

New Parliament.

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,
10th November, 1887.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Hislop.

OAMARU HARBOUR BOARD LOAN.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. "Oamaru Harbour Loan Act, 1886," repealed. 4. Power to borrow for harbour improvements. 5. Loan to be submitted to sanction of rate-payers. 6. Board may rate district for interest on loan. 7. No rate to be quashed. 8. Board to have powers of local bodies for levying rates. 9. Creditor of the Board secured on rate may</p>	<p>apply to Supreme Court for appointment of Receiver. 10. On appointment of Receiver rate shall vest in him. 11. Powers of Board exercisable by Receiver. 12. Moneys collected by Receiver, how applied. 13. When Receiver's powers cease. 14. Representation of new districts. 15. Priority of debentures and mortgages. 16. Board may arrange temporary advance with bank. 17. Power to appoint agents. 18. One notice for different rates sufficient, and for both instalments.</p>
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A BILL INTITULED

AN ACT to authorise the Oamaru Harbour Board to raise Money Title.
by way of Loan, ~~and to consolidate certain Loans~~ not exceeding
Forty Thousand Pounds.

5 WHEREAS, by an ordinance of the Superintendent and Provincial Preamble.
Council of Otago passed in the thirty-third session of the said Council,
numbered four hundred and twenty-three, and shortly intituled "The
Oamaru Harbour Board Ordinance, 1874," a corporate body styled
"The Oamaru Harbour Board" was constituted for the purposes in
10 the said ordinance mentioned; and by the said ordinance it was
enacted that for the purposes therein mentioned the Board might
borrow, on the security in the said ordinance mentioned, such sum or
sums of money as the Board might require, not exceeding in the
whole the sum of one hundred thousand pounds, at any rate of
15 interest not exceeding six pounds per centum per annum, and so
often as any part thereof should be repaid the Board might reborrow
the same or any less amount: And whereas the Board from time to
time, in exercise of such authority as aforesaid, borrowed various
sums amounting in the whole to one hundred thousand pounds upon
20 mortgages issued in pursuance of the said ordinance over all and
singular the lands, tenements, and hereditaments whatsoever and
wheresoever situate of the said Board, and all and singular the rents,
income, and profits thereof, and also all and singular the tolls, dues,
and charges payable to or receivable by the said Board under or by
25 virtue of the said ordinance: And whereas, in pursuance of the said

ordinance (provision having been made for a sinking fund when the aforesaid mortgages were issued), certain of the moneys so borrowed as aforesaid have been repaid and the mortgages in respect thereof cancelled, but there are outstanding and unpaid the mortgages in respect of the unpaid balance: And whereas, by an Act of the General Assembly of New Zealand, the Short Title of which is, "The Oamaru Harbour Board Ordinance Amendment Act, 1878," amended by "The Oamaru Harbour Board Act, 1879," the said Board was empowered to borrow a further sum of one hundred thousand pounds, and in pursuance of such power and in manner prescribed by the said Act and "The Harbours Act, 1878," the Board has borrowed such sum of one hundred thousand pounds upon debentures secured on the lands vested in the Board under "The Oamaru Harbour Board Ordinance, 1874," and on the lands set aside as an endowment for the Board by "The Oamaru Harbour Board Act, 1876," and on all rents, issues, and profits and moneys arising thereout or from the sale thereof, and on all rates, charges, tolls, and dues payable to or receivable by the said Board under "The Harbours Act, 1878," or any other Act then or thereafter to become in force authorising the same to be made or levied: And whereas, by "The Oamaru Harbour Board Loan Act, 1882," power is given to the said Board to borrow additional sums to the extent of fifty thousand pounds, and the Board has borrowed such sum of fifty thousand pounds by debentures issued in manner prescribed by "The Harbours Act, 1878," upon the security of the general revenue of the Board after providing for income necessary to meet previous charges thereon, and upon a rate to be levied in pursuance of "The Oamaru Harbour Board Loan Act, 1882," all of which debentures are outstanding: And whereas it is necessary to borrow a further sum of money for the purpose of completing the harbour works at Oamaru, and the Board is desirous of having power to borrow the same, together with a sufficient sum to pay off the Board's present and future indebtedness, not being debenture liabilities unmatured, and also to borrow, as hereinafter mentioned, moneys for the purpose of consolidating its outstanding loans:

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

Short Title.

1. The Short Title of this Act is "The Oamaru Harbour Board Loan Act, 1887."

Interpretation.

