

# New Zealand.

ANNO VICESIMO NONO

## VICTORIÆ REGINÆ.

### No. 55.

#### ANALYSIS.

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**AN ACT to confer certain Powers and Authorities on the Corporation of the City of Dunedin and other Towns and Places incorporated under an Ordinance of the Superintendent and Provincial Council of the Province of Otago intituled "The Otago Municipal Corporations Ordinance 1865."** Title.

[30th October 1865.]

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Preamble.

**W**HEREAS it is expedient that the Corporation of the City of Dunedin and other towns and places already or which may hereafter be incorporated under the provisions of an Ordinance of the Superintendent and Provincial Council of the Province of Otago intituled "The Otago Municipal Corporations Ordinance 1865" should possess certain powers authorities and privileges and whereas it is doubtful whether the Provincial Council of Otago has power to confer such powers authorities and privileges

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

Short Title.

I. The Short Title of this Act shall be "The Otago Municipal Corporations Empowering Act 1865."

Interpretation.

II. In this Act the term "the said Ordinance" means the Ordinance of the Superintendent and Provincial Council intituled "The Otago Municipal Corporations Ordinance 1865" and the words terms and expressions mentioned in the "Index of Words" in the one hundred and twelfth section of the said Ordinance shall have the same meaning when used in this Act as is assigned to them in and by the said one hundred and twelfth section when used in the said Ordinance.

Mayor for the time being to be Justice of the Peace of the Colony of New Zealand and Resident Magistrate.

III. It shall be the duty of every Town Clerk immediately after the election of a Mayor for the city or incorporated town in which he acts as Town Clerk to give notice in writing to the Colonial Secretary for the time being of such election and of the name of the person elected and it shall be lawful for the Governor if he shall think fit to nominate and appoint such person to be a Justice of the Peace of the Colony and also a Resident Magistrate or to be a Justice of the Peace only and if such person be a Justice of the Peace at the time of his election it shall be lawful for the Governor if he shall think fit to appoint such person to be a Resident Magistrate Provided that in every such case such appointment shall continue no longer than the mayoralty of such person and immediately on the expiration or other determination of his office of Mayor such appointment shall cease Provided also that such appointment shall be without salary and notwithstanding anything herein to the contrary shall continue only during the Governor's pleasure It shall be lawful for the Mayor if appointed as Justice of the Peace or Resident Magistrate to sit and adjudicate as such Justice or Resident Magistrate in any matter or thing depending before him notwithstanding that the interests of the Council or city in which he is Mayor may be involved and to hear and determine any informations complaints or applications made under this Act or the said Ordinance.

Summary proceedings against defaulters in paying over moneys or in delivering over books papers &c. in possession of officer.

IV. If any Town Clerk or other officer appointed by any Council shall at any time either during the continuance of his office or after the expiration of or removal from his office refuse or wilfully neglect to deliver any account which by the said Ordinance he is bound or may be desired to deliver or the vouchers relating to the same or the list of the names of persons owing moneys to the Corporation with the amounts due from each of such persons in accordance with the provisions of the said Ordinance or to make payment of any moneys as shall be or remain due from him to the Corporation on account of moneys received by virtue of his office or shall refuse or wilfully neglect to deliver to the Council or to such person as they shall authorize within three days after being thereunto required by notice in writing under the hand of the Mayor and any two members thereof all books papers and writings in his custody or power relating to the

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Corporation or to the execution of this Act or the said Ordinance or to give satisfaction to the Council or to such other person as aforesaid respecting the same then and in every such case upon complaint made on behalf of the said Council by such person as they shall authorize for that purpose or any such refusal or wilful neglect as aforesaid to any Justice such Justice is hereby authorized and required to issue a warrant under his hand and seal for bringing such officer before any two Justices sitting within the said city and upon the said officer appearing or not being found it shall be lawful for such Justices to hear and determine the matter in a summary way and if it shall appear that any moneys remain due from such officer such Justices may and they are hereby authorized and required upon nonpayment thereof by warrant under their hands and seals to cause such moneys to be levied by distress and sale of the goods of such officer and if sufficient goods shall not be found to satisfy the said moneys and the charges of the distress or if it shall appear to such Justices that such officer has refused or wilfully neglected to deliver such accounts or the vouchers relating thereto or such lists as aforesaid or that any books papers or writings relating to the execution of this Act or the said Ordinance remain in the hands or in the power or custody of such officer and that he has refused or wilfully neglected to deliver the same or to give satisfaction respecting the same as aforesaid then and in every such case such Justices shall and they are hereby required to commit such offender to gaol there to remain without bail until he shall have paid such moneys as aforesaid or shall have compounded with the said Council for such moneys and shall have paid such composition in such manner as they shall appoint (which composition the said Council are hereby empowered to make and receive) or until he shall have delivered a true account as aforesaid together with such vouchers and lists as aforesaid or until he shall have delivered up such books papers and writings or have given satisfaction in respect thereof to the Council or to such authorized person as aforesaid as the case may be. Provided that no person so committed shall be detained in prison for want of sufficient distress only for a longer space of time than three calendar months. Provided also that nothing in this Act contained shall prevent or abridge any remedy by action against such officer so offending as aforesaid or against any surety for such officer but such officer shall not be sued by action and also proceeded against in a summary way by virtue of this Act for the same cause. Provided further that no surety shall be released from liability by any summary proceedings against his principal.

