

New Zealand.



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1905, No. 15.—*Local.*

Title.	AN ACT to consolidate certain Acts of the General Assembly relating to Gisborne Harbour. [23rd September, 1905.]
	BE IT 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 Gisborne Harbour Act, 1905.”
Act to be a special Act.	2. This Act shall be deemed to be a special Act within the meaning of “The Harbours Act, 1878,” which Act is hereby incorporated with this Act.
Interpretation.	3. In this Act, if not inconsistent with the context,— “Board” means the Gisborne Harbour Board as constituted under this Act: “Chairman” means the Chairman of the Board: “Harbour district” or “district” and “special district” mean the harbour district and special harbour district established under this Act: “Returning Officer” means the officer appointed by the Board to conduct elections within the harbour district: “The said Act” means “The Harbours Act, 1878.”

4. The limits of Gisborne Harbour shall be those set forth in the First Schedule hereto. Harbour defined.

Constitution of Harbour Board.

5. The Board shall consist of nine members, of whom five shall form a quorum; and such members shall be respectively appointed, succeed to office, and be elected as follows:— Constitution of Board.

- (a.) Three members to be appointed by the Governor;
- (b.) The Mayor of the Borough of Gisborne for the time being;
- (c.) The Chairman of the County of Cook for the time being;
- (d.) Two members to be elected by the ratepayers of the Counties of Cook and Waiapu; and
- (e.) Two members to be elected by the ratepayers of the Borough of Gisborne, together with all persons who have paid harbour, pilotage, and wharfage dues and charges in respect of the Harbour of Gisborne to the amount of not less than five pounds sterling during the year preceding the day of election.

6. (1.) Any person qualified to be and not incapable of being a Councillor of the said borough shall be eligible for election by the ratepayers of the said borough as a member of the Board. Qualification of members.

(2.) Any person qualified to be and not incapable of being a member of the Council of the County of Cook or Waiapu shall be eligible for election as a member of the Board for the county in which he is so qualified.

7. "The Local Elections Act, 1904," shall apply to every election held under this Act, and the Board shall appoint some person to be a Returning Officer for the conduct of elections throughout the harbour district. Local Elections Act applied.

8. (1.) The secretary of the Board shall, in the month of January in each year, prepare a list of all those persons who have in the preceding twelve months paid the sum of five pounds and upwards for harbour, pilotage, or wharf dues and charges, and shall forward such list to the Returning Officer. List of payers of dues.

(2.) The said list shall be the list for the year of the persons qualified to vote for election of members of the Board in respect of payment of dues, and every such person shall have one vote only for each such member to be elected.

9. (1.) The district electors roll in force for the time being, with the addition of the voters list hereinbefore mentioned, shall be the roll to be used in the borough at elections under this Act. Roll of electors in borough.

(2.) Every elector whose name appears on such roll shall have one vote and no more.

10. For the purpose of holding elections in the Counties of Cook and Waiapu under this Act the following provisions shall apply:— Elections in counties.

- (a.) The Chairman of each county shall from time to time, at least fourteen days before the date appointed for the holding of an election, require the Clerk of the Council, in the month of January next preceding such election, to make up from the ratepayers rolls then in force for the several ridings of the county a separate roll to be used at elections under this Act.

(b.) Such roll may be either written or printed, or partly written and partly printed; and it shall be the duty of the aforesaid Chairman to see that the roll authorised to be made for the purposes of this Act is properly made; and the same when signed by the Chairman and Clerk shall, without any further authority or proceeding, be deemed to be the roll for the said county to be used at election of members of the Board under this Act.

(c.) Every elector at elections within the Counties of Cook and Waiapu shall have the same number of votes as he would have at elections of members of the County Councils.

First and subsequent elections.

11. (1.) The first election of the elective members shall be held on the second Monday in February, one thousand nine hundred and seven; and the members then elected shall come into office on their election, and shall hold office until the next biennial election of members to be held as prescribed by the said Act.

(2.) The members of the Board in office on the passing of this Act shall hold office until the first election of members under this Act.

Endowment.

Endowment lands.

12. (1.) The parcels of land described in the Second and Third Schedules hereto are hereby set apart as an endowment for the Gisborne Harbour for the purposes of this Act; provided that the said land shall only be disposed of by lease, as provided for in this Act.

Power to lease.

