

Mr. Dickson.

AUCKLAND CITY EMPOWERING.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

AN ACT to enable the Mayor, Councillors, and Citizens of the City of Auckland to deal with and improve the Auckland City Market-site and to acquire New Market-sites, and for other Purposes.

Title.

WHEREAS the land described in the *First* Schedule hereto and hereinafter called "the market-site" is vested in the Mayor, Councillors, and Citizens of the City of Auckland (hereinafter called "the Council"), and held by it subject to the provisions of the Auckland City Endowments and Reserves Act, 1875: And whereas it is desirable that the Council should have the further powers with reference to the market-site hereinafter appearing, and should be empowered to acquire new market-sites as provided in the agreement set out in the *Second* Schedule hereto: And whereas it is desirable that the Council should be empowered to raise and issue loans heretofore authorized to be raised by it, but at a higher rate of interest than the rate named in the proposal for the raising of the loan: And whereas on the negotiations for the union of the Borough of Parnell and the Arch Hill Road District respectively with the City of Auckland it was separately agreed between the local authorities of the respective districts that, notwithstanding such union, the rates in such districts should be of the same total amount in the pound as in the said city, and it is advisable to make provision to enable such agreements to be carried into effect and to enable the Council to make separate agreements and conditions with other local authorities on any of their districts being united with the City of Auckland: And whereas it is desirable that certain local districts adjoining the City of Auckland should be allowed to be united with

Preamble.

the said city, notwithstanding that the boundaries of the said city as then altered and extended may not conform to the requirements of section three of the Municipal Corporations Act, 1908, and that further provision should be made with reference to such proposed union :

BE IT THEREFORE 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 Auckland City Empowering Act, 1913. 10

Market-site to be held as an endowment for inhabitants of City of Auckland.

2. Notwithstanding anything contained in the Crown grant for the market-site or in the Auckland City Endowments and Reserves Act, 1875, or in any other Act, the Council shall henceforth hold the market-site as and for an endowment for the benefit of the inhabitants of the City of Auckland and not for any special purpose ; and the Council shall have with respect to the market-site all such powers of leasing and disposition as it has with respect to its general or ordinary endowments ; and, in addition, shall have the special powers herein set out. 15

Power to deal with leases, &c.

3. It shall be lawful for the Council at any time, without any special order or other proceeding, to accept a surrender of any existing lease or leases of or other interest in or right over any part or parts of the market-site, either as to the whole or any part or parts of the land comprised in such lease, on such terms as may be agreed upon between the Council and the lessee. 20 25

Power to grant new leases.

4. It shall be lawful for the Council at any time within four years from the passing of this Act, without putting the same up to public auction or public tender, to grant to the then lessee or occupier (including the assigns or sublessees of such person) of any part of the market-site now held under lease, and upon such lease being duly surrendered, a new lease of such part or any portion thereof, together with or without any land adjacent to or in the neighbourhood of such part, subject to the following conditions :— 30

(a.) That such lease shall be for a term not exceeding the unexpired period of the lease of such land. 35

(b.) That the rental to be reserved in any such lease shall not be less than the rental now being received by the Council in respect of such land.

(c.) That such lease shall contain a covenant by the lessee to erect on the said land within two years from the commencement of such lease a new building of a value and design to be approved by the Council. 40

(d.) That such lease shall conform to and contain a provision for renewal in accordance with paragraph (b) of subsection one of section one hundred and thirty-six of the Municipal Corporations Act, 1908. 45

(e.) That no compensation shall be payable by the Council for any improvements made by the lessee upon the land included in the lease.

Power to deal with rights-of-way, &c.

5. The Council shall have, with respect to the market-site, the power to grant and deal with rights-of-way and other easements in the same way and to the same extent as it is empowered to grant and deal with leases of the market-site. 50

6. The Council shall be entitled, without further proceedings or authority than this Act, to close any roadways or rights-of-way over any part of the market-site, and shall in like manner be entitled to lay out such new streets and public places in and over the market-site as it shall think fit, and, in particular, if the Council shall think fit, to extend the streets now known as Elliott Street and Market Entrance through the market-site on the existing alignments so that each of such streets shall be continuous through the market-site.

