

Mr. Hutchison.

MUNICIPAL CORPORATIONS ACTS AMENDMENT.

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A BILL INTITULED

AN ACT to amend the several Acts relating to Municipal Corporations.

Title.

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

1. The Short Title of this Act is "The Municipal Corporations Acts Amendment Act, 1880."

Short Title.

5 2. This Act shall be read subject to the interpretations respectively contained in "The Municipal Corporations Act, 1876" (hereinafter called "the said Act"), and in the several Acts amending the said Act.

Interpretation.

BOROUGH DIVISIONS.

10 3. Within fourteen days after the presentation of any petition or counter petition under any of the sections of the said Act numbered from seventeen to twenty-six, both inclusive, it shall be the duty of the petitioners to give notice, in writing, of such petition and the object thereof to the Council, Board, Trustees, or other governing body, by whatever name they may be known, of

Notice of petition to be given to adjacent local bodies.

- any borough, county, road or highway district, or other district likely to be affected by such petition.
- Severance from a borough.** 4. If not less than two-thirds of the burgesses of any ward of a divided borough, or if a majority of the burgesses of any portion of an undivided borough, such majority representing a number not less than one-sixth of the total number of burgesses in the borough, petition the Governor praying him that a portion of such ward or undivided borough be severed therefrom, and publish such petition, and no counter petition is presented to the Governor signed by not less than one-third of the burgesses of the other wards in a divided borough, or one-third of the total number of burgesses in an undivided borough, within two months from such publication, the Governor may, by Proclamation, sever such portion of a ward or a borough respectively from the borough, and annex the same to the adjacent borough, county, or road district with which the portion so severed forms one continuous area. 5
- Severance not to affect Corporation.** 5. Any portion of a borough severed therefrom under the last foregoing section of this Act shall thereafter cease to be a part of the borough within which it was theretofore included; but such borough shall be deemed to be the same borough, and the Corporation thereof the same Corporation, as before such portion was severed therefrom. 10
- Financial arrangements in case of severance.** 6. In every case of the severance of a portion of a borough therefrom, the provisions of the thirty-second section of the said Act, relating to financial arrangements to be made in cases of districts included within boroughs, shall, *mutatis mutandis*, apply in cases where any portion of a borough becomes annexed to a county or road district under the foregoing provisions of this Act. 15
- Alteration of wards not to affect entire borough divisions.** 7. An alteration in the boundaries of any ward of a borough, or an annexation of any district to such borough, or a severance therefrom of any portion thereof, shall not be deemed to re-subdivide the borough, or abolish the subdivisions thereof, or in any way to affect the Council or Councillors of the borough, unless it is so expressed in the instrument making the alteration. 20
- Land included in borough may be added to particular wards.** 8. Where the boundaries of a divided borough are altered under the provisions of section thirty of the said Act, the Governor, in the Proclamation making such alteration, may declare that the land proposed to be included within such borough shall be added to a particular ward thereof, or may declare what portions of such land shall be added to any of the wards of the borough respectively. 25
- Where any alteration of the boundaries of a divided borough has at any time been made, the Governor, on petition of the Mayor and Council, by subsequent Proclamation publicly notified, may declare to which ward or wards respectively the land included within the borough by the first Proclamation or any portion thereof shall be added. 30
- No inquiry into petition after Proclamation issued thereon.** 9. No inquiry under the twenty-eighth section of the said Act into the matter or the signatures of any petition presented to the Governor under the said Act or this Act shall be instituted after the due issue of a Proclamation in compliance with the prayer of such petition. 35
- SPECIAL FUNDS—LOANS.** 40
- Moneys for special purposes to be kept in separate accounts.** 10. All moneys raised by special loan, and moneys belonging to the borough which are appropriated for special purposes, shall be paid into a separate account, at the bank where the borough fund is kept, to be called "The Special Fund Account," and shall not be drawn out of such account except for the special purposes to which such moneys have respectively been appropriated or intended to be appropriated. 45

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11. Notwithstanding anything contained in section one hundred and fifty-two of the said Act, the interest on every debenture may exceed *seven* per centum on the amount thereof, but shall not exceed *eight* per centum on such amount in any case where such debenture is issued by the Council of any borough the total
5 annual revenue of which shall not exceed *one thousand* pounds.

Small boroughs may pay increased interest for loans.

12. Whenever any special loan has been duly authorized under the said Act, and it shall be found that the sums intended to be thereby raised will not suffice for the objects of the loan, and the burgesses of a borough shall, by a subsequent resolution, approve of a larger sum being raised than was proposed in
10 the original loan, it shall be lawful for the Governor, on receiving such second resolution, after satisfying himself that all proceedings attending the adoption of the second resolution have been carried out in accordance with law, and that all liabilities and charges attendant on the raising of any part of the loan originally authorized have been duly provided for and protected, by an Order in Council
15 to declare all proceedings, acts, matters, or things done, performed, or exercised in or towards the raising of the original loan, and all matters incidental thereto, to be revoked and rescinded.

