

Mr. Millar.

DUNEDIN CITY AND SUBURBAN TRAMWAYS.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

AN ACT to enable the City of Dunedin to acquire and construct Tramways. Title.

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

1. The Short Title of this Act is "The Dunedin City and Suburban Tramways Act, 1900." Short Title.

2. This Act shall be deemed to amend and extend "The Tramways Act, 1894," and this Act and the said Act shall be deemed to incorporate each other and shall be read as one Act. "Tramways Act, 1894," amended.

3. "The Municipal Corporations Act, 1886," as amended by "The Tramways Act, 1894," is, together with its amendments, incorporated herewith, and is to be read as part of this Act, but in case of conflict the provisions hereof shall prevail. Prior Acts to read as part of this Act.

4. In the interpretation hereof the following words and expressions shall respectively have the meanings herein assigned to them:— Interpretation.

"The City," and "the City of Dunedin," and "the said Corporation," mean the Mayor, councillors, and citizens of the City of Dunedin as incorporated by law, and the district under the jurisdiction of the said Council:

No. 42—1.

“The Council” means the Dunedin City Council :

“Promoters,” in addition to the meaning given thereto by the said Act, includes the Council and the said Corporation :

“Local authority” means the governing body of any borough or county :

“The suburban districts” includes the boroughs contiguous to the City of Dunedin and the territory of counties contiguous to Dunedin or to such boroughs :

“Tramway” and “undertaking,” in addition to the meaning assigned to them by the said Act, are deemed to extend to the whole of the tramways from time to time acquired or constructed by the Corporation and the whole of the undertaking owned by it :

“The Company” means the Dunedin City and Suburban Tramways Company (Limited), and includes any liquidator or liquidators thereof :

“Revenues” shall mean all revenues of the City of Dunedin, from whatsoever source derivable.

Corporation
empowered to
purchase tramways.

5. The Corporation is hereby empowered to purchase and acquire all the tramways presently owned by the Dunedin City and Suburban Tramways Company (Limited), situate in the City of Dunedin and the Boroughs of North-east Valley, Caversham, South Dunedin, and St. Kilda, and elsewhere in the suburban districts, together with such of the plant and other property of the said Company as may be agreed upon between the said Corporation and the said Company.

The Company
empowered to make
contracts for sale of
tramways.

6. The said Company, notwithstanding anything in its memorandum and articles of association, is hereby empowered, without going into liquidation, to make any such contracts as its directors shall think fit, or to confirm any such contract as it may have made for the sale of the said tramways and all or any of its property, notwithstanding any defect in the power of either the said Company or the Corporation to enter into such contract; and similarly in the event of the said Company going into liquidation, the liquidators shall have the same powers, and any conveyance or transfer of any property of the said Company to the said Corporation shall be valid and effectual to vest in the said Corporation all the right, title, and interest of the said Company in the said tramways or any of them, and of any other property of the said Company under whatsoever title, legal or equitable, the same may be held or enjoyed; and further, it shall be lawful for the Supreme Court, on the application by summons made by either party to any such contract, to make a vesting order, vesting in the said Corporation all the right, title, and interest of the Company and any other person or Corporation in and to any land or other property affected by such contract; and any such summons may be served upon such parties, in addition to the parties to the sale and purchase, as a Judge of the Supreme Court shall direct; and any Judge of the said Court may order that service upon the Public Trustee shall bind all parties interested in the land or property to be affected by any order made on such summons.

Power to acquire
land.

7. The said Corporation shall further have power to take, purchase, lease, or otherwise acquire for the purposes of the said tramways

and of any other tramways which it may acquire or construct, and for any purpose connected with or incidental to the ownership or use of tramways, all such land or other property within or without the city for any estate which the Council shall consider beneficial as the
5 Council shall think fit.

8. It shall be lawful for the said Corporation to make agree-
ments with the local authority or local authorities of any suburban
district or districts for the acquisition and construction of tramways
therein upon such terms as may be agreed upon with any such local
10 authority, and as may be sanctioned by any order or orders in that
behalf, and to acquire, accept, and enjoy the position of promoter in
respect of any such tramways.

Power to make agreements with suburban local authorities.

9. In respect of the said tramways and of all tramways acquired
or constructed under the provisions of this Act, the Council shall be
15 deemed to be the promoters thereof, and shall have all the powers
conferred on promoters by the said Act, and in particular shall have
and may exercise in respect of the said tramways and generally of all
tramways owned by it, wheresoever situated, all the same powers
with respect to working the same, and with respect to making
20 by-laws and all the other powers and immunities of any kind which
are by the said Act conferred upon the local authority of any
borough with respect to tramways owned by any borough within
the limits of such borough :

Council deemed promoters of tramways.

