

No. XXVII.

An Act to establish a Board of Water Supply and Sewerage for the district of the Lower Hunter; to transfer certain portions of land and works for water supply constructed by the Government within such district and vest the same in the said Board; to transfer to the said Board certain reticulation works in connection with water supply and certain works for sewerage constructed by certain Municipal Councils; to provide for the licensing and certificating of persons to perform work in connection with water supply and sewerage; to confer on such Board all requisite powers for the administration of all matters relating to the water supply and sewerage of such district and in certain cases of places outside such district; to provide for the repayment of cost of works for water supply and sewerage for the said district and of certain loans made to the Council of the Borough of Newcastle; to confer certain powers and impose certain duties in respect to the construction of works for water supply and sewerage within such district on the Minister; to provide for the acquisition and occupation of lands required for purposes of water supply or sewerage and for the payment of compensation in respect of such lands, and for the sale and lease of superfluous lands; and to make other provisions incidental to such purposes.

[31st March, 1892.]

HUNTER DISTRICT
WATER SUPPLY AND
SEWERAGE.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows, that is to say:—

PART I.

Introductory Provisions—Powers and Liabilities of Minister—Constitution, powers, and duties of the Hunter District Board of Water Supply and Sewerage—Appointment of Officers and Rate Collectors—Transfer of Property to Board—By-laws—Licenses, Contracts, Water and Sewerage Districts, &c.

Short title.

1. This Act may be cited as the "Hunter District Water Supply and Sewerage Act of 1892." Its enactments are arranged under six Parts, embracing the following subjects, viz.:—

PART I.—Introductory Provisions—Powers and Liabilities of Minister—Constitution, powers, and duties of the Hunter District Board of Water Supply and Sewerage—Appointment of Officers and Rate Collectors—Transfer of Property to Board—By-laws—Licenses, Contracts, Water and Sewerage Districts, &c.—ss. 1-42.

PART II.—Water Supply, &c.—ss. 43-95.

PART III.—Sewerage—ss. 96-128.

PART IV.—Repayment of cost of Hunter District Water and Sewerage Works, Adjustment of Accounts, Repayment of loans to Councils, &c.—ss. 129-133.

PART V.—General provisions as to the acquisition and occupation of Lands for purposes of Water Supply or Sewerage—Compensation for damage or injury how ascertained—ss. 134-154.

PART VI.—Miscellaneous Provisions—Legal Procedure, &c.—ss. 155-169.

2. In the construction of this Act, unless inconsistent with the context,—

"Approved Scheme" of water supply, or sewerage, means such scheme as may be or have been from time to time approved by the Governor.

"Building" means any dwelling-house, shop, store, warehouse, church, chapel, concert-room, hospital, theatre, manufactory, workshop, stable, cow-shed, privy, or other building or erection whatsoever.

"Closet" means any closet used for the reception of faecal matter or urine, and discharged by water or otherwise.

"Conduit" means the canals, tunnels, aqueducts, cuttings, or pipes by means of which the main stream of water is supplied within the District.

"Governor" means the Governor, with the advice of the Executive Council.

"Justice" means any Justice of the Peace.

"Minister" means the Secretary for Public Works or other Responsible Minister of the Crown charged with the administration of this Act.

"Owner" means any person who is in the receipt of the rents and profits of any house, manufactory, or buildings of whatsoever kind, or of any land in connection with which the term is used.

"Prescribed" means prescribed by by-laws or regulations made under due statutory authority.

"Sewer" means any sewer or drain, of what kind soever, whereby any liquid refuse or any water shall be carried off, or any storm water drain or sewer which may be placed under the control of the Board.

"Sewerage"

Interpretation of terms.

Hunter District Water Supply and Sewerage.

“Sewerage District” means the area within which the construction and maintenance of sewerage or drainage works for sewerage or drainage is included or is being or may be from time to time carried out or maintained by the Minister or the Board, or which may be proclaimed a Sewerage District from time to time by the Governor.

“Street” means any square, court, alley, highway, lane, road, thoroughfare, or public passage.

“The Board” means the Board to be established under this Act.

“Urinal” means any receptacle for urine.

“Water District” means the area within which water is or may be from time to time supplied by the Board.

3. This Act shall come into force on the first day of May, in Commencement of Act.

4. For the purposes of carrying out and completing any approved schemes of water supply or sewerage for which executive authority shall have been or be given, the powers, authorities, duties, and obligations respectively conferred and imposed on the Board by this Act, shall be held to be also conferred and imposed on the Minister until the said works shall in each case be transferred to the Board as hereinafter provided. The powers conferred by this section shall not prejudice the powers of the Board in respect to any water supply or sewerage works vested in the Board.

5. The Authority empowered to carry out the provisions of this Act, except as to such parts thereof as empower the Minister to complete, construct, or maintain works for water supply or sewerage, shall be the “Hunter District Water Supply and Sewerage Board.” And such Board shall be composed of seven persons to be respectively elected and appointed as hereinafter provided:—

(i) The Governor shall by one or more Commissions, under his hand and the seal of the Colony, appoint three persons to be members of the said Board, who shall be designated “Official Members,” and one of such persons shall, in and by any such Commission, be appointed President of the Board.

(ii) The Municipal Council of the city of Newcastle shall elect one Member;—the Councils of East and West Maitland, and Morpeth one Member; and the Councils of each of the Boroughs and Municipal Districts mentioned in the First Schedule, and of any Municipality hereafter constituted within any Water or Sewerage District under this Act, shall elect two members, to be designated “Municipal Members.”

6. Such seven persons so to be elected and appointed shall be a body corporate under the name of the “Hunter District Water Supply and Sewerage Board,” and, by that name, shall have perpetual succession and a common seal, and sue and be sued; and may accept, purchase, hold, and enjoy to them and their successors as members of the said body corporate and for the uses thereof, any real and personal estate or property of what kind soever.

7. The members of the Board shall hold office for four years: Duration of office of members of Board. Provided that of the first members appointed or elected three shall be so appointed and elected for a period of two years only, viz., one official, and two Municipal Members. And the Municipal Members to hold office for such two years shall be those who received the least number of votes at their election, if the same shall have been a contested election; and if not, or in case of an equality of votes, then the determination shall be by lot. The official member to hold office for the period of two years shall be determined by the Governor. And it shall be determined by lot between the Mayors of the Municipal Councils of East and West Maitland and Morpeth and Newcastle which

Hunter District Water Supply and Sewerage.

which of the members elected by such Councils shall hold office for the period of two years. But all such members, whether official or municipal, shall, if qualified, be eligible for reappointment or re-election respectively.

(i) Where, in any case, it shall be necessary to determine any election under this Act by lot, it shall be the duty of the President of the Board, within one month from the date of holding such election, to summon the Mayors of Councils concerned in such election, to meet at a place and time to be appointed by such President, of which not less than seven days notice shall be given, for the purpose of determining by lot the members who shall hold office under the circumstances of the case. And the result of such determination shall be communicated to the Minister by the President of the Board forthwith, and shall be published in the *Gazette* by the Minister.

President and Vice-president.

8. The Governor shall appoint some member of the Board to be their President; and the Board shall elect one of their number to be their Vice-president. The Vice-president may, during the absence of the President, act as President, and while so acting, shall have the same power as the President if present would have. The President, or, in his absence, the Vice-president of the Board, shall preside at all meetings thereof, and shall have a casting, in addition to his original vote.

Remuneration of members.

9. The President of the Board shall, during his tenure of office, be entitled to be paid such salary as the Governor may determine, and as may be voted by Parliament. Every other member of the Board shall be entitled to receive as remuneration for his services a sum not exceeding one hundred pounds per annum, to be paid to him in the form of a fee for each meeting of the Board at which he shall have been present up to the time of the termination thereof, and of such amount as the Governor may appoint. The office of any elected Member of the Board shall not, for the purposes of the Act forty-seventh Victoria number five be deemed to be an office of profit under the Crown.

Resignation, &c., extraordinary vacancies.

10. Any member of the Board may resign his office by writing under his hand addressed to the Governor, in which case, or in case of the death of any member, or his removal by the Governor, or the vacation of his seat pursuant to the provisions of this Act, the appointment or election to supply the vacancy so arising shall be for the residue of the term for which the member so resigning, dying, or removed was appointed or elected. Any person appointed or elected to fill any such vacancy may be reappointed or re-elected (as the case may be) if still qualified.

Quorum.

11. Any three members of the Board (of whom the President or Vice-president for the time being shall be one) shall be a quorum, and shall have and may exercise all the powers and authorities which by this Act are conferred on the Board; and all questions at any meeting of the Board shall be decided by a majority of votes of the members present.

Declaration of office.

12. Every member of the Board before entering upon the duties of his office shall make and subscribe before a Justice of the Peace of New South Wales, and deposit with the Minister, a declaration in the form contained in the Second Schedule hereto.

First elections.

13. The first election of Municipal Members of the Board shall take place on a day to be appointed by the Governor, and published in the *Gazette*, when there shall be elected by the respective Mayors and Aldermen of the Boroughs and Municipal Districts mentioned or referred

Hunter District Water Supply and Sewerage.

referred to in subsection (II) of section five of this Act, and hereinafter termed "Electoral Municipalities," the number of members of the Board in such section particularly mentioned. On the corresponding day and month in every second year thereafter, the like elections shall take place of two members to serve on the Board in lieu of those retiring by rotation; and at all such elections the voting shall be by ballot.

14. For the conduct of elections under this Act there shall be three Returning Officers, who shall be such persons as the Governor may appoint, and shall each have a casting vote only, and there shall also (if necessary) be one or more deputy returning officer or officers. And subject to the provisions of this Act and the regulations to be made thereunder, the places and time for holding all elections shall be appointed by the Governor and notified in the *Gazette* at least thirty-five days before the date of the holding thereof.

15. All expenses incurred in the conduct of any such election shall, when certified under the hand of the Returning Officers, be paid out of the Consolidated Revenue Fund by warrant under the hand of the Governor addressed to the Colonial Treasurer.

16. Every person shall be eligible for election as a member of the Board if at the time of the holding of any election he shall possess in and for any Electoral Municipality the qualification, and not be within any disqualification respectively prescribed and imposed in respect of the office of Alderman by the "Municipalities Act of 1867," or any Act amending the same.

17. The Returning Officers shall, at least twenty-eight days before the holding of any election under this Act, give public notice of such election in the *Gazette* and in one or more newspapers circulating in the district, requiring the names of all candidates and their nominators to be forwarded to them within seven days from the giving of such notice. Any person duly qualified as an elector desirous of nominating a candidate shall, within such last-mentioned time, forward to such Returning Officers, in writing, the christian and surname of such candidate, and the nomination paper shall be signed by the person nominating such candidate. And no person shall be capable of being elected at any such election unless he shall have been nominated in manner abovementioned, and his name as a candidate have been published for at least seven days before such election in some newspaper circulating in the district.

18. All elections to supply extraordinary vacancies shall be conducted as nearly as may be in the same manner as in the case of periodical elections.

19. If any candidate at any election, or if any other person shall, directly or indirectly, by himself or his agent, offer, pay, or give any money, food, drink, or valuable consideration to induce any person to vote, or to abstain from voting at such election, he shall be guilty of a misdemeanour. And the election of any such candidate, shall, upon any conviction for such offence, be null and void.

20. If, at the time appointed for holding any election there shall be no candidates, or a less number of candidates than there are members of the Board to be elected, the Governor may appoint any person or persons not disqualified under this Act to be a member or members of the Board; and all such persons so appointed shall hold office as members of the Board as fully and effectually, to all intents and purposes, as if they had been duly elected.

21. No election shall be invalidated by reason of any want or defect of title of any person by or before whom such election shall have taken place, if such person shall have acted in good faith at such election, nor by reason of any formal error or defect in any publication under

Election not to be questioned for certain informalities.

Governor may appoint members in certain cases.

Hunter District Water Supply and Sewerage.

under this Act, or purporting so to be, nor by reason of any publication being out of time, nor by reason of any other irregularity of a formal nature in the holding of such election.

Returning Officer
to certify result of
election.

22. Every Returning Officer shall within twenty-four hours after the official declaration by him of the poll, or, in the event of the election not having been contested within twenty-four hours after the expiration of the time allowed for the nomination of candidates, as the case may be, certify the result of such election by writing under his hand addressed to the Governor.

Provision as to
informalities, &c.

23. No act, matter, or thing done or commenced by the Board, and no proceedings taken, assessment made, or rate struck by such Board shall be liable to be questioned in any Court by reason only that any one or more of the elected Members of the Board were unduly elected, or that the Board was for any other reason illegally constituted if such act, matter, thing, proceedings, assessment, or rate were done, commenced, made, or struck (as the case may be) by at least a quorum of the said Board.

Seat how vacated.

24. If any member of the Board shall, without the permission of the Board, be absent from four consecutive meetings of the Board, or shall become a bankrupt or insolvent within the meaning of any Act relating to Bankruptcy or Insolvency in force for the time being, or be convicted of any offence punishable by penal servitude or imprisonment with or without hard labour, or become insane, his seat shall thereby become vacant.

Custody and use of
seal.

25. The common seal of the Board shall be kept in the custody of such member or officer of the Board for the time being as the Board shall determine, and shall not be affixed to any instrument or writing except in the presence of a quorum of the Board; and the members in whose presence such seal shall be so affixed shall attest by their respective signatures the fact and date of such seal being so affixed. All Courts, Judges, and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any such instrument or writing, and shall presume that such seal was properly affixed thereto.

Office for the Board.

26. (i) Suitable office accommodation for the Board and their professional and clerical staff shall be provided by the Government. And any rent and other expenditure incurred therefor shall be paid out of the Consolidated Revenue Fund.

Minutes.

(ii) The Board shall keep full and accurate minutes of all their proceedings in such manner and form as the Governor may from time to time direct.

Appointment of
officers, &c., by
Board.

27. It shall be lawful for the Board, by writing under their common seal, to appoint, subject to the approval of the Minister, a secretary and staff of clerks and so many engineers, surveyors, or inspectors, accountants, collectors, clerks, rangers, and such other officers and servants as they may require for the due administration of this Act: Provided however that the first Secretary, Accountant, and Engineer to the Board shall be appointed by the Governor. And such persons so to be appointed shall be paid by annual salaries to be voted by Parliament, and shall hold office during the pleasure of the Board, be subject to the sole control and governance thereof, and (where required by the Board) shall give such security for the performance of their several duties as the Board shall prescribe.

Board may authorize
collection of rates, &c.

28. It shall be lawful for the Board by writing under their common seal to authorize and appoint any Banking Company, Municipal Council, corporation, person, or persons to collect any rates, charges, or sums of money due to the Board, subject to such bonds, guarantees, and other conditions being given or entered into as

Hunter District Water Supply and Sewerage.

as the Board may prescribe, and to allow such remuneration by a percentage on the amounts collected or otherwise as the Board may think fit and the Minister may approve.

29. All cheques for the payment of salaries, rent, or other ^{Payments of Board} office charges shall be signed by the President, or in his absence by ^{to be by cheque} the Vice-president of the Board, and be countersigned by the ^{signed by President,} secretary, or in case of his absence from duty, by the officer for the ^{or Vice-president, or} time being acting for him. And all other payments shall be under proper vouchers certified under the hand of the said President or Vice-president, and shall be made in such manner, and subject to such regulations as the Governor may prescribe in that behalf.

30. All moneys payable to the Board under this Act, or any ^{Payment of moneys} by-law made thereunder, shall be collected and received by the Board ^{into Treasury.} or their authorized agent as aforesaid, for the use of Her Majesty for and on account of the Consolidated Revenue Fund; and shall be paid into the Treasury to the credit of accounts to be there kept under the names respectively of the "Hunter District Water Rates Account" and "the Hunter District Sewerage Rates Account." And the provisions of ^{Application of} the Audit Act in force for the time being, and of any Act regulating the ^{Audit Act.} collection of public moneys, and the audit of the public accounts, shall apply to the Board, and to all officers acting under their authority and control, and to any such agent as aforesaid.

