainage Board's general expenditure and indebtedness, and what sums are not so available, which two classes of sums shall be respectively designated the Drainage Board's General Fund and the Drainage Board's Trust Fund; *but the Drainage Board shall be entitled to keep both funds in one account at the said bank.*
41. Subject to the opinion and decision of the Auditor-General, the Drainage Board shall determine what items or proportion of its expenditure are or is properly payable out of loan-moneys, and what items or proportion are or is properly chargeable against annual revenue: Provided that it shall be entitled to pay out of loan-moneys all the cost of drainage or sewerage works and other permanent works, and of the purchase of land, and all preliminary and other expenditure incident to the construction of such works, including the cost of experiments; such part of the salaries of officers and servants as it shall considers applicable to such works, and such legal and other expenses as are incurred in connection therewith, or with matters incidental thereto, including legislation; such rents and other expenses connected with land as relate to the temporary occupation thereof for the purpose of such works, and also the first two years' interest on the cost of all works, together with such further interest as the Auditor-General shall in his discretion, on the representation of the Drainage Board, allows to be so charged. And the Drainage Board shall pay out of annual revenue all expenditure on account of the annual work of the Drainage Board, and its operations, and its officers, including repairs and maintenance of works, and interest not chargeable against loan-moneys.
42. Notwithstanding anything herein contained, all the costs and expenses of and in connection with obtaining this Act, and the surveys and reports of and in connection with the works hereby authorised, and all other expenses incurred in any way in connection with or in anticipation of the passing of this Act, and after such passing until the coming into operation thereof, and paid by the Auckland City Council, shall be paid by the Drainage Board to the said Council out of the principal moneys of any loans obtained by the Drainage Board under the provisions hereof, and shall be charged and considered as part of the cost of construction.
43. It shall be lawful for the Board to obtain in anticipation the opinion of the Auditor-General on any question as to the incidence of any expenditure, and to act on such opinion.
44. The financial year of the Board shall commence on the first day of April and end on the thirty-first day of March in every year.

"General" Fund
and "Trust" Fund.

Payments out of
loan-moneys.

Payment of
preliminary
expenses.

Board may obtain
opinion of
Auditor-General.

Financial year.

Contributions.

Contributing bodies. 45. The income and revenue of the Drainage Board shall consist of contributions to be levied upon and paid by the contributing bodies as hereinafter provided, *but no contribution shall be payable by any contributing body during the first two years after the thirty-first day of March, nineteen hundred and nine.* 5

Annual estimate of Board's proposed expenditure.

46. The Drainage Board shall, on or before the thirtieth day of April in each year, cause an estimate to be prepared by the Drainage Engineer of the proposed expenditure of the Drainage Board for the ensuing year, showing—

(a.) The permanent appropriations for payment of interest and the creation of a sinking fund ; 10

(b.) The sum, or sums, that may be required for carrying out and [or] maintaining in good order the works hereby authorised to be constructed, and all other expenses in connection therewith ; 15

(c.) Any sums already available for such purposes ;

(d.) The additional sum required.

All expenditure incurred between the coming into operation of this Act and the thirty-first day of March, one thousand nine hundred and nine, may be included in the first estimate. And any deficiency or surplus at the end of any year shall be carried forward as an asset or liability, as the case may be, into and calculated or allowed for in making and assessing the next year's requirements. 20

Contributing bodies annual assessments.

47. Upon the last Wednesday of May in each year, the Drainage Board shall hold a meeting, at which the contributions payable for the current year, commencing on the first day of April, by the contributing bodies shall be assessed, and written notice shall forthwith be given to each contributing body showing the amount to which every contributing body is assessed, together with a copy of the estimate of expenditure for the year. 25 30

How assessment to be calculated.

