

(Mr. Bryce.)

## Wanganui Rangitikei and Patea Shires.

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## A BILL INTITLED

Title. AN ACT to establish Shires in the Districts of Wanganui, Rangitikei, and Patea, and to make provision for the Government thereof.

Preamble. WHEREAS it is expedient to provide for the establishment of local government, by means of Shire Councils, in the Districts of Wanganui, Rangitikei, and Patea :

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5 as follows :—

Short Title. 1. The Short Title of this Act shall be "The Wanganui Rangitikei and Patea Shires Act, 1873."

Shires to be established. 2. Whenever three-fifths of the electors registered under the provisions of "The Registration of Electors Act, 1866," or any Act 10 amending the same, resident within that portion of the Province of Wellington described in the First Schedule hereto, shall petition the Governor to establish a shire comprising such district, it shall be lawful for the Governor, by Order published in the *New Zealand Gazette*, to establish such shire 15 accordingly; and such district shall be called the Shire of Wanganui, and shall cease to be a portion of the Province of Wellington. And whenever a majority of the electors registered under the provisions of "The Registration of Electors Act, 1866," or any Act amending the same, resident within that 20 portion of the Province of Wellington described in the Second Schedule hereto, shall petition the Governor to establish a shire comprising such district, it shall be lawful for the Governor, by Order published in the *New Zealand Gazette*, to establish such shire 25 accordingly; and such district shall be called the Shire of Rangitikei, and shall cease to be a portion of the Province of Wellington. And whenever a majority of the electors registered under the provisions of "The Registration of Electors Act, 1866," or any Act amending the same resident within that portion of the Province of Taranaki described in the Third Schedule hereto, shall petition the Governor to establish a shire comprising such district, it shall be lawful for the 30 Governor, by Order published in the *New Zealand Gazette*, to establish such shire accordingly; and such district shall be called the Shire of Patea, and shall cease to be a portion of the Province of Taranaki.

Patea. 3. Until other provisions shall be made by the General Assembly

Provincial laws to

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or other lawful authority, the laws and Ordinances of the Provinces of Wellington and Taranaki in force within the said shires respectively at the time of the coming into operation of this Act, shall remain in force within the said shires, so far as the same are applicable.

remain in force so far as applicable.

5 4. All powers now by law vested in the Superintendents of the said Provinces, either solely or with the advice and consent of the Executive Councils of the said Provinces, other than the powers which under this Act become vested in the President and Shire Council, shall, within the said shires, on the coming into operation of this Act, become  
10 vested in the Governor: Provided that the Governor in Council may from time to time delegate all or any of the said powers to such person or persons as he may think fit, subject to such limitations as he may think fit, and may in like manner alter or revoke such delegations; and any act which is now required to be done by any public officer of the  
15 Provinces of Wellington and Taranaki not provided for under this Act, shall be done within the said shires by such person or persons as the Governor shall appoint or direct.

Powers of Superintendent to be vested in Governor.

The Governor may delegate powers.

5. Upon and after the day upon which this Act shall be brought into operation as hereinafter provided, the members who represent the district or districts aforesaid into which it shall be brought into operation in the Provincial Council, either of Wellington or Taranaki, shall cease to be members of the said Provincial Council.

Representatives no longer to sit in Provincial Councils.

6. In and for each shire constituted under this Act, there shall be a Shire Council consisting of nine members, and such members shall  
25 be elected in manner hereinafter provided.

7. Each of the said shires shall be divided into three districts by the Governor, who shall, by Proclamation in the *New Zealand Gazette*, define the boundaries of the said districts, and may from time to time abolish any districts proclaimed under this Act, and proclaim new  
30 districts.

Division of shires into districts.

8. In order that any person may be qualified to be a member of the Shire Council, he must be an elector enrolled on some electoral roll, which, under the provisions of "The Registration of Electors Act, 1866," or any Act amending the same, shall for the time being be in  
35 force within the shire, and must possess lands or tenements in such shire.

Qualification of member of Council.

9. On the first Wednesday in June in every year, one member in each district shall go out of office, and the member who shall so go out of office shall always be the member who has been the longest time in  
40 office without re-election, and if by reason of two or more members having become members at the same time, it shall not be apparent under the foregoing part of this section which of such last-mentioned members ought at any time to go out of office, the Council shall itself determine by ballot in what order and which of such members shall  
45 go out of office.

Retirement of members in rotation.

10. For the election of members of the Shire Council, those persons enrolled on any electoral roll, which, under the provisions of "The Registration of Electors Act, 1866," or any Act amending the same, shall for the time being be in force, whose qualifications are in  
50 respect of land and tenements situate within the district, and no other person, shall, as hereinafter provided, elect from among the persons capable of being such members the number of members assigned to the district under this Act, at such time as the Governor shall appoint.

Who shall elect.

11. In every district in which members of the Shire Council shall be in office under this Act, those persons enrolled on any electoral roll which, under the provision of "The Registration of Electors Act, 1866," or any Act amending the same, whose qualifications are in respect of lands and tenements situate within the district, shall, on the first  
55 Wednesday in June in each year, and in the manner hereinafter provided, elect from among the persons capable of being elected, one member, being one-third of the whole number assigned to each district under this Act.

Annual meeting.

12. If any member of the Shire Council shall die, or by notice  
Extraordinary vacancies.

under his hand delivered to the President or Clerk of the said Council, shall resign his office as such member, or become of unsound mind, or become bankrupt or compound with his creditors, or be convicted of any felony or indictable misdemeanour, or absent himself without leave of the Council from four consecutive meetings of the Council, or become interested either solely or jointly with any other person in any contract under the Council of which he is a member, otherwise than as a member of any incorporated or registered company, or of any body corporate, or accept or hold any place of profit under the Council, he shall immediately cease to be a member of such Council aforesaid. When under the provisions of this section the place of any member of the Council shall become vacant, the persons for the time being entitled to vote in the election of a member for the district in which he was elected, shall, on a day to be appointed by the Council, and in manner hereinafter provided, elect a member in his place, who shall continue in office so long as the member in whose place he was elected would have continued in office.

Notice of election.

**13.** The Governor, by warrant under his hand, shall appoint a Returning Officer for each of the shires constituted under this Act, who shall give public notice of such election by advertisement inserted in some newspaper generally circulating in the shire, or in some other manner in the shire, calculated to give in the opinion of the Returning Officer full publicity to the same, and by such notice shall require all candidates at such election to be nominated in manner hereinafter mentioned, on such day hereinafter called the day of nomination, being not less than seven nor more than fourteen clear days from the time of giving such notice, and at such place being within the shire as shall be named therein respectively; and on the day of nomination so fixed as aforesaid, the Returning Officer shall preside at a meeting to be held at noon at the place named in such notice, and shall declare the purpose for which the meeting is held, and every candidate shall be proposed by an elector duly qualified to vote at the election and seconded by another elector so qualified, and if there be no more candidates proposed and seconded than the number of members then to be elected, the Returning Officer shall declare such candidates to be duly elected, and they shall be deemed to be then duly elected accordingly from the day appointed hereunder for the election.

Declaration of election when uncontested.

Show of hands to be taken.

**14.** In the event of there being more candidates proposed and seconded than the number to be elected, the Returning Officer shall call for a show of hands separately in favour of each candidate, and after such show shall declare the persons in whose favour the show of hands shall appear to have been, and if thereupon a poll be not demanded by one of the candidates, or by not less than two electors, the Returning Officer shall declare such persons to be duly elected.

Polling places in districts.

**15.** In and for each district, within three months after the constitution thereof under this Act, the Governor shall in and for every district, and at any time afterwards when occasion shall require, the Council thereof may, appoint a sufficient number of polling places for such district at which the poll shall be taken at all elections held for the same, and may from time to time alter and vary the same.

Contested election. Notice and time and place of poll.

**16.** If a poll be demanded as aforesaid, the Returning Officer shall forthwith give public notice, in such manner as he shall deem best calculated for giving full publicity to the same, stating the names of the persons so nominated, and that a poll will be taken for the election of such members on the day appointed for holding the election under the provisions hereof and named in such notice, at the polling place or places within the district, and shall also therein give notice of the situation of the different polling places; and such poll shall take place accordingly, and shall commence at ten o'clock in the forenoon and close at four o'clock in the afternoon.

