

New Zealand.

## ANALYSIS.

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1932-33, No. 12.—*Local and Personal.*

- Title. AN ACT to make Provision with respect to certain Matters in connection with certain Loans of the Thames Harbour Board. [9th March, 1933.]
- Preamble. WHEREAS the Thames Harbour Board (hereinafter called the Board) has raised from the Postmaster-General a loan of ten thousand pounds for carrying out certain harbour-works (hereinafter referred to as Number 1 Loan) upon terms and conditions requiring, *inter alia*, the repayment thereof in the month of April, nineteen hundred and thirty-eight, such loan having been granted pursuant to the authority conferred on the Postmaster-

General by an Order in Council dated the twenty-sixth day of April, eighteen hundred and ninety-eight: And whereas the accumulated sinking fund in respect of Number 1 Loan amounted on the first day of October, nineteen hundred and thirty-two, to the sum of nine thousand three hundred and thirteen pounds twelve shillings and one penny: And whereas it is considered that without any further payments into such sinking fund by the Board the same will at the date of maturity of the said loan be sufficient to repay the loan in full: And whereas to give effect to certain arrangements made by the Postmaster-General and the Board it is desirable to make provision as hereinafter appears: And whereas, under the authority of the Thames Harbour Board Loan and Empowering Amendment Act, 1923, and certain other enactments, the Board has raised a loan of sixty thousand pounds for the objects and purposes set out in the Schedule to that Act: And whereas the said loan of sixty thousand pounds was raised in instalments of twenty thousand pounds and forty thousand pounds (each instalment being hereinafter referred to respectively as Number 2 Loan and Number 3 Loan) upon terms and conditions requiring, *inter alia*, the repayment thereof respectively in the month of May, nineteen hundred and forty-four, and the month of September, nineteen hundred and forty-five: And whereas, under the authority of section forty-seven of the Local Legislation Act, 1927, the Board raised a loan of six thousand pounds (hereinafter referred to as Number 4 Loan) for the purposes set out in that section upon terms and conditions requiring, *inter alia*, the repayment thereof in the month of March, nineteen hundred and forty-eight: And whereas part of the security for Number 2 Loan, Number 3 Loan, and Number 4 Loan (hereinafter collectively referred to as the said loans) was a special rate made and levied upon the capital value of all rateable property within the Borough of Thames: And whereas, as a result of the decrease in mining operations in the Borough of Thames, the general trade depression at present affecting New Zealand, alterations generally in the form of transport, and the lack of adequate facilities for shipping purposes in the Thames Harbour, the Board has found it impossible to collect

its rates in full, and the revenue from its operations as a Harbour Board has not been such as was anticipated when the said loans were raised: And whereas the Board is not at present able to pay in full as they fall due the annual or other charges in respect of the said loans: And whereas debenture-holders holding the greater part in value of the said loans have agreed to waive for a certain period their existing rights created under their debentures if, *inter alia*, provision is made in manner hereinafter appearing:

BE IT THEREFORE 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 Thames Harbour Board Loans Adjustment Act, 1932-33.

Special provision as to repayment of No. 1 Loan.

2. (1) The duties of the Public Trustee as Sinking Fund Commissioner of Number 1 Loan shall cease and determine on the passing of this Act, but he shall continue to hold the said sum of nine thousand three hundred and thirteen pounds twelve shillings and one penny and all moneys heretofore accruing due and received thereon by way of interest upon trust to invest the same and all interest thereon hereafter becoming due and received and to pay all such moneys to the Postmaster-General at such time not later than the first day of April, nineteen hundred and thirty-eight, as the Minister of Finance directs.

(2) Forthwith upon the passing of this Act the Postmaster-General shall cancel all debentures and other securities held by him in respect of Number 1 Loan and transmit the same to the Board, and thereupon the liability of the Board in respect of that loan shall cease and determine.

(3) Without further appropriation than this section the Postmaster-General may write off any loss sustained in respect of Number 1 Loan by reason of the operation of this section.

Accumulated sinking funds to be applied in reduction of Nos. 2, 3, and 4 Loans.

