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

*Legislative Council,
11th October, 1878.*

Hon. Colonel Whitmore.

Municipal Corporations Act Amendment.

ANALYSIS.

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A BILL INTITULED

AN ACT to amend "The Municipal Corporations Act, 1876." 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 shall be "The Municipal Corporations Act Amendment Act, 1878." Short Title.

2. In the construction of this Act the expression "the said Act" means "The Municipal Corporations Act, 1876." Construction.

3. When any place has or shall become, under the fourteenth or fifteenth sections of the said Act, a borough under the said Act, and at the time of so becoming a borough is divided into wards, such division shall continue until altered under the provisions of the said Act. When place divided into wards at the time it is constituted a borough, such division into wards to continue.

Notice of presentation of petition under section 17 to be given to County Council.

4. Within *fourteen* days after the presentation of any petition under section seventeen of the said Act, it shall be the duty of the petitioners to give notice in writing to the Council of the county of which the district proposed to be constituted a borough forms part.

Lands reclaimed from the sea to be subject to by-laws of borough although not annexed thereto.

5. Where any land contiguous to a borough has been or is in process of reclamation from the sea, or from any river, watercourse, swamp, or other waste place, the following provisions shall have effect:—

- (1.) Such land shall be deemed to be included within the boundaries of such borough, but only so far as may be necessary to bring the same within the operations of any by-laws for the time being in force in the borough; 10
- (2.) Should such land be contiguous to the boundaries of two or more boroughs, it shall be lawful for the Governor in Council to declare in which of such boroughs the said land or any part of it shall be deemed to be situate; 15
- (3.) If any such land shall be contiguous to more than one borough, then the same shall be subject to the by-laws of such one of such boroughs as the Governor may by Proclamation appoint; 20
- (4.) Nothing herein contained shall prevent the exercise of the powers contained in the thirtieth section of the said Act;
- (5.) When such powers shall be so exercised, the land affected thereby shall cease to be within the operation of this enactment except for the purposes of any prosecution or proceeding for a breach of any by-laws in force previous to the exercise of such powers. 25

No necessity for annual election where first election takes place within two months thereof.

6. Where the first election of a Council under the said Act takes place within *two* months of the period fixed for the annual election of Councillors, it shall not be necessary to hold such annual election, as by the said Act prescribed; but the Councillors in office at the time appointed for the annual election shall, subject to the said Act, remain in office till the next succeeding annual election. 30

Retrospective effect to this section.

This provision shall be deemed to have been in force as to all first elections held prior to the twelfth day of September, one thousand eight hundred and seventy-eight, but shall not take away from or affect any other provision of the said Act as to the periods for or consequences of an annual election. 35

Provisions of sections 66 and 67 extended to certain cases.

7. The provisions of the sixty-sixth and sixty-seventh sections of the said Act shall extend to cases where Councillors have been elected without a poll, or where the number of Councillors does not differ from the number required by the said Act, and in any such case the question which of such Councillors is to go out of office in each of the two years following the first annual election under the said Act shall be decided by the Council by lot, in such manner as it may agree; and if it shall not so agree, then the Mayor shall decide by lot in the presence of the Council. 40 45

Council not to reduce width of street below sixty-six feet.

8. No Council of any borough shall have power to reduce or alter the width of any street in such a manner as that there shall be less than sixty-six feet available for the ordinary traffic of vehicles and passengers, but this provision shall not prevent the closing or stopping of any street by the Council under any powers vested in it. 50

By-laws in force on constitution of boroughs declared valid.

9. All by-laws or regulations of any municipality, city, town, or borough which has become a borough under the said Act, and which were in force at the date of the constitution of such last-mentioned borough, shall be and be deemed to have been as valid and effectual, to all intents and purposes, as if the same had been made under the said Act. 55

And all such by-laws or regulations shall continue in force until altered or repealed in the manner provided by the said Act, and shall be proved and received in evidence in like manner as by-laws made under the said Act are proved and received in evidence.

To remain in force till altered.

5 But nothing herein contained shall be deemed to prejudice or affect any action, suit, or other proceeding commenced or any judgment obtained prior to the passing of this Act, under which the validity of any such by-laws or regulations may be or may have been questioned or affected.