48. Such assessment of the amount of such contribution shall be calculated, arrived at, and made in the following manner :—

(a.) ~~Not less than seven days prior to each thirtieth day of April~~ *later than the sixteenth day of May* in every year the Valuer-General shall ascertain and forward to the Secretary of the Drainage Board a notice in writing signed by him showing separately the amount of the capital value of the whole of the rateable property in each city, borough, or road district, or (where the whole is not included in the drainage district) of such part thereof as is so included. 35 40

(b.) The said capital values of each city, borough, road district, or part thereof (where the whole is not included in the drainage district), shall be added together by the said Secretary, and the amount of such addition shall be the total capital value of the whole of the rateable property in the drainage district for the ensuing year. 45

(c.) The local authority of each city, borough, road district, or part thereof (where the whole is not included within the drainage district), shall be assessed for its proportion of the amount of such estimate, and be liable to pay such 50

sum as the said capital value of all the rateable property of such separate city, borough, road district, or part thereof (where the whole is not included in the drainage district), bears to the total capital value of the whole of the drainage district, and shall pay the same to the Secretary of the Drainage Board.

5

49. If any contributing body ~~shall be~~ *is* dissatisfied with such estimate or assessment, such contributing body may within ~~fourteen~~ *twenty-eight* days after notice of such assessment ~~shall have~~ *has* been given to it, appeal to the Judge of the Supreme Court at Auckland against such assessment. Such appeal shall be commenced by notice of appeal being given to the Registrar of the said Court, who shall fix a day for the hearing thereof; and the contributing body appealing shall give notice in writing to the Drainage Board and to each of the other contributing bodies stating the date when the same ~~shall is to~~ be heard and the grounds of such appeal, and thereupon the whole of such estimate and assessment shall be deemed to be set aside, and the estimate of the contribution to be paid by every contributing body shall be settled by the said Judge, whose decision shall be final and binding upon the Drainage Board and all the contributing bodies.

Appeal.

50. The said Judge shall have power from time to time to make regulations for the conduct of such appeals and the costs thereof.

Regulations regarding appeals.

51. The Drainage Board may, notwithstanding that the amount sought to be recovered is in excess of the jurisdiction of any Magistrate's Court, sue for and recover the amount of any such contribution in any such Court as a debt.

Jurisdiction of S.M. Court.

52. The production in any Court of documents purporting to be—

Production of documents *prima facie* evidence.

30 (a.) A copy of the said estimate of expenditure, and
(b.) A copy of the said notice to each contributing body purporting to be under the seal of the Drainage Board, shall be *prima facie* evidence of the liability of each local body therein mentioned to pay to the Drainage Board the respective amount therein, and thereby shown to be assessed as its contribution to the Drainage Board for the purposes of this Act.

53. The aggregate amount of contributions shall not in any year be less than the permanent appropriation, together with the additional sum required as set forth in the estimates referred to in section forty-six of this Act for the same year.

Minimum of contributions.

54. The local authority of each city, borough, or road district, the whole or part of which is comprised within the drainage district, shall, within thirty days of receiving the written notice mentioned in section forty-seven hereof, unless an appeal has been lodged under section forty-nine hereof, and if any such appeal ~~shall have~~ *has* been so lodged, then within thirty days after the Court's decision thereon, pay to the Secretary of the Drainage Board one-half of the amount of such assessment; or, if appealed from, one-half the amount as fixed by the said Court, and shall pay the other half thereof within six calendar months of the date when the first half thereof became payable; in case either half ~~shall is not be~~ so paid, *such local authority* shall be liable to, and shall pay, interest on any and every amount so remaining unpaid at the rate of six per cent. per annum until the same be paid.

When contributing bodies to pay their shares.

Powers of local authorities in regard to payments.

55. Every such local authority shall, for the purpose of enabling it to make, and making, such payment, have the following powers:

(a.) It shall be entitled to pay the amount out of its ordinary revenue or funds.

(b.) It shall be entitled to, and shall, if it does not pay the same out of its ordinary funds, strike and collect a rate for such an amount in the pound on the ~~rateable~~ *rateable capital* value of all rateable property within its district, where the whole of such district is within the drainage district, or where only part thereof is within the drainage district, on ~~such that~~ *parts-as* shall be sufficient to pay the amount of such assessment and interest thereon (if any) and the cost of and incidental to the making and collection thereof, and shall be entitled to make and levy such rate in addition to all rates which it is, ~~or shall then be,~~ entitled to make and levy under any other Act, and notwithstanding any provision ~~that may be~~ in any Act limiting or in any way affecting the rating-power of such local authority.