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17. If after a poll shall stand appointed as aforesaid at any election, any person who shall duly have become a candidate for such election shall be desirous that he retire from such candidature, such candidate, not later than two clear days before the day of polling, may sign and deliver to the Returning Officer a notice in the form in the Fourth Schedule hereto, stating that such candidate so retires, and may publish in some newspaper generally circulating in the shire copy of such notice; and the Returning Officer, on receipt of such notice, and on sufficient proof of such publication as aforesaid, if the number of candidates shall by such retirement be reduced to the number of members to be elected at such election, shall, on the day appointed for the election, at twelve o'clock at noon, at the principal polling place, declare the remaining candidates to be duly elected.
18. At every such election the Returning Officer, if it shall appear to him expedient for taking the poll, may cause booths to be erected or rooms to be hired and used as such booths in the places appointed as aforesaid for taking the poll, as occasion may require, and the same shall be so divided and allotted into compartments as to the Returning Officer shall seem most convenient.
19. The Returning Officer, or Deputy Returning Officer to be appointed by writing under his hand, shall preside at each polling booth for taking the poll within the shire.
20. Every Returning Officer and Deputy Returning Officer shall have power and authority to maintain and enforce order and keep the peace at any election or polling held by him, and to cause any person to be removed who shall obstruct the approaches to any polling booth, or shall conduct himself in a disorderly manner; and all constables and peace officers shall aid and assist such Returning Officer and Deputy in the performance of their duty.
21. At all elections of members of the Shire Council within any district in which a voters' roll shall be in force, the President shall supply every Deputy Returning Officer and every Poll Clerk with a written or printed copy of the voters' roll of the district, authenticated by the signature of the President, and every such copy shall be deemed sufficient to determine all questions and disputes which may arise before such Deputy Returning Officer or Poll Clerk in reference to anything contained in the voters' roll.
22. No other person except the Returning Officer or his Deputy, the necessary Poll Clerks, and not exceeding two agents at each polling booth for each candidate, to be appointed in writing by the candidate, together with a sufficient number of constables to keep order, shall remain in any polling booth during the polling; and no person whatever, except the Returning Officer or Deputy Returning Officer, shall speak to any elector after he shall have entered the polling booth and before he shall have delivered his voting paper as hereinafter provided; and any person offending against any of the provisions of this section, shall forfeit a sum not exceeding twenty pounds, to be recovered in a summary way: Provided always that no such Poll Clerk or agent shall be employed or be permitted to be present and remain in any polling booth during the polling, unless he shall have made and subscribed in the presence of the Returning Officer or his Deputy a declaration in the form in the Schedule hereto.
23. The number of votes which may be given for any candidate at any such polling booth shall not be published or made known until after the close of the poll, and every Returning Officer Deputy Returning Officer Poll Clerk agent or constable who shall directly or indirectly by any means whatsoever publish or make known before the close of the poll the number of votes which may have been given

Candidate may retire within certain time.

Schedule.

Polling booths, &c.

Deputies of Returning Officers.

Power of Returning Officer and Deputies.

Copy of voters' roll to be given to each Deputy Returning Officer and Poll Clerk.

Persons who may be present in polling booths.

Schedule.

State of the poll not to be declared until close.

for any candidate shall forfeit and pay for every such offence any sum not exceeding fifty pounds, to be recovered in a summary way.

**24.** The Returning Officer or his Deputy shall provide pencils, or pens and ink, and blotting paper and voting papers, in every polling booth, for the use of the voters.

**25.** On the day of election the voting at each polling place shall be conducted in manner following:—

- (1.) Every person entitled to vote at the election may vote for any number of candidates not exceeding the number of members of the Council then to be chosen. 10
- (2.) When any elector tenders his vote, the Returning Officer or Deputy Returning Officer to whom the same is tendered shall furnish to the said voter so many voting papers as the said voter shall be entitled to votes under the provisions of this Act, and every such voting paper shall be marked with the initials of the Returning Officer or Deputy Returning Officer presiding at such election at such polling booth, and shall have the Christian and surname of each candidate written or printed thereon, and no other matter or thing, except that the candidates having the same name and surname shall be distinguished by the addition of their residences and occupations; and there shall be provided separate apartments or places forming part of the polling booth into which the voter shall immediately retire, and there alone and in private, without interruption, make a cross or crosses within the square opposite the name of the candidate or candidates he wishes to be elected, and then shall fold the voting paper or papers, and immediately deliver it or them so folded to the Returning Officer or Deputy Returning Officer presiding at such polling booth. 15  
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- (3.) The Returning Officer or Deputy Returning Officer presiding shall forthwith publicly and without opening the same deposit such voting paper or papers in a box provided for that purpose, and no voting paper so deposited in any box shall on any account be taken therefrom until after the close of the election. 35
- (4.) As soon as the elector has delivered his voting paper or papers as aforesaid, he shall immediately leave the polling booth, and on his refusal to do so shall be forthwith removed by order of the Returning Officer or Deputy Returning Officer presiding at such polling booth. 40
- (5.) If any person to whom a voting paper shall have been furnished as aforesaid, shall be blind or be unable to read, and shall signify the same to the Returning Officer or Deputy Returning Officer, such Returning Officer or Deputy Returning Officer may and shall, at the request of such person, and for him, and in presence of a witness, if so desired by such person, in the polling booth, make a cross or crosses on such voting paper within the square or squares opposite the names of such candidates as such person may designate. 45  
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- (6.) Each candidate shall be entitled to appoint, in writing under his hand, two persons, neither of whom shall be a candidate, to be scrutineers on behalf of such candidate at each polling booth, and every such scrutineer shall be entitled to be present in that part of the polling booth in which the voting papers are issued by the Returning Officer or Deputy Returning Officer as hereinbefore provided. 55

Voting papers, &c.  
to be provided in  
each booth.

Mode of conducting  
elections.

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26. At every election of members of the Council of any district in which a voters' roll shall not be in force, the Returning Officer or his Deputy, as the case may be, shall put to every person tendering his vote the questions following:—

Questions to be put to voters at elections previous to making voters' roll.

- 5 (1.) What is your Christian and surname ?  
 (2.) Are you an elector enrolled on any electoral roll now in force under the provisions of "The Registration of Electors Act, 1866?" and is your qualification as such elector in respect of lands or tenements within this district ?  
 10 (3.) On the roll of what electoral district are you so enrolled as an elector ?  
 (4.) What is the property in respect of which you are so enrolled, and the name and situation thereof ?  
 (5.) Have you already voted at the present election ?

15 And no other question shall be put to any person tendering his vote ; and no person who shall refuse to answer any of such questions, or whose answers to the same shall not show his right to give such vote, shall be permitted to vote.

20 27. Every person who shall wilfully make a false answer to any of the questions aforesaid, or who shall poll more than once, or offer to poll more than once, at the same election, or who shall personate any other person for the purpose of polling at any election, shall for every such offence be liable to a penalty of not exceeding one hundred pounds.

False answer, polling twice, and impersonation.

25 28. Every Deputy Returning Officer shall, immediately upon the close of the poll, forward the poll books and the voting papers to the Returning Officer, and the Returning Officer shall, after the close of the poll and the receipt of the poll books and voting papers, examine the poll books, and if necessary compare the entries therein with the  
 30 voting papers, for the purpose of ascertaining the number of votes for each candidate ; and the Returning Officer shall, as soon as conveniently may be on or after the day of the poll, at some polling place of the shire, and at a time to be fixed by him, of which at least twenty-four hours' notice shall have been given, in such manner as he may  
 35 deem best calculated to give publicity to the same, publicly declare the number of votes given to each candidate, and shall declare the candidates, not exceeding in number the number of vacancies to be filled up, who have received at all the polling booths taken together the greatest number of votes to be duly elected as members of the  
 40 Shire Council of the shire ; and if two or more candidates shall have received an equal number of votes, the Returning Officer shall in each case have a casting vote.

Declaration of poll and casting vote.

29. If any person be elected a member in more than one district, he shall, within seven days after notice thereof, choose, or in default  
 45 thereof the Council at its next meeting shall declare, for which one of the districts such member shall serve, and he shall thereupon be held to be elected in that district only which he shall so choose, or which the Council shall so declare, and shall cease to be a member for any other district.

Manner of proceeding if a person elected for more than one subdivision.

50 30. When the proceedings at any election under this Act shall be interrupted or obstructed at any polling place by any riot or open violence, the Returning Officer or Deputy, as the case may be, shall not finally close the poll, but shall adjourn the taking of the poll at the polling place at which such interruption or obstruction shall have  
 55 happened to the day following, and if necessary such Returning Officer or Deputy shall further adjourn such poll until such interruption or obstruction shall have ceased, when such Returning Officer or Deputy shall again proceed with the taking of the poll at the place at which the same may have been so interrupted or obstructed.

