

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

*House of Representatives,
11th August, 1874.*

(Hon. Mr. Richardson.

Auckland Harbour.

ANALYSIS.

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A BILL INTITULED

AN ACT to enable the Auckland Harbour Board to construct a Dock and other Harbour Works and to raise Money to defray the Cost thereof.

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 shall be "The Auckland Harbour Act, 1874."

Interpretation.

2. In the construction of this Act, the words following shall have the meanings hereby assigned to them, that is to say,—

“Plan,” in the fourth, fifth, and sixth sections, means the plan authenticated for the purposes of this Act by the signatures of the Speakers of the Legislative Council and House of Representatives respectively, and deposited in the office of the Minister for Public Works, at Wellington.

“Debenture” shall mean a debenture made and issued under this Act.

“Rents” shall include income profit and proceeds of all kinds.

“Rates” shall include tolls dues and charges of all kinds.

“Wharf” shall include pier jetty quay and every other construction for facilitating the shipping and landing of passengers and goods.

Repeal of “The Auckland Harbour Docks Act, 1871.”

3. “The Auckland Harbour Docks Act, 1871,” is hereby repealed.

AUCKLAND AND WAIKATO RAILWAY.

Certain lands vested in Her Majesty for railway, &c.

4. The several pieces or parcels of land marked “Railway and Railway Stations,” numbered one and two, and coloured red on the plan, shall be and the same are hereby vested in Her Majesty, her heirs and successors, free from all encumbrances, for the purposes of the Auckland and Waikato Railway, and the terminus at Auckland thereof, and the other works connected therewith:

Governor may cause railway to be constructed north of Custom House Street.

5. It shall be lawful for the Governor to cause a railway to be constructed over the piece of land situate on the north side of Custom House Street marked “Railway,” and coloured blue on the said plan, and to use the said piece of land for all purposes for which the same may be required in connection with the said railway, and the said piece of land is hereby vested in Her Majesty.

DOCKS AND HARBOUR WORKS.

Harbour Board to construct docks and other works.

6. It shall be lawful for the Auckland Harbour Board (hereinafter called “the Board”) to construct the dock and other harbour works specified in the First Schedule to this Act on the several sites delineated for the same on the said plan, and the Board may construct an hydraulic lift on any or either of the said sites.

Compensation.

All persons being owners of or having any lesser estate or interest in any lands which may be deprived of water frontage, or be injuriously affected by the construction of the said dock or harbour works, shall be entitled to receive from the said Board compensation for such deprivation of water frontage or injury, the amount whereof shall be ascertained in the manner set forth in “The Lands Clauses Consolidation Act, 1863,” and “The Lands Clauses Consolidation Act Amendment Act, 1866,” which are hereby incorporated in this Act.

Plans &c. to be approved of by Governor.

7. Before the said dock lift or other works are commenced, detailed plans and specifications shall be submitted to and approved of by the Governor, and when so approved of shall be constructed in conformity with such plans and specifications with all convenient speed.

Railway Wharf to be first commenced.

8. The first of the said works to be commenced and undertaken shall be the Railway Wharf and Breastwork, and the same shall be completed within two years from the passing of this Act.

DEBENTURES.

9. In order to raise money for the purpose of constructing such dock lift and other works, it shall be lawful for the Board from time to time to issue debentures for any sums of money not exceeding in the aggregate the sum of one hundred and fifty thousand pounds, bearing interest after a rate to be therein fixed, not exceeding six per cent. per annum, payable half-yearly.
10. 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 common seal of the Board, and shall be signed by the Chairman of the Board.
11. The debentures shall be numbered consecutively, commencing with number one, and shall have coupons attached thereto for every half-year's interest, payable to bearer.
12. The Board may from time to time make such arrangements as it may think fit for the payment of any of the debentures or coupons at any office or bank in Auckland or elsewhere, as to the Board may seem desirable.
13. Debentures issued under this Act may be sold in New Zealand or elsewhere as the Board may think fit, and shall be sold by public tender at a price not being less than a minimum to be from time to time fixed by the Board.
14. The holder of any debenture shall not have any preference over any other holder by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights.
15. It shall be lawful for the Board, under their common seal, from time to time to appoint an Agent or Agents for the purpose of raising and managing the loan by this Act authorized to be raised, and such Agent or Agents shall have power to do all the acts and exercise the functions mentioned in this Act that may be specified in the instrument by which such appointment is made.
16. Debentures issued by such Agent or Agents shall be sealed with a seal to be provided by the Board for that purpose, and shall be signed by such Agent or Agents, and such sealing and signature shall have the same force and effect as though such debentures had been signed and sealed as provided by section nine of this Act.
17. Prior to the sale of any debentures it shall be lawful for the Board, for the purpose of constructing such dock lift or other works as aforesaid, from time to time to borrow and raise money by the hypothecation or mortgage of such debentures upon such terms and conditions as the Board may think fit.

