

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Special Act. 3. Interpretation. 4. Power granted to Board to borrow £25,000 for repair and improvement of Eastern Extension. 5. All debenture-holders to rank alike. 6. Consent of ratepayers to be obtained to raising of loan. 7. Procedure under Local Bodies' Loans Act to apply to taking of poll. 8. Poll to be taken by Board on proposal. 9. When poll deemed to be carried. 10. Board may rate district for interest on loan, or may allocate and recover from local authorities a sum equivalent to annual rate. 11. Amount of rate or contribution. 12. Sums available from revenue to be applied in payment of interest on loan. | <ol style="list-style-type: none"> 13. No rate or allocation to be quashed. 14. For purpose of making and recovering rates, the Board may exercise all powers which any local body may have. 15. Powers granted to Board for levying and collecting rates may be delegated. 16. Remuneration to be paid to body exercising powers delegated to it. 17. Remedies of debenture-holders in event of default by Board. 18. Rate and contribution to vest in receiver appointed by Judge. 19. Money received by receiver, how to be applied. 20. Rates and contributions authorized to be levied and allocated under previous Acts may be included in rates and allocations under this Act. 21. Section 32 of Local Bodies' Loans Act, 1926, to apply. 22. Renewal and Reserve Fund to be established. Schedule. |
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1929, No. 8.—*Local and Personal.*

- Title. AN ACT to grant Further Borrowing-powers to the Timaru Harbour Board. [1st November, 1929.]
- 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. This Act may be cited as the Timaru Harbour Board Loan Act, 1929.
- Special Act. 2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923.
- Interpretation. 3. In this Act the following or any equivalent expressions mean as follows :—
- “ The Board ” means the Timaru Harbour Board :
- “ The Chairman ” means the Chairman of the Board for the time being, or any member of the Board for the time being performing the duties of Chairman :
- “ The Secretary ” means the Secretary of the Board for the time being, or any other person for the time being performing the duties of Secretary :

“The harbour district” or “the district,” unless there is something inconsistent in the context, means the Timaru Harbour District.

4. The Board shall have power to borrow, in addition to sums authorized by any previous Acts, and subject to the provisions of the Harbours Act, 1923, and any amendment thereof, the following sum at a rate of interest approved by the Governor-General in Council, such sum to be applied in and about the repair, construction, completion, and carrying-out of works for the port and harbour of Timaru—that is to say, a sum not exceeding twenty-five thousand pounds for the purpose of the repair and improvements of the Eastern Extension works as hereinafter in this section defined (hereinafter called the loan proposal), and also to obtain, erect, and construct all such plant, cranes, sheds, and works of every description, and to enter into and carry out all contracts for or ancillary to the said purposes and each of them, as shall be judged necessary and proper by the Board for that purpose. If on any poll being taken as hereinafter provided the ratepayers shall carry the loan proposal as hereinafter provided, the Board shall, upon raising the necessary relative loan, proceed to carry out the said works involved in the said proposal.

Power granted to Board to borrow £25,000 for repair and improvement of Eastern Extension.

The loan proposal is as follows: To raise or borrow a sum not exceeding twenty-five thousand pounds for the purposes of repairing the damage caused to the Eastern Extension Mole of the Timaru Harbour by the extraordinary storm of the twenty-fifth day of January, nineteen hundred and twenty-nine, and of improving the Eastern Extension Mole thus: At about five hundred and fifty feet from the shore end of the Eastern Extension Mole to build the wall up to the full height of the top beam—namely, eighteen feet above high-water mark—for a length of eight hundred feet; to improve and strengthen the wall; to provide further shelter to the harbour; and also to make an effective barrier to the advancing shingle beach on the south side of the Eastern Extension Mole; and also to obtain, erect, and construct all such plant, cranes, sheds, and works as aforesaid.

No money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than that provided above. All moneys borrowed under this section shall be devoted exclusively to the purposes authorized by this Act.

5. The holder of any debenture issued in respect of any such loan shall not have any preference by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights and remedies.

All debenture-holders to rank alike.

6. Before any such loan is raised the consent of the ratepayers in the harbour district to the raising of such loan shall be first obtained by means of a poll in the mode hereinafter prescribed; but if such consent is obtained to the raising of the full amount of twenty-five thousand pounds the Board may raise the same by one or more loans, in one sum or in different sums at different times, as the Board thinks fit, without any further consent.

Consent of ratepayers to be obtained to raising of loan.

7. The provisions of section ten, subsections one and two of section eleven, and sections thirteen, fourteen, fifteen, and sixteen of the Local Bodies' Loans Act, 1926, shall, with the necessary modifications, apply to the taking of the poll for the loan authorized by this

Procedure under Local Bodies' Loans Act to apply to taking of poll.

Act as if the Board were a local authority within the meaning of the said Act.

Poll to be taken by Board on proposal.

