

New Zealand.

ANALYSIS.

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1907, No. 27.—*Local.*

AN ACT to enable the Gisborne Harbour Board to borrow Four Hundred Thousand Pounds. Title.
[23rd November, 1907.]

WHEREAS the Gisborne Harbour Board is desirous of constructing an outer harbour to afford accommodation generally to shipping of large tonnage: And whereas the estimated cost of such harbour-works is three hundred and fifty thousand pounds: And whereas the said Board in the year eighteen hundred and eighty-five, under the provisions of the Gisborne Harbour Act, 1884, borrowed a sum of two hundred thousand pounds, and it is estimated that when the time for repayment of such loan arrives the sum of fifty thousand pounds (with the accumulated sinking fund and other moneys) will be required to pay off the same: And whereas the said Board is desirous of borrowing sufficient money to construct the outer harbour and provide for the balance of the said former loan—namely, a total sum of four hundred thousand pounds: Preamble.

BE IT THEREFORE 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 Gisborne Harbour Board Enabling Act, 1907. Short Title.

- Special Act.** 2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1878, which Act is hereby incorporated with this Act.
- Interpretation.** 3. In this Act, if not inconsistent with the context,—
 “Board” means the Gisborne Harbour Board as constituted under the Gisborne Harbour Act, 1905 :
 “Chairman” means the Chairman of the Board :
 “Harbour district” or “district” means the harbour district established under this Act :
 “Returning Officer” means the officer appointed by the Board to conduct elections and polls within the harbour district.
- Returning Officer.** 4. The Local Elections Act, 1904, shall apply to every poll taken under this Act, and the Board shall appoint some person to be Returning Officer for the conduct of the poll hereafter authorised throughout the harbour district.
- Power to borrow.** 5. (1.) It shall be lawful for the Board to borrow from time to time such sum or sums of money as the Board shall deem fit, but so that the total of the amounts so borrowed does not exceed in the aggregate four hundred thousand pounds; and the Board may borrow such sum or sums of money as aforesaid for such period or periods as it may think fit, and may renew or again borrow any or all of such sum or sums of money as they fall due for such further or other period or periods as the Board may think fit.
- Sinking fund, &c.** (2.) For the purpose of providing a sinking fund for the liquidation of the loan authorised by this Act there shall, on the first day of January in each year after the issue of any debentures, be set apart by the Board out of the rates and other moneys hereinafter mentioned upon which the principal and interest of such debentures are to be charged a sum of ten shillings per centum per annum on the aggregate amount for which debentures shall at that time be issued, and no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than four pounds ten shillings per centum per annum, anything in any other Act notwithstanding.
- How money borrowed to be expended.** 6. (1.) The moneys so borrowed shall be applied by the Board as to part thereof in provision of such capital sum as shall be required, in addition to the unexpended balance and accumulating sinking fund of the said loan of two hundred thousand pounds borrowed in the year eighteen hundred and eighty-five, to discharge and pay off the debentures of the said loan when the same mature; and as to the remaining part thereof, in the construction of an outer harbour within the limits of the Gisborne Harbour as defined in the First Schedule to the Gisborne Harbour Act, 1905.
 (2.) The Board may out of any loan-moneys pay the preliminary expenses incurred in connection with the scheme for which the loan was raised, and the first year’s interest of the loan, during the construction of any works for which the loan is raised :
 Provided that the intention to pay such expenses or interest shall be stated to the ratepayers in the notice referred to in clause eleven hereof.
- Security for loan.** 7. The debentures for all moneys so borrowed, together with interest, shall be secured upon the rents, profits, and dues charge-

able and receivable by the said Board as harbour or other dues or in respect of the harbour-works of the Port of Poverty Bay, and upon the rate hereinafter mentioned to be made and levied under the authority of this Act and the Gisborne Harbour Act, 1905.

8. Nothing herein shall prejudice or affect the right of the Board to continue to make, levy, and recover rates over the area comprised in the harbour district as constituted by the Gisborne Harbour Act, 1905, and in the proportions as defined by that Act, for the purpose of providing for payment of interest and sinking fund on the existing loan of two hundred thousand pounds borrowed by the Board under the provisions of the Gisborne Harbour Act, 1884, or on so much of any future loan or loans as the Board may hereafter raise for the purpose of paying off the balance of the existing loan of two hundred thousand pounds, but for no other purpose whatsoever.

