

Mr. Ell.

CHRISTCHURCH TRAMWAY DISTRICT AMENDMENT.

[LOCAL BILL.]

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Governor may incorporate boroughs, &c., or portions thereof with district. Validation of previous incorporation. Repeal.</p> <p>3. Governor may alter subdivision of district and subdistrict representation upon Board.</p> <p>4. Section 9 of principal Act amended.</p> <p>5. Section 14 of principal Act amended.</p> <p>6. Section 17 of principal Act amended.</p> <p>7. Power to make by-law prohibiting heavy traffic on tramway.</p> <p>8. Section 35 of principal Act amended.</p> <p>9. Section 45 of principal Act amended.</p> <p>10. Section 50 of principal Act repealed.</p> <p>11. Accounts and audit.</p> <p>12. Section 54 of principal Act amended.</p> <p>13. Separate accounts for special-rating areas.</p> <p>14. Section 55 of principal Act amended.</p> <p>15. Annual appropriation for renewal and depreciation funds.</p> <p>16. Accounts of special-rating areas.</p> <p>17. Proceedings where annual profits insufficient to liquidate various charges.</p>	<p>18. Proceedings where sinking fund insufficient to repay debentures.</p> <p>19. Commissioners may make necessary payment out of depreciation fund.</p> <p>20. Board may revoke appointment of Commissioners.</p> <p>21. Description of special-rating areas to be gazetted.</p> <p>22. Validation of special loans raised by special order.</p> <p>23. Board may invest reserve funds in undertaking.</p> <p>24. Board must issue debentures as security for reserve funds invested in undertaking.</p> <p>25. Sale of debentures.</p> <p>26. Board may hand reserve accounts credits to Depreciation Fund Commissioners for investment.</p> <p>27. Trustees may invest in Board's debentures.</p> <p>28. Width of rolling-stock and carriages.</p> <p>29. Power to clear private roads of obstructions.</p> <p>30. Vacation of office.</p> <p>31. Repeal and saving of existing appointments, &c.</p>
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A BILL INTITULED

AN ACT to amend the Christchurch Tramway District Act, 1906. Title.

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

1. This Act may be cited as the Christchurch Tramway District Amendment Act, 1913, and shall form part of and be read together with the Christchurch Tramway District Act, 1906 (hereinafter referred to as the principal Act). Short Title.

10 2. (1.) The Governor from time to time, upon the petition of the majority of the ratepayers of any borough or portion of a borough, or of any road district or portion of a road district, or of any county or portion of a county, shall, by Order in Council, direct that such borough, or road district, or county, or portion of a
 15 borough, or road district, or county, as the case may be, shall thenceforth be incorporated with and form a portion of the Christ-

Governor may incorporate boroughs, &c., or portions thereof with district.

church Tramway District; and, upon such Order being gazetted, any borough or road district, or portion of a borough or road district, or county, or portion of a county, so directed to be incorporated shall thenceforth be incorporated with and form a portion of the said district; and the Board, in relation to tramways within any borough or road district, or portion of a borough or road district, or county, or portion of a county, so incorporated, shall have the same property and may exercise all or any of the powers, rights, duties, privileges, or authorities which under or by virtue of this Act it may possess or exercise within the said district: 5 10

(2.) The Governor shall, by the said Order in Council, direct to which subdistrict the area so incorporated as aforesaid shall be added.

Validation of
previous
incorporation.

(3.) This section shall have a retroactive force and effect, and any direction by the Governor made prior to the passing of this Act incorporating or purporting to incorporate any portion of any borough or road district, or county or portion of a county, with the Christchurch Tramway District shall be deemed to be valid, and shall possess the same force and effect as if this Act had been originally enacted in lieu of the said section three of the principal Act. 15 20

Repeal.

(4.) Section three of the principal Act is hereby repealed.

Governor may after
inquiry alter
subdivision of
district and
subdistrict
representation
upon Board.

3. (1.) Notwithstanding the provisions of sections two and four of the principal Act, the Governor may from time to time, upon the petition of the Board, appoint a Commissioner to inquire as to, and report to the Governor, what alterations (if any) in the subdivision of the Christchurch Tramway District or in the representation of the subdistricts for the time being upon the said Board, or in both, should, in the opinion of the said Commissioner, be made for electoral purposes; and the Governor may, by Order in Council, alter such subdivision and such representation accordingly. 25 30

(2.) The cost and expense of and incidental to such inquiry and report shall be paid by the Board.

