



ANNO TRICESIMO OCTAVO ET TRICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1875.

No. 21.

An Act to provide for the creation of Drainage Districts in the South-Eastern portion of the Province of South Australia, and for the maintenance and construction of Drainage Works therein, and for other purposes.

[Assented to, 15th October, 1875.]

WHEREAS certain works have been constructed and are in course of construction in the South-Eastern District of South Australia, for the drainage and reclamation of land therein, and it is intended to extend such works for the drainage and reclamation of other lands, and it is expedient to make provision for the maintenance and construction of the said works respectively, and for other purposes connected therewith — Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows :

Preamble.

PRELIMINARY.

1. This Act may be cited for all purposes as “The South-Eastern Drainage Act, 1875.”

Short title.

2. The words “Public Drains” shall extend to and include all streams, sluices, watercourses, drains, ditches, and outfalls of water heretofore constructed, or in course of construction in the South-Eastern District by means of the expenditure of public money, or moneys voted by Parliament, or which may hereafter be constructed, or in course of construction, by the Commissioner, or by any Drainage Board :

Interpretation clause.

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The words "Drainage Works" shall extend to and include all dams, weirs, sluices, bridges, culverts, crossings, hatches, locks, walls, banks, tunnels, and floodgates, of, belonging to, or connected with the public drains :

The word "Owner," except where it is otherwise defined in the provision relating to rating, shall have the same meaning as it has in "The Lands Clauses Consolidation Act" :

The word "Commissioner" shall mean the Commissioner of Public Works, or other Responsible Minister of the Department of Government having control of the drainage works :

The word "Ratepayer," shall mean the occupier of rateable property, or the owner of unoccupied rateable property :

The words "Rateable Property," shall extend to all buildings, lands, tenements, and hereditaments, but the following, namely—waste lands of the Crown; land the property of the Crown and used for any public purpose; churches, chapels, places for religious worship, licensed schools, or schools deriving aid from Government; public buildings and lands reserved or set apart for the benefit of the aborigines of the said Province.

Division of Act.

3. This Act shall be divided into Six Parts:—

The First, relating to the Constitution of the Drainage District :

The Second, relating to the Powers and Duties of the Commissioner :

The Third, relating to the Drainage Board, its Constitution, Powers, and Duties :

The Fourth, to Revenue, Expenditure, and Accounts :

The Fifth, to Assessments, Rates, Loans, and Meetings of Ratepayers :

The Sixth, to Miscellaneous Provisions, Penalties, and Evidence.

PART I.

PART I.

CONSTITUTION OF THE DRAINAGE DISTRICT.

Proclamation of District.

4. The Governor, by Proclamation in the *Government Gazette*, may constitute and declare any portion of the said County of Grey and of the Counties of Robe, MacDonnell, and Cardwell, or of any of the said Counties, a Drainage District, to be called the "South-Eastern Drainage District," and may from time to time alter the boundaries of such District.

Division of District.

5. The Governor may, by Proclamation in the *Government Gazette*, divide

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divide the South-Eastern Drainage District into two or more Drainage Districts, and may include therein any other part of the said Counties respectively, and may designate the Districts so constituted by such names as to the Governor shall seem meet, and by the like Proclamation alter the names and boundaries of such Districts.

PART I.

6. Whenever any such Proclamation shall be issued, the Commissioner shall cause a map of the Drainage District described in such Proclamation, signed by him and certified to be correct by the Surveyor-General, to be deposited in the office of the Surveyor-General, and in the office of the Drainage Board hereinafter referred to, and such map shall show—

Map of District to be deposited.

The boundaries of the District so constituted or altered :

The line, course, and position of the streams, watercourses, public drains, and lakes, and also the drainage works therein :

And the sections of land therein :

And such maps shall be open for inspection to the public at all reasonable times.

7. Each of the maps signed, certified, and deposited as aforesaid shall be conclusive evidence in every Court of the boundaries of the District, of the position of the public drains, drainage works, roads, and reserves, and also of all sections of land within the said District.

Map to be conclusive evidence.

8. All water flowing into, or being in any public drains, within any Drainage District, shall be and continue the absolute property of the Crown.

Water to be the property of the Crown.

9. All public drains and drainage works in every Drainage District, made or maintained out of moneys voted by or borrowed under the authority of the said Parliament shall be, become, and remain the absolute property of the Crown.

Public drains to be the property of the Crown.

PART II.

PART II.

POWERS AND DUTIES OF THE COMMISSIONER.

10. The Commissioner may execute such works as he shall deem necessary for the completion of the drainage and reclamation of land in any Drainage District, and shall be entrusted with the expenditure of all moneys voted or borrowed for that purpose by or under the authority of Parliament.

Commissioner to execute works.

11. The Commissioner, for the purpose of executing the said works, shall have the care, control, and management of such public drains and drainage works as shall not be made subject to the care, control, and management of the Drainage Board, as hereinafter mentioned, and for executing the said works shall have the powers and

Powers of Commissioner.

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PART II.

and authorities with respect to the said public drains and drainage works, and of acquiring and selling land, appointing officers, and otherwise, hereinafter conferred upon the Drainage Board, in as ample and as full a manner as if such powers were expressly given to the Commissioner instead of to the Drainage Board, and as if in the sections of this Act in which the Drainage Board is mentioned "Commissioner" was inserted in lieu of "Drainage Board."

