

Hon. Sir George Grey, K.C.B.

Thames Harbour Board Act 1876 Amendment.

ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Repeal of section 29 of "Thames Harbour Board Act, 1876."</p> <p>3. Governor may grant land below high-water mark at Thames to Harbour Board.</p> <p>4. When granted how to be held.</p> <p>5. Board to have power to settle and compromise all claims, contracts, &c.</p> <p>6. Right of mining reserved.</p> <p>7. Governor in Council may appoint Judge of the Supreme Court to ascertain rights of Natives, &c.</p> <p>8. Judge to determine question of fact as well as of law. How judgments and orders to be given.</p> <p>9. Judge may make orders as to costs.</p> <p>10. Amendment of sections 32 and 36 of "The Thames Harbour Board Act, 1876."</p>	<p>11. Power to Board to borrow. Interpretation of "harbour works."</p> <p>12. Board may issue debentures.</p> <p>13. How principal and interest moneys payable.</p> <p>14. Form of debenture.</p> <p>15. Debentures may be sold.</p> <p>16. How transferable.</p> <p>17. Debenture-holders to rank alike.</p> <p>18. Board may raise money by hypothecation of debentures.</p> <p>19. Sinking fund.</p> <p>20. How sinking fund to be invested.</p> <p>21. If debentures not paid Receiver to be appointed.</p> <p>23. Receiver to give security.</p> <p>23. When powers of Receiver to cease.</p> <p>24. Receiver to keep property of Board in repair.</p> <p>25. Certificate as to amount of debt of Board.</p> <p>26. Penalty for falsely sealing or signing certificates.</p> <p>27. When to come into force. Schedules.</p>
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A BILL INTITLED

AN ACT to amend "The Thames Harbour Board Act, 1876." Title.

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

- 5 **1.** The Short Title of this Act shall be "The Thames Harbour Board Act 1876 Amendment Act, 1878." Short Title.
- 2.** Section twenty-nine of "The Thames Harbour Board Act, 1876" (herein referred to as "the said Act"), is hereby repealed. Repeal of section 29 of "Thames Harbour Board Act, 1876."
- 10 **3.** The Governor in Council may, by grant under the public Seal of the Colony, grant to the Board constituted by the said Act any land situated below high-water mark within the Port of the Thames. Governor may grant land below high-water mark at Thames to Harbour Board.
- 15 **4.** Any land so granted shall be held by the Board and its successors subject to any just rights and claims of aboriginal natives under the Treaty of Waitangi which have not been satisfied and extinguished, and subject to all contracts, promises, and engagements heretofore made by the Superintendent of the Province of Auckland, or by any persons acting on behalf and with the authority of the Government of the colony, all of which contracts, promises, or engagements are hereby declared to be valid and effectual. The grant may be registered under "The Land Transfer Act, 1870," notwithstanding any express or implied trusts. When granted how to be held.
- 20 **5.** The Board shall have full power to settle, adjust, compound, and compromise such rights, claims, contracts, promises, and engagements, and execute all necessary conveyances, leases, and other instruments for carrying the same into effect. Board to have power to settle and compromise all claims, contracts, &c.

Right of mining reserved.

6. Such grant shall be made upon such terms and conditions as the Governor in Council thinks fit, but shall contain a reservation to Her Majesty, her heirs and successors, of gold and other minerals, and power to search for and work the same, and to grant licenses for that purpose, making reasonable compensation in respect of all damage done to the surface, and to buildings and other improvements thereon. 5

Governor in Council may appoint Judge of Supreme Court to ascertain rights of Natives, &c.

7. The Governor in Council may if he think fit, either before or after granting any land under the authority of this Act, appoint one of the Judges of the Supreme Court to ascertain the just claims and rights of aboriginal natives under the Treaty of Waitangi, which have not been satisfied and discharged, of and in the land authorized to be granted under this Act, and the contracts, promises, and engagements referred to in the *fourth* section of this Act affecting such land. The Judge shall direct himself by the best evidence that can be procured or that is laid before him, whether the same shall be strictly legal evidence or not. The Judge shall sit at such convenient times and places as he may appoint, and may adjourn from time to time. 10 15

Judge to determine question of fact as well as of law.

8. The Judge shall determine all questions of fact as well as of law, and may give such judgments and make such orders upon such terms and conditions as he may think fit, for all or any of the purposes following:— 20

How judgment and orders to be given.

- (1.) For defining the extent, terms, and conditions of such rights, claims, contracts, promises, and engagements, and matters incidental thereto; 25
- (2.) For the completion of any contract, promise, or engagement, as aforesaid;
- (3.) For directing how and by what instruments the rights, claims, contracts, promises, and engagements so to be ascertained shall be given effect to and protected: 30

And every such judgment or order shall have the full force and effect of a judgment or order of the Supreme Court, and shall in all respects be subject to and enforced by the law in force in relation to such judgments or orders.

