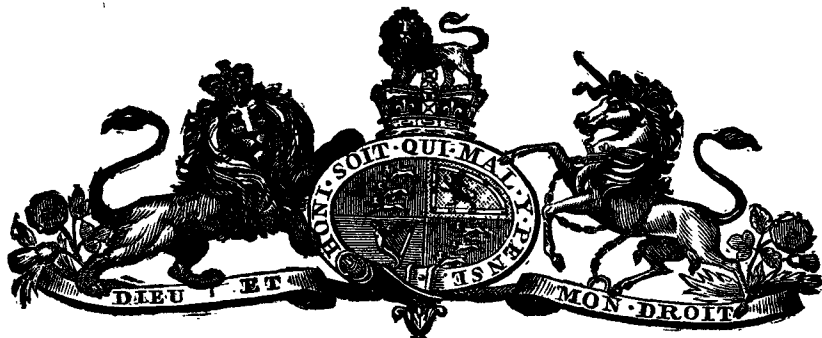


NEW ZEALAND.



TRICESIMO NONO

VICTORIÆ REGINÆ.

No. LXV.

ANALYSIS.

<p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Constitution of Board. 3. Number of Members. 4. Names of first members. 5. Incorporation of Board. 6. Vacancies how filled up. 7. Vesting in Board of lands in Schedule to "The Napier Harbour Act, 1874." 8. Power to make by-laws. 9. Portion of pilot and harbour dues to be expended by Board. 10. Power to make general harbour improvement rate. Proviso. 11. Moneys received to be expended on harbour works. 12. Exemptions from rate. 13. Goods not to be removed without receipt from Board that rates &c. have been paid. 	<ol style="list-style-type: none"> 14. Power to enter into contracts. 15. Power to lease for thirty-five years. 16. Rents of lands to be managed by Board. 17. Power to reclaim land. 18. Power to construct harbour works. 19. Accounts to be kept. 20. Act to be subject to "Marine Act, 1867," as amended, and Board to be Harbour Board within "Harbour Boards Act, 1870." 21. Power to borrow. 22. Form of security. Provision that in certain cases interest to be charged on land fund of province. 23. Mortgages to be numbered. 24. No rights created by priority of mortgages. 25. Power to Board to appoint agents for raising loans. 26. Disqualification Clause. Schedules.
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AN ACT to constitute a Harbour Board for the Port of Napier. Title.
[21st October, 1875.]

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 Napier Harbour Board Act, 1875." Short Title.
2. There is hereby constituted for the Port of Napier a Harbour Board, and the limits of the said port shall be those which have been or may be defined under or in pursuance of "The Marine Act, 1867," or any Act amending the same. Constitution of Board.
3. The Harbour Board hereby constituted shall consist of twelve members, of whom the person for the time being holding the office of Mayor of Napier shall be one, and five members shall form a quorum. Number of Members.
4. The following persons shall be the first members of the said Names of first members.

Napier Harbour Board.

Board :—John Davies Ormond, John Gibson Kinross, Alexander Kennedy, John Alexander Smith, Alfred Newman, Joseph Rhodes, James Nelson Williams, John Helier Vautier, Frederick Sutton, Henry Charles Robjohns, John Chambers, and the Mayor of Napier for the time being.

Incorporation of Board.

5. The said Board hereby constituted shall be a corporate body in fact and in law, by the name of "The Napier Harbour Board," with perpetual succession and a common seal, and with full power and authority by that name to sue and be sued, plead and be impleaded, defend and be defended, in all Courts, and all causes and suits at law or in equity whatsoever, with power to take purchase and hold all goods chattels and personal property whatsoever which may be required for the improvement or management of the Harbour of Napier, and also to take and hold all such lands hereditaments and possessions as may be transferred to or vested in the said Board as sites for wharves docks or warehouses.

Vacancies how filled up.

6. So often as any member of the said Board shall die resign or become incapable to act, or be absent from the said province for the space of six consecutive calendar months, or be removed from office, the Governor shall appoint, by Proclamation in the Government *Gazette*, another fit and proper person to be a member of the said Board in the room or stead of the member so dying resigning becoming incapable to act or continuing absent as aforesaid.

Vesting in Board of lands in Schedule to "The Napier Harbour Act, 1874."

7. The lands described in the Schedule to "The Napier Harbour Act, 1874" (hereinafter called "the said Act") shall from and after the passing of this Act vest in the said Board, and shall be held by them upon the trusts and for the purposes in this Act expressed or implied.

Power to make by-laws.

8. It shall be lawful for the said Board, and they are hereby authorized and empowered, from time to time to make by-laws regulating the manner in which and times when their meetings shall be called and held, their place of meeting, and the manner in which and the person by whom their meetings shall be presided over, for fixing the number of their members required to be present at the meetings for the exercise and performance of their powers and duties, the appointment remuneration and duties of their officers, and generally for regulating the conduct of their business and proceedings, and all such other by-laws as may appear to be necessary for fully carrying out the purposes of this Act: Provided always that such by-laws shall not be repugnant to the provisions of this Act or the provisions of "The Harbour Boards Act, 1870," and provided also that no such by-laws shall come into operation until the same shall have been submitted to and approved of by the Governor, and published in the Government *Gazette*.

