

New Zealand.



ANALYSIS.

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1929, No. 15.—*Local and Personal.*

AN ACT to authorize the Auckland City Council to appoint the Auckland City Sinking Funds Commissioners the Sinking Funds Commissioners in respect of Loans raised by Local Authorities whose Districts become incorporated in the City of Auckland, and to validate any such Appointment heretofore made in respect of the Loans of any Local Authority whose District has heretofore been so incorporated; to validate an Agreement entered into by the Auckland City Council with His Majesty the King in settlement of a Claim for Compensation by His Majesty for Injury to Property by reason of Work done by the Council; and to vest the Control of a Portion of Foreshore in the said Auckland City Council. Title.

[1st November, 1929.]

WHEREAS certain local authorities whose districts have been united with the City of Auckland had prior to such amalgamation appointed Sinking Funds Commissioners under the provisions of the Local Bodies' Loans Act, 1926, in respect of loans raised by such local authorities: And whereas it is desirable that all funds and securities held by such Sinking Funds Commissioners should be transferred to and vested in the Auckland City Sinking Funds Commissioners, and the bodies corporate consisting of the Sinking Funds Commissioners appointed by the said local authorities should be dissolved, and that a similar procedure should be available in the event of other local districts being hereafter united with the City of Auckland: And whereas the Mayor, Councillors, and Citizens of the City of Auckland and His Majesty the King have Preamble.

entered into an agreement relative to the settlement of a compensation claim made by His Majesty, and it is desirable that such agreement should be validated: And whereas it is desirable that the control of portion of the foreshore at Point Chevalier, within the limits of the Waitemata Harbour, should be vested in the Auckland City Council:

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 Sinking Funds and Empowering Act, 1929.

Auckland City
Sinking Funds
Commissioners may
be appointed
Commissioners for
loans raised by
local bodies uniting
with city.

2. (1) Notwithstanding anything contained in the Local Bodies' Loans Act, 1926, or in any other Act, it shall be and shall be deemed to have been lawful for the Auckland City Council to appoint the Auckland City Sinking Funds Commissioners as Sinking Funds Commissioners in respect of all or any loans raised by any local authority whose district may be or has heretofore been united with the City of Auckland.

(2) Such appointment may be made by ordinary resolution of the Auckland City Council, and upon the passing thereof the Sinking Funds Commissioners appointed by any such local authority shall hand over to the Auckland City Sinking Funds Commissioners all moneys, deeds, documents, securities, and other property vested in them or in their hands as such Commissioners, all of which moneys, deeds, documents, securities, and other property shall on the passing of such resolution vest in the Auckland City Sinking Funds Commissioners; and upon such handing-over the body corporate consisting of the Sinking Funds Commissioners mentioned in such resolution shall be dissolved and cease to exist.

(3) Upon production to him of a certified copy of such resolution any District Land Registrar or Registrar of Deeds shall record the Auckland City Sinking Funds Commissioners as being the registered proprietor of or otherwise entitled to any estate or interest in any land or mortgage appearing from his records to be vested in the Sinking Funds Commissioners to which such resolution refers.

Terms on which
moneys, &c., to be
held by Auckland
City Sinking Funds
Commissioners.

3. All moneys, securities, and other property which may be or become vested in the Auckland City Sinking Funds Commissioners under the provisions of this Act shall be held by them upon the terms and for the purposes upon and for which they were respectively held by the Sinking Funds Commissioners from whom they were received, but, subject thereto, may be invested and dealt with as if they had been originally paid to or vested in the Auckland City Sinking Funds Commissioners by the Auckland City Council.

Act not to apply to
Public Trustee.

4. Nothing in this Act shall apply to or affect the Public Trustee as the Sinking Fund Commissioner for any loan raised by any of the local authorities aforesaid, or apply to or affect any moneys or securities paid or payable or belonging to the Public Trustee as such Commissioner.

Agreement between
His Majesty and
Auckland City
Corporation
validated.

5. The agreement between the Mayor, Councillors, and Citizens of the City of Auckland and His Majesty the King set out in the First Schedule hereto is hereby validated, and the parties thereto shall be deemed to have and to have had full power and authority to enter into the same and to carry out their respective obligations thereunder.

6. The control of that portion of the foreshore at Point Chevalier described in the Second Schedule hereto is hereby vested in the Auckland City Council, and the said Council shall have and may exercise in relation thereto all rights, powers, and authorities which are by section one hundred and fifty-eight of the Harbours Act, 1923, vested in or conferred upon a local authority to whom control of a foreshore is granted under that section:

Control of portion of foreshore at Point Chevalier vested in Auckland City Council.

