

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

House of Representatives, 16th December, 1909.

Mr. Brown.

NAPIER HARBOUR BOARD LOAN.

[LOCAL BILL.]

ANALYSIS.

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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 *Struck out.*

10 WHEREAS the Napier Harbour Board is a duly constituted Board under and by virtue of the Napier Harbour Board Act, 1875: And
 15 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 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
 20 property in the Napier Harbour Rating District by such Act constituted, 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 power so vested in it,
 25 raised the sum of three hundred thousand pounds and issued debentures for the same: And whereas by the Napier Harbour Board 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, out of the said sum of three hundred thousand pounds borrowed

Struck out.

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:

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New preamble.

5 WHEREAS by the Napier Harbour Board Loan Act, 1906 (hereinafter referred to as the said Act), the Napier Harbour Board (in the said Act and hereinafter referred to as the Board) was empowered to borrow the sum of two hundred thousand pounds in manner and for the purposes in the said Act appearing: And whereas no money whatsoever has been borrowed by the Board under the authority of the said Act: And whereas it is expedient to enable the Board to borrow the sum of three hundred thousand pounds in lieu of the sum of two hundred thousand pounds, and otherwise to amend the said Act in manner herein appearing:

10 BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

15 1. This Act may be cited as the Napier Harbour Board Loan Act, 1909. Short Title.

Struck out.

20 2. The Napier Harbour Board Loan Act, 1906, is hereby repealed, with the exception of section four thereof.

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.

New clause.

25 3A. Section six, and sections nine to twenty-one, and the First, Second, and Third Schedules of the said Act are hereby repealed. Repeal.

Struck out.

4. In this Act the expression—

“The Board” means the Napier Harbour Board:

30 “The Chairman” means the Chairman of the Board for the time being:

“The Treasurer” means the Treasurer of the Board for the time being:

35 “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.

40 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 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, and for providing proper access to and from any such works. Power to construct harbour-works.

50 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.

Struck out.

	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 <i>five</i> of this Act.	5
Power to issue debentures.	7. 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 day of January, nineteen hundred and forty-six; but no money shall be borrowed under the authority of this Act which shall produce to the purchaser a higher rate of interest than five pounds per centum per annum.	10
Power to pay preliminary expenses out of loan.	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.	15
Form of debenture.	9. Every debenture shall be in the form or to the effect set forth in the <i>First</i> Schedule to this Act, and shall be sealed with the seal of the Board, and signed by the Chairman, and countersigned by the Treasurer.	20
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 <i>Second</i> Schedule to this Act, for every half-year's interest, payable to bearer.	25
Debentures <i>pari passu</i> .	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.	30
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.	35
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.	40
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 <i>preceding</i> 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.	50

Struck out.

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.

Provisions of Harbours Act to apply.

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.

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

17. All moneys received by the receiver shall be applied—

- (a.) In payment of the costs of the application and order;
- (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;
- (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 authorised;

Moneys received by receiver, how applied.

(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.

When receiver's powers cease.

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.

New clauses.

4. (1.) 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 not exceeding three hundred thousand pounds, to be applied in and about the construction, completion, and carrying-out of the works mentioned in section five of the said Act.

Power to borrow.

(2.) No money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five per centum per annum.

New clauses.

Section 7 of Napier Harbour Board Loan Act, 1906, amended.

5. Section seven of the said Act is hereby amended by inserting in subsection one thereof the words "three hundred thousand pounds" in lieu of the words "two hundred thousand pounds," and the words "one thousand nine hundred and forty-six" in lieu of the words "one thousand nine hundred and forty-two"; by reading the words "The Local Bodies' Loans Act, 1908, and the amendments thereof" (with necessary consequential amendments) in lieu of the words "'The Local Bodies' Loans Act, 1901,'" in subsection two of the said section seven; and by adding to the said subsection two the following provisoes—"Provided that nothing herein shall authorise the Board to make and levy any special rate as a security for the said loan: And provided further that the provisions of Part I of the Local Bodies' Loans Act, 1908 (having reference to preliminary steps to be taken and the poll of ratepayers), shall be read subject, and be modified according, to the provisions set out in the First Schedule hereto."

Section 8 of said Act amended.

6. Section eight of the said Act is hereby amended by omitting all words after the words "entitled to," and substituting the words "one vote and no more."

Preliminary expenses, &c., payable out of loan.

7. The Board may out of loan-moneys pay the preliminary expenses incurred in connection with the scheme for which the loan was raised, and refund to the Harbour Fund all moneys expended out of that fund on works authorised by the said Act since the said Act came into force.

Debentures charged on Harbour Board.

8. The debentures issued under the said Act and 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.

Debentures, how executed.

9. Every debenture shall be sealed with the seal of the Board, and signed by the Chairman and countersigned by the Treasurer.

Debentures to be numbered, and coupons attached.

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, for every half-year's interest, payable to bearer.

Debentures to rank *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.

Sinking fund to be provided.

12. For the purpose of providing a sinking fund for the liquidation of the loan authorised by the 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.

SCHEDULES.

Schedules.

Struck out.

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.

Struck out.

- (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.

New.

FIRST SCHEDULE.