Power to close roadways, &c., and lay out new streets.

7. An agreement made the twentieth day of May, nineteen hundred and thirteen, between the Auckland Harbour Board of the one part and the Council of the other part for the purposes of enabling the Council to acquire sites for and to establish markets for the City of Auckland (a copy of which agreement is set out in the *Second* Schedule hereto) is hereby validated, and the Board and the Council are hereby respectively empowered to make, accept, and execute all such leases, dedications, and other documents as may be required to effectuate the said agreement.

Validation of agreement made to acquire new sites for markets.

8. Notwithstanding anything contained in any Act, it shall be lawful for the Council when issuing any debentures in respect of any loan which it has heretofore been authorized to raise, and notwithstanding that a lower rate of interest may have been named in any proposal or application for such authorization, and notwithstanding that some of the debentures in respect of the same loan may have been prepared or issued at the authorized rate, to issue the whole of the debentures or the balance thereof, as the case may be, and raise the loan to be secured thereby or any unraised portion thereof at a rate of interest not exceeding five pounds per centum per annum.

Rate of interest.

9. Notwithstanding the provisions of any Act, it shall be lawful for the Council to levy by special order over the whole of the City of Auckland, including those parts thereof which formerly comprised the local districts of Parnell and Arch Hill, and any other local district which may hereafter be united with the City of Auckland, a uniform special rate or rates of such an amount or amounts as may be considered by the Council, with the approval of the Auditor-General, sufficient to pay the interest, sinking fund, and other charges in connection with all loans that at the date of such union have or had been raised by the Council or the local authority of any such local district, and are or were secured by a special rate or rates levied by the Council or any such local authority; and such uniform special rate shall be in lieu of any special rates existing in the said City of Auckland or such other local district at the time of the union thereof; and such last-mentioned special rates shall cease to be levied or collected. The proceeds of such uniform special rate shall be applied solely for the purposes for which the said existing special rates might be applied, and it shall be deemed to be the security for the loans secured on such existing special rates. The holders of debentures issued in respect of any such loans by the Council or such local authorities shall, in the event of default in payment of any such debentures or the interest thereon, have the same rights, powers, remedies, and priorities with reference to the said uniform special rate and the proceeds thereof as they would

Power to levy rates.

have had with reference to the said existing special rates, including the right to collect and appropriate the proceeds of such special rate in and over the area in and over which the special rate on which such debentures are secured might have been collected by such debenture-holders if this Act had not passed.

Differential rates may be levied.

10. Notwithstanding anything contained in the Municipal Corporations Act, 1908, or the Rating Act, 1908, or in any other Act, it shall be lawful for the Council to levy, within those parts of the City of Auckland which formerly comprised the Borough of Parnell and the Arch Hill Road District, or in either of them, or in any other local district which may hereafter become part of the City of Auckland, general and or separate rates different in amounts from the general and (or) separate rates respectively levied by the Council in the rest of the said city, so as to give effect to and subject always to the provisions of the agreements or arrangements entered into or arrived at on the negotiations for the union of such respective local districts with the City of Auckland. Such general and (or) separate rates may be of different amounts in each or any of the respective local districts so uniting with the said city.

Payment of interest and sinking fund out of general revenue.

11. Notwithstanding the provisions of section eighteen of the Local Bodies' Loans Act, 1908, or of any other enactment, it shall be lawful for the Council, without any special order, consent, or other proceeding, to pay out of its general revenue the whole or any part of the interest and sinking fund in respect of any special loan heretofore or hereafter raised either by the Council or by the local authority of any local district which has been or may hereafter be united with the City of Auckland, and notwithstanding that such special loan shall be secured on any such local district or a portion thereof or of the said city, and to the extent to which such payment shall be so made it shall not be necessary to collect any special rate levied in respect of any such loan.

System of rating in each district to continue.