Money may be raised by debentures.

Form of debentures.

Debentures to be numbered consecutively and have coupons attached.

Board may make arrangement for places of payment.

Debentures where to be sold.

No preference between debenture holders.

Agents may be appointed to raise loan.

How debentures issued by them may be signed and sealed.

Debentures may be hypothecated.

SECURITY.

18. The debentures, together with interest and sinking fund, shall be a first charge on the rents of the land and hereditaments specified in the Third Schedule to this Act, and on all rates which shall be payable in respect of any wharf or dock thereon: Provided that a uniform rate shall be charged in respect of all wharves under the control of the Board on the south side of the Auckland Harbour, and that such rate shall not exceed two shillings a ton on weight or measurement goods exceeding one ton: Provided also that the railway wharf to be constructed as required by this Act shall be under the control and management of a person to be from time to time appointed by the Governor, and the rates shall be received by him and paid over monthly to the Board.
19. Except as herein provided, it shall not be lawful for the Board to dispose of, by way of sale or otherwise, any of the lands rents rates

Debentures to be a first charge on rents and rates.

Board may not dispose of land except by way of lease.

docks and wharves specified in the next preceding section: Provided that it shall be lawful for the Board, without the concurrence of the debenture-holders, from time to time to grant leases of all or any part of the said lands for such reasonable rents as can be obtained for the same without taking any fine or premium for the making of such leases. 5

SINKING FUND.

Sinking fund provided.

20. For the purpose of providing a sinking fund for the liquidation of the principal, there shall, on the tenth day of January in such year as shall be fixed by the Board, not being later than the tenth day of January next, after the expiration of five years after the date of the first debentures issued be set apart out of the said rents and rates a sum equal to one per centum on all debentures issued at that time. 10

How to be applied.

21. Such sum shall be applied in taking up so many debentures as the sum so set apart will cover, and the balance (if any) shall be deposited at interest in some bank and added together with the interest to the amount set apart for the same purpose in the next succeeding year. 15

Order in which debentures shall be paid.

22. The order in which the debentures shall be taken up shall be determined by lot in such convenient manner on a day and at a place to be from time to time fixed by the Board. 20

Further provision as to application of sinking fund.

23. On the tenth day of January in every subsequent year a sum equal to one per centum on the total amount for which debentures have then been issued, with the addition of a sum equal to the interest on all debentures already paid off, shall be applied in taking up so many debentures, to be determined by lot as aforesaid, as such two sums with any balance from the preceding year and interest thereon added together will cover, and the balance (if any) shall be deposited at interest in some bank, and added together with the interest thereon to the amount to be set apart for the same purpose in the next succeeding year. 25 30

Interest to cease after time fixed for payment of debentures.

24. When it shall be so decided by lot that any debenture shall be paid off, interest thereon shall be paid up to the tenth day of January following, but no longer: Provided that the full amount of the debentures, with interest thereon to that date, be paid on presentation, and such debentures, with the coupons belonging thereto and not then due, shall be given up to some person authorized by the Board to receive the same. 35

RECEIVER.

Interest or sinking fund in arrear, debenture-holder may apply for a Receiver.

25. In case any interest due in respect of any debenture shall be in arrear, or any sum due in respect of the sinking fund shall not be applied as hereinbefore provided, for six calendar months, it shall be lawful for the holder of any debenture to apply by petition to the Governor praying that a Receiver may be appointed. 40

Governor may appoint one.

26. On being satisfied that such default as alleged has been made, the Governor shall, by writing under his hand and seal, appoint some fit and proper person to be Receiver, with the powers hereinafter mentioned. 45

Receiver to enter into possession and receipt of rents and rates.

