

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE,  
21ST JULY, 1880.]

Mr. Hutchison.

MUNICIPAL CORPORATIONS ACTS AMENDMENT.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">BOROUGH DIVISIONS.</p> <p>3. Notice of petition to be given to adjacent local bodies.</p> <p>4. Land included in borough may be added to particular wards.</p> <p style="text-align: center;">SPECIAL FUNDS—LOANS.</p> <p>5. Moneys for special purposes to be kept in separate accounts.</p> <p>6. Small boroughs may pay increased interest for loans.</p> <p>7. Proceedings for raising larger loans in place of sums originally authorized.</p> <p>8. Definition of "revenues" in "Wellington Loans Consolidation Act, 1876."</p> <p style="text-align: center;">INSPECTORS OF NUISANCES.</p> <p>9. Definition of "Inspector of Nuisances."</p> <p>10. Appointments and warrants in urgent cases.</p>	<p style="text-align: center;">PRIVATE STREETS.</p> <p>11. Council may declare private streets public.</p> <p style="text-align: center;">PRIVATE LANDS.</p> <p>12. Council may abate nuisances on private lands as if public.</p> <p>13. May recover cost if owner unknown.</p> <p>14. May control construction of cellars on private lands.</p> <p style="text-align: center;">BY-LAWS.</p> <p>15. Additional by-laws—</p> <p style="padding-left: 20px;">(a.) Sale of meat and provisions.</p> <p style="padding-left: 20px;">(b.) Lodging-houses.</p> <p style="padding-left: 20px;">(c.) Hedges.</p> <p style="padding-left: 20px;">(d.) Chimneys.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>16. Corporations may have more than one bank.</p> <p>17. Council may lease by tender.</p> <p>18. Borough rates have a preferable claim.</p> <p>19. May recover from adjacent local bodies for work done as if upon contract.</p> <p>20. Town Clerk may represent Council in Court.</p> <p>21. Nelson a city.</p>
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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.

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 15 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, with the names and addresses of the persons signing, with the amount their properties are valued on the valuation roll in force within the district, to the Council, Board, Trustees, or other governing body, by whatever name they may be known, of any borough, county, road or highway district, or other district likely to be affected by such petition.

Notice of petition to be given to adjacent local bodies.

## Clauses 4, 5, 6, and 7 struck out.

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. 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.

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.

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.

Land included in borough may be added to particular wards.

8. 4. 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.

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 or any portion thereof included within the borough by the first Proclamation or any portion thereof by Act of the General Assembly shall be added.

*Struck out.*

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.

## SPECIAL FUNDS—LOANS.

Moneys for special purposes to be kept in separate accounts.

10. 5. All moneys raised by special loan, and moneys belonging to the borough which are appropriated for special purposes, shall be paid into a separate accounts, at the bank where the borough fund is kept, to be called "The Special Fund Account." Such accounts shall be called by the names of such special loans and special funds, and shall not be expended or drawn out of such accounts except for the special purposes to which such moneys have respectively been appropriated or intended to be appropriated.

11. 6. 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 annual revenue of which shall not exceed one thousand pounds.

Small boroughs may pay increased interest for loans.

12. 7. 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 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 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 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. 8. 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 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.

Struck out.

14. Every Inspector of Nuisances shall have the same powers and shall 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.

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, either temporarily or permanently, to perform the duties of that officer.

New clause.

9. Every Inspector of Nuisances shall be deemed to be a Public Officer within the meaning of the term in the one hundred and forty-second section of "The Justices of the Peace Act, 1866."

Definition of "Inspectors of Nuisances."

15. 10. In any case of the absence of the Mayor, any two Councillors 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 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 two Councillors may, without the direction of the Council, sign any such warrant or order; but the person or persons so signing shall report such case to the Council, at its first meeting, for confirmation.

PRIVATE STREETS.

Council may declare private streets public.

16. 11. The Council may, by a special order, with the consent of the owners or occupiers declare any private street, notwithstanding that such private street is any less width than forty feet, to be, and such private street shall, from the day named in such special order, become a public street.

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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 hereinabove mentioned, apply to such private streets.

PRIVATE LANDS.

Council may abate nuisances on private lands as if public.

17. 12. 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—

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(1.) To remove, or keep properly trimmed, any furze or other thing growing growth 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;

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Struck out.

(2.) 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;

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

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If such owner or occupier can comply with such order and neglects or refuses to comply with any such order therewith, 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.

