

Mr. Brown.

NAPIER HARBOUR BOARD AND NAPIER HIGH SCHOOL
EMPOWERING AMENDMENT.

[LOCAL BILL.]

ANALYSIS.

- Title.
1. Short Title.
2. Interpretation.

3. Modification of agreements ratified by principal Act.
Schedule.

A BILL INTITULED

AN ACT to amend the Napier Harbour Board and Napier High School Empowering Act, 1918. Title.

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 Napier Harbour Board and Napier High School Empowering Amendment Act, 1921. Short Title.

2. In this Act, if the context so admits,—

10 The expression "the Board" shall mean the Napier Harbour Board: Interpretation.

The expression "the Governors" shall mean the Napier High School Board incorporated under the Napier High School Act, 1882:

15 The expression "the principal Act" shall mean the Napier Harbour Board and Napier High School Empowering Act, 1918.

20 3. All and singular the provisions of the agreement set out in the Schedule hereto (hereinafter referred to as "the said agreement") shall be, and the same are, hereby ratified and confirmed, and the provisions of the agreements set out respectively in the First and Second Schedules to the principal Act shall be read subject to the provisions of the said agreement; and in the event of any inconsistency or repugnancy being found between the provisions of the said agreement and the provisions of the agreements, or of either of the agreements, ratified by the principal Act the provisions of the said agreement shall prevail; and all and singular the subsisting provisions of the principal Act, and of the agreements thereby ratified, shall extend and apply, so far as applicable, to the lands respectively described in the
30 said agreement, and to be leased to and purchased by the Governors

Modification of agreements ratified by principal Act.

2 *Napier Harbour Board and Napier High School Empowering
Amendment.*

thereunder, except in so far as those provisions, or any of them, may be repugnant to, or inconsistent with, the express provisions of the said agreement :

Provided that the parties hereto shall be at liberty, by any subsequent bargain or bargains *inter se*, to modify or vary the provisions of the said agreement, or any of them, but so that no material variation or alteration shall be made in either the respective areas of the parcels of land to which the said agreement purports to relate, or the yearly rent to be paid therefor, or the purchase price thereof, as the same are respectively stated in the said agreement. 5
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Schedule.

SCHEDULE.

THIS AGREEMENT made the seventh day of October one thousand nine hundred and twenty-one between the Napier Harbour Board (hereinafter called "the Board") of the one part and the Napier High School Board (hereinafter called "the Governors") of the other part and supplemental to an agreement between the same parties bearing date the first day of May one thousand nine hundred and sixteen (hereinafter referred to as "the principal agreement") and to another agreement between the same parties bearing date the eleventh day of March one thousand nine hundred and eighteen Witnesseth that it is hereby mutually declared and agreed by and between the parties hereto as follows that is to say :—

1. The drainage-channel referred to in the principal agreement shall at the sole cost and expense of the Board be diverted to a new Channel Reserve already marked out by the Board and the Governors and to be set apart some little distance to the south-west of the existing drainage-channel and Channel Reserve and the area containing by admeasurement five acres and thirty perches (5a. Or. 30p.) or thereabouts being the lot numbered one (1) outlined in green on the plan thereof prepared by Messieurs Rochfort and Son and on the plan annexed hereto and also an area containing by admeasurement one acre and thirty-two perches (1a. Or. 32p.) being the lot numbered two (2) outlined in red on Messieurs Rochfort and Son's plan and on the plan annexed hereto shall be deemed to be included as from the date of these presents in the lease to be granted by the Board to the Governors in pursuance of the principal agreement for all the residue of the term of years by that lease to be created and the provisions of the principal agreement with regard to the price per acre payable for the fee-simple of the lands in the said lease to be comprised shall extend and apply to the said areas respectively so to be included as aforesaid in the lease aforesaid. Provided always that no rent shall be payable by the Governors in respect of the said areas or of either of them until the proposed new Channel Reserve has been set apart as aforesaid and the work of making the new drainage-channel has been completed throughout. Provided further that for two years from the date of these presents the total yearly rent payable in respect of the two said areas together shall not exceed one shilling (1s.) but thereafter and until the tenth day of December one thousand nine hundred and twenty-five (being the day whereon will expire the seventh year of the term to be created in pursuance of the principal agreement) shall be calculated at the rate of two pounds ten shillings per centum per annum on the price of the fee-simple of the said areas and for the remaining fourteen years of the said term at the rate of five pounds per centum per annum on the said price. Provided further that immediately upon the new drainage-channel having been completed throughout the following consequences shall ensue :—

