

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,
6th November, 1877.*

Dr. Hodgkinson.

Riverton Harbour Board Land.

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A BILL INTITULED

AN ACT for securing to the Riverton Harbour Board, constituted under an Ordinance of the Provincial Council of Otago, Session XXXIII., 1874, the Lands specified in the Second Schedule of this Act.

WHEREAS by an Ordinance of the Superintendent and Provincial Council of the Province of Otago passed in the thirty-third Session of the said Council, Number 428, and shortly intituled "The Riverton Harbour Board Ordinance, 1874," a corporate body styled "The Riverton Harbour Board" was constituted for the purposes in the said Ordinance specified: And whereas it is expedient that the parcels of land specified and described in the Second Schedule should be vested in the said Riverton Harbour Board, constituted by the said Ordinance, upon trust for the improvement of the Port of Riverton:

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 shall be "The Riverton Harbour Board Land Act, 1877." 5

Land described in Second Schedule set apart as endowment.

2. The parcels of land described in the Second Schedule hereto are hereby set apart as an endowment for the said Board for the purposes of the said Board.

Licenses and leases not to be prejudiced.

3. If any lands set apart under this Act are subject to any license or lease for pastoral or other purposes, such lands shall be dealt with under "The Otago Waste Lands Act, 1872," and any Act amending the same, subject to such license or lease; and such license or lease shall not be affected thereby, but the rents, license fees, or other moneys payable under or in respect of such license or lease shall be paid to the said Board for the purposes thereof until a Receiver is appointed as hereinafter provided, and after such appointment shall have been made shall be paid to such Receiver, to be applied by him as hereinafter mentioned. 10 15

Lands to remain under Waste Lands Act.

4. It shall be lawful for the Governor, by Proclamation, to declare that any such lands set apart under this Act as endowments as aforesaid shall be open for sale or lease under any provisions of "The Otago Waste Lands Act, 1872," and any Acts amending the same, or under "The Gold Fields Act, 1866," and any Acts amending the same; and from and after the time fixed for the purpose in such Proclamation, such lands may be leased or sold accordingly: Provided always that all moneys received from the sale of any such lands shall be paid and accounted for as by section *six* is provided, and all moneys received from the lease thereof shall be paid and accounted for by the Receiver of Land Revenue to the said Board until the Receiver is appointed as hereinafter provided, and thereafter shall be paid to the Receiver, to be applied by him as hereinafter directed. 20 25 30

How rents to be disposed of.

5. The rents paid to the said Board or to the Receiver, as directed by the *third* and *fourth* sections, or so much thereof as shall be necessary, shall be paid by them towards satisfying the annual charges on the mortgages issued under the provisions of this Act, and the balance, if any, shall be applied for general purposes of the Board. 35

How purchase money to be disposed of.

6. The moneys realized from the sale of the lands aforesaid shall be paid to Trustees to be appointed by the Governor, not being less in number than three, and shall be invested by them in such securities as the Board shall approve of, and the proceeds and such part of the principal as shall be necessary and shall be required by the Board for the purpose of paying the annual charges arising out of the mortgages granted by the said Board previously to the sale of the said lands shall be paid to the Board for that purpose; and if the amount of interest shall exceed the said annual charges, the excess shall be applied to the general purposes of the said Board; and after the said mortgages shall have been fully paid, the principal money, or the balance thereof, if any, shall be paid over to the said Board, to be by them applied to the general purposes of the said Board. 40 45 50

Board may borrow money.

7. In order to raise money for the purpose of constructing such works as are authorized to be constructed by the Board, it shall be lawful for the Board from time to time to borrow on the security of any lands for the time being vested in such Board, and of the rents thereof, and of the moneys payable to it under or by virtue of this Act, and of the dues chargeable or receivable by the said Board, such sum or sums of money as the Board may require, not exceeding in the whole the sum of twenty thousand pounds, at any rate of interest not exceeding the rate of seven per centum per annum, payable half-yearly; and so often as any part of such borrowed money is repaid the said Board may re-borrow the same or any less amount. 55 60

