

New Zealand.

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1884, No. 5.—*Local.*

Title.

AN ACT to authorize the Governor to grant to the Napier Harbour Board certain Lands, being Part of the Foreshore and Part of the Land covered by Tidal Waters in Hawke's Bay, and to give Power to the said Board to erect Harbour Works and Borrowing Powers for carrying out such Works. [18th October, 1884.]

Preamble.

WHEREAS the Napier Harbour Board is a duly-constituted Board under and by virtue of "The Napier Harbour Board Act, 1875:" And whereas it is expedient that the lands described in the first Schedule hereto, being part of the foreshore and land covered by tidal waters in Hawke's Bay, should be granted to the Napier Harbour Board: And whereas the commerce of the Provincial District of Hawke's Bay requires better and increased harbour accommodation: And whereas provision is made by "The Harbours Act, 1878," for Harbour Boards borrowing money under special Acts for the purpose of constructing harbour works:

BE IT THEREFORE 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 Napier Harbour Board Empowering and Loan Act, 1884." Short Title.
2. In this Act the expression— Interpretation.
 "The Board" means the Napier Harbour Board :
 "The Chairman" means the Chairman of the Board for the time being :
 "The Treasurer" means the Treasurer of the Board for the time being : and
 "The district" means the Napier Harbour Rating District as constituted and defined by section fourteen of this Act.
3. The Governor shall, with the advice and consent of the Executive Council of New Zealand, in the name and on behalf of Her Majesty, grant to the Napier Harbour Board the portion of the foreshore and the land covered by tidal waters in Hawke's Bay described in the First Schedule hereto, for an estate in fee-simple, subject to all the provisions of "The Harbours Act, 1878," relating to lands vested in Harbour Boards. Lands to be granted to Board,
First Schedule.
4. It shall be lawful for the Board to reclaim from the sea any portion of the land to be granted to the Board under the preceding section, and for such purpose may construct and maintain such works as may be necessary. Power to reclaim lands.
5. Any lands adjoining any portion of the foreshore to be granted to the Board under section three of this Act which shall, by the action of the sea, or by the construction of the works hereinafter named, be reclaimed from the sea, shall, from the time of the same being reclaimed as aforesaid, be vested in the Board without any conveyance or assurance for an estate in fee-simple, subject to all the provisions of "The Harbours Act, 1878," relating to lands vested in Harbour Boards. Adjoining lands reclaimed to vest in Board.
6. It shall be lawful for the Board, subject to the provisions of "The Harbours Act, 1878," to construct such works, as are defined by the words "Harbour works" in the interpretation clause of such Act, as shall be by the Board considered necessary for the requirements of the Harbour of Napier, and also to erect and construct all such cranes, sheds, and works for the improvement of the said harbour as shall be judged necessary and proper by the Board for the safety, convenience, or reception of vessels resorting to the said harbour, and for the more convenient loading and unloading of such vessels, or for the safety and protection of any works constructed or proposed to be constructed by the Board. Power to construct harbour works.
7. The Board shall have power to borrow, in addition to the sum authorized by any previous Act, subject to the provisions of "The Harbours Act, 1878," and to the provisions of this Act, any sum not exceeding three hundred thousand pounds, at any rate of interest not exceeding six per centum per annum, to be applied in and about the construction and carrying out of the works mentioned in section six of this Act. Power to borrow.
8. It shall be lawful for the Board from time to time to issue debentures for any sums of money not being less than twenty pounds nor more than one thousand pounds, and not exceeding in the aggregate the sum of three hundred thousand pounds, repayable on the first Power to issue debentures.

day of January, one thousand nine hundred and twenty, bearing interest after a rate therein fixed, but not exceeding six per centum per annum.

Form of debentures.
Second Schedule.

9. Every debenture shall be in the form or to the effect set forth in the Second Schedule to this Act, and shall be sealed with the seal of the Board and signed by the Chairman and countersigned by the Treasurer.

Debentures to be numbered.
Coupons to be attached.
Third Schedule.

10. The debentures shall be numbered consecutively commencing with number one, and shall have coupons attached thereto, signed by the Chairman and countersigned by the Treasurer, in the form in the Third Schedule to this Act for every half year's interest, payable to bearer.

