

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
17th October, 1904.*

Mr. Sidey.

BOROUGH OF SOUTH DUNEDIN EMPOWERING.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to enable the Mayor, Councillors, and Burgesses of the Borough of South Dunedin to acquire Lands for Street-widening and other Purposes, and to borrow the necessary Funds. Title.

5 WHEREAS the South Dunedin Borough Council (hereinafter called "the Council"), acting at the request of the Mayor, Councillors, and Citizens of the City of Dunedin (hereinafter called "The Dunedin Corporation"), has applied to His Excellency the Governor under the provisions of "The Tramways Act, 1894," for an order authorising Preamble.
10 the construction of a double line of tramway along the street called Hillside Road in the Borough of South Dunedin (hereinafter called "the Borough"): And whereas such Order has been refused on the ground that the said street is too narrow for a double line of tramway:
15 And whereas for the purpose of enabling the construction of such double line of tramway and otherwise in the interests of the borough the Council is desirous of widening the said street: And whereas for the purpose of financing the scheme the Council desires to obtain power to acquire lands other than those required for the widening of the said street and of dealing with the same in manner hereinafter
20 appearing, and also the powers of borrowing money hereinafter contained:

BE IT THEREFORE 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 Borough of South Dunedin Empowering Act, 1904." Short Title.

Interpretation.

2. In this Act, if not inconsistent with the context,—

“The Corporation” means the Mayor, Councillors, and Burgesses of the Borough of South Dunedin :

“The surplus land” means the land acquired on the eastern side of the said street under or by virtue of this or any other Act, and for the time being vested in the Corporation, other than the land used for widening the said street :

“Land” includes any estate or interest in land :

“The Municipal Corporations Act” means “The Municipal Corporations Act, 1900,” and the amendments thereof :

“The Loans Act” means “The Local Bodies’ Loans Act, 1901,” and the amendments thereof.

Provisions of Municipal Corporations and Local Bodies’ Loans Acts implied.

3. Subject and without prejudice to the provisions of this Act the provisions of the Municipal Corporations Act and of the Loans Act shall, so far as the same are applicable to the objects and purposes of this Act, be deemed to be incorporated herein and take effect as if the same were, *mutatis mutandis*, herein repeated.

Power to widen Hillside Road.

4. The Council may, by making a special order, widen the said street on the eastern side thereof to such extent as to increase the width thereof to at least one chain.

Power to acquire land.

5. The Council may, on behalf of the Corporation, take, purchase, or otherwise acquire the land necessary for widening the said street as aforesaid, and also such other land on the eastern side of such street as the Council shall by resolution determine, including the land specified or referred to in the *First* Schedule hereto or any part or parts thereof :

Provided that the Corporation shall not without the consent of the respective owners thereof take any part of allotments numbered 20, 23, or 29 of Block X. of the extension of the Township of South Dunedin first mentioned in the said *First* Schedule, nor any part of that part of allotments numbered 16, 17, 18, 19, 22, 24, 25, 26, 27, or 28 of Block X. of the said extension lying to the north-eastward of a line drawn thirteen feet from and parallel to the south-western boundary of the said allotment.

Power for Dunedin Corporation to convey land.

6. It shall be lawful for the Dunedin Corporation to grant, convey, or transfer to or otherwise vest in the Corporation any lands vested in the Dunedin Corporation along the line of the said street and required for the widening thereof, with or without compensation or other consideration therefor, and upon such terms as may be arranged between the Council and the Dunedin Corporation, or without any such terms.

Power to acquire leasehold.

7. The Council may on behalf of the Corporation (and without prejudice to the preceding powers) take, purchase, or otherwise acquire the estate or interest of the respective lessees or tenants, or any other estate or interest less than the fee-simple vested in any person or persons, in Allotments 1 to 18, inclusive, of the subdivision of original Section 6, Block VII., Town Survey District ; and it shall be lawful for the Corporation and the Dunedin Corporation to enter into such agreements for the surrender of any leasehold or other interest acquired by the Corporation in any such allotment or part thereof as aforesaid, and for the removal of any buildings

therefrom, and with, upon, and subject to such terms and conditions as to such respective Corporations shall appear expedient, and to carry out and fulfil such agreements.