Powers of Board to recover from contributing bodies in case of default.

56. (1.) If any such local authority ~~shall~~ *is* after notice of the said assessment ~~shall be~~ delivered to it, or in case of appeal after the decision of the said Court, fails to pay the first or last half thereof, or any part thereof, for the period of thirty days after the day on which it should be paid, or the interest thereon, it shall be lawful for the Drainage Board, in addition to any other powers or remedies hereby given, to make, levy, and collect such rate, and to pay or retain the amount of such assessment or contribution and interest and all costs and charges it has been put to in consequence of such default or neglect, ~~and~~

(2.) The local authority so in default shall, on request, hand over and supply to the Secretary of the Drainage Board correct lists of rateable properties, rate-books, assessment rolls, and all other documents and books of any and every kind necessary, or considered so by the Drainage Board or its officers, for the purpose of enabling ~~it~~ *the Board* to, and it ~~shall be, and~~ is hereby authorised and entitled to, make, levy, and collect such rate as aforesaid; ~~and~~

(3.) Such local authority and its officers and servants shall give every assistance to the Drainage Board and its officers to make, levy, and collect such rate as aforesaid. ~~And~~

(4.) For the purpose of enabling the Drainage Board to collect and recover the amount of such contribution or assessment, interest, and costs, the Supreme Court or any Judge thereof shall, on application by or on behalf of the Drainage Board, have the same power, *mutatis mutandis*, with reference to such contributing body as is given to it by this Act on any default being made by the Drainage Board in payment of any principal or interest due on any debenture issued by the Drainage Board, and also full power to order, authorise, and empower the Drainage Board and its officers to strike, levy, and collect such rate in the same way and to the same extent as such local authority so in default would be entitled to do.

Powers of Contributing Bodies.

Powers of contributing bodies to connect sewers.

57. For the purpose of carrying off any sewage from any part of its district within the drainage district every contributing body may from time to time connect sewers and drains with the said main

sewers or main drains: Provided that twenty-eight days' notice in writing be given to the Drainage Board of the intention of the contributing body to exercise the powers conferred by this section; and provided also that attached to such notice shall be complete

5 plans and specifications of the sewer, or sewers, referred to in such notice; and *that* the Drainage Engineer shall be satisfied that the sewer, or sewers, referred to therein are fit and proper to be so connected and to form part of the drainage system.

10 58. In making any such connection the contributing body shall cause the same to be done in a skilful, efficient, and workmanlike manner, and so that the efficiency and construction of such main sewers or main drains may be in nowise impaired, and to the approval of the Drainage Engineer.

Works to be efficiently done.

15 59. The Drainage Board may permit any local authority outside the drainage district to connect any drain or sewer within the district of such local authority with any drain or sewer constructed by the Drainage Board, upon such terms as may be agreed upon between the Drainage Board and such local authority.

Connection of drain in different districts.

Borrowing.

20 60. The Drainage Board shall be deemed to be a local authority within the meaning of the Local Bodies' Loans Act, 1904, ~~and amendments,~~ and the Colonial Treasurer *Minister of Finance* may, under the said Act, grant any loan to the Drainage Board upon being satisfied that the provisions of this Act have been complied with.

Drainage Board deemed local authority.

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

Power to borrow.

30 62. A copy of the special order of the Drainage Board authorising the borrowing of the said sum, purporting to be sealed with the seal of the Drainage Board and signed by the Chairman and two members, shall, without further authentication, be sufficient authority for the raising of the loan hereby authorised or any part thereof, and shall bind the Drainage Board accordingly. A copy thereof shall be published in the *Gazette*, and shall be conclusive evidence that the raising

35 of the loan to which it refers is duly authorised, and that all proceedings and things under this Act in relation thereto and in the making of such special order have been lawfully taken and done.

Special order to raise loan to be gazetted.

40 63. Before borrowing any money the Drainage Board shall make provision for the repayment thereof by the creation of a sinking fund of not less than ten shillings per centum per annum, and by making the whole loan repayable at a stated period, or any parts thereof at stated periods.

Sinking fund.