3. (1) As soon as practicable after the thirty-first day of March, nineteen hundred and thirty-three, the Public Trustee, as the sole Sinking Fund Commissioner of each of the said loans, shall pay to the Board the accumulated sinking funds of the said loans.

(2) The Board, as soon as practicable after receiving such accumulated sinking funds, shall, subject to section

seven hereof, apply the same in part repayment of principal moneys secured by debentures issued in respect of the said loans as follows:—

- (a) To holders of debentures of Number 2 Loan an amount equal to the accumulated sinking fund of that loan in proportion to their respective holdings:
- (b) To holders of debentures of Number 3 Loan an amount equal to the accumulated sinking fund of that loan in proportion to their respective holdings:
- (c) To holders of debentures of Number 4 Loan an amount equal to the accumulated sinking fund of that loan in proportion to their respective holdings:

Provided that in each such case any sum that cannot be conveniently distributed to the holders of debentures shall be repaid by the Board to the appropriate sinking fund.

(3) Every sum paid to the holder of any debenture pursuant to this section shall be accepted by him in reduction of the principal sum secured by the debenture, notwithstanding that such principal may not have become repayable.

4. As soon as practicable after the passing of this Act the Board shall pay to the holders of debentures issued in respect of each of the said loans all interest due and accrued up to and including the thirtieth day of September, nineteen hundred and thirty-two.

Payment of interest in respect of Nos. 2, 3, and 4 Loans up to 30th September, 1932.

5. (1) Subject to the next succeeding subsection, no payment shall be made to any debenture-holder in respect of any interest accruing due in the interest year ending on the thirtieth day of September, nineteen hundred and thirty-three, until all other debts of the Board due at that date have been paid out of moneys lawfully available for that purpose.

Special provision as to interest becoming due for interest year ending 30th September, 1933.

(2) The balances to the credit of the appropriate Cash Accounts of the Board at the close of the thirtieth day of September, nineteen hundred and thirty-three, after making allowance for all such other debts as aforesaid as have not then been paid, shall be applied to such extent as may be necessary for the purpose of meeting the interest mentioned in the last preceding subsection, and if such balances are not sufficient

to pay in full all such interest they shall be distributed to the debenture-holders of all the said loans in proportion to their respective holdings :

Provided that the total amount of any fractions of a penny that cannot be so distributed to each debenture-holder shall be paid by the Board into the separate account mentioned in the next succeeding subsection.

(3) Any moneys received by the Board after the thirtieth day of September, nineteen hundred and thirty-three, on account of any special rates made and levied before that date shall be paid into a separate account at the bank, and not later than six months after the receipt thereof such moneys shall, together with any moneys paid into that account pursuant to the last preceding subsection, be applied as follows:—

(a) First, in payment to debenture-holders of the difference between the amount paid to them under the last preceding subsection and the total amount to which they would be lawfully entitled to receive by way of interest in respect of that year :

(b) Secondly, in payment of any balance then remaining to the sinking funds of the said loans in proportion to the respective amounts of the said loans.

(4) The total amount of moneys paid to a debenture-holder pursuant to this section shall be accepted by him in full settlement of interest due under such debenture in respect of the interest year mentioned in subsection one of this section.

6. The proceeds of every sale by the Board after the passing of this Act of any of its capital assets shall be applied as follows:—

(a) First, to the extent approved by the representative of the Thames Harbour Board debenture-holders on the committee representing certain holders of debentures issued by the Thames Borough Council and known as the Loans Creditors Committee in providing further capital works or plant :

(b) Secondly, in payment of the residue to the respective sinking funds proportionately to the balance of principal due on each of the said loans.

Disposal of  
proceeds of  
future sales of  
Board's capital  
assets.

7. (1) Before any payment (other than a payment pursuant to section four hereof) is made after the passing of this Act on account of the principal or interest secured by any debenture of the said loans, such debenture, together with all coupons held by the debenture-holder in respect thereof, shall be delivered to the Secretary of the Board for the purpose of being registered as hereinafter provided.

Debentures to be delivered to Secretary of Board for registration and amendment.

