

New Zealand.



ANALYSIS.

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1933, No. 9.—*Local and Personal.*

AN ACT to amend the Wellington City Empowering and Special Rates Consolidation Act, 1923; to make Further Provision in respect of Conversion Loans raised by the Wellington City Council; to authorize the said Council to adopt the System of Voting at Elections by the marking of a Cross; to amend the Wellington City Empowering and Amendment Act, 1919; to validate a Deed made between the Wellington City Corporation and the Kelburne and Karori Tramway Company, Limited; and to amend the Wellington City Empowering and Amendment Act, 1932. Title.

[20th December, 1933.]

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

Short Title.

1. This Act may be cited as the Wellington City Empowering and Special Rates Consolidation Amendment Act, 1933, and shall be read together with and form part of the Wellington City Empowering and Special Rates Consolidation Act, 1923.

Definition.

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

“Principal Act” means the Wellington City Empowering and Special Rates Consolidation Act, 1923.

Amendments of
the Wellington
City
Empowering and
Special Rates
Consolidation
Act, 1923.

3. The principal Act is hereby amended as follows:—

(1) Section two is hereby amended—

(a) By adding, after the definition of the word “city”, the words—

“ ‘Conversion loan’ means any loan raised by the Wellington City Council under any Act for the purpose of calling in and converting any special loan.”

(b) By adding at the end thereof—

“ ‘Renewal loan’ means any loan raised by the Wellington City Council for the purpose of paying off the whole or any part of any matured loan.”

(2) Section three is hereby amended by adding after subsection one thereof the following new subsection one A:—

“(1A) (a) The provisions of sections two to four (inclusive) and section six of and the First Schedule to this Act shall apply to any renewal loan or conversion loan.

“(b) In respect of every conversion loan, or renewal loan, raised by the Council for the purpose of paying off loans, including any loan or loans raised for the purpose of one or more of the undertakings mentioned in the Schedule to this Act, the proportion of such conversion loan or renewal loan for which such undertaking or undertakings shall be liable shall be fixed by the Council by resolution having regard to the respective liabilities of such undertakings for the amounts of the loans converted and subject to the approval of the Audit

Section 3
amended.

Office, and the annual charges in respect of each such loan shall be payable accordingly out of the profits of each such undertaking during the whole currency of such conversion loan or renewal loan."

4. (1) Notwithstanding the provisions of section five of the Local Elections and Polls Amendment Act, 1926, it shall be lawful for the Council from time to time, by resolution, to determine that at elections for Mayor and Councillors of the City of Wellington and at polls taken by the Council the method of voting shall be by marking a cross in a square opposite to the name of the candidate for whom or the proposal for which the voter desires to vote, and not by striking out the names of candidates or words.

Voting by cross
may be used at
local elections
in Wellington.

(2) While any such resolution of the said Council remains in force any local authority or public body any of whose members are elected wholly or partly by electors or ratepayers of the City of Wellington may, by resolution, determine that at all elections of members of such local authority or body and at all polls taken by it the method of voting shall be as determined by such resolution.

(3) While any such resolution remains in force,—

(a) The forms numbered five and six in the First Schedule to the Local Elections and Polls Act, 1925, shall, for the purposes of this Act, be deemed not to have been repealed, and the voting-papers to be used at every election or poll to which such resolution applies shall be in such one of those forms as the case may require instead of in the form numbered one or the form numbered two in the Schedule to the Local Elections and Polls Amendment Act, 1926:

Provided that every such voting-paper shall have a counterfoil and shall have printed on the back thereof and on the counterfoil respectively the matter contained in the form numbered three in the Schedule to the Local Elections and Polls Amendment Act, 1926.

(b) Section twenty-five of the Local Elections and Polls Act, 1925, shall apply to any such election or poll as if it had not been amended by section eight of the Local Elections and Polls Amendment Act, 1926.

Application of subsection (3) of section 4 of Wellington City Empowering and Amendment Act, 1919, restricted.

5. The provisions of subsection three of section four of the Wellington City Empowering and Amendment Act, 1919, shall not apply to any part of the way or passage over Sections 193 and 194, Town of Wellington, previously known as Harbour View and now known as Allenby Terrace, that may hereafter be taken, purchased, or acquired by the Corporation as an access way.

Validation of deed made between Corporation and the Kelburne and Karori Tramway Company, Limited.