Bail not to be allowed.

Principal not to be sued and also proceeded against summarily but surety not released by summary proceedings against principal.

V. The Council or any company or person with whom the Council may contract for lighting any streets and public places or any of them may under the control and direction of the Council and the superintendence of the City Surveyor for the time being break up within the said city the soil or pavement of any street and fix and lay therein such lamp-posts and pipes as may be necessary for the purposes aforesaid and may cause the same to be fixed upon or against the exterior of any houses or buildings or the walls or fences thereof within the limits aforesaid but neither the Council nor any person with whom they may contract shall except with the consent of the owner lay or carry any gas-pipe or other materials or work through any private building enclosure or land within the said city.

Power to lay gas-pipes through private property to be subject to the provisions for acquiring land for new streets.

VI. Whenever it may be deemed expedient to execute works for the sewerage and drainage of the said city the Council may cause all necessary trigonometrical or other surveys to be made of the area of the said city and the levels to be taken for that purpose and as to the

Council empowered to execute works for sewerage &c. of the city.

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works to be so executed shall cause all proper plans of such drainage and sewerage on a scale of not less than six inches to a mile together with books of reference containing the names of owners lessees or occupiers of any land or watercourses through or into which such sewerage or drainage may be intended to pass or which may be required to be taken for such purpose by the Council to be deposited for public inspection in the office of the Town Clerk and shall give all such notices and do all such acts as are hereby prescribed in respect to land and premises required and intended to be taken for the site of any new or altered street before such sewerage and drainage shall be proceeded with.

VII. The control and superintendence of all public sewers of the said city shall be vested in the Council with powers to alter amend and enlarge the same from time to time under the provisions hereof.

VIII. The Council in carrying any works as last aforesaid into execution may either by themselves or their contractors break up any public or private street within the said city and sink therein trenches for the construction of sufficient common drains or sewers but after the construction thereof shall immediately fill in such trenches and other excavations which may be caused by such works and make good level and reinstate the surface or pavement of any public or private street which may have been displaced in the execution of such works and shall during the progress thereof fence any place where the ground shall be trenched or excavated in such manner as to prevent danger or accidents to passengers vehicles horses or cattle and shall keep such fences duly and sufficiently lighted during the night.

IX. The Council shall maintain all main common sewers within the said city in sufficient repair and cause the same to be properly emptied and cleansed and may cause the refuse therefrom to be emptied on any public street within the said city for the purpose of removal but if any offensive sewage shall be left above ground without being removed to such place as may be provided under the provisions hereof for the space of twenty-four hours the same shall become and may be dealt with as a public nuisance and all offending parties be liable to indictment therefor.

X. The Council shall and are hereby required prior to any public sewerage or drainage being commenced to make and pass all necessary and proper by-laws for the following purposes—

1. For regulating the construction of branch or private drains and the communication thereof with main common sewers.
2. For the repairs and cleansing thereof under the direction of the City Engineer.
3. For removing by drainage to be discharged into the common sewers any nuisances from tenements &c. at the expense of the owners or occupiers.

XI. Any owner or occupier of lands or buildings without the boundaries of the said city but contiguous to the course of any main public sewer may cause any private drain or sewer from such land or buildings to be constructed so as to discharge itself into such main sewer subject to such rent as the Council shall determine.

XII. If the Council shall put a kerb of stone or other material to any footpath in the city to which no kerb has already been put the Council may by a notice under the hand of the Mayor or Town Clerk require each owner of land abutting on such footpath to pay a sum not exceeding four shillings and sixpence for every lineal foot of kerb put opposite the land of such owner and in default of payment of the same within twenty-one days from the service of such notice on such

Control over all public sewers and drains vested in Council with power to alter &c. The Council and contractors may break up streets for the construction of sewers.

Council to cleanse sewers.

Council to provide by-laws for private sewerage.

Owners of land &c. without the boundaries may make drains and sewers to communicate with city sewers.

Council may place kerbs.

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owner then the Council may by writing under the hand of the Mayor or Town Clerk order payment thereof by such owner. Provided that if such owner cannot be found such notice shall be deemed to be sufficiently served by affixing a copy thereof on the land or any building thereon.