Provided that such powers shall cease in respect of any tramway,
25 or any part thereof, whenever the same ceases to be the property of
the Corporation.

Proviso.

10. In respect of the said tramways and of all tramways
acquired or constructed under the provisions of this Act, the Council
shall have power to negotiate and conclude agreements for the
30 renewal, extension, or modification of the grants thereof or orders
relating thereto, or otherwise of the contracts or delegations under
which the same, or the right to construct or use the same, are held
of the respective local authorities as the same from time to time
expire, or as from time to time it appears to the Council advantageous
35 to the Council to renew, extend, or modify the same, and may for
this purpose apply for and obtain all such authorisations and dele-
gated powers as may appear to it necessary :

Power to Corporation to renew agreements or contracts on tramways held by local authorities.

Provided that it shall not in respect of renewals, extensions,
and modifications be subject to the provisions of section twenty-nine
40 of the Second Schedule to "The Tramways Act, 1894."

Proviso.

11. For the purpose of purchasing, extending, altering, renewing,
and repairing the said tramways, and of introducing such system of
traction, including the use of electricity as a motive-power, as it may
think best and as shall be lawfully allowed to be used, and for the
45 purpose of acquiring or constructing other tramways, and for any
purpose connected with the execution of the powers conferred by this
Act, but not for the purpose of maintaining such tramways, the
Council may borrow at interest, under the provisions of "The Muni-
cipal Corporations Act, 1886," such sum or sums of money not
50 exceeding in the whole the sum of two hundred thousand pounds as
may from time to time be required and may be authorised in manner
required by the said Act, and may give such security for the principal

Power to borrow for purposes of this Act.

and interest of any such loan as may be similarly authorised; and the authorisation of any loan shall for all purposes be deemed an authorisation of the acquisition or construction of any tramway-property or work for the purpose of acquiring, constructing, or undertaking which such loan is raised.

Debentures, how secured.

12. Subject to any prior charges, the debentures and coupons issued under the provisions hereof shall be secured and be a charge upon such of the rates, rents, and revenues of the said city as shall be authorised by the ratepayers, including the profits of the said tramways or of any property or undertaking acquired or constructed under the provisions hereof, or generally upon the rates, rents, and revenues of the said city if so authorised as aforesaid.

Notice of raising loan to be published.

13. Before raising any such loan, the Council shall publish in the city once in each week for four successive weeks a notice setting forth—

- (1.) The purchase proposed to be made or the particular work to be undertaken.
- (2.) The sum proposed to be borrowed for the purpose of such purchase or work.
- (3.) Any special rate or tolls, or the rents and profits of any property or undertaking which it is proposed to pledge as security for such loan, not being moneys received by way of grant from the Government, or moneys heretofore pledged as security for any loan or appropriated to any special purpose.

Provisions relating to loan.

14. The following provisions shall apply to any loan raised under the powers herein contained:—

- (1.) The proposal or proposals to borrow such moneys shall, notwithstanding the provisions of section one hundred and eighty-two of "The Municipal Corporations Act, 1886," be deemed to be carried if the votes given in favour thereof shall exceed in number those given against the same, otherwise the said proposal shall be deemed to be rejected; but such rejection shall not prevent the renewal thereof from time to time as the Council may think fit.
- (2.) Notwithstanding the terms of subsection three of section one hundred and eighty-one of "The Municipal Corporation Act, 1886," the poll shall be taken at such convenient places as the Returning Officer shall appoint; but it shall not be obligatory upon him to appoint more than one.
- (3.) No debenture issued under this Act shall be sold at a price that will produce to the purchaser a greater interest than five per centum per annum.
- (4.) The debentures issued under this Act shall rank *pari passu*, and have no preference or priority the one over the other by reason of the date of issue, consecutive numbers, or otherwise. They shall be payable to bearer, and shall be transferable by delivery. No stamp duty shall be payable in respect of any such debenture or coupon. They shall have such currency as the Council shall determine.
- (5.) Such debentures need not have the corporate seal attached thereto, and may be signed either by the Mayor and

Treasurer or by their agents; and the signatures to any coupon may be made by lithography or any other process, and they shall state a place or places for the payment of principal and interest, and the place for the payment of coupons need not be the same as for the payment of the principle sum of the debenture.

(6.) The debentures and coupons shall, subject to the provisions hereof, be in such form as the Council shall approve, and may be in the form in the Schedule hereto set forth, and when executed shall be deemed to have been approved by the Council notwithstanding any departure from the form, terms, and conditions required by "The Municipal Corporations Act, 1886," or from the said form in the Schedule hereto set forth.