(1.) THE Chairman shall, by not less than seven clear days' public notice in some newspaper circulating in the district, convene meetings of the ratepayers to be held within the several boroughs, town districts, and ridings comprising the district, to consider the proposal. Such notice shall specify the time (not being more than fourteen days after the last publication of the notice referred to in section 8 of the Local Bodies' Loans Act, 1908) and place in the several boroughs, town districts, and ridings at which such meetings are to be held.

The Chairman shall appoint one of the members of each Borough Council, Town Board, and of the County Council elected for each riding in the district to preside at each meeting within the borough, town district, or riding which such member represents, if such member is willing to act, and if such member is unwilling to act, or becomes incapacitated from any cause from acting, then such other 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, town district, or riding for which he has been appointed, and shall also preside at the taking of any poll as hereinafter provided in such borough, town district, or riding, unless he is unwilling so to do or is incapacitated from any cause from so doing, in which event the Chairman shall appoint such other person as he thinks fit. After the consideration and discussion of the proposal the Presiding Officer shall declare that a poll will be taken, but his omission so to do shall not invalidate the proceedings at such meeting or any poll thereafter to be taken.

(2.) After the holding of such meetings the Chairman may, if he thinks fit, and shall if requested by resolution passed at any one or more meetings, cause a poll of the ratepayers to be taken upon the proposal, as hereinafter provided.

(3.) It shall be the duty of the Secretary to the Board, at the request of the Chairman, to prepare a roll for the district (hereinafter referred to as "the roll") setting forth the names of all ratepayers within the district. Such roll shall consist of a collection of the respective valuation-rolls for the time being in force for the respective boroughs, town districts, and ridings comprising the district brought up, so far as the data in possession of the Board will allow, to a date not earlier than eight weeks

Meetings of
ratepayers.

Chairman may
cause poll to be
taken.

Voting roll.

New.

before the date fixed for the poll. The Chairman shall place a copy of such roll, signed by him or two members of the Board, in the office of the Board at Napier; and, on or as soon as possible after the date of the first publication of the notice referred to in section 8 of the Local Bodies' Loans Act, 1908, shall publish in some newspaper circulating in the district a notice that such roll is open for inspection by the ratepayers at the office of the Board aforesaid. After the publication of such notice, and up to the time hereinafter fixed for the closing of the roll, any person may lodge with the Board an objection in writing under his hand to the roll on any of the following grounds:—

- (a.) That any person whose name is on the roll in respect of any qualification does not possess such qualification at the time when the objection is lodged:
- (b.) That any person whose name is not on the roll possesses the necessary qualification at the time when the objection is lodged, and is entitled to have his name inserted:

Any two or more members of the Board (of whom the Chairman may be one) appointed in writing by the Chairman shall, as soon as possible after the receipt of any such objection, inquire into the same at the office of the Board aforesaid, and their decision shall be final. Any alteration of the roll consequent upon any such objection, or otherwise, may be made in writing, initialled by the Chairman or by the Secretary of the Board.

The roll shall be deemed to be closed at 4 o'clock in the afternoon of the fourteenth day preceding, and exclusive of, the day appointed for the poll to be taken, and no objection received thereafter shall be considered.

If any person whose name appears on the roll has at the time of the closing of the roll failed for two years or upwards to pay rates due by him to the Board, there shall be marked against his name in red ink in the margin of the roll, over the initials of the Chairman or the Secretary of the Board or any two members of the Board, the word "Arrears," with the addition of the amount so owing by him, and such person's vote shall not be received at the poll unless he produces at the same time the receipt of the Board for such arrears bearing a date or other matter indicating that such receipt represents the arrears so marked against his name as aforesaid.

- (4.) A sufficient number of rolls completed as aforesaid shall be delivered to the Returning Officer, and shall be the rolls upon which the poll shall be taken.
- (5.) The poll shall be taken as follows:—
 - (a.) The Chairman shall publish a notice setting forth the day, not less than one and not more than three weeks from the day of the last of the said meetings, on which the poll will be taken.
 - (b.) The Chairman shall give notice to the Presiding Officer requiring him to take the poll upon the day appointed.
 - (c.) The Presiding Officer shall on the day so appointed proceed to take the poll in the manner (subject to this Act) provided for the regulation of polls other than elections by the Local Elections and Polls Act, 1908, and shall provide voting-papers and all things necessary for taking the poll.
 - (d.) The voting-papers shall be printed in the form in the Second 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.
 - (e.) 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 un erased.
 - (f.) All the provisions of the Local Elections and Polls Act, 1908, as regards taking a poll shall, as 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.
 - (g.) A separate poll shall be taken in the boroughs, town districts, and the several ridings comprised in the district.
 - (h.) Any ratepayer may vote at any polling-place in the district.
 - (i.) The proposal to raise the loan shall be deemed to be carried if a majority of the votes recorded at the poll are in favour of that proposal.

Roll to be delivered
to Returning
Officer.

Taking poll.

New.

SECOND 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 _____, 19____.

[*Insert notice required by section 8 of the Local Bodies' Loans Act, 1908, or a
statement giving the purport and effect of that notice.*]

- (1.) I vote for the above proposal.
- (2.) I vote against the above proposal.

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