8. The land hereby authorised to be taken shall be taken and compensation therefor assessed in the manner provided by "The Public Works Act, 1894," and the provisions of such Act shall be deemed to be incorporated herein, so far as the same are not inconsistent with the provisions of this Act.

Land to be taken and compensation assessed under Public Works Act.

9. All land taken by virtue of this Act shall, notwithstanding anything contained in "The Public Works Act, 1894," from and after the date of the gazetting of the Proclamation declaring that the said land has been so taken, become absolutely vested in the Corporation for an estate in fee-simple for the purposes of this Act, discharged from all mortgages, charges, liens, and other encumbrances, claims, estates, and interests of what kind soever, and it shall be sufficient in any such Proclamation to state that the land is taken for the purposes of this Act.

Land to vest in Corporation of South Dunedin.

10. Before acquiring any land pursuant to the preceding provisions the Council shall obtain the consent of the ratepayers of the borough to the undertaking authorised by this Act, and for that purpose a poll of the ratepayers shall be taken.

Poll to be held.

(a.) Such poll shall be held on a day to be fixed by the Mayor of the borough, who shall, seven days at least before the day so fixed, publish a notice of the intention to hold such poll.

(b.) The voting-paper shall be in form numbered two in the *Second Schedule* hereto or to the like effect.

(c.) The poll shall be held in the Town Hall of the borough, or some other central polling-booth to be appointed by the Council.

(d.) Subject as aforesaid such poll shall be held in the manner provided by section eleven of the Loans Act.

(e.) If a majority of the total number of valid votes recorded at the poll are recorded in favour of the proposal, then the proposal shall be deemed to be carried, and the Council may proceed with the undertaking accordingly, but if the proposal is not carried then the Council shall not so proceed.

(f.) The result of the poll shall be notified as provided by section thirteen of the Loans Act, and if the proposal is carried the notice thereof in the *Gazette* shall be conclusive evidence that the consent of the ratepayers to the undertaking has been duly given, and that all proceedings and things under this Act in relation thereto have been lawfully taken and done.

11. The Council may, in the name and on behalf of the Corporation, manage, demise, sell, and otherwise deal with the surplus land in such manner as it may by resolution determine, and as private persons may, in respect of lands vested in them, and in particular may, erect, pull down, and repair buildings, including shops and dwellings, party and other fences and walls, and may lay off passages and ways, drain and otherwise improve the surplus land, but so that every such

Power to deal with surplus land.

sale shall be by public auction or public tender; and every such demise shall be subject to all the provisions of Part XXI. of the Municipal Corporations Act.

Net proceeds of sales and net revenues to be paid to Commissioners.

12. If and so long as any moneys borrowed under the authority of this Act remain unpaid the Council shall pay to the Commissioners hereinafter referred to the net proceeds of any sale or sales of the surplus land or any part or parts thereof, and also the net revenues therefrom, after deducting from such revenues a sum equivalent to the municipal rates which would be payable in respect of the surplus land if the same were not vested in the Corporation, except where such rates shall be payable by the respective lessees or tenants thereof, and also after deducting the outgoings in respect of the surplus land, including interest payable on the moneys borrowed by virtue hereof, the expenses of and incidental to the management of the surplus land and all other outlay in connection therewith, whether in the nature of capital expenditure or not, but so, nevertheless, that the said interest shall be a first charge on the said revenues. 5 10 15

How insurance moneys to be dealt with.

13. All insurance moneys received by the Council in respect of the surplus land or any part thereof, or any buildings or other erections thereon, shall, at the option of the Council, either be applied in or towards re-erecting or repairing the premises destroyed or damaged, or in erecting any other building or buildings, or shall be paid to the Commissioners. 20

Sinking fund.

14. The moneys paid to the said Commissioners as aforesaid shall be applied by them as a sinking fund for the repayment of debentures issued pursuant to this Act, and subject thereto such moneys and fund shall be applied in or towards paying off any special loan or loans of the Corporation as the Council shall by special order determine: Provided always as follows:— 25

(a.) It shall be lawful for the Council, with the written consent of the Commissioners, in lieu of paying any such proceeds of sales to the Commissioners, to apply the same in or towards any capital expenditure desired by it in or about the surplus land or any part thereof. 30

(b.) The Commissioners may from time to time repay to the Council any part of the said fund for the purpose of being applied by the Council in or towards any such capital expenditure as aforesaid. 35

(c.) The decision of the Commissioners as to what is capital expenditure shall be final, and they shall not be under any liability to see to the expenditure of any such moneys as aforesaid. 40

Power to borrow.