All debenture-holders to rank alike.

11. The holder of any debenture shall not have any preference by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights and remedies.

Sinking fund to be provided.

12. For the purpose of providing a sinking fund for the liquidation of the loan authorized by this Act, there shall, on the first day of January in each and every year after the passing of this Act, 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 not exceeding one pound per centum per annum on the aggregate amount for which debentures shall at that time be issued.

Investment of sinking fund.

13. The Board shall, under its seal, appoint two or more Commissioners, within or out of the Colony of New Zealand, to whom shall be paid, as soon as conveniently may be after the first day of January in each and every year after the passing of this Act, the sum of money to be set apart as a sinking fund under the preceding section of this Act; and such Commissioners shall invest such moneys, together with the interest and profits accruing therefrom, in such securities as the Board shall from time to time direct.

Rating district.

14. A district, to be called "The Napier Harbour Rating District," shall be hereby constituted, and shall consist of the borough and ridings set forth in the Fourth Schedule to this Act.

Fourth Schedule.
Loan.

15. Before the said loan is raised, the consent of the ratepayers in the district shall first be obtained in the mode hereinafter prescribed: The Chairman shall convene meetings of the ratepayers, to be held within the borough and several ridings comprising the district upon a day not more than seven days after the last publication of a notice to be published as hereinafter mentioned, to consider the said proposal. Such meetings shall be convened by notice published on three consecutive days in a newspaper circulating in the district, and every such notice shall specify the time and place in the borough and ridings at which meetings are to be held, and also the following particulars, namely:—

Chairman to call meeting of ratepayers to consider proposal to borrow.

- (1.) The particular works proposed to be undertaken:
- (2.) The sum proposed to be borrowed for such purpose:
- (3.) Any special rate or tolls which it is proposed to pledge as security for such loan, not being moneys received by way of grant from the General Government or moneys theretofore pledged as security for any loan or appropriated to any special purpose.

16. The Chairman shall appoint one of the members of the Borough Council and of the County Council elected for each riding in the district to preside at each meeting within the borough or riding which he represents if such member shall be willing to act; and if no such member is willing to act, or becomes incapacitated from acting from any cause, then such person as the Chairman thinks fit. The member or person so appointed shall be called "the Presiding Officer," and he shall preside at the meeting to be held in the borough or riding for which he has been appointed, and shall also preside at the taking of any poll as hereinafter provided. After due consideration and discussion of the proposal the Presiding Officer shall give notice that a poll will be taken.

Chairman to appoint
Presiding Officer.

17. The poll shall be taken as follows:—

- (1.) The Chairman shall publish a notice setting forth the day, not less than one nor more than three weeks from the day of the said meetings, on which the poll will be taken:
- (2.) The Chairman shall give notice to the Presiding Officer requiring him to take the poll upon the day appointed:
- (3.) The Presiding Officer shall upon the day so appointed proceed to take the poll in the manner provided by "The Regulation of Local Elections Act, 1876," for taking a poll at any election, and shall provide voting papers and all things necessary for taking the poll:
- (4.) The voting papers shall be printed in the form in the Fifth Schedule to this Act, with the words "I vote for the above proposal," and "I vote against the above proposal," legibly printed at the foot of each voting paper:
- (5.) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves unerased:
- (6.) All the provisions of "The Regulation of Local Elections Act, 1876," as regards taking a poll shall, so far as they are applicable, and except as by this section otherwise provided, apply to the taking of a poll on the proposal to raise a special loan:
- (7.) A separate poll shall be taken in the borough and several ridings comprising the district.

How poll to be
taken.

Fifth Schedule.

18. Every ratepayer within the district shall be entitled to vote according to the following scale, that is to say,—

- (1.) If his rateable property is valued on any valuation roll at not more than one thousand pounds, he shall have one vote:
- (2.) If such property is so valued at more than one thousand but not more than two thousand pounds, he shall have two votes:
- (3.) If such property is so valued at more than two thousand but not more than three thousand pounds, he shall have three votes:
- (4.) If such property is so valued at more than three thousand but not more than seven thousand five hundred pounds, he shall have four votes:

As to number of
votes for each rate-
payer.