(3.) Any alteration of the subdivision of the said district as aforesaid may be by the merging of any existing subdistrict or part thereof into any other subdistrict or by the creation of a new subdistrict or subdistricts. 35

(4.) Any readjustment of representation aforesaid shall be based upon the rateable value and population of the said subdistricts.

(5.) From and after any Order in Council directing any alteration in the subdivision of the said district or any readjustment of representation as aforesaid, or both, being published in the *New Zealand Gazette*, the provisions of section two or four (or both, as the case may require) of the principal Act shall, subject to the proviso hereinafter mentioned, be read and construed subject to the provisions of such Order in Council: 40 45

Provided always that no such alteration in the subdivision of the said district or adjustment of representation aforesaid shall come into operation or take effect until the expiry of the term of office of the members of the Board then in office, except so far as may be necessary for the purpose of electing members at the next succeeding general election of members of the Board. 50

4. Subsection four of section nine of the principal Act is hereby amended by deleting therefrom the words "one of the last seven days in May," and inserting in lieu thereof the words "on a day to be fixed by the Governor in Council."

Section 9 of principal Act amended.

5. Section fourteen of the principal Act is hereby amended by deleting therefrom the word "June," and substituting therefor the word "October."

Section 14 of principal Act amended.

Struck out.

10 6. Section seventeen of the principal Act is hereby amended by deleting paragraph (a) thereof, and inserting in lieu thereof the following paragraph:—

Section 17 of principal Act amended.

15 "(a.) Any person holding any office or position under or in gift of the Board or of any organized body of employees of the Board, such office or position carrying with it any profit, salary, or remuneration."

20 7. The power to make by-laws conferred by section twenty-four of the principal Act shall, notwithstanding any of the provisions of the Tramways Act, 1908, or any other enactment, include power to make a by-law for the purpose of prohibiting the transportation of any vehicle, engine, or machine which itself, or together with any thing or things being transported thereon, weighs more than one and one-half tons avoirdupois to each pair of wheels, along that part of the road which lies within any tramway rails or any portion of the road outside of and within eighteen inches of either rail, unless the exigencies of the traffic render it necessary for the driver of such vehicle, engine, or machine temporarily to use the portion of the road aforesaid.

Power to make by-law prohibiting heavy traffic on tramway.

30 8. Section thirty-five of the principal Act is hereby amended by deleting therefrom the word "common" before the word "carriers."

Section 35 of principal Act amended.

35 9. Section forty-five of the principal Act is hereby amended by inserting the words "not less than" before the words "ten shillings"; and inserting the words "nor more than twenty shillings per centum per annum" before the words "for the redemption."

Section 45 of principal Act amended.

10. Section fifty of the principal Act is hereby repealed.

Section 50 of principal Act repealed.

40 11. The provisions contained in Part XIII of the Municipal Corporations Act, 1908 (relating to accounts and audit), shall apply and, *mutatis mutandis*, shall be read into and form part of this Act:

Accounts and audit.

45 Provided always that the following clause shall apply in lieu of section one hundred and seven of such Act:—

"The Board shall keep the following accounts:—

50 "(a.) A Revenue Account, showing the gross earnings from the operations of the undertaking, and showing also the following charges—that is to say, operating expenses, interest, sinking fund, depreciation fund, renewal fund, and, if there is any surplus, showing the disposition of the same. Such account shall also show any special or general rates that may have been levied.

"(b.) A balance-sheet showing assets and liabilities, including loan-moneys.

"(c.) A statement showing sinking funds, depreciation funds, renewal funds, and other reserves, and the investment of the same."

Section 54 of principal Act amended.

12. (1.) Section fifty-four of the principal Act is hereby amended by deleting therefrom the words "and also with interest and sinking fund of the loan of fifty-five thousand pounds authorized by the Christchurch Tramways District Act 1902 Amendment Act, 1903, and inserting in lieu thereof the following words: "and also with interest on capital expended or raised in connection with the said line of tramway, sinking fund of loans raised, and the depreciation and renewal fund charges mentioned in section fifteen hereof."

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(2.) The following paragraphs shall be added after paragraph (b) to the said section fifty-four of the principal Act:—

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"(c.) Be applied towards reduction or extinction of any deficiency which may have occurred in any previous year or years."

Separate accounts for special-rating areas.

13. The Board shall keep separate accounts in respect of tramways constructed in or for the benefit of special-rating areas that have been or may be created under the provisions of the Local Bodies' Loans Act, 1908, or any other statutory enactment.

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Section 55 of principal Act amended.

