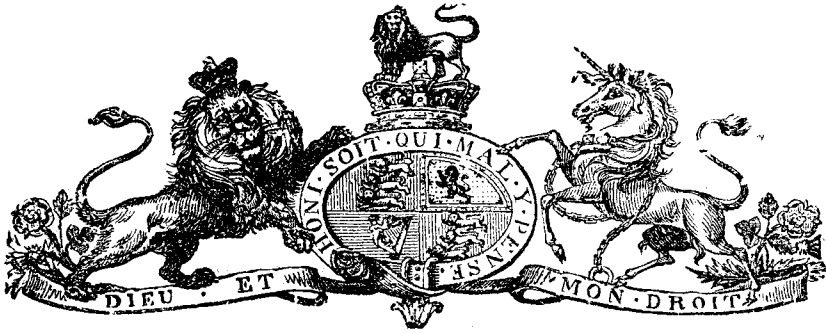


T A S M A N I A.



1898.

ANNO SEXAGESIMO-SECUNDO

VICTORIÆ REGINÆ,

No. 47.



AN ACT to make better provision for defining a Metropolitan Drainage Area, and for constituting a Metropolitan Drainage Board, and for other purposes.

A.D. 1898.

[29 October, 1898.]

*Printed by Edw No 43
3 15
4 32*

WHEREAS it is expedient, for the proper Sewerage and Drainage of the City of *Hobart* and the Suburbs thereof, to make better provision for defining a Metropolitan Drainage Area and for constituting a Metropolitan Drainage Board :

PREAMBLE.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as “The Metropolitan Drainage Act, 1898.” Short title.

Interpretation.

2 In this Act, if not inconsistent with the context, the following words and expressions shall have the meanings hereinafter respectively assigned to them ; that is to say— Interpretation.

“Local Authority” shall mean the Municipal Council of the City of *Hobart*, the Town Boards of the Towns of *Glebe Town*, *New Town*, and *Mount Stuart*, the Trustees of the several Road Districts of *Leslie* and *Wellesley*, or any other similar Local Authority hereafter created; and having

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jurisdiction in any part of the Metropolitan Drainage Area hereinafter defined :

And the "District" of such Local Authority shall mean the whole or part, as it may be, that lies within the said Area of the City, Town, or Road District within which the Authority is empowered to levy Rates :

"Electors" shall mean and include—

i. In regard to so much of the Metropolitan Drainage Area as is within the City of *Hobart*, all Citizens entitled to vote under the provisions of "The *Hobart* Corporation Act, 1893," and "The *Hobart* Corporation Act, 1896," who shall be entitled to vote according to the scale set forth in Section Twenty-four of the first-mentioned Act :

ii. And as regards the rest of the said area, all Electors entitled to vote under the provisions of "The Town Boards Act, 1896," or "The Rural Voting Act, 1884," who shall be entitled to vote according to the scale set forth in the Fifth Section of the last-named Act.

Provided that no Elector shall be entitled to more than Seven Votes, nor shall any Elector for any part of the said area outside the City of *Hobart* be entitled to a larger number of Votes than he is entitled to as the owner or occupier of property within the said area :

"Engineer" shall mean any person appointed or employed by the Board under this Act as Engineer or Surveyor :

"Gazette" shall mean *The Hobart Gazette* :

"House" shall mean and include dwellings of any kind, schools, public-houses, factories, work-rooms, places of public entertainment, and other buildings in which persons are employed or animals kept, and all appurtenances of all such buildings :

"Land" and "Premises" shall mean and include all messuages, buildings, lands, and hereditaments of every tenure, also rivers, streams, wells, and water of every description, also easements of every description in respect of the foregoing particulars :

"Owner" shall mean the person for the time being entitled to receive the rent of the land or premises in connection with which the word is used, whether on his own account or as the agent of or as trustee for any other person, or who would be entitled to receive the same if the lands or premises were let at a rent :

"Drain" shall mean any drain from, and used for the drainage of, one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed :

"Street" shall mean and include any highway, bridge, road, lane, footway, square, court, alley, or passage, whether a thoroughfare or not :

"Sewer" shall mean and include sewers and drains of every description, except drains to which the word "drain" as

57 Vict. No. 11.

60 Vict. No. 21.

60 Vict. No. 31.

48 Vict. No. 26.

*New defn: subd by
4 Edw 7 No 32*

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before interpreted applies. A "sufficient sewer" shall mean a sewer which from its position, capacity, and level is, in the opinion of the Board, available for the drainage of the premises in respect of which it is described as sufficient.

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Metropolitan Drainage Board.

3 For the purpose of the execution of this Act, and of any enactment passed or hereafter to be passed authorising or referring to the sewerage or drainage of the Metropolitan Drainage Area as hereinafter defined, or any portion thereof, there shall be a Board called "The Metropolitan Drainage Board" (in this Act referred to as "the Board") constituted in manner following; that is to say—

Constitution of
Metropolitan
Drainage Board.

- i. The Governor in Council shall appoint Five Members of the Board, and may from time to time at his pleasure remove all or any of the persons so appointed and appoint others in their stead; and may appoint persons to fill up any vacancy caused by death or other cause among such Five Members; and
- ii. The Mayor of *Hobart* for the time being, and the Officer of Health of the City of *Hobart* for the time being, shall be *ex officio* Members of the Board; and the Local Board of Health of the City of *Hobart* shall within Two months of the passing of this Act elect Five of its Members to be Members of the Board; and
- iii. The Local Board of Health of the Town of *Glebe Town* shall within the like period elect One of its Members to be a Member of the Board; and
- iv. The Local Board of Health of the Town of *Mount Stuart* shall, within the like period, elect One of its Members to be a Member of the Board; and
- v. The Local Board of Health of the Town of *New Town* shall within a like period elect One of its Members to be a Member of the Board; and
- vi. The Trustees of the *Leslie Road* District shall, within the like period, elect One of the said Trustees to be a Member of the Board; and
- vii. The Trustees of the *Wellesley Road* District shall, within the like period elect One of the said Trustees to be a Member of the Board.

When the Chairman of the Board shall have received from the Chairman or Secretary of any of the above-mentioned Local Boards or Trustees a notification in writing of the election of any person hereinbefore authorised to be elected, such person shall be deemed to be a Member of the Board, and shall continue to be a Member for Three years from the date of his election.

If the Chairman of the Board shall not have received within One week of the expiration of the above-mentioned period of Two months after the passing of this Act a written notification from the Chairman or Secretary of any of the above-mentioned Local Boards or Trustees of the election of a person hereinbefore authorised to be elected as a Member of the Board, it shall be lawful for the Governor in Council to appoint a person being a Member of the defaulting Local Board or Trustee to be a Member of the Board, and such person so appointed

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shall be in the same position as if he had been elected by such Local Board or Trustees.

If any Member of the Board elected by any of the above-mentioned Local Boards or Trustees cease by effluxion of time or otherwise to be a Member of the Local Board or Trustees that elected him, he shall also cease to be a Member of this Board, and such Local Board or Trustees shall from their own body elect another person to be a Member of this Board, and such person so elected shall be a Member of this Board for the unexpired portion of the time during which the person in whose place he has been elected would have been a Member.

At the expiry of the time for which any Member of the Board has been elected, or on the death, resignation, or disqualification of any Member, the Local Board or Trustees that elected him shall proceed to a fresh election; and if such election be not notified as before provided to the Chairman of the Board within Two months of the said expiry, death, resignation, or disqualification, it shall be lawful for the Governor in Council to appoint a person as above provided.

If at any time after the passing of this Act any of the above-mentioned Road Districts, or any portion or portions of any of them, shall be united with any other Road District, or shall be proclaimed a Town under "The Town Boards Act, 1896," or shall be included in any Town proclaimed under that Act, or in case any Town or any portion of any Town proclaimed under that Act be included within the area, it shall be lawful for the Governor in Council to notify by proclamation published in the *Gazette* the Local Authority that shall make the election of a Member of the Board to represent any portion of the Metropolitan Drainage Area which has been affected by any such change as aforesaid, and such Local Authority shall elect one of its Members to be a Member of the Board, or in default the Governor in Council may appoint the Member as before provided.

Every Member of the Board may continue to hold office until his successor is appointed or elected, except in case of disqualification as hereinafter provided.

Any Member of the Board shall be disqualified and shall cease to be a Member of the Board if he receive any fee, salary, or emolument in respect of services rendered in execution of this Act, or ^{except in accordance with the purposes of this Act} if he undertake or be pecuniarily interested in any contract for works to be executed under this Act, or if he compounds with his creditors, or takes advantage of any Act for the relief of insolvents, or if he be absent from all the Meetings of the Board during Two consecutive months without the consent of the Board previously obtained.

Election of Chairman of Board.

4—(1.) The Members of the Board shall at their first Meeting, and shall thereafter every Three years, by a majority of the votes of the Members present, elect one of their body to be Chairman for the ensuing Three years; and, if at any Meeting there shall be an equality of votes in the election of Chairman, it shall be decided by lot which of the Members having an equal number of votes shall be Chairman.

