

New Zealand.



ANALYSIS.

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1939, No. 9.—*Local and Personal.*

AN ACT to vest Further Powers in the Otago Harbour Board. Title.
[22nd September, 1939.]

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

1. This Act may be cited as the Otago Harbour Board Empowering Act, 1939. Short Title.

2. In this Act, if not inconsistent with the context, "Board" means the Otago Harbour Board. Interpretation.

3. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923. Special Act.

4. Whereas all that piece of land comprising Section 25, Block LXIV, Dunedin, on the plan deposited in the Lands Registry Office at Dunedin as Number 863, and being part of the land included in certificate of Authorizing sale of land to His Majesty the King.

title, Register-book Volume 186, folio 100, Otago Lands Registry, is vested in the Board subject to the provisions of the Otago Harbour Board Empowering Act, 1875: And whereas the said land is required by His Majesty the King as a site for the headquarters at Dunedin of the Royal Naval Volunteer Reserve: Be it therefore enacted as follows:—

Notwithstanding the provisions of the Otago Harbour Board Empowering Act, 1875, or any other Act, it shall be lawful for the Board to sell and transfer to the Crown the said Section 25, Block LXIV, Dunedin, for such consideration and with, upon, and subject to such terms and conditions as may be agreed upon between the Crown and the Board, and the moneys received by the Board as the price of the said land shall be paid into and form part of the sinking fund in connection with the Otago Harbour Board Redemption Loan, 1934.

Authorizing
sale of land
to Dunedin
Drainage
Board.

5. Whereas all those lands comprising Sections 18 and 19, Block LXXIII, Dunedin, on the plan deposited in the Lands Registry Office at Dunedin as Number 2086, and being part of the land included in certificate of title, Register-book Volume 177, folio 97, Otago Lands Registry, are vested in the Otago Harbour Board (in this section called the Harbour Board) subject to the provisions of the Otago Harbour Board Empowering Act, 1875: And whereas the said lands are required by the Dunedin Drainage and Sewerage Board (in this section called the Drainage Board) in connection with the operations of that Board: Be it therefore enacted as follows:—

Notwithstanding the provisions of the Otago Harbour Board Empowering Act, 1875, or any other Act, it shall be lawful for the Harbour Board to sell and transfer to the Drainage Board and for the Drainage Board to purchase the said Sections 18 and 19, Block LXXIII, Dunedin, for such consideration and with, upon, and subject to such terms and conditions as the said Board shall agree on, and the moneys received by the Harbour Board as the price of the lands sold and purchased as aforesaid shall be paid into and form part of the sinking fund in connection with the Otago Harbour Board Redemption Loan, 1934.

6. Whereas the Board is seized of an estate in fee-simple in all those parcels of land containing together two acres and ten decimal nine perches, more or less, being Allotments 1, 2, and 3, situated partly in the City of Dunedin and partly in the Upper Harbour of Otago, on plan deposited in the Lands Registry Office at Dunedin as Number 5045: And whereas by memorandum of lease bearing date the thirtieth day of June, nineteen hundred and thirty-nine, the Board leased the said land to Donald Reid and Company, Limited: And whereas the said Allotments 2 and 3 will be required for a public road or street: And whereas the said company has agreed with the Board that the said company will, when requested by the Board so to do, surrender to the Board the lease of the said Allotments 2 and 3 without requiring compensation therefor either by way of reduction of rent or otherwise: And whereas the Board has no power to accept surrenders of leases: And whereas it is necessary that the Board should be empowered to accept a surrender of the said lease as to the said Allotments 2 and 3 for the purpose of enabling such allotments to be formed into a public road or street: Be it therefore enacted as follows:—

Authorizing acceptance of surrender of lease.

(1) The Board is hereby empowered to accept a surrender of the said lease in so far as it affects the said Allotments 2 and 3 on the said plan Number 5045, and the District Land Registrar for the Land Registration District of Otago is authorized and directed to note such surrender on the Register and on the outstanding certificate of title.

(2) The said lease shall take effect in all respects as if the land remaining subject thereto had been the only land originally leased thereby.