14. Section fifty-five of the principal Act is hereby amended by adding to paragraph (c) thereof the following proviso:—

"Provided always that such account shall not be closed until after the expiration of twenty-eight days from the date of such meeting; and, if during such twenty-eight days at least twenty ratepayers of the said district shall in writing request the Chairman of the Board to convene a second meeting of the said ratepayers, the said Chairman shall accordingly convene such second meeting, and if at such meeting no such resolution as aforesaid is passed, or if there is no quorum at such meeting within thirty minutes of the hour appointed for the same, then the proposal to close the separate account shall be deemed to have been carried, and the Board shall and may proceed to close the said separate account as aforesaid."

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Annual appropriation for renewal and depreciation funds.

15. In compiling the annual accounts of the Board as required by sections *eleven* and *thirteen* hereof and by section fifty-four of the principal Act it shall be obligatory upon the Board to make and charge against revenue an annual appropriation of two per centum upon the total cost of the undertaking for renewal, and a further two per centum upon the said total cost for depreciation. These appropriations (hereinafter referred to as the renewal fund and the depreciation fund respectively) shall be exclusive of any amount carried to the debit of the accounts for maintenance and repairs, and shall be devoted to the following purposes, that is to say:—

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(a.) Where the Board is of opinion that any particular portion of the plant is prematurely worn out, or has become obsolete or useless, while the major portion of the same kind or portion of plant remains unaffected, the cost of renewing the same, involving not less than five hundred pounds, shall be defrayed from the renewal fund.

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(b.) "Plant" shall include buildings and all property of every kind used by the Board in connection with or incidental to the tramway system and undertaking.

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(c.) "Maintenance and repairs" shall mean those reparations which are from time to time made to the plant in order

to keep the same in safe and efficient running-order, and includes the replacement of any small portion thereof up to the cost of five hundred pounds.

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(d.) "Depreciation" shall mean and include the gradual shrinkage in value of the plant by wear-and-tear, by the operation of time, and by any especial cause which renders it obsolescent or unprofitable for any future use.

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(e.) The renewal fund may be retained by the Board and used in the tramway undertaking, or invested in any class of security mentioned in the Trustee Act, 1908, of which the Board may approve.

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(f.) The said depreciation fund shall be paid annually by the Board unto three Commissioners, to be appointed by the Board. Sections thirty, thirty-one, thirty-three, and thirty-four of the Local Bodies' Loans Act, 1908, shall apply to the Commissioners to be so appointed just the same as if they were Sinking Fund Commissioners appointed under section thirty of the said Local Bodies' Loans Act, 1908. The said Commissioners may retain any investments made by the Depreciation Reserve Fund Trustees in the form in which the same are handed over to them; and all other funds or moneys received by them shall be invested upon any of the classes of securities mentioned in section ninety-five of the Trustee Act, 1908, or upon the purchase of any debentures of the Board. Such fund shall be held by the said Commissioners upon trust to repay the same to the Board (with all accumulations of interest), or so much thereof as may be required to replace the plant of the said Christchurch tramway undertaking when the same has become in whole or in part worn out and incapable from time, wear-and-tear, or any other cause, of further usefulness.

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(g.) No demand shall be made by the Board upon the said Commissioner for any lesser sum than fifty thousand pounds at one time, nor unless the same is accompanied by a copy of a resolution of the Board calling up such moneys, and by a full specification of the works proposed to be done, and a certificate of the Chairman of the Board certifying that such works are necessary to replace plant which has become worn out or obsolete, and giving in detail the reasons for his opinion.

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(h.) The said Commissioners may call for a report by an engineer to be appointed by them, and such engineer shall have the right to inquire into the reasons why the Board proposes to expend the money asked for, and the nature and extent of the works proposed to be done, and such engineer shall report the result of his investigations, and of his opinion upon the proposal of the Board, to the said Commissioners.

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(i.) The said Commissioners may pay the said money by instalments as the works proceed, or may decline to pay the said money except under an order of the Supreme Court,

in which case the Board may, by motion in Chambers, apply for an order directing the said Commissioners to pay out to the Board the money so demanded; and if the Court is of opinion that the Board has proved that the money required is necessary to replace or renew plant which has become worn out, or has become obsolete and incapable of profitable use, the Court shall make the order authorizing the payment of the money to the Board.

Struck out.

Accounts of
special-rating areas.

16. (1.) If the revenue from any of the tramway undertakings installed for the benefit of any of the special-rating areas referred to in section *thirteen* hereof is insufficient to meet the charges mentioned in section *eleven* hereof and leaves a deficiency, it shall be lawful for the Board, by special order, to make and levy a special rate annually on all rateable property within the special-rating area affected for the whole or any portion of such deficiency.

New.

