

Mr Statham.

DUNEDIN DISTRICT DRAINAGE AND SEWERAGE ACTS
AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

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

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

1. This Act may be cited as the Dunedin District Drainage and Sewerage Acts Amendment Act, 1915, and it shall form part of and be read together with the Dunedin District Drainage and Sewerage Act, 1900. Short Title.

2. (1.) In the said Acts, if not inconsistent with the context, "borough" includes the city, a town district, a road district, and a county, or part thereof respectively, forming part of the district. Interpretation.

(2.) In this Act, if not inconsistent with the context,—
15 "The principal Act" means the Dunedin District Drainage and Sewerage Act, 1900.

"The Amendment Act, 1902," means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1902:

20 "The Amendment Act, 1905," means the Dunedin District Drainage and Sewerage Act 1900 Amendment Act, 1905:

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

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- “The Amendment Act, 1907,” means the Dunedin District Drainage and Sewerage Act Amendment Act, 1907 :
“The Amendment Act, 1909,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1909 :
“The Amendment Act, 1911,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1911 : 5
“The Amendment Act, 1912,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1912 :
“The Amendment Act, 1913,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1913 : 10
“The Amendment Act, 1914,” means the Dunedin District Drainage and Sewerage Acts Amendment Act, 1914 :
“Ratepayers” means the persons whose names are entered in respect of a rating-qualification on the district electoral roll under the said Acts or, in the case of a borough, on the district electors roll of that borough. 15

Borrowing-powers.

3. (1.) The Board is hereby authorized to borrow further money, not exceeding the sum of one hundred thousand pounds, for the purposes of the said Acts other than the purposes mentioned or referred to in section seventy of the principal Act. 20

(2.) Subject and without prejudice to the provisions hereinafter contained as to the consent of the ratepayers, section fifty-six of the principal Act shall be read and construed as if the words “six hundred and eighty thousand pounds” had been originally inserted therein instead of the words “two hundred thousand pounds.” 25

(3.) Before raising the loan authorized by subsection *one* hereof, or any part of such loan, the consent thereto of the ratepayers of the district shall be obtained by the Board, but no such consent shall be necessary in connection with any loan raised for the purpose of repaying any loan hereby authorized or for the purpose of carrying out any contract entered into by the Board prior to the passing of this Act and uncompleted at the date thereof or any modification of such contract : 30

Provided always that no person lending any money to the Board pursuant to this Act shall be concerned to inquire whether any such consent shall have been obtained. 35

Interest on loans.

4. Notwithstanding anything contained in the said Acts or in any special order heretofore passed by the Board, the money hereby authorized to be borrowed, and also any moneys heretofore authorized to be borrowed and not borrowed in pursuance of such authority, may be raised or borrowed on such terms as will produce to the lender a rate of interest not exceeding six pounds per centum per annum, and the provisions of subsections two and four of section fifty-eight of the principal Act shall, as to the moneys so raised or borrowed, be read and construed with such modifications in regard to the rate of interest on such moneys as may be necessary for giving effect to this section. 40 45

Power to cancel and reissue debentures.

5. Prior to the actual raising of a loan authorized by this Act or any other Act now or hereafter passed it shall be lawful for the Board to cancel any debentures created in connection with such loan notwithstanding any dealing therewith including any mortgage or hypothecation thereof, and may create fresh debentures in substitu- 50

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tion therefor with, upon, or subject to the same or any other terms or conditions :

Provided always that nothing in this section contained shall affect or prejudice the rights of the holders for the time being of such
5 first-mentioned debentures.

6. (1.) Section three of the Amendment Act, 1905, is hereby General rates.
amended by substituting the words "one shilling and threepence"
for the words "one shilling"; and by substituting the words
"sevenpence and one halfpenny" for the word "sixpence."

10 (2.) Before making or levying, or ordering to be made or levied,
a general rate in the case of sewered properties for a greater amount
than one shilling in the pound of the annual rateable value thereof
respectively or in the case of unsewered properties, other than those
mentioned in subsection three of section forty-nine of the principal
15 Act, for a greater amount than sixpence in the pound of the annual
rateable value thereof respectively the consent thereto of the rate-
payers of the district shall be obtained by the Board.

(3.) If such consent is obtained the Board may thereafter make
and levy, or order to be made and levied, year by year general rates
20 not exceeding the amount or respective amounts so consented to
without any further consent of the ratepayers, and a consent given to
a proposal to order such rates to be made and levied shall not be
deemed to prevent the Board from itself making and levying such
rates, and *vice versa*.