Judge may make orders as to costs.

9. The Judge shall have the same power and functions generally which a Judge of the Supreme Court has in ordinary cases, and may make the like orders; and also shall have power to make orders for costs, which he may either fix at the hearing, or order to be taxed by the Registrar of the Supreme Court in the district in which the land is situate; all which orders shall have the same effect, and be enforced, as if made in ordinary cases by Judges of the Supreme Court. 35 40

Amendment of sections 32 and 36 of "The Thames Harbour Board Act, 1876."

10. From and after the coming into operation of this Act section thirty-six of the said Act shall be read as if the words "except the Chairman thereof" were inserted in the first line of such section after the word "Board" and before the word "shall." The word "thirty-five" in the thirty-second section of the said Act shall be omitted therefrom, and the word "ninety-nine" shall be inserted in lieu thereof, and such sections shall be read and construed accordingly. 45

Power to Board to borrow.

11. For the maintenance and construction of harbour works at the Port of the Thames it shall be lawful for the Thames Harbour Board to borrow and take up at interest not exceeding seven per centum per annum any sum of money not exceeding in the whole *one hundred thousand* pounds. 50

Interpretation of "harbour works."

"Harbour works" include any basin, graving-dock, slip, dock, pier, quay, wharf, jetty, bridge, viaduct, breakwater, embankment, or dam, or any reclamation of land in the Port of the Thames, or excavation, deepening, dredging, or widening of any channel, basin, or other part of the said port, and generally any works for the improvement, protection, or management of the said port. 55 60

Board may issue debentures.

12. In respect of the principal moneys to be raised as aforesaid the Board may issue debentures for sums of not less than one hundred

pounds each, the debentures and interest thereon shall in each case be a charge on the rents and income of the land and hereditaments granted under the authority of this Act, (subject to any of the rights, contracts, promises, and engagements affecting such land and hereditaments referred to in the *fourth* section of this Act and then subsisting), and on all rates and charges which shall be payable in respect of any wharf or dock thereon. No moneys borrowed under this Act, or interest thereon, shall be or become chargeable on the public revenue of the colony.

10 13. The principal and interest moneys to be secured as aforesaid shall be payable in New Zealand or elsewhere, as the Board may determine, and such debentures may be made redeemable in such manner and at such time or times as the Board may from time to time determine. How principal and interest moneys payable.

15 14. Every debenture shall be in the form or to the effect prescribed in the *First* Schedule to this Act, shall be numbered consecutively so that no two debentures shall at any time bear the same number, and shall be sealed with the common seal of the Board, and be signed by the Chairman and countersigned by the Treasurer or Agent appointed by the Board; and separate coupons for each payment of interest, signed, sealed, and numbered in like manner, shall be attached to each debenture, and shall be in the form or to the effect of the *Second* Schedule to this Act. No stamp duty shall be payable in respect of such debentures or coupons. Form of debenture.

20 15. Debentures under this Act may be sold in New Zealand or elsewhere by any Agent appointed by the Board, and shall be sold by public tender, at a price not less than a minimum to be fixed from time to time by the Board. No debenture shall be sold at such a price as to produce to the purchaser more than an interest of seven per centum on the price paid. Debentures may be sold.

30 16. Debentures and coupons respectively shall be transferable by delivery; and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the Corporation of all liability in respect of such debenture or coupon. How transferable.

35 17. The holder of any debenture or coupon shall not have any preference over any other holder by reason of any priority of date or otherwise, but all debenture-holders and coupon-holders shall rank alike and be entitled to equal rights. Debenture-holders to rank alike.

40 18. Prior to the sale of any such debentures, it shall be lawful for the Board from time to time to borrow and raise money, not exceeding the amount or the rate of interest hereinbefore specified, by hypothecation or mortgage of such debentures, upon such terms and conditions as the Board may think fit. Board may raise money by hypothecation of debentures.

45 19. For the purpose of providing a sinking fund for the liquidation of the principal, there shall, on the *first* day of *February* in each year after the date of the first debentures issued, be set apart out of the said rents and rates, or out of any other moneys received by the Board as tolls, dues, or fees, a sum equal to *two* per centum on all debentures issued at that time. Sinking fund.

50 20. Such sum shall be invested, together with all interest and profits accruing therefrom, in such securities as the Board from time to time directs; and such part of such accumulated sinking fund as may be necessary to repay the principal money of any debenture as the same shall become due shall be withdrawn and applied in the payment thereof. How sinking fund to be invested.