45 64. The Drainage Board shall permanently appropriate out of its income a sum sufficient for the periodical payment of interest and the creation of such sinking fund, and no such appropriation shall, without the consent of the lenders, be afterwards rescinded or lessened; but the Drainage Board may, if it thinks proper, from time to time appropriate further sums towards the sinking fund in order to maintain the accumulation thereof at proper rates.

50

Appropriation for payment of sinking fund and interest.

Sinking fund
Commissioners.

65. The Drainage Board shall appoint, and may from time to time remove and reappoint Commissioners to whom they shall pay all moneys so appropriated as a sinking fund, and such Commissioners shall dispose of such moneys by investing the same, together with all interest and profits accruing therefrom, in such securities as the Drainage Board from time to time directs, and the Commissioners to be appointed under this section may be interpreted to mean the Public Trustee. 5

Name and powers of
Commissioners.

66. The said Commissioners (other than the Public Trustee) appointed under the *last preceding* section hereof shall be deemed to be a body corporate under the name of the Auckland and Suburban Drainage Loan Commissioners, with perpetual succession and a common seal, and power to do and suffer all things which bodies corporate may do and suffer, and with authority for any two of such Commissioners to exercise the functions of the corporate body. 15

Vacancies.

67. All vacancies arising in the office of any Commissioner of sinking funds under this Act shall be filled up as they arise by new appointments to be made by the Drainage Board.

Accounts of moneys
and securities.
Certificate of
Auditor-General to
balance-sheet.

68. Such Commissioners shall send to the Drainage Board, at such time as the Drainage Board directs, accounts of all moneys and all securities in their hands, and shall immediately after the thirty-first day of March in each year send to the Drainage Board a balance-sheet showing all transactions in respect of such moneys or securities during the year ending on such day. Such Commissioners shall, together with such balance-sheet, send to the Drainage Board a certificate under the hand of the Controller and Auditor-General, or such person as he may appoint for the purpose, of all securities held by the Commissioners. 20 25

Provisions in regard
to loan-moneys.

69. The following provisions shall apply to any loan raised under the provisions hereof:— 30

- (a.) The debentures and coupons issued under the provisions of this Act shall be in or to the effect of the form of debenture and coupon of the *Second* Schedule hereto.
- (b.) They need not be under the seal of the Drainage Board, but shall be signed either by the Chairman and ~~two members~~ *Secretary* or by the Agents, and the debentures shall be numbered consecutively, so that no two debentures shall at any time bear the same number, and each debenture shall be for a sum of not less than ~~twenty-five~~ *one hundred* pounds, and shall have attached thereto coupons for interest, payable half-yearly at a rate not exceeding four pounds ten shillings per centum per annum on the amount of such debenture, and the coupons shall be numbered consecutively for each debenture, ~~and no debenture or coupon shall be liable to stamp duty.~~ 35 40 45
- (c.) The signature of any person to any coupon may be lithographed or impressed thereon.
- (d.) The principal and interest represented by each debenture and coupon shall be payable at a place, or places, ~~within or without the Dominion of New Zealand~~ named in the debenture, and shall have such currency as ~~shall~~ appears therein, and may state alternative places for payment, and the place, 50

or places, for payment of principal need not be the same as for payment of interest. Provided also that no debenture shall be sold by the Drainage Board at a price that will produce to the purchaser a greater interest than four pounds ten shillings per centum per annum.

5 (e.) The debentures representing the loan, or loans, hereby authorised, whether created at one time or as successive issues, shall rank *pari passu*, and have no preference or priority the one over the other by reason of date of issue or otherwise. They shall be payable to bearer, and shall be transferable by delivery.

10 (f.) The sum of money named in any debenture and in any coupon shall, when the same respectively becomes payable, be a debt of the Drainage Board to the holder of such debenture or coupon for the amount named therein.

15 (g.) When the principal money secured by the debentures issued hereunder becomes payable the Drainage Board shall have power to reborrow moneys under the provisions of this Act for the purpose of paying the same.

20 (h.) No claim of any holders of debentures or coupons issued under the authority hereof, or of any creditor of the Drainage Board, shall attach to or be paid out of the public revenues of New Zealand or the Government thereof.