(7.) The production of a copy of a resolution of the Council authorising any such loan under the authority hereof, purporting to be authenticated by the seal of the Corporation, shall be conclusive evidence that such loan has been duly authorised, and may be raised, and a certificate of the Council similarly authenticated shall be conclusive evidence of the appointment of any agent or agents.

15. For the purpose of providing the interest and sinking fund upon the debentures issued under the provisions of this Act, the Council shall have power, notwithstanding the provisions of any existing or future general Act, by special order or special orders to make and levy a special rate or special rates upon all lands, buildings, and other rateable property within the said city according to the annual rateable value thereof. Every such special rate shall be an annual recurring rate, and shall be payable at such intervals as the order making the same directs, and shall be levied year by year, without further proceedings by the Council, until the debt created by such debentures is paid off. It shall be lawful, notwithstanding the foregoing provisions, for the Council to pay the interest and sinking fund of any such loan out of its ordinary or general revenue, and every such loan and the amount of every debenture and coupon representing the same shall be a debt of the Corporation.

Power to levy special rate.

16. There shall be created a sinking fund of ten shillings per centum per annum for the redemption of any loan raised under the provisions hereof, which shall be under the control of the Sinking Fund Commissioners.

Sinking fund.

17. The Council shall have power from time to time to amend any special rate made by it under the provisions hereof by increasing or diminishing the same; but no special rate shall be diminished by the Council under the powers herein contained unless the Controller and Auditor-General shall, previously to any such reduction, in writing approve thereof, and such reduction shall only continue for so long a period as he shall approve.

Power to alter special rate.

18. In every case in which default shall be made in the payment of any interest on any of the debentures issued under the provisions hereof, and in every case in which default shall be made in the payment of any principal secured by any of such debentures, the following provisions shall have effect:—

Interest and debentures.

Provisions in case of default.

- (1.) The Court or any Judge thereof shall have power by order to direct the Council to make and levy a special rate or special rates upon all lands, buildings, and other rateable property within the said city, according to the rateable annual value thereof, for the purpose of meeting such interest or repaying such principal as the case may be; and in doing so to determine the amount required to be levied to provide such interest and the amount which shall annually be levied for the purpose of repaying such principal :

Proviso.

Provided that if there shall happen to be no valuation of such rateable property applicable to the power hereby given, the Court or Judge may order one to be made.

- (2.) Every such order for the making of a rate shall take the place and have the effect of a special order under section *fifteen* hereof.
- (3.) The Court or any Judge thereof shall have power by order to vest such rate in any Receiver who may be appointed under the powers hereof.
- (4.) Any person to whom such principal or interest is overdue may apply *ex parte* by petition, or similarly by motion or summons in any action, to the Court or any Judge thereof for relief under this Act; and the Court or Judge may, if satisfied of the truth of the matters alleged in support of such application, appoint, upon such terms as to security and remuneration as it or he shall think fit, a Receiver of the rates, rents, and revenues liable for the payment of such principal or interest; and the said Court or Judge shall have full power and jurisdiction to make such orders from time to time that complete justice shall be done to all parties interested, and to determine in what manner the revenues of the Council shall be collected and received, and what sums are properly available out of such revenues for the payment of the principal and interest secured by the debentures issued hereunder.
- (5.) Subject to the foregoing provisions such rates, rents, and revenues shall, from the date of the appointment of a Receiver, and upon its being publicly notified by the Receiver, vest in the Receiver and cease to be vested in the Corporation; and the Receiver shall have all such powers as shall from time to time be specified in any order of the Court or any Judge thereof.
- (6.) All powers and remedies for the recovery of such rates, rents, and revenues shall, after the appointment of the Receiver, and upon its being publicly notified, cease to be exercised by the Council, and shall be exercisable by the Receiver.
- (7.) The remedies hereinbefore provided shall be in addition and without prejudice to any other lawful remedy competent for the recovery of the overdue principal and interest.

19. All moneys received by the Receiver in respect of rates and rents, and all moneys received in respect of other revenues and declared by the Court or a Judge to be properly available for the payment of the indebtedness in respect of which he is appointed and acting, shall be applied—

Disposal of moneys received by Receiver.

- (1.) In payment of the expenses of the application and order;
- (2.) In payment of the Receiver's remuneration fixed as aforesaid, and his reasonable and necessary expenses;
- (3.) In payment of the sums then overdue which are secured by such rates, rents, and revenues;
- (4.) The residue, after payment of the above, to the Corporation;

and the Receiver shall account for all such moneys in such manner as the Court or Judge directs.