31. Subject to the provisions of this Act, the Board shall be ^{Board to be in cor-} deemed to be in correspondence for all administrative purposes with ^{respondence with} the Minister, and subject to the control of the Governor and Executive Council.

32. The Minister may disallow any act, matter, or thing done ^{What acts of} or commenced by the Board (not being a contract lawfully entered into ^{Board subject to} ^{disallowance.} by such Board for the execution of any work authorized by this Act).

33. Upon the constitution of the Board pursuant to the provisions of this Act the Minister shall publish in the *Gazette* the names of the members of the Board, and upon such publication all the provisions of the "Municipalities Act of 1867" and of the "Nuisances Prevention Act, 1875," and of any amending Acts thereof, and of any other Act inconsistent with this Act, shall, to the extent of such inconsistency, be repealed. And upon such publication as aforesaid, and by virtue of this Act alone, there shall be transferred to and vested in the Board absolutely, but on behalf of Her Majesty—

- (a) The property in and control and management of all reservoirs, dams, engines, buildings, works, mains, pipes, material, plant, books of account, plans, documents, and papers, and all other property whatsoever, theretofore vested in or under the control or custody of any Borough or Municipal District within any water District or other Corporation or authority whatsoever, and used with or in any way relating to water supply therein.
- (b) All real and personal property of what kind soever, being within the limits of any municipality or place within any water District, and occupied and used for purposes of water supply, and theretofore vested in or under the control and management of any Borough or Municipal District within such District or other authority whatsoever.
- (c) All lands reserved or resumed by the Crown for or in connection with the Hunter District Water Supply by or under the authority of any Act of Parliament, together with all waters and watercourses flowing therein or being thereon or thereunder, and all works, reservoirs, mains, pipes, buildings, ^{Transfer of property} ^{relating to Water} ^{Supply to Board.} plant,

Hunter District Water Supply and Sewerage.

plant, machinery, stand-pipes, branches, and all material whatsoever used therewith, and all personal property whatsoever, being on any such lands or any other lands whatsoever, and used in connection with such water supply (save and except such service pipes as have been laid at the cost of any owner or occupier of premises), and all the estate or interest, or right, title, or claim of any such Borough or Municipal District or of any other authority in or to any such real or personal property shall be transferred to and be absolutely vested in the Board.

(d) The whole amount of moneys and securities for money at the credit of or available for the Water Fund according to the books of any such Borough or Municipal District, including therein any moneys set apart by any such Borough or Municipal District as a sinking fund in connection therewith shall, on the said publication, be transferred to and become the property of the Board, to be dealt with pursuant to this Act. And all debentures issued by any such Borough or Municipal District on account of water supply together with all obligations annexed thereto, and the burthen and benefit of all lawful contracts entered into by the said Borough or Municipal District, for or in connection with such water supply, shall, respectively, be a charge on the Consolidated Revenue Fund, and attach to the Board.

Transfer of property relating to sewerage to Board.

34. Whenever the Governor, by proclamation in the *Gazette*, shall declare that the provisions of this section shall come into force in respect of any works in such proclamation mentioned or any portion thereof, which shall have been completed, there shall be transferred to and be vested in the Board absolutely, but on behalf of her Majesty—

(i) The property in, and control and management of, all sewers, gutters, drains, and storm water connections, including all gullies within the portions of the sewerage district, affected by such works, together with all buildings, works, material, plant, books of account, documents, and papers, and all other property whatsoever connected therewith; Provided that nothing herein contained shall prejudice or affect the obligations of any Borough, Municipal District, or Corporation with regard to construction, repair, maintenance, renewal, or cleansing any gutters, drains, storm water connections, or gulleys, except such as may be the property of the Board, but such obligations shall attach to every such Borough, Municipal District, or Corporation, and be a charge upon its municipal rates and revenues as fully and effectually as if this Act had not been passed.

(ii) All real and personal property of what kind soever, and acquired or used for the purposes of sewerage within the portion of the sewerage district affected by such works.

(iii) All lands acquired, resumed, granted, or dedicated for or in connection with sewerage purposes within the portion of the sewerage district affected by such works, together with all works, buildings, drains, pipes, plant, machinery, and all material whatsoever used therewith, and all personal property whatsoever being on any such lands or on any other lands, and used in connection with sewerage purposes (save and except such service-pipes as have been laid at the cost of any owner or occupier of premises).

Hunter District Water Supply and Sewerage.

35. Subject to the provisions of this Act, the Board may, from time to time, make, alter, and repeal by-laws—

Generally.

- (i) For the conduct of the business of the Board.
- (ii) For regulating the form of contracts to be entered into with the Board.
- (iii) For regulating and prescribing the mode of, and all matters in connection with, the examination of persons applying for licenses or certificates of competency, and the conditions under which licenses or certificates of competency without examination shall be issued.
- (iv) For generally carrying into effect the several provisions, intentions, and objects of this Act.

As to Water Supply.

- (v) For the appointment of a scale of charges for water supplied by measure, and the minimum quantity of water to be charged for where water is so supplied.
- (vi) For determining, making, and levying the rate to be paid in respect of lands and tenements to be supplied with water for domestic purposes otherwise than by measure, or in respect of lands and tenements distant not more than sixty yards from any main constructed by or vested in the Board, although the lands or premises, by or in respect of which the water is used, may be more than one hundred and fifty feet from any water reticulation pipe, or although such lands or premises are not actually connected with any main: Provided that the valuation of any lands or tenements for the purposes of such water supply shall not exceed in any year the valuation (if any) of such lands or tenements during the same or the previous year by the Municipality in which such lands or tenements are situated. And no such rate shall exceed the amount of five pounds per centum per annum on such valuation: Provided that no charge for the supply of water to any house, tenement, or lands shall, in any case, be less than the sum of ten shillings per annum, and that a minimum charge of ten shillings shall be lawful, although the same may exceed five pounds per centum on the valuation.
- (vii) For imposing an extra rate for water supply in places distant more than one hundred yards from the conduit.
- (viii) For determining the time at which any charge for water shall be payable, and whether in advance or otherwise.
- (ix) For regulating the form, material, dimensions, construction, and arrangement of pipes and other works supplying water from the pipes of the Board to adjacent premises—the time of executing and the notices to be given for such works—the superintendence thereof—the making good and replacing ground which may be displaced in the course of such works—and for inspecting all services at reasonable times, whether situate within any buildings or otherwise.
- (x) For regulating the construction, disposition, custody, and inspection of meters.
- (xi) For preventing the waste, or misuse of water supplied by the Board.
- (xii) For compelling persons using water supplied by the Board to keep their pipes and other appliances in proper repair—for preventing any alteration of or interference with such pipes

Hunter District Water Supply and Sewerage.

pipes without notice to the Board—for repairing such pipes and appliances so as to prevent waste of water, and for recovering the cost of such repairs.

- (xiii) For preventing the use, directly or indirectly, of water supplied by the Board by persons unauthorized by the Board.
- (xiv) For preventing persons from wilfully or negligently breaking, injuring, or interfering with any pipe, lock, cock, valve, engine, or work belonging to the Board, and from doing any other wilful act whereby the water supplied by the Board may be wasted.
- (xv) For determining, making, and levying the rate or extra rate or scale of charges to be paid in respect of lands or premises on which any one or more head of horses or cattle shall be kept or maintained, whether such lands or premises are actually supplied with water from the main, or are otherwise ratable or not.
- (xvi) For determining, making, and levying the rate to be paid in respect of lands, tenements, and hereditaments to be supplied with water, where such lands, tenements, or hereditaments are not included in any valuation by any Borough or Municipal district, or where such lands, tenements, or hereditaments have been for the time being valued by such Borough or Municipal District respectively at a sum less than the true value thereof.
- (xvii) For regulating the mode in which water shall be supplied to premises, and whether by meter or not.
- (xviii) For compelling the owner or occupier of any premises to which a meter should, in the opinion of the Board be affixed to provide and affix such meter after a notice from the board so to do.

As to Sewerage.

- (xix) For regulating the drainage of roads and streets into sewers.
- (xx) For regulating the dimensions, material, form, construction, and arrangement of, and the maintenance, cleansing, and repairing of the pipes, drains, and other means of communicating with sewers, and of the traps, and apparatus connected therewith.
- (xxi) For the carrying out of such works of cleansing and removing and disposing of refuse as the Board is authorised by this Act to perform or require.
- (xxii) For regulating the assessment, form, and collection of rates, charges, and contributions, the periods for the repayment of the costs of works by the persons or rates chargeable with such repayment: Provided that no sewerage rate shall exceed five pounds per centum on the assessed annual value.
- (xxiii) For regulating the purposes for which any pipes, drains, or sewers shall be used or applied.
- (xxiv) For regulating the dimensions, material, form, construction, and arrangement of, and the maintenance or alteration of, and the inspection by officers of the Board of ventilators, pipes, drains, sewers, and works connected therewith.
- (xxv) For regulating the disinfection and cleansing of, or otherwise dealing with any substance or matter before the discharge thereof into any drain or sewer.
- (xxvi) For regulating the construction in all respects, and the dimensions, situation, and ventilation of closets, urinals, and buildings, and notices to be given respecting the same.

Hunter District Water Supply and Sewerage.

(xxvii) For prescribing the extent of closet and urinal accommodation to be supplied for dwelling-houses, factories, or any other places of business.

(xxviii) For providing for such alterations as may be requisite in the opinion of the Board for the more effectually carrying out the provisions of the Act in the case of existing closets, urinals, and buildings.

36. Every by-law made under this Act when approved by the Governor shall, as soon as convenient, be laid before Parliament. No such by-law shall have any force or effect until it has been published in the *Gazette*. Every such by-law shall, when so published, be binding upon and be observed by all persons, and shall be sufficient to justify all persons acting under the same.

37. Every by-law made under this Act or any Act amending the same may state a maximum penalty for the breach thereof, not in any case exceeding twenty pounds, and may also state, in cases of continuing offences, a further penalty not exceeding five pounds for each day after notice of the offence shall be given by the Board. And the production of the *Gazette* containing any such by-law shall, in any action at law or suit in equity, or any other proceeding, and in all Courts, be sufficient evidence that such by-law, as printed in such *Gazette*, has been duly made and published pursuant to this Act.

38. The Board shall from time to time license and issue certificates to persons to perform all work in connection with water supply, drainage, and sewerage, and no person shall be permitted to do or commence any work in connection with the water supply, drainage, or sewerage of or to any house, tenement, building, or land unless so licensed or certificated, or under the immediate control and supervision of a person so licensed or certificated, and any unlicensed or uncertificated person not under such control and supervision who shall perform or commence such work, and any person knowingly employing such unlicensed or uncertificated person to perform such work except under such control and supervision shall be liable to a penalty of not less than twenty shillings nor more than five pounds for every day during which such unlicensed or uncertificated person is employed; and the Board may direct and compel all work done by such unlicensed or uncertificated person to be removed, and may by their officers, servants, and workmen enter upon any land and remove the same. No person or authority other than the Board shall issue any such license or certificate as aforesaid, and any such license or certificate issued by any other authority or person than the Board shall be void; and any such license or certificate granted by the Board shall be sufficient authority to the person named therein to do and carry out the works for which the same shall be granted.

39. Subject to the approval of the Minister, the Board may make and enter into any contracts and agreements with any person for the purchase of lands or materials, and for engaging to execute, perform, and construct any works which shall be authorized to be made pursuant to this Act; and such contracts and agreements shall be in the name of the Board, and may be made as follows (that is to say)—

With respect to any contract or agreement which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, or in writing and under seal, the Board may make such contract or agreement in writing, and under their common seal, and in the same manner may vary or discharge the same.

With respect to any contract or agreement which, if made between private persons, would by law be valid, although made by parol

Board to license persons for water supply, sewerage, drainage, &c.

Contracts for executing works, &c., to be in the name of the Board.

Hunter District Water Supply and Sewerage.

parol only, and not reduced into writing, the President of the Board may make such contract or agreement, by parol only without writing, and in the same manner may vary or discharge the same.

And all contracts and agreements made according to the provisions herein contained shall be effectual in law, and shall be binding upon the said Board and their successors, and all other parties thereto, their heirs, executors, or administrators, as the case may be; and on any default in the execution of any such contract or agreement, either by the Board or any other party thereto, such actions or suits may be brought either by or against the Board as might be brought if such contract or agreement had been made between private parties.

Catchment area and Water and Sewerage District boundaries to be proclaimed by Governor.

Contractors with Board, &c., to be deemed public contractors.

Regulations.

40. It shall be lawful for the Governor from time to time by proclamation to define the boundaries of any Water or Sewerage District, for the purpose of supplying with water under this Act any one or more Boroughs or Municipal Districts, or for the sewerage thereof respectively.

41. All persons contracting with the Board, or the President thereof on behalf of such Board, shall be deemed, for the purposes of the Constitution Act hereinbefore referred to, to be public contractors.

42. Subject to the provisions of this Act it shall be lawful for the Governor to make Regulations for the purpose of carrying out the meaning and intent of this Act in respect of the Elections of Members of the Board—the mode of keeping accounts—the collection and custody of moneys, and the remittance thereof to the Treasury by such Board—for prescribing the forms of all notices under this Act—and for the guidance of all officers in the execution of their duties under this Act.

PART II.*Water Supply.*

Authority to Board to construct water-works.

43. Subject to the provisions of this Act the Board may from time to time in the exercise of any power or authority vested in them for the construction of waterworks for the supply of water within any water District :—

- (i) Enter upon any lands and take levels of the same, and set out such parts thereof as they shall think necessary, and dig, break, and trench the soil of such lands, and remove or use all earth, stone, mines, minerals, trees, or other things dug or obtained out of or from the same;
- (ii) Enter upon, take, and hold such land as they may from time to time deem necessary for the construction, maintenance, repair, or improvement of any of the works authorized or transferred by this Act, or for obtaining or enlarging the supply of water, or for improving the quality thereof;
- (iii) Sink wells or shafts, and make, maintain, alter, or discontinue reservoirs, waterworks, cisterns, tanks, aqueducts, drains, cuts, sluices, pipes, culverts, engines, and other works, and erect buildings upon the lands, streams, and watercourses authorized to be taken by them;
- (iv) Divert and impound the water from any streams, and alter the courses of the same, and also take such waters as may be found in, under, or on any lands acquired for the purposes of this Act;
- (v) Enter upon any Crown or private lands, streets, roads, or thoroughfares; and lay or place therein or thereon, whether

under

Hunter District Water Supply and Sewerage.

under ground or upon the surface thereof, any pipes ; and repair, alter, cut off, extend, or remove the same ; and enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any watercourses or other works belonging to them or under their control :

Provided always that, in the exercise of any of the powers hereby conferred, the Board shall inflict as little damage as may be ; and, in all cases where it can be done, shall provide other watering-places, drains, and channels for the use of adjoining lands in place of any taken away or interrupted by them ; and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers. But the Board shall not be liable to make compensation in respect of any damage sustained by reason of the taking or diverting of water, permanently or otherwise, from any river, stream, or watercourse unless a claim in writing shall be made in respect of such compensation within three months after the commencement of the exercise of the power ; and, in every case where the Board cannot agree with the owner or claimant, the amount of compensation shall be ascertained and the case in other respects dealt with under the provisions hereinafter contained.

44. Every person who shall wilfully obstruct any person acting under the authority of the Board in setting out the line of any works, or pull up or remove any poles or stakes driven into the ground for the purpose of setting out the line of such works, or destroy or injure any such works as aforesaid shall incur a penalty not exceeding five pounds for every such offence.