Portion of pilot and harbour dues to be expended by Board.

9. From and after the thirtieth day of June, one thousand eight hundred and seventy-six, all pilotage rates and harbour dues levied under the authority of "The Marine Act, 1867," shall be paid over to the Harbour Board hereby constituted, to be expended by them in the manner provided for by this Act, subject to the conditions set forth in the forty-ninth clause of "The Marine Act, 1867."

Power to make general harbour improvement rate.

10. It shall be lawful for the Board from time to time to make alter or revoke by-laws and regulations for providing that a general harbour improvement rate, not exceeding in any case two shillings per ton by weight or by measurement as shall be expressed in such by-laws and regulations, may be levied upon all goods wares and merchandise discharged at or shipped from the Port of Napier, and in and by such by-laws and regulations the said Board may provide for the manner of levying and collecting such rate and by whom the same

Napier Harbour Board.

shall be paid, and in what manner the same shall be paid to any authorized officer of the Board: Provided that no such by-laws and regulations, or any alteration thereof, shall have any force or effect unless and until the same shall have been approved by the Governor in Council, and shall have been published in the General Government *Gazette* and at least one newspaper circulating in the City of Napier.

11. The rate so to be levied and collected, together with any moneys that may be paid to the Board under the provisions of this Act, shall be expended and laid out in the carrying out construction maintenance and repair of harbour works for the permanent improvement of the Port of Napier, or for the payment of interest and sinking fund (if any) upon moneys borrowed for the purposes of such works, in such manner and at such times as the said Board may from time to time determine: And it is hereby provided that for the purposes of this section the expression "harbour works" shall mean any works and undertakings which the said Board may be empowered or authorized to carry out construct maintain or repair in or for the said Port of Napier.

12. The rate to be levied and collected under this Act shall in no case be levied and collected on goods wares or merchandise the property of Her Majesty, or of the Government of the colony, or of any Provincial Government.

13. No goods wares or merchandise shall be permitted to be removed from any warehouse quay wharf or other place where the same may have been stored landed or discharged until a receipt or other authority be produced from the said Board, or by some officer or servant of the Board authorized for that purpose, of the payment or satisfaction of such harbour improvement rate and all other rates duties and charges lawfully levied by the said Board.

14. The Board may enter into contracts with any person for the execution of any works permitted or authorized by this or any other Act of the General Assembly 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, and the materials to be furnished, and 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:—

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.

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.

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 and on behalf of the Board, may make by parol only without writing, and in the same manner may vary or discharge the same: Provided that any agreement made by parol only shall not be valid for any sum exceeding ten pounds.

Proviso.

Moneys received to be expended on harbour works.

Exemptions from rate.

Goods not to be removed without receipt from Board that rates &c. have been paid.

Power to enter into contracts.

Napier Harbour Board.

Power to lease for thirty-five years.

15. It shall be lawful for the Board, with the sanction of the Governor (which sanction shall be indorsed on the instrument creating the lease) to let or lease 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.

Rents of lands to be managed by Board.

16. All moneys received by the Board for rents of the lands described in the Schedule to the said Act shall be managed by the Board, and shall be applied and disposed of for the purposes of this Act in such manner as the Board may from time to time determine, subject to the approval of the Governor.

Power to reclaim land.

17. It shall be lawful for the Board hereby constituted to 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.

Power to construct harbour works.

18. It shall be lawful for the Board to construct such breakwaters docks quays wharfs piers and jetties as shall be by the Board considered to be necessary for the requirements of the Port of Napier, and also 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 harbour, 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.

Accounts to be kept.

19. The Board shall keep accurate accounts of all sums of money received in respect of the land described in the Schedule to the said Act or on account of the said harbour, and of all costs charges expenses and disbursements in connection with the management and maintenance thereof, and within one week after the thirty-first day of March in every year the said Board shall prepare accounts and a balance sheet showing the receipts and disbursements of the said Board during the year ending on that day, and the actual financial state of the Board on the same day, and such accounts and balance sheet shall be forwarded in duplicate to the Governor who shall cause the same to be forwarded for examination by the Provincial Auditor in manner prescribed by "The Provincial Audit Act, 1866," and the Provincial Auditor is hereby empowered and required to examine and audit such accounts and balance sheet, and such balance shall be published in the Government *Gazette* immediately after the same shall have been so audited.

Act to be subject to "Marine Act, 1867," as amended; and Board to be Harbour Board within "Harbour Boards Act, 1870."

20. This Act shall be subject to the provisions of the thirty-third section of "The Marine Act, 1867," as amended by "The Harbour Works Act, 1874," and the Board hereby constituted shall be deemed to be a Harbour Board for all purposes of "The Harbour Boards Act, 1870," and any Act amending the same as effectually as if the said Board had been constituted by the Provincial Council in the manner in the said "Harbour Boards Act, 1870," prescribed.