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May recover cost if owner unknown.

18. 13. 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.

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Struck out.

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.

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May control construction of cellars on private lands.

20. 14. 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.

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BY-LAWS.

21. 15. 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 :—

Additional by-laws.

5 (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 :

Sale of meat and provisions.

10 (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.

15 (c.) ~~For the prevention of Sunday traffic in such cases as it may appear to the Council to be either unnecessary or unseemly :~~

(c.) 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~~ private lands of any such material which, from its overgrowth, has become or is likely to become of danger :

Hedges.

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25 (d.) For regulating and making provision for the construction of chimneys to carry away the smoke from steam-engines, and for insuring protection from sparks therefrom, and for the prevention of nuisances from smoke.

*New Subsection.*

*Struck out.*

30 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."

MISCELLANEOUS.

35 ~~23.~~ 16. Section 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.~~ a Corporation having sums of money at credit in general or special loan accounts, and it shall be deemed

40 advisable by the Council of such Corporation in the interests of the ratepayers that such sums of money should be placed on deposit, at interest, then it shall be lawful for the Council to deposit such sums of money with any corporate Bank offering the highest rate of interest without necessitating a change of Corporation Bank.

Corporations may have more than one bank.

*Struck out.*

45 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

50 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.

Council may lease by tender.

~~25.~~ 17. 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 or buildings 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.

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Borough rates have preferable claim.

26. 18. Payment of all rates due 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.

May recover from adjacent local bodies for work done as if upon contract.

27. 19. 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.

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Town Clerk may represent Council in Court.

28. 20. 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.

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*Struck out.*

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 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."

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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."

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Nelson a city.

~~31.~~ 21. 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 Borough of the City of Nelson or of the Mayors, Councillors, and citizens of the Borough of the City of Nelson respectively, shall be good, valid, and effectual in all respects, notwithstanding any error of description therein.

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*New Clauses.*

22. The Borough of Invercargill, proclaimed under the said Act, shall, from the passing of this Act, be designated the "City of Invercargill."

23. Where a recreation reserve adjoins a borough, and where it is already vested in the Mayor and burgesses of the borough, but is not within the boundaries, the Governor may, upon resolution of the Mayor and Council, declare that it shall form part of the borough.

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24. The sixtieth section of the said Act is hereby repealed, and henceforth every burgess enrolled in respect of rateable property in one or more wards shall be qualified to be a Councillor of the borough or of any ward thereof.

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25. Subsection three of section twenty-five of the said Act is hereby repealed, and in lieu thereof it is enacted as follows :—

5 If, within two months after the publication of such notice, a petition against such district being incorporated is presented to the Governor, signed by not less than one-third of the burgesses of the borough, or a petition against such district being incorporated, signed by an equal or greater number of ratepayers of the district proposed to be incorporated than was attached to the petition presented to the Governor praying for incorporation, in either case no such Proclamation shall issue.

10 26. Section one hundred and eighty-five of the said Act is hereby amended by the addition of the following words :—

15 “When any district, being part of a gold field, is or has been constituted a borough under this Act, all rights or powers to, or over, or upon streets within such borough granted to any Warden, license-holder, lessee, or other person under any provision of any Act made, or that hereafter may be made, relating to mining for gold or other minerals shall cease, and be hereafter null and void; and the Council of the borough alone shall have the power above-mentioned in respect to streets within such borough.”

20 27. Subsection one of section three hundred and forty of the said Act is hereby repealed. The word “published” in subsection two of section three hundred and forty of the said Act shall mean printed *in extenso*.

25 28. The Council of any city or borough may from time to time amend any rate made by virtue of the said Act, or “The Rating Act, 1876,” by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated if it appears to such Council that such person has been under-rated or over-rated, or by making such other amendments therein as will make such rate conformable to both or either of the said Acts; and no such amendment shall be held to avoid the rate: Provided always that every person aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in such rate and no such alteration had been made; and, as respects such person, the rate shall be considered to have been made at the time when he received notice of such alteration, and every person whose rates are altered shall be entitled to receive seven days’ notice of such alterations before the rate shall be payable by him.