(2.)—The Chairman shall preside at all Meetings of the Board at which he is present; and if at any Meeting the Chairman is not present, one of the Members present shall be elected Chairman of the Meeting by the majority of votes of the Members present thereat. Provided that during the temporary absence of the Chairman from *Tasmania*, or in case of his illness, the Board may appoint one of their number to

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act for him as Deputy Chairman, and, while so acting, to exercise all the functions of Chairman of the Board as mentioned in this Act. A.D. 1898.

(3.)—In case the Chairman shall die, or by writing under his hand, delivered by him to the Board at any Meeting of the Board, or to the Secretary, resigns his office or ceases to be a Member of the Board, the Members present at the Meeting next after the occurrence of such vacancy shall choose one of their body to be Chairman, and the Chairman so chosen shall continue in office for the remainder of the period for which the former Chairman had been elected.

(4.)—The Board may, from time to time, grant to the Chairman out of the money at its disposal, such annual salary or allowance, not exceeding Two hundred Pounds per annum, for his services as the Board thinks fit.

5 The jurisdiction of the Board for the purpose of the execution of this Act shall extend over the whole of the District within the limits defined in the Schedule, such District being referred to in this Act as “The Metropolitan Drainage Area” or “the said Area.” The Governor in Council, on the recommendation of the Board, may from time to time by proclamation in the *Gazette*, alter and redefine the limits of the said District, and such redefined District shall then be held to be the Metropolitan Drainage Area as referred to in this Act. Metropolitan
Drainage Area.
Schedule.

Provided, that no such proclamation shall extend the said Area beyond the limits of the several Districts controlled by the Local Authorities mentioned in Section Three of this Act, nor shall any redefinition of the said Area extending the boundaries thereof be made without the consent of the Local Authority thereby affected. Area not to be
extended beyond
limits of Local
Authorities nor
without their
consent.

6 With respect to the Board, the following provisions shall have effect:— Powers, &c. of
Board.

- i. The Board shall be a body corporate, by the name of the Metropolitan Drainage Board, and by that name shall have perpetual succession, and be capable of suing and being sued, and of taking, purchasing, and holding land and personal estate, and of alienating and conveying the same for any estate or interest, and shall have a common seal; and
- ii. The Board shall, every year, cause to be made a Report of its transactions under this Act during the year, and such Report shall contain all particulars that the Governor in Council may from time to time prescribe, together with a full statement of the accounts of the Board audited by the Auditor-General, and such other particulars as the Board may think fit. Such Report shall be transmitted to the Governor in Council within Three months of the end of the period up to which it is required, and shall be forthwith laid before Parliament, if Parliament be then sitting, or if not, within One month of the next meeting of Parliament.
- iii. Any minute made of proceedings at meetings of the Board, if signed by any person purporting to be Chairman either of the meeting at which such proceedings took place, or at the next ensuing meeting of the Board, shall be receivable in evidence in all legal proceedings without further proof, and the meetings shall be deemed to have been duly convened and held, and all the Members present to have been duly qualified to act; and

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iv. Any act or proceeding of the Board shall not be questioned on account of any vacancy in the Board.

v. The powers and duties of the Metropolitan Drainage Board as existing at the time of the passing of this Act shall be continued until their successors are appointed.

Officers and
Offices.
(38 & 39 Vict.
c. 89, s. 6.)

7 The Board may from time to time appoint, or employ and remove, a Secretary, Treasurer, Engineer, and such other Officers and Servants as it may deem advisable, and may assign to such persons such salary or remuneration as it may think proper, and may from time to time make such rules and regulations for their guidance and for defining their duties as it may think fit; and may from time to time provide and maintain such offices as may be necessary for transacting the business of the Board and its Officers and Servants.

Ib., c. 55, s. 197.*Ib.*, s. 193.49 Vict. No. 18,
s. 21.

No Officer or Servant employed by the Board shall in anywise be concerned or interested in any bargain or contract made with the Board; and any such Officer or Servant who, under colour of his office or employment, asks for or accepts any fee or reward whatever other than his proper salary or remuneration, shall be incapable of holding or continuing in any office or employment under this Act, and shall forfeit and pay the sum of Fifty Pounds, which may be recovered by any person with full costs of suit by action of debt.

Meetings of
Board.
(38 & 39 Vict.
c. 55, s. 199, and
Sch. 1.)
Regulations.

8 The Board shall hold such Meetings as may be necessary for the transaction of business, and for properly executing its powers and duties under this Act.

It shall from time to time make regulations with respect to the summoning, notice, place, management, and adjournment of its Meetings, and generally with respect to the transaction and management of its business.

Quorum.

No business shall be transacted at such Meetings unless at least Seven Members are present.

Chairman.

If the Chairman is absent from any Meeting at the time appointed for holding it, the Members present shall appoint one of their number to act as Chairman thereat.

Names to be
recorded.

The names of the Members present shall be recorded, and so shall the names of those voting on each question when a division is called for, in manner to show whether each vote given was for or against the question.

Voting.

Every question at a Meeting shall be decided by a majority of the votes of the Members present and voting on the question; and in case of an equal division of votes the question shall pass in the negative.

First Meeting of
Board.

The first Meeting of the Board shall be held at such place and time as the Chairman shall, by written notice to every Member, appoint.

Committees.
Ib., s. 200 and
Sch. 1.

9 The Board may from time to time appoint such Committees, not exceeding Seven in number, of its Members for any purposes of this Act which it may think would be better regulated and managed by means of a Committee: Provided, that a Committee so appointed shall in no case be authorised to borrow any money to make any Rate or precept for a Rate, or to enter into any contract, and shall be subject to any regulations and restrictions which the Board may impose. At the Meetings of such Committees the business shall be transacted as provided with respect to Meetings of the Board in the last preceding Section of this Act, except that business may be transacted at Meetings of a Committee when Three Members thereof are present.

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10 It shall be lawful for the duly authorised Officers and Servants of the Board, in execution of the provisions of this Act, at all reasonable hours in the daytime without notice to enter, examine, and lay open any lands or premises for the purposes of making plans, surveying, measuring, taking levels, making, keeping in repair, or examining works, ascertaining the course of or cleansing and repairing sewers or drains, or ascertaining or fixing boundaries. Provided that all damage done in the exercise of powers conferred by this Section, other than damage done in connection with the works necessary for the drainage of the said lands and premises, shall, as far as possible, be made good by the Board; and any dispute as to the extent of damage may be determined by any Two Justices of the Peace assembled in Petty Session, who may order the Board to pay such compensation as may be deemed right.

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Powers, &c. of Officers of Board. (38 & 39 Vict. c. 55, s. 305.)

Ib., s. 308.

The Officers and Servants of the Board shall not be subject personally to any action, liability, claim, or demand whatever with respect to any matter or thing done or contract entered into *bonâ fide* for the purpose of executing this Act.

49 Vict. No. 18, s. 168.

Whosoever wilfully obstructs any Member, Officer, or Servant of the Board or other person duly employed in the execution of this Act, or refuses such Member, Officer, Servant, or other person admission to any house, land, or premises for the purpose of carrying out the provisions of this Act, or incites any other person so to do, or destroys, pulls down, injures, removes, or defaces any board, placard, or notice made or published, or any surveyor's mark or picket, or any boundary stake or stone made or placed, or any sewer, drain, or other work made or constructed under "The Metropolitan Drainage Act, 1891," "The Metropolitan Drainage Act, 1892," or under this Act or for the purposes thereof, shall be liable for every offence to a penalty not exceeding Five Pounds, together with the cost of making good the damage done, which may be determined by any Two Justices of the Peace assembled in Petty Session.

Ib., s. 146.*Sewerage and Drainage.*

11 The Board shall provide a map or maps exhibiting a system of sewerage and drainage for effectually draining the Metropolitan Drainage Area, and may cause all necessary surveys to be made and levels to be taken for the purpose of making such map or maps and laying out such system of sewerage and drainage; and a copy of such map or maps shall be kept at the Office of the Board, and shall at all reasonable times be open to the inspection of the Ratepayers of the said Area; and the Board shall cause all such inquiries to be made as it may think necessary to ascertain the best means of disposing of the sewage, and the cost of carrying out the system of sewerage and drainage.

Map of system of sewerage. (38 & 39 Vict. c. 55, s. 20.)

12 All existing sewers and drains within the Metropolitan Drainage Area, together with all buildings, works, materials, and things belonging thereto, except—

Sewers vested in Board. *Ib.*, s. 13.

- i. Sewers and drains made by any person on his own property for irrigation purposes; and
- ii. Sewers and drains made by any Local Authority, and used exclusively for the drainage of any road within its jurisdiction;

shall vest in and be under the control of the Board. *Provided that in

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Special Drainage District to be constituted where sewers already constructed.

the case of sewers or drains constructed by a Local Authority empowered by Act of Parliament to construct sewers or drains, or which have been constructed out of moneys borrowed under the provisions of an Act of Parliament empowering the Local Authority to construct sewers or drains, the Board shall constitute the part of the Area in which the houses drained into such sewers or drains are situated a Special Drainage District as hereinafter provided; and the ratepayers of such Special Drainage District shall only pay such special expenses as may in the opinion of the Board be necessary to complete the special drainage of such District, and to provide proper outfall for such drainage, in addition to the general expenses hereinafter provided.

Local Authority to have control of road drainage and natural water-courses.