15. (1.) The Council may, on behalf of the Corporation, from time to time borrow at interest such sum or sums of money, not exceeding in the aggregate sixty thousand pounds, as to it may seem requisite in or incidental to the exercise of all or any of the powers herein contained, and as it may by special order, and without taking the steps prescribed by sections seven to thirteen of the Loans Act, determine. But no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds per centum per annum. 45 50

(2.) For the purpose of securing the payment of any moneys borrowed as aforesaid and the interest thereon the Council may ap-

appropriate and pledge as such security any one or more of the following:—

- 5 (a.) The surplus land and (subject as aforesaid) the net revenues therefrom, and the net proceeds from the sale or sales of the surplus land or any part or parts thereof.
- (b.) A special rate made and levied as hereinafter provided.
- 10 (c.) The general revenues of the borough, but not including moneys received or receivable by way of grant from the Government, and as to such general revenues subject to all existing pledges thereof.
- (3.) The pledge of the surplus land as aforesaid shall not prevent the exercise of the powers hereinbefore conferred upon the Council until the appointment of a receiver, and shall be subject to the exercise of such powers.
- 15 (4.) The debentures and coupons issued under the provisions of this Act shall be in such form as the Council may determine, and may be in or to the effect of the form of debenture and coupon prescribed by the Loans Act, except that this Act shall be referred to therein instead of the Loans Act.
- 20 (5.) The debentures representing the loan or loans hereby authorised, whether created at one time or as successive issues, shall rank *pari passu*, and have no preference or priority the one over the other by reason of date of issue or otherwise.
- (6.) The Council may, out of any moneys borrowed by virtue of this Act, pay any preliminary expenses in connection with the undertaking hereby authorised, including the cost of the promotion of this Act and also the first year's interest.
- 25 (7.) The Council shall have power from time to time by special order, and without taking the steps prescribed by sections seven to thirteen of the Loans Act, to reborrow moneys under the provisions of this Act for the purpose of repaying moneys previously borrowed by virtue of this Act.
- 30 (8.) Upon the appointment of a receiver by virtue of the provisions contained or incorporated in this Act the Judge making the appointment may vest in such receiver such powers of management and leasing of and over the surplus land as he shall think fit, including any of the powers hereby conferred on the Council, and may direct in what manner the revenues therefrom shall be applied.
- 35 (9.) Every loan raised by virtue of this Act shall, subject and without prejudice to the provisions hereof, be deemed to be a special loan within the meaning of the Loans Act.
- 40 16. The Council may by resolution appoint any bank or company or any person or persons in New Zealand or elsewhere to be an agent or agents for the purposes and with the powers contained in sections twenty-two and twenty-three of the Loans Act, and an instrument purporting to be under the seal of the Corporation shall be sufficient proof of such appointment, and bind the Council and the Corporation accordingly.
- 45 17. A copy of any special order passed pursuant to the preceding provisions purporting to be under the common seal of the Corporation, and signed by the Mayor and any two Councillors of the borough, shall without further authentication be sufficient proof to

Power to appoint agents.

Copy of special order to be proof of performance of conditions precedent.

any person lending any money to the Council or the Corporation that the loan referred to therein is duly authorised, and shall bind the Corporation and the Council accordingly, and no lender of any money borrowed under the provisions of this Act, whether by the issue of debentures or otherwise, shall be concerned to inquire as to the purpose for which the same is raised nor as to the proposed expenditure thereof, and the issue of a debenture or of the receipt of the Council or any of its officers therefor shall effectually discharge the lender from being concerned to see to the application thereof. 5

Appointment of
Sinking Fund
Commissioners.

18. For the purposes of this Act Sinking Fund Commissioners shall from time to time be appointed by the Council in the manner, with the status and powers and subject to the duties, provided by the Loans Act. 10

Power to levy
special rate.

