

Mr. Brown.

NAPIER HARBOUR BOARD ENABLING.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

AN Act to provide for the more Convenient and Economical Col- Title.
 lection of the Rates authorized to be levied by the Napier
 Harbour Board by certain Special Acts, and for certain other
 5 Matters affecting the said Board.

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 Short Title.
 10 Enabling Act, 1921.

2. This Act shall be deemed to be a special Act within the Special Act.
 meaning of the Harbours Act, 1908, which Act and the amendments
 thereof are hereby incorporated in this Act.

3. In this Act— Interpretation.

15 “The Board” means the Napier Harbour Board:
 “The harbour district” shall have the meaning given to the
 expression “the district” by section three of the Napier
 Harbour Board Empowering and Vesting Act, 1917:

20 *New.*
 “Financial year of the Board” and “financial year” means
 and implies the period of fifteen months beginning on the
 first day of January in the year nineteen hundred and
twenty-two and ending on the thirty-first day of March
 in the year nineteen hundred and *twenty-three*, and

thereafter the period of twelve months beginning on the first day of April in the year nineteen hundred and *twenty-three* and each subsequent year, and ending on the thirty-first day of March following :

“ Rateable property of the Board ” means all land within the harbour district which is subject to the rating-powers of the Board, including (but without prejudice to the generality of the foregoing) Crown and Native lands. 5

Delegation of powers of Board.

4. *Subject as provided by section twelve of this Act*, all or any of the powers granted to or vested in the Board as to making, levying, recovering, and collecting the rate or rates authorized to be made and levied by the Board under and by virtue of the provisions of the Napier Harbour Board Empowering and Loan Act, 1884, the Napier Harbour Board Loan Act, 1892, the Napier Harbour Board Loans Enabling Act, 1918, and under and by virtue of any other special Act (whether now existing or hereafter to be passed) under the authority of which the Board has or shall have power to make and levy a special rate for any purpose whatever, may, by resolution of the Board (which may, however, from time to time, at the will of the Board, be varied or rescinded) be delegated by the Board to the respective Councils of the respective boroughs, the respective Boards of Commissioners or Town Boards of the respective town districts, and the respective Councils of the respective counties included within the harbour district, or to one or more of them, so far as relates in each case to rateable property of the Board situate or being within the boundaries of any such borough, town district, or county respectively, and that whether or not the system of rating for its own purposes adopted by any such borough, town district, or county shall be a different system to that adopted by the Board; and on receipt of notice in writing of such delegation, under the hand of the Chairman or any two members of the Board, the Borough Council, Town Board, or County Council to which any such delegation shall have been so notified shall be bound forthwith to take all steps and do all things necessary for the performance of the acts and things in respect of which such delegation shall have been made. 10
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Payment of moneys to Board.

5. All moneys collected by any Borough Council, Town Board, or County Council under and by virtue of any such delegation as aforesaid shall forthwith be paid to the Board by the Borough Council, Town Board, or County Council which shall have collected the same.

Assessment and payment of moneys to be paid to Board by local bodies.

6. (1.) *Subject as provided by section twelve of this Act*, without prejudice to the powers conferred upon the Board by section *four* hereof, and in lieu of the course therein provided for, the Board may, by resolution made, evidenced, and notified, and subject to variation and rescission in the same way as is provided by the said section *four* with respect to the resolution therein referred to, assess in each or any financial year of the Board the total gross amount necessary for the requirements of the Board for that financial year of the moneys that ought to be produced for the purposes of the Board by the rate or rates of the Board referred to in the said section *four* for that portion of the rateable property of the Board situate or being within the boundaries of each or any of the boroughs, town districts, or counties aforesaid respectively; and after receipt of such 40
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notification as aforesaid the Borough Council, Town Board, or County Council so notified shall, *subject, however, to the provisions contained in section eleven of this Act*, be bound to pay to the Board the whole amount so assessed in respect of the rateable property of the Board situate or being within the boundaries of such borough, town district, or county respectively, by two equal payments, ~~on the first day of July and the first~~ *the first of which shall fall due and be made on the twentieth day of December respectively then next ensuing, and the second of which shall fall due and be made on the twentieth day of March in the following year:*

Provided always that such notification shall, for the purposes of convenience, be given on or before the first day of June in the year to which the assessment as aforesaid shall relate, but no omission to give the same on or before the date last aforesaid shall invalidate the right of the Board to receive and recover the amount of such assessment if the notification thereof shall be given anterior to the first day of July in that year:

New.

Provided further that the Board, before being entitled to compel payment of any such instalment as aforesaid, shall make demand in writing for payment of the same in manner provided by section seven hereof.

Struck out.