16. (1.) If the revenue from any of the tramway undertakings installed for the benefit of any of the special-rating areas created since the passing of the Christchurch Tramways District Amendment Act, 1912, to wit the seventh day of November, nineteen hundred and twelve, or that may hereafter be created, is insufficient to meet the charges mentioned in section *eleven* hereof and leaves a deficiency, it shall be lawful for the Board, by special order, to make and levy a special rate annually on all rateable property within the special-rating area affected for the whole or any portion of such deficiency:

Provided that nothing herein contained shall affect the Board's existing powers of rating in respect of the special areas created before the said seventh day of November, nineteen hundred and twelve.

(2.) The correctness of the accounts of special-rating areas shall be certified by the Audit Office, with such exceptions as it thinks fit, and signed by the Chairman of the Board; and no objection shall be allowed or permitted to be taken to them by any person living within the special areas, or by any ratepayer therein, or by or on behalf of any other person whomsoever, except as hereinafter provided.

(3.) Notice that such accounts have been audited and are lying at the office of the Board shall be inserted in one or more newspapers circulating in the said area for two insertions each, and stating that the accounts are open for inspection by any ratepayer of the special areas for fourteen days.

(4.) Any person aggrieved or dissatisfied with the accounts of the special-rating area in respect of which he is a ratepayer may, without issuing a writ, apply, by motion in Chambers, to the Supreme Court to have decided whether particular items charged in the said accounts are correctly charged. A copy of the notice of motion shall be served upon the Board, with full details of any charge objected to, and reasons for such objection, and upon the hearing of the motion no other cause of complaint shall be gone into. If the Court is of opinion that the charges complained of should not be made against the special area, it shall order the same to be withdrawn, and shall make such order as to costs as it shall think fit. If at the expiration of the said period of fourteen days no proceedings in the prescribed form have been commenced to challenge the

correctness of the accounts, no objection to the accounts of the Board shall be afterwards permitted to be made by any person.

(5.) Should objection to the accounts be taken and proceedings be commenced by more than one ratepayer, the Court shall hear and determine that case in respect to which the first notice of motion has been filed, and any order which may be made upon such motion shall finally determine all questions with regard to the correctness of the said accounts as between the Board and any ratepayer; and all other motions which may have been set down to determine the same question shall be struck out.

17. The amounts hereinbefore directed to be charged annually in the accounts of the Board for depreciation and renewals shall be cumulative, and if the profits of any one year, together with any special rate or rates struck by the Board, are insufficient to pay the same and all other charges aforesaid, the deficiency shall be carried forward to the subsequent year or years and be a charge against the central or other district or special-rating area in which such deficiency shall arise. In any year in which there shall be a deficiency carried forward for that year as aforesaid, it shall not be obligatory upon the Board to make the prescribed annual payment of two per centum to the said Commissioners as herein directed, but the Board shall in such a year pay the said two per centum to the said Commissioners less the said deficiency, and the balance shall be and remain a debt owing to the said Commissioners to be paid in whole or *pro tanto* out of the first or other surplus from the next or other year or years.

Proceedings where annual profits insufficient to liquidate various charges.

18. If upon the maturity of any debentures which may have been issued by the Board the sinking fund mentioned in section forty-five of the principal Act is insufficient to pay the debentures, it shall be lawful for the Board to pay out of the depreciation funds whatever moneys may be required to make up such deficiency.

Proceedings where sinking fund insufficient to repay debentures.

19. The said Commissioners shall, upon the request of the Board, and upon being satisfied that the sinking fund is insufficient to pay the said debentures, pay unto the Board out of the depreciation fund sufficient to meet the deficiency so far as the funds to the credit of the depreciation fund shall permit.

Commissioners may make necessary payment out of depreciation fund.

20. The Board may from time to time revoke the appointment of any Commissioner or Commissioners, whether appointed under this Act or under the Local Bodies' Loans Act, 1908, and shall appoint another Commissioner or other Commissioners in his or their place or stead. If the Board shall, in exercise of the power hereby conferred upon it, revoke the appointment of any single Commissioner, such Commissioner shall immediately upon the appointment of other Commissioners in his place and stead hand over to such other Commissioners all moneys and securities representing the sinking funds in respect of which his appointment has been revoked.

Board may revoke appointment of Commissioners.

21. A description of the boundaries of all special-rating areas shall be published in the *New Zealand Gazette*, and any such description so published shall be *prima facie* evidence of the boundaries of the special-rating area to which such description relates.

Description of special-rating areas to be gazetted.