25 (i.) Trustees may invest in debentures or other instruments representing loans raised under this Act as if the same were mentioned in section ~~fourteen~~ *ninety-five* of the ~~Trustees Act 1883 Amendment Act, 1891.~~ 1908.

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

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

40 72. The Drainage Board may in like manner, in anticipation of its ordinary revenue, from time to time borrow from any bank, by way of overdraft, any amount not exceeding the amount of the contributions for the time being outstanding. Overdraft account on ordinary revenue.

45 50 Provided that in anticipation of the first contributions which it is hereby empowered to assess, and prior to assessing or receiving the same, it may borrow up to two thousand pounds for temporary purposes.

Bank may proceed
against Board in
case of default.

73. In the event of any bank making any advance to the Drainage Board by way of overdraft and failing to obtain payment thereof, such bank may, after obtaining a judgment for the amount owing to it, make a demand in writing for the amount of such judgment, and thereafter it shall have the same rights and remedies for the recovery thereof as are by this Act given to debenture-holders in case of default: Provided that the provisions of this section shall not prejudice the priorities of any secured creditors, and any such judgment shall be subject to be questioned by any other creditor upon the ground that such overdraft exceeded the amount which the Drainage Board was empowered to borrow.

Appropriation of
moneys borrowed.

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

- (a.) In providing, in exercise of the power given to the Drainage Board by this Act, and of all other powers enabling it in that behalf, an efficient system of drainage for the drainage district, whereby the sewage and drainage thereof, and of such districts beyond the drainage district as the Drainage Board may be authorised to drain, may be conveyed away, treated, destroyed, or otherwise dealt with. 15
- (b.) In providing and using an outfall into the Waitemata Harbour for such sewage, or a system or series of storage or septic tanks or other appliances for the treatment thereof, or such other means or appliances for dealing therewith as to the Drainage Board ~~shall seem~~ *deems* best. 25
- (c.) In the acquisition by purchase, lease, or taking of land, and of any interest in land, within or without the drainage district, convenient for the collecting, treating, destroying, or otherwise dealing with and of utilising and selling sewage and other matter conveyed thereto, or for fertilising or improving the land so acquired. 30
- (d.) In the acquisition in connection with such system of drainage of lands situate within or without the drainage district, and of rights, easements, or appurtenances in respect of any land situate within or without the drainage district, and of any buildings, engines, machinery, appliances, and other things. 35
- (e.) In the payment of compensation to any person legally entitled thereto for land taken or injuriously affected under or by the operation of this Act. 40
- (f.) In the establishment, within or without the district, of furnaces or destructors for the purpose of destroying refuse matter.
- (g.) In reimbursing to the City of Auckland the cost of having obtained or obtaining a drainage report and of obtaining this Act, and all other expenses incurred by it in connection with the drainage and sewerage of the drainage district, all such costs and expenses to be settled by the Controller and Auditor-General. 45
- (h.) For any other purpose hereby authorised or incidental to or in relation to any of the purposes hereinbefore defined. 50

75. No lender of any money borrowed under the provisions of this Act, whether by the issue of debentures or otherwise, shall be concerned to inquire as to the purpose for which the same is raised, nor as to the proposed expenditure thereof, and the issue of a debenture or of the receipt of the Drainage Board therefor shall effectually discharge the lender from being concerned to see to the application thereof.

Lender or debenture holder need not see to legal expenditure of money.

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

Provisions in case of default.

(a.) The Supreme Court ~~of New Zealand~~, or any Judge thereof, shall have power, by order, either to direct and compel the Drainage Board to exercise any of the powers hereby vested in it, or to appoint a Receiver of the revenues of the Drainage Board.

(b.) Any person to whom such principal or interest is overdue may apply *ex parte* by petition or similarly by motion or summons in any action to the said Court or any Judge thereof for relief under this Act, and the Court or Judge may, if satisfied of the truth of the matters alleged in support of such application, appoint upon such terms as to security and remuneration as it or he ~~shall~~ thinks fit, a Receiver of the contributions, rates, and revenues liable or applicable for the payment of such principal or interest, or such of them as the Court or Judge ~~shall~~ thinks fit, and the said Court or Judge shall have full power and jurisdiction to make such orders from time to time that complete justice shall be done to all parties interested, and to determine in what manner the revenues of the Drainage Board shall be collected and received, and what sums are properly available out of such revenues for the payment of the principal and interest secured by the debentures issued hereunder.