27. Upon his appointment the Receiver shall enter into possession of the land and hereditaments specified in the said Third Schedule, and thenceforth all rents arising therefrom and rates due in respect of any wharf dock or lift thereon shall be paid to the Receiver, or some person appointed by him in writing, and all books papers accounts muniments of title and other documents relating to the matters aforesaid shall be handed over to the Receiver by the person in whose possession the same may be. 50 55

Application of money.

28. The money so received shall be applied first in payment of the expenses incurred in the execution of the powers hereby vested in

the Receiver; secondly, in or towards payment rateably amongst the several debenture-holders of arrears of interest and future interest from time to time accruing; thirdly, in discharge of any sums due and accruing in respect of the sinking fund; and if there be any surplus,

5 the same may be expended in improving any portion of the property held in security, and the balance, if any, shall be temporarily deposited at interest at some bank in New Zealand, so as to be available when required for any of the purposes aforesaid.

10 **29.** At any time when the arrears of interest and sinking fund have been fully paid and discharged, it shall be lawful for the Board to apply to the Governor by petition praying that the Receiver may be withdrawn and possession given to the Board.

Arrears paid, application may be made to withdraw Receiver.

15 **30.** It shall be lawful for but not compulsory on the Governor, on being satisfied that all arrears of interest and sinking fund have been paid and discharged and that there is a reasonable probability that the same will not again be allowed to run in arrear, to comply with the prayer of the petition.

Governor may comply.

20 **31.** Provided that whenever at any future time any interest or sinking fund is again permitted to get into arrear for three calendar months, it shall be lawful for the Governor from time to time, upon a like petition and in like manner, to appoint a Receiver with the same powers as are by this Act given to the first-appointed Receiver.

Interest again in arrear, Receiver may be again appointed.

32. During the time any Receiver is in possession he shall have the following powers, namely,—

Receiver's powers.

- 25 (1.) To keep all wharves houses and other buildings in repair.
 (2.) To insure against loss or damage by fire.
 (3.) To exercise all the powers and perform all the functions and duties given to and imposed on the Board by this Act: Provided that no lease shall be granted without being first
 30 approved of by the Governor.
 (4.) To employ and pay all such persons as may be necessary or proper to assist in the discharge of the duties imposed by this Act.
 35 (5.) Subject to the approval of the Governor to impose and alter rates for the use of wharves docks or lifts, and for that purpose to exercise all the powers now vested in the Superintendent by any Act of the General Assembly or of the Provincial Council of Auckland.

40 **33.** The Receiver shall be paid such remuneration out of the money received under this Act, by way of salary or commission or otherwise, as shall be from time to time fixed by the Governor in that behalf.

Receiver's remuneration.

45 **34.** Any person who shall in any way obstruct or interfere with the Receiver or with any person appointed by him while in the exercise of the powers or performance of the duties given or imposed by this Act, or who after being applied to shall neglect or refuse to give up to the Receiver any books papers accounts muniments of title or other documents directed to be handed over to him by this Act, shall for every such offence forfeit and pay any sum not exceeding
 50 one hundred pounds to be recovered in a summary way.

Penalty for obstructing Receiver.

SECURITY LIMITED.

55 **35.** No debenture-holder shall have any claim whatever in respect of any debenture issued under this Act on the Revenue of the Colony of New Zealand or of the Province of Auckland, but every such debenture shall be chargeable only on the rents and rates charged therewith by this Act.

Debentures chargeable on rents and rates only specified in this Act.

36. The moneys raised under the authority of this Act shall be applied to the purposes mentioned in this Act and the First Schedule

Application of moneys to be borrowed.

hereto and no other; and the amounts specified in the Schedule shall be applied to the purposes opposite to which such amounts are set in the said Schedule: Provided any surplus of any of the sums specifically appropriated as aforesaid, after the construction of the work to which the sum is appropriated, may be expended on any other of the said works.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

	£	s.	d.
1. Railway wharf and breastwork in extension of and adjoining to present breakwater extending from Britomart ...	30,000	0	0
2. Reclamation of land between Hardinge Street and Hobson Street ...	8,000	0	0
3. Dock or Hydraulic Lift and reclamation of land adjacent thereto ...	96,000	0	0
4. Reclamation of land in Mechanic's Bay, on the south side of the Auckland and Waikato Railway ...	2,000	0	0
5. Surplus for Contingencies in the above works ...	14,000	0	0

SECOND SCHEDULE.