Right of Board to levy rates not affected.

9. The harbour district hereby constituted for the purposes of this Act is the whole area comprised within the boundaries of the Borough of Gisborne and the County of Cook.

Harbour district.

10. Before the Board proceeds to borrow moneys under the authority of this Act it shall cause meetings of the ratepayers to be held and a poll to be taken as by this Act is provided.

Consent of ratepayers required before any loan raised.

11. The Board shall cause a notice to be published in some newspaper circulating in the district, specifying a time and place for the Borough of Gisborne and a time and place for each riding of the County of Cook at which meetings of ratepayers are to be held to consider a proposal to raise such special loan, and containing a brief summary of the provisions of this Act. The time appointed shall not be less than fourteen days after the first publication of this notice.

Notices of poll.

12. Every such meeting shall be presided over by some person appointed by the Chairman of the Board for such meeting. If the person so appointed shall be absent or shall refuse to preside, then the meeting shall elect some person present to preside. At every such meeting, after due consideration and discussion of the proposal, the person presiding shall notify that a poll in accordance with the provisions of the Act will be taken. If at the place and within one hour after the time appointed for any such meeting not more than two ratepayers are present, such meeting shall for the purposes of this Act be deemed to have been duly held, and the proposal to have been duly discussed and considered, and the notification of a poll to have been duly made.

Meeting of ratepayers to consider loan proposals.

13. It shall be the duty of the Secretary of the Board, at the request of the Chairman, to prepare a roll for the harbour district, setting forth the names of all ratepayers within such district; and every such ratepayer shall be entitled to exercise one vote and no more.

Roll of ratepayers.

14. Such roll shall be signed by the Chairman or two members of the Board, and when so signed shall be delivered to the Returning Officer, and shall be the roll upon which the poll shall be taken.

Roll to be signed and handed to Returning Officer.

15. The poll shall be taken as follows:—

Poll to be taken.

(a.) At the written request of the Chairman, authorised by ordinary resolution of the Board, the Returning Officer shall publish a notice setting forth the day (not less than

one week nor more than four weeks from the latest date appointed for any of the aforesaid meetings) on which the poll will be taken.

- (b.) The Returning Officer shall provide such polling-places within the harbour district as he shall think fit and necessary for the due taking of such poll.
- (c.) All the provisions of the Local Elections Act, 1904, as regards taking a poll on a proposal shall, so far as they are applicable, and except as in this Act is otherwise provided, apply to the taking of the poll.
- (d.) The statement of the proposal in the voting-paper shall be as follows: "Proposal to borrow moneys not exceeding in the aggregate £400,000 for the purposes defined in the Gisborne Harbour Board Enabling Act, 1907."

Result of poll.

16. If the total number of votes recorded for the proposal represent a majority of the votes recorded within the whole harbour district, the resolution shall be deemed to be carried, and the Board shall be fully empowered to exercise the powers of borrowing, and all other powers conferred by this Act; but if there is not such a majority in favour of the proposal, the resolution shall be deemed to be rejected, and the Board shall not be so empowered.

Result of poll to be advertised.

17. As soon as conveniently may be after the result of the poll has been ascertained, the Returning Officer shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the proposal to be carried or rejected, as the case may be.

Resolution to be gazetted.

18. (1.) As soon as conveniently may be after the poll the Chairman shall send to the Colonial Secretary, for publication in the *Gazette*, a notice of the number of votes recorded for or against the proposal, and in such notice shall declare the proposal to be carried or rejected, as the case may be.

(2.) If in the notice so published in the *Gazette* it is declared that the proposal was carried, such notice so published shall be conclusive evidence that the raising of the loan has been duly authorised, and that all proceedings and things required by this Act as conditions precedent to the exercise by the Board of the borrowing-powers hereby conferred have been duly and lawfully taken and done, and that the Board is fully empowered and authorised to borrow any sum or sums of money not exceeding in the aggregate the sum of four hundred thousand pounds.