PART III.

PART III.

THE DRAINAGE BOARD, ITS CONSTITUTION, POWERS,
AND DUTIES.

Appointment of Board.

12. The Governor, upon the constitution of each Drainage District, may appoint a Board therefor, which in the case of the South-Eastern Drainage District, shall be called the "South-Eastern Drainage Board," and in any other case shall in like manner be called by the name of the District for which it is appointed, but substituting for the word "District" the word "Board." Each Drainage Board shall be a body corporate with perpetual succession and a common seal, having a capacity to hold lands for all the purposes of this Act. Each Drainage Board shall have the care, control, and management of the public drains and drainage works within the District, which the Governor shall from time to time by Proclamation, published in the *Government Gazette*, make subject to the care, control, and management of such Board, or which shall be constructed, completed, or otherwise acquired by such Board. Each Drainage Board shall in all matters in which it has jurisdiction, be subject to the like control of the Governor as any other department of the Public Service.

Constitution of
Drainage Boards.

13. The members of each Drainage Board shall be not less than five or more than seven in number, and shall hold office for the term of three years, subject to removal by the Governor. In case of the death, resignation, or removal from office of any member of the Board, the appointment to fill the vacancy so arising shall be for the rest of the term of office for which such member was appointed. Any three members of the Board shall form a quorum competent to transact business at any meeting of the Board. The Chairman, or other member presiding, shall have a deliberative and also a casting vote. The members of the Board shall be remunerated by fees, not exceeding one guinea each, for every meeting of the Board, together with such allowance by way of mileage for travelling expenses as may be approved by the Commissioner. The Chairman shall be elected annually at the first meeting of the Board in each year, and in the event of a vacancy in the office of Chairman during any year, a member of the Board shall be elected at the next meeting after such vacancy shall happen, to fill the same during the remainder of such year.

14. Each

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14. Each Drainage Board may appoint such officers, collectors, and servants as may be required for carrying out the purposes of this Act, at reasonable salaries and rates of remuneration payable out of the revenue of the said Board.

Appointment of officers.

15. Every deed, conveyance, agreement, or instrument, to which any Drainage Board is a party, or which it may be necessary for the Drainage Board to make, shall be executed or signed by the Chairman, in the name and on behalf of the Drainage Board.

Chairman to execute deeds.

16. Each Drainage Board, its officers and servants may, within its district—

Powers of Drainage Board.

Enter into and upon any land whatsoever for any purpose connected with the administration of this Act:

Cleanse, repair, or otherwise maintain in a due state of efficiency any public drains or drainage works:

Widen, strengthen, deepen, divert, scour, or cleanse any public drains:

Make, open, and cut any new public drains:

Make, erect, alter, or remove any public drains, or drainage works:

Dam, bar, and stop up with any weir or dam, any river, pool, stream, or watercourse:

Also make any embankment against any lake, river, stream, or watercourse, and place on any land stones, piles, earth, soil, or other materials, for the purposes of the works, or for the more effectual protection or defence of any land, or for the better conveying the waters from any land into the sea, or into any lake, stream, or watercourse, or gap, or outlet:

Erect any drainage work in any lake, stream, or watercourse, for the purpose of keeping back a sufficiency of water for the use of cattle or sheep, or for the irrigation or warping of lands, where such irrigation or warping shall be wanted, and shall be a beneficial manurance to such lands:

Stop up or divert any road, or remove any bridge, and make any new road or bridge:

Do all such things and execute all such works as may be necessary or convenient for the purposes of this Act.

17. No work by this Act authorized to be done to or in connexion with any drain by any Drainage Board shall be commenced or executed without the approval of the Commissioner first had and obtained, except in those cases where the protection of the public drains or drainage works in any Drainage District from impending injury shall necessitate immediate action, and except so far as regards the scouring and cleansing of the same; and save and

Works not to be executed without approval by Commissioner.

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and except as aforesaid the Drainage Board shall submit to the Commissioner plans and specifications, or such other description of the proposed works as he may require, before commencing or executing the same, and all such works shall be carried out and performed to his entire satisfaction, and no deviation shall be made from the said plans and specifications without his approval.

Compensation for damage.

18. Each Drainage Board shall out of its funds make compensation, in manner hereinafter prescribed, to all persons for any damage occasioned to them by the exercise of any of the powers aforesaid.

Drainage Boards may acquire lands.

19. Any Drainage Board may contract for purchase and hold any lands, tenements, messuages, easements, and appurtenances within its district which it may consider necessary to purchase or acquire for accomplishing any of the purposes of this Act, making reasonable satisfaction and recompense to be agreed upon or ascertained in manner hereinafter provided.

Portions of "The Lands Clauses Consolidation Act" incorporated.

20. All the clauses and provisions of "The Lands Clauses Consolidation Act" relating to the purchase of lands by agreement, to the purchase and taking of lands otherwise than by agreement, and to the application of purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, shall be deemed to be incorporated with this Act: Provided that the time fixed by "The Lands Clauses Consolidation Act" within which the power of compulsory purchase of lands may be exercised shall not apply to this Act, but the same may be exercised by a Drainage Board at any time during its existence.

Power to sell lands not required.