(5.) If such property is valued at more than seven thousand five hundred pounds, he shall have five votes.

When resolution to be deemed to be carried.

19. If the number of votes given for the proposal within the district exceeds the number given against it, and an absolute majority of the ratepayers on the rolls entitled to vote have voted for the proposal, the resolution in favour of the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly, but if there is no such majority in favour of the proposal the resolution shall be deemed to be rejected, and the Board shall not so proceed.

Chairman to declare numbers polled.

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

And send result of polling to Colonial Secretary.
Gazette notice final.

21. When any such resolution is carried the Chairman shall send a notice thereof to the Colonial Secretary, who shall publish the same in the *Gazette*, and such notice so gazetted shall be final that the raising of the loan to which it refers has been duly authorized under the provisions of this Act, notwithstanding any omission or irregularity in any provision, matter, or thing required to be done hereunder or under "The Regulation of Local Elections Act, 1876."

Board may rate district for interest on loan, and to provide sinking fund.

22. The Board after the passing of this Act shall, if the resolution in favour of the proposal be carried as aforesaid, make and levy a rate in the proportions in the different parts of the district hereinafter mentioned upon all rateable property in the Napier Harbour Rating District, and the proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loans to be raised under this Act and to provide for the sinking fund hereinbefore mentioned.

Amount of rate.

23. The amount to be levied by the Board in each year shall not exceed such amount as is required to provide for the payment of interest on the aggregate amount for which debentures shall at that time be issued, and in addition one pound per centum per annum on such aggregate amount to be appropriated for the purposes of the sinking fund hereinbefore mentioned, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of interest and sinking fund on the loan hereby authorized to be made.

Sums available from revenue to be applied in payment of interest on loan, and providing sinking fund.
Proportions of rate.

24. Any such sum available from the revenue of the Board for the previous year shall be placed to the credit of the Board on a separate account, and the balance required for interest on the loan and the sinking fund shall then be levied in manner hereby provided.

25. The rate to be levied under this Act on the rateable property in the Borough of Napier shall be double the rate to be levied on the rateable property in the several ridings comprised in the Napier Harbour Rating District.

No rate to be quashed.

26. No rate made under this Act shall be capable of being set aside or of being quashed by any proceeding of any Court or otherwise, and no defect in the same shall be set up as a defence to any action which may be brought to recover the same.

27. The rateable value appearing in the assessment rolls under "The Property Assessment Act, 1879," and its amendments in force for the time being, as regards all real property in the district, shall be the rateable value of all such property for the purposes of this Act.

Property-tax assessment to be rateable value.

28. For the purpose of making, levying, and recovering the rates hereby authorized to be made and levied, the Board shall have and may exercise all the powers of making, levying, and recovering rates in the borough and each riding within the district which any local body having rating powers within such borough or riding shall or may have under the law for the time being in force regulating the recovery of the rates therein respectively.

Board to have powers of local bodies for levying rates.

29. When and so often as the Board shall fail to pay, at the proper time and place for so paying, either the principal sum secured by the debentures to be issued under this Act, or the coupons for interest payable thereon, then, immediately on default being made, any person to whom any such sum is owing may apply *ex parte*, by petition, in a summary way, to a Judge of the Supreme Court for relief under this Act; and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint, upon such terms as to security and remuneration as he shall think fit, a Receiver of the rate hereby authorized to be levied.

Creditor of Board secured on rate may apply to Supreme Court for appointment of Receiver.

30. From and after the date of such appointment, and upon its being advertised by publication in the *Gazette* and in the newspapers circulating in the district for such time as the said Judge shall order, the said rate shall vest in the Receiver, and shall cease to be vested in the Board.

Rate to vest in Receiver.

31. All powers vested in the Board for the making, levying, and recovering the said rate shall, after the appointment of the Receiver, and upon its being publicly notified in such manner as directed by the previous section of this Act, cease to be exercised by the Board, and shall be exercised by the Receiver.

Powers of Board exercisable by Receiver.

32. All moneys received by the Receiver shall be applied—

Moneys collected by Receiver, how applied.