(c.) Subject to the foregoing provisions, such contributions, rates, and revenues, or any of them so ordered, shall, from the date of the appointment of a Receiver, and upon its being publicly notified by the Receiver, vest in the Receiver, and cease to be vested in the Drainage Board or local authority, and the Receiver shall have and exercise all such of the powers as the Court is capable of conferring upon a Receiver as may be given to him by an order of the Court or Judge.

(d.) All powers and remedies for the recovery of such rates and contributions, including those conferred by section fifty-six hereof, and revenues shall, after the appointment of the Receiver and upon its being publicly notified, cease to be exercised by the Drainage Board or local authority, as the case may be, and shall be exercisable by the Receiver.

(e.) The remedies hereinbefore provided shall be in addition and without prejudice to any other lawful remedy competent for the recovery of the overdue principal and interest

Disposal of rates by
the Receiver.

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

- (a.) In payment of the expenses of the application and order ;
- (b.) In payment of the Receiver's remuneration, fixed as aforesaid, and his reasonable and necessary expenses ;
- (c.) In payment of the sums then overdue, which are secured by such rates, rents, and revenues ;
- (d.) The residue, after payment of the above, to the Drainage Board or local authority, as the case may be ;

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

When duties of
Receiver shall cease.

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

Judge not barred
from adjudicating
through being a
ratepayer.

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

Informality in
striking rate not to
nullify it.

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

Disposal of surplus
of borrowed moneys.

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

Miscellaneous.

Notice of action.

82. (1.) A writ or process shall not be issued against or served on the Drainage Board or any member thereof, or any officer or

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servant or workman thereof, or any person acting under its or his directions or in its or his aid, for anything done or intended to be done or omitted to be done after the passing of this Act, under the provisions of this or any other Act, or of any by-law or regulation made or in force hereunder, until one month after notice in writing has been served on the Drainage Board, or such member, officer, or person, clearly stating the cause of action, or grounds of proceeding, and the name and address of the intended plaintiff or prosecutor, and his solicitor or agent in the action or proceeding; and on the trial or hearing of any such action or proceeding the plaintiff shall not be permitted to go into any cause of action or ground of proceeding which is not stated in the notice so served, and unless such notice is proved there shall be judgment for the defendant.

(2.) Every such action or proceeding shall be commenced within twelve months next after the accruing of the cause of action or proceeding, and not afterwards, and shall be tried in the drainage district, and not elsewhere. In any such action or proceeding the defendant may plead generally that the act or thing complained of was done or omitted under the authority or in the execution or intended execution or in pursuance of this Act, or of any by-law or regulation made or in force hereunder, and may give all special matter in evidence.

(3.) Any person to whom such notice of action is given as aforesaid may tender amends to the plaintiff, his solicitor, or agent, at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar; and in case amends shall have not been tendered, or in case the amends tendered are insufficient, the defendant may within the time allowed for filing a statement of defence, or thereafter at any time before trial, by leave of the Court, pay into Court, in accordance with the practice of the Court in which the action is pending, and in the case of an action in a Court in which no defence need be filed, at any such time as may be allowed by the practice of such Court, such sums of money as it or he may think proper, whereupon such consequences shall ensue as, under the practice of the Court in which the action is brought, ensue in an ordinary action.

(4.) In any case arising out of injury to property, the property injured, and the accounts and vouchers in respect of the injury may be examined by any person appointed by the Drainage Board, and all proceedings shall be stayed until any application for such examination has been complied with.

(5.) If the plaintiff is nonsuited, or discontinues his action, or if judgment is given against him, then and in any of the said cases the defendant shall recover, at the discretion of the Court, a sum not exceeding double costs, for which he shall have the like remedy as where costs are awarded by law.

83. If any action is 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, such action shall not impede, delay, or hinder the Drainage Board from proceeding in the execution of the powers vested in it by this Act.

Commencement of
Action not to stop
works of Board.

Board may enter premises for purposes of inspection.