21. Each Drainage Board, with the consent of the Commissioner may, for such considerations as it may think proper, sell and convey any of the lands which it may have acquired under the provisions of this Act, and which may be no longer required by such Board.

Power to make roads.

22. Any Drainage Board may make such roads over any of the lands authorized to be taken, as may be considered necessary for carrying into effect the purposes of this Act, and for communicating with and maintaining the drainage works which may be constructed, and may repair, amend, and fence in such roads, and use the same exclusively for the said purposes, or permit the public, or any person or persons to make use of the same, upon such terms and conditions as the Board shall from time to time think proper.

Public Drains to vest in Boards.

23. Notwithstanding the provisions of section 9 of this Act, each Drainage Board shall within its District and in all Courts of Justice, for all purposes whatsoever, be deemed to have vested in it the fee-simple of the public drains and drainage works under its care, control, and management; and in any legal proceedings taken or defended by any such Board in respect thereof no proof whatever shall be required of such fact, and the mere allegation
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by any such Board of the vesting of the same shall be taken for all purposes to be full and sufficient proof thereof.

PART III.

24. Each Drainage Board may, from time to time, make, alter, and amend by-laws— Power to make by-laws.

For regulating the appointment of any officer or other person for carrying out any of the purposes of this Act:

For the regulation and control of any officer or servant of the Board, and the time and mode of payment of salaries or fees:

For fixing and regulating the securities to be taken from or on behalf of any officer or servant:

For making, imposing, levying, and collecting any assessment or rates:

For the appropriation and expenditure of moneys:

For the management of any land, tenements, and hereditaments, or other property, vested in or under the control of the Drainage Board for any purpose whatever:

For regulating, maintaining, protecting, cleansing, and improving any public drains within the Drainage District:

For regulating the manner, times, and quantities in which water may be diverted from any public drain within the Drainage District, and the persons and purposes by and for which water may be so diverted, and the fees payable therefor:

For regulating the making, maintaining, protecting, and cleansing of any drain made by the owners or occupiers of land within the Drainage District from such land into any public drain:

For regulating the obtaining and removing of any timber, stone, gravel, sand, silt, or any other materials from any land the property of or under the control of the Drainage Board, and the fees payable by any person for so doing, and the mode of collecting such fees:

For regulating the poundage fees payable by the owners of animals trespassing on the public drains or on any land the property of or under the control of the Drainage Board:

For regulating the manner of calling and holding meetings of the Drainage Board and the ratepayers of the Drainage District:

For the more effectually carrying out all and every the powers and authorities herein given to the Drainage Board:

and may affix penalties to the breach of any such by-laws not exceeding Five Pounds.

25. No by-law shall be in force until signed by the Chairman of the Drainage Board and confirmed by the Governor, and until one When by-law to be in force. week

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week shall have elapsed from its publication in the *Government Gazette*, and then the by-law shall have the force of law.

Drainage Boards to have all powers vested in District Councils.

26. In addition to the powers and authorities vested in the Drainage Board by this Act, the Drainage Board shall, in all parts of a Drainage District which are not within the boundaries of a District Council, constituted under the "District Councils Act 1858," have and exercise all powers and authorities vested in District Councils under the last-mentioned Act, in the same and as full a manner as if the Drainage District had been constituted a District under the said last-mentioned Act, and the Drainage Board were the Council thereof; and for the purpose of enabling the Drainage Board to exercise the said powers and authorities, the following portions of "The District Councils Act 1858," that is to say, sections 57 to 62 inclusive, 86 to 114 inclusive, 120 to 125 inclusive, 158, 159, 161, 164, 166, 167, 173, 174, 176, 188, 189, and 191 to 201 inclusive, are hereby incorporated with this Act, and for the purposes of such incorporation, shall be read and construed as if the words "Drainage Board" were inserted therein instead of "District Council."

Revenue of Drainage Board.

PART IV.

PART IV.

REVENUE, EXPENDITURE, AND ACCOUNTS.

Revenue of Drainage Boards.

27. The revenue of each Drainage Board shall consist of the moneys following, namely—

Rents, profits, and income which may be received from any lands, tenements, and hereditaments vested in it, or of which it may have the control and management:

Proceeds arising from the sale of any lands, tenements, and hereditaments vested in the Drainage Board; or the property of, or under the management of the Drainage Board, which it may be authorized to sell:

Fines and penalties imposed or inflicted for any offence against this Act or against any by-law made pursuant thereto, and committed within the Drainage District, or for any offence committed by, or for any breach or neglect of duty on the part of any ratepayer, officer, or other person in any matter relating to the Drainage District or Drainage Board, or any member of such Board or officer, all which fines and penalties shall be paid to the Drainage Board for the use of the district:

Fees payable for any licence granted by virtue of this Act or of any by-law made pursuant thereto:

All sums of money voted by the Parliament of the said Province for expenditure by the said Drainage Board:

General and special rates and loans:

All

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All other moneys received by the Drainage Board or by any officer,
by virtue of this Act or any by-laws :

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And such revenue shall be expended in carrying out the objects and purposes of this Act and in making all payments necessarily incidental thereto.

28. All loans and special rates shall be applied to the purposes for which they shall be respectively raised or levied.

Loans and special rates how applied.

29. All moneys of every Drainage Board, whenever the same amounts to Ten Pounds, shall be paid into some bank, and no money shall be paid except by cheque, signed by the Chairman and one other member of such Board.