Not to affect certain proceedings.

10 10. All waterworks belonging to or under the control of any Borough Council, and all wharves, river protection, and harbour works under the control and management of any Harbour Board, shall not be liable to be rated by any County Council or other local body, within the meaning of "The Rating Act, 1876."

Waterworks only to be rated as for unimproved value of land.

15 11. When the Commissioners of Audit have made an award under the thirty-third section of the said Act, every such award shall from the date thereof have the operation of, and be enforceable as, and held to be a judgment of the Supreme Court of New Zealand.

Awards made under section 33 of Act of 1876 to operate as judgments of Supreme Court.

20 The award of any one of the Commissioners of Audit heretofore or hereafter made under the said thirty-third section shall be deemed to have been and shall be valid and sufficient for all purposes under the said Act or this Act. The Governor may appoint any fit person or persons to make the award mentioned in the thirty-third section of the said Act, instead of the Commissioners of Audit.

25 12. Any such award may provide for all or any of the matters mentioned in the thirty-second section of the said Act, and may declare in whom any property shall be vested, and by whom any moneys shall be paid, or other acts and things done, and generally may make and give such directions as may be necessary for giving full effect to the provisions of that section.

What may be contained in award.

30 13. If the whole of any district shall be included in a borough, then, for the purposes of carrying out any such award, any Road Board or other local body affected shall be and continue in existence, and shall make, do, and execute all such acts, deeds, and things as may be required to carry out and perform any such award.

Provision where whole district included in a borough.

35 The members of any such Board or body shall remain in office until the affairs of the district under the control of such Board or body have been finally settled and adjusted in accordance with the terms of such award.

40 14. The following provisions of the said Act shall be amended as hereinafter provided:—

General amendments of the Act of 1876.

In section 242. After the word "waterworks," where it first occurs, the words "or extending waterworks hitherto acquired" shall be inserted.

45 In section 277. After the word "gasworks" where it first occurs, the words "or extending gasworks hitherto acquired" shall be inserted.

In sections 311 and 312. The words "three years" shall be inserted in lieu of the words "twelve months."

50 15. Sections three hundred and fifty and three hundred and fifty-one of the said Act are hereby repealed; but such repeal shall not affect any reservation of lands made or any proceedings to be taken in respect of any grant to be made, or any grant to be made, consequent on any such proceedings prior to the passing of this Act.

Repeal of sections 350 and 351 of Act of 1876.

55 16. The award made by Isaac Newton Watt, Esquire, under the provisions of "The South Dunedin and St. Kilda Municipalities Validation Act, 1876," on the tenth day of January, one thousand eight hundred and seventy-eight, shall, from the date thereof, be and be deemed to have been made under this Act; and the District Board and ratepayers of the Caversham Road District shall be and remain unaffected by anything done under the Act firstly hereinbefore mentioned, until full effect shall be given to the said award.

Award made under "The South Dunedin and St. Kilda Municipalities Validation Act, 1876," to be deemed to have been made under this Act.

Validation of certain Proclamations of boroughs in Otago Provincial District.

17. Whereas doubts having arisen as to the validity of certain Proclamations proclaiming the several boroughs hereinafter named to be boroughs under the said Act: Be it enacted that the Proclamation of the twelfth day of May, one thousand eight hundred and seventy-seven, declaring the District of Roslyn therein described to be a borough under the said Act; and a like Proclamation, dated the fifteenth day of May, one thousand eight hundred and seventy-seven, declaring the Town of Maori Hill to be a borough under the said Act, are severally declared to be valid and effectual for all purposes.

Things done since dates of Proclamations to be valid.

18. All acts and things done, and all proceedings taken, and all contracts entered into since the respective dates of the said Proclamations, which would have been lawful and valid if all the formalities mentioned in the last clause had been duly complied with, are declared to be valid and effectual, to all intents and purposes, and all debts, liabilities, or penalties incurred or accrued, and now subsisting since the said dates, shall remain and may be recovered and enforced of and from all persons liable thereto or affected thereby.

Validating Proclamation dividing Borough of Queenstown into three wards.