84. (1.) The Drainage Board and the officers and servants of the Drainage Board may enter upon any premises in the drainage district for the purpose of examining as to the existence of any nuisance thereon, or as to the breach of any of the provisions of this Act or the by-laws (with power to examine any drain or other sanitary apparatus or appliances), or for the purpose of enforcing the provisions of this Act and the by-laws, or for the purpose of executing, providing, or doing any works, materials, or things which the Drainage Board is authorised or empowered to execute, provide, or do under or by virtue of this Act or the by-laws.

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(2.) Any owner or occupier of premises who ~~shall~~ refuses to permit or allow the Drainage Board or any of its officers or servants to enter thereon for any of the purposes mentioned in the *last preceding* subsection, and every person who ~~shall~~ obstructs the Drainage Board or any of its officers or servants in the exercise of any of the powers mentioned in the *last preceding* subsection shall be guilty of an offence, and shall be liable to a ~~penalty~~ fine not exceeding twenty pounds for each such offence.

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Powers of Board in regard to acquiring or leasing land.

85. The power to acquire land given hereby shall include the power to acquire by license permission to use the same for the purposes for which land may be acquired, and any land so acquired may be let or leased by the Drainage Board by public auction, or public tender, or private contract, as it ~~shall~~ deems proper, for such term or terms, and at such rent or rents, upon and subject to such terms and conditions in every respect, as the Drainage Board ~~shall~~ thinks fit.

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Disposal of sewage for fertilisation purposes.

86. In any lease of any lands acquired as last aforesaid, or any part thereof, the Drainage Board may stipulate that the lessee shall, on such terms and subject to such conditions in every respect as the Drainage Board ~~shall~~ thinks fit, receive all or any part of the sewage matter discharged at such lands or at any part thereof, and dispose of the same upon all or any part of such lands for fertilisation or other purposes.

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Power of leasing.

87. The Drainage Board shall have the same power of leasing any land vested in it as is for the time being possessed by the Council of the City of Auckland.

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Recovery of fines and penalties.

88. All the fines and penalties imposed by this Act or by any by-law made under the authority hereof may be recovered in a summary manner under the Justices of the Peace Act, 1882 1908.

Enforcement of by-laws.

89. The provisions of this Act, and of all by-laws made by the Drainage Board, shall be enforced by the Drainage Board or its officers.

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Property of Board not liable to be rated.

90. No property of the Drainage Board owned or used by it for the purposes for which it is incorporated shall be liable to be rated by any local body.

Penalty for damaging sewer or drain.

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

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Offences under Act.

92. Any person doing anything contrary to the provisions of this Act, or any by-law or regulation made hereunder, or omitting or

5 failing to perform any duty imposed on him by or arising under this Act, or any such by-law or regulation, shall be guilty of an offence, and in cases where no other penalty is provided, shall be liable to a penalty fine not exceeding twenty pounds, and whenever such act or omission is of a continuous nature a further offence shall be deemed to be committed on each day on which it is continued; and whenever power is given by any Act, by-law, or regulation to order anything to be done or omitted, an offence shall be deemed to be committed on each day on which any person disobeys or fails to comply with any such order; and in all cases in which property is damaged, destroyed, or lost, or pecuniary loss is suffered, by reason of an offence, the Court may add to the penalty fine compensation for any loss the Drainage Board may have sustained. Provided that such compensation, unless awarded at the express request of the Drainage Board, shall not, excepting as to the amount thereof, relieve such person of any civil liability in respect of his act or omission.

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

Governor may extend time fixed by Act to carry out works.

94. The Governor shall have power, upon the requisition of the Drainage Board, by Proclamation to declare that any area described in such Proclamation not now included within the drainage district shall form part thereof. Provided that no such Proclamation shall issue until the Governor is satisfied that the inclusion of such area within the drainage district will prove beneficial to the inhabitants and the owners of property therein.

Extended area may be proclaimed.

SCHEDULES.

FIRST SCHEDULE.

Struck out.