Adjournment of election by reason of riot, &c.

60 31. If from any cause, not being such as in the last preceding section mentioned, after a poll shall stand appointed for the same, the election shall stand adjourned until the same day of the following

Adjournment where from some other cause no election on day appointed.

week, and the Returning Officer shall give not less than three days' previous notice thereof by advertisement or by placards affixed in public places in the district, and in all such cases as in this and the said section mentioned, the members of the Council for the district or subdivision, as the case may be (if any), who would on the day appointed for the election have retired from office by rotation, shall continue in office until the day to which such election or the polling at any booth for the same has been or stands adjourned.

Provision for total failure in filling up one or more vacancies.

**32.** If at the first general election of the whole Shire Council to be held as herein provided for any shire, after the first constitution thereof under this Act, no member or less number of members of the Council than hereby required shall have been elected, it shall be lawful for the Governor to appoint a number of persons capable of being such members equal to the number so deficient to be members of such Shire Council, and such persons shall be members thereof accordingly to all intents and purposes as if elected as herein provided; and if at any other election of members of the Shire Council of any shire, whether the same be an annual ordinary election or be for supplying extraordinary vacancies in the Council, no seats or vacancies or a number of seats or vacancies less than the whole number which should have been filled up at such election shall be filled up, then the seats and vacancies which shall not be so filled up shall severally be deemed extraordinary vacancies and to have occurred on the day appointed for such election, or to which the same may have been or may stand appointed adjourned as before provided, and shall be filled up as hereinbefore provided for extraordinary vacancies.

Election not to be questioned for want of title in person presiding *de facto*.

**33.** No election of members of a Shire Council shall be liable to be questioned by reason only of any defect in the title or any want of title of the person by or before whom such election or any polling for the same shall have been held, or of any want of qualification in any person having signed any nomination paper: Provided that such first-mentioned person has been actually appointed to preside or take the poll, or has been acting in the office giving the right to preside or take the poll at such election.

Misfeasance of officers, &c.

**34.** If any person having been duly appointed hereunder to act as Returning Officer or Deputy Returning Officer at any election, and undertaken so to act, shall be guilty of any wilful misfeasance or wilful or negligent act of commission or omission contrary to any of the provisions of this Act relating to elections, he shall upon conviction forfeit and pay for every such offence a penalty not exceeding fifty pounds, to be recovered in a summary way.

Election of President.

**35.** At the first meeting of the Council in every shire the Council shall, by the majority of the votes of the Councillors present, elect one of their body to be President until the next annual meeting of the Council, when, and at every subsequent annual meeting, the Councillors shall in like manner elect a President for the ensuing year, and such President shall preside at all meetings of the Council at which he shall be present; and if such President cease for any cause, other than the retirement of Councillors in rotation, to be a Councillor, he shall be incapable of being or continuing President; and in case the President die, or by writing under his hand delivered to the Council at any meeting thereof, or to the Clerk of the Council, resign his office, or as aforesaid cease to be a Councillor, or be ousted of such his office by a rule or order of the Supreme Court or a Judge thereof, the Councillors present at the meeting next after the occurrence of such vacancy, or at any meeting before there shall as yet have been a President, shall choose some one of their body to be President, and the President so elected shall continue in office until the next annual meeting; and if at any meeting of the Council the President be not present, one of the Councillors present shall be elected

Vacancy in office of President.



Chairman of such meeting by the majority of the votes of the Councillors present thereat; and in the case of an equality of votes, the President, or the Chairman in his absence, shall have a deliberative and a casting vote.

5 **36.** Notwithstanding anything herein contained as to the number of the Council, or as to Councillors going out of office in rotation, the President shall, during the year of office of President, continue to be a member of the Council. President to continue Councillor during year of office.

10 **37.** The Council of every shire constituted under the provisions of this Act shall hold their first meeting at such place and time as shall be appointed by the Governor, within one month after the first election of Councillors, or as soon after such respective periods as conveniently may be, at the hour of twelve o'clock at noon, and shall proceed to put this Act into execution. First meeting of Council.

15 **38.** The Council of every shire shall hold an annual meeting at noon on the first Wednesday in the month of September, in each year, at the office of the Council within the shire, and they shall also hold ordinary meetings for the transaction of general business, and the ordinary meetings shall be held at the office of the Council on such day and hour in each week month or other stated space of time as the Council shall from time to time appoint; and when any such appointment is made the Clerk shall give notice thereof to each of the Councillors, and they shall afterwards, until the time of such ordinary meeting is changed, and notice of such change given to the Councillors, attend such ordinary meetings without notice. Annual and ordinary meetings of Council.

20 **39.** At all meetings of the Council all the members present shall vote, save where it is herein otherwise provided, and the questions there considered shall be decided by open voting, and by the majority present, and if there be an equal division of votes upon any question the President at such meeting shall, in addition to his own vote as member, have a second or casting vote: Provided always that if at any such meeting there be an equality of votes in the election of the President, it shall be decided by lot which of the members having an equal number of votes shall be the President. Casting vote.

30 **40.** All powers vested in the Council under this Act may be exercised by any five or more of the members present at any meeting holden in pursuance of this Act: And no business shall be transacted at any meeting of the Council, unless the said number of members be present. Quorum of Council.

40 **41.** The members present at the first meeting or at any annual ordinary meeting or at any adjourned meeting, may from time to time adjourn such meeting, and if at any meeting of the Council there be not present, within half-an-hour after the time appointed for such meeting, the number of members hereby authorized to exercise the powers vested in the Council, the members present, or the major part of them, or any one member if only one be present, or the Clerk of the Council if no member be present, may adjourn such meeting to another day, not earlier than three nor later than seven days from the day of such adjournment. Adjournment of meetings.

50 **42.** The ordinary meetings of the Council shall be held for transacting the ordinary business of the Council under this Act, and amongst the rest for appointing and removing the inferior officers of the Council and superintending their conduct, and for inquiring into the conduct of the contractors or other persons employed by them to execute any works, and into the state and progress of such works, and generally for giving such directions as from time to time may be necessary for carrying into effect the purposes of this Act; and all ordinary meetings shall be held with open doors, unless it shall become necessary to exclude strangers on account of their disorderly conduct. Business at ordinary meetings.

Notice of extra-ordinary business.

43. Where any business other than ordinary business is required or intended to be transacted at any ordinary meeting, the Clerk shall give notice thereof to each of the members of the Council, and no such extraordinary business nor any new rules or regulations shall be transacted or adopted at the ordinary meetings unless due notice thereof has been given at a prior meeting, and sent to each member in the manner required for special meetings. 5

Resolutions of Council how revoked or altered.

44. No resolution at any meeting of the Council shall be revoked or altered at any subsequent meeting, unless notice of the intention to propose such revocation or alteration be given by the Clerk to each of the members seven days at least before holding the meeting, nor unless such revocation or alteration be determined upon by a majority consisting of two-thirds of the members present at such subsequent meeting, if the number of members present at such subsequent meeting be not greater than the number present when such resolution was come to, or by a majority if the number of members present at such subsequent meeting be greater than the number present at such former meeting. 10 15

Special meetings.

45. The Council may hold special meetings, and any three or more of the members may, by notice in writing delivered to the Clerk, require a special meeting to be held, but no such meeting shall be held unless four clear days' notice thereof at least be given. 20

Special orders.

46. Where by this Act the Council are empowered to do anything by special order only, they shall not do such thing unless the resolution to do the same has been agreed to by the Council in some meeting whereof special notice has been given, and has been confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings in some newspaper generally circulating in the shire, and special notice of such meeting given to each of the members of the Council. 25 30

Notices of meeting.

47. All notices of any meeting of the Council shall be in writing or in print, or partly in writing and partly in print, and shall be by the Clerk delivered or sent by the post or otherwise to the usual place of abode or place of business (if any) within the shire of each of the members four clear days at least previous to such meeting; and every such notice shall specify the time and place of meeting, and in case of a special meeting shall specify the object thereof, and no business shall be transacted at any special meeting except such as is stated in the notice thereof. 35 40

Committees of Council and quorum.

48. The Council may at any meeting from time to time appoint committees for any purposes which in the opinion of the Council would be better regulated and managed by means of such committee, and it may fix the quorum of such committee, and shall from time to time appoint one of the members thereof to be chairman of such committee, and may continue alter or discontinue such committee, and from time to time remove such chairman. 45

Meetings of committees, and chairman.