8. The poll shall be taken on the approval or rejection of the loan proposal as follows:—

- (a) All the provisions of the Local Elections and Polls Act, 1925, and the amendments thereof, as regards taking a poll shall, so far as they are applicable, and except as by this section or otherwise provided, apply to the taking of a poll on the loan proposal to raise the said loan.
- (b) The Secretary shall be the Returning Officer for the purpose of taking such poll, and as such Returning Officer shall appoint a Deputy Returning Officer for each borough, county, part of a county, and town district within the harbour district.
- (c) Each Deputy Returning Officer shall, on the day appointed by the Chairman, proceed to take the poll in the manner provided by the Local Elections and Polls Act, 1925, and the amendments thereof, for taking a poll at any election, as if he were the Returning Officer for the borough, county, part of a county, or town district in respect of which he shall have been appointed, and shall accordingly provide voting-papers and all things necessary for taking the poll. Rolls of the said ratepayers shall be provided or made up for the purpose, subject to the provisions of the various statutes affecting the said boroughs, counties, parts of counties, and town district respectively, so far as the same are applicable. Such rolls shall be provided or made up in each case by the proper officer of the local body who prepares the roll for the election of members of the local governing body, and in each case a reasonable fee shall be paid therefor.
- (d) The poll shall be taken at the polling-places appointed in each borough, county, part of a county, and town district as aforesaid, and each ratepayer shall have and may exercise one vote and no more at such poll.
- (e) The voting-papers for the loan proposal shall be printed in the form in the Schedule to this Act, with the words "I vote for the above proposal" and "I vote against the above proposal" legibly printed at the foot of each voting-paper. The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves unerased.

When poll deemed to be carried.

9. If the total number of valid votes recorded at the poll in favour of the loan proposal exceeds the total number of valid votes recorded at the poll against it by one-fourth or more than one-fourth of the latter, then, and not otherwise, such proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly; but if there is not such a majority in favour of the proposal the same shall be deemed to be rejected, and the Board shall not proceed with such proposal unless and until the same, in its original or some modified form, is again submitted to the ratepayers in manner hereinbefore provided and is carried by such majority as aforesaid.

10. In case the Harbour Fund for the said district shall be insufficient to pay the expenses incurred by the Board in the construction, completion, maintenance, and repair of its present and future harbour-works, and all other current expenses, and the interest and sinking fund on previous loans and on the loan hereby authorized to be raised, or should the available income of the Board prove insufficient to meet such expenses and interest and sinking fund and the Board determine that it is desirable to make and levy a rate or rates, a rate or rates shall be levied by the Board upon the rateable value of all rateable property in the harbour district as appearing on the valuation rolls in force for the time being of the boroughs, town district, and counties and parts of counties comprised within the said harbour district, and the proceeds of such rate or rates shall be applied towards payment of the annual charges to accrue in respect of the loan to be raised under this Act:

Board may rate district for interest on loan, or may allocate and recover from local authorities a sum equivalent to annual rate.

Provided that, in lieu of making and levying such rate or rates as aforesaid, or, at any time after such rate or rates shall have been made, in lieu of continuing to levy the same, the Board may from time to time allocate and recover from the local authorities in the harbour district a sum equivalent to the annual amount of such rate or rates to be fixed, apportioned, and raised in manner mentioned in the Timaru Harbour Board Empowering Act, 1890, and the provisions of that Act (as amended, altered, or extended by the Timaru Harbour District Rating Act, 1894, the Timaru Harbour Board Act, 1899, and the Timaru Harbour District and Harbour Board Act, 1903, the Timaru Harbour Board Loan Act, 1904, and the Timaru Harbour Board Empowering Act, 1913) shall, *mutatis mutandis*, apply to the rate of contributions so to be levied or allocated, to the providing of a sinking fund, and generally to the loan authorized by this Act, and to all the local authorities in the harbour district, and shall be deemed to be incorporated with and to form part of this Act.

11. The amount to be levied or allocated by the Board in each year shall not exceed such amount as is required to provide for the payment of interest and sinking fund on the aggregate amount for which debentures shall at any time be issued, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of interest on the loan hereby authorized to be made after providing for all other charges.

Amount of rate or contribution.

12. Any such sum available from the revenue of the Board for the previous year shall be taken into account as aforesaid, and the balance required for interest on the loan and sinking fund shall then be levied or allocated in manner herein provided.

Sums available from revenue to be applied in payment of interest on loan.

13. No rate or allocation of contributions made under this Act shall be capable of being set aside or of being quashed by any proceedings of any Court or otherwise; and no defect in the same, or omission, error, or irregularity in respect thereof, shall be set up as a defence to any action which may be brought to recover the same.

No rate or allocation to be quashed.