12. Where any borough or other local district is hereafter united with the City of Auckland it shall be lawful, notwithstanding the provisions of section twenty-nine of the Rating Amendment Act, 1910, for the local authorities of the City of Auckland and such other district to agree, by writing under their common seals prior to such union, that the system of rating in force in such other districts shall continue therein, notwithstanding such union, for such time and upon such terms and conditions as such local authorities shall so agree; and such agreement shall have effect accordingly.

City may be declared a divided borough.

13. It shall be lawful for any local district (other than a borough) which adjoins the City of Auckland to be and become united with the said city in the manner and subject to the conditions prescribed by the Municipal Corporations Act, 1908, notwithstanding that the boundaries of the City of Auckland as so extended or altered may no longer conform to the requirements of section three of the Municipal Corporations Act, 1908. In the event of any such union, it shall be lawful for the Council to declare the said city to be a divided borough, the area formerly comprising such local district being one ward of the said city and the remainder of the said city the other ward; and thereupon the same proceedings shall be had and

taken as if the said city were now a divided borough and the said local districts had been added to such city as a new ward; and it shall not be necessary for an election of Councillors to be held except in such new ward, and the Councillors now comprising the Auckland City Council shall be deemed to represent the remainder of the said city, and shall continue and remain in office for the term for which they were elected.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that parcel of land, containing by admeasurement 6 acres and 10 perches, and being the whole of Section 31 of the City of Auckland: bounded on the north by Wellesley Street, 716 links; on the east by Queen Street, 470 links; on the south-east by Grey Street, 500 links; on the south by Cook Street, 495 links; and on the west by Albert Street, 925 links: originally granted to the Council and Burgesses of the City of Auckland under and by virtue of a certain grant from the Crown dated the seventeenth day of March, 1855, and registered in the Deeds Register Office, at Auckland, under No. 6239; as shown on a plan deposited in the office of the Local Bills Committee, at Wellington, and numbered

SECOND SCHEDULE.

MEMORANDUM OF AGREEMENT made the twentieth day of May, one thousand nine hundred and thirteen, between the Auckland Harbour Board (hereinafter termed "the Board") of the one part, and the Mayor, Councillors and Citizens of the City of Auckland (hereinafter termed "the Corporation") of the other part. Whereas under the provisions of an agreement made on the twenty-second day of February, one thousand nine hundred and twelve, between the Minister of Railways of the first part, the Corporation of the second part, and the Board of the third part, the Board agreed with the Corporation to grant to it a lease of the land described in the eleventh clause of such agreement for the purposes of a public-bath site upon the conditions therein stated and upon legislative sanction being granted for such purpose: And whereas by section 2 of the Auckland Harbour Board Empowering Act, 1912, the Board and the Corporation are authorized and empowered to carry out the provisions of the said agreement: And whereas the Board and the Corporation are desirous of extending the area of the said public-bath site so as to comprise therein the land described in the first schedule hereto: And whereas the Board is desirous of granting and the Corporation of taking leases of the respective areas of land described in the second and third schedules hereto for the purposes of public market and fish-market sites respectively: And whereas it has been agreed that the provisions hereinafter contained with respect to Customs Street Extension and Hobson Street Wharf Road shall be entered into: Now it is hereby agreed as follows:—

1. The Board doth hereby agree with the Corporation that it will grant, and the Corporation doth hereby agree to accept, a lease of the lands described in the first schedule hereto for a term of seventy-five years from the first day of January, one thousand nine hundred and thirteen, at a rental of seventy-five pounds per annum, payable quarterly in advance, for the purposes of a public-bath site, and the following provisions shall obtain with respect to such lease:—

(a.) Upon the grant thereof the rights and obligations created by said clause 11 of the said agreement of the twenty-second day of February, one thousand nine hundred and twelve, shall be at an end.

(b.) Such lease shall provide—

(1.) For the exoneration of the Board from all rates, taxes, or assessments chargeable from time to time upon the said land.

(2.) That the Corporation shall not assign the demised premises without the consent in writing of the Board.