19. The Proclamation dated the twenty-ninth day of August, one thousand eight hundred and seventy-eight, published in the *New Zealand Gazette* of the same date, shall be deemed to have been issued under section twenty-two of the said Act, and to have divided the Borough of Queenstown into three wards, with the names and boundaries set out in the Schedule to the said Proclamation, and to have had and to have the same effect as a Proclamation issued under section twenty-two of the said Act.

Saving of things done.

All elections, acts, deeds, matters, and things done under the authority of the said Proclamation are hereby declared to have been and to be good, valid, and effectual as if such Proclamation had been rightfully and lawfully issued under section twenty-two aforesaid.

Not necessary in Orders in Council, &c., to recite compliance with preliminary steps.

20. Where any Proclamation or Order in Council purporting to be issued under the authority of the said Act has been or shall be issued, then the *Gazette* containing such Proclamation or Order in Council shall be conclusive evidence that all matters and things required by the said Act preliminary to the issuing or making of such Proclamation or Order in Council have happened, and that such Proclamation or Order in Council have been properly and lawfully issued or made.

Section 49 repealed.

21. Section forty-nine is hereby repealed, and the following substituted in lieu thereof:—

Wards of boroughs to have separate rolls, &c.

Where a borough is divided into wards there shall be a separate defaulters' list and a separate burgess roll for each ward, instead of one for the whole borough; and all the provisions in the said Act contained for making the defaulters' list and the burgess roll of the borough shall apply *mutatis mutandis* to making the defaulters' list and the burgess roll for each ward in a borough.

Corporations may extend waterworks, &c.

22. And whereas doubts have arisen whether the general powers conferred on Municipal Corporations under Parts X. and XI. of the said Act are sufficient to enable such Corporations to extend or complete any waterworks or gasworks which may have been begun under the authority of any special Act passed before the coming into operation of the said Act:

Be it enacted,—

Whenever any of the Corporations named in the Second and Third Schedules to the said Act shall have been empowered by any special Act to borrow money for the construction of any waterworks or gasworks, and it shall have become necessary to raise further sums of money for the extension or completion of the same, every such Corporation shall be deemed to have had and to have in respect of the raising of such further moneys and the extension or completion of such waterworks or gasworks, all the powers, rights, duties, and liabilities by Parts X. and XI. of the said Act conferred and imposed

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on Municipal Corporations, in like manner as if such moneys had been originally raised and such waterworks or gasworks had been originally begun under the said Act and not under a special Act :

Special loans authorized for the purpose.

5 All sums of money which may be borrowed by any such Corporation for the extension or completion of any such waterworks or gasworks shall be borrowed by way of special loan under the provisions of the said Act, and not otherwise :

Object of loan to be stated on debentures, &c.

10 Every bond or debenture of such special loan shall specify the purpose for which such loan is raised, the nature of the security proposed to be given for the same, and the amount (if any) remaining due by the Corporation raising such loan, in respect of any former loan raised for the same waterworks or gasworks under the authority of any special Act.

15 **23.** Section one hundred and eighty-four of the said Act is hereby repealed, and in lieu thereof it is enacted as follows :—

Section 184 repealed.

The word “street” means the whole of any public highway now existing or hereafter to be laid out within a borough, by or with the sanction of the Council, and includes every public square or place therein, and every bridge, ford, and ferry on the line of a street :

Definition of “street,” “footway,” &c.

20 “Footway” means so much of any street as is laid out or constructed by authority of the Council for foot passengers only, and includes the edging and kerbing thereto :

“Private street” means any highway hereafter to be laid out on private property but intended for the use of the public generally :

25 “Right-of-way” means any way or passage whatsoever over private property, the right to use which is confined or intended to be confined to certain persons or classes of persons, and which is not open or intended to be open to the use of the public generally.

30 **24.** Sections one hundred and ninety-nine, two hundred, and two hundred and one of the said Act are hereby repealed, and in lieu thereof it is enacted, that—

Sections 199, 200, 201, repealed.

Every street not being a private street laid out in any borough after the passing of this Act shall be not less than sixty-six feet wide, measured at right angles to the course thereof :

Width of streets and private streets.