49. Every committee so appointed may meet from time to time, and may adjourn from place to place as they may think proper for carrying into effect the purposes of their appointment; but no business shall be transacted at any meeting of the committee unless the quorum of members (if any) fixed by the Council, and if no quorum be fixed, three members be present; and at all meetings of the committee, if the chairman be not present, one of the members present shall, by the majority of voices, and if they be equally divided, by lot, be appointed chairman; and all questions shall be determined by a majority of the votes of the members present, and in case of an equal division of votes, the chairman shall have a casting vote in addition to his vote as a member of the committee. 50 55

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50. No proceedings of the Council or of any committee shall be invalidated or be illegal in consequence only of there being any vacancy in the number of members at the time of such proceeding.

Vacancy in number of members not to invalidate proceedings.

51. All proceedings of the Council or of a committee thereof, or of any person acting as a member thereof, shall, notwithstanding it be afterwards discovered that there was some defect in the election or appointment of the members of the Council or persons acting as aforesaid, or that they or any of them were incapable of being such members, be as valid as if every such person had been duly elected or appointed, and was capable of being a member of the Council.

Nor want of capacity, &c., of any person to be member.

52. The Council may enter into contracts with any person for the execution of any works directed or authorized by this Act to be done by the Council, or for furnishing materials, or for any other things necessary for the purposes of this Act; and except as hereinafter provided every such contract for the execution of any work shall be in writing, or partly printed and written, and shall specify the work to be done and the materials to be furnished and the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and the power hereby granted to the Council to enter into contracts may lawfully be exercised as follows, that is to say:—

Mode in which Council may enter into contracts, and effect thereof.

(1.) Any contract which if made between private persons would be by law required to be in writing and under seal, the Council may make in writing and under the common seal of the Council, and in the same manner may vary or discharge the same.

(2.) Any contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith, the Council may make in writing signed by the members thereof, or any two of their number acting by the direction and on behalf of the Council, and in the same manner may vary or discharge the same.

(3.) Any contract which if made between private persons would be by law valid, although made by parol only and not reduced into writing, the Councillors or any two of them acting by the direction and on behalf of the Council may make by parol only without writing, and in the same manner may vary or discharge the same: Provided that any agreement made by parol only shall not be valid for any sum exceeding ten pounds.

53. The Council may from time to time appoint and employ a treasurer clerk engineer surveyor valuers collectors and all such other officers to assist in the execution of this Act as they shall think proper and necessary, and from time to time remove any of such officers and appoint others in the room of such as shall be so removed, or as may die resign or discontinue their offices, and may out of the shire fund pay such salaries and allowances to the said officers respectively as the Council shall think reasonable.

Appointment, removal, &c., and salaries of officers.

54. Any Councillor shall be capable of being or continuing Clerk or Treasurer or any other such officer of the shire as in the last preceding section mentioned, but shall not be paid any salary fees or other reward for services performed as such Clerk Treasurer or other officer.

Councillors acting as Clerk or Treasurer shall not be paid.

55. If at any time there shall be no Clerk of the Council of any shire, or the Clerk of the Council shall be incapable of acting or refuse to act as herein provided, all acts and things which under this Act may or are required to be had or done by or with regard to the Clerk of the Council, may and shall be had or done by or with regard to such fit person as the Council shall appoint.

Substitute for Clerk, if none, or for the time incapable, &c.

56. Every officer employed by the Council who shall exact or accept on account of any thing done by virtue of his office or in

Officers exacting or accepting fees.

relation to the matters to be done under this Act, any fee or reward whatsoever other than the salary or allowance allowed by the Council, or who shall be in anywise concerned or interested in any bargain or contract made by the Council, shall be liable to a penalty of not exceeding fifty pounds.

Security by officers entrusted with moneys.

57. Before any officer entrusted by the Council with the custody or control of moneys by virtue of his office shall enter upon such office, the Council shall take sufficient security from him for the faithful execution thereof.

Collectors of rates to pay over moneys and make returns.

58. Every Collector appointed or employed by the Council by virtue of this Act to collect any rates shall, within seven days after he shall have received any moneys on account of any such rates, pay over the same to the Treasurer, to the account of the Council, and the receipt of such Treasurer for the moneys so paid shall be a sufficient discharge to the Collector; and every such Collector shall, at such time and in such manner as the Council shall direct, deliver to them true and perfect accounts in writing under his hand of all moneys received by him and of all moneys paid by him to the said Treasurer by virtue of this Act, and also a list of the names of all persons who have neglected or refused to pay any rate or money owing to them, with a statement of the moneys due from them respectively, and in respect of what several periods and rates the same are due respectively; and every such Collector shall so deliver, on or before the twenty-seventh day of June in each year, such a list embracing the said particulars brought down to the twentieth day of the said month of June inclusive.

Officers to deliver accounts and vouchers and make payments.

59. Every officer appointed or employed by the Council by virtue of this Act shall, from time to time, when required by the Council, make out and deliver to them or to any person appointed by them for that purpose, a true and perfect account in writing under his hand of all moneys received by him on behalf of the Council; and such account shall state how and to whom and for what purpose such moneys have been disposed of; and together with such account such officer shall deliver the vouchers and receipts for such payments, and every such officer shall pay to the Council or to any person appointed by them to receive the same all moneys which shall appear to be owing from him upon the balance of such accounts.

Officers failing to render accounts, &c., or to pay balance, or deliver over property of the Council.

60. If any such officer fail to render such accounts as aforesaid, or to produce and deliver up the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for five days after being thereunto required any officer of the Council fail to deliver up to the Council or to any person appointed by them to receive the same, all papers and writings property matters and things in his possession or power relating to the execution of this Act or belonging to the Council, he shall be liable to a penalty of not exceeding one hundred pounds.

Such proceedings not to bar remedy against securities.

61. No such proceeding against or dealing with any officer as aforesaid shall deprive the Council of any remedy which they might otherwise have against any surety of such officer.

Governor to nominate an Auditor or Auditors.

62. It shall be lawful for the Governor from time to time to nominate and appoint any one or more person or persons not being Councillors of the shire as he shall think fit to be an Auditor or Auditors for any shire, and such person or persons from time to time as he shall think fit to remove, and on the death resignation or removal of any such Auditor or Auditors to appoint any other person or persons in place of any person or persons so dying resigning or removed: Provided always that such Auditors of the shire shall be paid out of the shire fund such reasonable remuneration as the Governor may direct.

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63. All moneys of the body corporate amounting to twenty pounds and upwards, shall, within thirty days, or such shorter period as the Council may direct after they shall have come to the hands of the proper officer of the Council, be paid into such bank as the Council shall from time to time have appointed for that purpose, and no such money shall be drawn out of such bank save by cheques signed by the President of the Council and countersigned by the Treasurer of the Council or by such other person as the Council may appoint.

Bank account.

64. The Council shall cause books to be provided and true and regular accounts to be entered therein of all sums of money received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall, at all reasonable times, be open to the inspection of any of the members of the Council or electors of the shire, and any creditor of the body corporate, without fee or reward; and the members of the Council and persons aforesaid or any of them may take copies of or extracts from the said books without paying anything for the same, and any Clerk or other person having the custody of the said books who shall not, on any reasonable demand of any such member of the Council or elector of the shire, creditor as aforesaid, permit him to inspect the said books or to take such copies or extracts as aforesaid, shall be liable to a penalty of five pounds for every such offence.

Books of accounts, and inspection by persons interested.

65. The Council shall cause their accounts to be balanced in each year, and shall cause a full and true statement and account to be drawn out of the amount of all rates or assessments made, and of all contracts entered into and of all moneys received and expended by virtue of this Act during the preceding year, and of all available assets and of all debts then owing by the Council; and such statement and account shall be laid before the Auditor of the shire, who is hereby required to attend at the office of the Council as soon as conveniently may be after the balancing of the said accounts and drawing out of the said statement and account, and who shall, in the presence of the Clerk of Council, if he desire to be present, proceed to audit the accounts of the year preceding such balancing, and the Council shall by their Clerk produce and lay before the Auditor the accounts so balanced as aforesaid, together with the said statement and account, accompanied with proper vouchers in support of the same, and all books papers and writings in their custody or power relating thereto; and any person interested in the said accounts, either as a creditor of the body corporate or as an elector, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such accounts; and if the said accounts of the Council be found correct, such Auditor shall sign the same in token of his allowance thereof, but if such Auditor thinks there is just cause to disapprove of any part of the said accounts, he may disallow any such parts of the said accounts as shall be so disapproved, and shall report specially thereupon to the Council, who shall consider the Auditor's report, and resolve in the matter as to them shall appear just.