Provided that in the event of any building being erected on the said foreshore the plans of such building shall first be submitted to and approved of by the Auckland Harbour Board.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

MEMORANDUM OF AGREEMENT made this 19th day of June, 1929, between the Mayor, Councillors, and Citizens of the City of Auckland (hereinafter referred to as the Council) of the one part, and His Majesty the King, his successors, and assigns (hereinafter referred to as His Majesty), of the other part:

Whereas the Council altered the level of Shore Road, in the City of Auckland, approximately as shown on the plans marked P.W.D. 73059 and 73060, deposited in the office of the Minister at Wellington, in the Wellington Provincial District (hereinafter referred to as the said work): And whereas the Governor-General claimed the sum of £450 as compensation for the injurious affection of Part Lot 26, D.P. 7664, portions of Allotments 61 and 240 of Section 16, Suburbs of Auckland, containing 1 rood 36·8 perches, from the said work: And whereas the Council has made an offer in settlement of the said claim: And whereas it is doubtful whether the terms of such offer are within the powers of the Council:

Now, therefore, it is agreed by and between the parties hereto as follows:—

1. The Council shall do the following things in full and final settlement of the said claim:—

- (a) Pay, on or before the 2nd day of July, 1929, the sum of two hundred pounds sterling (£200) to the credit of the Public Account at the Bank of New Zealand, Auckland, and forward bank receipt to the Minister of Public Works.
- (b) Should the wall on or adjacent to the Shore Road boundary of the said part Lot 26, or any part of it, fall or become so unstable as to be in danger of falling, the Council will rebuild or support the same in a proper and workmanlike manner. Such work shall be completed within four months from such falling or instability. Such work will be done expeditiously and with as little inconvenience as possible to the occupier of such property. The Council will make good any damage that may be caused by the falling of such wall or the work of rebuilding or supporting. This clause, the one next following, and clause 5 shall enure for the benefit of the owner for the time being of the said land, who shall have all the rights and remedies that His Majesty has hereunder while owner.
- (c) In the event of the owner of the said part Lot 26 erecting a garage thereon the Council shall within a month of such erection surface the portion of Shore Road in front of the entrance to the garage, and provide means for crossing the water-channel, the owner paying the usual charges for a crossing over the footpath:

Provided that the floor-level of such garage shall not be lower than the top of the said wall immediately adjacent thereto, and that the Council shall not be required to make any alteration in the level of the formed footpath or roadway of Shore Road.

2. The Council shall take such steps as may be necessary to place before Parliament during the current year, in time to enable the same to be passed, and do everything

possible to ensure the passing of legislation validating this agreement and enabling the Council to carry into effect the provisions thereof.

3. Provided the whole of the provisions of clause 1 of this agreement are within the powers of the Council, or the Council obtains the necessary legislation to enable it to give effect to such provisions, the Governor-General, on behalf of His Majesty, shall accept compliance with such provisions in full and final settlement of the said claim, and shall indemnify the Council against any claim by any other person in respect of the said property arising out of the above-mentioned work, other than those contained in clause 1 hereof.

4. Should the Council be unable to obtain the passing of such validating legislation, His Majesty may proceed to have his said claim for compensation heard by the Compensation Court already constituted, but only for the purpose of determining what amount (if any) His Majesty is entitled to recover over and above the sum of £200 mentioned in clause 1 of this agreement; and this agreement is without prejudice to the right of the Council in such case to put forward any submission or contention that it would have been entitled to do if this agreement had not been executed.

5. All questions or differences whatsoever which shall at any time hereafter arise between the parties hereto touching or concerning these presents, or the construction, meaning, operation, or effect thereof, or of any clause herein contained, or as to the rights, duties, or liabilities of the parties hereto respectively under or by virtue of these presents or otherwise, or touching the subject-matter of these presents or arising out of or in relation thereto, shall be referred to a single arbitrator in case the parties can agree upon one, otherwise to two arbitrators, one to be appointed by each party to the difference (whether consisting of one or more than one person), and in either case in accordance with and subject to the provisions of the Arbitration Act, 1908, and its amendments, or any statutory modification or re-enactment thereof for the time being in force.

In witness whereof these presents have been executed by the parties hereto.

The common seal of the Mayor, Councillors, and Citizens }
of the City of Auckland was hereunto affixed in the } [L.S.]
presence of—

GEO. BAILDON, Mayor.
J. DEMPSEY,
ALICE H. G. BASTEN, } Councillors.
J. S. BRIGHAM, Town Clerk.

Signed by His Excellency the Governor-General, for and }
on behalf of His Majesty the King, in the presence } CHARLES FERGUSSON,
of— } Governor-General.

E. A. RANSOM, Minister of Public Works.

SECOND SCHEDULE.

ALL that area of land at the Point Chevalier foreshore, containing 63 acres (approximately), and comprising the whole of the tidal land covered and uncovered by the ebb and flow of the tide between ordinary high water, spring tide (O.H.W.S.T.), and ordinary low water, spring tide (O.L.W.S.T.), and described more particularly as follows:—

That area of land forming portion of the soil of the sea, commencing at the intersection of O.H.W.S.T. and the boundary between Lots 7 and 8 of Allotment 22, Parish of Titirangi; thence extending seaward along the production of the said boundary, approximately 770 links, to O.L.W.S.T.; thence by the line of O.L.W.S.T. in a northerly, then easterly, then southerly direction till it cuts the production in an easterly direction of the southern boundary of the Auckland City Council's Recreation Reserve; thence in a westerly direction along this produced boundary, approximately 600 links, to O.H.W.S.T.; thence by the line of O.H.W.S.T. in a north-westerly, then south-westerly, direction to the point of commencement: as the same is delineated by the portion coloured pink on the plan deposited in the office of the Marine Department, Wellington, and numbered M.D. 6713.