Provided also that every sewer made by any Local Authority, and used partly for road drainage or the conveyance of the water of natural water-courses and partly for house drainage, shall, after provision is made for the taking of such house drainage into the sewers of the Board, again revert to and be vested in the Local Authority which made such sewer, and after such re-vesting it shall not be lawful to use such sewer for house drainage.

Board to pay Local Authority for certain sewers.

Provided also, that in the case of any sewer made by any Local Authority after the First day of *January*, One thousand eight hundred and ninety-six, which in the opinion of the Board may be used as part of the drainage works of the Area, the Board may pay to the Local Authority such part of the cost of such sewer as may be agreed upon.

Maintenance and making of sewers. 38 & 39 Vict. c. 55, s. 15. *Ib.*, s. 19.

As to ventilators.

13 The Board shall keep in repair all sewers and drains vested in it, and shall cause to be made such sewers and drains as may be necessary for effectually draining the Metropolitan Drainage Area, and shall cause such sewers and drains to be properly constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health. And the Board may cause any shaft, pipe, tube, valve, or other apparatus for ventilating any sewer or drain to be attached to any wall of any building situate within the Area; but the mouth of any such shaft, pipe, tube, valve, or other apparatus to be used as an outlet for air from any sewer shall be at least Six feet higher than the highest point of the roof of any building within Thirty feet of the ventilator, and at least Twelve feet distant from any door or window; and the mouth of any such shaft, pipe, tube, valve, or other apparatus used as an outlet from any drain shall be at least Six feet higher than the highest part of any door or window of such building, and at least Twelve feet distant from such door or window.

Powers for making sewers. *Ib.*, s. 16.

14 The Board may construct any sewer, drain, or other work connected with the sewerage or drainage of the Area through, across, or under any street or place laid out or intended as a street, or under any railway or tramway, and if on the Report of the Engineer it appears to be necessary, after giving reasonable notice in writing to the owner or occupier, into, through, or under any lands whatsoever within the Metropolitan Drainage Area.

Victorian Metropolitan Board of Works Bill, 1890, s. 83.

Ib., s. 87.

The Board may, if at any time it deem it necessary during the construction of any works authorised by this Act, cause to be stopped up all or such part of the carriage or footway of any street for such period as may be required for the due execution of such works; and may raise, sink, or otherwise alter the position of any water-pipes or fittings, or gas-pipes or fittings, or tramways laid in or under any street or land, or may by notice in writing require the person or persons

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to whom the said pipes, fittings, or tramways belong to raise, sink, or otherwise alter the situation of the same in such manner and within such reasonable time as may be specified in such notice. If such notice be not complied with, the Board may make the alterations required. A.D. 1898.

The expenses attendant upon or connected with such alterations shall be paid by the Board. Expenses of altering water-pipes, &c.

No such alteration shall be required or made which will permanently injure any works, or railways, or tramways, or prevent the gas from flowing or vehicles from passing as freely and conveniently as usual.

And the Board may exercise all or any of the powers given by this Section outside the said Area for the purpose of outfall or distribution of sewage, provided that Two months before commencing the construction of such sewers outside the said Area the Board shall give notice of the intended work by advertisement in one or more of the newspapers circulating in the said Area, and in such notice shall describe the nature of the intended work, and shall state the names of the streets and lands (if any) through, across, under, or on which the work is to be made, and shall name a place where a plan of the intended work is to be seen at all reasonable hours, and a copy of such notice shall be sent to the owners and occupiers, or reputed owners and occupiers, of such lands, and to the Local Bodies or persons having the control of such streets. And if any such owner, occupier, or Local Body or person, or any person who would be affected by the said work, give to the Board notice in writing of his objection to such work, the Board shall not commence the said work without the sanction of the Governor in Council, who may direct an inquiry to be made into the matter of the said objection, and may employ such person as he may think fit to make such inquiry. 38 & 39 Vict. c. 55, ss. 32 & 34. Board may go outside Area. Local Authority may object.

15 In order to preserve the navigation of the River *Derwent* under the jurisdiction of the Marine Board of *Hobart*, the plans of any works proposed to be constructed under the authority of this Act, upon the bank, bed, or shore of the said River, shall be approved by the said Marine Board before such works are commenced. Unless the *Hobart* Marine Board within One month after the receipt of a copy of such plans, serve upon the Board a notice specifying their objections to the proposed works as interfering with the navigation of the said river, such Marine Board shall be taken to have approved thereof. Plans of outlet to be submitted to *Hobart* Marine Board.

In the event of any objections being made which the Board consider unreasonable, the matter in difference shall be determined by the Governor in Council, whose decision shall be final and binding on both parties; and such proposed works shall not be proceeded with unless such parties have agreed, or such decision has been given.

16 Nothing in this Act contained shall confer, or be construed to confer, upon the Board the power to discharge any sewer into *Sullivan's Cove*. Sewers not to be discharged into *Sullivan's Cove*.

17 Before commencing any work under the authority of this Act in any street, the Board shall give to the Local Authority having the care, management, or control of such street, or to the Clerk, Surveyor, or other proper Officer of such Local Authority, notice in writing of its intention to commence such work, together with a full description thereof, and the portion of the street (if any) proposed to be opened. Notice before breaking up streets.

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or broken up, not less than Three clear days before beginning such work.

In cases of emergency arising from defects in sewers, drains, pipes, or other works previously laid down or executed, such work may be commenced before such notice and description has been so given or before such period has expired ; but in case such notice and description have not been already given, the same shall be given as soon as possible after the commencement of the work or the necessity for the same has arisen. Except by the permission of such Local Authority, the traffic in such street shall not at one time be stopped or hindered along more than half of the width thereof, nor, if the half left open be of less than the clear width of Fourteen feet, along more than One hundred yards in length.

The Local Authority in whose district any works undertaken by the Board are in progress is hereby absolved from all liability in respect of any accident arising in consequence of such works.

Board to reinstate
ground when
broken up.

18 When the Board open or break up any place for any of the purposes of this Act it shall, with all reasonable speed, complete the work for which the same was broken up, fill in the ground, reinstate and make good the place so opened or broken up, and carry away the rubbish occasioned thereby ; and shall cause any settlement of the trenches which may appear at any time after the execution of the works to be made good with sound and suitable material, at least of equal quality to that removed, and shall at all times, whilst any place is so opened or broken up, cause the same to be fenced and guarded, and a light, sufficient for the warning of passengers, to be set up and kept against the same every night ; but nothing herein contained shall empower the Board, except in case of necessity, to entirely interrupt or stop the traffic of any street.

Consequences
of delay.

19 If there be any wilful or negligent delay on the part of the Board in completing the work and in filling in any trenches or excavations, or removing rubbish, or restoring such street to its original state as aforesaid, or if the work be imperfectly done, or if the street so opened be not fenced, guarded, and lighted in the manner hereinbefore required, the Local Authority having the care, management, or control of the street may cause the necessary work to be done.

The expenses so incurred by such Local Authority shall be paid to it by the Board on demand, and in default the amount may be recovered in a summary way, or in any Court of competent jurisdiction ; and the Board shall be liable to pay the same in addition to any penalty which it may have incurred.

Sewage to be
purified before
discharge into
streams.
38 & 39 Vict.
c. 55, s. 17.

20 Nothing in this Act shall authorize the Board to make or use any sewer, drain, or outfall for the purpose of conveying sewage or filthy water into any fresh-water stream or water-course or into any canal, pond, or lagoon until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter such as would affect or deteriorate the purity or quality of the water in such stream, water-course, canal, pond, or lagoon.

Provided that nothing in this Section shall prevent the construction of storm-water overflows from any sewer belonging to the Board to be used only in the case of rainfall exceeding the carrying capacity of the said sewers.

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21 The Board may from time to time enlarge, lessen, alter the course of, cover in, or otherwise improve any sewer or drain belonging to it, or may discontinue, close up, or destroy any such sewer or drain that has in its opinion become unnecessary, on condition of providing a sewer or drain as effectual for the use of any person who may be deprived in pursuance of this Section of the lawful use of any sewer or drain: Provided that the discontinuance, closing up, or destruction of any sewer or drain shall be so done as not to create any permanent nuisance.

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Alteration and
discontinuance of
sewers.
38 & 39 Vict.,
c. 55, s. 18.

22 For the purpose of collecting, receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of sewage and street and house refuse, and of cleansing and flushing the sewers and drains, the Board may—

Powers for
disposing of
sewage.
Ib. s. 21.

- i. Construct any works within the Metropolitan Drainage Area or (subject to the provisions of this Act as to sewage works without the Area) without the said Area; and
- ii. Contract for the use of, purchase, or exchange, or take on lease any land, buildings, engines, materials, or apparatus either within or without the said Area; and
- iii. Contract to supply for any period not exceeding Twenty-one years any person with sewage, and as to the execution and costs of works either within or without the said Area for the purposes of such supply:
- iv. Contract for the purchase of water, street sweepings, refuse, and other materials:
- v. Take water from any stream within the Area, provided that existing water rights be not prejudicially affected, and that the waterworks constructed under the powers conferred by any Act now in force and the supply of water to such waterworks be not interfered with:

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Provided that no nuisance be created in the exercise of any of the powers given by this Section.