Accounts to be balanced annually.

66. The Council shall cause such statement and account to be fairly copied or printed, and shall allow such statement and account to remain for inspection at the office of the Council; and every creditor of the body corporate, and every person paying any rate, or any person acting on behalf of any such creditor or elector, may at all reasonable times inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the Council; and the Clerk shall, on demand, furnish a written or printed copy of the said statement and account to every such creditor and ratepayer without fee if printed, and if written, upon reasonable

Printing and inspection of statement and account.

payment to be fixed by the Council, not exceeding fourpence per folio of seventy-two words.

Annual accounts in abstract certified by Auditors.

67. The Council shall every year cause an annual account in abstract to be prepared, showing the total receipt and expenditure of all funds levied by virtue of this Act, for the year ending on the day down to some convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account duly audited and certified by the President of the Council and also by the Auditor of the shire, and shall cause the same to be published in some newspaper generally circulating within the shire.

Council may make by-laws.

68. The Council may from time to time make such by-laws as they think fit for the purpose of regulating the conduct of their officers and servants, and for providing for the due management of the affairs and proceedings of the Council, and for any of the purposes provided for in this Act, and to carry into effect all the provisions of this Act, according to the true intent and meaning thereof for the good government of the shire: Provided that no by-law shall be made save by a special order of the Council, nor unless a copy of the draft by-law as proposed shall have been published in the shire, and notice thereof given to the inhabitants of the shire in such manner as the Council shall direct.

Of what the ordinary revenue of the body corporate shall consist.

69. The ordinary revenue of the body corporate of every shire shall consist of the moneys following, that is to say:—

- (1.) Rates not being special rates, tolls levied on roads appointed main roads or being or continuing to be main roads under this Act.
- (2.) Moneys received by the Council under any grant or appropriation by or under or in pursuance of any Act of the General Assembly of New Zealand,
- (3.) All other moneys which the Council may receive under or in pursuance of this Act, not being the proceeds of any loan.
- (4.) Moneys received by way of subscription or voluntary donation, unless subscribed for some specified road bridge or other work, in which case such moneys shall be applied to such road bridge or other work only.
- (5.) All moneys derivable within such shire vested in the Government of the Province within which such shire was situate previous to the coming into operation of this Act, except moneys derived from the sale or lease of waste lands of the Crown.

70. The right interest and property in all wharves harbour works bridges toll-houses and other erections, and all other property situate within any shire under this Act, which, previous to the coming into operation of this Act, were vested in the Superintendent and Provincial Council of the Province within which such shire was situate, shall, on the coming into operation of this Act, become vested in the President and Council of such shire, and all charges dues fees fines licenses and assessments payable by any person or persons residing or carrying on business within such shire under any Act of the General Assembly, or under any Act or Ordinance of the Provincial Council of the Province within which such shire was situate as aforesaid, shall, on the coming into operation of this Act, become payable to the Collector of the Council of the shire in which such person or persons reside or carry on business.

71. The President of any shire constituted under this Act is hereby empowered to sign and issue, or to appoint any person to sign and issue, on payment of the stated charges dues fees fines licenses and assessments to the Collector of the Shire Council, all necessary receipts licenses or certificates of registration to the persons paying such charges, or residing or carrying on business within the boundaries of the shire of which he is the President, and all such charges and fees shall form part of the ordinary revenue of such shire.

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72. All powers respecting waste lands of the Crown which, prior to the coming into operation of this Act, were vested in the Superintendent and Provincial Council of the Province within which such shire was situate in respect to such shire, shall, on the coming into operation of this Act, become vested in the Governor and his Executive Council: Provided that the Governor may delegate to such person or persons as he may think fit all or any of such powers, with such limitations as he may think fit. Waste lands how vested.
73. Every valuer appointed under this Act shall make and return his valuation of rateable property in the shire in the form contained in the Schedule, or to the like effect, and shall also at the same time state in such return, with regard to each rateable tenement or hereditament, the several particulars shown in the respective columns of the said Schedule. Form of valuation and return.  
Schedule.
74. Before any valuation or return shall be made, the person appointed to make it shall make and subscribe a solemn declaration to make such valuation and return impartially and truly, according to the best of his judgment, and an entry or minute shall be made in the book of the proceedings of the Council of making and subscribing of such declaration and of the date thereof. Declaration by valuer.
75. Every valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter at all reasonable hours in the daytime into and upon all rateable property within the shire without being liable to any legal proceedings on account thereof. Entry on premises by valuer.
76. It shall be lawful for any valuer to put to any person in occupation or in charge of any rateable property which such valuer shall have been authorized under the provisions hereof to value, questions upon all such matters as shall be necessary to enable such valuer to state correctly the several particulars herein required to be stated in his valuation and return with regard to the premises, and if after being informed by such valuer of his purpose in putting such questions, and of his authority under this Act to put the same, any such person in occupation or charge, or any such owner, shall refuse or wilfully omit to answer the same to the best of his knowledge and belief, or shall make any false answer or statement in reply to any such question, such person shall on conviction forfeit and pay for every such offence a penalty not exceeding five pounds. Valuer empowered to make inquiries.
77. The owners of all rateable property of which the full net annual value does not exceed the sum of ten pounds, or which is let to weekly tenants, shall be rated to and pay the rates by this Act directed to be made instead of the occupiers thereof, who shall not in any such case be rated as such occupiers. Owner of property under ten pounds, or let to weekly tenants, to pay rates instead of occupier.
78. When any owner is rated in respect of any rateable property in the occupation of any tenant under a lease or agreement made prior to the coming into operation of this Act, such tenant shall repay to the owner all sums paid by him during the continuance of such lease on account of any rates under this Act payable by the occupier, unless it shall have been agreed that the owner shall pay all rates in respect of such property, and every sum so payable by the tenant to the owner may be recovered, if not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner. Rights of owner under leases made before this Act.
79. When the occupier of any rateable property is rated in respect thereof, and the rate remains due and unpaid for three months, the Council of the shire or their Collector may demand the amount of such rate or any part thereof from the owner of the rateable property, and on non-payment thereof may recover the same from such owner. Owner to pay rates in default of occupier.
80. When the owner of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the Council of the shire or their Collector as aforesaid may demand the amount of such rate or any part thereof from the occupier for the time being of

such rateable property, and on non-payment thereof may recover the same from the occupier of any property liable to be rated, and every such occupier shall be entitled to deduct from the rent payable by him to such owner so much as was so paid or recovered from him.

Occupier not to be required to pay more than the amount of rent owing by him.

**81.** Provided always that no such occupier, as in the last preceding section mentioned, shall be required to pay any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which, after such demand and after notice not to pay the same to his landlord, at any time accrues and becomes payable by him, unless he refuse, on application being made to him for that purpose by or on behalf of the Council of the shire, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable. 5 10

Occupier refusing to give name of owner, liable to penalty.

**82.** If, on request of the Council of the shire or any Collector of the said rates duly authorized by them as such, the occupier of any property refuses or wilfully omits to disclose, or wilfully misstates to the Council or Collector making such request, the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, such occupier shall be liable to a penalty not exceeding five pounds. 15 20

What shall be rateable property.

**83.** All lands tenements and hereditaments not being Crown lands or land over which the Native title has not been extinguished, shall be rateable property within the meaning of this Act, save as is next hereinafter excepted, that is to say, except land used for public purposes hospitals benevolent institutions and buildings used exclusively for public charitable purposes, churches chapels and other buildings used exclusively for public worship, dwellings of ministers of any religious denomination, and buildings used as athenæums mechanics' institutes schools or as residences of schoolmasters or schoolmistresses, provided they be inhabited only by the master or mistress of such schools or his or her family, and burial grounds: Provided that nothing herein contained shall exempt from being rated in accordance with the provisions of section five, Part II., and section six, Part III., of "The Highway Boards Empowering Act, 1871," any land made liable to be rated under the provisions of the said Act. 25 30 35

Rates subject to appeal.

**84.** All rates made under the provisions of this Act shall be subject to appeal, and be recovered as provided in Part III. of "The Highway Boards Empowering Act, 1871."

Council may make and levy general rates.

