

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,
9th October, 1878.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Mr. Sutton.

Wairoa Harbour Board.

ANALYSIS.

Title.
1. Short Title.

CONSTITUTION OF BOARD.
Elections.

2. Board constituted.
3. Election of members.

A BILL INTITULED

AN ACT to constitute a Harbour Board for the Port of Wairoa. Title.

BE IT 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 shall be "The Wairoa Harbour Board Act, 1878," and it shall come into operation on the *first* day of *January*, one thousand eight hundred and seventy-nine. Short Title.

Struck out.

10	2. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there shall be something in the context repugnant thereto:—	Interpretation.
	"Port" means the Port of Wairoa, as defined at the time of coming into operation of this Act, or as it may hereafter be defined under "The Marine Act, 1867," or any Act amending the same.	
15	"Board" means the Harbour Board constituted under the provisions of this Act.	

<p>“County” means the County of Wairoa. “County Council” means the Council of the County of Wairoa. “Gazette” means the <i>New Zealand Gazette</i>. “Gazetted” means inserted in the <i>Gazette</i>.</p>	5
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CONSTITUTION OF BOARD.

Elections.

Board constituted.

3. 2. There is hereby constituted for the port of *Wairoa* a Board, to consist of the following seven persons :—

- (1.) Two persons to be from time to time appointed by the Governor, and whose names shall be inserted in the *Gazette*. 10
- (2.) The Chairman for the time being of the County Council.
- (3.) Two members to be elected by the ratepayers of the Wai-karemoana Riding of the County. 15
- (4.) Two members to be elected by the ratepayers of the Clyde Riding of the County.

Election of members.

4. 3. The elective members shall hold office for one year from the date of the annual election, and on the *second Monday* in the month of *February* in each year there shall be an election of the elective members of the Board, and subject to this Act, all members shall be eligible for re-election. 20

All elections of members of the Board who are required to be elected by the ratepayers shall be held in the manner provided by “The Regulation of Local Elections Act, 1876,” which Act is hereby incorporated with this Act. 25

Clauses 5 to 37 struck out.

Vacancies.

5. If any member of a Board shall, by writing addressed to the Chairman of the Board, resign his office of member of the Board, or die, or become of unsound mind, or accept any office of profit under the Board, or become interested either solely or jointly with any other person in any contract with the Board, otherwise than as a member of any incorporated or registered company or of any body corporate, or be adjudicated a bankrupt or insolvent, or take the benefit of or be brought under the operation of any Act relating to bankrupt or insolvent debtors, or be absent without leave of the Board from four consecutive meetings thereof, or be convicted of treason, felony, perjury, or any infamous crime, he shall immediately cease to be a member of the Board. 30 35

No Act of the Board shall be questioned on the ground that the seat of any member of the Board is vacant, or that any supposed member thereof is incapable of being a member. 40

How filled up.

6. If the office of any member of the Board shall become vacant from any of the causes last aforesaid, the election or appointment, as the case may be, of a new member shall, as soon as possible, be held or made, and such new member shall retain his office so long as the vacating member would have retained the same if no vacancy had occurred. 45

In default of members being elected Governor may fill up vacancies.

7. In the event of the ratepayers refusing or neglecting to elect the full number of elective members of the Board required by this Act, or to supply any vacancies, it shall be lawful for the Governor to appoint as many members as may be necessary to complete such number or to supply such vacancies, as the case may be. 50

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Chairman.

8. The first Board shall hold its first meeting on a day to be appointed by the Governor as soon as conveniently may be after the constitution thereof, for the election of a Chairman.

First meeting of Board.

5 Every succeeding Board shall hold a similar meeting on the second Tuesday after the annual election of the elective members thereof.

At every such meeting the Board, by a majority of the members present, shall elect one of its members to be Chairman, who shall hold office until the election of members of a new Board.

10 At all meetings of the Board, the Chairman, or in his absence such member of the Board as the majority of the members assembled shall choose, shall preside, and such Chairman or presiding member shall have a deliberative vote, and in all cases of equality a casting vote also.