2. The following expressions shall have the meanings respectively assigned to them except where such meanings are inconsistent with the context:—

"Board" means the Oamaru Harbour Board:

"District" means the Oamaru Harbour District constituted under the provisions of "The Oamaru Harbour Board Loan Act, 1882:"

"Harbour dues" mean any due, rate, fee, toll, tax, pilotage rate, port charges, or payment in the nature thereof, payable or leviable under "The Harbours Act, 1878," or a special Act, but shall not mean the rate leviable on land under "The Oamaru Harbour Board Loan Act, 1882," or this Act:

“ Harbour Fund ” means all money arising from the following sources: (1) Harbour dues; (2) harbour-improvement rates (including rates leviable under “ The Oamaru Harbour Board Loan Act, 1882 ”); (3) rents and profits of land vested in the Board; (4) proceeds and profits of land set aside as endowments; and (5) all other money which may be received by or become the property of the Board.

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3. “ The Oamaru Harbour Board Loan Act, 1886, ” is hereby repealed.

“ Oamaru Harbour Board Loan Act, 1886, ” repealed.

Struck out.

4. This Act is divided into two parts, as follows, and the foregoing provisions shall apply to each part:—

PART I.

5. It shall be lawful for the Board to borrow and take up at interest any sum or sums necessary for the purpose of paying any debentures or mortgages issued under the foregoing recited ordinance or Acts, and the Board may issue debentures for the same as provided by “ The Harbours Act, 1878: ” Provided always that the sums to be borrowed for such purposes shall not exceed two hundred and seventy thousand pounds.

6. The moneys to be raised under the *last-preceding* section shall be applied in or towards paying off and discharging all or any money raised under the authority of the before-recited ordinance or Acts, including money raised by mortgages under the said ordinance, and which may hereafter mature and be discharged, and in payment of the cost of converting the said loans: Provided always that, if the Board shall determine only to repay the money outstanding on one or some of the sets of mortgages or debentures issued as aforesaid, it shall be lawful for the Board so to do, but in such case they shall not be entitled to borrow more than a sum or sums bearing the same proportion to the sums repaid that the total sum of two hundred and seventy thousand pounds bears to the total outstanding mortgages and debentures; but no purchaser or holder of any debenture shall be concerned to inquire as to whether the Board is exceeding its powers in this respect, or be affected by the fact that it is doing so.

7. The Board shall have power to buy its own mortgages or debentures, or to exchange new debentures for the same, at a rate not exceeding the then current market rate.

8. The money secured by debentures issued under the authority of this Part of this Act, and the coupons thereto attached, shall be a first charge on all moneys in the Harbour Fund, excepting the moneys, if any, appropriated to any special purpose, but without prejudice to the rights conferred on the holders of any mortgages and debentures which may have been given under the authority of the before-mentioned ordinance or Acts which may remain unpaid; and the rate authorised to be levied by “ The Oamaru Harbour Board Loan Act,

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1882," shall, subject as aforesaid, be a security to the holders of debentures issued under this Part of this Act; and the Board or any Receiver appointed may from time to time, while such debentures are outstanding, make and collect the rate already made, or levy and collect a new rate or rates not exceeding in the whole the amount authorised to be levied by "The Oamaru Harbour Board Loan Act, 1882."

9. Holders of debentures issued under this Part of this Act shall rank alike and be entitled to equal privileges.

PART II.

Power to borrow for harbour improvements.

10. 4. ~~In addition to the sums authorised by Part I. of this Act to be borrowed,~~ The Board shall have power to borrow, by way of special loan, from time to time, subject to the provisions of "The Harbours Act, 1878," and all amendments thereof, a sufficient sum or sums of money to discharge the *present existing* liabilities of the Board, not being unmatured debentures or mortgages, and to repair and strengthen the breakwater, and to effect necessary dredging and other improvements in the harbour: Provided that a greater sum than forty thousand pounds shall not be borrowed under this Part of this Act. The debentures to be issued therefor shall be in the form prescribed by "The Harbours Act, 1878," but shall state (in addition to the matters therein required) that the same are issued under the provisions of this Part of this Act.

New clause.

Loan to be submitted to sanction of ratepayers.

5. Before the aforesaid sum of forty thousand pounds, or any part thereof, is borrowed, the consent of the ratepayers in the district shall first be obtained in the mode prescribed in sections *five to ten*, both inclusive, of "The Oamaru Harbour Board Loan Act, 1882," all of which sections are hereby incorporated with this Act for the above purpose, and shall be deemed to be re-enacted herein.

Board may rate district for interest on loan.

6. The Board shall, ~~before issuing any loan under this Part of this Act,~~ after the passing of this Act, if the resolution in favour of the proposal to borrow the aforesaid money be carried by a majority of the votes of the ratepayers in the district as aforesaid, make and levy annually a rate upon all rateable property in the district, not exceeding three-sixteenths of a penny in the pound of the rateable value of all such property which may be within such portion of the said district as may be subject to the provisions of "The Rating Act, 1882," and not exceeding threepence in the pound of the annual rateable value of all such property within the other portions of the said district. And the proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loans to be raised under this Part of this Act, or of any sinking fund which may be arranged to be set aside at the time of the floating of the said loan or afterwards, and the balance, if any, shall be paid into the Harbour Fund: Provided that, if the Board so desires, it may pay such annual charges out of its ordinary revenue if there shall be sufficient of such revenue after paying all other charges thereon to meet the same, and in any year in which it does so pay such annual charges it shall not be necessary to levy the said special rate.