XIII. When any land which shall adjoin or abut upon any public street within the said city shall not be fenced in or enclosed to the satisfaction of the Council the Council by any writing under the hand of the Mayor or Town Clerk may order that such land so far as the same shall adjoin or abut upon any such street be enclosed with a wooden fence of posts and rails having two or more rails in each panel or that the said land be enclosed in such other manner and with such other materials and within such time as to the Council may appear expedient and the owner of such land after due service upon him of such order shall in such manner and within such time as shall be expressed therein at his costs charges and expenses well and sufficiently fence or otherwise enclose in manner aforesaid to the satisfaction of the Council so much of the said land as shall abut on any street court or alley.

XIV. If any such owner shall neglect or refuse to fence or otherwise enclose any such land in the manner and within the time specified in such order the Council may fence in and enclose such lands or such parts thereof as shall not have been fenced in and enclosed pursuant to the said order and cause an account of the expenses thereby incurred to be ascertained and payment thereof demanded from such owner and in default of payment of the same within twenty-one days from such demand the Council by writing under the hand of the Mayor or Town Clerk as aforesaid may order payment thereof by such owner.

XV. If any well hole excavation or other place for want of sufficient fence or enclosure shall be dangerous to persons passing along any public street thoroughfare or place within any city and the same within twenty-four hours after notice to the owner thereof to cause the same to be forthwith enclosed covered or filled in or otherwise secured so as to be no longer dangerous be not so enclosed covered or filled in or otherwise secured the Council may enclose cover or fill in the same and in any such case the expenses of so doing shall be paid by the owner upon the order of the Council under the hand of the Mayor or Town Clerk. Provided that if the exigency of the case shall require the Council may without notice and at the expense of such owner to be recovered as aforesaid forthwith enclose cover or fill in any such dangerous hole well excavation or other place.

XVI. If any person shall be desirous of flagging paving gravelling or putting a kerbstone to any footpaths he shall leave notice in writing of such his intention at the office of the City Engineer who is hereby required within three days after the receipt thereof to furnish such person with written instructions as to length breadth height and inclination of such footway and if any person shall commence any such intended work without giving the notice herein directed or shall refuse or neglect to conform to the directions of the City Engineer in that behalf any two Justices may order the removal of such work executed contrary to such directions.

XVII. When any private street court or alley shall have been set out within the said city the Council by any writing under the hand of the Mayor or Town Clerk respectively may order that any erection or obstruction which shall contract the proper width (as prescribed by the said Ordinance) of any such street court or alley or any part

Council may order land abutting on public street not enclosed to be fenced.

In default by owner Council may complete same at his expense and order payment.

Dangerous hole well or excavation near any public street may after notice be fenced in by Council at the cost of owner.

In flagging and kerbing of pathways the direction necessary to be observed.

The owners on either side of private street liable to the expense of completion.

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thereof be removed and that any such street court or alley or any part thereof be respectively levelled paved flagged or otherwise macadamized or otherwise repaired and completed with such sewerage and in such manner and within such time as to the Council may appear expedient and if after service of notice of such order upon the owners of property abutting upon either side of such private street court or alley the owners shall fail within the time provided by such order to free from obstruction and well and sufficiently to level pave flag or macadamize repair and complete with proper sewerage so much of the said street court or alley to the centre thereof as may be opposite to and co-extensive with their respective properties as aforesaid the Council may execute and complete whatsoever works as aforesaid shall not have been done in pursuance of and according to such order and may charge each such owner respectively with such part of the expenses incurred in such completion as shall bear a fair and reasonable proportion to the extent to which his property may abut on such street court or alley regard being had to the condition of completeness and repair or the reverse in all or any of the respects aforesaid in which such street court or alley opposite to the property abutting thereon shall be at the time of serving such notice and direct payment thereof by writing under the hand of the Mayor or Town Clerk.

Council authorized to take all necessary measures for public health and to appoint Inspectors of Nuisances.

XVIII. The Council may adopt all such measures as they may deem necessary for the cleansing of the said city and the preservation of the public health and for the prevention and suppression of nuisances and for the more effectually carrying such objects into effect may appoint one or more inspectors to be called Inspectors of Nuisances.

Powers and duties of Inspectors of Nuisances.

XIX. Every such Inspector of Nuisances is hereby authorized to visit and report upon the state and condition with regard to cleanliness of all streets squares places and public reserves within the said city and as to any nuisances affecting the same and also to visit all slaughter-houses markets baths and wash-houses and all butchers' and other shops and shambles and all buildings where any offensive trade may be carried on and all breweries stables cattle-yards cowsheds hogsties backyards out-buildings wells ashpits privies cesspools and drains belonging to or used by any dwelling-house building or premises within the said city and to examine the state thereof in regard to health and cleanliness or in respect of any nuisance.

Council may order premises to be cleansed and nuisances suppressed.