25 (4.) Nothing in either of the *last two* preceding subsections
contained shall affect or prejudice the power of the Board to make
and levy, or order to be made and levied, general rates in the case
of sewered properties to the extent of one shilling in the pound of
the annual rateable value thereof respectively, or in the case of
30 unsewered properties, other than those mentioned in subsection three
of section forty-nine of the principal Act, to the extent of sixpence
in the pound of the annual rateable value thereof respectively.

7. (1.) For the purpose of providing the interest on the cost of Differential rate.
works hereafter constructed or proposed to be constructed by the
35 Board in any borough in order to provide for or deal with storm-
water, and whether or not such works form part or are proposed to
form part of any general system or partially general system, the
Board may, if it thinks fit, in the manner provided by the said Acts,
annually make and levy, or order to be made and levied, in addition
40 to the general rates by the said Acts authorized to be made and
levied, a differential rate upon such borough to such an amount in
the pound upon the annual rateable value of the respective properties
in such borough as the Board shall by resolution determine, provided
that the total estimated amount to be received from such rate shall
45 not exceed the amount required to provide the interest on the cost of
the said works.

(2.) The cost of the works as aforesaid shall include the actual
or estimated cost, together with ten pounds per centum of such
actual or estimated cost to cover supervision of the works and the
50 standing charges of the Board.

(3.) A certificate in writing signed by the Drainage Engineer
as to the cost of works constructed or proposed to be constructed as

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aforesaid and the determination of the Board by resolution as to the amount of rate required to provide the interest on such cost shall be final and conclusive as to such cost and as to such amount of rate respectively :

Provided that, in respect of works proposed to be constructed, the Drainage Engineer may, after the construction thereof, certify the actual cost of such works, together with the additional ten pounds per centum as aforesaid, and such certificate shall as to any rate thereafter made and levied, or ordered to be made and levied, take the place of any certificate previously given in respect of the same works. 5 10

(4.) Before making or levying or ordering to be made or levied a rate upon any borough in pursuance of this section the consent thereto of the ratepayers of such borough shall be obtained by the Board. A poll may be taken in connection with such consent although no loan may have been raised or interest be payable for the time being. 15

(5.) If such consent is obtained the Board may thereafter make and levy, or order to be made and levied, year by year a differential rate as aforesaid upon such borough, not exceeding the amount so consented to, without any further consent of the ratepayers of such borough, and a consent given to a proposal to order such rates to be made and levied shall not be deemed to prevent the Board from itself making and levying such rates, and *vice versa* : 20

Provided always that if the actual cost of the works shall be more than the estimated cost or if the rateable value of the properties in the borough shall fall the differential rate may be increased to meet either or both of such cases. 25

(6.) Section fifty-four of the principal Act is hereby amended by repealing the word "general." 30

Consent of
ratepayers.

8. The consent of the ratepayers of the district or of a borough, as the case may be, to any proposal as required by this Act shall be deemed to be given if and whenever the proposal is carried at a poll as hereinafter provided, and for the purpose of obtaining such consent the following steps shall be taken :— 35

(a.) The Board shall publish in any newspaper circulating in the district once in each week for four successive weeks a notice stating—

(i.) In the case of a proposal to raise a loan under or by virtue of section *three* hereof, the sum proposed to be borrowed and whether or not it is proposed to pay out of the loan the interest for the first year ; or 40

(ii.) In the case of a proposal to make and levy, or order to be made and levied, a rate or rates under or by virtue of section *six* hereof, the amount of rate or rates proposed to be made and levied, or ordered to be made and levied, distinguishing between the rates on sewered and unsewered properties respectively ; or 45

(iii.) In the case of a proposal to make and levy, or order to be made and levied, a rate under or by virtue of section *seven* hereof the amount of the cost of the works as certified by the Drainage Engineer pursuant to sub- 50

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section *three* of section *seven* hereof and the amount of rate proposed to be made and levied or ordered to be made and levied.

(b.) A poll of the ratepayers upon the proposal shall be taken as follows :—

(iv.) The Board shall publish not less than four times in any newspaper circulating in the district a notice stating the day on which the poll shall be taken. The first publication under this paragraph of the date of the poll shall be made not less than fourteen days before the said date, and the poll shall be taken not less than one nor more than three weeks after the day of the last publication of the notice mentioned in paragraph (a) hereof. Subject as aforesaid, the notice of the poll may be published as part of or concurrently with the notice mentioned in paragraph (a) hereof.

(v.) On the day so appointed a poll shall be taken in like manner as the same would be taken for the election of a member of the Board, and every ratepayer of the district or of the borough, as the case may be, shall be entitled to vote accordingly.