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12- 7. 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 of any kind in the same, or in the mode of levying or collecting the same, shall be set up as a defence to any action which
5 may be brought against any ratepayer.

No rate to be quashed.

13- 8. For the purpose of making, levying, and recovering the rates mentioned in the preceding sections, the Board shall have and may exercise all powers of making, levying, or recovering rates in each borough and in each riding and in each road district within the
10 district for the time being possessed by any local body having rating powers within such borough, or such riding, or such road district under the law for the time being in force regulating the recovery of rates therein respectively: Provided always, and it is hereby declared, that in any action for recovering any sum from any person
15 in respect of any rate under this Act or "The Oamaru Harbour Loan Act, 1882," the rate-book or the book purporting to be the rate-book, if duly signed by the Chairman or two members of the Board, shall be conclusive evidence of the contents thereof, and that the amount is owing.

Board to have powers of local bodies for levying rates.

20 14- 9. When and so often as the Board shall fail to pay, at the proper time and place for so paying the same, any sum, either of principal or interest, which it ought to pay under this Act, then immediately, or at any time thereafter, any person to whom such sum is owing may apply *ex parte* by petition in a summary way to a
25 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, appoint, upon such terms as to security and remuneration as he may think fit, a Receiver of the rate liable for the payment of such sum.

Creditor of the Board secured on rate may apply to Supreme Court for appointment Receiver.

30 15- 10. The before-mentioned special rate shall, from the date of the said order and upon its being publicly notified by the Receiver, vest in the Receiver, and shall cease to be vested in the said Board.

On appointment of Receiver rate shall vest in him.

35 16- 11. All powers for the recovery of the said rate shall, after the appointment of the Receiver and upon its being publicly notified, cease to be exercised by the Board, and shall be exercised by the Receiver.

Powers of Board exercisable by Receiver.

17- 12. The moneys received by the Receiver shall be applied—

Moneys collected by Receiver, how applied.

- 40 (1.) In the payment of the expenses of application and order;
(2.) In the payment of the Receiver's remuneration, fixed as aforesaid, and his reasonable and necessary expenses;
(3.) In payment *pro rata* of the sums then overdue by the Board which are secured by the said rate; and
(4.) The residue, after the payment of the above, to the Board.

45 And the Receiver shall account for all such moneys in such manner as the Judge directs.

18- 13. When all the sums then overdue are paid, or at any time by order of a Judge of the Supreme Court, on the application of the Board, if such Judge shall think fit to make such order, the powers of the Receiver shall cease, and he shall forthwith pay any moneys
50 in his hands to the Board, who shall again be capable of exercising the powers of which the appointment of the Receiver had deprived them.

When Receiver's powers cease.

- Representation of new districts. ~~19.~~ 14. And whereas some parts of the district are or may become, through an increase of property or population, inadequately represented on the Board, it is enacted that the Governor may, by Proclamation, increase the number of members of the Board, and may alter the boundaries of any subdivision of any district made for the purpose of representation, and may constitute new districts, and may assign to any subdivision a member or members, and by such or any subsequent Proclamation declare in what manner such member or members shall be elected. 5
- Priority of debentures and mortgages. ~~20.~~ 15. Mortgages and debentures heretofore given (~~or debentures given under the provisions contained in Part I. of this Act~~) shall, as to the securities thereby pledged, have priority over debentures to be given under the foregoing sections of this Act; but all holders of debentures issued under ~~this Part of~~ this Act shall rank alike and be entitled to equal privileges. 10 15
- Board may arrange temporary advance with bank. ~~21.~~ 16. The Board may, pending the raising of the loan authorised by ~~this Part of~~ this Act, arrange with any banker or person for an advance or advances not exceeding one-half of the amount authorised, at a rate of interest not exceeding eight per centum per annum, and they may pay out of such loan the cost of negotiating the said loan. 20
- Power to appoint agents. ~~22.~~ 17. Without prejudice to the powers conferred by "The Harbours Act, 1878," and in addition to such powers, it is enacted that the Board may appoint any joint-stock company or person or persons to be its agent or agents for carrying out all or any of the purposes of this Act. 25
- One notice for different rates sufficient, and for both instalments. ~~23.~~ 18. The rate leviable under ~~this Part of~~ this Act may be made payable at the same dates and place as any rate which may be or have been levied under "The Oamaru Harbour Board Loan Act, 1882," and the demand for all such rates, and (if deemed advisable by the Board) for both instalments of all such rates, payable for any year, may be made by the same notice. 30