6. The transfer of lands and the grant of license and the other agreements and arrangements set forth in the deed of agreement dated the twenty-eighth day of August, nineteen hundred and thirty-three, made between the Corporation and the Kelburne and Karori Tramway Company, Limited, a copy of which deed is set out in the Schedule hereto, are hereby ratified, and the said deed and all the provisions thereof are hereby validated.

Section 6 of Wellington City Empowering and Amendment Act, 1932, amended.

7. Section six of the Wellington City Empowering and Amendment Act, 1932, is hereby amended by adding at the end thereof the following words: "or for extending the main outfall sewer constructed for the purpose of draining the district known as Karori and formerly included in the Borough of Karori, along the valley through which the South Karori Stream passes, from a point above the existing septic tank into the sea below low-water mark:

"Provided that the expenditure on such sewer extension shall not exceed twenty-three thousand pounds."

Schedule.

SCHEDULE.

THIS deed made the 28th day of August one thousand nine hundred and thirty-three between the Mayor Councillors and Citizens of the City of Wellington (hereinafter referred to as "the Corporation") of the one part and the Kelburne and Karori Tramway Company Limited (which together with its successors and assigns is and are hereinafter referred to as "the company") of the other part witnesseth:

1. That the Corporation doth hereby in consideration of the covenants and agreements on the part of the company hereinafter contained and in consideration of the transfer to the Corporation by the company of the pieces of land described in the sixth schedule hereto grant to the company the exclusive right to enter upon and occupy and use all those pieces of land described in the first schedule hereto subject to this condition that the right hereby granted to the company shall continue until the Corporation shall purchase from the company its successors or assigns the company's undertaking.

2. That the Corporation shall pay and discharge all rates taxes charges and assessments other than land tax levied made or imposed in respect of the said pieces of land described in the first schedule hereto during the currency of these presents.

3. That the company shall on the first day of April in each and every year during the currency of these presents pay to the Corporation as rental in respect of the rights hereby conferred upon the company the sum of one shilling (1s.).

4. That the buildings structures erections plant and machinery at present on the pieces of land described in the first schedule hereto belong to and are the property of the company but the company shall not erect on the said pieces of land described in the first schedule hereto any new building structure or erection nor make any excavation on the said pieces of land without the prior consent in writing of the Corporation given under the hand of the Town Clerk but such consent shall not be unreasonably or arbitrarily withheld nor without just cause assigned.

5. That the company shall during the currency of these presents maintain in good and substantial condition and repair all buildings structures and erections now erected upon the said pieces of land described in the first schedule hereto and all buildings structures and erections hereafter erected by the company thereon.

6. All or any buildings structures erections plant and machinery now or hereafter erected or placed by the company upon any of the said pieces of land described in the schedules hereto may be removed therefrom by and at the discretion of the company except in the event of the Corporation exercising its right to purchase the company's undertaking in which case such right of removal shall immediately cease and determine and the said buildings structures erections plant and machinery shall be purchased by the Corporation as part of the undertaking.

7. If the Corporation shall at any time during the currency of these presents desire to construct a street through the land described in the first schedule hereto in the position or approximate position shown on the plan attached hereto then and in such case the Corporation shall grant to the company an exclusive right to enter upon and occupy and use the piece of land described in the third schedule hereto upon the same terms as the grant hereby made in connection with the land described in the first schedule hereto and shall apply to and arrange with the Crown for or otherwise provide a grant or grants to the company of a similar right to occupy and use the areas of land described in the second and fourth schedules hereto and thereafter the company shall upon receipt of notice in writing to that effect under the hand of the Town Clerk with all reasonable dispatch at the sole expense of the company remove from such portion or portions of the pieces of land described in the first schedule hereto as may be required for the construction of the said street all buildings structures erections plant and machinery (except existing tramway lines) then erected or standing on such portion or portions so required for the said street and should the company so desire it shall be at liberty to re-erect the same or such other buildings structures erections plant and machinery as the company may require upon the pieces of

land described in the first schedule not so required for the said street and lying to the eastward of the proposed street and upon the pieces of land described in the second third and fourth schedules hereto and further in the event of the Corporation so desiring to construct the said street and the said arrangements being made with the Crown then upon the expiration of a period of three (3) calendar months after receipt by the company of the notice hereinbefore mentioned all rights hereby conferred upon the company shall cease determine and become void insofar as such rights exist over such portion or portions of the pieces of land described in the first schedule hereto as may be required for the construction of the said street and to the westward of the same. Provided however and it is hereby expressly agreed and declared :—

(a) That the company shall in such case after the Corporation gives the said notice and after the said street is constructed still have the right to retain and use the company's existing tramway lines in their present position on the proposed street until the Corporation shall purchase the company's undertaking but such lines shall if and when the said street is made be altered so as to be constructed in accordance with the best practice obtaining in Wellington City in respect of tramway lines and that the rails points and crossings shall be constructed accordingly.