**85.** The Council of every shire shall, once at least in every year, and may from time to time as they may see fit in manner hereinafter mentioned, make and levy rates, to be called "general rates," equally upon all rateable property within such shire, and no such rates made in any one year shall exceed the amount of one shilling in the pound of the net annual value of such property; and the Council of each shire shall, and they are hereby required, within four months of the first election of such Councillors for such shire, to make one such rate. 40 45

On what persons rates may be made or levied.

**86.** Every rate which the Council of any shire are by this Act authorized to make or levy shall be made and levied by them at yearly or half-yearly periods, as they shall think fit, upon any person who occupies, or if there be no occupier, then upon the owner of any rateable property whatsoever within such shire according to the net annual value of such property, and shall be vested in the Council, and shall be payable at such times and either in whole or in such parts or instalments as they shall appoint: Provided that every rate made under this Part shall be made for and in respect of such period after the making of such rate as the Council shall think fit and as shall be named therein; but this section shall not prevent the Council from making or levying during any such period another rate if they shall otherwise have power hereunder to make or levy the same. 50 55 60

Rates to be made for particular periods.



87. The Council may make any such rate in order to raise money to pay charges and expenses to be incurred, or in order to raise money to pay charges and expenses already incurred.

Rates may be made retrospectively.

88. The Council from time to time before proceeding to make any rate which they are by this Act authorized to levy, shall cause an estimate to be prepared of the money required for the several purposes in respect of which they are authorized to expend or apply the shire fund, showing the several sums already available for such purposes, the several sums required, the rateable value of the property assessable, and the rate on each pound of such value necessary to raise the money required, which estimate after the same has been approved of by the Council shall be forthwith entered on the rate book to be kept as hereinafter provided.

Estimate to be prepared before making rate.

89. Notice of the intention of making every rate authorized to be made under the provisions of this Act, and of the time and at the period in respect of which the same is intended to be made, and of a place where a statement of the proposed rate is deposited for inspection by the ratepayers, shall be given by the Council by placards posted up in public places within the shire, and shall be advertised in some newspaper generally circulating within the shire, at least twenty-one days previous to such rate being made.

Notice of intention of making rate.

90. Every such rate shall be fairly transcribed in a book, to be called the "rate book," to be kept for that purpose, and may be in the form given in the Schedule to this Act, or as near thereto as the circumstances of the case will permit; and every such rate shall contain an account of every particular set forth at the head of the respective columns, so far as the same can be ascertained, and shall be signed by not less than three Councillors of the shire.

Form, &c., of rate.

Schedule.

91. The statement of the proposed rate, and the rate immediately after the same is made, shall be open to the inspection of any person interested or rated, at all reasonable times, that is between the hours of ten and four o'clock on such days as may be appointed, and any such person may take copies or extracts from such statement or rate without paying anything for the same; and any person having the custody of such statement or rate who shall refuse to permit any person so interested or rated as aforesaid, or shall not on his request permit him to take copies or extracts from such statement or rate, shall, for every such offence be liable to a penalty not exceeding five pounds.

Rate to be open to inspection of ratepayers, who may take copies.

92. The Council may from time to time amend any rate book made by virtue of this Act, 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 or upon which any person has been rated, if it appear to them that such person has been underrated or overrated, or by making such other amendments therein as will make such rate conformable to this Act, 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 objection thereto 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 fourteen days notice of such alteration before the rate shall be payable by him.

Rates may be amended by Council.

93. The Council of each shire in which no valuation has been made shall, within three months after the constitution of the shire, cause to be made for such shire, and may from time to time afterwards as shall seem fit, cause to be made for such shire, a valuation of all rateable property within the shire, by a competent person or persons, to

Valuation of rateable property.

be called valuers, in such manner and form, and such valuers shall have such powers and duties, as are hereinafter prescribed, and notice of such valuation shall be given to the occupiers or owners of the rateable property so valued, or shall be published by the Council in some newspaper circulating in the shire, and the rates made by the Council for the purpose of this Act shall be made upon such valuation, and in every such valuation the property rateable shall be computed at its annual value, that is to say, at the rent at which the same might reasonably be expected to let from year to year.

Owner where name not known to be rated as owner only.

94. Whenever the name of any owner liable to be rated under the provisions of this Act is not known to the Council, it shall be sufficient to rate such owner as the owner of the property, to be rated by the designation of "the owner," without stating his name.

If such road lie along another shire, Council may give notice to treat with respect to it.

95. If any part of a main road shall lie along the limits of any shire but a portion of the breadth thereof shall lie outside of such shire, and shall as to the breadth of such part so lying outside such shire be adjoining to or within any limits of any other shire or any Province borough city town or place, and if such main road shall not as to such part theretofore have been drained formed macadamized or otherwise made good, or shall be ruinous or out of repair, the Council of such first-mentioned shire may cause to be given to the Council or other governing body of the said shire borough city town or place a notice stating the desire of the Council giving the notice that such part of such main road as aforesaid and described in such notice may be drained formed macadamized or otherwise made good or repaired, and offering to treat and agree with the Council board or governing body receiving the notice with respect to the performance by either party of the whole or part of such work, and the future maintenance and repair of such part of the said road, and such agreement may as to any or all of such matters be made accordingly; and every such Council or governing body giving or receiving such notice shall, for the purpose of carrying out any such agreement, have power to perform any such work or any part thereof and to provide for such maintenance and repair.

Bridges, &c., at boundaries of cities.

96. If the Council of any shire shall desire to construct or repair any bridge or ferry over any river or creek at a place where one bank and half only of the whole breadth of such river or creek lie within the shire, and if there be in such case no other Council body corporate or governing body duly empowered as herein provided to treat with such Council with respect to the remaining part of such breadth and the opposite bank, then the said Council may, with the approval of the Governor, construct establish or repair such bridge or ferry and the approaches thereto as though the whole breadth and both banks were within the shire; and if there be any such Council body corporate or governing body as lastly mentioned, then the Council of the shire may treat and agree with such Council body corporate or governing body with respect to such work, and either party may execute such work or any part thereof according to the tenor of such agreement.

Control of such appointed to Council.

97. The Governor may by Proclamation appoint that any bridge or ferry which may have been or may hereafter be placed or provided at the boundary of any shire on or over any river or creek whereof the whole breadth and both banks shall not at the site of such bridge or ferry lie or be within such shire, shall, with the approaches thereto, be under the control of the Council of such shire, and the same shall be under their control accordingly.

When a main road formed up to boundary of a shire and no continuous road in adjoining

98. If at any time there shall be within any shire a main road continuing up to the boundary of such shire, and there shall not be within the adjoining shire a main road, or a main road sufficiently formed, continuing from such first-mentioned road through such last-

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mentioned shire, it shall be lawful for the Council of either of such shires to petition the Governor for an order that a sufficient road shall be formed through such last-mentioned shire, and such petition, if it shall be from the Council of such first-mentioned shire, and if the Council is willing that some portion of the share of any roads' subsidy payable or to become payable to such first-mentioned shire should be applied towards the formation of such road, shall state that the Council is willing that a portion of the share of such shire in such fund shall be so applied, and on receipt of such petition the Governor shall transmit a copy of such petition to that other Council which shall not have petitioned, and the Governor shall fix a time and place at which he will proceed to inquire as to the necessity for the formation of such road, and give notice to the Council of each of such shires of the time and place so fixed, and shall then proceed to inquire in such manner as he shall think fit into the circumstances of the case; and if the Governor shall think fit, it shall be lawful for him by an order in writing, published in the *New Zealand Gazette*, to order that a road of such length and direction as he shall think fit shall be formed in or through the shire hereinbefore in this section secondly mentioned by the Council of such secondly-mentioned shire, and if he shall think that the expense of such formation should be borne alone by the shire within which such road is to be formed, he shall in the said order so declare, and if he shall think that such expense should be borne partly by such last-mentioned shire and partly by the other shire, he shall in and by such order as aforesaid direct what proportion of the cost of the construction of such road shall be borne by each of such shires out of their respective shares in such fund.

shire, Council of either shire may apply to Governor to order road to be made and expense to be borne out of road subsidy payable to adjoining shire, or jointly out of shires of both shires in such fund.

**99.** It shall be lawful for the Council of any shire from time to time to contract, upon such terms and conditions as they may think fit, with the Council of any other shire, or with any other body corporate or public body empowered in that behalf, for or with respect to the doing and the control or management by either or both of the contracting parties of any matter or thing which the Council of the shire and such other Council or body is by law empowered to do control and manage.