Moneys to be paid into Bank.

30. Every person appointed or employed by any Drainage Board as an officer, collector, or servant, shall, when, and in such manner and form, and to such person as shall be required by the Board, or by any by-law thereof, make out and deliver a true and perfect account, in writing under his hand, of all moneys received by him on behalf of such Board or by virtue of his office ; and such account shall state how and to whom and for what purpose such moneys shall have been disposed of ; and, together with such account, such person shall deliver the vouchers and receipts for all payments ; and every such officer, collector, or servant, shall pay to such Board, or to any person authorized to receive the same, all moneys which appear to be owing from him upon the balance of the said account.

Moneys to be accounted for.

31. For the purpose of effectually maintaining and upholding the public drains and drainage works under the control and management of any Drainage Board, and for the purpose of supplying in such cases all things that may be required to work the same ; and for the payment of all necessary expenses of maintenance of public drains and drainage works, and all other expenses incident thereto, and all costs, charges, and liabilities from time to time properly incurred by them in the execution of the provisions of this Act, each Drainage Board is hereby authorized and required to assess and rate the owners or occupiers of all lands within its Drainage District, in manner hereinafter mentioned, for and towards the payment and satisfaction of all such sums of money, costs, charges, and expenses as may be required for the purposes last aforesaid, and for the payment and satisfaction of any sum of money raised for such purposes, and the interest thereof, if any ; and the said several sums so rated and assessed shall be charged on the land so drained or improved in preference to and with priority over all incumbrances thereon.

Rates for maintenance, &c.

32. Each Drainage Board shall cause to be kept true and regular accounts of all sums of money received and paid by the Board under and by virtue of this Act, and of the several purposes for which such sums of money shall have been received and paid, which accounts shall, at all reasonable times, be open to the inspection

Accounts to be kept.

of

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of every member of the said Board, and also to the Commissioner, and any person authorized by him; and such accounts shall be balanced once at least in every year, and be delivered to and be audited as hereinafter mentioned.

Annual accounts.

33. Each Drainage Board shall, every year, cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all funds received by virtue of this Act, for the year ending on the day down to which its accounts shall have been made up as aforesaid, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the Chairman of the Board, and also by the auditors; and shall send a copy of the said account to the Commissioner within one month after the same has been duly audited, and the said account shall be open to the inspection of the public at all reasonable hours; and a copy of such account shall be published in the *Government Gazette*.

Auditors.

34. The Governor may, from time to time, appoint two auditors to audit the accounts of each Drainage Board, who shall carefully examine the accounts and balance-sheet of the Drainage Board with the books, papers, and vouchers of the Board, and correct or alter the same, as may be found necessary, and may call for and require the production of all books, papers, documents, and vouchers, the property of, or in the possession or under the control of, the said Board or any officer thereof. Until such appointment, the duties and authorities imposed and given to auditors shall be exercised by and vested in the Auditor-General.

PART V.

PART V.

ASSESSMENTS, RATES, LOANS, AND MEETINGS OF RATEPAYERS.

Assessment of rateable property.

35. Whenever it shall be considered necessary for any of the purposes of this Act, any Drainage Board may make an assessment of all rateable property within the Drainage District for which it has been appointed, according to the full estimated annual value thereof, and the names of the several occupiers and owners thereof, so far as known, and the nature of the property assessed; and the same shall be entered into a book, and thereof three copies at least shall be made, which shall be deposited at different convenient places within the Drainage District.

Notice of assessment to be given.

36. Public notice shall be given of the making of such assessment, and of the places where the copies thereof may be seen; and the copies shall be open for inspection at all reasonable times.

Appeals against assessment.

37. Any person may, within ten days after the publication of the notice, appeal against any portion of the assessment on any of the grounds following, that is to say—

That

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That he is not owner or occupier of the whole or any, or some particular part, of the rateable property for which his name appears as owner or occupier :

That the rateable property for which he appears to be the owner or occupier is assessed beyond its full and fair annual value :

That any rateable property, or the owner or occupier of any rateable property within the Drainage District, is omitted from the assessment:

That any rateable property is assessed below its full and fair annual value:

That any property included in the assessment is not rateable.

38. Any Drainage Board from time to time, either before or after a rate is made upon such assessment, may correct the assessment if any error of name or description shall appear therein; but the annual value of any rateable property shall not be altered at any time after the first notice of assessment shall have been published.

Correction of errors
in assessment.

39. Public notice shall be given of every alteration; and any person affected thereby may, within ten days, appeal therefrom, on any ground which would have warranted an appeal, had the same appeared in the assessment when notice thereof was first published.

Notice of alteration,
and appeal.

40. Any Drainage Board in making an assessment, may use the assessment of the last or any previous year, with such alterations as may appear necessary, and such assessment, on notice thereof being given for the current year, shall be sufficient to satisfy the requirements of this Act.

Assessment of pre-
vious year, may be
used.

41. Appeals against assessments, or alterations in assessments, shall be heard before the Local Court of Full Jurisdiction sitting within the Drainage District, or nearest to the ordinary place of meeting of the Drainage Board, and shall be commenced by a notice in the form in the Schedule A to this Act or as near thereto as circumstances will permit, served by the appellant within the period allowed for appeals, upon the Drainage Board, and also upon any person whose name it is proposed to insert in the assessment, or whose property it is alleged is omitted or assessed below its full and fair annual value; and a copy of such notice shall be delivered to the Clerk of the Local Court to which the appeal lies six days before the day of hearing.