(b) That such tramway lines shall be constructed on a level with the street formation if and when the proposed street is constructed and further such lines shall be constructed and maintained by the company together with the street between the outside rails and for eighteen inches on each side of the outer rails so that no nuisance to traffic will be occasioned.

(c) That the company and its assigns will indemnify the Corporation against all actions suits proceedings claims and demands arising out of any nuisance in connection with such tramway lines on the said street if and when made or any damage occasioned thereby.

8. That the company shall not without the consent of the Corporation given in writing under the hand of the Town Clerk assign any of the rights of use and occupation which are hereby conferred upon the company or which the company shall obtain under or in pursuance of this deed nor without the like consent shall the company sublet or part with the possession of the lands or any portion thereof the right to occupy which is hereby conferred upon the company or which the company shall obtain under this deed. Provided however that such said consents shall not be unreasonably or arbitrarily withheld nor without just cause assigned.

9. That the company may use any of the lands the right to occupy which is hereby conferred upon the company or which the company may obtain under or in pursuance of this deed for any purpose in connection with its tramway undertaking and in the exercise and furtherance of its powers rights privileges and obligations conferred upon it by a certain deed of delegation dated the twenty-second day of July, 1899, made between the Corporation and the company or by any extension amendment or alteration thereof or by any deed in substitution therefor. But the company shall not use such lands for any other purpose.

10. That the Corporation shall not withdraw or revoke the said right to enter upon and occupy and use the pieces of land described in the first or third schedules hereby granted or any other rights which may be granted to or obtained by the company under or in pursuance of this deed except upon the happening of or in so far as any event shall pursuant to the provisions of this deed authorise the Corporation to withdraw or revoke the said right given or to be given to the company.

11. That it is hereby agreed by and between the parties hereto that the existing gate to the south east of the power station shall remain open for the provision of access on foot to the Observatory area and to the Botanic Gardens from the hour of 7 a.m. to the hour of 11.30 p.m. each week day and from the hour of 1.30 p.m. to the hour of 10.15 p.m. on Sundays for tramway passengers and officials of the said Observatory until such time as the company shall construct and provide a suitable entrance to such Botanic Gardens and Observatory by providing a gateway adjoining the south western end of the power station and a path from such new gateway to form an approach to the new access path which the Corporation proposes to construct along the western and northern boundaries of the pieces of land described in the first schedule hereto. The path to be constructed and provided by the company shall be in a position and of a gradient to be mutually agreed upon between the company and the Corporation or failing such agreement as may be decided by arbitration and shall be available for tramway passengers and officials of the Observatory as aforesaid.

12. That the company shall not remove or during the hours mentioned in the preceding paragraph hereof in any way obstruct the flight of steps at present giving access from the company's property to the Kelburn Kiosk for tramway passengers unless and until the company shall have provided a similar flight of steps on the company's property to give access for tramway passengers from the company's property to the said Kiosk. The position of the said similar flight of steps shall be mutually agreed upon between the company and the Corporation or failing such agreement as may be decided by arbitration.

13. That the company shall have the right to construct over the present electrical power sub-station of the Corporation situated in Salamanca Road near the company's tramway line a ramp and/or steps or other suitable access for tramway passengers leading from Salamanca Road to the company's tram line in a position and of a form and of dimensions and materials agreed upon between the company and the Corporation or in default of agreement to be fixed by arbitration.

14. That the Corporation doth hereby release and discharge the company from all actions suits proceedings claims and demands which the Corporation has against the company in respect of the taking by the company under a certain Proclamation dated the eighteenth day of December 1899 of the pieces of land described in the fifth schedule hereto and in Table A in the claim for compensation dated the thirteenth day of December 1904 served by the Corporation upon the company.

15. That the Corporation at its expense will remove the existing fence at the end of Upland Road and will erect a similar fence along the lines A-B and B-C on the plan annexed hereto and such fences.

shall so long as they exist under this deed be maintained renewed and repaired by the Corporation solely at its own expense.

16. That the company shall transfer to the Corporation forthwith the pieces of land described in the sixth schedule hereto the pieces of land first and secondly described in such schedule for the purposes of street and the piece of land thirdly described in such schedule for the purpose of forming part of the adjacent Botanic Garden.