45. After any stream or supply of water shall have been diverted, impounded, or taken by the Board, every person who shall unlawfully, or without the authority of the Board, divert or take any water supplying or flowing into the stream or source of supply so diverted, impounded, or taken by the Board, or who shall do any unlawful act whereby any such stream or supply of water may be diverted or diminished in quantity, or injured in quality, or purity, and who shall not immediately repair the injury done by him on being required by the Board, so as to restore such stream or supply of water to the state in which it was before such unlawful act was committed, shall forfeit to the Board any sum not exceeding five pounds for every day during which the said supply of water shall be so diverted, diminished, or injured. And any sum so forfeited shall be in addition to the sum which such person may be adjudged to pay to the Board for any damage which they may sustain through the diminution of their supply of water. And the payment of the sum so forfeited shall not affect the right of the Board to any remedy at law or in equity in respect of the damage so committed.

46. Nothing in this part shall prevent the owners and occupiers of lands through or by which such stream shall flow from using the waters thereof in such manner and to such extent as they might have done before the passing of this Act, unless they shall have received compensation in respect of their right of so using such water.

47. If any person unlawfully and maliciously destroy or damage, or attempt to destroy or damage, any reservoir, dam, tank, tunnel, watercourse, sluice, main, pipe, aqueduct, bridge, roadway, engine, or any part whatever of the works of the Board, he shall be guilty of felony, and shall be liable to be imprisoned for any term not exceeding ten years.

48. The Board may open and break up the soil and pavement of any streets and bridges within the limits of any water district, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the

same

Hunter District Water Supply and Sewerage.

same limits pipes, conduits, service pipes, and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and do all other acts which the Board shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits.

Notice to be served before such opening.

49. (1) Before the Board shall open or break up any such street, bridge, sewer, drain, or tunnel, they shall give to the persons or Authority under whose control or management the same may be, or to their clerk, surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then as soon as possible after the commencement of the work, or after the necessity for it shall have arisen.

Reinstatement of streets, &c.

(II) When the Board shall open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement or the sewer, drain or tunnel so opened or broken up, and carry away the rubbish occasioned thereby ; and shall at all times whilst any such road or pavement shall be so open or broken up, cause the same to be fenced and guarded, and shall cause light sufficient for the warning of passengers to be set up, and kept there for every night during which such road or pavement shall be continued open or broken up ; and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for six months thereafter.

Penalty for delay in reinstating streets, &c.

(III) If the Board open or break up any such street, bridge, sewer, drain, or tunnel without giving such notice, or without making such temporary or other works, when so required, except in cases in which they are authorized to perform such works without any notice, or if they make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, the Board shall forfeit to the Authority or persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue, after they shall have received notice thereof. And any such sums may be recovered by action of debt in any Court of competent jurisdiction.

When other persons may reinstate streets and recover.

50. If any such delay or omission as aforesaid shall take place, the Authority or persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may, upon giving notice in writing to the Board, cause the work so delayed or omitted to be executed ; and the expense of executing the same shall be repaid by the Board to, and may be recovered by, such Authority or persons in the manner provided in the last preceding section.

Board not liable for accidental failure to supply water nor compellable to supply water.

51. The Board shall not be liable (in the absence of express stipulation under any agreement for the supply of water) to any penalty or damages for not supplying such water, if the want of such supply arises from unusual drought or other unavoidable cause or accident ; nor shall the Board be compellable to supply water to any person whomsoever.

Hunter District Water Supply and Sewerage.

52. The Board may supply any person with water for domestic or other purposes, by measure, at such rates, upon such terms, and subject to such conditions, as may be agreed upon by the Board and the person requiring to be supplied. But "domestic purposes" shall not for the purposes hereof include a supply of water for stables or for manufacturing purposes, or for irrigation water power, fountains, or for any ornamental purpose.

53. (i) Any officer of the Board, authorized in that behalf, shall have liberty, at all reasonable times, without charge, to inspect any valuation, rate, or assessment for any Borough or Municipal District within the District, and to take a copy or make extracts from the same. And any council clerk or other person having the custody of such valuation, rate, or assessment books, refusing or preventing such officer from having access thereto, or taking copies or extracts therefrom, shall incur a penalty for every such offence not exceeding fifty pounds.

(ii) The copy of or extracts from any such valuation, rate, or assessment shall be entered in the Assessment Book of the Board, and such entry shall, when complete, be signed by the President or Vice-president of the Board, and all entries made in such Assessment Book as herein provided upon production thereof by any officer authorised in that behalf by the Board shall, without any other evidence that the requirements of this Act, have been complied with, be received in all Courts as *prima facie* evidence of the facts therein contained.

54. (i) The Board may let for hire to any consumer of water supplied by measure any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of water, for such remuneration in money as may be agreed upon between the Board and the consumer, which shall be recoverable in the same manner as rates due to the Board for water.

(ii) Such meters, instruments, pipes, and apparatus shall not be subject to distress for rent of the premises where the same are used, or to be attached or taken in execution under any process of any Court of Law or Equity, or under, or in pursuance of any sequestration or order in bankruptcy, or other legal proceedings against, or affecting the consumer of the water, or the occupier of the premises, or other person in whose possession the meters, pipes, instruments, and apparatus may be.

55. Every person who shall have agreed with the Board for a supply of water by measure shall, at his own expense, unless he hire a meter from the Board, provide a meter and keep and maintain the same in good working condition, to the satisfaction of such officer as may be appointed by the Board, and in the event of any repairs being required, notice in writing shall be immediately given by such person to the Board, and a registration of the quantity used shall be taken before such repairs are effected.

56. Every person requiring to remove or alter the position of any meter shall give six days notice in writing to that effect to the Board, and a registration of the quantity of water used shall be taken before such removal or alteration is made.

57. If any person who, under the provisions in this Act contained, ought to provide any meter, neglect or refuse, after having been required by the Board so to do, to provide such meter, he shall, for every day during which such neglect or refusal continues, forfeit a sum not exceeding two pounds.

58. If any person who has provided any meter as aforesaid fail to give the notice hereinbefore required, of any repairs required for such meter, he shall forfeit a sum not exceeding two pounds.

Agreements to supply water—what purposes not domestic.

Inspection of rate and valuation books.

Assessment book evidence.

Meters of Board not distrainable, &c.

Meter to be supplied and maintained by consumer.

Notice of removal, &c., of meter.

Penalty for neglecting to provide meter.

Penalty for neglecting to give notice of repairs of meters.

Hunter District Water Supply and Sewerage.

Water may be cut off
if meter not in order.

Penalty for fixing
uncertified meter.

For removing or
altering meter with-
out notice.

Power to officers of
Board to inspect
meters.

Supply of water for
public purposes.

Exemption of
Churches, &c., from
payment of rates.

59. If any person refuse or delay to have such meter properly repaired, and put in correct working order after having been required by any officer of the Board so to do, the Board may shut off the supply of water from the premises of such person, either by cutting the service-pipe, or otherwise, until such meter shall have been properly repaired, and certified by some officer of the Board as being in proper working order.

60. If any plumber or other person fix or refix any meter upon any premises supplied with water by the Board, without having first obtained a certificate from the Board that the said meter has been examined, and found in correct working order, he shall forfeit a sum not exceeding three pounds.

61. If any person remove or alter the position of, or in any way interfere with, any meter, without giving such notice as aforesaid, he shall, for each such offence, forfeit a sum not exceeding ten pounds over and above the damage which he may be found liable to pay in any legal proceedings taken by the Board.

62. The officers of the Board may enter any house, building, or lands to, through, or into which, water is supplied by the Board by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed ; and may, from time to time, enter any house, building, or lands for the purpose of removing any meter, instrument, pipe, or apparatus, the property of the Board ; and if any person hinders any such officer from entering or making such inspection, or effecting such removal, he shall, for each such offence, be liable to a penalty not exceeding five pounds ; but, except with the consent of a Justice, this power of entry shall be exercised only between the hours of ten in the forenoon, and four in the afternoon.

63. In all the pipes to which any hydrant is fixed, the Board shall provide and keep constantly laid on for use, without charge, unless prevented by unusual drought or other unavoidable accident, or during necessary repairs, a sufficient supply for the following purposes ;—(that is to say) for cleansing the sewers and drains, for cleansing and watering the streets, and for supplying any public pumps, baths, and wash-houses that may be established for the use of the inhabitants and paid for out of any municipal rates levied within the District ; and such supply shall be provided, in such quantities, and upon such terms and conditions, as may be agreed upon by the Council of any Borough or Municipal District to which such water is supplied and the Board : Provided that no baths or wash-houses shall be entitled to be supplied with water under the provisions of this section, unless the charges for the use thereof by the inhabitants shall be approved of, and shall not exceed the amounts fixed by the Board.

64. The Board shall exempt from the payment of water rates, any cathedral, church, chapel, or other building used exclusively for public worship, any building used exclusively as a Sunday school, or for religious teaching only, any public hospital, or any building or premises used exclusively for any purpose of an eleemosynary or charitable character : Provided that the Board may require that in any case in which water is used upon any such building or premises for purposes of business, income, or profit, a meter shall be affixed to such building or premises, and that the whole supply of water to the same shall be passed through such meter, and that the charges prescribed by the by-laws of the Board for water supplied through meter, be those to be paid for any water used by such building or premises in excess of the supply to which the assessment may entitle such building or premises,

Hunter District Water Supply and Sewerage.

65. The Board shall fix proper hydrants in the main and other pipes belonging to them at such convenient distances and at such places as the Board may consider proper and convenient, for the supply of water for extinguishing any fire which may break out within any water District. And the Board shall from time to time, renew and keep in effective order every such hydrant, and shall put up a public notice in some conspicuous place in each street, in which such hydrant is situated, showing its situation. And such notice may be put up on any house or building in such street. And as soon as such hydrant is completed they shall deposit a key thereof in each place within such district where any public fire-engine is kept.

HYDRANTS.

66. The Board may, at the request and expense of the owner or occupier of any manufactory or works situated in or near any street or road, in which, or within one hundred yards of which, there shall be a pipe of the Board, place, and maintain in effective order, a hydrant (to be used only for extinguishing fires), or as near as conveniently may be to such manufactory or works.

67. The Board shall, at all times, keep charged with water all their pipes to which hydrants are fixed, unless prevented by drought or other unavoidable cause or accident, or during necessary repairs; and shall allow all persons, at all times, to take and use such water for the purpose only of extinguishing fire.

68. After pipes have been laid under the authority of this Act for the supply of water to any street or part thereof, the Board shall cause a notice in the form contained in the Third Schedule hereto, or to the like effect, to be published in four consecutive numbers of the *Gazette*, and in one or more newspapers circulating in the district, and the owner or occupier or mortgagee of every house, tenement, or lands referred to in such notice shall, within three weeks from the date of the last publication of such notice in the *Gazette*, cause a proper pipe and stop-cocks to be laid so as to convey a supply of water to such house, tenement, or lands. And after fourteen days from such last publication, the owner or occupier or mortgagee of such house, tenement, or lands shall, unless the Board refuse to supply such tenement with water, be liable to pay the rates and charges for such supply, although no such pipe and stop-cocks be laid, or no such water be used in such house, tenement, or lands.

(i) After the expiration of the time limited in such notice the Board may demand that the owner, or occupier, or mortgagee of any house, tenement, or lands shall lay and construct such pipes, connections, and fittings from and in connection with such house, tenement, or lands, to communicate with such main, as the Board may determine; and such demand may be made by giving the prescribed notice thereof to such owner, or occupier, or mortgagee, or by leaving or exhibiting the same at or on such house, tenement, or lands; and such pipes, connections, and fittings shall be made and attached according to such plans and directions as the Board shall deem proper.

Owners and occupiers to make connections with water mains.

(ii) If such pipes, connections, and fittings shall not be laid and made within such time, or according to such plans and directions as the Board shall deem proper and prescribed in such notice, the Board may lay, make, construct, and attach the same; and for that purpose may enter into or upon the house, tenement, or lands of any such owner, or occupier, or mortgagee, and excavate the ground, and lay, make, construct, and attach all such pipes and fittings in, along, over, or against such house, tenement, or lands to communicate with such drain, and may attach and connect such pipes and fittings they may think proper for such purpose.

(iii)

Hunter District Water Supply and Sewerage.

Recovery of expenses,
&c.

(III) The Board may in any such case recover from every such owner, or occupier, or mortgagee by the like proceedings and with the like remedies as if such expenses were a water rate, the full amount of the expenses of making such fittings, or attaching or connecting such pipes or tubes; but no proceedings for the recovery of the said amount shall be taken until default shall have been made in payment thereof for twenty-one days after the prescribed demand by the Board for such payment shall have been given to the owner, or occupier, or mortgagee in default, or shall have been posted on the house, tenement, or lands in respect of which any such pipes or fittings shall have been constructed, attached, or connected.

PIPS LAID BY
OWNERS OR
OCCUPIERS.

Power to inhabitants
to lay service pipes.

Notice to Board of
laying pipes.

Power to break
pavements.

Service pipes may be
removed after giving
notice.

Communication with
pipes of Board to be
made under superin-
tendence of surveyor.

Bore of service pipes.

PROTECTION OF THE
WATER.

In case of any breach
of this Part of this
Act water may be
cut off.

69. (i) Any owner or occupier of any dwelling-house, or part of a dwelling-house, within any Water District who shall wish to have water from the waterworks of the Board brought into his premises, and who shall have paid or tendered to the Board the portion of water rate in respect of such premises by this Act directed to be paid in advance, may open the ground between the pipes of the Board and his premises, having first obtained the consent of the owners and occupiers of such ground, and lay any pipes from such premises to communicate with the pipes of the Board.

(ii) Such pipes shall be of a strength and material approved of by some officer of the Board, and every such owner or occupier shall, before he begins to lay any such pipe, give to the Board two days notice of his intention to do so.

70. Any such owner or occupier may open or break up so much of the pavement, if any, as shall be between any pipe of the Board, and his house, building, or premises, and any sewer or drain therein, for any such purpose as aforesaid, (doing as little damage as may be, and making compensation for any damage done in the execution of any such work): Provided always that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restrictions, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the Board are subject to under the provisions of this Part.

71. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may, subject to the provisions of this Act and any by-laws made thereunder, remove the same, after having first given six days notice in writing to the Board of his intention so to do, and of the time of such proposed removal, and every such person shall make compensation to the Board for any injury or damage to their pipes or works which may be caused by such removal.

72. Before any pipe is made to communicate with the pipes of the Board, the person intending to lay such pipe shall give two days notice to the Board of the day and hour when such pipe is intended to be made to communicate with the pipes of the Board, and every such pipe shall be so made to communicate under the superintendence and according to the directions of the surveyor or other officer appointed for that purpose by the Board. And the bore of any such pipe shall not exceed three-quarters of an inch, except with the consent of the Board.

73. If any person, supplied with water by the Board, wrongfully does, or causes or permits to be done, anything in contravention of any of the provisions of this Part, or wrongfully fails to do anything which, under any of those provisions, ought to be done for the prevention

Hunter District Water Supply and Sewerage.

prevention of the waste, misuse, undue consumption, or contamination of the water of the Board, the Board may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes, by or through which water is supplied to him, or for his use, and may cease to supply him with water so long as the cause of injury remains, or is not remedied.

74. If any person, supplied with water by the Board, wilfully or negligently causes, or suffers any pipe, valve, cock, cistern, bath, soil-pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so used or contrived, that the water supplied to him by the Board is, or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion, or allow the return of, foul air or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the Board, he shall, for every such offence, be liable to a penalty not exceeding five pounds.

75. If any person—

- (i) not having from the Board a supply of water for other than domestic purposes, uses for other than domestic purposes any water supplied to him by the Board, or
- (ii) having from the Board a supply of water for any purpose other than domestic, uses such water for any purpose other than those for which he is entitled to use the same,

he shall, for every such offence, be liable to a penalty not exceeding forty shillings, without prejudice to the right of the Board to recover from him the value of the water misused.