(3.) That the whole of the demised premises and the buildings to be erected thereon shall be continuously used as and for a public bathing-house and bathing-place and upon and subject to such terms, charges, and conditions and such by-laws and regulations as the Corporation may from time to time make in that behalf.

(4.) For the effectual repair and maintenance by the Corporation of the said bathing-house and bathing-place and the appointments and conveniences thereunto belonging, fair wear-and-tear and damage by inevitable accident excepted.

(5.) That no rights of access by water or riparian right shall be appurtenant to the land the subject of such lease: Provided that the Board shall in any reclamation which it may make on the seaward side of such land allow the Corporation the right to construct and use a tunnel thereunder for the purpose of obtaining sea-water from the Waitemata Harbour and allowing water to be again cast into the said harbour: Provided also that in the construction and maintenance of such tunnel the Corporation shall make good all damage done to the property of the Board or any person or persons holding under it.

(6.) That there shall be reserved in such lease a right of re-entry on the part of the Board in the event of default by the Corporation for the period of twenty-eight days in the payment of rent or the observance or performance of any covenant or condition of such lease.

(7.) That all provisions of the Property Law Act, 1908, or any amendment thereof, inconsistent with the provisions of such lease shall be negatived.

2. The Board doth hereby agree that it will grant to the Corporation, and the Corporation doth hereby agree to accept, a lease of the lands described in the second and third schedules hereto for the purposes of a public-market site and a public fish-market site respectively, and the following provisions shall apply with respect to such lease:—

(a.) The term of such lease shall commence at the expiration of twelve months from the date upon which the whole of the said land described in the said second and third schedules hereto shall be available for occupation and occupancy has been offered by the Board to the Corporation: Provided that the Corporation shall be entitled to occupation and possession of the said lands during such period of twelve months without payment of rent, except that if the Corporation shall receive any rents or revenues from the said lands during the said periods of twelve months it shall pay all amounts so received to the Board.

(b.) The said lease shall reserve a rental as to the lands described in the second schedule hereto of two thousand pounds per annum, and as to the lands described in the third schedule hereto of one hundred and fifty pounds per annum.

(c.) The said lease shall provide—

(1.) That the demised premises and the buildings to be erected thereon shall be continuously used for the respective purposes stated in clause 2 hereof, subject to such terms and conditions and such by laws and regulations as the Corporation may from time to time make in that behalf.

(2.) That the Corporation shall not erect or permit to be erected any buildings or structures upon the said lands until the plans and specifications of such buildings or structures have been submitted to and approved of by the Board in writing, and such buildings or structures shall be built in strict conformity with the plans and specifications so approved and not otherwise: Provided that such approval shall not be arbitrarily or unreasonably withheld, and regard shall be had to the nature of the business proposed to be carried on upon the said land: Provided further that in the event of any difference or dispute arising between the lessor and the lessee under this clause the same shall be referred to and decided by the President for the time being of the New Zealand Institute of Architects in conformity with the provisions of the Arbitration Act, 1908.

(3.) That the Corporation shall not assign, transfer, or part with the possession of the land described in the second schedule to such lease without the previous consent in writing of the Board, but such consent shall not be unreasonably or arbitrarily withheld.

(4.) That the Corporation shall not excavate or cause or suffer any excavation to be made on the said lands without the written consent of the Board.

(5.) That the Corporation shall throughout the term keep and maintain in good order and condition all buildings, structures, fixtures, and fences which are now or may hereafter be placed upon the said lands, and will so yield up the same, fair wear-and-tear and damage by accident excepted.

(6.) That the Corporation shall at its own cost throughout the term maintain in the joint names of the Board and the Corporation in an insurance office to be from time to time approved by the Board a policy of insurance against fire in respect of all buildings to be erected upon the said lands in their full insurable value, and shall deliver such policy to the Board, and shall from time to time produce to the Board the receipt or receipts for the premium or premiums for the then current year at least three days before the due date of such premium or premiums respectively; and, in default thereof, the Board may insure such buildings in manner aforesaid or for any less amount, and may recover from the Corporation all moneys paid in this behalf as rent in arrear; and in the event of damage or destruction by fire all moneys received under any such policy shall be applied in rebuilding or reinstating the said buildings.

