

Hon. Mr. Hislop.

OAMARU HARBOUR BOARD LOAN.

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A BILL INTITULED

AN ACT to authorise the Oamaru Harbour Board to raise Money by way of Loan not exceeding Seventy Thousand Pounds. 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 profit 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 ordinance (provision having been made for a sinking fund when the aforesaid mortgages were issued), the moneys so borrowed as aforesaid have been repaid as they became due and the mortgages in respect thereof cancelled, but there are outstanding unmatured mortgages to the value of about eighty-nine thousand five hundred pounds, of which mortgages to the value of thirty-three thousand pounds are held by the Postmaster-General on account of the Post Office Account, and it has been proposed that these last-mentioned mortgages should be surrendered for the purpose of cancellation, and debentures to a like amount issued under this Act: 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 by "The Oamaru Harbour Board Loan Act, 1887," power is given to borrow a further sum of forty thousand pounds upon the consent of the ratepayers being obtained as therein provided; and such consent was duly obtained, and a rate made under the said Act as therein provided, which sum has not been borrowed, but an advance of the sum of thirty thousand pounds has been made by the Government to the Board out of the Post Office Account under an arrangement entered into between the said Board and the Colonial Treasurer, whereby, as a security for the said advance, debentures to the amount of forty thousand pounds issued under the Act last aforesaid have been deposited with the Colonial Treasurer: And whereas it is proposed to grant the said Board power to borrow the sum of *seventy* thousand pounds for the purpose of discharging the outstanding mortgages held by the Postmaster-General as aforesaid, and of repaying the aforesaid advance, and of completing the harbour works at Oamaru:

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 Oamaru Harbour Board Short Title.  
5 Loan Act, 1889."

2. This Act shall come into operation on such day as the Go- Commencement of  
vernor shall notify by Proclamation in the *Gazette*. Act.

3. The following expressions shall have the meanings respectively Interpretation.  
10 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:"

15 "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  
20 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.

4. "The Oamaru Harbour Board Loan Act, 1887," is hereby 30 repealed. "Oamaru Harbour Board Loan Act, 1887," repealed.

5. 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," at a rate not exceeding *five* pounds per centum per annum, any sum not exceeding *seventy* thousand pounds. Power to borrow for harbour improvements.

35 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 Act.

6. The Board shall, before issuing any loan under this Act, make 40 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 45 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 Act, and the balance, if any, shall be paid into the Harbour Fund. Board may rate district for interest on loan.

50 But, 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.

No rate to be quashed.

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 may be brought against any ratepayer. 5

Board to have powers of local bodies for levying rates.

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 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 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. 10 15 20

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

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 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 30

On appointment of Receiver rate shall vest in him.

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.

Powers of Board exercisable by Receiver.

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. 35

Moneys collected by Receiver, how applied.

12. 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 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. 40

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

When Receiver's powers cease.

13. When all the sums then overdue are paid, or at any time 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 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. 50

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.
15. Mortgages and debentures heretofore given 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 Act shall rank alike and be entitled to equal privileges.
16. The rate leviable under 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.
17. So soon as a rate is levied under this Act, it shall be security for all unpaid and uncanceled debentures issued under "The Oamaru Harbour Board Loan Act, 1887," as well as for all debentures issued under this Act; the rate authorised to be levied under "The Oamaru Harbour Board Loan Act, 1887," shall cease to be levied and collected, saving as to any rates in arrears, which may be collected as if this Act had not passed.
18. The annual interest on the moneys borrowed under this Act shall be secured upon the whole of the rate to be levied as aforesaid under this Act, and shall be also secured as a second charge on the rates levied and collected from time to time under "The Oamaru Harbour Board Loan Act, 1882," after providing for the interest on the sums borrowed under the authority of such Act.
19. The moneys authorised to be borrowed under this Act shall be applied—  
 First, in payment of the sum of thirty thousand pounds borrowed under "The Oamaru Harbour Board Loan Act, 1887;"  
 Secondly, in payment of the sum due by the Board to the Post Office Account as before recited; and  
 The balance shall be applied to completing the harbour-works at Oamaru.
20. Notwithstanding the repeal of "The Oamaru Harbour Board Loan Act, 1887," the debentures heretofore issued under that Act shall be valid until they shall be discharged by payment, or by the creation and substitution for them of other debentures made under the provisions of this Act. Such debentures shall be secured as if they were debentures issued under this Act.

Representation of new districts.

Priority of debentures and mortgages.

One notice for different rates sufficient, and for both instalments.

Rate under repealed Act to cease when rate under this Act commences.

Interest, how to be secured.

Application of loan.

Debentures issued under repealed Act to be valid until replaced by others under this Act.