76. It shall not be lawful for the owner or occupier of any premises supplied with water by the Board, or any consumer of the water of the Board, or any other person, to affix, or cause, or permit to be affixed, any pipe or apparatus to a pipe belonging to or used by such owner, occupier, consumer, or other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent, in every such case, of the Board. And if any person acts in any respect in contravention of the provisions of the present section he shall, for every such offence, be liable to a penalty not exceeding five pounds, without prejudice to the right of the Board to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

77. If any person, not being supplied with water by the Board, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the Board, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the Board, or supplied by them for the use of any customer of the water of the Board, he shall, for every such offence, be liable to a penalty not exceeding five pounds.

78. The Board may, between nine o'clock in the forenoon and four o'clock in the afternoon by any officer or person authorized by them in that behalf, by force if necessary, enter upon or into any house, tenement, or land, for the purpose of cutting off any pipes by or through which water shall be supplied to such house, tenement, or land, or doing any other act whereby the supply of water by the Board to such house, tenement, or land shall be discontinued, or disconnected; or for the purpose of examining if there be any waste or misuse of such water, or of examining or removing any pipes, works, or apparatus in connection with water supply or sewerage fixed or erected, otherwise than in accordance with this Act, or with the by-laws of the Board for the time being, for the purpose of examining the sufficiency of closet

Penalty for waste of water.

Penalty for misapplication of water.

No pipe to be fixed to consumer's pipe without permission of Board.

Penalty for unlawfully taking water.

Power of entry by Board for certain purposes.

closet accommodation, or for the purpose of inspecting any sewer, drain, or work constructed or in course of construction on such premises, or of making any inspection whatsoever, or of doing any act, matter, or thing whatsoever, which it shall be lawful for the Board to do under this Act, or any by-laws made thereunder, or which in their opinion is requisite or necessary. And this Act shall be sufficient to indemnify the Board and all persons acting under its authority for all acts and things done by virtue thereof.

Certain other powers conferred on Board.

79. (i) In all cases where in the opinion of the Board any work ought to be done, or repairs or alterations made, in connection in any manner whatsoever with the water supply, sewerage, or drainage, or ventilating of or to any house, tenement, or lands, and the owner or occupier or mortgagee thereof shall refuse or neglect after notice to him by the Board that such work, repairs, or alterations are necessary to do such work, or make such repairs or alterations, within such time or according to such plans and directions as the Board shall deem proper, and prescribe by such notice, the Board may do or carry out the same, and may for such purpose, by any officer or person authorized by them in that behalf by force if necessary, make all such entries upon or into such house, tenement, or lands, and do and perform all such acts, matters, and things as may be necessary to carry out such work, repairs, or alterations: Provided that if in any case the Board or any such officer thereof as aforesaid shall be of opinion that the exigency of the circumstances require that such work, repairs, or alterations shall be done without the notice in this section provided for, then the Board or such officer may do and carry out the same without such notice; and this Act shall be sufficient to indemnify the Board and all persons acting under their authority for all acts and things done by virtue thereof.

Board may recover expenses of carrying out works.

(ii) The Board may in any such case recover from every such owner or occupier or mortgagee, by the like proceedings and with the like remedies as if such expenses were a rate due by him or a penalty, the full amount of the expenses of doing and carrying out such work with costs; but no proceedings for recovery of the said amount shall be taken until default shall have been made for twenty-one days after a demand by the Board shall have been left upon or posted to the premises on which such work shall have been done; and any such sums so expended by the Board shall be a first charge on the property on which such work shall have been done, and may be recovered at any time from the owner thereof.

POLLUTING THE WATER.

—
Penalty for bathing in water of the Board.

Penalty for throwing dirt therein.

Penalty for letting foul water flow thereinto.

80. If any person bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the Board, or wash, throw, or cause to enter therein any dog or other animal, he shall, for every such offence, forfeit a sum not exceeding five pounds.

81. If any person throw or convey, or cause or permit to be thrown or conveyed, any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash, or cleanse therein, any cloth, wool, leather, or skin of any animal, or any clothes or other thing, he shall, for each such offence, forfeit a sum not exceeding five pounds.

82. If any person cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him, or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the Board, or shall do any other act whereby the water of the Board shall be fouled, he shall, for each such offence, forfeit a sum not exceeding five pounds, and a further sum of twenty shillings for each day (if more than one) that such offence continues.

Hunter District Water Supply and Sewerage.

83. Where any owner or occupier of any land within any water district or any reservoir or source of supply transferred to or vested in the Board or within a distance of twenty miles above the intake of any water supply from the Hunter River does, or permits to be done, on his land, any act, or permits to remain thereon any matter or thing which, in the opinion of the Board, is likely to injure the water supply, if notice to discontinue or remove the same be given to him in writing by the Board, and if he neglect or refuse to discontinue such act, or to remove such matter or thing, he shall, for each such offence, forfeit a sum not exceeding five pounds, and a further sum of twenty shillings for each day (if more than one) that such offence continues.

84. Every person making or supplying gas within any Water District who shall, at any time, cause or suffer to be brought, or to flow, into any stream, reservoir, aqueduct, or waterworks belonging to the Board, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, or other waterworks shall be fouled, or the pipes or conduits thereof injured, shall forfeit to the Board the sum of twenty pounds, to be recovered with full costs of suit in the Supreme Court, for each day during which such washing or other substance shall be brought, or shall flow, as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the Board.

85. Whenever the water supplied by the Board shall be fouled by the gas of any person making or supplying gas within any Water District, such person shall forfeit to the Board, for every such offence, a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence.

86. For the purpose of ascertaining whether the water of the Board be fouled by the gas of any person making or supplying gas within any Water District, the Board may dig up the ground, and examine the pipes, conduits, and works of the persons making or supplying such gas : Provided that, before proceeding so to dig and examine, the Board shall give twenty-four hours' notice in writing to the person so making or supplying gas, of the time at which such digging and examining is intended to take place, and shall give the like notice to the persons having the control or management of the pavements, or place where such digging shall take place, and shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as herein provided with respect to roads and pavements broken up by the Board for laying their pipes ; and if, upon such examination, it appears that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repairs of the street or place disturbed in any such examination shall be paid by the person making or supplying gas ; but, if upon such examination, it appears that the water has not been fouled by the gas of such person, then the Board shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

87. If the Minister shall at any time deem it necessary to raise, sink, divert, or otherwise alter the position or level of any water or gas pipes, mains, plugs, or other waterworks or gas-works laid

Penalty for certain
nuisances in water-
shed area.

Penalty for per-
mitting substances
produced in making
gas to flow into
works.

Penalty on gas makers
causing water to be
fouled.

Power to examine
gas pipes to ascertain
cause of water being
fouled.

The expenses to abide
the result of the
examination.

Water and gas mains
to be altered when
necessary.

Hunter District Water Supply and Sewerage.

laid in or under any street, he may, by notice in writing, require the person or persons, corporation, or other authority in whom such water-works or gas-works are vested, to raise, sink, divert, or otherwise alter the position or level thereof in such manner, and within such reasonable time as shall be specified in such notice, and the expenses incurred in respect of any such alteration shall be paid by the Minister. If such notice shall not be complied with, the Minister may cause the required alterations to be made, but no such alteration shall be made which will permanently injure such pipes, mains, plugs, or works, or impede or affect the flow of the water or gas.

Provisions as to connection of closet and other pipes with mains, and as to cisterns, &c.

No closet pipes hereafter to connect directly with the main.

Board may disconnect pipes in certain cases.

The expense incurred by any disconnection to be paid by tenant and deducted from his rent.

Owners of premises shall fix closet-cisterns or be liable to a penalty.

Upon neglect of owner the tenant after fourteen days notice to fix cistern and deduct the expense from rent.

88. The following provisions shall take effect for the purpose of protecting the water in the mains or other pipes of the Board from all impurities from closets and other receptacles of faecal matter or urine—

- (i) It shall not be lawful for any person to connect with the main any pipe delivering the water directly into the closet-pan or other receptacle for faecal matter or urine, without the intervention of a cistern or cisterns into which the water from the main shall first be received, and any person so offending shall forfeit and pay a penalty not exceeding fifty pounds.
- (ii) The Board may employ any artificers or workmen to cut off or otherwise disconnect from the main any pipe directly discharging the water into a closet without the intervention of a cistern [hereinafter termed "directly connected"], and which, in the opinion of the Board, may endanger the purity of the water by the absorption of noxious gases or suction of faecal matter or urine into such pipe, or into the main or otherwise. For the purpose of effecting such disconnection the Board's artificers and workmen may enter into and upon the premises of any person or corporation whatsoever to do, or cause to be done anything in their opinion requisite or necessary in relation thereto.
- (iii) Whenever the Board shall have caused any pipe to be cut off or disconnected, or other work to be done in relation thereto, they shall forthwith serve the owner or occupier of the premises with a notice in writing requiring him to pay the actual cost or expense incurred; and such owner or occupier shall pay the amount to the Board; and if the amount be paid by an occupier only he may deduct the same from the rent then due or accruing. Upon such owner or occupier making default in any such payment after the delivery of such notice as aforesaid the Board may sue for and recover the same with full costs of suit.
- (iv) The owner of every dwelling-house or premises which shall have therein or thereon any closet with a pipe or branch-pipe directly connected with the main, shall be required to fix and erect a cistern or cisterns for the reception of the water intended to be used for the closet, and every cistern shall be made of such materials and dimensions, and of such model or plan of construction, and with such ball-cocks, stop-cocks, waste-pipes, and other appliances, as shall be deemed requisite and have been approved by the Board, for securing the water from pollution through any noxious gases or matter evolved, or derived from such closets or otherwise. Every owner neglecting to comply with the provisions of this section shall forfeit and pay a penalty not exceeding five pounds.
- (v) Whenever any owner shall have neglected to fix and erect a cistern with its appliances as is in the last preceding sub-section provided for, the tenant or occupier of the premises is

Hunter District Water Supply and Sewerage.

is hereby authorised and required, after receiving a written notice from the Board in that behalf, to fix and erect such cistern, with its appliances before mentioned, within fourteen days after the receipt of such notice; and the said tenant or occupier shall, upon payment by him of the charges and expense of such fixing and erection, be entitled either to deduct the amount so paid from the rent then due or accruing, or, at his option, to sue for and recover the same with full costs of suit from the owner as for money paid to his use.

(vi) Any person who shall, without the authority of the Board, re-establish any such connection which may have been cut off, removed, or severed, by them, or who shall in any manner wilfully injure or tamper with any connection-pipe, cistern, ball-cock, stop-cock, or waste-pipe, which may have been approved by the Board, so as, in the opinion of the Board, to destroy, diminish, or endanger its efficiency may be summoned for such offence before two Justices, and on conviction thereof shall be adjudged to pay the amount of the charges and expenses which the Board may have incurred (and which they are hereby authorized to incur) in repairing or restoring the same to a state of efficiency. Every such offender shall also forfeit and pay a penalty not exceeding ten pounds, and the amount of charges and expenses and penalty respectively shall when recovered be paid over to the Board.

89. Where several houses or parts of houses, in the separate occupation of several persons, are supplied by one common pipe, or where water is supplied to courts, alleys, and rights-of-way by stand pipes, the several owners or occupiers of such houses, or parts of houses, or of the several houses or parts of houses in every such court, alley, or right-of-way shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the Board by a separate pipe.

90. The rates and charges for water, and all sums due to the Board under this Part, shall be paid by, and be recoverable from the owner of the premises, or the occupier or person requiring, receiving, or using the supply of water; and all rates shall be paid in advance, by equal half-yearly payments, at such times as the Board may by any by-laws appoint, and the first payment shall be made at the time when the owner or occupier of any tenement shall become liable to pay such rates and charges; and all such rates and charges for water under this Act or any future amending Act, or any by-laws made thereunder, may be enforced and recovered in respect of any premises situate within one hundred and fifty feet from the alignment of any street or public highway in any municipality in the District along which a main water pipe belonging to the Board is laid, although such premises are not actually supplied with water from such main.

91. All houses, tenements, or lands vested in the Crown, or in any corporation, person, body of persons, or other authority on behalf of the Crown, and all houses, tenements, or lands in the occupation of the Crown, or of any such corporation, person, body of persons, or authority as aforesaid, shall be deemed to be ratable property within the meaning of this Act, and shall be in all other respects subject to the provisions of the same; and the exemption from rates, taxes, and assessment contained in the seventeenth section of the "Government Railways Act of 1888," shall not apply to water actually supplied by the Board to the Commissioners for Railways for the use of or in connection with the railways and tramways vested in the said Commissioners, or to sewerage rates, under this Act.

Any person re-establishing any connection with the main unless authorised, or wilfully injuring any pipe, &c., liable to a penalty.

Where several houses supplied by one pipe each to pay.

WATER RATES.

Rates to be recoverable from either landlord or tenant.

Rates to be paid half-yearly in advance.

Crown lands ratable.

Hunter District Water Supply and Sewerage.

Country towns
supplied with water.

92. Notwithstanding anything contained in this Act or the "Country Towns Water and Sewerage Act of 1880," or any other Act, the powers and authorities granted to the Board, and the duties and liabilities imposed on the Board by this Act may be exercised in, and shall be applicable to, any country town, municipality, district, or place, that may be supplied with water from any main, water-pipe of the Board, notwithstanding that such country town, municipality, district, or place may be outside the limits of any water district, and such country town, municipality, district, or place shall be deemed to be a water district under the said Act.

Recovery of rates
and charges.

93. If any person refuse or neglect to pay on demand to the Board any rate, charge, or sum due to the Board, the Board may recover the same with costs, or may order a warrant under the hand of their President or Vice-President, in the form contained in the Fourth Schedule hereto, to be from time to time issued to some constable or other person named therein to levy such rate, charge, or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate, charge, or sum is due at the time when the warrant of distress is executed, and, in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress, the owner of the premises, or, if he be absent from the colony, his agent, shall be liable for such rate, charge, or sum; and the same may be recovered from him: Provided always that, in addition to, or in lieu of, any remedy hereby given to the Board to recover any such rate, charge, or sum, it shall be lawful for the Board to cut off the water supplied to any person by them, and to refuse to continue to supply the same to the premises of such person for such time as they may think fit.

Where sums paid by
tenant, &c., under
Acts may be charged
against landlord.

94. Where in any case any costs, charges, or expenses payable under this Act, or any Act amending the same, or under any by-laws made or proceedings taken under this Act, or any such amending Act, shall be recovered from, and shall be paid by a tenant or occupier, or by a mortgagee of any house, tenement, or land, he shall be entitled to be repaid by his landlord or mortgagor, as the case may be, and any such tenant or occupier may deduct any amount so paid or recovered from the rent from time to time becoming due to such landlord in respect of such premises, or may recover from such landlord the amount so recovered and paid, unless he shall be liable to pay the same under and by virtue of his lease or agreement with his landlord, and any such mortgagee may tack any amount so paid by him on to the original mortgage debt, and charge interest for the same as if the same had formed part of such original mortgage debt.

Board may make
valuation, &c., in
certain cases.