(2.) The Board may lease any lands vested in it or over which it has any control (other than those described in the said Third Schedule, or any part thereof) at such rents and profits and upon such terms and conditions as it determines, so that such leases be for any term not exceeding sixty-five years, and may let any of the lands described in the said Third Schedule for any period not exceeding thirty years, to take effect in every case from the time of the execution thereof.

Rating-powers of the Board.

Harbour district defined.

13. A harbour district is hereby constituted for the purpose of this Act, and such district shall comprise the whole of the Counties of Waiapu and Cook and the Borough of Gisborne.

Power to levy rate.

14. (1.) The Board shall make and levy, in the proportions in the different parts of the harbour district hereinafter mentioned, a rate not exceeding one penny in the pound upon all rateable property in the harbour district.

(2.) The rate to be levied on the rateable property in the Borough of Gisborne shall be double the rate to be levied on the rateable property in the other parts of the harbour district.

(3.) The amount to be levied under this section in each year shall not exceed such amount as is required to provide for the payment of interest, sinking fund, and other charges on the loan of two hundred thousand pounds raised under the authority of "The Gisborne Harbour Act, 1884," after taking into account whatever sum of money may be available for payment thereof from the revenue of the Board for the previous year.

15. The proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of the loan heretofore raised by the Board. Application of rate.

16. Whereas upon the raising of the said loan of two hundred thousand pounds the Board, in order to better secure the sum so borrowed, entered into an engagement with the debenture-holders to set aside and invest a sum of twenty-five thousand pounds as a sinking fund: And whereas it was enacted by law that it should be unlawful for the Board, without the sanction of the General Assembly first had and obtained, to expend a greater sum than sixty-five thousand pounds: And whereas the Board was subsequently authorised by "The Gisborne Harbour Act 1884 Amendment Act, 1888," to expend a further sum of forty thousand pounds upon condition that the interest payable upon the said sum of forty thousand pounds should be paid by a special-district rate to be raised and levied upon all rateable property within the Borough of Gisborne and the County of Cook, but not within the County of Waiapu (hereinafter referred to as "the special district"), as provided in the last-mentioned Act: And whereas it was further enacted that, after deducting the said sum of forty thousand pounds and the said sum of sixty-five thousand pounds, the balance of the loan of two hundred thousand pounds, including the sum of twenty-five thousand pounds and any interest accrued thereon in the hands of the Sinking Fund Commissioners appointed by the Board, should be vested in the Public Trustee, and such moneys were duly vested accordingly: Be it therefore enacted as follows:— Special-district rate.

- (a.) The proportion of interest payable upon the said sum of forty thousand pounds shall be raised and paid by a special-district rate to be raised and levied upon all rateable property within the special district.
- (b.) Such special-district rate shall not exceed twopence in the pound in the Borough of Gisborne, and one penny in the pound in the County of Cook; provided that the rate levied upon rateable property in the Borough of Gisborne shall be double the rate levied upon rateable property in the County of Cook.
- (c.) The special-district rate shall not be deemed to be a special rate within the meaning of "The Rating Act, 1894," but shall for all purposes be deemed to be an ordinary and additional rate raised and levied over rateable property in a restricted district.

17. (1.) For every annual period commencing from the first day of January the Board shall raise the annual amount required to provide the sinking fund and the balance of interest on the loan not provided for by the special-district rate by the ordinary rate to be raised and levied on the rateable property of the whole harbour district as is hereinbefore provided.

(2.) The annual amount required to provide the sinking fund and the balance of interest on the loan not provided for by the special-district rate shall mean such sum as the Board may in any year estimate to be necessary for that purpose, after taking into account the estimated balance of ordinary revenue available in

Balance of annual charges to be raised by ordinary rate.

that year (deducting working-expenses and cost of administration) and the interest accrued or accruing *de die in diem* within that year upon the then unexpended balance of loan fund vested in the Public Trustee as aforesaid.

Rates payable half-yearly.

18. The special-district rate and the ordinary rate for each annual period shall be payable within the annual period in two equal instalments, at such times in each case, not being necessarily the same times, as the Board from time to time determines.

Rate not to be quashed.

19. No rate made under this Act shall be capable of being set aside or of being quashed by any proceedings of any Court or otherwise, or no defect in the same or in the time prescribed for the payment of any instalment shall be set up as a defence to any action which may be brought to recover the same.