23 The Board may, for the purposes and subject to the provisions of this Act, purchase, or take or lease, sell or exchange any lands, whether situated within or without the Metropolitan Drainage Area.

Power to purchase lands.
Ib. s. 175.

Any lands so acquired and which are no longer required for the purpose for which they were acquired may be sold at the best price that can be obtained for the same, and the proceeds of such sale shall be applied towards the discharge of any principal moneys which have been borrowed by the Board under the provisions of this Act, or, if no such principal moneys are outstanding, shall be carried to the general expenses fund hereinafter provided.

24 *The Lands Clauses Act* shall, except as hereby expressly varied, be incorporated with this Act, but—

21 Vict. No. 11
incorporated.

- i. There shall not be incorporated with this Act the Sections and provisions of the said Act hereinafter mentioned; that is to say,—Section Eight, whereby it is provided that the capital is to be subscribed before the compulsory powers are to be put in force; Section Nine, whereby it is provided that the certificate of the Justices shall be evidence that the capital

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had been subscribed; Section Twenty-three, whereby the mode in which the costs of arbitration are to be borne is prescribed:

- ii. In the construction of this Act and the said incorporated Act this Act shall be deemed to be the Special Act, and the Board shall be deemed to be "the Promoter of the undertaking."

Costs of arbitration, how to be borne.

21 Vict. No. 11.

25 In any case where land is required for the purposes of this Act, if the Board, before any steps are taken under *The Lands Clauses Act*, offers to the person entitled to receive the same, compensation for such land, then if such person refuses to accept the same and to convey the land so required, and a reference to arbitration takes place under *The Lands Clauses Act*, and the Arbitrators or Umpire award a sum not exceeding the amount of compensation so offered, all the costs of and incidental to the reference, arbitration, and award shall be paid by such person, and payment thereof may be enforced by action in any Court of competent jurisdiction on a count for money paid at the request of such person.

If either party to an award is dissatisfied therewith a Judge of the Supreme Court may decide thereon.

26—(1.) Notwithstanding anything to the contrary contained in any Act, if either party is dissatisfied with the award of the Arbitrators or Umpire where the sum awarded for compensation exceeds the sum of One hundred Pounds, and either party desires to have the compensation settled by a Judge of the Supreme Court, and shall, within Twenty-one days after the making of such award and notice thereof, signify such desire by notice in writing to the other party, then the amount of such compensation shall be ascertained by a Judge of the Supreme Court in such manner as he deems advisable, and subject to such conditions as such Judge sees fit to impose; and such Judge may also in his discretion make any order as to the person by whom the costs of such proceedings shall be borne.

(2.) Where the party dissatisfied with the award gives notice to the other party as aforesaid, then such award shall not be made a Rule of Court until such Judge by an order in writing under his hand determines the matter in dispute.

36 Vict. No. 19.

(3.) The Rules made by the Judges of the Supreme Court under "The Main Line of Railway Amendment Act, No. 2," shall be applicable to all proceedings which shall be taken for carrying out the provisions of this Section.

Power to deal with land appropriated to sewage purposes.
38 & 39 Vict.
c. 55, s. 29.

27 The Board may deal with any lands held by it for the purpose of receiving, storing, disinfecting, or distributing sewage in such manner as it deems most profitable, either by leasing the same for a period not exceeding Twenty-one years for agricultural or other purposes, or by contracting with some person to take the whole or part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in dealing with land for any of the above purposes provision shall be made for effectually disposing of all sewage brought to such land without creating a nuisance.

Ib. s. 30.

If the Board agree with any person as to the supply of sewage and as to the works to be made for the purpose of such supply, it may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement.

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28 All the powers, rights, duties, capacities, liabilities, obligations, and property exercisable by, attaching to, or vested in any Municipal Council, Town Board, Local Board, Trustees, or other Local Authority within the Metropolitan Drainage Area under any Act of Parliament for purposes the same as or similar to those of this Act, shall pass to and be exercisable by and vested in the Board as soon as the Governor in Council shall, by Proclamation published in the *Gazette*, declare that the Board has assumed such powers, rights, duties, capacities, liabilities, obligations, and property as aforesaid, and by such Proclamation the Governor in Council shall have power from time to time to define within or over what part of the said Area the Board assumes such powers, rights, duties, capacities, liabilities, obligations, and property.

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Transfer of powers from Local Authorities to Board.
38 & 39 Vict. c. 55, s. 310.

29 Upon the issue of any such Proclamation as aforesaid the Board shall, within that part of the said Area thereby defined, exclusively exercise the powers hereinafter conferred upon the Board in respect of all the matters mentioned in Sections Thirty to Thirty-six of this Act, both inclusive: concerning the whole of which matters no Local Board of Health shall, after the issue of any such Proclamation, act within the said Area under the provisions of any Act conferring jurisdiction on Local Boards of Health in respect of the matters aforesaid.

Powers of Local Board of Health to cease upon the issue of Proclamation.

30 The Board shall cause all sewers and drains within any such part of the said Area as aforesaid to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same, may construct and erect such works as appear necessary, and may cause all or any of such sewers and drains to communicate with and be emptied into such places as they may deem fit or necessary; and no person shall, without the consent of the Board, cause any private drain or sewer to be emptied or flow into any public drain or sewer under the control of the Board, nor do any act, matter, or thing which in the opinion of the Board tends to the injury or stoppage of any such drain or sewer.

Management of sewers and drains.

31 All houses within any such part of the said Area as aforesaid shall have such drains leading to such sewers or other places, and having such a fall, and constructed of such materials and in such manner as shall be satisfactory to the Board. No drain shall, without the written consent of the Board, and then only upon complying with such conditions as the Board may impose, be made under any house, or under the surface of any yard or premises; and the Board may, in the case of there not being any such satisfactory drain to any house or premises within its jurisdiction (whether erected at any time before or after the commencement of this Act), cause such drains to be made.

Management of drains on private premises.

32 Every house within any such part of the said Area as aforesaid, whether built before or after the passing of this Act, shall have such water-closet or other closets in such place, and constructed of such material and in such manner as shall be satisfactory to the Board; and the Board may, in the case of there not being such closet or closets in any house, cause an order to be served on the owner or occupier of such house to construct, at the expense of such owner, a proper place,

Water-closets.

Ref. by 3 Edw. 7 No. 15

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with proper door and seat wherein such closet apparatus, if water can there be laid on, may be fixed by the Board, and on the provision or construction of such place the Board shall cause to be furnished and fixed such apparatus with all necessary water supply and drainage.

Construction and maintenance of drains, cesspools, &c.

33 All drains whatsoever, water-closets, sinks, grids, stables, cow-houses, yards, and places within any such part of the said Area as aforesaid shall be constructed and kept so as not to be a nuisance or injurious to health, and so that there is no overflow or leakage or soakage therefrom.

Drains or sewers may be made through private premises.

34 In case it is necessary, for the proper drainage of any land, street, lane, right-of-way, yard, passage, private premises, or other place within any such part of the said Area as aforesaid that drains or sewers should be made through or under any one or more private premises, whether occupied or not, it shall be lawful for the Board to make an Order on the owner or owners of such premises requiring such owner or owners to permit the formation of such drains or sewers through or under such premises, and after the expiration of One month from the making of such Order, the Board may form or make through or under such premises such drains or sewers as may in the opinion of the Board be necessary for the proper drainage of any such land, street, lane, right-of-way, yard, passage, private premises, or other place as aforesaid : Provided that such drains or sewers shall be made and maintained in good order so as not to be a nuisance or injurious to health. Where the Board have, under the powers conferred by this Section, formed or made any drain or sewer through or under private premises, there shall be paid by the Board to the owner or owners of such premises such equitable compensation as is agreed upon between such owner or owners and the Board, or as in case of dispute may be awarded on appeal by either side to the next Court of General Sessions of the Peace holden for the District in which the Board has jurisdiction. The amount of compensation so paid, and all costs and expenses incurred by the Board, together with the cost of forming or making any drain or sewer under the provisions of this Section, shall be deemed to be expenses properly incurred by the Board in carrying out this Act.

Costs charged to Board Fund.

Cesspools to be closed.

35 It shall be lawful for the Board to give notice to the owner of any house situate within any such part of the said Area as aforesaid to disinfect, empty, cleanse, fill in, and close, to the satisfaction of the Board, all cesspools used in connection with such house.

As to commencement of work and removal of works made contrary to By-laws. 38 & 39 Vict. c. 55. s. 158.

36—(1.) Where a notice, plan, or description of any work is required by any By-law made by the Board to be laid before the Board, the Board shall, within One month after the same has been delivered or sent to their Surveyor or Secretary, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such notice of approval, and is in any respect not in conformity with any By-law of the Board, the Board may cause so much of the work as has been executed to be pulled down or removed.

(2.) Where the Board incur expenses in or about the removal of any work executed contrary to any By-law, such Board may recover in the mode prescribed by "The Public Health Act, 1885," the amount of

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such expenses either from the person executing the works removed or from the person causing the works to be executed, at their discretion. A.D. 1898.

(3.) Where the Board may under this Section pull down or remove any work begun or executed in contravention of any By-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any By-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the By-law shall be deemed to be a continuing offence, but a penalty shall not be incurred in respect thereof after the expiration of One year from the day when the offence was committed or the By-law was broken.