XX. The Council upon the report of any such inspector or other authorized officer in that behalf may issue directions in writing under the hand of the Mayor for the cleansing of any street and place and of any buildings or premises within the said city and for the removal of or abating all nuisances which may be there found within such time as to the Council may seem needful and if after the service of a copy of such directions upon any contractor for the clearing of the public streets or upon the owner or occupier of any private street or of such buildings or premises the same shall not be cleansed or purified as required by such directions and any nuisance being therein or arising therefrom shall not be removed or abated within the time therein specified the Council may cause such streets to be cleansed and every such building or premises to be purified and if needful as well within as without and any such nuisance to be removed or abated and may recover the costs and expenses in carrying out any of the foregoing directions into effect from any such contractor occupier or owner by an order of the said Council under the hand of the Mayor or Town Clerk.

No impure liquids to be suffered to remain in houses or to flow

XXI. No person shall suffer waste or impure liquid water or matter to remain within any building or upon any property within the said

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city of which he may be the owner or occupier for twenty-four hours after notice to him of any from any Inspector of Nuisances or authorized officer of the Council to remove the same or shall suffer any waste or impure water or liquid matter to flow upon any footway or carriage-way or into any surface drain or watercourse or shall suffer any offensive overflow soakage or leakage from any water-closet privy or cesspool within the said city Provided that water rising through the ground or from springs in any cellar and collected therein not being impure may be pumped thereout into the water-channel of any street.

over carriage-way  
footway or water-  
channel.

XXII. If after twelve hours' notice to remove such impurities any of them shall be continued the Council shall have power to enter into any building or property in or from which any such impurities shall be suffered to remain or overflow and proceed to do whatever may be needful for the abating of any such nuisance and preventing the continuance or a recurrence thereof and the expense incurred in so doing shall upon the order of the Council in writing under the hand of the Mayor or Town Clerk be paid by the owner or occupier of such building or property to the Corporation.

Council may enter  
premises and abate  
nuisances.

XXIII. If upon the certificate of two duly qualified medical practitioners or on the oath of any three citizens it shall appear to the satisfaction of the Mayor that any building or place within the said city is in such a condition as may be likely to engender and propagate infectious or contagious disease and that the health of any person is likely to be prejudicially affected or endangered by reason thereof the Mayor is hereby authorized by warrant under his hand to require the owner or occupier of any such building or place forthwith to cleanse purify and disinfect the same as the case may require to the satisfaction of any Inspector of Nuisances or other officers of the Corporation or medical practitioner as in such warrant shall be named and if such owner or occupier shall fail to comply with such directions within such time as in the said warrants may be specified the Mayor on proof of such default may by indorsement on such warrant further authorize such inspector with such assistance as may be necessary forthwith to enter into any such building or premises in such warrant described and to cause the same forthwith to be cleansed purified and disinfected as the case may require and the expenses which may be so incurred together with a proper fee to each such medical practitioner shall upon the order of the Council by writing under the hand of the Mayor or Town Clerk be paid to the Corporation by such owner or occupier.

On certificate of  
medical practitioners  
or on oath of three  
citizens that place is  
likely to engender  
disease Mayor may  
require owner to  
cleanse same.

XXIV. If any building or anything thereon affixed shall be deemed by the City Engineer to be in a ruinous and dangerous condition so as to render either the occupiers of adjoining buildings or persons passing thereby liable to any injury in any way therefrom he is hereby empowered to cause a hoard or fence for preventing nearer approach thereto than may be safe to be forthwith put up and to take any such other measures of precaution as the exigency of the case shall in his discretion require but if circumstances shall so admit he shall cause notice in writing to be served on the owner or occupier of such dangerous building and if such owner or occupier cannot be found to be affixed on the door or other conspicuous part thereof requiring such dangerous building or other thing to be taken down repaired or secured as the case may require and if such taking down repairing or securing shall not be commenced within the time by such notice required or being so commenced any delay in the completion thereof as speedily as the nature of the case shall demand shall take place the City Surveyor may make complaint thereof before any Justice who is hereby empowered to order the owner or in his default the occupier (if any) of

In case of ruinous  
and dangerous  
buildings what  
measures may be  
taken.

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such dangerous building or other thing to take down rebuild repair or otherwise secure the same or such part thereof as shall appear to such Justice to be ruinous or dangerous within a time to be fixed by such Justice and to the satisfaction of the said surveyor and in case the same be not so taken down repaired rebuilt or otherwise secured within the time so limited or if no owner or occupier can be found on whom to serve such order the Council shall with all convenient speed cause all or so much of such building or other thing as shall be in a ruinous condition as aforesaid to be taken down rebuilt repaired or otherwise secured in such manner as shall be requisite in which case all expenses of putting up such hoard or fence and of taking down repairing rebuilding or securing such building or other thing as the case may be shall be paid upon the order of the Council by writing under the hand of the Mayor or Town Clerk by such owner or occupier to the Corporation.