(2.) Any amount claimed by the Board as aforesaid from any borough, Town Board, or Council shall constitute a debt due to the Board by such borough, Town Board, or Council, notwithstanding that such borough, Town Board, or Council may not have realized or may not realize in any year from the rates which it is empowered in terms of this Act to make, levy, collect, and recover, or from the other sources available to it, sufficient to pay such amount, and may be sued for and recovered by the Board in any Court of competent jurisdiction, and there shall be no defence to any such action.

New.

(2.) Any amount claimed by the Board as aforesaid from any Borough Council, Town Board, or County Council shall constitute a debt due to the Board by such Borough Council, Town Board, or County Council, and may, subject to such demand as aforesaid having been made, be sued for and recovered by the Board in any Court of competent jurisdiction; and there shall be no defence to any such action other than such as is afforded by the provisions of section eleven of this Act.

(3.) For the purposes of raising or paying the amount claimed from any Borough Council, Town Board, or County Council as aforesaid, or any portion of such amount, such Borough Council, Town Board, or County Council is hereby empowered to make, levy, collect, and recover in accordance with its own system of rating, any rate in respect of the rateable property of the Board situate within its boundaries, or to pay the amount so claimed, or any portion of it, out of the ordinary fund at the disposal of such Borough Council, Town Board, or County Council respectively, or out of any moneys received by way of subsidy, or to borrow moneys from the bank for the purpose of paying the same, or any part thereof, ~~notwithstanding that the amount of overdraft allowed by law~~

~~shall be thereby exceeded, but so that the amount of overdraft allowed by law shall not be thereby exceeded.~~

Notice or demand,
how may be made.

7. Any notice or demand which may be given or made by the Board in pursuance of this Act shall be deemed to be well and sufficiently served or made to or upon any Borough Council, Town district Board, or County Council if delivered to, or posted by registered letter addressed to, the Town Clerk of a borough, the Clerk of a Town Board, or the Clerk of a County Council, as the case may require; or if left at the Borough Council chambers of a borough, the public office of a Town Board, or the office of a County Council, as the case may be, with any clerk or servant of the Borough Council, Town Board, or County Council concerned. 5 10

Local body to have
no claim against
Board.

8. ~~No Saving as is provided by section eleven of this Act,~~ no Borough Council, Town Board, or County Council shall have any right to recover from the Board any sum of money for or by reason of the moneys paid by such Borough Council, Town Board, or County Council to the Board being in excess of the rate or rates made and levied, ~~or actually recovered and collected~~ by, or other funds available to, such Borough Council, Town Board, or County Council for the purposes of this Act, or (otherwise than is provided by section ten hereof) for, or by reason, or on account of the costs and expenses consequent upon the making, levying, recovering, or collecting of any such rate or rates, or any other act, matter, or thing in anywise arising out of this Act. 15 20

Acts and things
done by local body
hereunder to be
valid.

9. All acts and things by this Act required to be done or suffered by any Borough Council, Town Board, or County Council are hereby declared to be lawful acts and things within the constitution, power, and authority of such Borough Council, Town Board, or County Council respectively; and (without prejudice to the generality of the foregoing) any rates made, levied, recovered, or collected by any such Borough Council, Town Board, or County Council in pursuance of this Act (whether the same shall be made and levied in the form of general rates or special rates, or otherwise) shall be valid, notwithstanding that the rating-limits imposed by any Act or Acts otherwise governing the proceedings of such Borough Council, Town Board, or County Council respectively may be thereby exceeded; 25 30 35

New.

or that any of the rateable property of the Board situate or being within the boundaries of any borough, town district, or county may be excepted from the rating-powers (otherwise than by this Act) possessed by such Borough Council, Town Board, or County Council; and no rate made and levied by any such Borough Council, Town Board, or County Council for the purposes of this Act shall be capable of being set aside or of being quashed by any proceedings 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. 40 45

Remuneration to be
paid by Board.

10. As and by way of remuneration, including all disbursements and services, for the performance of the acts and things duly done and performed by any Borough Council, Town Board, or County Council in pursuance of this Act, there shall be paid by the Board to the Borough Council, Town Board, or County Council performing the same a commission at the rate of ~~two ten pounds ten shillings~~ per centum on the net amount of rates in each year collected and paid to the Board by such Borough Council, Town Board, or County Council. 50

New.

10A. Notwithstanding anything hereinbefore contained,—

Relating to rates
uncollected.

5 (a.) If on the twentieth day of December in any financial year of the Board, in respect of which the Board shall have assessed in manner before provided against any borough, town district, or county the amount required to be paid for that financial year by the Borough Council, Town Board, or County Council concerned, any rate made and levied by such Borough Council, Town Board, or County Council for the purpose of raising the whole or any part 10 of the said amount has been and is uncollected or has been only partially collected, then the Board will permit payment of so much of the instalment then payable as shall consist of such uncollected rate to remain in abeyance until the twentieth day of March 15 following, upon which date (but subject to the *next succeeding* paragraph hereof) the Borough Council, Town Board, or County Council concerned shall pay to the Board the amount so allowed to stand over, together with the instalment of the total amount assessed falling due on the same day.