20. When all sums then overdue are paid, or at any time by an order of the Court or a Judge thereof, on the application of the Corporation, if it shall appear to the said Court or Judge thereof that such order should be made, the rates, rents, and revenues vested in the Receiver shall revert in the Corporation, and the powers of the Receiver shall cease; and he shall forthwith pay any money in his hands to the Council, who shall again be capable of exercising the powers and remedies of which his appointment had deprived them, without prejudice, however, to any appointment of a receiver subsequently if occasion shall arise.

When moneys overdue are paid, rates to revert to Corporation.

21. No Judge shall solely on account of his liability to pay rates be deemed to be interested in any proceeding in which he is judicially concerned.

Judge not deemed interested on account of liability for rates.

22. No objection shall be allowed in any Court to any rate which the Council or a Receiver shall purport to strike, make, or levy under the provisions of this Act, or which shall or may form the security for the debentures or coupons issued hereunder; and no informality or irregularity, whether in form or in substance, in the making, striking, or levying of such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceeding for the recovery of such rate, or be entertained as a ground for quashing such rate or restraining the recovery thereof.

Objection to rate struck not allowed as a defence.

23. It shall be lawful for the Dunedin City Sinking Fund Commissioners, acting under the directions of the Council given pursuant to section 206 of "The Municipal Corporations Act, 1886," to invest the funds in their hands in the purchase of debentures issued under the provisions of this Act at such price or premium as they shall think fit:

Power to Dunedin City Sinking Fund Commissioners to purchase debentures.

Provided that this section shall only apply in case such debentures are secured in case of default, both upon the net profits of the tramways acquired or constructed under the provisions hereof and upon such special rate as is herein provided; but the said Commissioners shall not be bound to act on any such direction, but may use their own discretion in the matter.

Proviso.

24. In case any Act shall be passed giving the Council power to borrow sums of money for various purposes, including the purposes for which it is by this Act authorised to borrow, whether such Act is

Power to Council to borrow moneys not confined to provisions of this Act.

passed before or after the passing of this Act, it shall be competent for the Council, by resolution, to decide whether the moneys required for the purposes of this Act shall be borrowed under the provisions hereof or under the provisions of such Act.

Provision in case Council borrow moneys under other Act than this Act.

25. In case the Council shall, by such resolution as aforesaid, decide that such moneys shall be borrowed under the provisions of such Act, the Council may nevertheless adopt section *twenty-three* hereof and such other provisions of this Act as it shall think fit, and upon the adoption thereof being embodied or expressed in such resolution, or any subsequent resolution, the said section or sections hereof shall be deemed to be in force with respect to such loan, or any loan raised under such Act, as if the said section or other provisions were inserted in such Act. 5 10

Evidence of resolution to borrow moneys.

26. The production of a copy of any such resolution, authenticated in manner provided by section *fourteen*, subsection *seven*, hereof, shall be conclusive evidence that such resolution has been duly passed. 15

Schedule.

SCHEDULE.

FORM OF DEBENTURE.

Loan of £
No. , City of Dunedin, New Zealand. Loan of £
DUNEDIN CITY TRAMWAY DEBENTURE, 19 , issued pursuant to "The Dunedin City and Suburban Tramways Act, 1900," and "The Municipal Corporations Act, 1886."

Dunedin City and Suburban Tramways Loan, secured on [*State security*], and being a debt payable by the city, as provided by the said Acts.

Debenture for £ , payable at , on the day of , 19 , issued by the Corporation of the City of Dunedin, New Zealand, under the aforesaid Acts.

N.B.—The holder of this debenture has no claim in respect thereof upon the Government of the Colony of New Zealand or the revenues of the said Colony.

ON presentation of this debenture at , on or after the day of January, , the bearer will be entitled to receive £ . Interest on this debenture will cease after the date when payment falls due unless default is made in payment.

Issued under the Common Seal of the Corporation of the City of Dunedin, this day of , 19 .

Issued by the authority of the Corporation of the City of Dunedin, New Zealand, the day of , 19 .

C.D., Treasurer.

A.B., Mayor.
E.F. } Agents.
[Or, G.H.]

FORM OF COUPON.

DUNEDIN CITY TRAMWAY LOAN DEBENTURE, 19 , No. , of the City of Dunedin, New Zealand, issued under "The Dunedin City and Suburban Tramways Act, 1900," and "The Municipal Corporations Act, 1886," secured on [*State security*].

ON presentation of this coupon at , on or after the day of , 19 , the bearer hereof will be entitled to receive £ .

C.D., Treasurer.

A.B., Mayor.
E.F. } Agents.
[Or, G.H.]