15 If the Chairman shall from any cause cease to be a member of the Board, or resign the office of Chairman, the Board shall, as soon thereafter as conveniently may be, elect another member of the Board to be Chairman in his stead, who shall hold office until the election of his successor.

Meetings.

20 9. The Board shall hold an annual meeting, at noon on the first Monday in the month of June in each year, at the office of the Board. They shall also hold ordinary meetings for the transaction of general business; and the ordinary meetings shall be held at the office of the Board, at such stated time as the Board shall from time to time appoint.

Annual meetings.

Incorporation of Board.

30 10. The Board shall be a corporate body by the name of "The Wairoa Harbour Board," with perpetual succession and a common seal, and with full power and authority by that name to sue and be sued in all Courts whatsoever, and shall be capable in law for the purposes and subject to this Act to do and suffer all such acts and things as bodies corporate may do and suffer, with power to take and hold all such lands, tenements, or hereditaments as may be in any manner vested in the Board.

Incorporation of Board.

Officers.

40 11. The Board may from time to time appoint and employ a Secretary, Treasurer, Wharfinger, Collectors, and all such other officers to assist in the execution of this Act as it shall think proper, and from time to time remove any of such officers and appoint others in the room of such as shall be so removed, or as may die, resign, or discontinue their offices; and may, out of the Harbour Fund, pay such salaries and allowances to the said officers respectively as the Board shall think reasonable.

Board may appoint officers.

45 Before any officer, intrusted by the Board with the custody or control of moneys by virtue of his office, shall enter upon such office, the Board shall take sufficient security from him for the faithful execution thereof.

50 No member of the Board shall receive any salary or remuneration other than his actual travelling expenses.

No member of the Board shall, if any salary is attached to such office, be capable of being or continuing Clerk or Treasurer, or any other such officer of the Board.

55 One person may hold two or more of any of the offices hereinbefore mentioned.

By-laws.

Board may make
by-laws.

12. The Board may from time to time make by-laws for the following purposes:—

- (1.) Regulating the manner in which and times when meetings shall be called and held. 5
- (2.) Appointing the place of meeting and providing for adjournments of meetings.
- (3.) Fixing the quorum of meetings. No such quorum shall be fixed at less than a clear majority of the Board.
- (4.) Regulating the duties of officers. 10
- (5.) Generally for regulating the conduct of the business and proceedings of the Board.

Such by-laws shall not be repugnant to the provisions of this Act, or any other Act of the General Assembly, and they shall not come into operation until after a copy under the seal of the Board has been sent to, and the receipt thereof has been acknowledged by, the Colonial Secretary. 15

Disallowance of
by-laws.

13. The Governor may, within six months after receiving the copy of any by-law, disallow the same, and upon such disallowance being gazetted such by-law shall cease to have any force; but such disallowance shall not affect the validity of anything theretofore done under the by-law so disallowed. 20

HARBOUR FUND.

Moneys constituting
Harbour Fund.

14. The Harbour Fund shall consist of the moneys arising from the following sources:— 25

- (1.) Wharfage rates.
- (2.) Harbour improvement rate.
- (3.) Rents and profits of land vested in the Board.
- (4.) Proceeds and profits of land set aside as endowments.
- (5.) All other moneys which may be received by or become the property of the Board. 30

Disposal of moneys
comprising Harbour
Fund.

15. All moneys arising from any of the sources aforesaid shall be paid into an account at such bank as the Board may from time to time determine, to an account to be called "The Harbour Fund Account," and be expended and laid out in the payment of expenses incurred by the Board in carrying out this Act, and in the construction, maintenance, and repair of harbour works within the port, as hereinafter mentioned, or for the payment of interest and sinking fund, if any, upon moneys borrowed for the purposes of such works. 35

Harbour Improvement Rate.—Exemptions. 40

Board may make
regulations respecting
tonnage dues, &c.

