

Mr. Duncan.

OAMARU HARBOUR BOARD LOAN.

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A BILL INTITULED

AN ACT to authorize the Oamaru Harbour Board to raise Money by way of Loan, and to consolidate certain Loans. Title.

WHEREAS, by an ordinance of the Superintendent and Provincial 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 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 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 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 virtue of the said ordinance: And whereas, in pursuance of the said

Preamble.

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 authorizing 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 :

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5 “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.

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 “The Oamaru Harbour Board Loan Act, 1886,” is hereby repealed.

“Oamaru Harbour Board Loan Act, 1876,” repealed. Act in two parts.

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

PART I.

15 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  
20 and seventy thousand pounds.

Power to borrow to pay past mortgages and debentures.

25 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,  
30 and which may hereafter mature by means of the annual drawings, 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,  
35 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.

Money, how to be applied.

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.

Power to buy up debentures and mortgages.

40 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, and also all necessary expenses of the Board, excepting the moneys, if any, appropriated to any special purpose, but without prejudice to the  
45 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 authorized to be levied by “The Oamaru Harbour Board Loan Act, 1882,” shall, subject as aforesaid, be a security to the holders of  
50 debentures issued under this Part of this Act; and the Board or any Receiver appointed may from time to time, while such debentures

Priority of charge.

are outstanding, make and collect the rate already made, or levy a new rate or rates not exceeding in the whole the amount authorized to be levied by "The Oamaru Harbour Board Loan Act, 1882:" Provided always that it shall not be lawful, while the rate authorized by the Second Part of this Act is in existence, to levy a rate under this section for a greater sum than, together with the rate levied under such Part, shall amount to three-eighths of a penny in the pound of the principal sum, or sixpence in the pound of the annual value. 5

Future debenture-holders to rank alike.

9. Holders of debentures issued under this Part of this Act shall rank alike and be entitled to equal privileges. 10

## PART II.

Power to borrow for harbour improvements.

10. In addition to the sums authorized 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 aforesaid liabilities of the Board, not being matured 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 thirty-eight thousand pounds shall not be borrowed under this Part of this Act without the consent of the ratepayers of the district, to be ascertained in manner required by "The Oamaru Harbour Board Loan Act, 1882." 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. 15 20 25

Board may rate district for interest on loan.

11 The Board shall, before issuing the loan, make and levy 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. 30 35 40

No rate to be quashed.

12. 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 may be brought against any ratepayer. 45

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13. 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
- 15 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 ratepayer payable in respect of any rate under this Act or "The Oamaru Harbour
- 10 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.
- 15 14. 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
- 20 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.
- 25 15. 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.
16. All powers for the recovery of the said rate shall, after the appointment of the Receiver and upon its being publicly notified,
- 30 cease to be exercised by the Board, and shall be exercised by the Receiver.
17. The moneys received by the Receiver shall be applied—
- (1.) In the payment of the expenses of application and order;
- (2.) In the payment of the Receiver's remuneration, fixed as
- 35 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.
- And the Receiver shall account for all such moneys in such manner
- 40 as the Judge directs.
18. 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
- 45 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.
19. 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

Board to have powers of local bodies for levying rates.

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

On appointment of Receiver rate shall vest in him.

Powers of Board exercisable by Receiver.

Moneys collected by Receiver, how applied.

When Receiver's powers cease.

Representation of new districts.

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.

Priority of debentures and mortgages.

20. 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. 5 10

Board may arrange temporary advance with bank.

21. 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 authorized, 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. 15 20

Power to appoint agents.

22. 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. 20

One notice for different rates sufficient,

23. 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 any such rates, payable in any one year, may be made by the same notice. 25

and for both instalments.