Co-operation of Councils.

**100.** All main roads bridges ferries wharves harbour works gaols police hospitals and all other matters and things within the shire which, previous to the coming into operation of this Act, were vested in the Government of the Province within which such shire was situate, shall, on the coming into operation of this Act, be under the care and management and subject to the direction of the Council of such shire; and every such Council shall, subject to the provision hereof, have full power to maintain and care for all such matters and things: Provided, nevertheless, that all matters vested by law in the Mayor and Council of the Borough of Wanganui shall continue to be so vested, anything in this Act to the contrary notwithstanding.

Matters and things in care of Council.

**101.** The right interest and property in all wharves harbour works bridges toll-houses and other erections, and all charges dues fees fines licenses and assessments, and all other property derivable within the shire, which, previous to the coming into operation of this Act, was vested in the Government of the Province within which such shire was situate, shall, on the coming into operation of this Act, become vested in the Council of such shire: Provided that if by virtue of any Act of the General Assembly any property is vested in or under the Executive Government of the Colony, such property shall not become vested in any Shire Council under this Act.

Properties vested in Council.

**102.** Any person who shall obstruct or attempt to obstruct the Council, or any person employed by them, in the performance of anything which they are respectively empowered or required to do by this Act or other lawful authority, shall, upon conviction, forfeit and pay for every such offence a penalty not exceeding ten pounds.

Obstruction of officers.

Misnomer not to prejudice.

103. No misnomer or inaccurate description contained in this Act, or any Proclamation or Order in Council made hereunder, shall anyway prevent or abridge the operation of this Act with respect to the subject of such description; provided the same shall have been designated so as to be understood. 5

Petition may be repeated.

104. Petitions for construction of shires under this Act may be repeated from time to time until granted, and the presentation of one petition shall not be deemed to prevent the presentation of another petition having the same or a like prayer.

105. The Council of any shire may from time to time erect and maintain, and may continue and maintain if lawfully existing at the time of the first constitution of such shire hereunder, upon or near the roads within the shire, and at or near any bridge or ferry within the shire or place under the control of the Council, all such toll-gates toll-bars toll-houses and ferry-houses chains rails and fences as shall appear to them necessary for the purpose of enforcing the payment of tolls on such roads under this Act, and the same may remove or alter. 10 15

106. It shall be lawful for the Council of every shire, by special order, from time to time to direct that tolls shall be payable and collected at any toll-bar toll-gate or toll-house within the shire, or any bridge or ferry within the shire, or placed within the control of the Council, for all animals and vehicles passing or repassing through by on or over the same respectively, and by the same or any other special order to appoint the several tolls so payable, and in like manner from time to time to alter or abolish the same or any tolls in force at the commencement hereof. 20 25

Loans on mortgage of special rates.

107. The Council of any shire may, subject to the provisions hereinafter contained, borrow and take up at interest, on the credit of any special rate made under this Act, any sums of money necessary for defraying any costs charges or expenses to be incurred as hereinafter mentioned; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, the said Council may issue debentures, secured upon the said rate, to the persons by or on behalf of whom such sums are advanced, but the exercise of the above power shall be subject to the following regulations:— 30 35

- (1.) Such money shall not be borrowed except for permanent works or undertakings.
- (2.) All the moneys so charged upon the security of special rates shall not at any one time exceed in the whole five times the amount of the ordinary rates levied in the year next preceding the year in which the moneys are proposed to be borrowed. 40
- (3.) The debentures shall be for sums of fifty pounds each.
- (4.) The principal money and interest secured by the debentures shall be payable in New Zealand, and the principal money of any such debentures shall be payable at such times as is mentioned therein, not being later than fifteen years from the issue thereof; and such debentures may be made payable in such manner and at such times that a proportion thereof, to be fixed by the Council, shall be redeemable at intervals after the first advance of money. 45 50

Notice of intention to borrow.

108. No proposition for borrowing money on the security of any special rate shall be considered by the Council, unless a notice thereof, stating the amount of such proposed loan, the rate of interest to be paid in respect of such loan, the purposes to which it is intended to be applied, the manner times and places at which the principal and interest due upon the several debentures shall be payable, and the amount of the special rate which it is proposed should be made for securing the loan, shall have been published in the *New Zealand Gazette*, and also twice in some newspaper generally circulating in 55 60

the shire, at least fourteen days before such proposition shall be considered.

109. No resolution for borrowing money on the security of any special rate shall be adopted by the Council, save by special order as herein provided, or unless an ordinary annual election of Councillors shall have taken place not less than twenty-one clear days after the meeting of the Council at which such resolution shall be first agreed to and before the subsequent meeting at which such order shall be confirmed as herein required, or unless at the last-mentioned meeting the resolution for confirmation shall have been carried by a majority of the whole Council.

Resolution to borrow subject to certain conditions.

110. For securing the payment of the principal and interest of any loan to be contracted as herein mentioned, the Council may make a special rate upon all rateable property situate within the shire, and every such special rate may be as near as practicable in the form contained in the Seventeenth Schedule hereto.

Special rate.

111. Every such special rate shall be payable by the ratepayers after the issue of the debentures at such intervals not exceeding half a year as the Council shall in and by the special order for making such rate appoint, and every such special rate shall, without any further proceeding by the Council or otherwise, be and continue to be an annual recurring rate upon every rateable tenement at any time situated within the area composing the shire at the time of the making of such special rate, according to the annual value of each such tenement, as appearing by the valuation last made affecting such tenement, until all moneys due in respect of the contract of loan or of any further loan or loans contracted for the satisfaction of the same, shall have been satisfied.

Special rate to be recurring.

112. Save where it is herein otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions hereinbefore contained relating to rates shall apply to every such special rate as aforesaid, and every such special rate shall be deemed for the purposes of the said provisions to have been made in each year upon each such rateable tenement as aforesaid, at and upon the expiration of each successive period of twelve months from the date of the special order by which such rate shall have been first made.

General provisions as to rates to apply.

113. In every shire in any part of which a special rate shall have been made and be in force, the Council thereof shall, and they are hereby required, once at least in every successive period of twelve months after the date of the special order for making such rate, to cause to be made for the shire such valuation as is authorized by the provisions hereinbefore contained; and all appointments of valuers by the Council of every such shire shall be subject, within thirty days after the making of the same, to be disallowed by the Governor, and shall not take effect till the expiration of such period, and if disallowed within such period shall be wholly void.

Annual valuation compulsory.

After special rate made, appointments of valuers may be disallowed by Governor.

114. At and upon the expiration of each such successive period of twelve months, every such special rate shall be amended by the Council of the shire, or if not, and so far as not then amended, shall be and take effect as if amended, so as to conform as regards every separate rateable tenement for the time being within the shire and affected by such rate, to the valuation affecting such property which shall have been made by the Council.

Annual amendment of special rate so as to conform to last general valuation.

115. No special rate shall be made save by special order, or until after the special order for raising money by loan on the security of such rate shall have been duly made, and after the year of the making such special rate the same shall not be quashed by any Court or otherwise.

Special order for rate.

116. The special and general rates taken together for any shire shall not at any one time exceed two shillings in the pound of the

Limit to total of general and special rates.

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assessment of the rateable property subject to the special rate, and no special rate shall at any time be made so that, together with any special rates theretofore made and for the time in force, it shall exceed one shilling in the pound of such assessment for the time being.

When complaint for recovery of special rate must be made.

**117.** In all cases of complaint for the recovery of a special rate, 5 such complaint may and shall be made within eighteen calendar months from the time when the matter of such complaint arose.

Issued debentures.

**118.** After such special order for borrowing, and such special rate as aforesaid shall have been duly made as aforesaid, the Council may cause to be made out and issued debentures of the several amounts aforesaid, and charged upon such special rate, and no debentures shall be issued as a charge upon any special rate exceeding the amount named in the special order aforesaid contracting the loan. 10

Form, &c., of debentures.

**119.** All debentures issued by the Council of any shire as a charge upon any special rate under this Act shall be in the form in the 15 to this Act, and be numbered consecutively, beginning with number one, and so proceeding in arithmetical progression ascending wherein the common difference shall be one, and shall be signed on behalf of the Council by the Chairman Treasurer and two Councillors, and shall pass by delivery only, and all rights and remedies in respect of such debentures shall be vested in and belong to the several holders thereof for the time being as though they were expressly named therein. 20

How to be offered for sale.