16. The Board may from time to time make, alter, or revoke regulations providing that a harbour improvement rate, not exceeding in any case one shilling and sixpence per ton, by weight or by measurement, as shall be expressed in such regulation, shall be levied upon all goods and merchandise discharged at or shipped from the port; and in and by such regulations the Board may provide for the manner of levying and collecting such rate, and by whom the same shall be paid, and in what manner the same shall be paid to any authorized officer of the Board. 45

The Board may by any such regulations impose penalties for any breach thereof, not exceeding *five pounds* for any one offence, and every such regulation shall be so framed as to allow the Court before which any such penalty shall be brought to be recovered to order a part only of such penalty to be paid. 50

No such regulations, or any alteration thereof, shall have any force or effect unless and until the same shall have been approved of by the 55

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Governor in Council, and shall have been published in the *Gazette*, and at least one newspaper circulating in the county.

5 17. The Board shall not levy any rates, tolls, or dues of any kind in respect of any vessel belonging to or in the service of Her Majesty, or belonging to or in the service of the Government of the colony, or in respect of the landing, shipping, or wharfing of any goods or merchandise the property of Her Majesty, or of the Government of the colony, or landed, shipped, or wharfed on her or their account.

Vessels and goods the property of the Crown or Government exempt from tolls and dues.

10 18. The Board shall not levy any pilotage, lighthouse, tonnage, or harbour dues in respect of any steamships carrying mails to or from places outside the Colony of New Zealand, under any contract made with the Postmaster-General, in cases where it is provided by the terms of such contract that such steamships shall be exempt therefrom.

Steamers carrying mails exempt from tolls and dues in certain cases.

POWERS OF BOARD.

15 (1.) *Contracts.*

19. The Board may enter into contracts with any person for the execution of any works permitted or authorized to be done by the Board, or for furnishing materials, or for any other things necessary for the purposes of this Act; and every such contract for the execution of any work shall be in writing, and shall specify the work to be done, the materials to be furnished, the price to be paid for the same, and the time or times within which the work is to be completed, and the penalties to be suffered in case of non-performance thereof; and the power hereby granted to the Board to enter into contracts may lawfully be exercised as follows, that is to say,—

Board may enter into contracts for certain works.

20 Any contract which, if made between private persons, would be by law required to be in writing and under seal, the Board may make in writing and under the common seal of the Board, and in the same manner may vary or discharge the same.

30 Any contract which, if made between private persons, would be by law required to be in writing, signed by the parties to be charged therewith, the Board may make in writing, signed by the members thereof, or any two of their number acting by their direction and on behalf of the Board, and in the same manner may vary or discharge the same.

35 Any contract which, if made between private persons, would be by law valid although made by parol only and not reduced into writing, the members of the Board, or any two of them acting by the direction of and on behalf of the Board, may make by parol only, without writing, and in the same manner may vary or discharge the same.

40 Provided that any agreement made by parol only shall not be valid for any sum exceeding *ten* pounds.

45 20. No contract, the amount whereof exceeds twenty pounds, shall be made except after public tender, of which notice shall be given in at least one newspaper circulating in the county; but the Board shall not be compelled to accept the lowest tender.

Contract exceeding £20 to be made only after public tender.

50 21. The Board may compound with any person for such sum of money or other recompense as it thinks fit in respect of the breach of any contract, or any penalty incurred thereunder, or of any debt due to the Board, whether before or after any action or suit is brought for the recovery of the same.

Power to compound for breach of contracts.

(2.) *Letting Lands.*

55 22. The Board may let any lands vested in it, or any part thereof, at such rents and profits and upon such terms and conditions as the Board shall determine, so that such leases be for any term not exceeding thirty-five years, to take effect from the time of the execution thereof.

Board may lease lands.

(3.) Harbour Works.

Reclamation works.

23. The Board may reclaim from the sea any land which may be or become vested in it, and for such purpose may construct and maintain such works as may be necessary.

Breakwaters, docks, &c.

24. The Board may construct such breakwaters, embankments, walls, docks, quays, wharves, piers, and jetties, as shall be by the Board considered to be necessary for the requirements of the port, and do all things necessary for the improvement of the navigation of the port, and also erect such cranes, sheds, and works for the improvement of the said port as shall be by the Board judged necessary and proper for the safety, convenience, or reception of vessels resorting to the said port, and for the more convenient loading and unloading of such vessels, or for the safety and protection of any works constructed or proposed to be constructed by the Board.

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(4.) Miscellaneous.

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Powers of Superintendent under sections 30, 31, and 32 of "Marine Act, 1867," vested in Board.