25 (b.) If on the twentieth day of March last mentioned any rate made and levied as mentioned in the *last preceding* paragraph hereof has not been wholly collected and got in, then the Board will permit payment of so much of the total amount then payable as shall consist of such uncollected rate to remain in abeyance until the twentieth day of December then next ensuing, upon which date the Borough Council, Town Board, or County Council shall 30 (but subject to the provisions contained in the *next succeeding* paragraph hereof) pay to the Board the whole unpaid balance of the sum assessed against it for the said financial year.

35 (c.) If after the twentieth day of December referred to in the *last preceding* paragraph hereof there shall still remain uncollected by any Borough Council, Town Board, or County Council any portion of the rates made and levied by it for the purposes of this Act for the financial year aforesaid, then the Borough Council, Town Board, or County Council concerned shall be entitled from time to 40 time, and as often as the said contingency shall arise, to adopt at its option either of the following alternative courses, namely:—

45 (i.) To pay to the Board the whole unpaid balance of the sum assessed as provided by paragraph (b) of this section:

50 (ii.) To deduct from the amount of such unpaid balance the actual total amount of the rates then uncollected, and thereafter to pay to the Board the amount so deducted as and when, and to the extent to which, the rates which it represents shall be collected:

55 and whichever course shall be adopted, the Borough Council, Town Board, or County Council concerned shall, with all due diligence and expedition, take all such necessary steps to recover payment of the said uncollected rates as it shall in each case deem it prudent to take to that end; and the Board will as to any rates which shall

be found to be uncollectable or irrecoverable either (according as the alternative defined in subparagraph (i) or the alternative defined in subparagraph (ii) shall have been adopted) refund to, or allow in account with, the Borough Council, Town Board, or County Council concerned the amount represented by such uncollectable or irrecoverable rates, or release the Borough Council, Town Board, or County Council concerned from further obligation to collect the rates representing such amount and from all claims therefor:

Provided always that if any rate in respect of which any such refund, or allowing in account or deduction, shall have been made, or any part thereof, shall eventually be received or recovered, then the Borough Council, Town Board, or County Council receiving or recovering the same shall bring the same into account with the Board within the spirit and intent of this Act:

(d.) In the construction of the expressions "uncollected" and "uncollectable or irrecoverable" used in this section with respect to rates the following principle shall be applied—namely, that the amount of any rate made and levied by any Borough Council, Town Board, or County Council for the purposes of this Act and collected from any individual and the amount or respective amounts of any rate or rates made and levied by the same body for any other purpose and collected from the same individual shall be added together, and the aggregate amount shall be apportioned to the Board, and the Borough Council, Town Board, or County Council concerned *pro rata* in accordance with the amount of the rate made and levied for the purposes of this Act and payable by that individual, and the aggregate amount of the other rate or rates aforesaid payable by the same individual.

(e.) Any additional charge which may be added to any rate made and levied for the purposes of this Act, and recovered under the authority of the Rating Act, 1908, and its amendments, shall be the property of, and shall be paid to, the Board.

(f.) The Board will accept the certificate of the Town Clerk of any borough, the Clerk of any Town Board, or the Clerk of any County Council, or any other evidence by means of production of books or otherwise which the Borough Council, Town Board, or County Council concerned may furnish, and which the Board may deem to be reasonably sufficient, as evidence as to uncollected, or uncollectable or irrecoverable, rates within the meaning of this section.

10B. (1.) Nothing contained in sections *four to eleven* inclusive and section *thirteen* of this Act shall apply to either the Waipukurau Borough, or the Waipukurau County, or the Patangata County unless and until the Council of such Waipukurau Borough, Waipukurau County, or Patangata County shall, prior to the commencement of any financial year of the Board, elect by special order to become, as

Certain local bodies
excepted from
operation of Act
until election to
come under its
operation.

from the commencement of that financial year of the Board, subject to the provisions of the said sections. In respect of its operation to the financial year of the Board commencing the first day of January, nineteen hundred and *twenty-two*, such election, if made in manner

5 aforesaid on or before the thirtieth day of April, nineteen hundred and *twenty-two*, shall be deemed to have been well and sufficiently made so as to refer back to, and take effect as from, the first day of

10 January, nineteen hundred and *twenty-two*.

(2.) A duly authenticated copy of such special order shall be

15 forthwith served upon the Board.