Proceedings for raising larger loans in place of sums originally authorized.

Thereupon all such proceedings, acts, matters, or things shall be null and void to all intents and purposes; and the larger sum authorized to be raised
20 under the second resolution aforesaid shall be deemed to be a special loan duly authorized under the said Act, and may be raised accordingly.

13. In "The City of Wellington Loans Consolidation Act, 1876," the term "revenues" shall not, nor shall it ever have been, deemed to include or to make available for any of the purposes of that Act any special rate made or to be
25 made subsequent to the raising of the moneys under that Act, unless such special rate is made for the express purpose of securing the moneys borrowed under that Act, or the interest thereon, and not for any other purpose.

Definition of "revenues" in "Wellington Loans Consolidation Act, 1876."

INSPECTORS OF NUISANCES.

14. Every Inspector of Nuisances shall have the same powers and shall
30 perform the same duties with respect to private lands in a borough as he has or is required to perform with respect to public places under section two hundred and thirty-four of the said Act.

Definition of "Inspectors." Their duties.

The term "Inspector of Nuisances," in this Act and in the said Act, shall be deemed to include any person appointed from time to time by the Council,
35 either temporarily or permanently, to perform the duties of that officer.

15. In any case of the absence of the Mayor, any Councillor may, by direction of the Council, sign the warrant of appointment of any person as an Inspector of Nuisances, or sign any order requiring the owner or occupier of any land or buildings within the borough to clean and purify the same, or to
40 abate any nuisance therein or thereon.

Appointments and warrants in urgent cases.

In any case where any matter requires immediate attention, the Mayor or any Councillor may, without the direction of the Council, sign any such warrant or order; but the person so signing shall report such case to the Council, at its first meeting, for confirmation.

PRIVATE STREETS.

16. The Council may, by a special order, declare any private street to be, and such private street shall, from the day named in such special order, become
45 a public street.

Council may declare private streets public.

The provisions of the one hundred and eighty-fifth section of the said Act, and all other provisions of any Act affecting public streets, shall, from the day
50 hereinabove mentioned, apply to private streets.

PRIVATE LANDS.

Council may abate nuisances on private lands as if public.

17. The power of the Council to adopt measures for preventing and suppressing nuisances in the borough shall extend over all private lands within the borough; and for this purpose the Council may, whenever the public health or safety shall render it necessary, by an order in writing, require the owner or occupier of any such lands— 5

(1.) To remove, or keep properly trimmed, any furze or other thing growing on such lands or in the hedges thereof which, from its age, size, or nature has become of a dangerous character owing to its inflammable nature; 10

(3.) To drain or level such lands, so as to prevent the accumulation of any stagnant water or filthy or noisome waters thereon; or to fill up such land with earth to the permanent level of the adjacent lands if, in the opinion of the Council expressed by resolution, such filling up shall be the only means of preventing such accumulation; 15

(3.) To cleanse and keep open any ditch, gutter, or drain thereon, and to remove any filthy or noisome waters accumulated in any part thereof.

If such owner or occupier neglects or refuses to comply with any such order, the Council may take such steps as it shall think fit for abating the nuisance, and such owner or occupier shall be liable to pay the costs thereof, which may be sued for and recovered by the Council as money owing by such owner or occupier for work and labour done founded on a contract. 20

May recover cost if owner unknown.

18. Whenever the Council, acting under the last foregoing section of this Act, or under sections two hundred and thirty-six and two hundred and thirty-seven of the said Act, shall have incurred any cost in abating a nuisance upon unoccupied land within the borough, the owner of which shall be unknown or not known to be within the colony, such cost may be recovered by the Council in the same way in all respects, both as to procedure for obtaining judgment and in selling and conveying the land or otherwise, as unpaid rates may be recovered under "The Rating Act, 1876," or any Act amending or in substitution for the same. 25 30

May require private lands to be levelled.

19. The Council may cause the owner or occupier of any ground over or upon which a house or other building is to be erected to have such ground filled up to the permanent level of the streets of the said borough before such house or other building is erected thereon, if the Council so directs, and to do all things necessary to prevent the accumulation of stagnant water under any such house or building. 35

May control construction of cellars on private lands.

20. Where the owner or occupier of any ground proposes to construct a cellar at the time of the erection of any house or other building, or at any time thereafter, he shall give notice of his intention to the Council, and shall cause such cellar to be so constructed that it cannot become a receptacle for stagnant water or other impure matter. 40

BY-LAWS.

Additional by-laws.

21. In addition to the powers of Borough Councils in respect of by-laws, as enumerated in Part XII. of the said Act, the Council of every borough may make further by-laws as provided therein:— 45

Sale of meat and provisions.