Appeals.

42. The appeal shall come on for hearing at the sittings of the said Local Court next after sixteen days from public notice of the assessment or alteration appealed against having been given, and the Drainage Board shall produce the assessment-book appealed against; and, upon examining the parties and their witnesses upon oath, the Court, at the sittings aforesaid, or at some adjourned or subsequent sitting may make such order as shall be just, and shall

When appeals to be
heard.

cause

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cause any alteration occasioned by the decision on the appeal to be made by the Clerk of the Court in the assessment-book, and may make such order as the Court may think fit for the payment of costs by or to the Board to or by the appellant, and by or to any respondent other than the Board to or by the appellant.

Assessment-book or
Gazette to be evidence.

43. The assessment-book produced from the custody of the Drainage Board and the *Government Gazette*, containing a notice in the form in the Schedule B to this Act or as near thereto as circumstances will permit, shall be conclusive evidence, except on proceedings to quash such assessment, that such assessment has been duly made and notice thereof duly published; and the *Government Gazette* containing a notice of the making of any general or special rate or loan in the form in the Schedule C or D to this Act, or as near thereto as circumstances will admit, shall be conclusive evidence, except on proceedings to quash such rate or loan, that the rate or loan has been duly made and adopted; and shall be evidence until the contrary is shown, that any special rate referred to in such notice was in force and payable in respect of the year in which such *Government Gazette* is published.

Drainage Board may
make rates.

44. At any time, after ten days shall have elapsed from the public notice of this assessment, the Drainage Board may from time to time levy a rate on the property included in such assessment for the year ending on the thirtieth day of June next after such assessment has been made or adopted, so that the full amount of rates so levied do not exceed One Shilling in the pound on the annual value of the property assessed for any one year.

Ratepayers may make
rates.

45. At any time after the expiration of ten days from public notice of the assessment having been given, a rate may be made for the year ending as aforesaid, at a general meeting of ratepayers, on the rateable property included in such assessment, so that the full amount of rates levied by the Drainage Board, and at any meeting of ratepayers do not exceed in the aggregate Three Shillings in the pound for any one year.

Raising money by
way of loan.

46. If it shall at any time appear expedient to any Drainage Board to raise any sums by way of loan upon the security of the rates of the Drainage District for any of the purposes of this Act, the Board shall cause to be given public notice of their intention to raise a loan with the amount proposed, and the rate of interest in respect thereof, and the purposes to which it is intended to be applied, and also the amount of the rate which it will be necessary to impose in order to provide for the reimbursement of the loan with interest within the period hereinafter prescribed to be given, and shall cause a special meeting of the ratepayers of such Drainage District to be called for the purpose of considering the expediency of raising such loan as aforesaid, and at such special meeting shall propose the raising of the loan, and a special rate to be made for reimbursement thereof, with interest.

47. The

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47. The special meeting may authorize the raising, by way of loan, of any sum of money not exceeding the amount mentioned in the notice, and may make any special rate upon all the rateable property of the District according to the assessment for the time being in force, or to be in force in the District, or may refuse to raise any loan or make any rate. PART V.
Special meeting may authorize loan.
48. A special meeting of ratepayers shall afterwards be called for the purpose of considering the resolution of the former meeting ; and at that meeting the ratepayers may adopt or reject such loan and special rate. Second special meeting of ratepayers may adopt or reject loan.
49. At both meetings, the loans and special rate must be agreed to by two-thirds of the votes given. Loans to be agreed to by two-thirds of votes.
50. The special rate shall not, with any other rate to be raised under the authority hereof, exceed the amount of Three Shillings in the Pound, for any one year ; and shall be of such an amount as shall, according to the annual value of the rateable property of the Drainage District as assessed for that year in which the loan shall be made, insure the payment of the loan and interest within fifteen years, at the furthest, from the time of raising of the loan, allowing in the collection of the rate, and for contingencies, Ten Pounds per centum on the special rate for each year. Rate not to be more than 3s. in the pound.
51. At every meeting to consider the question of making any rate or raising any loan, the Drainage Board shall produce the assessment-book in force for the current year, with a statement of the aggregate annual value of all property included in the assessment according thereto. Production of assessment book at meeting.
52. After any loan or special rate shall have been duly authorized, the Drainage Board may issue bonds for such sums not exceeding in the whole the amount of the loan so authorized, and not exceeding the rate of interest authorized, and upon such terms as to the periodical payment thereof as to the Board may seem fit, and may assign the special rate to the person lending the amount, or to any person in trust for the lender. Drainage Board may issue bonds.
53. General rates may be recovered by and in the name of the Drainage Board, and special rates either in the same manner, or by and in the name of the assignee of the same, who shall have all the powers for the recovery of the same herein conferred on the Board. By whom rates may be recovered.
54. No rate shall be recoverable by action, or in a summary manner, before any Justice of the Peace, from any person liable to pay the same, until twenty-one days after a written notice of the amount of such rate shall have been delivered to such person, or left at his residence, or upon the land, or tenement assessed. Twenty-one days' notice before recovery of rates.

55. The

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PART V.

Persons primarily
liable to rates.