95. In any case in which any lands, tenements, or hereditaments, which would be liable for the payment of rates under the provisions of this Act, if the same had been included in any valuation by any Borough or Municipal District, are not included in any such valuation, and in any case in which any valuation of such lands or tenements during the same, or the previous year, by the Borough or Municipal District respectively in which such lands or tenements are situated, is not the true value thereof at the time of the valuation thereof by the Board as hereinafter mentioned, by reason of the same having been incomplete, or otherwise of less value at the time of the valuation thereof by such Borough, or Municipal District, the Board may cause a valuation of such lands, tenements, or hereditaments respectively to be made from time to time and for such time as the same shall be valued at less than the true value thereof as aforesaid, and may from time to time determine, make, and levy the rate to be paid in respect of such lands, tenements, or hereditaments: Provided that such rate and the powers hereby conferred upon the Board shall be in all other respects subject to

Hunter District Water Supply and Sewerage.

to the provisions of this Act: Provided further, that if in any case a Borough or Municipal District shall be incorporated during any current half-year for which a rate has at such time been determined and made by the Board under this section, the assessment of the Board shall be the rate until the end of such current half-year. The enactments contained in the six following subsections shall be applicable in respect to any such assessment—

- (i) The Board shall, as soon as practicable, cause notice of the amount of any such assessment of the Board to be served upon the respective premises assessed whether occupied or not.
- (ii) Any occupier or owner of such premises may, within fourteen days after the service of such notice as aforesaid appeal against such assessment, and shall for such purpose and before the expiration of such fourteen days, serve at the office of the Board a notice in writing of his intention to appeal, stating the grounds of such appeal.
- (iii) Such appeal shall be heard before two or more Justices in Petty Sessions held within the Petty Sessions District in or nearest to which the property is situated on some day to be fixed by the Board. Notice of the day and place of the hearing of which appeal shall be published by advertisement in the *Gazette*, and in one or more local newspapers published or circulating in or nearest to such Petty Session District at least seven clear days before the hearing of such appeal, and such Justices shall have power to hear and determine the same, and to award such relief in the premises as the justice of the case may require, and such decision shall be final and conclusive as regards the matter of such appeal; and the Assessment Book of the Board shall, if necessary, be amended in accordance with such decision.
- (iv) No appeal shall be entertained unless such notice shall have been given as aforesaid; and, if on the hearing of any such appeal, the Justices shall be of opinion that the same is frivolous or vexatious, they may award such costs, not exceeding two pounds, as they may think fit against the appellant, which may be recovered by the Board in the same manner as costs in any proceedings before Justices.
- (v) After the expiration of the fourteen days so prescribed as aforesaid without any notice of appeal, or upon the decision of any such appeal, and the necessary alterations (if any) being made in the Assessment Book of the Board, the same shall be confirmed by the Board, and signed by the President or Vice-President for the time being, and shall thereupon be the Assessment Book of the Board until a new rate be made and new Assessment Books be completed and confirmed in manner aforesaid.
- (vi) Any occupier of property who, on the request of any valuer appointed by the Board to make such valuation as aforesaid (who is hereby authorized to make such inquiries), refuses or wilfully omits to disclose, or wilfully misstates to such valuer the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, or anything required for or calculated to affect such assessment as aforesaid, or any owner of property who, on the request of such valuers as aforesaid, shall refuse or wilfully omit to disclose, or wilfully misstate, anything required for or calculated to affect such assessment as aforesaid, shall for every such offence be liable to a penalty not exceeding five pounds.

PART III.

Sewerage.

Survey of area of
Sewerage District.

96. The Board shall, as soon as conveniently may be, cause to be made surveys of the area within the limits and for the purpose of any Sewerage District, and a map or maps thereof on such scale or respective scales, and with such indications of levels and particulars of sewers and underground works and of the surface as to them seem fit, and may cause such map or maps or any part thereof to be from time to time copied, engraved, and published, and shall from time to time cause such map or maps to be revised, and such additions made thereto as may show the new sewers and drains, and the new streets, roads, houses, or other alterations, and the date of revision shall be expressed therein, and every such map shall be kept in the office of the Board, and the same or a copy thereof shall be open at all reasonable times to the inspection of the owner or occupier of lands or houses within the District.

General powers of
Board in respect to
Sewerage Works.

97. Subject to the provisions of this Act the Board may exercise any of the powers in this Part contained for the construction of Sewerage Works for any Sewerage District, and for the purposes of carrying out the provisions of this Act (that is to say):—

- (i) They may enter upon any lands and take levels of the same, and set out such parts thereof as they shall think necessary, and dig, break, and trench the soil of such lands, and remove or use all earth, stone, mines, minerals, trees, or other things dug or obtained out of or from the same.
- (ii) They may enter upon, take, and hold such land as they may from time to time deem necessary for the construction, maintenance, repair, or improvement of any authorized works.
- (iii) They may from time to time construct and maintain, alter, or remove such engines, buildings, and other Sewerage Works of what kind soever upon the lands authorized to be taken by them as they shall think proper for the sewerage of any such District.
- (iv) They may from time to time divert and impound the water from any such streams as they may think fit, and alter the courses of the same.
- (v) They may enter upon any Crown or private lands, streets, roads, or thoroughfares, and construct or lay or place therein or thereon, whether underground or upon the surface thereof, any drains or pipes, and may repair, alter, or remove the same, and may enter upon any such lands, streets, roads, or thoroughfares for the purpose of repairing any sewers, drains, or other works being their property or under their control.

Provided that the Board shall make full compensation for all damage or injury committed by them in the exercise of such powers. And such compensation shall in every case where the Board cannot agree with the claimant be ascertained, and the case in other respects shall be dealt with under the provisions hereinafter contained.

Construction of
sewers.

98. The Board may make any sewers or drains of such construction and in such manner as they think proper, and may (subject to the restrictions hereinafter mentioned) break up the soil, pitlings, and pavements of any public or private street, and may excavate and sink trenches for the purpose of laying down, making, and constructing common sewers or drains therein, and may cause such common sewers or drains to communicate with the sea or any arm thereof or with any stream or water-course (either within or without the limits of the said district)

Hunter District Water Supply and Sewerage.

district) and also from time to time may open, cleanse, and repair such sewers or drains, or alter the position thereof, and also from time to time may make any drains or sewers from any main sewer or drain of the Board laid in any street by virtue of this Part into any dwelling-house or houses, public or private buildings, and premises for the purpose of cleansing and draining any such house or houses or other premises by means of such sewers or drains, and may do all such other acts, matters, and things as they shall from time to time deem proper for making, repairing, completing, or improving any such sewers and drains, or other works to be made, done, and provided for the purposes of this part: Provided that nothing in this Act shall authorize the Board to make or use any sewer, drain, or outfall for the purpose of conveying any sewage or filthy water into any natural stream, water-course, lake, or pond 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 and quality of the water in such stream, water-course, lake, or pond.

99. In the execution of the several powers hereby granted, the Board shall do as little damage as may be, and shall build and construct the said sewers in a sufficient and effectual manner for accomplishing all the purposes hereby intended, and subject to the restrictions hereinafter mentioned, and after laying or removing or altering or repairing any such drains or sewers shall immediately fill in the trenches or excavations, and make good the ground, soil, pitchings, and pavements of any public or private street, and any other damage, and remove the rubbish occasioned thereby, and shall in the meantime fence or guard the place or places where any ground shall be opened in such manner as to prevent danger or accidents to passengers, carriages, horses, cattle, or sheep, and agreeably in all respects to the provisions in this Part contained. And this Act shall be sufficient to indemnify the Board and all persons acting under its authority for all acts and things done by virtue hereof.

100. If there be any wilful or negligent delay in the Board or any of their officers, or any other person acting by or under their authority, in filling in any such ground, trenches, or excavations, or removing rubbish, or making good any such ground, or the soil, pitchings, or pavements of any such private or public street, or any other damage, according to the provisions in this Part contained, or if the same respectively be imperfectly done, or if the ground so opened be not fenced or guarded in the manner herein required, the person in whom the right of soil of such ground shall be, or to whom there now does or hereafter shall belong any power to maintain or repair the soil pitchings and pavements of any such public or private street, or any person acting for them or him, may fill in such ground, trenches, or excavations, and remove such rubbish, and may repair and make good such ground so broken up, and the soil, pitchings, and pavements of any such public or private street, or any other damage, and may properly fence and guard any such trench or excavation, and may place and maintain such light or lights during the night as to them or him shall seem necessary, and the reasonable costs and charges thereof shall be paid by the Board to the persons who shall have disbursed or incurred the same, and in default of payment thereof for thirty days next after demand made for the payment thereof all such reasonable costs, together with any sum not exceeding five pounds, by way of penalty, may be recovered in a summary manner as hereinafter provided.

101. The Board may open the ground and change the level or otherwise amend and enlarge any sewer lying under any public or private street within any sewerage district for better communicating with

Board to make good
any damages.

Where Board makes
wilful default,
damage may be
repaired by parties
interested.

Altering sewers.

with

Hunter District Water Supply and Sewerage.

with the main sewers or drains already made or to be made in pursuance of this Part: Provided always that no person shall by means of any such alteration, amendment, or enlargement be deprived of the use and enjoyment of any private sewer or drain which he shall be entitled to use, but the Board shall at their own costs and charges so construct and alter any such private drain or sewer as to render the same as effectual for the purposes for which it was intended as any such drain or sewer may be at the time of such alteration. And in case the Board refuse or neglect so to construct and alter any such private drain or sewer, the use of which may be effected by the acts of the said Board for the space of twenty-eight days next after notice in writing served upon them, they shall forfeit and pay to the party aggrieved any sum not exceeding forty shillings for every day during which such refusal or neglect so continues, and such sum may be recovered in a summary way before Justices as hereinafter provided.

Sewers to be cleansed.

102. The Board shall cause their sewers to be constructed, covered, 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 place either above or under ground such reservoirs, sluices, engines, and other works as may be necessary, and may cause all or any of such sewers to communicate with and be emptied into such places as may be fit, or cause the sewage and refuse therefrom to be collected for sale, or for any purpose whatever, but so as not to create a nuisance.

Fencing works in progress.

103. When any ground or any of the soil, pitchings, or pavements of any public or private street is at any time opened or broken up by the Board or any other person proper and sufficient fences and protection for the same shall immediately thereupon be made, set up, and continued by the Board or by such other person to the satisfaction of the persons or authority in which the property in or control of such street is vested for the time being, and at all times during the progress of digging any trenches or excavations, and making, altering, enlarging, and repairing any drains and sewers, and of filling in such trenches or excavations, or otherwise carrying on and finishing the works hereby authorized to be done in any street, every such street shall be kept and continued by the Board or such other person as free from all obstructions and annoyances of every kind as practicable.

Pavements replaced.

104. When and as often as any pavement or footway is taken up or removed by the Board, or by any person, for the purpose of making, altering, or repairing any drains or sewers, or any cross drains from any premises to communicate with any main sewer or drain, to be made, altered, or enlarged by, or vested, or to become vested in the Board, in or under any public or private street, no part of any such pavement or footway, respectively, shall remain taken up or removed longer than a period of seven clear days exclusive of Sundays.

Repair of sewers.

105. The Board shall at all times maintain and keep in good order and repair all drains and sewers made, altered, or enlarged by the Board or by this Act or hereafter to be vested in them.

Notice of private sewers.

106. No person, without notice as hereinafter mentioned, may make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in the Board as aforesaid, or into any drain or sewer communicating therewith, and in default of such notice the Board may cut off, stop up, or prevent the communication of such private sewer or drain with the sewers or drains so made or enlarged by the Board or any sewer communicating therewith, and may recover the costs and charges occasioned thereby and also the rates for the same from the time when such private sewer or drain shall have been made from the person so offending.

Hunter District Water Supply and Sewerage.

107. All such private sewers or drains as shall be permitted to be branched into any of the sewers or drains vested in the Board or hereby authorized to be made and enlarged by them by virtue of this Part shall, from time to time, be repaired and cleansed under the inspection and direction of some officer of the Board, at the costs and charges of the occupiers of the premises to which the said sewers or drains shall respectively belong.

108. When any person desires to have a drain to the said main sewers or any sewer communicating therewith laid into his premises, if he give the Board six days' previous notice in writing of his intention so to do, and if he obtain the consent of the owner of the premises through which the drain shall be conveyed, he may (at his own expense, but subject to the provisions hereinbefore contained) open the ground between the main sewer or the sewer communicating therewith and his premises, and may lay from such premises to communicate with the said main sewer any drain made of cast-iron, brick, stone, or some other material approved by the Board, and in such manner and form, and with such grates and of such workmanship as may be approved by the Board, and shall pay to the Board the rates fixed for the same.

109. The Board may cause any ventilating shaft, pipe, or tube for any sewer or drain to be attached to any wall of any building within any Sewerage District, but the mouth of every such shaft, pipe, or tube shall be at least six feet higher than the highest point of the roof of such building, and be distant in a horizontal direction not less than thirty feet from any door or window of the same or any other building. The Board shall defray all expenses in the exercise of the powers conferred by this section with regard to main and branch sewers and drains constructed by him under the authority of the Principal or this Act, and in the exercise of such powers the Board shall do as little damage as possible and shall make full compensation to all persons interested for any damage sustained by them by reason of the exercise of such powers.

110. As soon as any sewer, in any street or other place within any Sewerage District, shall be completed so as to be ready for receiving sewage, and shall have been transferred to the Board, the Board may demand that the owners or occupiers of any house, tenement, or lands drained or capable in the opinion of the Board of being drained into any such sewer, shall construct such drains, cisterns, and fittings from, and in connection with, such house, tenement, or land to communicate with such sewer, as the Board may determine; and such demand may be made by giving the prescribed notice thereof to any such owner or occupier, or by leaving or exhibiting the same at or on such house, tenement, or lands; and such drains, cisterns, and fittings shall be made and attached and be supplied with water according to such plans and directions as the Board shall deem proper for effectually carrying off all impurities from the said house, tenement, or lands.

111. (1) The Board may, after giving the prescribed notice to the owners or occupiers, or the mortgagee of any house, tenement, or lands, require such drains, cisterns, and fittings to be made, constructed, and attached by such owners or occupiers, or mortgagee, within such time as they may limit in that behalf, and may require ventilating shafts, pipes, or tubes to be attached to the wall of any buildings and to be connected with the parts of such buildings or premises or the drains thereof from which, in the Board's opinion, any impurities ought to be carried off. And if the same shall not be made within such time, or according to such plans and directions as the Board shall deem proper, the Board may make, construct, and attach the same; and for that purpose may enter into or upon the house, tenement, or lands of any such owner or occupier, or mortgagee, and excavate the

Board may make drains and attach ventilators in default of compliance with order, &c.

Hunter District Water Supply and Sewerage.

the ground, and make, construct, and attach such drains, cisterns, and fittings in, along, over, or against such house, tenement, or lands, and may attach and connect such ventilating shafts, pipes or tubes as aforesaid.

Recovery of expenses, &c.

(ii) The Board may in any such case recover from every such owner or occupier or mortgagee by the like proceedings and with the like remedies as if such expenses were a sewerage rate, the full amount of the expenses of making such drains, cisterns, or fittings, or attaching or connecting such ventilating shafts, pipes, or tubes; but no proceedings for the recovery of the said amount shall be taken until default shall have been made in payment thereof for twenty-one days after the prescribed demand by the Board for such payment shall have been given to the owner or occupier or mortgagee in default, or shall have been posted in the house, tenement, or lands in respect of which any such drains, cisterns, or fittings, or such ventilating shafts, pipes, or tubes shall have been made, constructed, attached, or connected.

Inspection by Board.

112. Where any drain has been made, or shall hereafter be made to communicate with any sewer constructed by the Board, or with any sewer communicating with such last-mentioned sewer, or with any other sewer whatsoever, any engineer, surveyor, or other person duly authorised by the Board, may, at any time between sunrise and sunset, enter upon any house, tenement, or land and inspect such drain, and in the event of the same being found to be improperly laid, the Board shall cause the same to be properly laid at the expense of the owner of such drain, such expense to be recoverable in like manner as penalties are recoverable under this Act; but if the said drain shall be found to have been properly laid, the expense of inspection shall be borne by the Board.

Penalties on persons encroaching on sewers, &c.

113. (i) Every person who shall erect, construct, or place any building, wall, bridge, fence, or obstruction, in, upon, over, or under any sewer or drain, so as to interfere with or injuriously affect such sewer or drain in the carrying away of storm water, sewerage, or drainage, and every person who shall obstruct, fill in, close up, or divert any sewer or drain without the previous consent in writing of the Board, shall, in addition to any other penalty to which he may be liable, forfeit and pay a sum not exceeding twenty pounds for every such offence; and in case of a continuing offence, a further penalty not exceeding five pounds for each day after notice shall have been given by the Board to such person, to be recoverable in like manner as penalties are recoverable under this Act.