17. That the Corporation shall at its expense obtain the necessary legislative sanction to validate this deed.

In witness whereof these presents have been executed the day and year first before written.

FIRST SCHEDULE.

1. All that piece or parcel of land situated in the City of Wellington and being part of the land in D.P. 8530 Botanic Garden Reserve, Town of Wellington, containing by admeasurement one rood and forty-six hundredths of a perch bounded as follows: From the most easterly corner of Lot 1, D.P. 4866 by a line bearing $56^{\circ} 27' 30'' 9.09$ links to the point of commencement, thence by lines bearing $326^{\circ} 27' 30''$, 38.00 links; $12^{\circ} 00'$, 13.00 links; $55^{\circ} 55'$, 80.69 links; $42^{\circ} 00'$, 47.00 links; $55^{\circ} 00'$, 40.00 links; $32^{\circ} 58'$, 38.93 links; $45^{\circ} 00'$, 22.00 links; $55^{\circ} 00'$, 22.00 links; $68^{\circ} 30'$, 66.50 links; $104^{\circ} 42'$, 37.59 links; $118^{\circ} 11'$, 31.14 links; $183^{\circ} 53' 40''$, 75.76 links; $258^{\circ} 17'$, 130.28 links and $236^{\circ} 27' 30''$, 192.55 links to the point of commencement as the same is more particularly delineated on a plan numbered Proc. 2648 deposited in the Head Office of the Department of Lands and Survey at Wellington and thereon coloured blue, a copy of which plan is annexed hereto.

2. All that piece or parcel of land situated in the City of Wellington at present owned by the Kelburne and Karori Tramway Company Limited formerly part Botanic Garden Reserve, Town of Wellington, containing by admeasurement four perches and seventy-one hundredths of a perch bounded as follows: From the most easterly corner of Lot 1, D.P. 4866 by a line bearing $56^{\circ} 27' 30''$, 9.09 links to the point of commencement, thence by lines bearing $56^{\circ} 27' 30''$, 146.93 links; $203^{\circ} 48'$, 98.99 links; $339^{\circ} 12'$, 26.57 links; and $258^{\circ} 04'$, 74.68 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured sepia, a copy of which plan is annexed hereto.

SECOND SCHEDULE.

All that piece or parcel of land situated in the City of Wellington at present Crown land being part of the land in S.O. 251/13 Town of Wellington, containing by admeasurement two perches and ninety-two hundredths of a perch bounded as follows: From the most westerly point of S.O. 251/13 at its junction with the northern boundary of S.O. 71/60 by lines bearing $3^{\circ} 53' 40''$, 75.76 links; $146^{\circ} 12'$, 78.75 links; and $258^{\circ} 17'$, 50.00 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured green, a copy of which plan is annexed hereto.

THIRD SCHEDULE.

All that piece or parcel of land situated in the City of Wellington and being part of the land in D.P. 8530 Botanic Garden Reserve, Town of Wellington, containing by admeasurement three perches and eight tenths of a perch bounded as follows: From the most westerly point of S.O. 251/13 at its junction with the northern boundary of S.O. 71/60, by a line bearing $3^{\circ} 53' 40''$, 75.76 links to the point of commencement, thence by lines bearing $298^{\circ} 11'$, 31.14 links; $284^{\circ} 42'$, 37.59 links; $248^{\circ} 30'$, 52.16 links; $23^{\circ} 48'$, 56.42 links; $117^{\circ} 00'$, 101.35 links; and $183^{\circ} 53' 40''$, 10.79 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured neutral, a copy of which plan is annexed hereto.

FOURTH SCHEDULE.

All that piece or parcel of land situated in the City of Wellington at present Crown land being part of the land in S.O. 251/13, Town of Wellington, containing by admeasurement five perches and fifty-seven hundredths of a perch bounded as follows: From the most westerly point of S.O. 251/13 at its junction with the northern boundary of S.O. 71/60 by a line bearing $3^{\circ} 53' 40''$, 75.76 links to the point of commencement, thence by lines bearing $3^{\circ} 53' 40''$, 10.79 links; $117^{\circ} 00'$, 133.27 links; $258^{\circ} 17'$, 77.27 links and $326^{\circ} 12'$, 78.75 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured yellow, a copy of which plan is annexed hereto.

FIFTH SCHEDULE.