FORM OF DEBENTURES.

(£500.)

New Zealand.

(£500.)

Auckland Harbour Dock Loan.

£150,000.

Authorized by an Act of the General Assembly, and thereby charged upon the Auckland Harbour Endowments and Revenues only, and not upon the Ordinary or other Revenue of New Zealand, or of the Province of Auckland.

THE principal to be repaid at par by the application to annual drawings of a one per centum accumulative sinking fund.

The bearer of this Debenture will be entitled to receive from the Auckland Harbour Board (£500) sterling, on the tenth day of the month of January following that on which this bond shall have been drawn for payment

The bearer will be further entitled to receive interest thereon half-yearly, at the rate of _____ per centum per annum, from the _____ day of _____ 187____, inclusive, to the day on which the above principal shall have become due and payable by reason of this bond being drawn.

The drawing will take place in the _____ month of _____ commencing in 187____, and will be conducted in the presence of such of the Debenture-holders as may be pleased to attend and of a Notary Public.

The Debentures drawn will be paid off at par on the 10th day of January following, together with interest up to that day inclusive, and no longer.

A.B., Chairman Harbour Board,

or

A.B., Agent for the Loan.

(L.S.)

Note.—By Accumulative Sinking Fund it is understood that the liability of the Auckland Harbour Board will continue at the rate of _____ per centum per annum on the total amount of debt contracted until the whole shall have been extinguished, and that after paying the interest on the outstanding Debentures the balance will be applied to the annual drawings.

THIRD SCHEDULE.

ALL that portion of Section No. 2 of the City of Auckland, in the Parish of Waitemata, in the County of Eden, containing by admeasurement four acres and three roods, more or less, bounded on the North by Custom House Street, one thousand one hundred and eighty links; on the East, South-east, and South by Fore Street, two hundred and sixteen links, six hundred and thirty-nine links, and five hundred and fifty-three links; and on the West by allotments Nos. 1, 2, 3, 4, and 5 of the same Section No. 2, five hundred and ten links. Also all that piece or parcel of land situated below high watermark in the Harbour of the Waitemata, in the said Province of Auckland, bounded on the West by a line from Acheron Point bearing north to its intersection with another line drawn between the Watchman and the Bastion; on the North by the last-mentioned straight line drawn between the Watchman and Bastion to its intersection with another line bearing south to Resolution Point; on the East by the said line bearing south to Resolution Point; and on the South, from Resolution Point by the seaward boundary of Sections Nos. 2 and 1 of the Suburbs of Auckland and by the seaward termination of all roads in the said suburban sections; to the west of Resolution Point by the seaward boundaries of Lot No. 1 of Section No. 31 of the City of Auckland; thence by the stream or watercourse to the strand in Mechanics Bay by the seaward boundary of Sections Nos. 12 and 8 of the City of Auckland, and by the seaward terminations of the streets in the said sections, by the seaward boundary of the Ordnance ground known as Point Britomart, by Custom House Street,

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by the seaward boundary of Sections No. 18, 25, 20, and 19 in the City of Auckland, and by the seaward terminations of all streets thereon, by Drake Street, by the seaward boundary, of a Government reserve in Freeman's Bay; thence crossing the mouth of the Western Creek in the said Bay, by the seaward boundary of Section No. 8 of the Suburbs of Auckland to Acheron Point above named. And also all other allotments, parcels of land, and hereditaments which now are or which may at any time hereafter become vested in the Superintendent of the Province of Auckland, or in the "Auckland Harbour Board," as endowments for the Harbour of Auckland, and which may be declared by the said Board, by deed under their common seal, to be subject to the provisions of this Act. Excepting therefrom the several pieces or parcels of land marked "Railway and Railway Stations," numbered one and two, and coloured red on the said plan to this Act annexed; and subject nevertheless and without prejudice to any leases and tenancies which have been created and are now subsisting over portions of the said lands in this Schedule described mentioned or referred to.

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