Power to borrow.

21. In order to raise money for the purpose of constructing such works as are described in the seventeenth and eighteenth sections of this Act, it shall be lawful for the Board to borrow on the security of any lands for the time being vested in the Board, and of the rents thereof and of the dues chargeable or receivable by the Board under this Act, any sum or sums of money not exceeding in the whole the sum of seventy-five thousand pounds, at any rate of interest not exceeding the rate of seven pounds per centum per annum payable half-yearly.

Form of security.

22. Every such security shall be by way of mortgage of the said

Napier Harbour Board.

lands rents and dues, and shall be in the form or to the effect set forth in the First Schedule hereto, and shall be sealed with the common seal of the Board, and the consideration therefor shall be truly stated therein. No such mortgage shall create any liability against the revenues of the colony or of the Province of Hawke's Bay, and the holder shall have no claim whatsoever on such revenues in respect thereof; and every such mortgage may be assigned by an indorsed deed in the form or to the effect set forth in the Second Schedule hereto: Provided that if at any time the rents and dues accruing to the Board in any one year after making provision for the maintenance of the Pilot and General Harbour Establishments prove insufficient to meet the interest due on such securities, then such interest shall be a charge on the land fund of the Province of Hawke's Bay, so that nevertheless all charges on the said land revenue under existing Acts, or under an Act passed or intended to be passed this Session, the Short Title whereof is "The Abolition of Provinces Act, 1875," or under any Act amending the same, shall be a first charge.

Provision that in certain cases interest to be charge on land fund of province.

23. Such mortgages shall be numbered consecutively, commencing with number one, and may have coupons attached thereto for every half-year's interest, payable to bearer.

Mortgages to be numbered.

24. No holder of any mortgage shall have any preference over any other holder by reason of any priority of date or otherwise, but all holders shall rank alike and be entitled to equal right.

No rights created by priority of mortgages.

25. It shall be lawful for the Board, under its common seal, from time to time to appoint an agent or agents for the purpose of raising any loan for the purpose of making such works as are described in the eighteenth and nineteenth sections of this Act, which shall have been properly authorized, 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.

Power to Board to appoint agents for raising loans.

26. No person who shall hold any office or place of profit under or in the gift of the Board, or accept any fee or reward on account of anything done by virtue of his office or in relation to the matters to be done under this Act, or be concerned or participate in anywise in any contract with such Board or in the profit thereof, or of any work to be done under the authority of such Board, shall be capable of being or continuing a member thereof: Provided that nothing in the preceding part of this section shall extend or apply to any lease of any land or to any agreement for any such lease of any land belonging to or vested in the said Board which shall be sold by auction.

Disqualification clause.

SCHEDULES.

Schedules.

FIRST SCHEDULE.
PROVINCE of HAWKE'S BAY, NEW ZEALAND.

No. Napier Harbour Board Loan £ Mortgage for £

THIS DEED made the day of between the Napier Harbour Board of the one part, and C. D. of of the other part, WITNESSETH: That in consideration of the sum of £ sterling, this day paid to the Napier Harbour Board for the purpose of "The Napier Harbour Board Act, 1875," by the said C. D. (the receipt whereof is hereby acknowledged), the Napier Harbour Board (hereinafter called "the said Board"), by virtue and in pursuance of the said Act, do hereby convey and assign, by way of mortgage, unto the said C. D. all and

Form of mortgage.

Napier Harbour Board.

singular the lands, tenements, and hereditaments (subject, nevertheless, to all rights acquired by any person or persons other than the Board), 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 Board under or 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 interest for the same, at the rate of £ 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 the manner hereinafter mentioned, that is to say,—

1. So often as the Board shall be desirous of paying off any mortgage, they shall cause lots to be drawn as to which mortgage-holder shall be paid off, and the time and place of such drawing shall be advertised twice in one of the newspapers circulating in the Town of Napier, at least fourteen days previous to such drawing, and the drawing shall take place in the presence of such of the mortgage-holders as may be pleased to attend, and of a notary public.

2. A notice shall, after such drawing, be immediately posted to the last known address of any person whose mortgage has been drawn.

3. The mortgages so drawn shall be paid off at par on the last day of the sixth calendar month following the date of the posting of such notices aforesaid, together with interest at the rate of £ up to such date, and no longer.

4. No holder of this mortgage shall have any claim whatever on the revenues of the Colony of New Zealand, or of the Province of Hawke's Bay, in respect of this mortgage.

In witness whereof the Napier Harbour Board have hereunto set their common seal, and the said C. D. hath hereunto set his hand, the day and year first before written.

Sealed with the common seal of the Napier }
Harbour Board in the presence of } C. D.

SECOND SCHEDULE.

Form of transfer.

THIS DEED made between the within-named C. D. of the one part, and E. F. of , 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 successors the within-written mortgage security, and all benefit and advantage thereof.

Dated this day of 18 .

C. D.

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

WELLINGTON, NEW ZEALAND:

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