30 35 40 45 50 29. Where, under the said Act, or any amendment thereof, any notice is required to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier thereof, as the case may require, may be served on the occupier of such building or land, or left with some inmate of his abode; or, if there be no occupier, may be put up on some conspicuous part of such building or land. And it shall not be necessary in any such notice to name the occupier or owner of such building or land: Provided always that, when the owner of any such building or land and his residence are known to the Council, it shall be the duty of the Council, if such owner be residing within the limits of the city or borough, to cause every notice required to be given to the owner to be served on such owner, or left with some inmate of his abode; and, if such owner be not resident within such city or borough, the Council shall send every such notice by the post addressed to the residence of such owner.

**30.** Whenever under the provisions of the said Act, or any Act amending the same, any work of any kind is required to be executed by the owner or occupier of any house or lands, and default is made in the execution of such work, the Council may cause such work to be executed, and the expense incurred by the Council in respect thereof shall be repaid to the Council by the person by whom such work ought to have been executed. 5

**31.** Whenever default is made by the owner of any buildings or lands in the execution of any work required to be executed by him, the occupier of such buildings or lands may, with the approval of the Council, cause such work to be executed; and the expense thereof shall be repaid to such occupier by the owner of the buildings or lands, or such occupier may deduct the amount of such expense out of the rent from time to time becoming due from him to such owner. 10

**32.** If the owner of any buildings or lands made liable by this Act, or the said Act, for the repayment to the Council of any expenses incurred by them, do not, as soon as the same become due and payable from him, repay all such expenses to the Council, the Council may recover the same from such owner in the same manner as damages, or in an action of debt, in any Court having jurisdiction. 15

Provided, further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid. 20

**33.** The lines laid down in the streets of the City of Christchurch by direction of the Chief Surveyor of the Land District of Canterbury in the year one thousand eight hundred and seventy-nine, and marked by stones in the streets, and also shown on the official map in the Government Buildings, shall be used to define the legal building frontages or sides of such streets; and the alignment or frontages of the streets in the City of Christchurch shall be and be considered to be for all purposes the following distances respectively from such lines, namely,— 25

The North side of the North Belt thirty-three feet, and the South side of the North Belt ninety-nine feet, from the line laid down along such belt. 30

The East side of the East Belt thirty-three feet, and the West side of the East Belt ninety-nine feet, from the line laid down along such belt.

The East side of Park Terrace, between Salisbury Street and Armagh Street, nineteen feet from the line laid down in such terrace. 35

The East and West sides of Antigua Street, between St. Asaph Street and the South Belt, thirteen feet and fifty-three feet respectively from the line laid down in such street.

The North-east side of the Riccarton Road, between Antigua Street and Lincoln Road, forty-three feet six inches from the line laid down along the said road. 40

The West and East sides of all other streets running from North to South are distant fourteen feet and fifty-two feet respectively from the line laid down in such streets respectively. 45

The South and North sides of all other streets running from East to West are respectively distant fourteen feet and fifty-two feet from the lines laid down in such streets respectively.

The South-west and North-east of High Street and Victoria Street are respectively distant fourteen feet and fifty-two feet from the lines so laid down in such streets respectively. 50

The North-east and South-west sides of Lower High Street are respectively distant fourteen feet and fifty-two feet from the lines so laid down in such streets.



34. Section seventeen of the said Act is hereby amended by adding at the end of subsection two therein the words "or ratepayers," and after the words "resident householders" in subsection three of the said section the words "or ratepayers."

5 35. Subsection three of section two hundred and ninety-one of the said Act is hereby repealed.

36. The Council of any borough may, when necessary for the carrying out of any protective works, or for the public health or safety, have the power to purchase land outside the boundary of the borough.

10 37. In describing the particular work referred to in section one hundred and forty of the said Act, it shall not be necessary to furnish the details of such work, but it shall be sufficient to give an approximate statement of the nature and extent thereof.

15 38. Section forty-nine of the said Act is hereby amended by the addition of the following words: "Provided that for the election of Mayor and Auditors in any such borough a Burgess-roll may be prepared comprising all the ratepayers of the borough.

20 39. It is hereby declared that all by-laws made by the Corporation of the Town of Lawrence under the provisions of "The Municipal Corporations Act, 1867," and in force within the incorporated Town of Lawrence immediately before the coming into operation of the said Act, shall be held and deemed to have continued in force within the said incorporated town notwithstanding anything contained in such last-mentioned Act.

25 Such by-laws shall be and continue in force within the Borough of Lawrence until altered or repealed in the manner in which by-laws made under such last-mentioned Act may be altered and repealed, and shall be proved and received in evidence in the manner in which by-laws made under such last-mentioned Act may be proved and received in evidence.