(3.) If in the said notice it is declared that the proposal was rejected, it shall be lawful for the Board, at any time after the expiration of twelve calendar months from the date of the publication in the *Gazette* of such notice, to direct that another poll be held, in the same manner and subject to the same conditions, upon the same proposal.

Special rate.

19. If the proposal be declared to be carried, a special rate upon all rateable property in the harbour district, for the purpose of providing interest and sinking fund upon moneys to be borrowed under the authority of this Act, shall be deemed to have been duly made and struck by the Board in manner provided by law and in accordance with the provisions of the Rating Act, 1894, and to have

been duly appropriated and pledged by the Board as a security for all moneys to be borrowed under the authority of this Act, and shall be a continuing annually recurring rate without further proceedings by the Board until repayment in full of all moneys so borrowed. Such special rate shall not exceed one penny in the pound upon the capital value of all rateable property in the Borough of Gisborne, and shall not exceed one halfpenny in the pound upon the capital value of all rateable property in the County of Cook.

20. (1.) The Board shall in each year cause an estimate to be prepared, in such manner and according to such principle and method as the Board approves, of the anticipated revenue of the year (exclusive of any rate to be levied under this Act) and of the anticipated expenditure of the year (including interest and sinking fund upon the moneys borrowed under the authority of this Act, but exclusive of capital expenditure on loan account); and shall upon such estimate determine the deficiency of such revenue to meet such expenditure.

Estimates of
revenue and
expenditure.

(2.) Any credit or debit balance of the Board's general account at the close of each year shall be carried forward to the account of the succeeding year for the purpose of the estimate of such succeeding year and the determination of the deficiency of the revenue of such succeeding year to meet the expenditure thereof.

(3.) The Board shall direct the levy in each year of such part of the said special rate as shall be sufficient to provide such deficiency.

Levy of special
rate.

(4.) The Board may for the purposes of such direction and levy adopt some convenient fraction of a penny, notwithstanding that the sum thereby produced may exceed such deficiency.

(5.) The direction for every such levy shall be by resolution of the Board, and shall appoint a date or dates for payment thereof, and every such direction shall have the force and effect according to its tenor of a rate duly made and struck on all rateable property in accordance with the provisions of the Rating Act, 1894.

(6.) Nothing in this section or in this Act shall be construed as in any manner limiting or affecting the rights of the holders of debentures to be issued by the Board to require the levy of the whole of the rate as defined by section eighteen hereof, if any default be made by the Board in payment of any interest or capital moneys secured by such debentures.

21. Notwithstanding any provision contained in the Harbours Act, 1878, it shall be lawful for the Board to make and levy harbour dues to be charged and collected in respect of goods produced or manufactured upon lands outside the harbour district, and in respect of goods shipped on behalf of persons residing outside the harbour district, in excess of the dues to be made and levied in respect of the same goods if produced or manufactured within the harbour district, or shipped on behalf of persons resident within the harbour district:

Differential dues
may be levied.

Provided that such excess dues shall be chargeable equally in respect of the same description of goods wheresoever outside the harbour district the same are produced or manufactured, and wheresoever outside the harbour district the persons on whose behalf the same are shipped may reside.

Powers of Board.

22. For the purpose of making, levying, and recovering the said rates, the Board shall have and may exercise all the powers of making, levying, or recovering rates in the said borough and county comprising the harbour district which any local body having rating-powers within such borough or county has or may have under the law for the time being in force regulating the making and recovery of rates therein respectively.

Native lands profitably used chargeable with rates.

23. Native lands within the harbour district shall be deemed to be rateable property for all the purposes of this Act if and so long as the same are occupied or used and profit is derived therefrom by the Native owners, whether from farming operations or from rent or royalties. The Valuer-General shall cause to be prepared, and shall furnish to the Board in each year, a list of all Native lands within the harbour district which are so occupied or used, and shall in such list set forth the rateable values of all such lands.

Rate levied not to be invalidated.

24. No rate or levy made under this Act shall be set aside or quashed by any proceeding in any Court or otherwise, and no defect in the same, or the making thereof, or in any direction for levy, shall be set up as a defence to any action which may be brought to recover the same.