(vi.) The voting-papers shall contain particulars of the proposal as notified pursuant to paragraph (a) hereof or a statement giving the purport and effect of that notice.

9. If the total number of valid votes recorded in favour of the proposal is a majority of the total valid votes recorded at the poll, then, and not otherwise, the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly; but if the proposal is not carried, the Board shall not so proceed.

When proposal carried.

10. (1.) As soon as conveniently may be after the poll the Returning Officer shall send to the Minister of Finance for publication in the *Gazette* a notice of the number of votes recorded for and against the proposal, and in such notice shall declare the proposal to be carried or rejected, as the case may be.

Result of poll to be gazetted.

(2.) A similar notice shall be published in some newspaper circulating in the district.

(3.) If the proposal is carried the notice thereof so published in the *Gazette* shall be conclusive evidence that such proposal is duly authorized, and that all proceedings and things under this Act in relation thereto have been lawfully taken and made.

(4.) If the Returning Officer knowingly inserts or causes or allows to be inserted in any notice published as aforesaid any false statement as to the number of votes recorded for and against any proposal to which such notice relates, he shall be liable to a fine not exceeding *five hundred* pounds, to be recovered summarily before a Magistrate under the Justice of the Peace Act, 1908.

11. (1.) The proposal to raise a loan and the proposal to make and levy, or order to be made and levied, rates exceeding one shilling in the pound or exceeding sixpence in the pound, as the case may be, may be submitted to a poll of the ratepayers pursuant to sections *three* and *six* hereof respectively either as one proposal or as separate proposals.

Polls may be separate or combined.

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(2.) The proceedings in connection with any two or more proposals submitted separately may be combined, but, at any poll in connection with proposals submitted separately, separate voting-papers shall be used in connection with each proposal and shall be different in colour.

Extension of district.

12. (1.) Section ten of the Amendment Act, 1902, is hereby amended by repealing that part of paragraph (2) thereof commencing from and including the words "the said local authority shall be deemed," and substituting therefor the following, "the said local authority shall, where no other sufficient powers exist, be deemed to be a local authority having rating-powers within the district in which such area is situated within the meaning of the Rating Act, 1908, and similarly, when the Board shall determine to make, levy, and collect its own rates, it shall be deemed to be such a local authority."

(2.) The said section ten as hereby amended shall extend and apply to any area included within the district of the Board by statute.

(3.) This section shall be deemed to have been in force as from the date of the passing of the Amendment Act, 1902.

Acts incorporated.

13. (1.) Subject as by this Act is expressly provided, the provisions of the Local Elections and Polls Act, 1908, and of section ten of the Amendment Act, 1914, shall, so far as applicable and with the necessary modifications, extend and apply to every poll held under or by virtue of this Act.

(2.) In the case of a poll of the ratepayers of a borough a true copy of the district electors roll of that borough as existing one month previous to such poll shall be used for the purpose of such poll.

(3.) Only ratepayers shall vote at any such poll.

Interest on moneys payable to Board.

14. (1.) Paragraph (b) of section ten of the Amendment Act, 1907, is hereby amended by repealing the words "not exceeding six," and substituting therefor the words "to be fixed by the Board from time to time not exceeding seven pounds ten shillings."

(2.) Paragraph (b) of section six of the Amendment Act, 1906, is hereby amended by repealing the words "after the rate of six pounds," and substituting therefor the words "after a rate to be fixed by the Board from time to time in any case or class of cases not exceeding seven pounds ten shillings."

Drains in common.

15. (1.) Section twenty-five of the Amendment Act, 1909, is hereby amended by adding thereto, after the words "drain in common" in subsection one thereof, the words "and whether all or any part of the drain in common is or is not already laid or in existence."

(2.) Any agreement already made which would have been valid if the foregoing subsection had been in force at the time of the execution thereof shall be deemed to be valid and effectual.

(3.) Subsection seven of section twenty-five of the Amendment Act, 1909, shall extend and apply to the case of two premises one of which is served by an existing drain.

Private-drain connections.

16. Without prejudice to the generality of the provisions of section eleven of the Amendment Act, 1912, that section shall be deemed to extend and apply to the case of a sewer laid in private premises.

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17. (1.) Every lessor, lessee, occupier, mortgagor, and mortgagee of any premises shall on demand furnish to the Board or any officer thereof the particulars of every lease and mortgage affecting such premises and the terms of any occupancy and all other information, whether of the same nature or not, within the knowledge of such lessor, lessee, mortgagor, mortgagee, or occupier as to the ownership of such premises.