14. For the purpose of making, levying, and recovering the rate or rates hereby authorized to be made and levied the Board shall have and may exercise all the powers of making, levying, and recovering rates in each borough and town district, and each county and part of a county within the district which any local body having

For purpose of making and recovering rates, the Board may exercise all powers which any local body may have.

rating-powers within such borough, town district, county, or part of a county shall or may have under the law for the time being in force regulating the making and recovery of rates therein respectively; and the provisions of the Acts for the time being in force in the boroughs, town district, and counties or parts of counties included in the said harbour district, providing for levying rates for the payment of the annual charges on loans raised by such boroughs, town district, or counties shall, so far as applicable, be deemed to apply to the rate or rates hereby authorized to be made and levied:

Provided, however, that the period for which the said rate or rates shall be levied, or allocations of contributions shall be continued, shall be until the loan hereby authorized to be raised is paid off:

Provided further that during that period either of the two modes referred to may be adopted, and varied from time to time as the Board may deem expedient.

Powers granted to Board for levying and collecting rates may be delegated.

15. All or any of the powers hereby granted to the Board as to making, levying, recovering, and collecting the rate or rates hereby authorized to be made may, by resolution of the Board (which may, however, from time to time be varied or rescinded), be delegated by the Board to the Councils of the boroughs, Board of Commissioners of the town district, and Councils of counties included within the said harbour district, or to one or more of them, so far as relates to rateable property situate within the boundaries of such boroughs, town district, and counties respectively; and on receipt of notices in writing of such delegations signed by the Chairman of the Board the Mayor of each borough, Board of Commissioners, and Councils of counties shall forthwith cause all necessary steps to be taken for the performance of the acts in respect of which power may have been delegated as aforesaid.

Remuneration to be paid to body exercising powers delegated to it.

16. For the performance of the acts power to perform which may be delegated as aforesaid there shall be paid by the Harbour Board to the body performing the same remuneration, to include all disbursements and services, at the rate of two pounds ten shillings per centum on the net amount of all moneys collected by such body and paid to the credit of the Harbour Board at the Bank at Timaru at which its account for the time being is kept.

Remedies of debenture-holders in event of default by Board.

17. When and so often as the Board shall fail to pay, at the proper time and place for so paying, either the principal sum secured by the debentures to be issued for the loan hereby authorized, or the coupons for interest payable thereon, then immediately on default being made any person to whom any 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 such petition, appoint, upon such terms as to security and remuneration as he shall think fit, a receiver of the rates and contributions hereby authorized to be levied or allocated.

Rate and contribution to vest in receiver appointed by Judge.

18. From and after the date of such appointment, and upon it being advertised by publication in the *New Zealand Gazette* and in one or more newspapers circulating in the district, for such time as the Judge shall order, the said rates and contributions shall vest in the receiver and shall cease to be vested in the Board; and the said receiver may exercise all the powers of the Board in respect of such

rate and contribution as aforesaid, and in making, allocating, and enforcing payment thereof, and otherwise howsoever.

19. 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 then overdue by the Board which are secured by the said debentures ; and
- (d) The residue after payment of the above shall be paid to the Board.

Money received by receiver, how to be applied.

The receiver shall account for all such moneys in such manner as the Judge directs.

20. The rates authorized to be levied under the Timaru Harbour Board Loan Act, 1881, the Timaru Harbour Board Loan Act, 1885, the Timaru Harbour Board Loan Act, 1899, and the Timaru Harbour Board Loan Act, 1904, and the contributions authorized to be allocated for the payment of interest payable thereunder, may be made and levied and allocated with and included in the rates or contributions authorized to be made and levied or allocated under this Act.

Rates and contributions authorized to be levied and allocated under previous Acts may be included in rates and allocations under this Act.

21. With respect to any loan which the Board has heretofore been or shall hereafter be authorized to raise, and whether any part of the loan has been raised or not, the Board shall have the same powers as are conferred on local authorities by section thirty-two of the Local Bodies' Loans Act, 1926, and the provisions of that section shall, with the necessary modifications, apply to the Board and to any loans authorized to be raised by it as if the Board were a local authority within the meaning of that Act.

Section 32 of Local Bodies' Loans Act, 1926, to apply.

22. (1) On the passing of this Act the Board shall establish a fund to be called "The Renewal and Reserve Fund," and shall forthwith transfer to the credit of the said fund the moneys then standing to the credit of the special funds known as "The Wharf Renewal Fund," "The Dredge 350 Renewal Fund," "The Dredge 'Taniwha' Renewal Fund," "The 'Elsie Evans' Renewal Fund," and "The Marine and Accident Insurance Fund" respectively ; and shall also, out of the moneys authorized to be borrowed under the Timaru Harbour Board Loan Act, 1904, repay to the said fund the sum of seventeen thousand one hundred pounds temporarily withdrawn by the Board from the said special funds and utilized for other purposes.

Renewal and Reserve Fund to be established.

(2) The Board may from time to time, by resolution in that behalf, transfer from the General Cash Account to the credit of the said Renewal and Reserve Fund such moneys as may be available for that purpose.

(3) The moneys at credit of the said Renewal and Reserve Fund shall be utilized solely for the purposes for which the said special funds were created and for renewal of any other harbour-works where such renewal may be found necessary, but shall not be used for ordinary harbour-maintenance purposes.