35 Every private street laid out in any borough after the passing of this Act shall be not less than forty feet wide, measured as aforesaid :

It shall not be lawful for any person to lay out or make any private street, or to grant or reserve a right-of-way in any borough, except by permission of the Council, and, subject to the foregoing

Restrictions as to forming private streets.

40 provision as to minimum of width in the case of private streets, the Council may impose upon the person laying out or desiring to lay out such private street, or granting or reserving such right-of-way such conditions as to width, entrances, course, formation of footways, cost of formation, and otherwise in all respects whatsoever as the Council shall think fit ; and if any person lays out or makes, or permits to be open for the use of the public any private street, or grants, or reserves, any right-of-way contrary to the provisions of this Act or the said Act, he shall be liable to a penalty of not more than *ten* pounds for every day during which such private street is so laid out or made, or open to the use of the public, or such grant or reservation remains uncancelled after the day on which he receives notice from the Council that such private street or right-of-way is contrary to the said Act or this Act : No plan, deed, or instrument of any kind whatsoever whereby any private street or right-of-way contrary to the

55 provisions of this Act shall be created, recognized, referred to, granted, or reserved, shall be received for deposit or registration under the Deeds Registration Acts, or under the Land Transfer Acts, for the time being in force.

60 **25.** A Councillor elected to fill an extraordinary vacancy in the Council of an borough shall hold office only so long as the Councillor whose seat became so vacant would have held office if such extraordinary vacancy had not occurred.

Term of office in cases of extraordinary elections.

Adjoining boroughs may be amalgamated into one.

26. If the Councils of any two or more boroughs within one and the same provincial district and adjoining each other, and forming one continuous area, shall, by petition under the several common seals of such boroughs, pray the Governor that such boroughs be constituted one united borough, the Governor may, by Proclamation, constitute such boroughs and area as aforesaid one borough, by such name as shall in and by such Proclamation be assigned to the same, but so that in no case shall any united borough consist of more than *four* single boroughs, and such several boroughs and area shall thereupon become and be such one borough accordingly under the said Act. Any such petition may be presented by not less than *two-thirds* of the ratepayers in each of any one or more borough or boroughs as aforesaid, and all the preceding provisions of this clause shall apply to any such petition.

Provisions in such cases.

The provisions of sections twenty-six to twenty-nine of the said Act, both inclusive, shall extend to the cases herein provided, and may be applied accordingly.

United borough to be subdivided into wards.

27. The Governor shall in any Proclamation made under the preceding enactment divide such united borough into not less than *three* or more than *six* wards, and assign such names and boundaries and the number of Councillors to each ward, as he thinks fit, and in like manner fix the order of their retirement; and upon the issue of such Proclamation, the division of wards theretofore existing of the several boroughs so united shall cease.

Constitution of united Councils.

28. In every such united borough there shall be a Council consisting of not less than *twelve* nor more than *twenty-four* Councillors, as shall be assigned in the said Proclamation: Provided that the Councillors of the several boroughs shall, until the first annual election of Councillors after the said union, be and continue to be the duly constituted Council of such united borough.

First elections.

29. At the first annual election of Councillors after such union all the Councillors shall go out of office, and the burgesses of each ward shall elect the number of Councillors assigned to it by the Proclamation made under section *twenty-seven*.

Property of united borough.

30. All real and personal property, and all right and title or interest therein, and all management and control of any land or thing vested respectively at the time of any such union in the Council of the several boroughs shall, on such union, be vested in the Council of the united borough; and all rates or other moneys payable to the said several Councils at the time of the union of such Councils, and all liabilities and engagements thereof, or of any of them, and all suits, actions, and proceedings pending by or against any of such Councils, shall respectively be rates and moneys payable to, liabilities and engagements of, and actions, suits, and proceedings to be carried on and prosecuted by or against, the Council of the united borough.

Saving as to loans and special rates.

31. Nothing in this section shall apply to any loan or special rate which may have been raised by any borough prior to its union, but such loan or special rate shall be a liability upon that part of the united borough in respect of which the same were respectively raised and levied before the union took place; and the repayment of any such loan and the recovery of any such rate shall only be enforced against and recovered in that part of the united borough accordingly.