7. Whereas by the Otago Harbour Board Empowering Act, 1926 (hereinafter in this section referred to as the Empowering Act of 1926), the Board was authorized to borrow any sums of money not exceeding in the whole three hundred and fifty thousand pounds, and it was provided that the moneys borrowed under such authority should be applied for the general improvement of the Otago Harbour in carrying out the works specified in the Schedule to that Act: And whereas the objects upon which the said loan-moneys

Application of unexpended portion of loan.

were to be expended were partly altered by the Otago Harbour Board Empowering Act, 1929 (hereinafter in this section referred to as the Empowering Act of 1929), and the Otago Harbour Board Empowering Act, 1932-33 (hereinafter in this section referred to as the Empowering Act of 1932-33): And whereas under the provisions of section two of the Empowering Act of 1929 the Board was authorized to expend the sum of one thousand two hundred pounds on the erection of a bridge for and in connection with the school-site to be vested in the Education Board of the District of Otago pursuant to section seventy-one of the Local Legislation Act, 1928: And whereas the erection of such bridge is not now required and the said sum of one thousand two hundred pounds has therefore not been expended: And whereas under the provisions of section five of the Empowering Act of 1932-33 the Board was empowered to apply ten thousand pounds of the moneys borrowed or to be borrowed under the authority of the Empowering Act of 1926 towards the cost of the works mentioned in sections two and four of the Empowering Act of 1932-33, including works in connection with the widening of the Leith Canal: And whereas it is deemed expedient to empower the Board to apply the said sum of one thousand two hundred pounds in addition to the said sum of ten thousand pounds towards the cost of the said works in connection with the widening of the Leith Canal, being the works mentioned in section four of the Empowering Act of 1932-33: Be it therefore enacted as follows:—

The Board is hereby empowered, subject to the approval of the Local Government Loans Board, to apply the said sum of one thousand two hundred pounds towards the cost of the works mentioned in section four of the Empowering Act of 1932-33 in lieu of expending such sum on the erection of the said bridge.

8. Whereas the Board is seized of an estate in fee-simple in all those parcels of land containing nineteen acres three roods and twenty-nine decimal five perches, more or less, situated in Mussel Bay, in the Upper Harbour of Otago, being part of the Otago Harbour Board endowment, the said land being the land comprised in certificate of title, Register-book Volume 144, folio 278, Otago Lands Registry: And whereas the Corporation of the Mayor, Councillors,

Authorizing
exchange of
land with
Port
Chalmers
Borough
Council.

and Burgesses of the Borough of Port Chalmers (hereinafter in this section called the Corporation) is seized of an estate in fee-simple in all those parcels of land containing five acres one rood and twenty-nine perches, more or less, situated in Mussel Bay aforesaid, and being all the land comprised in certificate of title, Register-book Volume 144, folio 276, Otago Lands Registry: And whereas by memorandum of lease bearing date the fifth day of September, eighteen hundred and eighty-nine, the Otago Dock Trust, in which body the said land of the Board was then vested, leased to the Port Chalmers Gas Company, Limited, part of the said land of the Board containing one rood thirteen decimal three perches for the term of fifty years computed from the twenty-eighth day of February, eighteen hundred and eighty-nine: And whereas the said land of the Board became vested in the Board by virtue of the Otago Dock Trust Merger Act, 1908, subject to the said lease: And whereas by memorandum of transfer bearing date the seventh day of September, nineteen hundred and eighteen, the said Port Chalmers Gas Company, Limited, transferred to the Corporation its estate and interest in the said lease and the land described therein: And whereas the Corporation has from time to time spent considerable amounts in improvements to the buildings and plant erected on the said land comprised in the said lease: And whereas the said lease contained no provisions for renewal or payment of valuation for improvements: And whereas the Board has agreed with the Corporation, subject to the necessary power being conferred by legislation, to exchange the said land described in the said lease with all buildings and improvements thereon and also certain other parts of the said land of the Board not exceeding in all two acres for a similar area of the said land of the Corporation and for certain other valuable consideration: Be it therefore enacted as follows:—

(1) The Board is hereby empowered to transfer to the Corporation the said land described in the said lease and also certain other parts of the said land of the Board not exceeding in all two acres in area in exchange for part of the said land of the Corporation of a similar area and for the other valuable consideration agreed upon between the Board and the Corporation.

(2) The District Land Registrar for the Land Registration District of Otago is hereby authorized and directed to accept for registration the transfers of the said lands notwithstanding anything contained in sections one hundred and twenty-five and one hundred and twenty-eight of the Public Works Act, 1928.

Authorizing
lease of
lands to
Otago
Education
Board, and
acceptance of
surrenders
of leases.