(a.) For regulating the sale of meat and perishable provisions, whereby the Council may prohibit the same to be sold or exposed for sale within the borough until inspected by one or more inspectors to be appointed from time to time by the Council: 50

- (b.) For the inspection of lodging-houses, whereby the Council may issue licenses for the same, and prohibit unlicensed houses within the borough; fix the number of lodgers to a proper amount of space in licensed houses; and insure that adequate means are provided for proper ventilation, and protection from fire: Lodging-houses.
- 5 (c.) For the prevention of Sunday traffic in such cases as it may appear to the Council to be either unnecessary or unseemly: Sunday traffic.
- (d.) For dealing with hedges, whereby the Council may prohibit the planting of furze for this purpose, or any other material it may consider to be likely to become of danger from its inflammable nature; provide for the proper trimming and care of any existing hedges of such materials respectively; and compel the cutting down or eradication from any lands of any such material which, from its overgrowth, has become or is likely to become of danger. Hedges.
- 10
- 15 **22.** Clause three hundred and forty-six of the said Act is hereby amended by the addition of the following words: "And the continuance of any such breach of any by-law shall be deemed to be a fresh offence for every day of such continuance, and shall render the offender liable to repeated penalties until the requirements of the by-law are complied with." Continued breach of by-law a fresh offence.
- 20 MISCELLANEOUS.
- 23.** Clause one hundred and six of the said Act shall be repealed to the extent that moneys of the Corporation may be paid into more than one bank, if at any time it appears to the Council that the interests of the ratepayers would be served by the adoption of such a course. Corporations may have more than one bank.
- 25 **24.** No liability shall attach to the Council by reason of fixing the permanent levels of any street and thereafter forming the street according to such levels, whether at the time of doing so the said street was made and used as a street or was unmade: Provided the same be done in strict compliance with the requirements of the said Act relating to such matter; and that, where roads divide boroughs throughout the colony, the centre of the same be the dividing line; and that, where adjoining boroughs cannot agree as to cost of maintenance of such dividing roads, the dispute shall be submitted to the nearest Resident Magistrate, whose decision shall be final and conclusive. No liability when streets formed to level.
- 30 **25.** The authority of the Council to lease lands by public auction, as provided in section one hundred and seventy-seven of the said Act, is hereby extended, and the said Council may lease such lands by public tender: Provided that all the conditions prescribed by the aforesaid section are complied with in the same manner as if such leasing were by public auction. Council may lease by tender.
- 35 **26.** Payment of all rates shall be a first charge upon the property assessed for the same, and bankrupt and insolvent estates shall be liable primarily for all such rates. Borough rates have a preferable claim.
- 40 **27.** When the Council is authorized to recover from the Council, Board, Trustees, or other governing body, by whatsoever name designated, of any district adjoining the borough, a proportion of the cost of any work done by the Borough Council, such proportion of cost shall be deemed to be money founded on contract and may be sued for and recovered as such. May recover from adjacent local bodies for work done as if upon contract.
- 45 **28.** The Town Clerk may represent and act on behalf of the Council in all proceedings in a Resident Magistrate's Court, or in an Assessment Court under "The Rating Act, 1876," in the same manner as such Clerk is authorized to appear in proceedings before Justices by the seventh section of the said Act. Town Clerk may represent Council in Court.
- 50 **29.** Section thirty-nine of the said Act is hereby repealed, and in lieu thereof it is enacted as follows: "Except as provided by the said Act, every Burgesses to have one vote only.

burgess shall be entitled to vote at every municipal election occurring in the borough or in any ward of a borough in which he is enrolled, but each burgess shall have one vote and no more."

Establishment of
gasworks.

30. The subsection of section two hundred and ninety-two is hereby repealed, and in lieu thereof it is enacted as follows: "Where gasworks have been at any time established for the supply of gas in any borough under the authority of an Act of the General Assembly, it shall not be lawful for the Council to establish any other gasworks to supply the same locality or any part thereof until after the Council has offered to purchase the said gasworks at a price to be agreed upon, or, failing agreement, at a price to be fixed under the provisions of Part III. of "The Public Works Act, 1876," and the offer thus made has been refused by the owner or owners of the said gasworks."

Nelson a city.

31. The City of Nelson is hereby declared to be and to have been, from the first day of January, one thousand eight hundred and seventy-seven, a borough constituted under "The Municipal Corporations Act, 1876," under the name of "The City of Nelson;" and all acts and proceedings of the Council of the said city, or of the Mayor, Councillors, and citizens of the said city lawfully done by them or any of them under the name of the Council of the City of Nelson or of the Mayors, Councillors, and citizens of the City of Nelson respectively, shall be good, valid, and effectual in all respects, notwithstanding any error of description therein.