8. Every security to be given by the Board shall be by mortgage, and shall be in the form or to the effect set forth in the First Schedule to this Act, and it shall be sealed with the common seal of the Board giving the same, and the consideration therefor shall be truly stated therein. No such mortgage shall create any liability against the revenue of the colony or of the Province of Otago, and the holder shall have no claim whatsoever on such revenues in respect thereof; and every such mortgage may be assigned or transferred by deed in the form or to the effect set forth in the second part of the First Schedule hereto.
9. The mortgages to be given by the said Board shall be numbered consecutively, commencing with number one, and may have coupons attached thereto for every half-year's interest, payable to bearer.
10. The Board may from time to time make such arrangements as it may think fit for the payment of any of the mortgages or coupons granted by the Board at any office or bank in the Colony of New Zealand or elsewhere, as to the Board may seem desirable.
11. No holder of any mortgage shall have any preference over the holder of any other mortgage granted by the Board by reason of any priority of date or otherwise, but all holders shall rank alike, and be entitled to equal rights.
12. Whenever the Board shall be desirous of exercising the power of borrowing conferred by this Act, it shall be lawful for the Board from time to time to appoint an agent or agents for the purpose of raising any loan by this Act authorized to be raised; and such agent or agents shall have power to do all acts that may be specified in the instrument by which such appointment is made.
13. All mortgages shall, together with the interest thereon, be a first charge on all lands of which the Board giving the same may become seized or possessed, and on all rents, rent charges, dues, and charges which shall be payable to or receivable by such Board.
14. For the purpose of providing a sinking fund for the payment of the mortgages, there shall, on the thirtieth day of June in such year as shall be fixed by the Board giving the same, not being later than the thirtieth day of June next after the expiration of five years after the date of the first mortgages issued, be set apart out of the said rents and dues a sum equal to one per centum on all mortgages issued at that time.
15. Such sums shall be applied in taking up so many mortgages as the sum so set apart will cover, and the balance, if any, shall be invested at interest and added, together with the interest, to the amount set apart for the same purpose in the next succeeding year.
16. The order in which the mortgages given by the Board shall be taken up shall be determined by lot in such convenient manner, on a day and at a place to be from time to time fixed by the Board.
17. On the thirtieth day of June in every subsequent year a sum equal to one per centum on the total amount for which mortgages have then been issued, with the addition of a sum equal to the interest on all mortgages already paid off, shall be applied in taking up so many of the mortgages, to be determined by lot as aforesaid, as such two sums, with any balance from the preceding year and interest thereon added, together will cover, and the balance, if any, shall be invested at interest and added, together with the interest thereon, to the amount to be set apart for the same purpose in the succeeding year.
18. When it shall be so decided by lot that any mortgage shall be paid off, interest thereon shall be paid up to the thirtieth day of September following, but no longer: Provided that the full amount of the mortgages, with interest thereon to that date, be paid on presentation, and such mortgages, with the coupons belonging thereto and not then due, shall be given up to some person authorized by the Board to receive the same.

Form of mortgage, how transferred.

Mortgages to be numbered.

Board may make arrangements for place of payment.

No preference between mortgage-holders.

Agents may be appointed to raise loans.

Mortgages to be a first charge on land, rents, and dues.

Sinking fund provided.

How to be applied.

Order in which mortgages shall be paid.

Further provision as to sinking fund.

Interest to cease after time fixed for payment of mortgages.

If interest or sinking fund in arrear, holder of mortgage may apply for appointment of a Receiver.

19. In case any interest due in respect of any mortgage shall be in arrear, or any sum due in respect of the sinking fund shall not be applied as hereinbefore provided for six calendar months, it shall be lawful for the holder of any mortgage to apply by petition to the Judge of the Supreme Court of New Zealand to whom the judicial district within which the office of the Board is situated is assigned, praying that a Receiver may be appointed for the Board making such default.

Judge of Supreme Court may appoint Receiver.

20. On being satisfied that such default as alleged has been made, the said Judge shall, by writing under his hand, appoint some fit and proper person to be Receiver, with the powers hereinafter mentioned.

Receiver to enter into possession of rents and dues.

21. Upon his appointment the Receiver shall enter into possession of all lands which may be vested in the Board, and thenceforth all rents arising therefrom and dues in respect of any wharf or dock of the Board, and all moneys payable to such Board, and all rent charges, shall be paid to the Receiver or some person appointed by him in writing; and all books, papers, accounts, muniments of title, and other documents relating to the matters aforesaid shall be handed over to the Receiver by the person in whose possession the same may be.

Application of money.

22. The money so received shall be applied first in payment of the expenses incurred in the execution of the powers hereby vested in the Receiver; secondly, in or towards payment, rateably amongst the several holders of mortgages, of arrears of interest and future interest from time to time accruing; thirdly, in discharge of any sums due and accruing in respect of the sinking fund; and, if there be any surplus, the same may be expended in improving any portion of the property held in security, and the balance, if any, shall be temporarily deposited at interest at some bank in the provincial district, so as to be available when required for any of the purposes aforesaid.

Arrears paid, application may be made to withdraw Receiver.

23. At any time when the arrears of interest and sinking fund have been fully paid and discharged, it shall be lawful for the Board to apply to the said Judge, by petition, praying that the Receiver may be withdrawn and possession given to the Board.

Judge may comply.

24. It shall be lawful for the said Judge, on being satisfied that all the arrears of interest and sinking fund have been paid and discharged, and that there is a reasonable probability that the same will not again be allowed to run into arrear, to comply with the prayer of the petition.

Interest again in arrear, Receiver may again be appointed.