THE "Drainage District" comprises the whole of the City of Auckland, the Boroughs of Parnell, Grey Lynn, Newmarket, and Mount Eden, the Road Districts of Remuera, Epsom, Mount Albert, Arch Hill, Eden Terrace, Point Chevalier, Orakei, and the northern part of One-tree Hill, and is bounded, commencing at Oakley Creek, at its junction with the waters of the Waitemata Harbour, thence on the west, north-west, north, north-east, north, north-west, and north by the said Waitemata Harbour to the point where the eastern boundary of the Orakei Road District abuts on the said Waitemata Harbour; thence on the east by the said eastern boundary of the said Orakei Road District; thence on the east, south-east, east, south-east, and south-west by the said boundary of the said Remuera Road District to the junction of the Great South Road and Green Lane; thence towards the south-east and south by the said Green Lane to the north-western boundary-line

Schedules.

Struck out.

of Allotment 10 of Section 11 of the Suburbs of Auckland; thence towards the south-east by the north-western boundary-lines of the said Allotment 10, part of Allotment 13 and Allotment 11 of the said Section 11, towards the south by the northern boundary of Allotment 12 of the said Section 11 to the point where it joins Raglan Road; thence towards the east and south by the said Raglan Road; thence towards the east, south, east, south, west, and south by the boundary-line between the Epsom and Mount Roskill Road Districts to the point where such boundary meets the boundary between the Epsom Road District and the Mount Eden Borough; thence towards the south by the boundary-line between the Mount Eden Borough and the Mount Roskill Road District to the point where it joins the boundary-line between the Mount Albert and Mount Roskill Road Districts; thence on the east, south-west, south, east, and south by the boundary-line between the said Mount Albert and Mount Roskill Road Districts until it meets the boundary-line between the said Mount Roskill and Avondale Road Districts; thence on the south and west by the boundary-line between the said Mount Albert and Avondale Road Districts, being Oakley Creek to a point where it meets the boundary between the said Mount Albert and Point Chevalier Road Districts; thence on the west by the boundary-line between the said Avondale and Point Chevalier Road Districts, being the said Oakley Creek to the point of commencement. As the same is shown on the plan No. 14596 deposited in the District Survey Office at Auckland.

New.

ALL that area comprising the whole of the City of Auckland, the Boroughs of Parnell, Grey Lynn, Newmarket, and Mount Eden, the Road Districts of Remuera, Epsom, Mount Albert, Arch Hill, Eden Terrace, Point Chevalier, and the northern portion of One-tree Hill: bounded commencing at Oakley Creek at its junction with the waters of the Waitemata Harbour: towards the west and north generally by the said Waitemata Harbour, Orakei Basin, and the Purewa Creek to the boundary-line between the Remuera and Tamaki West Road Districts: towards the east generally by the last-mentioned road district: towards the south-east generally by the Mount Wellington Road District to the Great South Road: towards the south-west by the Great South Road aforesaid to the crossing of that road and Green Lane: again towards the south-east by Green Lane aforesaid to the north-western boundary-line of Allotment No. 10 of Section No. 12, Suburbs of Auckland; by that allotment and Allotments Nos. 13, 11, and 12 of the same section to Raglan Street; by that street and Golf Road, the crossing of the Auckland - Onehunga Road, and by that road to the boundary between the Epsom and Mount Roskill Road Districts: towards the south generally by the Mount Roskill Road District aforesaid, the crossing of a road to Oakley Creek, and by that creek and the Avondale Road District: and towards the west generally by the Avondale Road District aforesaid and Oakley Creek aforesaid to the point of commencement: as the same is more particularly delineated on plan marked 14596 deposited in the District Office of the Lands and Survey Department, at Auckland, and thereon edged blue.

SECOND SCHEDULE.

FORM OF DEBENTURE.

AUCKLAND AND SUBURBAN DRAINAGE BOARD'S DEBENTURE, secured upon the Board's General Fund and upon all contributions payable to it by and all rates leviable by the local authorities thereof to secure the payment of such contributions upon the City of Auckland and the Suburban Boroughs of Parnell, Grey Lynn, Newmarket, and Mount Eden, and the Road Districts of Remuera, Epsom, Mount Albert, Arch Hill, Eden Terrace, Point Chevalier, Orakei, and northern portion of One-tree Hill.

No.

Transferable by delivery.

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Under the authority of the Auckland and Suburban Drainage Act, 1908.

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