(ii) The Board may demolish and remove any such building, wall, bridge, fence, obstruction, or encroachment, and perform any works necessary for restoring or reinstating such sewer or drain; and the person erecting such building, wall, bridge, fence, or causing such obstruction, or making such encroachment, or obstructing, filling in, closing up, or diverting such sewer or drain, as the case may be, shall also pay the expense of removing such wall, bridge, fence, or abating such obstruction or encroachment, or of reopening, restoring, repairing, or reinstating such sewer or drain.

(iii) Nothing in this section contained shall prevent or impede the maintenance, repair, or removal of any buildings or works under which a sewer or drain has been or may be constructed, but so, nevertheless, that such buildings or works shall not injure or obstruct such sewer or drain.

Minister to have certain powers.

114. Notwithstanding anything in this Act, the Governor may authorize and empower the Minister to carry out any works for the sewerage of any municipality or place. And the Minister when so authorized shall have all powers for purposes of construction or authorizing the construction of works and resumption of land as are vested in him by this Act.

Hunter District Water Supply and Sewerage.

115. If the soil, filth, or cesspools attached or belonging to or arising from any tenement within a sewerage district be, upon the complaint of any inhabitant thereof, deemed a nuisance by the Board, the Board may cause a drain or sewer to be laid down from any such tenement, or the premises adjoining to or near the same, to convey such soil or filth to one of the main sewers or drains of the said Board; and may recover in a summary way before Justices the costs, charges, and expenses of laying down such drain or drains from the owner or occupier of such tenement respectively, such costs and charges not exceeding the sum of five pounds in respect of any tenement which shall be under the yearly value of fifteen pounds, and not exceeding the sum of ten pounds in respect of any tenement which shall be above the yearly value of fifteen pounds: Provided that every occupier shall be entitled to deduct against or to be repaid by his landlord the whole of such costs and charges as aforesaid as shall be recovered from such occupier, unless he be liable to pay the same under or by virtue of his lease or agreement with his landlord.

116. Fourteen days at the least before beginning to dig or lay out the foundation of or for any new house, or to rebuild any house within the limits of a sewerage district, the person intending so to build or rebuild shall give to some officer duly authorized by the Board in that behalf written notice thereof, together with the level or intended levels of the cellar or lowest floor, and the situation and construction of the privies and cesspools to be built, constructed, or used in connection with such house; and it shall not be lawful to begin to build or rebuild any such house, or to build or construct any such privy or cesspool, until the particulars so required to be stated have been approved by such officer, and he is hereby required to signify his approbation or disapprobation of the same within a space of fourteen days after receiving such notice without fee; and in default of such notice, or if any such house, privy, or cesspool be built, rebuilt, or constructed as aforesaid without such approval, the Board may, if they think fit, cause such house, privy, or cesspool to be altered, removed, or otherwise dealt with as the case may require, and the expenses incurred in so doing shall be repaid by the offender, and be recoverable from him in a summary manner as hereinafter provided. And if any such house, privy, or cesspool be built, rebuilt, or constructed within any such district without such notice or approval, the offender shall forfeit a sum not exceeding twenty pounds.

117. When it is made to appear to the satisfaction of any Justice that there is reasonable ground for believing that any house or part thereof, or the premises occupied therewith, within the boundaries of a Sewerage District is in a filthy or unwholesome condition, such Justice may grant a warrant under his hand authorizing any officer of the Board, inspector of slaughter-houses, or inspector of nuisances, or inspector of police, with such assistance as may be necessary, and accompanied if need be by two duly qualified medical practitioners, to enter in the daytime into such house or premises, and to view the same, and the state and condition thereof.

118. If upon the certificate of any two duly qualified medical practitioners it appear to the Board that any house or part thereof, or the premises occupied in connection therewith, within the limits of any Sewerage District is in such a filthy or unwholesome condition that the health of any person is or may be liable to be affected or endangered thereby, and that the whitewashing, cleansing, or purifying of any house or part thereof, or the premises occupied in connection therewith, would tend to prevent or check infectious or contagious disease, the said Board shall give notice in writing to the owner or occupier of such house or part thereof, or the premises occupied in connection

Nuisances removed by drains.

Notice of building or rebuilding.

Entry to view premises.

Houses to be purified on certificate of two medical practitioners.

connection therewith, to whitewash, cleanse, or purify the same as the case may require, and if the person to whom notice is so given shall fail to comply therewith within such time as shall be specified in the said notice, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default, and the said Board shall, if they shall think fit, cause such house, building, or part thereof, or the premises occupied in connection therewith, to be whitewashed, cleansed, or purified, and for such purpose, shall have power to enter the same, and the expense incurred by them in so doing shall be paid by the owner or occupier in default, and be recoverable from such owner or occupier in a summary way in case such owner or occupier, upon being summoned before any such Justices as aforesaid, shall neglect or refuse to pay the same.

Inspection of
communicating
drains.

119. Any engineer, surveyor, or other person acting under the authority of the Board, may at all reasonable times in the daytime, upon giving twenty-four hours previous notice of his intention, enter into any house, building, or other premises having a drain or sewer communicating with the sewers already made or to be made by virtue of this Act in order to inspect or examine, if there be any communication with any other drain or sewer into any other building or premises, and if such engineer, surveyor, or other person be at such time refused admittance into any such dwelling-house, building, or other premises for the purpose of making such inspection and examination as aforesaid, or on being admitted, be obstructed or prevented from making such inspection and examination as aforesaid, the Board may cut off the drain or sewer supplied by the Board from such house, building, or other premises.

Penalty for
making connecting
drain without notice

120. If any person make or branch any private sewer or drain into any sewer or drain made or enlarged by or vested in the Board, or into any drain or sewer communicating therewith, without the notice required by this part, the person so offending shall for each such offence forfeit a sum not exceeding five pounds.

Penalty for neglect
to repair or cleanse
private drains.

121. If any person permitted to branch any sewer or drain into any sewer or drain vested in the Board, neglect to repair or cleanse any such first-mentioned sewer or drain according to the directions of the officer appointed by the Board in that behalf, he shall forfeit for each such offence a sum not exceeding five pounds.

Penalty for building
without notice to, or
approval by Board.

122. If any house, privy, or cesspool be built, rebuilt, or constructed in the said district without the notice or without the approval required by this Part, the person offending herein shall forfeit a sum not exceeding twenty pounds.

Penalty for
interrupting the
Board and injuring
works.

123. If any person shall wilfully or maliciously hinder or interrupt, or cause or procure to be hindered or interrupted, the Board or any officer or person acting under their authority in doing any works, or in the exercise of any power in this Part contained, or shall wilfully or maliciously, break, throw down, injure, damage, or destroy any sewer or drain, works, matter, or thing belonging to the Board, made and provided, in pursuance of such Part, or for the purpose of the execution of the powers therein contained, every person so offending, shall for every such offence, forfeit a sum not exceeding ten pounds.

Provisions as to
buildings, closets,
urinals, &c.

124. (1) No building, closet, or urinal shall hereafter be constructed or altered, except in such position and according to such plans and directions as shall be first approved of in each case by the Board; and before any building, closet, or urinal shall be begun to be constructed, and also before any alterations or additions shall be begun to be made thereto, the person causing such building, closet, or urinal to be constructed, or such work to be executed shall give to the Board three clear days' notice in writing of such intended building

Hunter District Water Supply and Sewerage.

building or work, and shall forward, with such notice, a general plan of such building or work, describing especially the proposed arrangements for water supply, ventilation, and drainage, for the approval of the Board, who shall return the said plans within seven days after receipt thereof by them, with their decision and direction indorsed thereon; and if such person as aforesaid shall neglect to give such notice, or shall begin or allow any person to begin to construct or build or to do any of the works, matters, or things aforesaid without giving such notice or furnishing such plan, or before the expiration of the said period of seven days, or contrary to the decision and direction of the Board, he shall for every such default be liable to a penalty not exceeding ten pounds, and any work done contrary to such decision or direction of the Board may be removed by them.

(ii) If any such person having duly begun any such building or other work, matter, or thing as aforesaid, shall, for any period exceeding one month, suspend the progress thereof, and again go on with the same, then, two clear days before any recommencement or resumption of work, he shall give notice in writing to the Board of his intention so to do, and if any person shall neglect to give such notice he shall for every such offence be liable to a penalty not exceeding five pounds.

(iii) Any such closet, urinal, or building, or other work, matter, or thing so begun to be erected, built, pulled down, rebuilt, or altered as aforesaid, or proceeded with after suspension thereof as aforesaid, without such notices and plans being given respectively as aforesaid, shall be liable to be dealt with by the Board as a common nuisance, and the person erecting, building, pulling down, re-building, or altering the same, or authorising such to be done, shall be liable, for each such offence, to a penalty not exceeding ten, and to a further penalty of twenty shillings for each day (if more than one) during which such nuisance continues.

(iv) Provided always that if by reason of any emergency, any act, matter, or thing hereby placed under the supervision of the said Board be required to be done immediately or before such notice as aforesaid respectively can be given, then any such person as aforesaid may do such act, matter, or thing so requisite, but such person shall, within twenty-four hours of commencing such work, give to the Board notice thereof in writing, or in default be liable in all respects as if no such emergency had arisen.

125. If the Board shall in any case be of opinion that there is not sufficient closet or urinal accommodation to meet the requirements of the occupants of any building or premises, or of the persons employed therein, or that any closet or urinal is in a defective, or insufficiently ventilated, or in an unsafe or unhealthy state, or that any fitting, or apparatus used in connection therewith is imperfect or defective, they may cause a notice to such effect to be served upon the owner or occupier of such building or premises, together with particulars of the extra accommodation, or alterations, or repairs in their opinion necessary; and if any such owner or occupier shall not within the time named in such notice, cause the accommodation, or the alterations, or repairs therein specified to be provided, he shall for every day after the time named in such notice, be liable to a sum not exceeding ten pounds, nor not less than two pounds. The powers conferred by this section shall not prejudice any other powers of the Board under this Act: Provided always that upon reasonable cause shown by any owner or occupier to the satisfaction of the Minister, such Minister may upon the recommendation of the Board of Health of New South Wales, annul or suspend for any time which he shall think fit any action taken by or order issued by the Board under or pursuant to any of the next three preceding sections of this Act.

Further provisions as to closets, urinals, &c.

Hunter District Water Supply and Sewerage.

Penalty for giving use of drain without permission.

126. If any person supplied with a drain in pursuance of this Part, or having any drain or sewer which may communicate with the sewers of the Board, wilfully permit any other person not having the authority or consent of the Board to use any such drain or any branch into the same, every person so offending shall forfeit for every such offence a sum not exceeding three pounds over and above the full amount of the damage sustained by the Board by the acts or means in respect of which such penalty shall be incurred, and the Board shall be at liberty to cut off the drain of every such person so offending from the main sewer.

SEWERAGE RATES.—
Rates to be recoverable from either landlord or tenant.

127. All sewerage rates and sums due to the Board under this Act shall be paid by and be recoverable from the owner of the premises or the occupier or person draining his premises into any sewer of the Board, or the mortgagee of such premises, and all rates shall be paid in advance by equal half-yearly payments at such times as the Board may by any by-laws appoint, and the first payment shall be made at the time when the owner, or occupier, or mortgagee of any such premises shall become liable to pay such rates and charges, and all such rates and charges may be enforced and recovered in respect of any premises in any municipality situate within one hundred and fifty feet from any sewer or drain belonging to the Board, and whether there be any communicating drain between such premises and any sewer or drain belonging to the Board or not. And if any person neglect or refuse to pay on demand to the Board any rate, charge, or sum due to the Board under this Part, the Board may recover the same with costs, or may order a warrant under the hand of their President or Vice-president in the form contained in the Sixth Schedule hereto, to be from time to time issued to some constable, or other person named therein, to levy such rate, charge, or sum by distress and sale of the goods and chattels of the person occupying the premises in respect of which such rate, charge, or sum is due at the time when the warrant of distress is executed, and in case no sufficient goods and chattels of such occupier be found on the premises to satisfy such distress, the owner of the premises or, if he be absent from the Colony, his agent, or the mortgagee of such premises, shall be liable for such rate, charge, or sum, and the same may be recovered from him.

As to sewerage rate on churches and buildings used as Sunday schools, &c.

128. No sewerage rate to be imposed or levied by the Board upon any cathedral, church, chapel, or other building used exclusively for public worship, or upon any building used exclusively as a Sunday school or for religious teaching only, or used exclusively for any purpose of an eleemosynary or charitable character, shall exceed the sum of twenty-five shillings on every hundred pounds of the assessed annual value of any such building. And a sewerage rate not exceeding the rate hereby prescribed may be charged, collected, and enforced by the Board upon and in respect of any such cathedral, church, chapel, or building.

Cost of works with interest to be repaid to Colonial Treasurer, and amount to be certified every twelve months.

Repayment of Hunter District Water and Sewerage Works—Adjustment of Accounts—Repayments of Loans to Councils, &c.

129. Out of the rates, charges, and other sums of money now or hereafter to be levied or collected by the Board, the whole cost incurred in respect of every work, whether for Water Supply or Sewerage, carried out under this Act or any Act amending the same (or by any such Act) vested in the said Board shall be repaid by such Board, together

Hunter District Water Supply and Sewerage.

together with interest thereon to the Colonial Treasurer in manner following, and all repayments so to be made shall by the said Treasurer be carried to a Loan Trust Fund, that is to say,—

- (i) The repayments so to be made shall be divided into two classes, one of which shall relate to the main schemes for Water Supply and Sewerage in this Act called "Permanent Works," and the other shall relate to reticulation and renewals of mains, and their appurtenances, for Water Supply and Sewerage in this Act called "Renewable Works;" and the Minister shall determine which class shall be considered "Permanent Works," and which "Renewable Works."
- (ii) The whole amount expended upon permanent works prior to the first day of July, one thousand eight hundred and ninety-two, together with interest at the rate of three and a half per centum per annum, to be calculated on the amount of every disbursement, from the date of disbursement up to the thirtieth day of June, one thousand eight hundred and ninety-two inclusive, shall be certified as soon as practicable under the hand of the Minister, and such certified amount shall be forthwith notified in the *Gazette*. And in like manner at the end of every successive period of twelve months, beginning from the said first day of July, one thousand eight hundred and ninety-three the whole amount expended upon such permanent works during such twelve months, from the first day of July up to the thirtieth day of June, together with interest at the rate of three and a half per centum per annum, to be calculated on the amount of every disbursement, from the date of disbursement up to the said thirtieth day of June, shall be certified as soon as practicable under the hand of the Minister; and such certified amount shall be forthwith notified in the *Gazette*.
- (iii) As soon as practicable after every such certification as last aforesaid by the Minister, the Governor, by notification to be published in the *Gazette*, and having regard to the nature and durability of every work, shall fix a period not exceeding one hundred years within which the amount so certified shall be repaid, and prescribe the annual sums to be repaid, so that the total amount so certified may be paid off at the end of the period so fixed, with interest during the said period on the balance remaining unpaid at the rate of three and a-half per centum per annum. To be repaid within a period not exceeding one hundred years, to be fixed by the Governor. Annual payments.
- (iv) The whole amount expended and unpaid upon renewable works prior to the first day of July, one thousand eight hundred and ninety-two, shall be certified as soon as practicable after that date, under the hand of the Minister, and such certified amount shall be forthwith notified in the *Gazette*, and in like manner at the end of every successive period of one year beginning from the said first day of July, one thousand eight hundred and ninety-three, the whole amount expended on such works during such year from the first day of July to the thirtieth day of June, in such year, shall be certified, as soon as practicable, under the hand of the Minister; and such certified amount shall be forthwith notified in the *Gazette*.
- (v) As soon as possible after every such certification as last aforesaid by the Minister, the Governor, by notification to be published in the *Gazette*, and having regard to the nature and durability of the said work, shall fix a period not exceeding, in the case of renewable works for water supply,

Hunter District Water Supply and Sewerage.

thirty years, and in the case of renewable works for sewerage sixty years, within which the amount so certified shall be repaid, and shall prescribe the annual sums to be repaid, so that the total amount so certified may be paid off at the end of the period so fixed, with interest during the said period at the rate of three and a-half per centum per annum.