(2) Upon the delivery as aforesaid of every such debenture and coupons, the Secretary shall—

(a) Register the debenture by entering in a register to be kept by him for the purpose the full name, address, and description of the holder thereof, the original amount of principal secured thereby, the amount paid in reduction of such principal pursuant to section three hereof, and such other particulars as he thinks fit :

(b) Amend the debenture to show the amount of principal then secured thereby :

Provided that where two or more debentures issued in respect of the same loan are held by the same person such amendment may be made on any one or more of such debentures, and, if necessary, one or more of them may be cancelled, so that all such debentures, or such of them as remain uncanceled, shall together show the aggregate amount of principal then secured thereby :

Provided further that where any debentures held by any person are dealt with as provided in the last preceding proviso, none of such debentures shall be returned to such person unless and until the Audit Office, or an officer approved by that Office for the purpose, has certified that the debenture or debentures proposed to be so returned correctly show the aggregate amount of principal then secured thereby, and that all the other such debentures have been cancelled :

(c) Cancel all such coupons :

(d) Print, type, stamp, or write in ink upon the face of the debenture a statement to the effect that the payment of the principal and interest

secured thereby, and the rights of the holder thereof as to transfer and otherwise, are subject to the provisions of this Act.

(3) After being dealt with as aforesaid, every such debenture shall, unless it has been cancelled under the first proviso to paragraph (b) of the last preceding subsection, be returned to the holder thereof or to his nominee.

(4) No debenture registered as aforesaid shall be transferable by delivery. Any such debenture may be transferred by an endorsement or separate form of transfer as provided in subsection two of section twenty-nine of the Local Bodies' Loans Act, 1926, registered in the register to be kept by the Secretary as hereinbefore provided.

(5) The person whose name appears in such register for the time being as the holder of any debenture, or the executors or administrators of any such person who is deceased, shall be deemed to be the holder of such debenture.

All interest to be paid by cheque.

8. All payments to be made on account of the interest on any of the said loans shall be paid by cheque and not otherwise. Any such cheque shall, if the debenture-holder so requires, be payable free of exchange at any place at which such interest would have been so payable if this Act had not been passed.

Special provisions as to payment of rates and penalty on unpaid rates.

9. (1) Notwithstanding the provisions of paragraph (c) of section fifty-one of the Rating Act, 1925, any special rate demanded by the Board as continued in office by section eleven hereof or by the Commissioner appointed under section twelve hereof shall be payable in such instalments and on such day or days as the Board or the Commissioner, as the case may be, from time to time fixes in that behalf.

(2) The Board or the Commissioner as the case may require may at any time not earlier than the fifteenth day of September, nineteen hundred and thirty-three, add the additional charge of ten per centum authorized by section seventy-six of the Rating Act, 1925, to the rates made and levied by it or him for the year ending on the thirtieth day of September, nineteen hundred and thirty-three, notwithstanding that the period of six months and fourteen days from the demand of those rates has not expired.

10. No person shall, at any time before the thirtieth day of September, nineteen hundred and thirty-three, or such later date as the Governor-General in Council may determine, take any steps, whether by way of action, or proceedings for the appointment of a receiver or otherwise, to enforce payment of the principal or interest of any of the said loans, or any part thereof respectively, otherwise than in accordance with the provisions of this Act.

Principal and interest in respect of Nos. 2, 3, and 4 Loans recoverable only in accordance with this Act.

11. (1) Notwithstanding anything to the contrary in the Harbours Act, 1923, or any other Act, the elected members of the Board in office at the passing of this Act shall continue in office until their successors are elected.

Continuing present members of Board in office.

(2) Any vacancy in the membership of the Board while the last preceding subsection is in operation shall be filled in the manner provided by section thirty-eight of the Harbours Act, 1923.

(3) The first general election of members of the Board to be held after the passing of this Act shall be held on a day or days to be fixed in that behalf by the Governor-General in Council, being a day or days the last of which shall be not later than the second Wednesday in May, nineteen hundred and thirty-five.

12. (1) The Governor-General in Council may, if he thinks fit, at any time while the Board continues in office pursuant to section eleven hereof, appoint, on the recommendation of the debenture-holders or of a majority in value of them, a fit person to be the Thames Harbour Board Commissioner.

Appointment of Commissioner for Thames Harbour District.