37 The One hundred and sixty-fifth Section of "The *Hobart Corporation Act, 1893*," is hereby repealed: Provided that such repeal shall not have effect until the Board shall have certified to the Governor in Council that sufficient sewers have been constructed to carry off all sewage running into the *Hobart Rivulet*, and until the Governor in Council has, by proclamation published in the *Gazette*, given effect to this Section. Repeal of Section
166 of 57 Vict.
No. 11.

38 The Board may make By-laws with respect to the following matters:—

- i. With respect to the custody and use of the Common Seal :
- ii. With respect to the level and construction of new streets, with regard to the provisions for the sewerage thereof :
- iii. With respect to the drainage of houses, water-closets, buildings, yards, waterholes, lands, and premises, and all other places whence sewage water may flow or is lying ; and
- iv. With respect to the condition under which the sewers of the Board may be used and house drains connected therewith, and to the manner in which sewers, drains, and water-closets shall be constructed, ventilated, fitted, and supplied with water for flushing, and as to the materials and apparatus to be used for any of those purposes :
- v. With respect to the examination, registration, and licensing of plumbers and other tradesmen employed in connection with the drainage and sanitary work of houses :
- vi. With respect to the provision of sewers to be made by any person laying out or selling land for building purposes.

By-laws.
38 & 39 Vict.
c. 55, s. 157.

Am: by 4 Ed: 7 No 32

And it may further provide for the observance of such By-laws by enacting therein such provisions as it thinks necessary as to the giving of notices, as to the deposit of plans and sections of proposed sewers and drains, as to the inspection of work by its officers, and as to its power to remove, take up, alter, or destroy any work begun or done in contravention of such By-laws, and as to the examination of plumbers and tradesmen, and to the conditions under which they may be authorised to do sanitary work, and may impose such reasonable penalties not exceeding Ten Pounds, as it thinks fit.

39 No By-law made by the Board under the authority of this Act shall be of any force until it shall have been certified by the Attorney Certification of
By-laws.

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or Solicitor-General not to be repugnant to any law in force in *Tasmania*, or to the provisions of this Act ; and no such By-laws shall be certified unless notice of the intention to apply for a certification of the same shall have been given One month at least before the making of such application by posting a copy of such By-laws in some conspicuous place in or upon the door of the office of the Board, and by a notice published in Two newspapers circulating in the said Area, setting forth the general purport of the proposed By-law, and stating that a copy is open for inspection at the office of the Board.

Copy of By-law
may be inspected
and purchased.

40 For One month at least previous to any such application for certification of any By-law a copy of the proposed By-law shall be kept at the office of the Board, and all persons may at all reasonable times inspect such copy without payment of any fee ; and the Board shall furnish every person who applies for the same with a copy thereof, or of any part thereof, on payment of Sixpence for every one hundred words so to be copied. Every By-law when certified as aforesaid shall before coming into operation be published in the *Gazette*.

By-laws to be
published.

By-laws to be laid
before Parliament.

41 No such By-law shall, if Parliament is sitting at the time of the certification thereof, be of any force until Fourteen days after the same, or a copy thereof signed by the Secretary to the Board, has been laid upon the Table of both Houses of Parliament ; and if Parliament or either House thereof disallows such By-law or any part thereof, such By-law, or the part thereof so disallowed, shall not come into operation : and if Parliament is not sitting at the time of the making of any such By-law, the same shall, after Fourteen days from the publication thereof in the *Gazette*, as provided by this Act, be of full force and effect, and a copy of every such By-law as last aforesaid, signed as aforesaid, shall be laid upon the Table of both Houses of Parliament within Five days after the commencement of the Session thereof holden next after the making of such By-law ; and if the Parliament or either House thereof disallows any such By-law as last aforesaid, or any part thereof, within One month after such By-law has been laid upon the Table as aforesaid, such By-law or the part thereof so disallowed shall, upon such disallowance thereof being notified in the *Gazette*, thenceforth cease to be of any force or effect whatsoever.

Power of Rate-
payers to use
sewers.

42 The owner or occupier of any lands and premises within the Metropolitan Drainage Area shall be entitled to cause his drains to empty into the sewers of the Board on condition of his giving such notice as may be required by the Board of his intention to do so, and of his complying with its By-laws in respect of the mode of construction, connection, and ventilation of such drains, and of their communication with the sewer, and subject to the control of any person appointed by the Board to superintend the making of such drains and communications.

~~Provided that~~ the Board shall in all cases have power to cause the exclusion from any of its sewers ^{or septic tanks} of any sewage which, in the opinion of the Board, is of a nature likely to cause the deterioration of such ^{or septic tanks} sewers or to cause a nuisance at the outfalls.

Any person causing a drain to empty into a sewer of the Board without complying with the provisions of this Section shall be liable to a penalty not exceeding Twenty Pounds ; and the Board may close any communication between a drain and sewer made in contravention of

Ref. by 3 Edw. 7 No 15

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this Section, and may recover in a summary manner from the person so offending any expenses incurred by the Board under this Section. A.D. 1898.

43 Where any house within the Metropolitan Drainage Area has a drain communicating with any sewer, which drain, though sufficient for the effectual drainage of the house, is not adapted to the general sewerage system of the Area, or is in the opinion of the Board otherwise objectionable, the Board may, on condition of providing a drain or drains as effectual for the drainage of the house and communicating with such sewer as it thinks fit, close such first-mentioned drain, and may do any works necessary for that purpose, and the expenses of those works and of the construction of any drain or drains provided by the Board, under this Section shall be deemed to be expenses properly incurred by the Board in the execution of this Act.

Power to alter drainage of houses.
38 & 39 Vict.
c. 55, s. 24.

Ref by 3 Edw. 7 No 15.

44 It shall not be lawful in the Metropolitan Drainage Area and within a distance of One hundred feet of any sewer belonging to the Board, to build or rebuild any house which has been pulled down to or below the ground floor, or to occupy any house so newly erected or rebuilt, unless and until a covered drain or drains be constructed of such size and material, and manner of construction and ventilation, and at such level, and with such fall and outlet as on the Report of the Engineer may appear to the Board to be necessary for the effectual drainage of such house.

Penalty on building house without drains.
Ib., s. 25.

Any person who occupies or allows any house so erected or rebuilt to be occupied until the Engineer shall have certified to the Board that the requirements of this Section have been fulfilled, shall be liable to a penalty not exceeding Ten Pounds, and to a further penalty of Five Shillings for every day during which such occupation continues.

Any person who causes any house to be erected or rebuilt, or any drain to be constructed, in contravention of this Section, shall be liable to a penalty not exceeding Fifty Pounds.

45 Any person who, in the Metropolitan Drainage Area, without the written consent of the Board, causes any building to be newly erected over any sewer of the Board shall forfeit to the Board the sum of Five Pounds, and a further sum of Forty Shillings for every day during which the offence is continued after written notice in this behalf from the Board; and the Board may cause any building erected in contravention of this Section to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover in a summary manner any expenses incurred by it in so doing from the offender.

Penalty on unauthorised building over sewer.
Ib. s. 26.

46 The Board, by any person duly appointed by it in that behalf, may inspect and test any drain, water-closet, sink, trap, pipe, or other apparatus connected therewith within the Metropolitan Drainage Area, and for that purpose at all reasonable times in the daytime, after Twenty-four hours' notice in writing has been given to the occupier of the premises whereon the inspection is to be made, or left upon the premises, or in case of emergency without notice, and such person so appointed may enter by himself or with workmen and cause the ground to be opened in any place he may think fit, doing as little damage as may be.

Inspection of private premises.
18 & 19 Vict.
c. 120, s. 82.

Am. by 4 Edw. 7 No 32

In case any such drain, water-closet, sink, trap, pipe, or other apparatus be found on inspection or testing to have been made contrary to the provisions of this Act, or to be in bad order and condition, or to require

Victorian Metropolitan Board of Works, 1890,
s. 127.

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cleansing, the Board shall give notice in writing to the owner of the premises requiring him to do the necessary works within such time as may be specified in such notice.

If such notice be not complied with by the owner of the premises the Board may, if it thinks fit, execute such works, and the expenses incurred by it in so doing shall be paid to it by the owner of the premises.

If such drain, water-closet, sink, trap, pipe, or other apparatus be found on inspection as aforesaid to be made to the satisfaction of the Board, and in proper condition and order, the Board shall cause the same to be reinstated and made good, and the whole expenses of the inspection and reinstatement shall be defrayed by the Board.

Power to constitute Special Drainage Districts,
38 & 39 Vict.,
c. 55, s. 277.

47 On the recommendation of the Board the Governor in Council may from time to time, by proclamation published in the *Gazette*, constitute any portion of the Metropolitan Drainage Area a Special Drainage District, and may define the boundaries and designate the name of such District; and the District so defined and designated shall be a Special Drainage District for the purposes of this Act.

Expenses of Board.

Expenses of Board.
Ib. s. 229.

48 The expenses incurred by the Board in the execution of this Act shall be divided into General Expenses and Special Expenses.