The Board to collect sufficient rates to make annual payments required.

And subject to the respective limitations in respect of valuation of premises and rates, charges and sums of money, to be levied, collected, and received contained in this Act, the Board shall levy and collect such rates, charges, and sums of money as shall be sufficient to cover the annual sums so fixed as aforesaid, as well as all expenses incurred in carrying out the provisions of this Act, or of any Acts amending the same, including the reconstruction of renewable works, and including the salary and remuneration paid to the President and other members of the Board respectively.

Board to be credited with excess of annual sums repayable and interest on same;

130. Where the rates, charges, and sums of money collected by the Board as aforesaid, shall from time to time exceed the annual sums so prescribed to be repaid as aforesaid, the amount of such excess or balance shall be carried forward in the said Loan Trust Fund to the credit of the Board against the annual sums prescribed to be repaid by them in the next following year, and such excess or balance shall, until the end of such next following year, bear interest at the rate of three and a-half per centum per annum, and with such interest shall be a charge upon the Consolidated Revenue Fund; and where such rates, charges, and sums of money shall from time to time be in arrear, and fall short of the annual sums so prescribed to be repaid as aforesaid, the amount of such deficiency shall be carried forward in the said Loan Trust Fund to the debit of the Board in addition to the annual sums prescribed to be repaid by them in the next following year, and shall, until the end of such next following year, bear interest at the rate of three and a-half per centum per annum, provided that the Board shall be credited with interest at the rate of three and a-half per centum per annum on the daily balances of all rates paid by them to the said Loan Trust Fund.

Accounts to be taken of moneys due to Boroughs and to Her Majesty respectively,

and same adjusted.

Provision for repayment of loans raised by Municipal Council of Newcastle.

131. Upon the constitution of the Board pursuant to the provisions of this Act, and the publication of the names of the members thereof in the *Gazette*, as prescribed by this Act, an account shall be taken of all moneys due to the Borough of Newcastle, and any other Boroughs or Municipal Districts affected by this Act, and of all moneys due by such Boroughs or Municipal Districts to Her Majesty in respect of water supply, and the amount of the same arrived at. And such sum of money (if any) as shall appear to be due to such Boroughs or Municipal Districts, after deducting the amount of such moneys as shall appear to be due by such Boroughs or Municipal Districts to Her Majesty, shall be paid to such Boroughs or Municipal Districts out of the Consolidated Revenue Fund; and such sum of money (if any) as shall appear to be due by such Boroughs or Municipal Districts, after deducting the amount of such moneys as shall appear to be due by Her Majesty to such Boroughs or Municipal Districts, shall be adjusted between Her Majesty and such Boroughs or Municipal Districts in such manner as the Minister shall determine. And upon the transfer to the Board of any sewerage works under this Act the like adjustment of moneys shall be made between Her Majesty and the Board or such Boroughs or Municipal Districts as that provided for in this section.

132. In respect to any sums of money raised by the Borough of Newcastle, and agreed to be taken over by the Minister for the purpose of carrying out under his direction works for the water supply or sewerage of the said Borough, the liabilities of the said Borough for and in respect of all payments for interest and principal

Hunter District Water Supply and Sewerage.

principal due and to become due by such Borough to the holders of the debentures or other securities of the said Borough, upon which the said sum was borrowed, shall be transferred to and be a charge on the Consolidated Revenue Fund, to be discharged from time to time as the same shall accrue by payments to be made by the Colonial Treasurer to the Council of the said Borough, for which payments the receipts of the proper officer of such Council shall be a sufficient discharge to the said Treasurer, and a sufficient compliance with the requirements of this section so far as such payments shall extend. But notwithstanding anything in this section to the contrary the Governor may authorise the conversion of the debentures or other securities for the payment of the principal and interest of any such sum by the said Borough into debentures or other public securities of the Government of this Colony, upon such terms and conditions as he may impose, provided that such converted debentures or securities do not bear interest exceeding four per centum per annum. Upon such authorisation being published in the *Gazette* effect shall be given to the same, as in the case of a loan for public purposes sanctioned by the Legislature.

133. Nothing contained in the two preceding sections shall be deemed to charge the Consolidated Revenue Fund with the payment of any sums of money raised by, or any indebtedness of, such Borough of Newcastle, or any other Borough or Municipal District, on account of moneys expended by them in making any house or other connections to any main water pipe, or to any work done in connection therewith, and no obligations or burthens of any such Borough or Municipal District in consequence of any such connections or work shall be a charge on the Consolidated Revenue Fund, or be liable to be discharged therefrom or attach to the Board, but the repayment of such sums of money shall attach to the Borough or Municipal District which has raised the same, and be a charge upon its municipal rates and revenues as fully and effectually as if this Act had not been passed.

Moneys spent in
house connections,
&c., not to be a
charge on the
Consolidated
Revenue Fund.

PART V.

General Provisions as to the Acquisition and Occupation of Lands for purposes of Water Supply—Compensation for deprivation of land or other damage or injury how ascertained—Transfers of powers.

134. All lands required by the Board for the purposes of this Act may be acquired, and compensation for all lands so acquired shall be ascertained and carried out, under and in pursuance of the provisions of Parts II and III of the "Public Works Act of 1888" and the Schedule thereto, and the Acts incorporated therewith or therein referred to; and for the purposes of carrying out the intent of this enactment every work authorised by this Act shall be deemed to be an authorized work, and the Board shall be deemed to be a "Constructing Authority" within the meaning of the said Public Works Act; but the general provisions in this section contained shall be read subject to the express provisions hereinafter set forth in respect to the taking or occupation of lands.

135. All lands hereafter at any time reserved, resumed, or acquired by the Crown by or under the authority of any Act of Parliament for or in connection with water supply or sewerage purposes for the District of the Lower Hunter with their appurtenances, and all works thereon or connected therewith, may be transferred to and vested in

Lands required for
Water Supply—
how acquired.

Transfers to Board
of resumed lands, &c.

Hunter District Water Supply and Sewerage.

in the Board upon the passing of this Act, or from time to time as the same shall be reserved, resumed, or acquired by notification by the Governor in the *Gazette*, and the *Gazette* notification containing a description of the lands and works thereby transferred to or vested in the Board shall be deemed to divest the estate or property of the Minister or other authority in whom the estate or property is vested, and to vest such lands and works in the Board absolutely, but on behalf of Her Majesty, and for the purposes of this Act and any Act or Acts amending the same, and be conclusive evidence of the fact of such lands and works having been lawfully transferred to and vested in the Board pursuant to and by virtue of this Act, and all such lands and works as aforesaid whether acquired as aforesaid by the Board in connection with water supply or sewerage purposes, and all lands and works in any other manner acquired, or to be from time to time acquired by the Board for or in connection with water supply or sewerage purposes, shall be subject to the provisions of section one hundred and forty and other the provisions of this Act.

Board may sell or lease superfluous land.

136. The Board, with the approval of the Governor, may sell, transfer, and convey any lands or other property transferred to or vested in them by or under this Act, and any lands now or hereafter to be resumed or acquired by or on behalf of the Crown for or in connection with the Approved Scheme of Water Supply (not being required for such Scheme) for such sum, upon such terms and conditions, and generally as the Governor may approve; and may, with the like approval, and upon the like terms and conditions, lease any such lands.

Power to take temporary possession of land.

137. It shall be lawful for the Board, and all persons by them authorized, to enter upon any lands, and to occupy the same so long as may be necessary for the construction or repair of any works authorized by this Act, or of the accommodation works connected therewith hereinafter mentioned, and to take a lease of such lands with or without a right of purchase, and to use the same for any of the following purposes, that is to say—

- For the purpose of taking earth or soil by side cuttings therefrom;
- For the purpose of depositing soil thereon;
- For the purpose of obtaining materials therefrom for the construction or repair of the waterworks, or sewerage works, or such accommodation works as aforesaid;
- For the purpose of forming roads thereon to, or from, or by, the side of the said works;
- For the purpose of constructing or protecting any work authorized under this Act.

And, in the exercise of such powers, it shall be lawful for the Board and all other persons employed therein to deposit, and also to manufacture and work upon such lands, materials of every kind used in constructing the said works, and also to take from any such lands any timber, and also to dig and take from or out thereof any clay, stone, gravel, sand, or other material, that may be found therein useful or proper for constructing the said works, or any such roads as aforesaid, and for the purposes aforesaid to erect thereon workshops, sheds, and other buildings of a temporary nature: Provided always that nothing in this Act contained shall exempt the Board from any action for nuisance or other injury (if any) done in the exercise of the powers hereby conferred, to the lands or habitations of any party other than the party whose lands shall be so taken or used for any of the purposes aforesaid: Provided also that no stone or slate quarry, brick-field, or other like place which at the time of the passing of this Act shall be commonly worked or used for getting materials therefrom for the purpose of selling or disposing of the same shall be taken or used by the Board, either wholly

or

Hunter District Water Supply and Sewerage.

or in part, for any of the purposes lastly hereinbefore mentioned. If the Board and owner of such lands cannot agree within ninety days from the date of entry by the Board on such lands as to the term of or the rent to be reserved upon such lease, the amount of purchase money to be paid in case a right of purchase is therein stipulated for, and any other terms and conditions to be therein contained, the matter shall be finally determined by the Chief Judge in Equity, upon an application by either party to him, and subject to such conditions as he shall impose, and such determination shall be binding on both parties, and all persons claiming through or under them, and may be enforced in every respect as a judgment of the Supreme Court.

138. If any such lands shall be used for any of the purposes aforesaid the Board shall, if required so to do by the owner or occupier thereof, separate the same by a sufficient fence, from the lands adjoining thereto, with such gates as may be necessary for the convenient occupation of such lands, and in case of any difference between the owners or occupiers of such lands and the Board, as to the necessity for such fences and gates, then with such fences and gates as the Governor shall deem necessary for the purposes aforesaid.

139. In any of the cases aforesaid, where the Board shall take temporary possession of lands, by virtue of the powers herein granted it shall be incumbent on them, within one month after their entry upon such lands, upon being required to do so to pay to the occupier of the said lands the value of any crop or dressing that may be thereon, as well as full compensation for any other damage of a temporary nature which he may sustain by reason of the Board so taking possession of his lands.

140. If, in the exercise of the powers hereby granted, it be found necessary to cross cut through, raise, sink, or use any part of any road, whether carriage-road, horse-road, or tram-road, or railway, either public or private, so as to render it impassable for, or dangerous or more than usually inconvenient to, passengers or carriages, or to the persons entitled to the use thereof, or where any authorised work occupies the site of, or is constructed on or along, any portion of a road or public thoroughfare, it shall be lawful for the Board to make in sections, as the work proceeds, a road or roads, thoroughfare or thoroughfares sufficient for the traffic in substitution of any such first-mentioned road or thoroughfare, and shall at their expense maintain such substituted road in a state as convenient for passengers and carriages as the road so interfered with or as nearly so as may be.

141. If the road so interfered with can be restored compatibly with the due completion of any works authorized under this Act, the same shall be restored to as good a condition as it was in, at the time when the same was first interfered with by the Board, or as near thereto as may be; and if such road cannot be so restored, the Board shall cause the new or substituted road, or some other sufficient substituted road, to be put into a permanently substantial condition equally convenient as the former road, or as near thereto as circumstances will allow, and the former road shall be restored, or the substituted road put into such condition as aforesaid, as the case may be, with all reasonable expedition.

142. If any water work, or sewerage work, or other authorized work shall cross any highway, other than a public carriage-way on the level, the Board shall make and at all times maintain convenient ascents and descents and other convenient approaches with hand-rails or other fences, and shall, if such highway be a bridle-way, erect, and at all times maintain, good and sufficient gates, and if the same shall be a footway, good and sufficient gates or stiles, on each side of such work where the highway shall communicate therewith.

Board to separate
the lands before
using them.

Compensation to be
made for temporary
occupation.

Period for restoration
of roads interfered
with.

Board to make
sufficient approaches
and fences to bridle-
ways and footways
crossing on the line.

Hunter District Water Supply and Sewerage.

Works for benefit of owners.

143. The Board shall make, and at all times thereafter maintain, the following works for the accommodation of the owners and occupiers of lands adjoining any such work as aforesaid, that is to say:—

Gates, bridges, &c.

Such and so many convenient gates, bridges, arches, culverts, and passages, over, under, or by the side of, or leading to, or from such work, as shall, in the opinion of the Minister, be necessary for the purpose of making good any interruptions caused thereby, to the use of the lands through which the same shall be made, and such works shall be carried out as soon as practicable.

Fences, &c.

Also sufficient posts, rails, hedges, ditches, mounds, or fences, for separating the land taken for the use of such works from the adjoining lands not taken, and protecting such lands from trespass, or the cattle of the owners or occupiers thereof from straying thereout, by reason thereof, together with all necessary gates made to open towards such adjoining lands, and not towards the said works, and all necessary stiles, and such posts, rails, and other fences shall be made forthwith after the taking of any such lands, if the owners thereof shall so require, and the said other works as soon as conveniently may be.

Drains.

Also all necessary arches, tunnels, culverts, drains, or other passages either over or under, or by the side, of such work, and of such dimensions as will be sufficient, at all times, to convey the water from the lands lying near or affected thereby.

Provided always that the Board shall not be required to make such accommodation works in such a manner as would prevent or obstruct the using of any works for water supply, nor to make any accommodation works, with respect to which the owners and occupiers of the lands shall have agreed to receive, and shall have been paid, compensation.

Difference as to accommodation works to be settled by Governor.

144. If any difference arise respecting the kind or number of any such accommodation works, or the dimensions or sufficiency thereof, or the maintaining thereof, the same shall be determined by the Governor who shall also appoint the time within which such works shall be commenced and executed.

Power to owners of lands to make additional accommodation works.

145. If any of the owners or occupiers of lands affected by any such authorized work shall consider the accommodation works made by the Board, or directed by the Governor to be made by the Board insufficient for the commodious use of their respective lands, it shall be lawful for any such owner or occupier at any time, at his own expense, to make such further works for that purpose as he shall think necessary, and as shall be agreed to by the Board.

Such works to be constructed under the superintendence of the Board's engineer.

146. If the Board so desire, all such last-mentioned accommodation works shall be constructed under the superintendence of the Board's engineer, and according to plans and specifications to be submitted to, and approved by, the Board. But the Board shall not be entitled to require either that plans shall be adopted which will involve a greater expense than that incurred in the execution of similar works by the Board, or that the plans selected should be executed in a more expensive manner than that adopted in similar cases by the Board.

Penalty on persons omitting to fasten gates.

147. If any person omit to shut and fasten any gate set up for the accommodation of the owners or occupiers of the adjoining lands, as soon as he and the carriages, cattle, or other animals under his care, have passed through the same, he shall forfeit, for every such offence, any sum not exceeding two pounds.

Notice of claim for compensation.

148. Every person claiming compensation in respect of any injury or damage sustained by him by reason of the construction of any works under this Act or of any work or other matter done under the

Hunter District Water Supply and Sewerage.

the authority of this Act (not being injury caused by the permanent taking of land) shall serve a notice in writing upon the Board's Solicitor, which notice shall set forth the nature of the injury or damage which he has sustained, or will sustain, by reason of such construction, work, or matter as aforesaid: Provided always that nothing in this Part contained shall affect or prejudice the right of any such claimant to maintain an action in the Supreme Court as he might heretofore have done in case the Board shall deny any liability in respect of the matter of the claim for compensation. But in every such case such action shall be subject to the provisions hereafter in Part VI contained.