Interest on loan fund to be payable to the Board.

20. The income of all investments by the Public Trustee of loan fund of the Board vested in him as aforesaid, including the income of investments of the said sum of twenty-five thousand pounds, but excluding the income of all sinking fund and accretions thereof, shall hereafter be paid over by the Public Trustee to the Board in each year as soon as conveniently may be after such income is received by him, save only that the Public Trustee may, and he is hereby directed to, deduct and retain in each year out of such income any moneys payable to him by the Board in that year, whether for sinking fund or otherwise:

Provided that it shall not be necessary for the Board to pay, and the Board is hereby relieved from paying, the sinking fund of one pound per centum per annum upon the two sums of fifty-nine thousand one hundred and sixty-six pounds and twenty-five thousand pounds, part of the loan of two hundred thousand pounds, paid by the Board to the Public Trustee.

Repayment of advance made to pay off overdraft.

21. Whereas the Board prior to the passing of "The Gisborne Harbour Board Act 1884 Amendment Act, 1887," incurred an overdraft at the bank on the General Account, and it was by the last-mentioned Act provided that it should be lawful for the Board to advance such sums from the Loan Account as should be sufficient to pay off such overdraft, and that the Board should refund one-tenth part of such sum to the Loan Account out of the general revenue of the Board during each year for ten years after the passing of the said Amendment Act: And whereas it is expedient to postpone such payment: Be it therefore enacted that the said period of ten years so far as it is unexpired shall be intercepted, and shall not be deemed to run or to have run since the payment of the second instalment until the balance of loan-money now vested in the Public Trustee is expended on the harbour-works, or the year commencing on the first day of November, one thousand nine hundred and fifteen, whichever first happens; and it shall not be incumbent upon the Board, until such expenditure of balance or loan-money now vested aforesaid or the first day of November, one thousand nine hundred and fifteen, as the case may be, to refund any such instalment.

Further payments out of loan fund of £15,000 and £20,000.

22. Whereas by "The Gisborne Harbour Board Empowering Act, 1896," the Public Trustee was directed to pay to the Board out of loan-moneys in his hands the sum of fifteen thousand pounds for

the purpose of harbour-works: And whereas by the provisions of "The Gisborne Harbour Board Further Empowering Act, 1900," the Public Trustee was directed to pay to the Board also out of loan-moneys a further sum of twenty thousand pounds for the purposes of harbour-works, and both of such sums were declared to be advanced on the same conditions as the first sum of forty thousand pounds: Be it therefore enacted that charges for interest and sinking fund upon the said sums of fifteen thousand pounds and twenty thousand pounds shall be raised and paid only as in the case of the aforesaid sum of forty thousand pounds previously authorised against the special district constituted under this Act.

23. Subject to the provisions of this Act, all moneys and funds vested in the Public Trustee shall be held, invested, and administered by him in accordance with "The Public Trust Office Consolidation Act, 1894."

Funds held by the Public Trustee.

24. It shall be the duty of the Public Trustee to invest all moneys the property of the Board (including in such moneys all unexpended loan-moneys, sinking fund, and the accretions thereof) as may from time to time be available for investment in manner following:—

Investment of funds.

- (a.) On first mortgage of any real estate in New Zealand held in fee-simple to an amount not exceeding three-fifths of its estimated value, according to a valuation to be approved of by the Public Trust Board;
- (b.) In purchasing debentures of the Board issued to secure the said loan of two hundred thousand pounds (any debenture so purchased shall be deemed to be cancelled);
- (c.) In the Government securities of the United Kingdom or of any colony or dependency thereof issued under the authority of the Parliament or other legislative authority of the said kingdom, colony, or dependency respectively, and secured upon the public revenues thereof; or
- (d.) On debentures issued by any local authority under any law now or hereafter in force secured upon general or special rates.

25. The Public Trustee shall from time to time as funds become available for investment give notice thereof to the Board, which may forward a recommendation of any security within the class hereinbefore authorised in any part of the colony in which the Board considers an investment should be made; and if, on an approved valuation by the Public Trustee, the requisite margin is shown, such investment shall be made by the Public Trustee out of the funds of the Board available for that purpose.

Public Trustee to give notice when funds available for investment.