25. The Board, for the purposes of the port, shall have and may exercise all the powers and authorities which the Superintendent of the Province of Hawke's Bay had and might have exercised under the thirtieth, thirty-first, and thirty-second sections of "The Marine Act, 1867."

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All such powers and authorities shall be exercised subject to the provisions of the last-mentioned Act, except that where any such power or authority is required to be exercised by Proclamation, it shall be sufficient if the Board cause a notification to be inserted in some newspaper circulating in the county.

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Certain provisions of "Marine Act, 1867," and "Harbour Works Act, 1874," to apply.

26. All works constructed by the Board, or proposed to be constructed, shall be subject to the provisions of the thirty-third section of "The Marine Act, 1867," as amended by "The Harbour Works Act, 1874."

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If at any time the Board shall make or construct any such harbour works as hereinbefore mentioned without the approval of the Governor in Council, or shall without such approval deviate from the plans and specifications which shall have been approved, or shall refuse or neglect to complete any such work after having commenced the same, although the specifications and plans thereof have been approved, it shall be lawful for any person appointed by the Governor in Council to take such steps as shall be necessary to abate and remove every such harbour work (whether in the course of construction or completed), and restore the site thereof to its former condition, at the cost of the Board, and the amount of such cost shall be a debt due to the Crown, and recoverable against the Board accordingly.

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ACCOUNTS AND AUDIT.

Board to keep books of accounts, &c.

27. The Board shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums received and paid for and on account of this Act, and of the several purposes for which such sums of money shall have been received and paid, which books shall at all reasonable times be open to the inspection of any of the members of the Board, and any holder of debentures, and any person being a creditor of the Board, without fee or reward.

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The members of the Board and such persons as aforesaid, or any of them, may take copies of all extracts from the said books without paying anything for the same.

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Any clerk or other person having the custody of such books, who shall not, on the reasonable demand of any member of the Board or any such person as aforesaid, permit him to inspect the said books, or to take such copies or extracts as aforesaid, shall be liable to a penalty of five pounds for every such offence.

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28. The Board shall cause its accounts to be balanced in every year to a period not less than one month before the *first Monday* in the month of *March* in each year, and shall cause a true statement and account to be drawn out of all contracts entered into, and of all moneys received or expended by virtue of this Act, during the preceding year, and of all available assets of, and of all debts then owing by, the Board.

Accounts to be balanced, and statement of accounts to be prepared.

Such statement and account shall be laid before the Auditors of the Board, to be appointed asherein after mentioned, who are hereby required to attend at the office of the Board as soon as conveniently may be after the balancing of the said accounts and drawing out of the said statement and account, and who shall, in the presence of the Clerk if he desire to be present, proceed to audit the accounts of the year preceding such balancing.

29. The Board shall produce and lay before the Auditors the accounts so balanced as aforesaid, together with the said statement and account, accompanied with proper vouchers in support of the same, and all books, papers, and writings in their custody or power relating thereto.

Such statement to be laid before Auditors.

Any person interested in the said accounts, either as a holder of debentures or a creditor of the Board, may be present at the audit of the said accounts by himself or his agent, and may make any objection to any part of such accounts.

If the accounts of the Board be found correct, such Auditors shall sign the same in token of their allowance thereof; but if such Auditors think there is just cause to disapprove of any part of the said accounts, they may disallow any such parts of the said accounts as shall be so disapproved of.

30. The Board shall cause such statement and account to be printed, and allow the same to remain for inspection at the office of the Board; and every holder of debentures, creditor, or ratepayer of the County may at all reasonable times inspect such statement and account, and compare the same with the books and documents relating thereto in the possession of the Board.

Statement to be printed and left open for inspection.

The Clerk shall, on demand, furnish a printed copy of the said statement and account to every such holder of debentures and creditor of the Board without fee.

Seven days at least before the meeting for examining and settling such accounts as hereinafter mentioned, the Board shall give public notice of such intended meeting, stating in such notice that the said statement and account are printed, and lie at the office of the Board ready for the inspection of the creditors or other parties interested.

