

# PUBLIC AUTHORITIES (PARTY-WALL) EMPOWERING BILL.

## EXPLANATORY MEMORANDUM.

THE object of this Bill is to enable public authorities which have no power to part with the freehold (or, as in the case of the Crown, only a limited power by statute) to enter into party-wall agreements or to confirm such agreements made by their tenants, so as to bind the freehold, with respect to the party-wall, in the hands of future tenants, and also to bind the public authority by the terms of the party-wall agreement.

For example, a large part of the Wellington reclaimed land is an endowment of the Wellington City Corporation. Another large part is an endowment of the Harbour Board. The reclaimed land is subdivided into sections leased (generally on Glasgow leases) to citizens. A lessee desires to build on a vacant section, and enters into an agreement with the lessee of the neighbouring section to build a party-wall to serve both buildings, and in general the middle of the party-wall stands on the boundary-line. It is a saving both of frontage and of building expense to so utilize one wall for two buildings. But though the lessees can make any such agreement as they please, the public authority, which is the freeholder, cannot (as the law stands) either become a party to or confirm that agreement so as to bind the freehold. Consequently, at the end of the lease of either tenant, whether renewed or not by that tenant, the agreement comes to an end, and the new tenants own each half of the wall instead of the two having, as is proper, a joint interest in the wall.

The Bill does not attempt to define what agreements as to party-walls may be entered into, nor does it bind the public authority in respect of any agreement which its tenants may have entered into unless either (a) the public authority has itself been a party to and approved the agreement, or (b) has after the agreement approved it and confirmed it.

In many cases, and especially in cases where the party-wall is built on the outside line of the area of the public authority's endowment, and where therefore the party-wall agreement is made between a tenant of the public authority and the owner of the freehold of the land adjoining the endowment, it is greatly to the advantage of the public authority to have power itself to enter into party-wall agreements, and (as is usual) to contract to bear part of the cost of maintaining the wall, and sometimes half the cost of erecting it.

The draft of the Act was submitted to the solicitors of the Wellington City Corporation and the Wellington Harbour Board, and has been settled practically in accordance with their main suggestions.

Clause 2: The definitions of " wall " and " party-wall " have been carefully considered and settled, and it is thought unnecessary to explain the language further.

Clause 3 empowers the public authority to enter into or confirm party-wall agreements and to contribute (if it thinks fit) to the erection, maintenance, or renewal thereof, and to grant easements over the strip upon which the party-wall stands. It is necessary to insert a power to grant easements because otherwise the agreement could not be registered under the Land Transfer Act as provided by subclause (2).

Clause 4: This clause is necessary to ensure that subsequent leases by the public authority shall be subject to party-wall agreements already made or confirmed by the public authority. Subclause (2) is not retrospective, except in cases where the lessee has been a party to or has confirmed the agreement.

Clause 5: This clause ensures in the case of a Glasgow lease, or other lease granting a right of renewal or compensation for improvements to an outgoing tenant, that the Corporation in granting the new lease shall make such new lease subject to the party-wall agreement, instead of granting a new lease of the section only, which would mean a new lease of half the wall without any right to its tenant to require the support of the other half.

*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.*

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*Legislative Council.*

*11th September, 1919.*

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE.]

*House of Representatives, 16th October, 1919.*

*Hon. Sir Francis Bell.*

## PUBLIC AUTHORITIES (PARTY-WALL) EMPOWERING.

### ANALYSIS.

#### Title.

#### 1. Short Title.

#### 2. Interpretation.

3. Conferring on public authorities power to enter into party-wall agreements and to exercise powers incidental thereto. Party-wall agreements may be registered.

4. Leases granted by public authorities to be subject to party-wall agreements affecting the demised lands.

5. Rights of renewal in respect of existing or future leases to be subject to party-wall agreements.

### A BILL INTITULED

AN ACT to empower Public Authorities having Leasing-powers to enter into Party-wall Agreements. Title

5 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 Public Authorities (Party-wall) Empowering Act, 1919. Short Title.

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

10 “Public authority” means and includes His Majesty (in respect of any lands vested in His Majesty), and any leasing authority as defined by the Public Bodies’ Leases Act, 1908, and any incorporated public or local body upon which powers of granting leases of land are conferred by statute :

Interpretation.

15 “Wall” means a wall (other than a wall constructed wholly of wood) which, with respect to any line forming the boundary of land vested in fee in a public authority or any line forming the boundary between sectional subdivisions of such land, stands, or is intended to be erected so as to stand,—

20 (a.) So that the middle line of such wall coincides with such boundary-line ; or

25 (b.) So that any part of such wall stands on one side of such boundary-line and another part of such wall on the other side of such boundary-line ; or

(c.) So that the outer line of such wall coincides with such boundary-line, if the wall is so constructed as

to provide support for a wall erected or which may be erected immediately adjacent to, but on the other side of such line :

“ Party wall ” means a wall which has been erected or is proposed to be erected in accordance with an agreement in writing of persons having any estate or interest in the lands separated by the boundary-line. 5

3. (1.) A public authority may—

(a.) Enter into or join in and become bound in respect of its freehold estate by any agreement duly executed or confirmed by it relating to a party-wall or the erection or maintenance thereof, and may from time to time in like manner vary any such agreement; and 10

(b.) Out of its revenues contribute to the erection, maintenance, or renewal of a party-wall; and 15

(c.) Grant such easements or rights in, over, and upon the strips of land upon which a party-wall stands, or is intended to stand, as to the public authority seems necessary or expedient.

(2.) Every agreement under this section may be registered under the Deeds Registration Act, 1903, or the Land Transfer Act, 1915, as the case may be. 20

4. (1.) Every lease granted by a public authority of lands any part whereof is subject to a party-wall agreement entered into or confirmed by such public authority shall be read subject to such agreement, and the estate or interest of the lessee in the lands shall be limited by such agreement and by the grant of any easement or right in respect of the party-wall. 25

(2.) This section applies to leases heretofore granted by a public authority in all cases where the lessee has been an original party to or has confirmed the party-wall agreement. 30

5. (1.) Every right of renewal conferred upon any lessee in respect of any lease, whether heretofore granted or hereafter to be granted by a public authority, shall be subject to any party-wall agreement executed or confirmed by the public authority, whether the lessee exercising the right of renewal has or has not been a party to or confirmed the party-wall agreement; and every lease granted from time to time by a public authority in pursuance of any such right of renewal shall be subject to, and the tenant shall be required to comply with, the terms of the party-wall agreement. 35 40

(2.) “ Right of renewal ” in this section means any provision, statutory or otherwise, conferring upon a tenant of a public authority a right, absolute or limited, either to a grant of a further term of years in the demised lands or to compensation for improvements, or imposing upon the public authority the duty to submit to competition, by auction or tender, the grant of a new term of years in the demised premises, with any provisions as to improvements or otherwise in favour of the tenant under an expiring or expired lease. 45

Conferring on public authorities power to enter into party-wall agreements and to exercise powers incidental thereto.

Party-wall agreements may be registered.

Leases granted by public authorities to be subject to party-wall agreements affecting the demised lands.

Rights of renewal in respect of existing or future leases to be subject to party-wall agreements.