Council may sell materials of buildings pulled down in payment of expenses incurred.

XXV. If under the provisions herein contained any building shall be taken down either wholly or in part the Council may sell the materials thereof or of so much thereof as shall be taken down and the money to arise from such sale shall be applicable so far as the same may extend to the reimbursement of the Corporation in any outlay and expenditure which shall have been incurred by reason of every such taking down respectively or incidental thereto and the surplus (if any) shall be paid to the owner of the property taken down on demand but if the money to arise from any such sale of materials shall be insufficient to satisfy and defray the expenses incurred by the Corporation in any such taking down the then owner of the same property shall be liable to make good the deficiency to the Corporation as herein provided and to pay the same as the Council by any order in writing under the hand of the Mayor or Town Clerk shall direct.

Appeals against assessment or alteration of assessment to be heard before local Court.

XXVI. Appeals against assessment or alteration of assessment shall be heard before the Judge of the District Court if the city be within a district in which there is a District Court nearest established or if not then the Resident Magistrate's Court held nearest to the offices of the Town Clerk and shall be commenced by a notice in the form in the Schedule B. or as near thereto as circumstances will permit served by the appellant within the period allowed for appeals upon the Council and also upon any person whose name it is proposed to insert in the assessment or whose property it is alleged is omitted or assessed below its full and fair annual value and a copy of such notice shall be delivered to the Clerk of the District Court or Resident Magistrate's Court six days before the day of hearing.

Appeals to be heard at sitting of Court next after sixteen days from assessment or alteration appealed against.

XXVII. The appeal shall come on for hearing at the sitting of the District or Resident Magistrate's Court next after sixteen days from public notice of the assessment or alteration appealed against having been given and the Town Clerk shall produce the assessment book appealed against and upon examining the parties and the witnesses on oath the Court at the sittings aforesaid or at some adjourned or subsequent sittings may make such order as may be just and shall cause any alteration occasioned by the decision of the appeal to be made by the Clerk of the Court in the assessment book and may make such order as the Court may think fit for the payment of costs by or to the Council to or by the appellant or by or to any respondent other than the Council to or by the appellant.

Collector empowered to sue for rates in his own name.

XXVIII. Every rate when payable shall be deemed payable to the collector authorized to receive the same who is hereby empowered in his own name to receive sue for and recover from the person liable therefor any rate payable under the provisions hereof and of the said Ordinances or either of them.



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XXIX. In respect of rates in arrear for the payment whereof the owner of the property rated is liable the collector shall give notice to the occupier of the property in respect of which such arrears shall be due to pay to the collector or his authorized agent all rent thenceforward until satisfaction shall be made thereout of such arrears and every such occupier shall pay all rent accruing due after the service of such notice pursuant to the requisitions thereof to the collector or his agents and until full satisfaction of such arrears by the receipt of rent as aforesaid and a poundage of one shilling thereon the collector is hereby empowered to exercise all remedies which may be enforced by a landlord against a tenant for recovery of rent in arrear.

Collector shall give notice to tenants to pay rents to him when rates payable by owners are in arrear.

XXX. If after the expiration of the time limited for the payment of any rate to be collected under the provisions hereof and the said Ordinances or either of them in respect of any property assessed any person liable to pay the same shall neglect or refuse so to do the collector of rates by virtue of the warrant of his appointment to office may satisfy such rates by distress and sale of the goods and chattels of the person so liable together with such charges as are specified in Schedule C. hereto.

May distrain for rates in arrear.

XXXI. Any unoccupied houses tenements or hereditaments in respect of which any rate or part of any rate shall remain unpaid for one year after the same shall have become due and payable and for the satisfaction whereof no distress and sale can be made shall thereupon become charged with such rate in arrear together with interest at ten pounds per centum from the day when such rate became payable which arrears and interest may be recovered in manner following.

As to unoccupied houses where no distress for rates chargeable thereto after the expiration of one year with interest.

XXXII. Within two calendar months after the expiration of such year the Town Clerk shall cause to be published in the Provincial Government *Gazette* and in such other manner as by the Council may be deemed necessary particulars of every such unoccupied property and the arrears of rate payable with interest in respect thereof together with a notice requiring the owner or reputed owner by name (if known) or otherwise whom it may concern to make payment of such arrears.

Manner in which property so chargeable is to be dealt with for the recovery of rates in arrear and interest

XXXIII. All rates and arrears of rates payable under this Act shall be recoverable under and in accordance with the provisions of "The Sale for Non-payment of Rates Act 1862."

Rates recoverable.