General Expenses shall be the expenses of the establishment and principal officers of the Board; the expenses connected with the construction, maintenance, and use of works for the common benefit of the whole Metropolitan Drainage Area; all expenses connected with the execution of the provisions of the Thirteenth, Fourteenth, and Twenty-fourth Sections of this Act, provided that such last-mentioned expenses are incurred for works for the common benefit of the whole Metropolitan Drainage Area; and all other expenses not determined by this Act, or by resolution of the Board, to be Special Expenses.

Special Expenses shall be the expenses of the construction, maintenance, and cleansing of sewers in and used exclusively by any Special Drainage District, and all other expenses incurred or payable by the Board in or in respect of any Special Drainage District, and determined by resolution of the Board to be Special Expenses.

General Expenses shall be payable out of a common fund to be raised out of the rates of the whole district comprised in the Metropolitan Drainage Area, and out of such moneys as may from time to time be provided by Parliament.

Special Expenses shall be a separate charge on each Special Drainage District.

Local Authority may require Board to exempt part of its District from portion of General Expenses.

Provided that any Local Authority may at any time and from time to time require the Board to determine whether any part of the District of such Local Authority shall be exempt from paying a portion or the whole of any General Expenses as aforesaid, and may, if dissatisfied with the decision of the Board, appeal to the Governor in Council, who may make such order in the premises as he may deem just, but so that the liability shall not be suspended for more than Three years at any one time.

If any dispute or difference shall arise as to whether any charge should be deemed a Special or General Expense, such dispute or difference shall be decided by the Auditor-General.

Ref by 3rd Edw. 7 No 15

Metropolitan Drainage.

49 Subject to the provisions hereinafter contained, the Board shall, for the purpose of obtaining payment of the General and Special Expenses, issue its precept to the Local Authorities of the Metropolitan Drainage Area requiring them to pay within a time limited by the precept the amount specified in such precept to the Board or to some person appointed by it. The contributions with respect to General Expenses and Special Expenses shall be specified as separate items in any precept including both classes of expenses.

The amount specified for General Expenses in such precept to any Local Authority shall bear such proportion to the whole expenses of the Board as the rateable value of the portion of the said Area under the jurisdiction of the said Local Authority bears to the rateable value of the whole Area.

The amounts specified for General Expenses and Special Expenses in precepts issued to any Local Authority shall not in any year exceed the sum that can be raised in the district under the jurisdiction of the said Local Authority, or the portion of such district that is comprised within the said area by a rate of not exceeding Seven Pence in the Pound on the yearly rateable value of the land and premises of such district or portion of a district. ^{can} Provided that after the issue of the proclamation named in Section Twenty ~~five~~, in no case shall the amount payable in respect of any house for such rate be less than the sum of Twelve Shillings in any year

Every precept shall be sent to the Local Authority at least Three months before the day on which the sums specified in such precept are payable.

The Local Authority shall comply with the requisitions of such precept by paying the contributions required in respect of General Expenses by the levy upon such part of the district under its jurisdiction as is within the Metropolitan Drainage Area of a rate in the same manner as if it were a rate authorised by "The *Hobart Corporation Act*, 1893," "The *Rural Municipalities Act*, 1865," "The *Roads Act*, 1884," or "The *Town Boards Act*, 1896," or any amendment of such Acts respectively; and in respect of Special Expenses by the levy in a similar manner of a rate upon the whole or such part of the Special Drainage District in which such expenses have been incurred as is within its jurisdiction.

But no owner or occupier of any land and other premises shall be liable to the payment of any General or Special Rate unless such land and other premises is actually connected with the sewers of the Board, or unless such sewers are constructed, laid down, and ready for the use of such owner or occupier.

All property belonging to or occupied or used by or on behalf of the Crown or any Local Authority shall be subject to all rates levied by any Local Authority in pursuance of any such precept of the Board as aforesaid, the assessment being on the same principle as on similar property in corresponding parts of the said Area. The Crown may in every such case commute its liability to pay any such rate by the payment or contribution of a sum agreed upon by the Board and the Treasurer of the Colony.

Provided further, that any Local Authority may pay the amount specified in any precept issued by the Board out of any moneys in the possession of such Local Authority, or from any rate it is empowered by any Act of Parliament to levy, and may carry such payment to a

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Mode of raising contributions.
38 & 39 Vict.
c. 55. s. 230.

Rate not to exceed Seven Pence in the Pound.

Minimum rate Twelve Shillings.

Board to give Three months' notice.

57 Vict. No. 11.
29 Vict. No. 8.
48 Vict. No. 18.
60 Vict. No. 31.

No rate where no service.

Public property to be rateable.

Local Authority may pay rate temporarily out of other moneys.

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suspense account, but shall afterwards levy any of the rates in this Section mentioned to recoup itself for the sum paid on account of any precept.

All the rates under this Section shall, as respects the powers of the Local Authorities in relation to making and levying of such rates and all other incidents thereof, except the purposes to which it is applicable, be subject to the same provisions as apply in law to any other rate levied by such Local Authority; but no such exemption shall be allowed on account of any property being unoccupied.

The officers ordinarily employed in the collection of the rates of the Local Authorities shall, if required by the Local Authorities, collect any rates made under this Section, and receive out of such rates such remuneration for the additional duty as the Local Authorities, with the consent of the Board, may determine.

Remedy for non-payment of amount required by precept.
38 & 39 Vict.
c. 55, s. 231.

50 If the amount required by any precept of the Board to be paid by any Local Authority is not paid in the manner directed by the precept and within the time therein specified for that purpose, the Board may, by writing under its seal, appoint, at such salary as it thinks fit, a Receiver of the rates of such Local Authority, and may from time to time remove such Receiver, and on the death or removal of any Receiver may appoint some other person in his place. Any Receiver appointed under this Section shall be entitled to receive all rates payable to the Local Authority, and to make and levy rates for the purpose of paying the amounts due to the Board, together with all costs; and for the purposes aforesaid the Receiver shall be deemed to be the Local Authority, and may exercise all the powers thereof. And such Receiver shall continue to act until payment has been made to the Board of the amount in default, together with payment of costs and expenses and of his salary.

Power to borrow.

51 It shall be lawful for the Board to borrow for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of this Act, any sum or sums of money not exceeding One hundred thousand Pounds.

Governor in Council may grant Loans to the Board.
54 Vict. No. 30.

52 It shall be lawful for the Governor in Council to grant, in accordance with the provisions of "The Local Public Works Loans Act, 1890," any sum or sums of money, not exceeding One hundred thousand Pounds, as a Loan to the said Board, for the purpose of defraying any costs, charges, and expenses incurred or to be incurred by them in the execution of this Act, and such money shall be defrayed out of moneys to be provided by Parliament for that purpose: Provided, that it shall not be necessary to lay before both Houses of Parliament the Report of the Engineer-in-Chief as provided in Section Two of the said Act.

Poll to be taken before Board proceeds to borrow.
45 Vict. No. 16.

53 Before the Board shall proceed to borrow any sum of money under the authority of this Act, the Board shall cause a Poll of Electors within "The Metropolitan Drainage Area" to be taken in accordance with the provisions of "The Local Bodies Loans Act," and, notwithstanding anything to the contrary contained in the said Act, if at such Poll a majority of the votes polled shall be against the Board proceeding to borrow any sum of money under this Act, the

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Board shall not proceed to borrow any sum of money under the authority of this Act: A.D. 1898.

Provided that, in the event of there not being a majority of votes recorded at such Poll in favour of the Board borrowing such money, the Board may thereafter from time to time, at intervals of not less than Six months, cause another Poll or Polls of the Electors to be taken, and if at any such subsequent Poll a majority in number of votes polled are obtained in favour of the Board borrowing such money, the Board may proceed to borrow such money.

54 The Board shall, during the construction of any of the works hereby authorised, pay all General Expenses, including any interest upon any money borrowed under the provisions of this Act, out of money borrowed as aforesaid: Provided, that upon the completion of such works within any special drainage district the Board shall cease to pay the proportion of General Expenses and proportion of interest properly chargeable to such district out of borrowed money, and the same shall thereupon be expenses to be met by rates levied under the provisions of this Act upon such district: Provided also, that the Governor in Council may, for the purpose of paying any General Expenses, from time to time make advances of money to the Board; and all money so advanced to the Board by the Governor in Council shall be a first charge upon any money raised by the Board under the borrowing powers conferred by this Act.

Interest on borrowed money during period of construction to be capitalised.

Accounts and Audit.

55 Accounts of the receipts and expenditure of the Board under this Act shall be made out in such form as the Board may, with the sanction of the Governor in Council appoint, up to the Thirty-first day of *December* in every year, and shall be subject and liable to all the provisions of "The Audit Act, 1888," in the same manner in all respects as if such accounts had been specifically mentioned therein.

Accounts and Audit.
52 Vict. No. 43.

General Powers.

56 In any case where it is ordered or notified by or under the authority of this Act that the owner of any premises shall do any act, matter, or thing, or construct any works, the Board may, if it think fit, by the same or any subsequent order or notice, require the person occupying or in possession of the premises to do any such act, matter, or thing, or to construct such works, as the said Board may deem necessary; and any such owner, and also the person occupying or in possession of the premises, who refuses or neglects to comply with such direction, order, or notice after service thereof, and within a certain specified time to be named therein, shall be liable to a penalty for each and every day after the expiration of such specified time of not more than Five Pounds and not less than Five Shillings.

