

Mr. Brown.

## NAPIER HARBOUR BOARD LOAN.

[LOCAL BILL.]

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### A BILL INTITULED

AN ACT to give Power to the Napier Harbour Board to carry out certain Harbour-works and Improvements, and to give Borrowing-powers for carrying out such Works. Title.

5 WHEREAS the Napier Harbour Board is a duly constituted Board under and by virtue of the Napier Harbour Board Act, 1875: And Preamble.  
 whereas by the Napier Harbour Board Empowering and Loan Act, 1884, the Napier Harbour Board was authorised to raise money for the purpose of constructing and carrying out certain harbour-works  
 10 mentioned in section six thereof, and for that purpose to issue debentures for any sum not exceeding in the aggregate the sum of three hundred thousand pounds, and the Napier Harbour Board was thereby empowered to make and levy a rate upon the rateable property in the Napier Harbour Rating District by such Act constituted, the proceeds whereof should be applied towards payment of  
 15 the annual charges to accrue in respect of the loan thereby raised, and to provide for a sinking fund as therein mentioned: And whereas the said Board, in pursuance of the power so vested in it, raised the sum of three hundred thousand pounds and issued debentures for the same: And whereas by the Napier Harbour Board  
 20 Empowering Act, 1885, the said Board was empowered to pay off the sum of seventy-five thousand pounds borrowed by the said Board on the security of debentures made and given under and in pursuance of the powers contained in the Napier Harbour Board Act, 1875,  
 25 out of the said sum of three hundred thousand pounds borrowed

under the provisions of the Napier Harbour Board Empowering and Loan Act, 1884: And whereas the sum of seventy-five thousand pounds has been paid by the said Board out of the said sum of three hundred thousand pounds raised by the said Board under the provisions of the Napier Harbour Board Empowering and Loan Act, 1884: And whereas by the Napier Harbour Board Loan Act, 1892, the Napier Harbour Board was authorised to borrow, in addition to the sum authorised by any previous Act, subject to the provisions of the Harbours Act, 1878, and to the provisions of the now reciting Act, any sum of money not exceeding two hundred thousand pounds at any rate of interest not exceeding six pounds per centum per annum, to be applied in and about the construction and carrying-out of the works mentioned in section *five* of the now reciting Act, and for that purpose to issue debentures for any sums of money not exceeding in the aggregate the sum of two hundred thousand pounds at any rate of interest not exceeding six pounds per centum per annum; and the said Board was thereby empowered to make and levy a rate upon the rateable property in the said Napier Harbour Rating District, the proceeds whereof should be applied towards payment of the annual charges to accrue in respect of the loan thereby raised, and to provide for a sinking fund as therein mentioned: And whereas the said Board, in pursuance of the powers so vested in it, has raised the said sum of two hundred thousand pounds and issued debentures for the same: And whereas the total indebtedness of the Board in respect of the loans raised under the Napier Harbour Board Empowering and Loan Act, 1884, and the Napier Harbour Board Loan Act, 1892, is five hundred thousand pounds, without taking into account the sinking funds against such loans, amounting to over eighty-five thousand pounds sterling: And whereas by the Napier Harbour Board Loan Act, 1906, the said Board was empowered to borrow, in addition to sums authorised by any previous Acts, any sum not exceeding two hundred thousand pounds, to be applied in or about the construction and carrying-out of the works mentioned in section *five* of the said Act: And whereas no moneys whatever have been borrowed by the said Board under the provisions of the last-mentioned Act: And whereas the growing trade and commerce of the Provincial District of Hawke's Bay requires further and better harbour and wharfage accommodation than exists at the present time, and to that end that harbour-improvement works already authorised should be completed: And whereas the said Board is desirous of providing such further and better harbour and wharfage accommodation, and of giving proper access to and from the works already constructed under the Napier Harbour Board Empowering and Loan Act, 1884, and the Napier Harbour Board Loan Act, 1892, or hereafter to be constructed, and of completing and constructing other works for the improvement of the Port of Napier; and in order to raise money for such purposes is desirous of borrowing three hundred thousand pounds in lieu of the sum of two hundred thousand pounds authorised by the Napier Harbour Board Loan Act, 1906:

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 Loan Act, 1909. Short Title.
2. The Napier Harbour Board Loan Act, 1906, is hereby repealed, with the exception of section four thereof. Repeal.
- 5 3. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1908, which Act is hereby incorporated with this Act. Special Act.
4. In this Act the expression— Interpretation.
- 10 “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:
- 15 “The district” means the Napier Harbour Rating District as constituted and defined by the Napier Harbour Board Empowering and Loan Act, 1884, and shall include all existing boroughs and town districts which at the time of the passing of such Act may have formed part of any of the ridings set out in the Fourth Schedule thereto.
- 20 5. It shall be lawful for the Board, subject to the provisions of the Harbours Act, 1908, to construct such works as are defined by the word “harbour-works” in the interpretation clause of such Act as shall be by the Board considered necessary for the requirements of the breakwater portion of the Harbour of Napier; and also to erect Power to construct harbour-works.
- 25 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
- 30 constructed or proposed to be constructed by the Board, and for providing proper access to and from any such works.
6. The Board shall have power to borrow, in addition to the sums authorised by any previous Acts, subject to the provisions of the Harbours Act, 1908, and to the provisions of this Act, any sum Power to borrow.
- 35 not exceeding three hundred thousand pounds at any rate of interest not exceeding five pounds per centum per annum, to be applied in and about the construction and carrying-out of the works mentioned in section *five* of this Act.
7. It shall be lawful for the Board from time to time to issue Power to issue debentures.
- 40 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 day of January, nineteen hundred and forty-six; but no money shall be borrowed under the authority of this Act which shall
- 45 produce to the purchaser a higher rate of interest than five pounds per centum per annum.
8. The Board may, out of the loan-moneys, pay the preliminary expenses incurred in connection with the scheme for which the loan was raised. Power to pay preliminary expenses out of loan.
- 50 9. Every debenture shall be in the form or to the effect set forth in the *First* Schedule to this Act, and shall be sealed with the seal of the Board, and signed by the Chairman, and countersigned by the Treasurer. Form of debenture.

Debentures to be numbered.

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 *Second* Schedule to this Act, for every half-year's interest, payable to bearer.

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Debentures *pari passu*.

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.

Priority of debentures.

12. The debentures issued under this Act, and the interest thereon, shall be a first charge on the Harbour Fund of the Board as defined by the Harbours Act, 1908, subject, however, to the priority of all existing charges thereon, whether by way of debentures or otherwise, including the charges thereon imposed by the Napier Harbour Board Empowering and Loan Act, 1884, and the Napier Harbour Board Loan Act, 1892.

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Sinking fund.

13. 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 and every year after the raising of moneys under this Act, be set apart by the Board a sum not exceeding one pound per centum per annum on the aggregate amount for which debentures shall at that time be issued.

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Commissioners.

14. The Board shall, under its seal, appoint two or more Commissioners, within or out of the Dominion 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 raising of moneys under 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, with power (subject to such direction) to invest the same or any part thereof in the purchase of debentures issued under this Act.

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Provisions of Harbours Act to apply.

15. Saving in so far as the same shall be inconsistent with the express provisions hereof, the provisions of the Harbours Act, 1908, having relation to Sinking Fund Commissioners shall be applicable to this Act.

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In cases of default by Board Supreme Court may appoint a receiver.

16. 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, and without prejudice to the other powers in such events vested in him by the Harbours Act, 1908, appoint, upon such terms as to security and remuneration as he shall think fit, a receiver, who, in addition and without prejudice to the powers conferred upon him by the last-mentioned Act or in terms of his appointment, shall by virtue of his office have the powers set out in the *Third* Schedule hereto.

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Moneys received by receiver, how applied.