XXXIV. If any order which shall be made by the Council by virtue of this Act or the said Ordinance for the payment of any sum of money costs charges or expenses by any owner lessee occupier or other person and whereof a copy either in print or written or partly in print and partly written shall have been duly served on the person therein named or if such person cannot be found whereof a copy shall have been affixed on the house or land therein referred to shall not have been satisfied within the time by such order limited payment thereof may be enforced as follows that is to say—After such copy shall be so served either personally or by affixing a copy of the same on the house or land as aforesaid upon any owner lessee occupier or other person and upon complaint made to them that the money costs charges and expenses required by such order to be paid or any part thereof still remains due and payable any one or more Justices upon proof of such service and of the order being unsatisfied either wholly or in part may order the sum to be paid thereunder to be levied by distress and sale of the goods and chattels of the person mentioned in such order and in default of such distress shall commit such person to gaol for a period of not less than fourteen days nor exceeding three months

Order of Council for payment of money how enforced.

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Provided that any tenant or occupier who in satisfaction of such order shall pay any sum which ought to be paid by the owner of any property in relation to which such order shall issue or whose goods shall in default have been distrained and sold in such satisfaction shall have all the remedies for reimbursement of any sum so paid and for compensation for any goods so distrained and sold as in the said Ordinance are reserved to tenants in possession primarily liable to the payment of rates.

Service of orders  
summonses &c.

XXXV. It shall be deemed sufficient personal service of all summonses notices orders and requisitions which by this Act or the said Ordinance are directed to be served upon the owner lessee occupier or other person if the same be left within the time hereby or by the said Ordinance prescribed at the usual or last known residence or place of business within the city of any such persons respectively and as respects summonses or notices to be served upon any member of the Council or officer of the Corporation it shall be deemed sufficient personal service if such notices be forwarded by post addressed to his last known residence or place of business.

Service on Corpo-  
ration.

XXXVI. Where it may be requisite to serve any notice writ or other legal proceedings upon the Corporation the service thereof upon the Town Clerk personally or by copies left at the Town Hall or building used by the Council as such shall be deemed sufficient service on the Corporation.

Notice of action and  
ground thereof &c. to  
be given.

XXXVII. All actions and prosecutions to be commenced against any person acting in the execution of this Act or the said Ordinance for anything done in pursuance thereof shall be commenced within three months after the fact committed and not otherwise and notice in writing of such action and the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and in any such action the defendant may plead a general denial and give this Act or the said Ordinance or both of them and the special matter in evidence at any trial to be had thereupon and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant and if a verdict shall pass for the defendant or the plaintiff shall become nonsuit or discontinue any such action after issue joined or if upon demurrer or otherwise judgment shall be given against the plaintiff the defendant shall recover his full costs as between solicitor and client and have the like remedy therefor as any defendant hath in law in other cases.

Council may make  
by-laws and impose  
fines not exceeding  
£10.

XXXVIII. The Council may make such by-laws as they shall deem meet for the ordering of their proceedings for conducting the elections of Mayor Councillors and Auditors in any matters which may not be sufficiently provided for by the said Ordinance nor be inconsistent therewith and for determining the duties of any officers servants and others appointed by the Council and all such by-laws as to them shall seem meet for the good rule and government of the city and for the prevention and suppression of nuisances therein and such further and other by-laws as may from time to time be deemed necessary to these ends and all such by-laws as are specified in the Schedule hereunto marked A. of by-laws authorized to be made by the Council of the City of Dunedin and to repeal all or any of the several by-laws in this section and in the said Schedule mentioned and referred to and to make others in their stead and to appoint such regulations and fines as they may consider requisite for the prevention and suppression of such offences as aforesaid and for the better enforcement of the said several

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by-laws Provided that no such fine shall exceed the sum of ten pounds The by-laws in force in the said city at the time of the passing of this Act shall unless sooner repealed be and remain in full operation therein until the first day of January then next ensuing.

XXXIX. No by-laws shall be made unless two-thirds of the whole of the members constituting the Council for the time being shall be present nor shall any such by-laws be of any force until they shall have been confirmed by the Superintendent of the Province of Otago with the advice and consent of his Executive Council and shall have been published in the Provincial Government *Gazette* Provided that no by-laws shall be submitted to the Superintendent for confirmation as aforesaid until the same shall have been laid before the Provincial Council of the said Province for fourteen days and provided also that no by-law to be passed by the said Council shall be repugnant to this Act or the said Ordinance or to the general spirit and intendment of the laws in force within the Colony and the Province.

Two-thirds of whole Council requisite for the passing of any by-law.

No by-law to be repugnant to this Act or laws of the Province.

XI. A copy certified under the hand of the Town Clerk and seal of the Corporation of any by-laws which shall be passed by virtue of this Act with a declaration thereon signed by the Mayor and Town Clerk that a transcript of such by-laws sealed with the said seal had been sent to the Superintendent and the requirements of this Act in respect of such by-laws had been otherwise complied with shall be received as *prima facie* evidence of the existence of such by-laws and of the sending and publishing thereof in all Courts of Law and before all Justices or otherwise.