(3.) The Board shall have and may exercise, in respect of the rateable property of the Board situate or being within the boundaries of any borough or county where the provisions of sections *four* to

20 *eleven* inclusive and section *thirteen* of this Act shall not have been adopted by special order as aforesaid, all the powers of making, levying, and recovering rates vested in the Board by or by virtue of the enactments (whether now existing or hereafter to be passed) referred to in section *four* of this Act as fully and effectually as if

25 this Act had not been passed, and as if by the said enactments the Board had been empowered to make and levy a rate in manner thereby provided against the rateable property of the Board situate or being within the boundaries of any such borough or county separately from the rateable property of the Board situate or being

30 within the remainder of the district, and the said enactments shall be construed accordingly; and for the purposes aforesaid the Board may compile a separate rate-book or separate rate-books for any such borough or county.

11. The foregoing provisions of this Act shall apply, *mutatis mutandis*, to any receiver who is empowered to make and levy a special rate under the authority of the Napier Harbour Board Empowering and Loan Act, 1914, the Napier Harbour Board Empowering and Vesting Act, 1917, the Napier Harbour Board Loans Enabling Act, 1918, or any other special Act, whether now in force or hereafter to be passed, whereby the Board is, or shall be,

35 empowered to borrow moneys, as if the receiver were the Board.

Act to apply to receiver having power to make and levy rates.

12. Whereas under and by virtue of the Napier Harbour Board Empowering and Loan Act, 1914, as modified by the Napier Harbour Board Empowering and Vesting Act, 1917, and amended by the Napier Harbour Board Empowering and Loan Amendment Act, 1920, the Board obtained the necessary authority to borrow the sum of two hundred and fifty thousand pounds: Be it enacted (but without prejudice to any other powers in this behalf possessed by the Board) that it shall be lawful for the Board to repay such loan, and to pay the interest thereon, ~~free of~~ *including* bank exchange, whether

40 or not such repayment or payment shall be made in the Dominion of New Zealand.

Loan-moneys and interest may be paid free of exchange.

Struck out.

13. Whereas it became necessary that the Board should place fully before the ratepayers of the harbour district the advantages expected to be derived from the loan of two hundred and fifty thousand pounds referred to in section *twelve* hereof, especially as there was a persistent and organized opposition in some quarters to the obtaining of the sanction of the ratepayers to such loan: And whereas the Board, believing that certain propaganda work was

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Validating expenses of loan.

absolutely necessary in order, firstly, to instruct the ratepayers fully as to the merits of the said loan, and, secondly, to combat the opposition referred to and expose its fallacies, engaged in certain propaganda work on behalf of the said loan, with the result that the verdict of the ratepayers was favourable to the said loan: And whereas the Controller and Auditor-General has disallowed, and has surcharged the members of the Board with, the expenses incurred by the Board to the amount of three hundred and sixty-five pounds ten shillings and ninepence, or thereabouts, on the ground that the same were an unlawful expenditure by the Board, and were to the extent aforesaid in excess of the amount available to the Board for unauthorized expenditure under section one hundred and twenty-one of the Public Revenues Act, 1910:

New.

13. Whereas the Board, believing in the best interests of the harbour district that certain information relating to the scheme for which the loan of two hundred and fifty thousand pounds referred to in section *fourteen* hereof should be supplied to all ratepayers prior to the taking of the poll necessary to sanction the raising of such loan, incurred certain expenditure which the Controller and Auditor-General has disallowed, and in respect to which he has surcharged the members of the Board to the amount of three hundred and sixty-five pounds ten shillings and ninepence or thereabouts: Be it enacted that the said expenses so incurred and any payments on account thereof already made by the Board are hereby validated, and that the Board may lawfully pay any portion of the same not already paid, and may lawfully refund to any member of the Board who may have paid any moneys so surcharged to him the amount so paid by him; and that the surcharge made by the Controller and Auditor-General as aforesaid shall be of no effect.

14. Whereas the Board is possessed of certain areas of its endowments adjacent to the inner-harbour portion of the Harbour of Napier which it is expedient that the Board should suitably subdivide and sell, under any its lawful form of lease, as suburban areas to the City Borough of Napier: And whereas the Board is desirous that the best scheme of subdivision and roading should be obtained, containing also, amongst other things, suggestions for the diversion of the Tutaekuri River, and for the provision of suitable sites for future railway goods-yards, workshops, and passenger station: And whereas the Board is desirous of inviting competitive designs for such a scheme as aforesaid, and of offering money prizes or a money prize for the best schemes or scheme, as an inducement to engineers and others to submit their views to the Board: Be it enacted that the Board may invite public competition for the best designs or design for the subdivision of the said areas for the purposes aforesaid, and may offer money prizes, or a money prize, not exceeding in the whole *four hundred* pounds, to the competitors or competitor submitting the best designs or design, and may attach such conditions to the said competition as it may think fit, and may pay to the successful competitors or competitor money prizes or a money prize to an amount not exceeding in the whole the amount before mentioned.

15. *The Napier Harbour Board Further Empowering Act, 1892, is hereby repealed.*

Empowering Board to give prizes for suburban-planning designs.