- (i.) The rental reserved by the principal agreement and the lease to be executed thereunder shall cease to abate in manner provided by subclause (c) of clause 2 of the principal agreement in respect of the whole of the area of three acres thirty-three perches (being the Channel Reserve therein referred to).
- (ii.) The whole of the said area of three acres thirty-three perches shall be deemed to have been relinquished by the Board to the Governors free from the right of the Board to retain the sole possession of the same or of any part thereof.

45

*Napier Harbour Board and Napier High School Empowering
Amendment.* 3

(iii.) The whole of the said area shall be subject to the optional right or (as the case may be) the compulsory obligation of the Governors to purchase the same in terms of the principal agreement.

2. As from the coming into operation of these presents the Board shall cease to be liable to the obligations of subclause (g) of clause 2 of the principal agreement in so far as those obligations pertain to the aforesaid area of three acres thirty-three perches.

3. The Governors shall not fill up or reclaim the old Channel Reserve (being the said area of three acres thirty-three perches) or the area shown as lot numbered two (2) on Messieurs Rochfort and Son's plan or any part of those areas respectively until the new drainage-channel shall have been completed throughout but shall at their own cost within the period of six years mentioned in the said subclause (g) fill up and reclaim both the said areas so that the same shall both have the permanent level mentioned in the said subclause (g).

4. Should the Board at any time during the term aforesaid divert the Tutaekuri River from its present course and carry the waters thereof into the Ahuriri Harbour by a new course to be made to the westward of the present course then the Board will set apart on the right bank of the new course between two points on the said bank to be indicated by the Governors and approved by the Board a parcel of land not exceeding one rood in area suitable as a site for a boating and bathing shed. In determining the position of the said parcel of land regard shall be had to convenience of access depth of the river and general fitness of the said parcel of land as a site for a boating and bathing shed for the use of the masters and scholars of the High School referred to in subclause (h) of clause 2 of the principal agreement. Provided that the terminal points of the said parcel of land shall both be due west of the area described in the schedule to the principal agreement. As soon as the said parcel of land shall have been indicated by the Governors and approved by the Board the Governors shall have a right to take a lease thereof for all the then residue of the term created by the principal agreement at a rent calculated as aforesaid and to purchase the fee-simple thereof at a price proportionate to the price of three hundred pounds (£300) an acre fixed by the principal agreement. In the event of the Board and the Governors being unable to agree regarding the position of the parcel of land so to be set apart as aforesaid the question at issue shall be referred to the Chairman for the time being of the Board and the Chairman for the time being of the Governors as arbitrators and to the Commissioner of Crown Lands for the time being of the Land District of Hawke's Bay as their umpire and the decision of the said arbitrators if they shall agree or of their said umpire if they shall disagree shall be final and binding on the parties hereto.

5. The provisions of paragraph (iii) of subclause (e) of clause 2 of the principal agreement shall be subject to the following emendations namely that the words "so as to cause an overflow into the lands of the Governors" shall be added after the word "hindered" and that the last sentence shall be deleted but subject to these emendations the said provisions shall apply to the new Channel Reserve and the open channel to be made therein. Except as aforesaid the Board shall not be subject to any obligations nor shall the Governors be entitled to any rights in respect of the new Channel Reserve or the said open channel.

6. The costs (both those of the Board and those of the Governors) of and incidental to this agreement and of and incidental to the promotion of an Act of Parliament for ratifying and carrying the same into effect shall be borne and paid by the Governors.

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

Sealed with the seal of the Napier Harbour Board in the
presence of—
A. E. JULL, Chairman. } (L.S.)
JNO. P. KENNY, Secretary. }

The common seal of the Napier High School Board was
hereto affixed in the presence of—
W. DINWIDDIE, Chairman. } (L.S.)
W. L. DUNN, Secretary. }