19. For the purpose of providing the interest payable in respect of any moneys borrowed by virtue of this Act the Council may from time to time make and levy, by special order or special orders in the form No. 1 in the *Second* Schedule hereto, or to the like effect, but otherwise in the manner provided by the Loans Act, a special rate or special rates, not exceeding in the aggregate sixpence in the pound, on all rateable property within the borough upon the annual rateable value thereof, or three-eighths of a penny in the pound upon the capital value thereof, as respectively defined by "The Rating Act, 1894," but so, nevertheless, that it shall not be obligatory upon the Council to collect such special rate except when and so far as the same shall be necessary to make up any deficiency in the revenues from the surplus land. 15 20 25

Special rate not to
be quashed.

20. No special rate shall be quashed by any proceedings in Court or otherwise, and the production of a copy of the *Gazette* containing the special order making the same shall be conclusive proof of the validity thereof. 30

Result of union of
boroughs.

21. In the event of the borough being united with any other borough or boroughs, all the powers hereby conferred on the Council and the Corporation respectively shall become vested in the Council and Corporation of such united borough.

Exercise of prior
statutory powers.

22. Nothing in this Act shall be deemed to prevent the exercise by the Council or the Corporation of any statutory powers which would have been exercisable if this Act had not passed. 35

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that area in the Otago Land District, in the Borough of South Dunedin, containing by admeasurement 7 acres 3 roods 14 perches, more or less, being the following allotments and parts of allotments, viz.: Allotments Nos. 1 to 30, inclusive, of Block X., shown on the plan of the extension of South Dunedin, being a subdivision of original Section 7 and part of 8, Block VII., Town Survey District; also parts of Allotments Nos. 1 to 10, inclusive, of the subdivision of original Section 6, Block VII., Town Survey District aforesaid, being the whole frontage of such allotments to Hillside Road by a depth of 42 links; also Allotments Nos. 1 to 7, inclusive, of Block III., shown on the plan of the Township of South Dunedin, being a subdivision of original Section No. 5, Block VII., Town Survey District aforesaid; also Allotments Nos. 1 to 7, inclusive, of Block IV., shown on the plan of the Township of South Dunedin, being a subdivision of original Section No. 4 and part of original Section No. 3, Block VII., Town Survey District aforesaid; also Allotments Nos. 4 to 7, inclusive, of Block VI., shown on the plan of the Township of South Dunedin, being a subdivision of part of original Section No. 3, Block VII., Town Survey District aforesaid; also Allotments Nos. 1 to 4, inclusive, of Block IX., shown on the plan of the Township of South Dunedin, being a subdivision of part of original Section No. 1, Block VII., Town Survey District aforesaid; also Allotments Nos. 1 to 9, inclusive, and 24 to 29, inclusive, shown on Deposit Plan No. 390, in the Lands Registry Office, at Dunedin, being a subdivision of Allotments Nos. 1 to 3, Block VI., of the Township of South Dunedin; and also Allotments Nos. 1 to 9, inclusive, shown on Deposit Plan No. 366, in the said Lands Registry Office, at Dunedin, being a subdivision of Allotments Nos. 5, 6, and 7, Block IX., of the Township of South Dunedin.

SECOND SCHEDULE.

Form No. 1.

SPECIAL ORDER MAKING SPECIAL RATE.

IN pursuance and exercise of the powers vested in it in that behalf by "The Borough of South Dunedin Empowering Act, 1904," the South Dunedin Borough Council hereby resolves as follows: That, for the purpose of providing the interest and other charges on a loan of [*Amount of loan*] authorised to be raised by the said Council under the above-mentioned Act, the said Council hereby makes and levies a special rate of [*State amount in the pound*] upon [the annual rateable value or the capital value as the case may be] of all rateable property in the said borough, and that such special rate shall be an annually recurring rate during the currency of such loan, and be payable (subject to the provisions of the said Act) half-yearly on the day of _____ and the _____ day of _____ in each year during the currency of such loan, being a period of [*State number*] years, or until the loan is fully paid off.

Form No. 2.

Borough of South Dunedin.

VOTING-PAPER.

IN connection with the undertaking proposed by the South Dunedin Borough Council as authorised by "The Borough of South Dunedin Empowering Act, 1904," and relating to the widening of Hillside Road.

1. I vote for the above proposal.
2. I vote against the above proposal.

[N.B.—If the voter wishes to vote for the proposal he must erase the line marked 2, but if he wishes to vote against the proposal he must erase the line marked 1. The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves unerasd.]