17. All moneys received by the receiver shall be applied—  
(a.) In payment of the costs of the application and order;

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(b.) In payment of the receiver's remuneration, to be fixed as aforesaid ;

(c.) In payment *pro rata* of the sums then overdue by the Board which are secured by this Act ;

5 (d.) Where the circumstances so permit or require (but without prejudice to any rights of the receiver with respect to the sinking fund), in payment to the Sinking Fund Commissioners of the amounts then required to be so paid in order to complete to date the sinking fund hereby  
10 authorised ;

(e.) The residue (if any) shall be paid to the Board :  
and the receiver shall account for all moneys received by him in such manner as the Judge shall direct.

15 18. When all sums overdue are paid, or at any time on the application of the Board, a Judge of the Supreme Court may make an order that the powers of the receiver, or any of them, shall cease, and as to the payment by the receiver to the Board of any moneys then in his hands, and as to any other matters arising out of the appointment of the receiver and the acts and things done by him. When receiver's powers cease.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

NAPIER HARBOUR BOARD LOAN, 1909, OF £300,000.

No: . . . 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 Loan Act, 1909. Secured on the surplus revenue of the Napier Harbour Board funds after providing for all previously existing charges thereon, and on a rate in the Napier Harbour Rating District leviable by a receiver in the events mentioned in the said Act.

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.

On presentation of this debenture at . . . on or after the . . . day of . . ., 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.

. . ., Chairman of the Board.  
. . ., Treasurer of the Board.

SECOND SCHEDULE.

DEBENTURE No. . . . of the Napier Harbour Board, New Zealand, issued under the Napier Harbour Board Loan Act, 1909.

On presentation of this coupon at . . . on or after the . . . day of . . ., the bearer will be entitled to receive £ . . .

. . ., Chairman of the Board.  
. . ., Treasurer of the Board.

## THIRD SCHEDULE.

## POWERS OF RECEIVER.

1. To make and levy a rate upon all rateable property in the Napier Harbour Rating District in manner and with under and subject to the powers, restrictions, limitations, incidents, and provisions following, that is to say:—
- (a.) The rate to be levied on the rateable property in the Borough of Napier shall be double the rate to be levied on the rateable property in the remainder of the district.
  - (b.) The capital value appearing in the district valuation roll prepared by the Valuer-General in accordance with the Government Valuation of Land Act, 1908, or if such system of valuation shall not be in force, then as appearing in the official valuation rolls for the time being of the Board, shall, as regards all rateable property in the district, be the rateable value of all such properties for the purposes of this Act.
  - (c.) For the purpose of making, levying, and recovering the rate hereby authorised to be made and levied, the receiver shall have and may exercise all the powers of making, levying, and recovering rates in the boroughs, town districts, and each riding within the district which any local body having rating-powers within such boroughs, town districts, or riding shall or may have under the law for the time being in force regulating the recovery of the rates therein respectively.
  - (d.) The amount to be levied by the receiver in each year shall not exceed such amount as is required to provide for the payment of the 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 the amount (if any) which may be estimated as available for the current year from the revenue of the Board (having regard to all existing charges on such revenue), towards payment of interest and sinking fund on the loan hereby authorised to be made.
  - (e.) 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.
  - (f.) Without prejudice to anything hereinbefore contained, all powers of making, levying, and recovering the said rate which, if such rate had been made and levied or were contemplated to be made and levied by the Board, would be possessed by the Board shall be vested in and exercisable by the receiver.
  - (g.) The provisions of the Napier Harbour Board Further Empowering Act, 1892, shall in all respects where applicable, and *mutatis mutandis*, apply also to the making, levying, and collection of the rates in the Napier Harbour Board Rating District authorised by this Act; and for this purpose the term "the Board" as used in the said Act shall mean any receiver appointed under this Act.
  - (h.) The debentures to be issued under this Act, and the interest thereon, shall be a first charge on the rate hereby authorised to be made and levied.
2. To apply the proceeds of such rate in the manner provided by section 17 of this Act.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1909