**120.** The Council may, at such time and place as they shall by special order have appointed in that behalf, offer or cause to be offered 25 for sale such debentures.

Reserve fund to be formed and invested in Government securities.

**121.** For the purpose of providing a fund for paying the principal money from time to time becoming due in respect of the debentures charged upon any special rate, the Council of the shire shall in each year set apart so much of the moneys received in such year on account 30 of such special rate as shall not be required for the payment of the interest upon such debentures theretofore accrued due or to accrue due before the next time when such special rate shall become payable, and shall invest the moneys so set apart in the purchase of General Government debentures, or in such other securities as shall be pre- 35 viously approved of by the Governor, and the interest of the moneys so invested when and as the same becomes due shall from time to time be received and invested in like manner, in order that the moneys so set aside and invested may accumulate at compound interest.

Government securities may be sold to pay off debentures.

**122.** As often as any moneys shall become due and payable as 40 principal money secured by any debentures as aforesaid, the Council shall cause so much of the said Government securities in which the said accumulated fund is invested as may be required for the purpose, to be sold or otherwise converted into money, and shall apply the moneys arising from such sale or conversion, and any other moneys 45 proceeding from such special rate and in the hands of the Council over and above any interest due as aforesaid, to the payment of the debentures upon which such principal money shall have so become due and payable.

Surplus, how to be disposed of.

**123.** If at any time after paying or setting apart out of the 50 produce of the special rate all moneys due for interest upon the debentures charged upon such rate, and at the time of paying out of the fund to be accumulated as herein provided, or otherwise out of the produce of the special rates, all principal moneys which shall be due and payable on any such debentures, there shall be a surplus of the 55 moneys theretofore accumulated as aforesaid, it shall be lawful for the Council, if it shall seem fit, to apply such surplus in repurchasing any of the debentures charged upon the special rate which shall then be outstanding; and all moneys produced by or accumulated from any special rate which shall remain after the full payment and satisfaction 60

of all principal moneys and interest secured thereby, and of all other lawful expenses touching the same, shall be paid to the shire fund.

124. The Council shall cause a separate account to be kept for each loan upon the security of a special rate, of all moneys received as

Special account for each loan and special rate.

5 and for such rate, and of all moneys accumulated by way of compound interest as aforesaid, and of the application thereof respectively, distinguishing the several sums paid or applied in payment of interest or principal, or set apart as a sinking fund, or otherwise applied under the provisions of this Act.

10 125. If at the expiration of one week from the time when any principal money or interest has become due upon any two or more debentures, secured upon a special rate made under this Act, and after demand in writing by the holder, or if there be more holders than one, by the holders thereof severally, the same be not paid, the holder of

15 such debenture may, or if there be more than one holder the holders thereof jointly may, without prejudice to any other mode of recovery, apply for the appointment of a Receiver to the Supreme Court, and the said Court or any Judge thereof is hereby empowered, after hearing the parties, to appoint some person to collect and receive such special rate,

20 and to order that all moneys the produce of such special rate and in the hands of any officer of the Council or other person, and all moneys or securities for money constituting for the time being the accumulated fund aforesaid, shall be forthwith transferred to and vested in such Receiver solely; and every such order, after such Receiver shall have given due

25 security for the execution of his office, shall take effect accordingly, until the whole of the principal or interest or both, as the case may be, due for the time being, together with the costs of the application and the costs of collection, and all costs of and occasioned by such order are fully paid.

Receiver may be appointed.

30 126. The Council shall from time to time, if required by notice under his hand by any Receiver appointed hereunder, and on sufficient evidence in that behalf, amend, according to the powers of amendment hereby conferred on them, any special rate in respect of all particulars described by such Receiver in such notice, and shall not otherwise, save

35 at the fixed annual periods and in the manner in the previous sections mentioned, amend any special rate, and all the provisions hereof with regard to amendments by the Council shall thereupon in such case apply accordingly.

Amendment of rate at instance of Receiver.

40 127. Upon such appointment being made, such rate shall be paid to the Receiver so appointed, and while he shall continue such Receiver he shall have the same powers of levying and recovering such rate as are hereby conferred on the Council; and the several provisions hereof relating to the receiving or recovering of rates, and appeal against rates, shall in such case be read as though the Receiver were mentioned

45 therein instead of the Council, and take effect accordingly; and the said Receiver shall disburse the moneys coming into his hands in like manner as is herein required of the Council.

Rates to be paid to Receiver.

50 128. Upon affidavit by the Receiver of any special rate that by reason of any act of misfeasance or default contrary to the provisions or true intent of this Act of the Council of the shire, or of any officer of, or valuers appointed by such Council, the rights hereunder of the holders of debentures of such special rate have been or are being defeated abridged or prejudiced, it shall be lawful for the Supreme Court or any Judge thereof to grant a rule or order calling upon such

55 Council, or as the case may be upon such Council officer and valuers, to show cause to the Court why such Council should not in respect of such special rate, and of all acts matters and things precedent to or attendant or consequent on the administration of such rate hereunder, be superseded by such Receiver.

Where rights of holders of debentures are prejudiced by default, &c., of Council, Council may be wholly superseded in respect of special rate.

60 129. If upon the return of such rule or order it shall appear to the Court that by reason of any such act misfeasance or default the rights of such holders have been or are being defeated abridged or prejudiced, the Court may make absolute such rule or order, and if the

Rule absolute and costs.

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matter shall not so appear, may discharge such rule or order, and in either and every such case with or without the payment of costs to or by any of the parties, as to the Court shall seem meet.

Or on rule absolute, Receiver to be substituted for Council.

**130.** When any such rule or order shall have been made absolute, in addition to the ordinary powers of the Receiver of such special rate, such Receiver having given such further security for the due execution of the provisions hereof as the Supreme Court shall direct, shall and may, in the place and stead of the Council, and for such time as shall be named in such rule or order, do and suffer as well with regard to the making of valuations as with regard to all other matters and things whatsoever touching or concerning such special rate and the debentures charged thereon, all such acts matters and things as the Council, or any officer of the Council, may or are required to do and suffer under the provisions hereof, and all the said provisions shall apply accordingly, but no valuation made by any such Receiver shall be deemed to be made or avail for any purpose save that of such special rate only.

Receiver may pay expenses.

**131.** Every such Receiver shall and may disburse out of the moneys received by him as and for such special rate all such moneys as shall have been lawfully expended in and about the obtaining of such rule or order and in and about the several proceedings consequent thereon.

General Government and ordinary revenue not liable.

**132.** No claim of any holder of debentures secured on any special rate, or of any creditor of any Council, shall attach to or upon or be in anywise paid or satisfied out of or by the ordinary or other general revenue of New Zealand, or by the General Government thereof, or by any

Apportionment of public debt.

**133.** Upon the establishment of any shire under this Act, the permanent public debt of the Province within which such shire was situate shall be apportioned between the said shire and the said Province in proportion to the population thereof at the date of the last census prior to the coming into operation of this Act as aforesaid, and the interest and sinking fund therefor shall be a charge on any moneys payable under "The Payment to Provinces Act, 1872," or any Act amending the same.

"Land Clauses Consolidation Act, 1867," incorporated.

**134.** "The Land Clauses Consolidation Act, 1867," and all Acts amending the same, are hereby incorporated with and shall form part of this Act, and be construed together herewith, and shall take effect with regard to all such permanent works and undertakings as the Council is authorized to execute; and for such purpose the Council of any shire to be established under this Act shall be deemed to be the promoters of the undertaking.

Schedules.

## SCHEDULES.

### FIRST SCHEDULE.

BOUNDED—on the West, by the boundary of the Province of Taranaki; on the South-west, by the sea coast between the Patea and Wangaeu rivers; on the South-east and East, by the Wangaeu River to Ruapehu Mountain; and thence by a line North to the 39th parallel of South latitude; on the North, by the boundary of the Province of Auckland.

### SECOND SCHEDULE.

BOUNDED—on the North, by the boundary of the Province of Auckland; on the East, by the Napier and Clive districts; on the South and South-east, by the Rangitikei River; on the South-west, by the coast line between the Rangitikei and Wangaeu Rivers; and on the West and North-west, by the Wangaeu River; and a line thence North to the 39th parallel of South latitude.

### THIRD SCHEDULE.

BOUNDED—on the North-west, by the Waingongoro River; on the South-east, by the boundary of the Province of Wellington; and on the South and West, by the sea coast between the mouth of the Patea River and the mouth of the Waingongoro River.