55. The person primarily liable to payment of the rates shall be the person appearing in the assessment-book as the occupier of any rateable property, or the owner of any unoccupied rateable property; or the rate may be recovered at any time after a demand from any person in possession of the property at the time the rate is demanded; and if at any time the property is vacant, or there be no sufficient distress, the owner shall be liable.

Person in receipt of
rents liable.

56. Any person in the actual receipt of the rents or profits of any rateable property shall be considered and liable as owner, whether acting as agent for some person or otherwise.

Rates how
recoverable.

57. Rates may be recovered by action in any Court of competent jurisdiction, or upon information in a summary manner before any two or more Justices of the Peace, from any person liable to pay the same.

Rates unpaid twenty-
one days after demand
may be distrained for.

58. If rates or any arrears are unpaid for the space of twenty-one days after demand in writing shall have been served upon the occupier, or left at his residence, or upon the land, or tenement rated and assessed thereto, the collector, or other officer of the Board, may thereupon, without any warrant, enter into any part of the premises, and distrain the goods and chattels found therein; or may enter into any other house or land in the same District, occupied by any person liable to the same rates, and on whom such notice has been served by personal delivery, or by leaving the same at his house for him, and distrain his goods and chattels therein and thereon; and if the sums for which the distress is taken be not paid within five days after levying such distress, together with reasonable costs, then the said distress, or so much as shall be sufficient to pay the rates and costs aforesaid, may be sold, and any overplus shall be returned to the owner of the goods.

Lands may be sold
when rates are in
arrear.

59. In any case in which rates hereafter to be made, in respect of any rateable property situate in any Drainage District shall be due, and unpaid, and in arrear, for the space of two years, it shall be lawful for the Drainage Board to cause to be published three times in the *Government Gazette* a notice, in the form of Schedule E, to this Act annexed, or as near thereto as circumstances will permit, addressed to the owner or reputed owner of the rateable property when known, or to all whom it may concern; and if after six months from the last publication of the notice, the rates are still unpaid, the Drainage Board may let the same from year to year, and may receive the rents, apply the same towards the payment of the rates, and hold any surplus for the owners of the land, or by petition to the Supreme Court, or any Judge thereof, may apply for a sale of the rateable property described in such notice, or of so much thereof as may be necessary; and the Court or Judge, on being satisfied, by affidavit or otherwise, that the arrears are lawfully due, and that all things required by this clause to be done have been done, shall order the sale of the said rateable property, or so much thereof as may be
sufficient

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sufficient to pay all such arrears and all rates accrued due up to and inclusive of the date of such order, together with interest, at five pounds per centum per annum, from the time of the first publication of the notice, together with all costs of and attending the notice, and the costs of and attending the application, and of and attending the sale by public auction, and the proceeds to be paid into Court; and the Court or a Judge may order payment of the said rates, interest, costs, and expenses, in preference to any mortgage or other security; and that a conveyance shall be executed, or if the land shall be under the provisions of the Real Property Act, 1861, a memorandum of transfer shall be signed by the Master, or other officer of the Court, to the purchaser, his heirs and assigns, in such form as shall be approved by the Court or a Judge, and registered, and thereupon the legal and equitable estate in the said rateable property shall vest in the purchaser, his heirs and assigns, free from all incumbrances; and the balance arising from the proceeds of such sale shall remain, and be subject to any future or other orders of the Court, for behoof of the party or parties interested therein: Provided that nothing herein contained shall authorize the sale of any waste lands of the Crown held under agreement for purchase upon credit.

60. Meetings of ratepayers may be called by the Drainage Board and it shall be the duty of such Board to call a meeting when and hereunto required, by writing, under the hands of at least fifteen ratepayers. Every meeting of ratepayers shall be called by giving public notice of the time, place, and object of the meeting, in the case of general meetings, ten days before, and in the case of special meetings, four weeks before; and notice of a general meeting shall be inserted once, and of a special meeting four times in the *Government Gazette*.

Meetings of ratepayers to be called by notice.

61. Every meeting of ratepayers shall be open at ten o'clock in the morning; and the Chairman of the Drainage Board, if present and willing, and in default of the Chairman, a member of the Drainage Board, or any person appointed by the meeting shall preside as Chairman.

Meeting open at ten a.m.

62. At a meeting to adopt a rate, or for any other purpose, the Chairman shall, in the usual way, take a show of hands for every resolution and amendment touching the object of the meeting, and shall declare that proposition carried for which, in his opinion, the largest show of hands appears.

Show of hands to be taken at meeting.

63. No ratepayer shall be entitled to vote at any meeting unless his name shall appear as a ratepayer upon the assessment-book for the current year, and unless he shall have paid all drainage rates due at the time of such meeting.

No ratepayer to vote unless all rates paid.

64. After the Chairman shall have declared the result of a show of hands at any meeting, any ratepayer may demand a poll, whereupon the Chairman of the meeting shall adjourn the proceedings to

Ratepayers may demand a poll.

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to a day not more than a fortnight from the day on which such poll was demanded, when the voting shall be on the same scale, subject to the same provisions, and in the manner for the time being appointed by law for regulating the voting, on a poll being demanded, at rate meetings of ratepayers of District Councils.

PART VI.

PART VI.

MISCELLANEOUS PROVISIONS, PENALTIES, AND EVIDENCE.