(7.) That in such lease there shall be reserved a right of re-entry in the event of default for a period of twenty-eight days in the payment of rent or in the observance or performance of any covenant or condition of such lease.

(8.) That all provisions of the Property Law Act, 1908, or any amendment thereof, inconsistent with the provisions of such lease, shall be negatived.

3. The new extension of Customs Street West as shown on plan deposited in the Public Works Office, at Wellington, under number B/527B and by the plan drawn hereon coloured green shall be sixty-six feet wide instead of one hundred feet as hitherto provided, and the areas of the south side of such sixty-six feet road shall, subject to the provisions of this agreement, remain the property of the Board.

4. The Board shall dedicate, and the Corporation shall accept, without further cost to the Board, the dedication as a public road of the road leading to Hobson Street Wharf, as the same is approximately shown in red colour on a plan deposited in the Public Works Office, Wellington, under number S/76 and on the plan drawn hereon.

5. The obligations of the parties under this agreement are subject to and dependent upon legislation being passed authorizing the parties hereto to enter into the agreement hereby expressed. The Corporation on its part undertakes to use reasonable endeavours during the ensuing session of Parliament to obtain legislative sanction to the terms of this agreement.

In witness whereof the said parties hereto have executed these presents.

THE FIRST SCHEDULE.

Bath-site.—All that piece or parcel of land situated in the City of Auckland, containing by admeasurement about two roods, more or less: bounded, commencing at the junction of new Lower Customs Street and Hobson Street, towards the east by Hobson Street in a northerly direction, eighty-four feet; towards the north by Customs Street Extension, one hundred and fifty feet; towards the west by the city market-site, two hundred and forty-four feet; and towards the south-east by new Lower Customs Street, two hundred and fourteen feet, to the point of commencement: be the said several admeasurements a little more or less: as delineated by the plan annexed hereto edged green and marked "A," a copy whereof is deposited in the office of the Board and numbered B/527B.

THE SECOND SCHEDULE.

Market-site.—All that piece or parcel of land situated in the City of Auckland, containing by admeasurement two decimal twenty-nine acres, more or less: bounded on the north, commencing at a point one hundred and fifty feet from the junction of Hobson Street and Customs Street Extension, by Customs Street Extension, two hundred and sixty-three feet; towards the west by a road four hundred and sixty feet; towards the south and south-east by new Lower Customs Street, sixty-three feet and three hundred feet; and towards the east by the City bath-site, two hundred and forty-four feet, to the point of commencement: be the said several admeasurements a little more or less: as delineated by the plan annexed hereto edged blue, and marked "B," a copy whereof is deposited in the office of the Board and numbered B/527B.

THE THIRD SCHEDULE.

Fish-Market.—All that piece or parcel of land situated in the City of Auckland, containing by admeasurement decimal two hundred and seventy-five acres, more or less: bounded towards the south by Customs Street Extension, one hundred feet; towards the east and north by other property of the Board, one hundred and twenty feet and one hundred feet respectively; and towards the west by a road one hundred and twenty feet: be the said several admeasurements a little more or less: as delineated by the plan annexed hereto edged red, and marked "C," a copy whereof is deposited in the office of the Board and numbered B/527B.

The Common Seal of the Auckland Harbour Board was affixed hereto at a meeting and by order of the said Board on the 20th day of May, 1913, in the presence of—

J. H. GUNSON,	Chairman.	} (L.S.)
JAS. T. BOND,	} Members.	
CHAS. BAGLEY,		
H. B. BURNETT,		

The Common Seal of the Mayor, Councillors, and Citizens of the City of Auckland was at a meeting of the Auckland City Council held on the 29th day of May, 1913, affixed hereto in the presence of—

C. J. PARR,	Mayor.	} (L.S.)
J. COURT,	} Councillors.	
R. S. BRIGGS,		