25. Whenever at any future time any interest or sinking fund is again permitted to get into arrear for six calendar months, it shall be lawful for the said Judge from time to time, upon a like petition and in like manner, to appoint a Receiver with the same powers as are by this Act given to the first appointed Receiver, and such Receiver to withdraw in manner hereinbefore provided.

Receiver's powers.

26. During the time any Receiver is in possession he shall have the following powers, viz.,—

- (1.) To keep all wharves, houses, and other buildings in repair.
- (2.) To insure against loss or damage by fire.
- (3.) To exercise all the powers and perform all the functions and duties given to and imposed on the Board by this Ordinance: Provided that no lease shall be granted without the approval of the Governor in Council.
- (4.) To employ and pay all such persons as may be necessary to assist in the discharge of the duties imposed by this Ordinance.
- (5.) Subject to the approval of the Governor in Council, to impose and alter dues for the use of wharves and docks, and for that purpose to exercise all necessary powers.

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27. The Receiver shall be paid such remuneration out of the money received under this Act, by way of salary or commission or otherwise, as shall be from time to time fixed by the said Judge in that behalf. Receiver's remuneration.

5 28. Any person who shall in any way obstruct or interfere with the Receiver or with any person appointed by him while in the exercise of the powers or performance of the duties given or imposed by this Act, or who, after being applied to, shall neglect or refuse to give up to the Receiver any books, papers, accounts, muniments of title, or 10 other documents directed to be handed over to him by this Act, shall for every such offence forfeit and pay any sum not exceeding one hundred pounds. Penalty for obstructing Receiver.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

NEW ZEALAND.—MORTGAGE FOR £

THIS Deed, made between the Riverton Harbour Board of the one part, and C.D. of the other part, witnesseth that, in consideration of the sum of £ sterling this day paid to the for the purposes of the Riverton Harbour Board by the said C.D. (the receipt whereof is hereby acknowledged), the Riverton Harbour Board (hereinafter called "the said Board"), by virtue and in pursuance of "The Riverton Harbour Board Land Act, 1877," do hereby convey and assign, by way of mortgage, unto the said C.D. 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 Ordinance constituting the said Board, and also all and singular the income receivable by the said Board by virtue of the said Act, to hold the premises unto the said C.D., his heirs and assigns [or their successors and assigns, *as the case may be*], until the said principal sum of £ , together with the interest for the same at the rate of pounds per centum per annum, be satisfied. And it is hereby agreed and declared between and by the said parties hereto, that such principal and interest respectively shall be repaid at the times and in manner respectively hereinafter mentioned, that is to say,—

1. The said principal sum by the application to annual drawings of a one per cent. accumulative sinking fund, the liability of the said Board continuing at the rate of pounds [*£1 more than the rate of interest*] per centum per the total amount of debt contracted, until the whole shall have been extinguished, and the balance, after paying the interest on the outstanding mortgages, to be applied to the annual drawings.

2. The holder for the time being of this mortgage will be entitled to receive from the said Board the sum of £ sterling on the day of following that on which this mortgage shall have been drawn for payment.

3. Such holder will also be entitled to receive interest on the said principal sum half-yearly, at the rate of pounds per centum per annum, to be computed from the day of , 187 , to the day on which the principal sum shall have become due and payable by reason of this mortgage having been drawn.

4. The drawings aforesaid shall take place in the month of in each year, commencing in the year 18 , and shall be conducted in the presence of such of the mortgage-holders as may be pleased to attend, and of a notary public.

5. The mortgages drawn shall be paid off at par on the day of next following the date on which the same shall have been drawn, and, together with the amount of such mortgage, interest thereon shall be paid up to the said day of and no longer.

6. No holder of this mortgage shall have any claim whatever on the revenues of the Colony of New Zealand or of the Provincial District of Otago in respect of this mortgage.

In witness whereof the have hereunto set their common seal, and the said hath hereunto set his hand, this day of 187 .

Scaled with the common seal of the in presence of .

THE SECOND PART OF THE FIRST SCHEDULE.

FORM OF TRANSFER OF MORTGAGE.

THIS DEED, made between the within-named C.D. of the one part, and E.F. of London, Merchant, of the other part, witnesseth that, in consideration of the sum of £ (the receipt whereof is hereby acknowledged), the said C.D. doth hereby transfer to the said E.F. and his assigns the within-written mortgage security, and all benefit and advantage thereof.

Dated this day of , 187 .

C.D.

Signed by the said C.D. in the presence of

SECOND SCHEDULE.

ALL that piece of land in the Lilburn District, Provincial District of Otago, containing 15,000 acres, more or less, boundary lines as follows:—Commencing at the confluence of the Lilburn River with the Waiau River; then due west to a point distant 514 chains; then by a line running due north 335 chains; thence by another line running due east to the bank of the Waiau River for 434 chains; thence Southward by the Waiau to commencing point; as the same is delineated on the plan hereto subjoined; the several linkages being a little more or less, and exclusive of Section 3, Lilburn District.