55 21. If the sum secured by any debenture or coupon issued under this Act is not paid upon presentation of such debenture or coupon at the place and time the same is payable, or at the same place within three months thereafter, the holder thereof may apply to a Judge of the Supreme Court of New Zealand for the appointment of a Receiver, If debentures not paid Receiver to be appointed.

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and the Judge may, and is hereby empowered upon hearing the applicant, to cause any member of the Board, and its officers or servants, to appear before him on a day to be fixed by such Judge, with all books and papers in their custody, and to give answers to all questions that such Judge may direct; and after the hearing of the parties the said Judge is empowered, if he shall see fit, to appoint some person to collect and receive the whole or such part as he may determine of all rents and rates derived from the land granted under the authority of this Act until such principal or interest, together with the costs of such application and of such collection are fully paid, and all securities held by the Board as accumulated sinking fund for the repayment of the loan shall, from and after the appointment of such Receiver, vest in him, together with all powers for the recovery of rents and rates over such lands. 5 10

Receiver to give security.

22. Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as such Judge may direct. 15

All moneys received by the Receiver shall be applied only as follows:—

- (1.) In payment of the expenses of the application and order;
- (2.) In payment of such remuneration to the Receiver as the Judge directs; 20
- (3.) In payment of the principal and interest of the loan, in respect of which the Receiver is appointed.

When powers of Receiver to cease.

23. At any time upon the order of the Judge of the Supreme Court, upon an application of the Board, the powers of the Receiver shall cease, and shall revert in the Board; and he shall forthwith pay any moneys in his hands to the Treasurer of the Thames Harbour Board. 25

Receiver to keep property of Board in repair.

24. During the time any Receiver is in possession he shall keep all wharves, houses, and other buildings or erections on any land granted under this Act the property of the Board, in repair, and insure such buildings against loss or damage from fire. 30

Certificate as to amount of debt of Board.

25. A certificate in the form or to the effect set forth in the *Third* Schedule of this Act, under the common seal of the Board, and purporting to be signed by two of the members for the time being of the Board, stating the amount previously borrowed and then outstanding and unpaid, shall be conclusive evidence in any Court of judicature, as against the Board, that no more than the total sum of money mentioned in the said certificate had, at the date of such certificate, been previously borrowed and then remained outstanding and unpaid. 35 40

Penalty for falsely sealing or signing certificates.

26. If any person shall fraudulently and falsely cause the seal of the Board to be placed to any such certificate, or shall fraudulently and falsely give or sign any such certificate, he shall be guilty of a misdemeanour and punishable by imprisonment with or without hard labour for not exceeding three years. 45

When to come into force.

27. This Act shall come into force on and after the *first* day of *January*, one thousand eight hundred and *seventy-nine*. 45

Schedules.

SCHEDULES.

FIRST SCHEDULE.

THAMES HARBOUR BOARD LOAN OF £

[Fund on which secured].

Debenture No.

Debenture for £

Payable at [State place of payment] on

Issued by the Thames Harbour Board, under an Act of the General Assembly of New Zealand intituled "The Thames Harbour Board Act 1876 Amendment Act, 1878."

N.B.—*The holder of this Debenture has no claim in respect thereof upon the Government of the Colony of New Zealand, or the revenues of such colony.*

On presentation of this Debenture at [*State place of payment*], on or after the day of , 18 , the bearer thereof will be entitled to receive £

Interest on this Debenture will cease after the day when the payment falls due, unless default is made in payment.

Issued under the Seal of the Thames Harbour Board, the day of 18 .
A.B., Chairman of Board.

C.D., Treasurer.

SECOND SCHEDULE.

FORM OF COUPON.

Debenture No. of the Thames Harbour Board, New Zealand, issued under "The Thames Harbour Board Act 1876 Amendment Act, 1878."

Secured on [*State on what secured*].

On presentation of this Coupon at [*State place of payment*], on and after the day of , 18 , the bearer thereof will be entitled to receive £

A.B., Chairman of the Board.

C.D., Treasurer.

THIRD SCHEDULE.

"THAMES HARBOUR BOARD ACT 1876 AMENDMENT ACT, 1878."

Certificate of Existing Liabilities of the Thames Harbour Board.

THIS is to certify that prior to this the day of , 18 , the Thames Harbour Board has borrowed under the above Act the sum of £ , and no more; and that the mortgages and debentures issued in respect of the moneys so borrowed, and now outstanding and unpaid, do not exceed, in the whole, the sum of £

Issued under the Seal of the Board, this day of , 18 .
(I.S.) A.B. } Members of
C.D. } the Board.