26. (1.) When and so often as the Board fails to pay at the proper time and place any sum, either of principal or interest or sinking fund, which it ought to pay under the Act, or in any other event which may entitle the debenture-holders or creditors of the Board to intervene, 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 the petition, appoint upon such terms as to security and

Appointment and powers of Receiver on default by Board.

remuneration as he thinks fit a Receiver of the rates liable for the payment of such sum.

(2.) Such rates 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 Board.

(3.) All powers for the recovery of such 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.

(4.) All moneys received by the Receiver shall be applied—

(a.) In payment of the expenses of the application and order ;

(b.) In payment of the Receiver's remuneration fixed as aforesaid, and his reasonable and necessary expenses ;

(c.) In payment *pro rata* of the sums secured by the said rates and then overdue by the Board ; and

(d.) The residue after payment of the above to the Board.

(5.) The Receiver shall account for all such moneys in such manner as the Judge directs.

(6.) When all the sums then overdue are paid, or at any time by an order of a Judge of the Supreme Court on the application of the Board, if such Judge thinks 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 it.

Repeal.

27. The Acts mentioned in the Fourth Schedule hereto are hereby repealed ; but such repeal shall not affect—

(a.) The past operation of any Act hereby repealed ;

(b.) Anything lawfully done under or validated by any Act hereby repealed ;

(c.) The construction of any work, the purchase of any chattel, the raising of any loan, or the making of any rate under any Act hereby repealed ;

(d.) Any right, title, interest, or privilege, any liability incurred, or any act, matter, appointment, or thing done or made under any Act hereby repealed.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

SEAWARD LIMITS OF GISBORNE HARBOUR.

A STRAIGHT line from Young Nick's Head to Tuahine Point.

SECOND SCHEDULE.

FORESHORE ENDOWMENT.

ALL that parcel of land situate in the Poverty Bay District, in the Provincial District of Auckland, bounded towards the north by high-water mark of the ocean from a point in line with the production of the western side of Lytton Road, in the Town of Gisborne, to the foot-bridge across the Waikanae at Lowe Street ; towards the west by that bridge to high-water mark on the left bank of the

Waikanae; towards the north and west by the said high-water mark to the northern end of Lytton Road aforesaid, on the right bank of the Taruheru; towards the west by a line in continuation of the western side of the said Lytton Road to high-water mark on the left bank of the Taruheru River; again towards the north by high-water mark to a point opposite the confluence of the Taruheru with the Waimata; thence by a line running due east to the left bank of the Waimata River at high-water mark; towards the east by said high-water mark to a point about 500 ft. up the Haupuwahakapatu Creek; thence by a line running due south to high-water mark on the left bank of the said creek; thence by said high-water mark to and along the Turanganui River and the ocean to a point about 3,500 ft. in a direct line from Maori Point; thence by a line due south to low-water mark; thence generally towards the south by low-water mark of the ocean to a point due south of the starting-point; and thence towards the west by a right line running due north to the starting-point.

THIRD SCHEDULE.

FURTHER ENDOWMENT.

ALL that parcel of land situated in the Tologa Bay district known as the Tauwhareparae Block, containing by admeasurement 44,150 acres.

FOURTH SCHEDULE.

ACTS REPEALED.

- 1882, No. 10, Local.—“Gisborne Harbour Board Act, 1882.”
- 1884, No. 4, Local.—“Gisborne Harbour Act, 1884.”
- 1887, No. 19, Local.—“Gisborne Harbour Act 1884 Amendment Act, 1887.”
- 1888, No. 8, Local.—“Gisborne Harbour Act 1884 Amendment Act, 1888.”
- 1889, No. 10, Local.—“Gisborne Harbour Act 1884 Amendment Act, 1889.”
- 1890, No. 22, Local.—“Gisborne Harbour Act 1884 Amendment Act, 1890.”
- 1892, No. 21, Local.—“Gisborne Harbour Board Act 1884 Amendment Act, 1892.”
- 1894, No. 24, Local.—“Gisborne Harbour Act 1884 Amendment Act, 1894.”
- 1896, No. 8, Local.—“Gisborne Harbour Board Empowering Act, 1896.”
- 1900, No. 5, Local.—“Gisborne Harbour Board Further Empowering Act, 1900.”
- 1903, No. 14, Local.—“Gisborne Harbour Board Amendment Act, 1903.”