(1.) In payment of the costs of the application and order;

(2.) In payment of the Receiver's remuneration to be fixed as aforesaid;

(3.) In payment *pro rata* of the sums then overdue by the Board which are secured by the said rate;

(4.) The residue (if any) to be paid to the Board:

And the Receiver shall account for all moneys received by him in such manner as the Judge shall direct.

33. When all sums overdue are paid, or at any time on the application of the Board, a Judge of the Supreme Court may order the powers of the Receiver to cease, and he shall thereupon pay over to the Board any moneys then in his hands, and the Board shall again be capable of exercising the powers of which the appointment of Receiver had deprived them.

When Receiver's powers cease.

34. The debentures to be issued under this Act and the interest thereon shall be a first charge on the rates hereby authorized to be levied and on the revenue of the Board, subject, however, with regard to such revenue, to the priority of all existing charges thereon, whether by way of debentures or otherwise.

Priority of debentures.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ALL that piece or parcel of land comprising 610 acres or thereabouts, being part of the foreshore and land under tidal waters in Hawke's Bay, the boundaries whereof are as follows:—Starting on a line bearing $19^{\circ} 36'$ from the north-west corner of Section 69, Western Spit, at a distance of 2400 links from the said corner; thence by a line running east, 17740 links; thence by a line bearing due south, 11000 links; thence by a line running west, 2500 links; thence towards the west and south by Marine Parade, Telegraph Reserve, Suburban Sections 83 and 82, Napier Lighthouse Reserve, Suburban Sections 68 and 67, Napier, and by a public road as far as the Battery Reserve; thence by the eastern, southern, and western boundaries of that reserve to its north-western corner; thence by a line bearing $283^{\circ} 57'$, 10600 links, to the starting point: as the same is more particularly delineated upon the plan marked MD 936, deposited in the Marine Office, Wellington, and therein bordered with yellow.

SECOND SCHEDULE.

NAPIER HARBOUR BOARD LOAN, 1884, OF £

Number	Debenture for £	Payable in
Issued by the Napier Harbour Board under an Act of the General Assembly of New Zealand intituled "The Napier Harbour Board Empowering and Loan Act, 1884."		

Secured on the rates of the Napier Harbour Rating District, as defined by "The Napier Harbour Empowering and Loan Act, 1884," and the surplus revenue of the Napier Harbour Board funds.

N.B.—The holder of this debenture has no claim in respect thereof on the public revenues of New Zealand, or on the General Government thereof.

ON presentation of this debenture at _____, on or after the _____ day of _____, 19____, the bearer will be entitled to receive £ _____, and in the meantime interest thereon at the rate of £ _____ per centum per annum by half-yearly payments. Interest on this debenture will cease after the day when the payment falls due, unless default be made in payment.

Issued under the seal of the Napier Harbour Board.

(L.S.)

Chairman of the Board.
Treasurer of the Board.

THIRD SCHEDULE.

Debenture No. _____, of the Harbour Board of Napier, New Zealand, issued under "The Napier Harbour Board Empowering and Loan Act, 1884."

Secured on the rates of the Napier Harbour Rating District, as defined by "The Napier Harbour Board Empowering and Loan Act, 1884," and the surplus revenue of the Napier Harbour Board funds.

ON presentation of this coupon at _____, on or after the _____ day of _____, 1____, the bearer will be entitled to receive £ _____.

Chairman of the Board.
Treasurer of the Board.

FOURTH SCHEDULE.

THE Borough of Napier.

The Riding of Mohaka in the County of Wairoa.

The Ridings of Petane, Puketapu, Okawa, Meanee, Clive, Havelock, Heretaunga, Maraekakaho, in the County of Hawke's Bay.

The Ridings of Waipawa, Patangata, Ruataniwha, Waipukurau, Tamumu, Epairama, in the County of Waipawa, excepting the Makaretu Road Board District, situate in the Riding of Ruataniwha, in the County of Waipawa.

FIFTH SCHEDULE.

FORM OF VOTING-PAPER FOR SPECIAL LOAN.

PROPOSAL to raise a special loan, upon which a poll will be taken on the day
of , 188 .

[*Insert notice required by Section 15.*]

1. I vote *for* the above proposal.
2. I vote *against* the above proposal.

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