Power to divert water from drain.

65. The owner or occupier of any land adjacent to any public drain may, with the written consent of the Drainage Board, and for such period and in such manner as it may allow and prescribe, divert any water in any public drain into his land, so that such water shall not be permanently retained on such land. And any person diverting water from any public drain into his own land or any other person's land without such consent as aforesaid, or for a longer period than that allowed as aforesaid, or in any other manner than that prescribed as aforesaid, shall for any or either of such offences upon conviction forfeit and pay a penalty of not less than Two Pounds nor more than Five Pounds, and a further penalty of Two Pounds for every day during which the offence is continued.

Power to impose toll.

66. Any Drainage Board may impose a fee or toll for the use of water diverted from any public drain, to be estimated either upon the quantity diverted or for the time elapsing between such diversion and its redelivery to the drain wherever diverted; and such fee or toll may be recovered by distress of the goods and chattels of the person so using the same, or upon information before two or more Justices in a summary way.

Lands adjacent to drains to be fenced.

67. The owners or occupiers of all lands adjoining any public drain, or adjoining any public road or reserve which adjoins any public drain, shall substantially fence and keep substantially fenced with a fence capable of resisting trespasses on such drain, road, or reserve by small as well as great cattle; and any person neglecting so to do shall, for every such offence against this section, upon conviction, forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

Penalty for obstructions or nuisances.

68. No person shall cause or permit any obstruction in, or otherwise injuriously affect any public drain or any drain in respect of which any works shall have been commenced or executed by the Commissioner or by any Drainage Board, nor shall any person, without the consent of the said Commissioner or Drainage Board, cause any filthy or unwholesome water, or washings of manufactories or mines, or other foul or poisonous liquid, to flow into any such drain; and any person offending against this enactment shall incur a penalty not exceeding Five Pounds, and a further penalty

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penalty of Two Pounds for every day during which the offence is continued.

69. Any person who shall, without the written consent of the Drainage Board, cut down or remove any timber, or shall excavate or remove gravel, sand, earth, or any other material in, adjacent to, or forming part of any public drain, or reserve adjoining any public drain, shall, for every such offence, upon conviction, forfeit and pay a penalty or sum of not less than Five Pounds nor more than Twenty Pounds.

Penalty for removing timber or materials.

70. No person shall open or cut through any bank, roadway, or reserve adjacent to any public drain made out of materials excavated from any such drain, or make any drain or opening through any roadway or reserve or portion of any roadway or reserve at the side of or adjacent to any public drain without the licence in writing or contrary to the directions of the Drainage Board, and any person offending against this section shall for every such offence, upon conviction, forfeit and pay a penalty of not less than Five Pounds nor more than Fifty Pounds.

Penalty for cutting drain through road, &c.

71. No person shall make any bridge, culvert, or other work over, across, or along any public drain, or any road or reserve adjoining any public drain, without the licence in writing of the Drainage Board, and any person obtaining such licence shall execute the work pursuant thereto, and to the satisfaction of the Board; and any person who shall neglect to carry out and execute such work pursuant to and within the time limited by such licence shall be liable to have the same executed and completed by the Board (which they are hereby empowered to do), and the expense thereof recovered by the Board, upon information before two or more Justices, in a summary way, after seven days' notice in writing demanding the amount of such expense shall have been given to, or left at the usual or last known place of abode within the Drainage District of, the person to whom such licence shall have been granted; and any person erecting, building, or executing or commencing to erect, build, or execute any such bridge, culvert, or other work without such licence shall, for every such offence, upon conviction, forfeit and pay a penalty or sum of not less than Five Pounds nor more than Fifty Pounds.

Bridge, &c., not to be built without leave of Board.

72. If any Drainage Board shall be of opinion that, for the purpose of carrying out the drainage works in its District, it is necessary to rebuild or alter any existing bridge, culvert, or archway, for the discharge of water under any public road, it shall be lawful for such Drainage Board to take down, remove, or alter such bridge, culvert, or archway, the Drainage Board (when in their opinion necessary) constructing a temporary bridge, culvert, or archway, in the place of that so to be taken down, removed, or altered, and supporting and maintaining the same until the completion of the works necessary for the restoration to public use of such

Power to Drainage Boards to remove or alter any insufficient bridges, &c.

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bridge, culvert, or archway; and in every case where any existing bridge, culvert, or archway shall be taken down or removed, the Drainage Board shall construct a new bridge, culvert, or archway, with the necessary roads of approach thereto respectively, according to such plans, specifications, and estimate as shall have been submitted to and approved by said Commissioner; and the expense of such temporary and permanent bridge, culvert, or archway, and roads shall form part of the costs of the works in the District in which the same may be situated.

Animals trespassing on drains, &c.

73. Any Drainage Board, by any of its officers or servants, or by any other person, may impound any horses, bullocks, cows, sheep, goats, pigs, and all other cattle great or small, trespassing in or upon any public drains or drainage works, or on any roadway or reserve adjacent thereto, and such animals or any of them shall not be released until full payment of the poundage fees and damages fixed by the impounding law for the time being in existence, and by any scale made pursuant to this Act.

Drainage Boards may recover special damages.