22. All special loans heretofore raised by the Board by special order for the purpose of repaying any sums expended by the Board

Validation of special loans raised by special order.

out of revenue or reserve funds to provide additional rolling-stock or plant, improvements, or any other item of capital expenditure in connection with any duly authorized work or undertaking are hereby declared and shall be deemed to be valid.

Board may invest reserve funds in undertaking.

23. The Board may from time to time invest in the Board's undertaking any funds or moneys standing to the credit of any of the Board's reserve account or accounts for the purpose of providing additional rolling-stock, plant, or improvements to any part of its authorized undertaking, or any other item of capital expenditure in connection with any duly authorized work or undertaking. 5

Board must issue debentures as security for reserve funds invested in undertaking.

24. (1.) It shall be the duty of the Board to issue and hand to the Depreciation Fund Commissioners hereinbefore mentioned debentures to the extent of the reserve funds so expended as aforesaid, whether before or after the passing of this Act, and the said Commissioners shall keep a separate account of such debentures held by them. 10

(2.) The said debentures shall be in the form prescribed by the Local Bodies' Loans Act, 1908, and shall be subject to the same provisions of the said Act as apply to debentures issued thereunder.

Sale of debentures.

25. As and when it shall become necessary to repay to the credit of any reserve account or accounts aforesaid the funds expended as hereinbefore mentioned, the said Commissioners shall raise the amount so required by the sale of the said debentures, and pay the proceeds arising from such sales to the Board, and the Board shall thereupon place the amount thereof to the credit of the reserve account or accounts aforesaid : 15

Provided always that if the said Commissioners are not satisfied that it is necessary to sell the said debentures for the purpose aforesaid, they may decline to do so ; in which case the Board may, by motion in Chambers, apply to the Supreme Court for an order directing the said Commissioners to sell the said debentures and to pay the proceeds arising therefrom to the Board. If the Court is of opinion that the Board has proved the necessity for such sale of debentures, the Court shall direct the said Commissioners to sell the said debentures, and shall make such order as in its opinion the case may require. 30

Board may hand reserve accounts credits to Depreciation Fund Commissioners for investment.

26. The Board may also from time to time hand to Depreciation Reserve Fund Commissioners any moneys standing to the credit of any of the Board's reserve accounts, and the said Commissioners shall invest such moneys or any part thereof upon any of the classes of securities mentioned in section ninety-five of the Trustee Act, 1908, or in the purchase of any debentures of the Board. The said moneys and securities and all accumulations of interest shall be held by the said Commissioners upon trust to pay or hand over the same or any part thereof to the Board as and when the Board by notice in writing demands the same, and such notice, signed by the Chairman of the Board, shall be a sufficient authority for the Commissioners to pay or hand over the said moneys or securities or any part thereof to the Board as aforesaid. 40 45

Struck out.

27. In addition to the investments authorized by section ninety-five of the Trustee Act, 1908, it shall be lawful for a trustee as in the said Act defined, and subject as mentioned in the said section, to invest any trust funds in his hands on the security of any debentures issued by the Board.

Trustees may invest in Board's debentures.

28. Notwithstanding anything to the contrary contained in the Tramways Act, 1908, it shall be lawful for the Board to use in connection with its undertaking, carriages and rolling-stock of a width up to eight feet six inches.

Width of rolling-stock and carriages.

29. If any part of the Board's tramway shall run over and along a road other than a public road or highway, and the local

Power to clear private roads of obstructions.

Struck out.

authority within whose district such road is situated shall for any reason fail or refuse to compel the occupiers of land abutting such road to keep the said roadway on either side of the tramway track unobstructed and clear for vehicular traffic thereon,

the Board may give to the said any occupiers of land abutting on such road twenty-one days' notice in writing to clear the roadway, up to the centre of the road, in front of the any properties occupied by them respectively, ~~him~~ of noxious weeds, and if the same be is not cleared accordingly, the Board may clear the same and recover the cost and expenses of so doing from the said that occupiers.

30. Any member may resign his office by writing under his hand directed to the Secretary of the Board, and in such case, or in case of any member being absent without leave of the Board from four consecutive ordinary meetings thereof, his office shall become vacant, and such vacancy shall be deemed to be a casual vacancy.

Vacation of office.

31. The Christchurch Tramway District Amendment Act, 1910, and the Christchurch Tramways District Amendment Act, 1912, are hereby repealed, but the repeal of the said Acts shall not affect any appointment made, any existing status or capacity, any acts, matters, or things whatsoever done or suffered, any right, interest, or title acquired, accrued, or established, or any remedy or proceeding in respect thereof under or by virtue of the said Acts or either of them.

Repeal and saving of existing appointments, &c.