(1) All that piece or parcel of land situated in the City of Wellington and at present owned by the Kelburne and Karori Tramway Company Limited being portion of the land contained on Sheet No. 2 of P.W.D. 18762 formerly part Botanic Garden Reserve, Town of Wellington, containing by admeasurement two roods four perches and sixty-seven hundredths of a perch bounded as follows: From the most easterly corner of Lot 1, D.P. 4866 by lines bearing $56^{\circ} 27' 30''$, 201.64 links; $78^{\circ} 17'$, 130.28 links; $183^{\circ} 53' 40''$, 20.74 links; $148^{\circ} 47' 30''$, 74.69 links; $148^{\circ} 25'$, 121.28 links; $249^{\circ} 12'$, 150.00 links; $328^{\circ} 25'$, 91.62 links; $249^{\circ} 12'$, 163.63 links and $326^{\circ} 27' 30''$, 100.00 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon edged green, a copy of which plan is annexed hereto.

(2) All that piece or parcel of land situated in the City of Wellington at present owned by the Kelburne and Karori Tramway Company Limited being portion of the land contained on Sheet No. 2 of P.W.D. 18762 formerly part Town Belt and part Lot 10 D.P. 452 being part of the land described in the Wellington Asylum, Home, Hospital, and Orphanage Reserve Act, 1888, Fourth Schedule, containing by admeasurement one rood and four perches as follows: From the south west boundary of S.O. 71/60 at its junction with the eastern boundary of Salamanca Road by lines bearing $7^{\circ} 53'$, 53.15 links; $78^{\circ} 04'$, 189.98 links; $56^{\circ} 09' 40''$, 97.64 links; $114^{\circ} 04' 20''$, 135.00 links; $204^{\circ} 21'$, 88.92 links; $281^{\circ} 46' 20''$, 160.74 links and $258^{\circ} 04'$,

208.00 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon edged green, a copy of which plan is annexed hereto.

SIXTH SCHEDULE.

(1) All that piece or parcel of land situated in the City of Wellington at present owned by the Kelburne and Karori Tramway Company Limited, formerly part Botanic Garden Reserve, Town of Wellington, containing by admeasurement fifteen perches and forty-six hundredths of a perch bounded as follows: From the most easterly corner of Lot 1 D.P. 4866 by lines bearing $56^{\circ} 27' 30''$, 156.02 links; $203^{\circ} 48'$, 98.99 links; $159^{\circ} 12'$, 61.46 links; $249^{\circ} 12'$, 60.61 links and $326^{\circ} 27' 30''$, 100.00 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured scarlet and sepia, a copy of which plan is annexed hereto.

(2) All that piece or parcel of land situated in the City of Wellington at present owned by the Kelburne and Karori Tramway Company Limited, being part of the land in Lot 10 D.P. 452 and being part of the land described in the Wellington Asylum, Home, Hospital, and Orphanage Reserve Act, 1888, Fourth Schedule, containing by admeasurement two perches and nine tenths of a perch bounded as follows: From the south western corner of S.O. 71/60 at its junction with the eastern boundary of Salamanca Road by lines bearing $7^{\circ} 53'$, 53.15 links; $78^{\circ} 04'$, 42.81 links; $200^{\circ} 04' 50''$, 58.97 links and $258^{\circ} 04'$, 29.57 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured red, a copy of which plan is annexed hereto.

(3) All that piece or parcel of land situated in the City of Wellington at present owned by the Kelburne and Karori Tramway Company Limited, formerly part Botanic Garden Reserve, Town of Wellington, containing by admeasurement twenty-one perches and six tenths of a perch bounded as follows: From the north eastern corner of Upland Road by a line bearing $69^{\circ} 12'$, 163.63 links to the point of commencement, thence by lines bearing $69^{\circ} 12'$, 150.00 links; $148^{\circ} 25'$, 91.62 links; $249^{\circ} 12'$, 150.00 links and $328^{\circ} 25'$, 91.62 links to the point of commencement as the same is more particularly delineated on the said plan numbered Proc. 2648 and thereon coloured purple, a copy of which plan is annexed hereto

The common seal of the Mayor Councillors and
Citizens of the City of Wellington was hereunto affixed at
the offices of and pursuant to a resolution of the City
Council in the presence of—

E. P. NORMAN, Town Clerk.

The common seal of the Kelburne and Karori Tram-
way Company Limited was hereunto affixed by Oswald
Stephen Watkins and Edward Keith Kirkcaldie two
Directors of the company in the presence of—

EDWD. C. LEARY, Secretary.

O. S. WATKINS,

E. K. KIRKCALDIE, } Directors.