9. Whereas by section one hundred and eighty-eight of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1924, the Otago Harbour Board (in this section called the Harbour Board) was empowered to transfer or lease to the Education Board of the District of Otago (in this section called the Education Board) and the Education Board was empowered to accept a transfer or lease of any part of the endowment of the Harbour Board in the City of Dunedin not exceeding four acres in area subject to a proviso that in the event of a lease the term should be for a period of fifty years, at such rent, and with, upon, and subject to such terms, conditions, and provisions as might be agreed upon between the Education Board and the Harbour Board, including provisions for payment of valuation for improvements and for renewal for one or more recurring periods: And whereas the Harbour Board has agreed, subject to the necessary power being conferred by legislation, to lease to the Education Board an area of land comprising a part of its endowments and also other land of the Harbour Board contiguous thereto but not forming part of its endowment: And whereas the Harbour Board is desirous of being empowered if and whenever the Education Board requires the Harbour Board so to do to determine the leases or any of them granted by the Harbour Board of Sections 5, 6, 8, 9, and 10, Block LXIX, Dunedin, which sections are contiguous to the lands of the Otago Harbour Board already agreed to be leased by the Harbour Board to the Education Board as aforesaid: Be it therefore enacted as follows:—

(1) The Harbour Board is hereby empowered to lease to the Education Board and the Education Board is hereby empowered to accept a lease or leases of any part or parts of the land of the Harbour Board in the City of Dunedin, whether endowment or otherwise,

not exceeding in all four acres in area, provided that the term of the said lease or leases shall be for a period of fifty years or such less period as shall be agreed upon between the Harbour Board and the Education Board, and such lease or leases shall be at such rent or rents and with, upon, and subject to such terms, conditions, and provisions as may be agreed upon between the Harbour Board and the Education Board, including provisions for payment of valuation for improvements and for renewal for one or more recurring periods.

(2) It shall be lawful for the Harbour Board, for the purpose of granting a lease or leases to the Education Board pursuant to subsection one hereof, to determine any lease of any of the said Sections 5, 6, 8, 9, and 10, or of any part thereof, as to the whole or any part of the land included in such lease by giving to the lessee three months' notice of such determination, and upon the expiration of three months from the service of such notice the term of such lease shall cease and come to an end as to the land comprised in such notice, but without prejudice to the rights or remedies of either lessor or lessee as to any breach of the provisions of such lease occurring prior to such determination. A memorandum under the seal of the Harbour Board setting out that any lease has been determined in whole or in part in terms of this section shall be conclusive evidence of the fact and be registrable under the Land Transfer Act, 1915.

(3) If any such lease is determined as to part only of the land comprised therein, the lease shall (subject to subsection five hereof) thenceforth be construed and take effect as if the land comprised in the notice had never been contained in such lease.

(4) Upon the determination of any lease as aforesaid as to whole or part of the land comprised therein the Harbour Board shall, subject to the provisions of the Fair Rents Act, 1936, be entitled to enter into possession of the land comprised in the notice as if such lease had never been granted.

(5) Every person having any estate or interest in any lease determined in whole or in part as aforesaid shall be entitled to full compensation for the same from the Harbour Board.

(6) The compensation referred to in the last preceding subsection may be claimed and shall be determined in the manner provided by Part III of the Public Works Act, 1928:

Provided that no claim for compensation shall be made in respect of the determination of any particular lease in whole or in part after a period of twelve months after the date of the service of the notice determining such lease; and all right and title to any compensation in respect of any lease so determined shall, after such period, absolutely cease.

(7) It shall be lawful for the Harbour Board, in lieu of paying in money the whole or part of the compensation mentioned in subsection five hereof, to enter into an agreement with any lessee whose lease has been determined in part for the reduction of the rent payable under such lease for the remainder of the term granted thereby, and every such agreement shall be evidenced by a memorandum executed by the lessee for the time being thereunder and the Harbour Board, and such memorandum shall be conclusive evidence of the fact and be registrable under the Land Transfer Act, 1915.

(8) Any notice required or authorized by this Act to be served shall be in writing signed by the Secretary or Acting-Secretary of the Harbour Board, and shall be sufficiently served if served in the manner provided by the Property Law Act, 1908, for the service of notices.

(9) For the purposes of this section "lease" includes an agreement to lease or other tenancy, and "lessee" includes an equitable lessee and also a tenant.

10. The Board may from time to time, by by-laws made under and in accordance with the Harbours Act, 1923, prohibit the entry of any person without the authority of the Board upon any specified portion or portions of the Harbour of Otago or of any other land vested in or subject to the control or jurisdiction of the Board, and may alter or révoke any such by-laws.

By-laws
prohibiting
trespass on
Board's lands.