Board may order works to be done by occupier instead of owner.
49 Vict. No. 18, s. 147.

Provided that any expenses incurred by the person occupying or in possession of the premises in complying with the said direction, order, or notice of the Board, shall be summarily recoverable by the person occupying or in possession of such premises from the owner before Two or more Justices as money paid to the use of such owner, or may be deducted from or set off against the rent then due or thereafter at any time and from time to time to become due; and the owner from or against whom such expenses are so

Occupier may recover cost from owner.

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In default of
owner Board may
do the work.

And in case of
poverty of owner,
without charge
to him.

But occupier
not to be liable
beyond rent due
or to become due
after notice.

Payment of
expenses by
instalments in
certain cases.

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Power to take
possession of and
lease property on

recovered, deducted, or set-off, if he be a tenant to another person of the same premises, may in like manner recover, deduct, or set-off the said expenses, any covenant or agreement whatsoever to the contrary notwithstanding.

Provided further, that in the event of the neglect or failure of the person to whom any such order or notice shall be addressed to comply therewith, the Board may, if it see fit, carry out the requirements of such order or notice, and may recover in manner hereinafter provided from such person all costs and expenses which the Board shall thereby have incurred. Provided also, that when the owner or occupier of any premises is from poverty or otherwise unable in the opinion of the Board effectually to carry out the requirements of any Order, By-law, or of any of the provisions of this Act relating to the construction of any works, or the doing of any matter or thing for the purposes of this Act, and the value of the property is insufficient to defray such costs, the Board may, without enforcing such requirements on such owner or occupier, enter the said premises, and out of the rates or moneys applicable to the execution of this Act, construct such works. No occupier of any premises shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which shall at any time after such demand and notice not to pay such rent to his landlord have accrued and become payable by him, unless he neglect or refuse upon application made to him for that purpose by the Board truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall lie upon the occupier: Provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner and occupier respecting the payment of the expenses of any such works as aforesaid.

57 Where any such expenses payable to the Board by the owner of any such premises amount to more than half the amount of the net annual value thereof, the Board may, if they think fit, at the request of such owner, allow time for the repayment of such expenses, and receive the same by such instalments as they under the circumstances of the case consider reasonable, but so that the same be repaid by annual instalments of not less than one-seventh part of the whole sum originally due, with interest for the principal money from time to time remaining unpaid after the yearly rate of Four Pounds for every One hundred Pounds during the period of forbearance: but all such sums remaining due, notwithstanding the Board have agreed to allow any time for the repayment thereof as aforesaid, shall be a charge upon the property until paid, and shall from time to time, at the expiration of the several times so allowed for repayment thereof, be recoverable in like manner as such respective amounts would have been recoverable if no time had been allowed for repayment thereof.

58 Where any lands or premises are unoccupied, and any expenses incurred by the Board in respect of such land or premises under the provisions of this Act have been unpaid for Three years, the Board

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may take possession of such land or premises, and may hold the same as against any person interested therein, and from time to time grant leases of the same, subject to the provisions hereinafter contained.

59 The Board shall not take possession of any such land or premises until One month after a notice in writing setting forth that expenses incurred by the Board in respect of such property are unpaid, and demanding payment thereof, and stating that in default of such payment the Board will take possession thereof under the provisions of this Act, has been served on every person in *Tasmania* entitled to an estate of freehold in possession in such land or premises, or to the possession of such land or premises under any lease, whose name and address is known to the Board, or, if there is no such person whose name and address is so known, has been fixed to some conspicuous place on such land or premises; and every such notice served on any person shall contain a sufficient description of the land or premises to identify the same; but every lease granted by the Board otherwise than in accordance with the provisions of this Act shall be valid notwithstanding the non-compliance with any of the provisions of this Section, unless all expenses incurred by the Board and due in respect of such land or premises are paid, and a release demanded from the Board, within Twelve months after the Board takes possession.

60 Within Three months after demand by any person who, but for the provisions of this Act, would be entitled to the possession of any such lands or premises, made within Thirty years after the taking possession thereof on the part of the Board, and after payment of all expenses incurred by the Board and due in respect thereof, and interest upon all arrears of such expenses at the rate of Six Pounds per centum per annum, the Board shall execute under its common seal a release of such lands or premises from all such expenses due in respect thereof; and if the Board make default in executing such release the Supreme Court in its equitable jurisdiction may, at the suit of any person interested in that behalf, compel it so to do; and upon the execution of such release, subject to any lease theretofore lawfully granted by the Board under the provisions of this Act, such person or persons shall be entitled to such land or premises and the possession thereof as would have been so entitled if this Act had not passed; and any tenant of such land or premises under any such lease shall attorn to such person or persons accordingly.

61 Every such lease shall be for such term not exceeding Seven years as to the Board may seem fit, and shall reserve the best rent which can be reasonably gotten for such land or premises, and shall contain and be subject to such other reservations, and such exceptions, covenants, and conditions as to the Board may seem fit.

62 All rent and other moneys payable under any such lease shall, until the execution of a release as hereinbefore mentioned, or the expiration of Thirty years from the Board's taking possession, whichever shall first happen, be received by the Treasurer of the Board, and shall be applicable—

- i. In defraying the expenses of and incidental to the execution of such lease and the collection of the rents :

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which expenses are due.

49 Vict. No. 18, s. 160.

Notice to be given before taking possession.

Ib., s. 151.

Release of property after demand and payment of expenses.

Ib. s. 152.

Lease.

Ib. s. 153.

Application of rent.

Ib., s. 154.

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- ii. In payment to the Board of all expenses incurred by it and due in respect of such land or premises, together with interest on all such expenses at the rate of Six Pounds per centum per annum from the time such expenses have become due respectively, and in payment of all rates and other payments accruing due thereon.

And the residue of any such moneys shall belong to such person or persons as would, when the same respectively were received, have been entitled to receive the rents and profits of such land or premises if this Act had not passed; and such Treasurer shall deal with such residue in all respects as persons in the Public Service are directed to deal with money coming to their possession or control by virtue of their office or employment for or on account or for the use or benefit of any other person under any law now or hereafter to be in force relating to the collection and audit of the public moneys and accounts; and all the provisions of any such law applicable to moneys so received by persons in the Public Service shall be applicable to such residue.

After Thirty years property to vest in Board.
49 Vict. No. 18, s. 155.

63 Unless some person entitled in that behalf perform the conditions entitling him to demand a release of any land or premises of which the Board has taken possession under the foregoing provisions within Thirty years after such taking possession, such land or premises and all accumulations of rent and other moneys on account thereof shall vest absolutely in the Board.

Notice to be affixed on taking possession.
Ib. s. 156.

64 On taking possession of any land or premises as aforesaid, the Board shall cause to be affixed upon some conspicuous part thereof a notice that such land or premises has been taken possession of by the Board under the provisions of this Act, and is to let on lease.

Costs and expenses recoverable in any Court.
Ib. s. 157.

65 Where any costs or expenses are recoverable by the Board from the owner of any land in respect of works executed on or to improve such land, or any street or road, public or private, adjoining thereto, such costs and expenses shall be recoverable in any Court having jurisdiction.

Costs and expenses of works to include purchase-money and compensation.
Ib. s. 158.

66 Where the Board is empowered to recover any costs or expenses of any works from the owner of any land, any money expended in the purchase of any land necessary for such works, or in compensation in respect of any land injuriously affected by such works, shall be deemed to be included in such costs and expenses.

Legal Proceedings.

Other proceedings not affected.
Ib. s. 159.

67 Nothing in this Act contained shall be held to affect the power of proceeding by information, or to take away any other remedy against any offender against any of the provisions of this Act.

Notices, &c. to be signed by Secretary.

68 Every order, notice, summons, or other such document requiring authentication by the Board, may be sufficiently authenticated without the Common Seal of the Board if signed by the Secretary for the time being of the Board.

Proof of By-laws, Proclamations, &c.

69 A copy of the *Gazette* containing any By-law of the Board, or any Proclamation or Notice issued under the provisions of this Act,

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shall be conclusive evidence of the due making of such By-law, or of the issue of such Proclamation or Notice, and of the contents thereof respectively. A.D. 1898.

70 Any notice or order under this Act may be wholly or partly in printing or in writing, or both; and where under this Act any notice or order is required to be given to the owner or occupier of any house, building, or land, such notice or order addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such house, building, or land, or left with some inmate of his abode, or if there is no occupier, may be put up on some conspicuous place of such house, building, or land; and it shall not be necessary in any such order or notice to name the occupier or the owner of such house, building, or land. Provided that when the owner of any such house, building, or land and his residence are known to the Board, it shall be the duty of the Board, if such owner is residing within the Metropolitan Drainage Area, to cause every notice or order required to be given to the owner to be served on such owner or left with some inmate of his abode, and if such owner is not resident within the Area, to send every such order or notice by the post addressed to residence of such owner. Service of notices. 18 & 19 Vict. c. 121, s. 31.

71 All notices and orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such order or notice had been served on such last-mentioned persons respectively. Continued operation of notices and orders. 49 Vict. No. 18, s. 161.