Information to be furnished.

(2.) Any lessor, lessee, mortgagor, mortgagee, or occupier who shall refuse to furnish such particulars or information as aforesaid, or shall wilfully furnish false particulars or information, shall be guilty of an offence, and section thirty-five of the Amendment Act, 1902, shall extend and apply thereto.

(3.) Nothing herein contained shall affect or prejudice any other right or remedy of the Board.

(4.) This section is in substitution for section fourteen of the Amendment Act, 1913, which section is hereby repealed.

18. Section nineteen of the Amendment Act, 1914, is hereby amended by repealing the words and figures "and section twelve of the Amendment Act, 1909, or either" in subsection one thereof, and substituting therefor the words and figures "section twelve of the Amendment Act, 1907, and section eleven of the Amendment Act, 1912, or any."

Supervision charge.

19. (1.) It shall be lawful for the Board by agreement with the owner of any premises situated beyond the district to permit the discharge either permanently or temporarily of sewage and drainage, or sewage or drainage, from such premises into any sewer vested in the Board and the connection with such sewer of any drain from such premises, upon and subject to such terms and conditions as the Board shall determine.

Premises beyond the district.

(2.) Every such agreement shall bind the said premises and the owner for the time being thereof and his successors in title and the liability thereunder of such owner and his successors in title shall take effect notwithstanding, and shall have precedence over any charge or encumbrance on such premises.

(3.) A note or memorandum of such charge shall be entered in the Register of Charges within fourteen days after the execution of the agreement by the Board.

(4.) It shall be lawful for the owner of any such premises to enter into any such agreement as aforesaid.

(5.) Any agreement already entered into which would have been valid if this section had been in force at the time of the execution thereof shall be deemed to be valid and effectual.

20. (1.) The minute-books of the Board and of any committee thereof, the Register of Charges, and the Instalment-book shall be prima facie evidence of the contents thereof respectively, of the validity of all proceedings recorded therein, and of all entries therein having been duly authorized and made.

Evidence.

(2.) The provisions of the foregoing subsection shall extend and apply to a copy of an entry in any such minute-book, the Register of Charges, or the Instalment-book certified by the Secretary to be a true copy.

21. Where anything is omitted to be done or cannot be done at the time required by or under the said Acts, or is done after such time, or is otherwise irregularly done in matter of form, or sufficient

Validation of proceedings and extension of time.

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provision is not made by or under the said Acts, the Governor may, by Order in Council gazetted, at any time before or after the time within which such thing is required to be done extend such time, or may validate anything so done after the time required or so irregularly done in matter of form, or may make other provision for such case as he thinks fit: 5

Provided always that nothing in this section contained shall affect the provisions of paragraph (e) of section eleven of the Amendment Act, 1911.

Subleases.

22. (1.) Subsection three of section eighteen of the Amendment Act, 1913, is hereby amended by adding thereto, at the end thereof, the words "and to all moneys paid by the head-lessor to the Board in respect of works required by the Board and executed by it either by agreement with such head-lessor or in consequence of his default." 10 15

(2.) The said section eighteen is also hereby amended by adding thereto the following subsection:—

"(5.) Nothing in this section or in the said section thirty-three shall affect or prejudice any contract."

(3.) Section thirty-three of the principal Act is hereby amended by adding thereto, at the end thereof, the words, "and so on with reference to any subsequent subtenancy." 20

Instalments.

23. (1.) Section twenty-eight of the principal Act is hereby amended as follows:—

(a.) By adding the words "and the interest payable therewith" after the word "instalments" and "instalment" respectively in subsection four. 25

(b.) By adding thereto the following subsection:—

"5. (a.) If default is made for twenty-one days in payment of the whole or any part of any such instalment of principal-money, the Board may, if it thinks fit, charge interest on the principal-money, or such part thereof as shall for the time being be owing, at the rate of one pound per centum per annum in addition to the interest payable under or by virtue of the preceding provisions of this section until the said instalment or the part thereof in arrear shall be fully paid, such additional interest to be computed from the due date of the preceding instalment; and such additional interest shall be recoverable accordingly." 30 35 40

(c.) By repealing the word "thereon" in subsection six, and substituting therefor the words "payable therewith."

(2.) The provisions of the subsection contained in paragraph (b) hereof shall extend and apply to all instalments now or hereafter payable to the Board. 45

(3.) Section nine of the Amendment Act, 1906, is hereby amended by adding thereto, after the word "instalment" in subsection three thereof, the words "or interest."