(2) The Governor-General in Council may also appoint a fit person to be the Deputy Thames Harbour Board Commissioner, who shall act when there is any vacancy in the office of Commissioner or when the Commissioner is unable to act, and while so acting shall be deemed to be the Commissioner.

(3) The Commissioner and the Deputy Commissioner shall continue in office until the members of the Board elected at the first general election of such members to be held after the passing of this Act come into office.

(4) The Commissioner or the Deputy Commissioner may be at any time removed from office by the Governor-General in Council for disability, insolvency, neglect of duty, incompetence, or misconduct; or he may at any

time resign his office by writing addressed to the Minister of Internal Affairs. In such case, or in the event of the death of the Commissioner or Deputy Commissioner, the Governor-General in Council may appoint any other person to be the Commissioner or Deputy Commissioner, to hold office for the remainder of the period specified in the last preceding subsection.

(5) Subject to the provisions of this section, the Commissioner, in the name and on behalf of the Board, may exercise any power, and shall perform all the duties, conferred or imposed upon the Board by the Harbours Act, 1923, or by this or any other Act, or by any instrument or otherwise and also all powers and duties conferred on the Secretary of the Board by section seven hereof.

(6) During the term of office of the Commissioner the Board shall not exercise any power or perform any duty conferred or imposed upon it as aforesaid nor shall the Secretary exercise or perform any of the powers or duties conferred or imposed on him by section seven hereof.

(7) Any power given to the Board to do anything in any manner requiring a resolution passed at one meeting to be confirmed at a subsequent meeting may be exercised by the Commissioner by a special entry in the minute-book of the Board, signed by the Commissioner and confirmed by a similar entry made after the expiration of the period required by law to elapse between the two such meetings as aforesaid. Public notice of such special entry and of the place and date fixed for its confirmation shall be given once in each full week immediately preceding the date fixed for its confirmation.

(8) All cheques drawn on any bank account of the Board shall be signed by the Treasurer and countersigned by the Commissioner or by any two of such persons as the Commissioner from time to time authorizes to sign cheques.

(9) The Commissioner and the Deputy Commissioner shall be paid such remuneration, allowances, and expenses as are fixed from time to time by the Governor-General in Council. All payments under this subsection shall be made out of the General Cash Account of the Board.

**13.** (1) As soon as practicable after the appointment of the Commissioner there shall be appointed, in accordance with this section, an advisory body to be called the Thames Harbour Board Advisory Committee.

Appointment  
of Advisory  
Committee.

(2) The Advisory Committee shall consist of the Chairman for the time being of the Board (who shall be the Chairman of the Committee), one member appointed by the Governor-General as representative of the Government, and not more than three members of the Board appointed by the Governor-General on the recommendation of the Board.

(3) The members of the Advisory Committee shall continue in office throughout the term of office of the Commissioner, save that any such member may be at any time removed from office by the Governor-General, or may resign his office by writing addressed to the Minister of Internal Affairs.

(4) The powers of the Advisory Committee shall not be affected by any vacancy in the membership thereof.

**14.** (1) The Advisory Committee may advise the Commissioner on any matter relating to the administration of the affairs of the Board.

Functions of  
Advisory  
Committee.

(2) The Commissioner shall not be bound to act on any such advice in respect of the making, levying, or recovery of rates. If any dispute arises between the Commissioner and the Committee as to whether he should act on any advice of the Committee in respect of any other matter such dispute shall be referred to the Board. If the Board agrees with the Commissioner he shall not be bound to act as advised by the Committee. If the Board confirms the Committee's advice and the Commissioner then refuses to accept such advice, the dispute shall be submitted to arbitration under the Arbitration Act, 1908.

**15.** The amount of the allowance to be paid to the Chairman of the Board under section forty-two of the Harbours Act, 1923, during the term of office of the Commissioner shall be fixed from time to time by the Commissioner on the recommendation of the Advisory Committee.

Allowance to  
Chairman of  
Board while  
Commissioner  
in office.

**16.** Nothing in this Act shall be construed to entitle the holder of any debenture to any claim in respect thereof upon the Government or public revenues of New Zealand.

Act not to  
entitle  
debenture-  
holders to any  
claim on  
Government or  
public revenues.