31. The accounts of the Board, so balanced and audited, and either allowed or disallowed by the Auditors, together with the said statement and account, shall be produced at the annual meeting of the Board, or at some adjournment thereof, at which meeting all such holders of debentures, creditors, and other persons interested, may be present.

Accounts to be finally settled at annual meeting.

The accounts shall be then finally examined and settled by the Board; and if the same be found correct, they shall be allowed by the Board, and certified accordingly under the hand of the Chairman of the Board, or person who shall act as Chairman at such meeting.

After such accounts have been so allowed and signed by such Chairman, and also by the Auditors, they shall be forwarded to the Colonial Secretary, who shall cause an abstract of the same to be published in the *Gazette*, and thereupon the same shall be final in regard to all persons whomsoever.

32. The Governor may from time to time appoint one or more persons, as he shall think fit, to be an Auditor or Auditors for the purposes of this Act, and from time to time may remove any such

Governor to appoint Auditors.

persons; and on the death, resignation, or removal of any such Auditor or Auditors, may appoint any other person or persons in the place of any person so dying, resigning, or being removed.

The Governor may direct that such reasonable salary or remuneration as he thinks fit may be paid to such Auditor or Auditors, and the amount thereof shall be paid out of the Harbour Fund.

The Governor may, if he shall think fit, from time to time make regulations regulating the manner in which such Auditor or Auditors shall audit the accounts of the Board.

ENDOWMENTS.

33. The Governor in Council may, in the name and on behalf of Her Majesty, grant to the Board any portion of the land which the Board may reclaim from the sea; and such land, when so granted, shall be held by the Board for the purposes of this Act.

34. It shall be lawful for the Governor, or any person whom he may appoint for that purpose, on behalf of Her Majesty, from time to time and at any time hereafter, upon giving one month's notice in writing to the Board, to enter upon and take possession of such portion of any lands that may hereafter be granted to or vested in the Board under this Act, and that may be required for the erection or construction of any public works or buildings of any kind, or for the purposes of any railway authorized to be constructed under any Act of the General Assembly now or hereafter to be in force.

The Board shall be entitled to receive compensation for any land so taken, but not in any case exceeding the amount which the Board shall have actually laid out upon the said land, either for cost of reclamation or otherwise in permanently improving the same; and the amount of such outlay shall, in case of dispute, be ascertained and settled in the like manner as claims for compensation may be ascertained and settled under any Act for the time being in force for ascertaining and settling claims to compensation for land taken for public purposes.

Upon the giving of such notice as aforesaid, the lands specified therein shall vest absolutely in Her Majesty the Queen, her heirs and successors, freed and discharged from any trusts upon which the same may be held.

All moneys to be paid by way of reimbursing the Board for such actual outlay as aforesaid shall be paid out of such sum or sums as may from time to time be appropriated for that purpose by the General Assembly.

Nothing herein contained shall be construed to limit or abridge any other right or power that may be vested in Her Majesty, or the Governor, or in any other person on behalf of Her said Majesty, of taking lands for all or any of such purposes as hereinbefore mentioned.

MISCELLANEOUS.

35. All penalties imposed by this Act, or for the breach of any by-laws or regulations made hereunder, or in pursuance of the powers hereby granted, may be recovered in a summary way.

36. The Board shall be deemed to be a Harbour Board established under and in pursuance of the provisions of "The Harbour Boards Act, 1870," and, in addition to the powers conferred by this Act, shall have all the powers and authorities conferred by the said Act upon Harbour Boards constituted thereunder.

37. The production of the Gazette containing any by-laws or regulations required by this Act to be inserted therein shall in all proceedings be alone sufficient *prima facie* evidence that all the provisions of this Act relating to the making and confirmation of such by-laws or regulations have been duly complied with, and that such by-laws or regulations are in full force and effect; and the onus of proving the contrary shall in every case be on the person disputing the validity of such by-laws or regulations.

Governor in Council may make grant to Board of lands reclaimed by Board.

Power to the Governor to take portion of lands vested in Board for works of public utility.

Penalties, &c., how recovered.

Board to be deemed a Harbour Board under "The Harbour Boards Act, 1870."

Production of Gazette to be *prima facie* evidence of validity of by-laws or regulations.