By-laws under common seal to be received as evidence.

XII. All penalties and fines paid or recovered under any of the several provisions contained in the Ordinances of the Superintendent and Provincial Council of Otago for any act done within any city or for any omission or neglect to do any act specified in the Schedule herein marked D. which should have been done within any city and all fees paid under the said several Ordinances for any rights or privileges to be exercised within any city shall be paid over to the Corporation of such city and shall form part of its funds and all fines and penalties paid or recovered under this Act and the said Ordinance or either of them or any by-laws made thereunder shall be paid over to the Corporation of the city within which the offences for which any such fine or penalty shall be imposed shall have been committed.

Penalties fees and fines under "The Town and Country Police Ordinance" and this Act and by-laws to be paid to Corporation.

XIII. And whereas doubts have been raised whether it was competent for the Provincial Council of Otago to pass and for the Superintendent on behalf of the Governor to assent to the said Ordinance It is hereby declared and enacted that the provisions contained in the said Ordinance shall be valid and deemed to have been valid and to have had the force of law from the day of the date of the proclamation in the Provincial Government *Gazette* of Otago that the Governor had assented to the same Provided that notwithstanding anything herein contained it shall be lawful for the Superintendent and Provincial Council of Otago to alter or repeal all or any of the provisions of the said Ordinance It is also hereby declared and enacted that as to the first elections under the said Ordinance for the City of Dunedin the said proclamation of the said assent and all other proclamations and all notices and appointments made or given and all acts done by the Honourable John Larkins Cheese Richardson as Speaker of the Provincial Council of Otago and as such acting as Superintendent of the Province of Otago after the resignation of John Hyde Harris Esquire of the office of Superintendent of Otago and before the election of Thomas Dick Esquire to the said office shall be deemed valid and to have been regularly and duly made given and done.

Validating the Ordinance of the Provincial Council of Otago intituled "The Otago Municipal Corporations Ordinance 1865."

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Schedule A.

## SCHEDULE A.

*Schedule of By-laws by this Act authorized to be made by the Council of the City of Dunedin.*

## BATHS.

For the general management of public baths and for fixing the sums to be paid for the use thereof.

For the division of baths so as to afford sufficient separate accommodation for the sexes and private baths for either.

For the regulation of hot and cold baths and shower baths vapour and medical baths the requisites to be supplied and the price to be paid therefor.

## BAZAARS.

For the regulation of licensed bazaars for the sale of horses and carriages established in pursuance of the said Ordinance the amount to be paid for licenses and the maintenance of cleanliness therein.

## CELLARS.

For the prohibiting of the use of cellars as places for dwellings and general habitation.

## DRAINS (PRIVATE).

For the general regulation of private drains and sewers intended to communicate with main and common sewers and in the respects following that is to say—

1. For regulating the construction of branch or private sewers and the communication thereof with the main common sewers.
2. For fixing annual or other rents to be paid for such private sewers to be recoverable in respect of the house or premises from which such drain issues in the same manner as general rates.
3. For the repair and cleansing thereof under the direction of the City Engineer.
4. For preventing the use of private sewers and drains except by the person rated.
5. For removing by drainage to be discharged into the common sewers any nuisances from houses and tenements at the expense of the owners or occupiers refusing so to do.

## ELECTIONS.

For the better regulation thereof in any respects not defined by the said Ordinance and not being inconsistent therewith.

## FIRES.

For the prevention and more speedy extinguishment of fires.

For the regulation and reward of firemen and provision for them and their families in case of death or accident in discharge of duty.

For the regulation of fire-plugs alarm-bells and fire-engines.

For securing a prompt supply of water.

For preventing the lighting of fires in the open air smoking in any warehouse store stable or outbuildings or place liable to ignition or wherein are goods so liable.

For regulating the kind and quantity of any inflammable or combustible materials or substance to be kept at any one time in one place.

For preventing the stacking and for regulating the storage and keeping of any straw thatch bark reeds coal or firewood.

For licensing fit buildings for the storage thereof.

For prohibiting the use of ashpits of improper construction and the throwing unquenched embers liable to re-kindle in the open air.

The throwing down in any building or premises where ignition might ensue therefrom any lucifer or tow-match whether lighted or not or any lighted cigar or ashes from any pipe.

## GAS.

For keeping service pipes fully charged with gas.

For preventing the contamination of any stream or place for water well or fountain within the said city by such gas or anything used in the making of it.

The escape of gas.

## LIGHTING.

For regulating the lighting of any street or district at the joint expense of the Corporation and the inhabitants of such street the assessment for and the collection of the rates to be levied to meet the moiety of the expense to be paid by such inhabitants.