74. In addition to all fines, penalties, fees, and damages by this Act imposed or authorized upon the breach of any of the provisions thereof, the Drainage Board may sue for and recover any special or other damages for the breach of any of such provisions, or for any injury done to any public drain or drainage works within its District.

Penalty for injuring drains.

75. Any person who wilfully dams up, or in any way whatsoever injures, whether by driving horses, cattle, sheep, or other animals or vehicles through, along, or across any public drains, or otherwise howsoever injures or obstructs any public drains or drainage work: and any person who wilfully obstructs any other person in carrying out or performing any work authorized or directed by the Drainage Board shall, upon conviction for each offence incur a penalty of not less than Five Pounds nor more than Twenty Pounds.

Drainage Boards may do certain acts, and charge to defaulting person.

76. In all cases when any act is by this Act required to be done, and the same shall not be done by the person legally liable to do the same, the Drainage Board may execute and perform the same, after giving to, or leaving at the last or usual place of abode of, such person, or upon the land in respect of which such act is required to be done, seven days' notice in writing to do such act, and after the doing of such act, the Board may recover the costs, charges, and expenses thereof from the person so in default upon an information before two or more Justices in a summary way.

Public notice, how to be given.

77. Wherever public notice is by this Act required to be given, it shall be given by insertion in the *Government Gazette*, and by posting handbills, either in writing or print, or partly in both, on every public pound and post office in the Drainage District, and on every other place appointed by the Drainage Board as a place for posting notices.

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78. All actions and prosecutions to be commenced against any person for anything done in pursuance of this Act, shall be commenced within two calendar months after the fact was committed, and not otherwise, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of such action; and in any such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, together with the costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue any such action on issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs, as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases.

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Notice of action.

79. All costs, charges, and expenses incurred by any Drainage Board in instituting or defending any legal proceedings instituted or defended by it in its character of a Drainage Board, may be defrayed out of the rates leviable by it, and no member of a Drainage Board shall be personally liable in respect of any such costs, charges, or expenses.

Costs of legal proceedings.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

A. MUSGRAVE, Governor.

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SCHEDULES.

A

Notice of Appeal from Assessment.

THE SOUTH-EASTERN DRAINAGE DISTRICT.

To the South-Eastern Drainage Board , (and to Mr. of .
 Take notice, that it is my intention to appeal against the assessment made for the South-Eastern Drainage District, at the sittings of Full Jurisdiction of the Local Court of of Full Jurisdiction, to be held next after sixteen days from the publication of the notice of such assessment, and that the grounds of my appeal are [*here state clearly the grounds of appeal*].

Dated, &c.

Signed,

Chairman.

B

Notice of Assessment.

THE SOUTH-EASTERN DRAINAGE DISTRICT.

Notice is hereby given, that the South-Eastern Drainage Board have caused to be made an assessment of all rateable property within the Drainage District, with the names of the owners and occupiers, so far as known, of such property; and that copies of the assessment have been made, and that such copies are deposited at [*here describe where the copies are deposited*], and are open for inspection at all reasonable times; and any person intending to appeal against the assessment may do so by notice, as is required by "The South-Eastern Drainage Act, 1875," within ten days from the first publication of this notice.

Dated, &c.

Signed,

, Chairman.

C

Notice of Rate.

THE SOUTH-EASTERN DRAINAGE DISTRICT.

Notice is hereby given, that at a meeting of the South-Eastern Drainage Board [*or, at a public meeting of ratepayers of the South-Eastern District*], duly held on the day of 18 , a rate was made of in the pound upon the assessment for the District; and all persons liable are required, within fourteen days from the first publication of this notice, to pay the amount of the rate, according to the assessment, to the Collector, or other officer, at .

Dated

Signed,

, Chairman.

D

Notice of Special Rate.

THE SOUTH-EASTERN DRAINAGE DISTRICT.

Notice is hereby given, that at a public meeting of the ratepayers of the said South-Eastern Drainage District, duly held on the day of , at it was resolved to adopt a special rate of in the pound upon the assessment of the said District; and that such rate should remain in force for the period of fifteen

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fifteen years from the making thereof, or until the repayment of the loan by the said meeting authorized to be raised; and all persons liable on the assessment for such District for the current year are hereby required, within fourteen days after the publication hereof, to pay the amount of such rate, according to the assessment, to the Collector or other officer, or assignee of such rates [*as the case may be*], at

Dated

Signed,

, Chairman.

or Assignee of the Rate.

E**THE SOUTH-EASTERN DRAINAGE DISTRICT.**

Notice is hereby given, that there is now due in respect of the land mentioned in the schedule hereto the sum [*or respective sums*] set opposite to the description of such land in the schedule for a rate [*or rates*] made for the South-Eastern Drainage District of , for the year [*or years*] ending ; and the owners of such land are required to take notice, that unless the amount so due, together with the costs of and attending this notice, be paid in one year from the first publication of this notice, the Drainage Board will let the same from year to year, in manner provided by "The South-Eastern Drainage Act, 1875," or an application will be made by the Drainage Board for the said District to the Supreme Court of this Province, or a Judge thereof, for an order for the sale of the said lands, or so much as may be necessary to produce the rates so due and costs as aforesaid, and also the costs of and attending the said application.

Dated

Chairman.

THE SCHEDULE.

Description of land by No. of Section, and name of Hundred, or other exact description.	Name of Owner or reputed Owner.	Amount of Rates due.