72 In any proceeding instituted by or against the Board under this Act it shall not be necessary for the plaintiff or complainant to prove the corporate name of the Board, or the constitution or limits of the Metropolitan Drainage Area. Name of Board need not be proved. 38 & 39 Vict. c. 55, s. 260.

73 No order, conviction, or thing made or done or relating to the execution of this Act, shall be vacated, quashed, or set aside for want of form, or (unless otherwise expressly provided by this Act) be removed or removable by *certiorari* or any other writ or process whatsoever into the Supreme Court. Provided that nothing in this Section shall prevent the removal of any case stated for the opinion of such Court, or of any order, conviction, or thing to which such special case relates. Proceedings not to be quashed for want of form. *Ib.*, s. 262.

74 All complaints of offences against this Act shall, save as is herein otherwise provided, be heard and determined, and all penalties, sums of money, costs, and any expenses imposed or made payable or recoverable hereby, may be heard, determined, and recovered in a summary way before Two or more Justices of the Peace in the mode prescribed by *The Magistrates Summary Procedure Act*. Complaints before Justices. 19 Vict. No. 8.

75 Any person who feels himself aggrieved by any conviction or order of any Justices under this Act may appeal from such conviction or order, unless otherwise expressly provided, in the mode prescribed by *The Appeals Regulation Act*. Appeal. 19 Vict. No. 10.

76 No fee or fees shall be payable under *The Magistrates Summary Procedure Act* or otherwise by the Board or any Officer No fees payable in proceedings under 19 Vict. No. 8.

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thereof in respect of any proceedings instituted by the Board or such Officer against any person for any breach of this Act, or any Order or By-law made hereunder, or for the recovery of any expenses incurred under this Act.

Board may take proceedings in superior Court for abatement of nuisances.
38 & 39 Vict. c. 55.

77 Notwithstanding anything hereinbefore contained, the Board may, if in their opinion summary proceedings would afford an inadequate remedy, cause any proceedings to be taken against any person in any Superior Court of law or equity to enforce compliance with any order given under this Act, or for the recovery of any penalties or expenses from, or for the punishment of any persons offending against the provisions of this Act, and may order the expenses of and incident to all such proceedings to be paid out of the fund or rate applicable to General Expenses under this Act.

Penalties for disobedience of this Act.
49 Vict. No. 18, s. 172.

78 Where anything is by this Act or by any order, notice, direction, or By-law of the Board made under the authority of this Act, directed to be done or forbidden to be done, or where any authority is given to the Board or any officer of it, or to Justices, to direct anything to be done or to forbid anything to be done, and such act so directed to be done remains undone, or such act so forbidden to be done is done, in every such case the person making default as to such direction and prohibition respectively shall be deemed guilty of an offence against this Act. And every person guilty of an offence against this Act not otherwise specially provided for by or under the authority hereof shall be liable, for every such offence, besides any costs or expenses which may be incurred in the taking of proceedings against such person guilty of such offence, as well as any costs or expenses which may be incurred in remedying such default as particularly provided for in this Act, to a penalty not exceeding the sum of Twenty Pounds, and to a penalty not exceeding Five Pounds nor less than One Shilling for each day during which such offence is continued by such person; and such penalty or penalties shall be recoverable notwithstanding that the Board may not have chosen to exercise any power given to it by this Act to remedy such default.

Penalties unpaid to be enforced by distress.
49 Vict. No. 18, s. 173.

79 Whenever any penalty, forfeiture, costs, expenses, or other payment has been imposed, directed, or awarded to be paid under the provisions of this Act, and the person convicted or against whom an Order for the payment of such penalty, forfeiture, costs, expenses, or other payment has been made, does not pay the same within such time as the Justices or Court by whom the same has been imposed, directed, or awarded, direct, such Justices or Court may order that the same be levied by distress and sale of the goods and chattels of such person; but no person shall be imprisoned for any term whatever for non-payment of any such penalty, forfeiture, costs, or expenses as aforesaid.

Persons acting under Act entitled to notice of action, &c.
48 Vict. No. 28, s. 146.

80 No action shall lie against any person for anything done in pursuance of this Act unless notice in writing of such action, and of the cause thereof, is given to the Defendant One Month at least before the commencement of the action, and such action is commenced within Six Months after the cause of action has accrued; and in any such action the Defendant may plead the general issue, and give this Act and the special matter in evidence; and no Plaintiff shall recover in any such action if payment of sufficient amends has been made before such

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action brought, or if a sufficient sum of money has been paid into Court by or on behalf of the Defendant after such action brought, together with the costs incurred up to that time; and if a verdict passes for the Defendant, or if the Plaintiff becomes nonsuit or discontinues such action, or if upon demurrer or otherwise judgment is given against the Plaintiff, the Defendant shall recover his full costs as between attorney and client, and have the like remedy for recovering the same as any Defendant has by Law in other cases; and though a verdict is given for the Plaintiff in any such action, such Plaintiff shall not have costs against the Defendant unless the Judge before whom the case is tried certifies his approbation of the action, and the verdict obtained thereupon.

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81 Except where it is herein otherwise expressly directed, the moneys arising from fines, penalties, and forfeitures imposed by this Act shall when recovered be paid to the Board and applied towards defraying the expenses of carrying this Act into execution in such manner as the Board directs.

Application of penalties.
38 & 39 Vict.
c. 55, s. 254.

82 No Justice of the Peace shall be deemed to be incapable of acting in cases arising under this Act by reason of his being a member of any Local Authority, or by reason of his being as one of several ratepayers, or as one of any other class of persons liable, in common with the others, to contribute to or be benefited by any rate or fund out of which any expenses incurred by the Board are under this Act to be defrayed.

Justices may act though members of Local Authority.
Ib., s. 258.

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83 "The Metropolitan Drainage Act, 1891," and "The Metropolitan Drainage Act, 1892," are hereby repealed; but such repeal shall not affect anything duly done under the said Acts respectively, or any liability accrued or accruing thereunder on the day on which this Act comes into operation, and, excepting so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things done under the said Acts and of any force or effect on the date on which this Act comes into operation; and the Members of the Board constituted under "The Metropolitan Drainage Act, 1892," who are in office on the day on which this Act comes into operation shall be the Board under this Act until a Board is constituted under this Act as hereinbefore provided.

Repeal.

Continuation of present Board.

84 The Board constituted under this Act may and shall do all things necessary for continuing and giving effect to everything duly done under "The Metropolitan Drainage Act, 1891," and "The Metropolitan Drainage Act, 1892," and in force on the day on which this Act comes into operation, and for enforcing payment of all debts and liabilities accrued or accruing under the said Acts respectively. All the property and rights of the Board constituted under "The Metropolitan Drainage Act, 1892," shall pass to and enure for the benefit of the Board to be constituted under this Act.

Board may enforce provisions of repealed Acts.

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SCHEDULE.

Section 5.

BOUNDARIES OF METROPOLITAN DRAINAGE AREA.

Commencing at the outfall of the Wellington Rivulet into the estuary of the Derwent, and going up the centre of that rivulet to the north-eastern boundary of land belonging to the Corporation of Hobart at the Waterworks, thence northerly and westerly along the boundary of such land to the north-eastern boundary of 2000 acres of land granted to P. Degraives, thence northerly along the said boundary to the Huon Road, thence north-westerly across the said land to a point on the Guy Fawkes Rivulet where the prolongation southward of the western boundary of the Town of Mount Stuart would cross the said rivulet, thence along the said prolongation and part of the western and northern boundaries of the Town of Mount Stuart to the point where the said western boundary is crossed by the northern boundary of lands known as Mount Tor belonging to the estate of the late F. M. Innes, thence eastward along the northern boundary of Mount Tor and part of the eastern boundary thereof to the Mount Stuart Road, thence along the centre of the said road to a point where it would meet the prolongation of the line of the western fence of the garden of A. Strathern, thence along the line of the said prolongation and the said western fence to the northern fence of the said A. Strathern's property, thence eastwards along the said northern fence to a road or street running from Mount Stuart Road northwards to a road or street set out by H. Benjafield, thence northwards and eastwards along the centre line of both these roads or streets to the centre of Upper Mellifont-street, thence northwards along the centre line of the said street and its prolongation to the north boundary of the Town of Mount Stuart, thence along the said northern boundary to the point where it meets the northern boundary of land belonging to C. E. Davies, thence by a straight line northerly to the southern corner of the junction of the Main Road and Commercial-street, thence across the said street and by the western boundary of land belonging to the Trustees of the Friends' School to Lord-street, thence along the centre line of Lord-street to Wilson-street, thence along the centre line of Wilson-street north-easterly to a point opposite to the south-western boundary of land belonging to — Kennedy, thence along the last-mentioned boundary and its prolongation to the western corner of land belonging to Frederick H. Pender, thence along the north-western boundary of the last-mentioned land to Argyle-street, thence along the centre line of Argyle-street to George-street and the centre line of George-street to a point opposite the southern boundary of land belonging to J. Dear, thence along the last-mentioned boundary to Stoke-street, thence along the centre line of Stoke-street to the Queen's Domain, thence along the boundary of the said Domain north-westerly, northerly, and north-easterly to the estuary of the Derwent, thence along the shore of the said estuary to the point of commencement.