## PASSENGER AND OTHER VEHICLES.

For regulating and licensing all hackney carriages cabriolets public conveyances coaches omnibuses spring-carts or other vehicles of the like nature wagons drays carts and other vehicles for the carrying goods and merchandise plying let or kept for hire within the city and also wagons drays or carts or vehicles used in hawking firewood and water within the city respectively and for registering the names of the owners drivers and conductors of all such passenger and other vehicles and for the approval of owners and drivers before licenses granted

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## AS TO HACKNEY CARRIAGES.

For the distinction of vehicles in respect to the fares to be taken by the owner.

For fixing the rates and fares to be taken and the mode of computation of distances.

For appointing stands for such carriages within the city and the regulations to be observed thereat.

For enforcing the obligation of owners and drivers to carry passengers on demand.

For limiting the number of such passengers inside and outside their baggage and goods and regulating the fares for children and as to taking up and setting down passengers.

For the maintenance of carriages in proper order and condition and regulating how the same shall be provided furnished and kept.

The painting the names of the owners and the numbers thereon and the keeping affixed within the same authorized tables of fares and distances and the speed at which they shall proceed.

For the providing for the delivery over and disposal of articles left in licensed carriages.

For compelling the approved owner or driver to be in charge of such carriages and to prevent the same being driven by others and persons not hiring the same from riding with the owner.

For preventing the smoking in any such carriages or by the owner thereof.

For prohibiting coffins containing the corpses of deceased persons above the age of five years from being conveyed therein.

## AS TO ALL CARRIAGES.

For punishing the misconduct of the drivers and conductors thereof and persons attending any of the aforesaid passengers or other vehicles in carelessly or furiously driving or racing or in demanding or receiving more than the legal fare or in using any threatening or abusive indecent or insulting language as also for the punishing of persons using such vehicles respectively seeking to avoid payment thereof who shall fraudulently evade or attempt to evade the payment of fines.

## PORTERS.

For the licensing and regulating of porters and their charges and the fixing upon any badge or number to be borne by them.

## STREETS.

For preventing obstructions of any streets footways water-channels and water-courses therein.

For regulating the flagging paving and repairing of the streets and footways.

For cleansing the same.

For compelling the securing removing or filling up any cellar-ways or openings which may now or hereafter be in or under any footway.

## SANITARY.

For the prevention and suppression of all nuisances whatsoever whether specified in this Act or not.

For compelling the owners or occupiers of tallow-chandlers' shops soap-factories tanneries and of houses buildings privies sewers or places which may be in an unwholesome or offensive state or be likely to become so to cleanse the same as the Council may think necessary in relation to the health and comfort of the inhabitants of the city.

For the preservation of cleanliness in public slaughter-houses markets baths and wash-houses.

For the due restriction and regulation of noisome and offensive trades.

For regulating the situation construction removing emptying cleansing and filling up privies and cesspools.

For compelling the removal of waste water and impurities from cellars and any other places.

For the check and prevention of infectious or contagious diseases.

For the purification of any house building or place from the state of which there is probable cause to apprehend the engendering of any disease and injury to the public health.

For fixing the fees payable to medical advisers consulted in such cases.

## WASH-HOUSES.

For the general regulation of public wash-houses and the drying grounds belonging thereto.

The requisites to be supplied to persons hiring the same.

## FOUNTAINS.

For regulating a continuous supply of water (without charge) therefrom.

For preventing the pollution thereof.

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Schedule B.

## SCHEDULE B.

*Notice of Appeal from Assessment.*

City of

To the Town Clerk of \_\_\_\_\_ and to Mr. \_\_\_\_\_ of \_\_\_\_\_

Take notice that it is my intention to appeal against the assessment made for the city of \_\_\_\_\_ at the sitting of the District Court of \_\_\_\_\_ (or Resident Magistrate's Court) at \_\_\_\_\_ to be held next after sixteen days from the publication of the notice of such assessment and the grounds of my appeal are (*here state clearly the grounds of appeal*).

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 186

Schedule C.

## SCHEDULE C.

*Fees and charges which may be taken by any Collector of Rates upon each distress made in pursuance of the "Otago Municipal Corporations Empowering Act 1865" for rates in arrear and for any sale consequent upon such distress.*

	£	s.	d.
For every levy ... ..	0	1	0
Man in possession (each day) ... ..	0	5	0
Inventory sale and delivery of goods (1s. in the £1 on the net proceeds of sale).			
Collector's poundage on executing warrant and effecting sale (6d. in the £1 on the net proceeds of sale).			

Schedule D.

## SCHEDULE D.

- "The Town and Country Police Ordinance 1862."
- "The Dunedin Building Ordinance 1862."
- "The Common Lodging-house Ordinance 1862."