149. Within sixty days after the receipt of every such notice of claim by the Board Solicitor he shall forward the same together with his report thereon to the President of the Board, who shall thereupon (unless no *prima facie* case for compensation shall have been disclosed) cause a report and appraisement of the nature and amount of such injury or damage to be made, and shall inform the claimant, as soon as practicable, of the substance thereof by notice.

150. If, within ninety days after the service of notice of claim, the claimant and the Board shall not agree as to the amount of compensation, the claimant shall be at liberty to institute proceedings in the Supreme Court, in the form of an action for compensation against the Board. And any such action may be tried before a Judge of the said Court and a special Jury of four persons to be summoned by the Sheriff from the Jurors District within which the injury or damage is alleged to have been sustained, in accordance with the law regulating the summoning of Jurors for the trial of civil issues: Provided always that, upon proper application either of the Board or of the claimant a special Jury of twelve may be so summoned for the trial of such action.

151. The issue to be tried in any such action shall be whether the claimant is entitled to a larger sum by way of compensation than the amount so reported to the President of the Board and notified to the claimant as aforesaid, and if so, to what sum. And if, upon the trial of the said action, the verdict shall be for a greater sum than the amount of the said valuation the cost of the action shall be borne by the Board, but if the verdict shall be for a sum equal to or less than such amount, then the costs shall be borne by the claimant. And the power to direct a reference to arbitration shall not be exercised by the Judge before whom any such action shall be tried.

152. All moneys payable under this Act by way of compensation to any claimant, whether under the verdict of a Jury or otherwise, shall be paid by the Board together with costs (if any) within one month after the determination of such compensation to the person lawfully entitled thereto, or to his agent duly authorized in that behalf in writing.

153. Until the approved, or any other scheme or part of a scheme of water supply or sewerage, or any works connected therewith authorized by this Act, shall have been completed and transferred to the Board, the Governor shall, in respect to such scheme or works, have all the powers of framing by-laws conferred by section thirty-five of this Act, in relation to water supply and sewerage, as if he had been expressly empowered thereby; and the provisions of that section shall be read as if the word "Governor" were therein substituted for the word "Board," but only in respect to the framing of by-laws relating to water supply and sewerage, as expressed in subsections (1) to (xxviii) of section thirty-five of this Act, both inclusive. The powers conferred by this section shall not prejudice the powers of the Board in respect to any sewerage works vested in the Board.

Claim and report
thereon.

Compensation by
action in Supreme
Court.

Issue in action of
compensation verdict
and costs.

As to payment of
compensation.

Governor may make
by-laws.

Hunter District Water Supply and Sewerage.

When certain powers
may be exercised by
Minister, and when
by Board.

154. (i) When any work or portion of a work constructed under the authority of the Minister shall be transferred to the Board, all powers of making, collecting, and enforcing sewerage rates, and all powers conferred on the Minister by this Act in relation to any sewer, drain, building, or work connected with the approved scheme or any other scheme of work, or any portion thereof, and all other administrative powers in connection with the said work or portion so transferred, save as hereinafter provided, but including the power conferred on the Minister by section one hundred and eighteen hereof, shall be exercisable by the Board, and not by the Minister: Provided that until the approved scheme, or any other scheme or work, or any such portion thereof as aforesaid, shall have been transferred to the Board, the Minister shall be empowered to exercise all powers in relation to such work or portion thereof vested in him by this Act, so far as such powers relate to construction, repair, maintenance, or renewal: Provided, further, that the Minister may authorise and empower the Board to carry out and exercise all such powers as last aforesaid, or any portion or portions thereof which he may think fit, and thereupon all the powers and authorities vested in the Minister in connection with the same shall be vested in and exercisable by the Board as well as by the Minister.

(ii) Upon the approved scheme, or any other scheme or work, or any such portion thereof as aforesaid, being transferred to the Board, all powers conferred on the Minister by this Act in relation to any sewer, drain, building, or work connected with such scheme, or such other scheme or work, or portion thereof as aforesaid, shall cease to be exercised by the Minister, and shall be exercised by the Board.

(iii) All transfers authorized by this section shall be notified in the *Gazette*, and the *Gazette* notification containing a description of any work or portion of a work transferred to the Board, shall be conclusive evidence of the fact of such work or portion thereof having been lawfully transferred pursuant to this section.

PART VI.*Miscellaneous Provisions—Legal Procedure.*

Officers to account on
demand.

155. Every officer or servant employed by the Board shall, when required by the Board, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account, in writing under his hand, of all moneys received by him on behalf of the Board, in virtue of his employment; and such account shall state how and to whom, and for what purpose, such moneys shall have been disposed of, and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the Board, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of such accounts.

Summary remedy
against parties failing
to account.

156. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof, when thereunto required, or if, for three days after being thereunto required, he fail to deliver up to the Board, or to any person appointed by the Board to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power relating to the execution of this Act, or belonging to the Board, then, on complaint thereof being made to a Justice, such Justice shall summon such officer to appear before two or more Justices, at a time and place to be set forth in such summons,

Hunter District Water Supply and Sewerage.

summons, to answer such charge, and upon the appearance of such officer, or, in his absence, upon proof that such summons was personally served upon him, or left at his last known place of abode, such Justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer, and if it appear, either upon confession of such officer, or upon evidence, or upon inspection of the account, that any public moneys which should be paid over to the Board are in the hands of such officer, or owing by him, such Justices may order such officer to pay the same, and if he fail to pay the amount, it shall be lawful for such Justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol for a period not exceeding three months, unless the said amount be sooner paid.

157. If any such officer or servant refuse to make out such account in writing, or to produce and deliver to the Justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the Board, such Justices may commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts (if any) in his possession or power relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters and things (if any) in his possession or power belonging to the Board, or which should be delivered up to them by such officer or servant.

158. If the President of the Board or other person acting on behalf of the Board, shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, or that he has absconded, it shall be lawful for the Justice before whom the complaint is made, if he shall think fit, to issue a warrant, in the first instance, for the bringing such officer or servant before such two Justices as aforesaid, but no person executing such warrant shall keep such officer or servant in custody longer than twenty-four hours or such longer period as may be rendered necessary by the distance of the place of apprehension from the residence of the nearest or most convenient Justice, without bringing him before some Justice; and it shall be lawful for the Justice, before whom such officer may be brought, either to discharge such officer, if he think there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two Justices, at a time and place to be named in such order, unless such officer give bail, to the satisfaction of such Justice, for his appearance before such Justices, to answer the complaint of the said President or person: Provided nevertheless that no such proceeding against, or dealing with, any such officer or servant as aforesaid shall deprive the Board of any remedy which they might otherwise have against such officer or servant or any surety of such officer or servant.

159. Where any distress is made for any sum of money to be levied under this Act, the distress itself shall not be unlawful, nor the persons making the same be deemed trespassers, on account of any defect or want of form in the information, summons, conviction, warrant of distress or other proceedings relating thereto; nor shall the persons distraining be deemed trespassers on account of any irregularity that shall be afterwards done by the persons distraining, but the persons aggrieved by such irregularities may recover satisfaction for the special damage in an action on the case.

160. One half of any penalty recovered under this Act, or any by-law thereunder, shall be paid to the informer.

Officers refusing to deliver up documents &c., to be imprisoned.

Where officer about to abscond a warrant may be issued in the first instance.

Sureties not to be discharged.

Distress not unlawful for want of form.

Moiety of penalties to be paid to informers.

Hunter District Water Supply and Sewerage.

Actions and executions.

161. The following provisions shall govern all actions and proceedings taken in respect of claims for compensation within the proviso to the section hereof, viz. :—

- (i) No action against the Board shall be maintainable in any Court other than the Supreme Court, and no writ of execution shall be issued against the Board until the expiration of fourteen days after final judgment has been signed, and no real estate now or hereafter to be vested in the Board shall be liable to be sold under any writ of execution or other process of any Court of Law or Equity.
- (ii) No plaintiff shall recover in any such action unless notice in writing have been given to the defendant, twenty-eight days before such action is commenced, of such intended action signed by the attorney of the plaintiff, specifying the cause of such action; and the plaintiff shall not recover in any such action if tender of sufficient amends shall have been made to him, or to his attorney, by or on behalf of the defendant, before such action brought, and, in case no such tender be made, it shall be lawful for the defendant in any such action, by leave of the Court, at any time before issue joined, to pay into Court such sum of money as he thinks proper, whereupon such proceedings, order, and judgment shall be made and given by such Court as in other actions where the defendant is allowed to pay money into Court.
- (iii) No such action or suit shall be brought after three months from the time of the commission of the act on which the action or suit is founded, and the defendant, in every such action or suit, may, at his election, plead specially, or the general issue, and give this Act and the special matter in evidence at any trial, and prove that the same was in pursuance and under the authority of this Act, and if the same appear to have been so done, or if such action or suit have been brought before the expiration of twenty-eight days next after such notice has been given as aforesaid, or after sufficient satisfaction made or tendered as aforesaid, or after the time limited for bringing the same, or be brought in any other place than as aforesaid, the jury shall find a verdict for the defendant, and upon such verdict, or if the plaintiff be nonsuited, or discontinue his action or suit, after the defendant have appeared, or upon any demurrer, judgment be given against the plaintiff or plaintiffs, the defendant shall recover full costs of suit, and have such remedy for recovering the same as any other defendant has in other cases by law.

Method of proceeding before Justice in question of damages, &c.

162. Where in this Act any question of compensation, expenses, charges, or damages or other matter is referred to the determination of any one Justice or more, it shall be lawful for any Justice, upon the application of either party, to summon the other party to appear before one Justice, or before two Justices as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one Justice, or such two Justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties, or any of them, and their witnesses, on oath, and the costs of every such inquiry shall be in the discretion of such Justices, and they shall determine the amount thereof.

Legal proceedings may be taken in the name of the secretary or other officer.

163. All informations, complaints, or other legal proceedings under this Act, or under any by-law made under any of the said Acts, may be laid, made, and taken in the name of the Board of Water Supply and Sewerage, by the secretary for the time being of such Board, or any other duly appointed officer of such Board.

Hunter District Water Supply and Sewerage.

164. Every penalty, forfeiture, charge, or sum of money, imposed by, or made payable under, this Act, or by any by-law made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings before two Justices, under the provisions of the Act or Acts, in force for the time being, regulating summary proceedings before Justices. And where any such penalty, forfeiture, charge, or sum be not paid, either immediately after conviction, or adjudication, or within the time appointed thereby, the same may be enforced by distress and sale of the offender's or defaulter's goods and chattels in the manner provided by the said Acts.

Penalties &c., to be summarily recovered before two Justices.

165. Notwithstanding anything contained in the "Small Debts Recovery Act," tenth Victoria number ten, all rates and charges for water or for sewerage, and all charges for work done by the Board in accordance with the "Hunter District Water Supply and Sewerage Act of 1892," or any by-law made thereunder, and in connection with water supply or sewerage, where the amount sought to be recovered does not exceed the sum of ten pounds, may be sued for and recovered under the provisions of the "Small Debts Recovery Act," tenth Victoria number ten, in addition to the mode of recovery provided by this Act: Provided that for all purposes of prohibition and appeal, every decision or judgment given under the authority of this section shall be deemed to be an order made by Justices in their summary jurisdiction.

Rates and charges to be recoverable under the "Small Debts Recovery Act."

166. If any party shall feel aggrieved by any determination or adjudication of any Justice or Justices with respect to any penalty or forfeiture under the provisions of this Act, such party may appeal to the General or Quarter Sessions for the district or place in which the cause of appeal shall have arisen, but no such appeal shall be entertained unless it be made within four months next after the making of such determination or adjudication, nor unless ten days notice in writing of such appeal, stating the nature and grounds thereof, be given to the party against whom the appeal shall be brought, nor unless the appellant, forthwith after such notice, enter into recognizances, with two sufficient sureties, before a Justice, conditioned duly to prosecute such appeal and to abide the order of the Court thereon. At the General or Quarter Sessions for which such notice shall be given the Court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following Sessions, and upon the hearing of such appeal the Court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and also may order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal as they may think reasonable.

Court to make such order as they think reasonable.

167. If, through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to any conduit, main pipe, or other property of the Board, used in connection therewith, shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the convicting Justices; and, on non-payment of such damages on demand, the same shall be levied by distress, and such Justices, or one of them, shall issue their or his warrant accordingly.

Damage to be made good in addition to penalty.

168. It shall be lawful for any officer or servant of the Board, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this Act, and whose name and residence shall be unknown to such officer or servant, and convey him, with all convenient dispatch, before some

Transient offenders.

Hunter District Water Supply and Sewerage.

some Justice without any warrant or other authority than this Act; and such Justice shall proceed, with all convenient dispatch, to the hearing and determining of the complaint against such offender.

Notices.

169. Any notice required by this Act, or any by-law or regulation made thereunder, to be served on, or given to, any owner or occupier of any building, land, or premises, or on or to any person, may be in writing, or partly in writing, and partly printed, or may be wholly printed. And it shall be sufficient for all purposes of this Act, unless the said Act in any case prescribes a different course to be pursued, if any such notice is sent by post to the owner, by registered letter, addressed to his last known place of abode, or of business, or is served on the owner or occupier of such building, land, or premises, or left with some inmate apparently over the age of fourteen years living at the place of abode of such owner or occupier, or, if there be no occupier, if such notice be posted on some conspicuous part of such building or land. And any notice required to be served or given in respect of any public street, road, or lane may be served on or sent by post as aforesaid to the Council Clerk of the municipality wherein such street, road, or lane, or the portion thereof affected by the notice, is situated.

SCHEDULES.**FIRST SCHEDULE.****LIST OF BOROUGHS AND MUNICIPAL DISTRICTS.***Boroughs.*

Plattsburg.

Wallsend.

Municipal Districts.

Adamstown.
Carrington.
Wickham.
Hamilton.

New Lambton.
Lambton.
Merewether
Waratah.

SECOND SCHEDULE.*Declaration of office by Members of the Board.*

I do solemnly and sincerely promise and declare that, to the best of my skill and ability, I will faithfully, impartially, and truly execute the office and perform the duties of a Member (or of President or Vice-president) of the Hunter District Board of Water Supply and Sewerage.

(Signed)

A.B.

THIRD SCHEDULE.*Notice to lay Service Pipes.*

NOTICE to the owner, occupier, or mortgagee (*as the case may be*) of tenements and premises in street and the private streets, lanes, courts, and alleys opening thereunto.

THE main pipe in the said street having been laid down the owner, occupier, or mortgagee (*as the case may be*) of all tenements and premises situated as above are hereby required on or before the day of next to cause a proper pipe and stop-cocks to be laid so as to supply water from the main pipe to such tenements and premises.

A.B.

Inspector to the Hunter District Board of Water Supply and Sewerage.

Government Railways (Contracts) Amendment.

FOURTH SCHEDULE.

Warrant of Distress.

Warrant of Distress.

NEW SOUTH WALES } To constable at
TO WIT. } of in New South Wales
WHEREAS has been rated at the sum of per annum for the water rate [*or* charged
or is liable to pay the sum of due to the Hunter District Board of
Water Supply] as the occupier [*or* owner] of a certain house or tenement situate in
street in and now occupied by ;
and whereas the sum of being due and payable on account of the said
late charge or sum [as the case may be] on the day of ,
in the year of our Lord one thousand eight hundred and , and was duly
demanded by the collector of rates for , on the
day of in the year of the said
who has not yet paid the same. These are therefore to require and authorize you forth-
with to levy the said sum of together with the costs of
these presents by distress and sale of the goods found by you in the said building or
tenement according to law, and that you certify to me on the day of
what you shall do by virtue of this warrant.
Given under my hand and seal this day of
hundred and in the year of our Lord one thousand eight
(L.S.)