

New Zealand.

## ANALYSIS.

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|--|---|
| Title.   | 5. Vesting of undertaking.                                      |
| Preamble.  | 6. Board may purchase or take certain lands.                    |
| 1. Short Title.  | 7. Compensation not to be affected by works.                    |
| 2. Interpretation.   | 8. Power to construct streets, &c.                              |
| 3. Special Act.  | 9. Power to buy, sell, and exchange lands for certain purposes. |
| 4. Agreement as to terms of purchase. Power to Company to wind up. | 10. Vesting clause. Schedules.                                  |

1908, No. 16.—*Local.*

AN ACT to confer certain Powers upon the Wellington Harbour Board, and to enable the Wellington Harbour Board to acquire certain Lands and Property. Title.  
[6th October, 1908.]

WHEREAS under and by virtue of the powers conferred on it by the Wellington Harbour Board Empowering Act, 1902, the Wellington Harbour Board (hereinafter called the Board) was authorised to purchase all or any of the assets of the Wellington Patent Slip Company (Limited) (hereinafter called the Company): And whereas it is desirable in the interests of the Harbour of Wellington that the Patent Slip, together with the lands, buildings, machinery, and plant vested in the Company, should be the property of the Board: And whereas an agreement for purchase has been entered into between the Board and the Company, and it is desirable that the Board and the Company should be respectively empowered to carry out the terms of the said agreement: And whereas under and by virtue of the powers conferred on it by the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1907, the Board was authorised, on obtaining the consents therein referred to, to acquire certain lands for the purposes of reclamation at Evans Bay: And whereas it is desirable that the Board should have power to acquire certain other lands in Evans Bay for purposes in connection with the said reclamation: Preamble.

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 Wellington Harbour Board Empowering Act, 1908.

Interpretation.

2. In the construction of this Act, if not inconsistent with the context,—

“ The Act ” means the Harbours Act, 1908 :

“ The Board ” means the Wellington Harbour Board as constituted under the Wellington Harbour Board Act, 1879, and its amendments :

“ The Company ” means the Wellington Patent Slip Company (Limited) :

“ The undertaking ” means the right, title, and interest of the Wellington Patent Slip Company (Limited) in certain lands comprised in certificates of title, Volume xx, folio 127, and Volume xxi, folio 287, and described in the Third and Fourth Schedules hereto, together with the buildings, machinery, plant, and materials of the Company, and all rights, privileges, and appurtenances appertaining thereto.

Special Act.

3. This Act shall be deemed a special Act within the meaning of the Act and of the Public Works Act, 1908 ; and the First, Second, Third, and Fifth Parts of the last-mentioned Act are, except where inconsistent with this Act, hereby incorporated with this Act.

Agreements as to terms of purchase.

4. (1.) The several provisions of the deed between the Board and the Company, a copy whereof is set out in the Fifth Schedule hereto, shall have effect as if the same were specifically enacted in the terms thereof in this Act, and the several powers and authorities expressed to be conferred by the said deed upon the Board and the Company respectively may be exercised as provided by the said deed, and the several conditions and obligations expressed by the said deed to be performed and undertaken by the Board and the Company respectively shall be performed by and be binding upon the Board and the Company respectively, and the provisions for settlement of differences and disputes between the Board and the Company shall have effect as provided by the said deed.

Power to Company to wind up.

(2.) The Company may at any time hereafter be wound up in the manner provided for by section sixteen of the Wellington Harbour Board Empowering Act, 1902 ; save only that in lieu of the words “ two hundred and thirty-two to two hundred and thirty-six, both inclusive, of ‘ The Companies Act, 1882, ’ ” the words “ two hundred and sixty-two to two hundred and sixty-five, both inclusive, of the Companies Act, 1908, ” are substituted.

Vesting of undertaking.

5. The undertaking when acquired by the Board shall vest in the Board absolutely for the purposes for which the Board is constituted, freed from all trusts, restrictions, reservations, covenants, and conditions whatever, except only the provisions in favour of the Company expressed in the deed between the Board and the Company set out in the Fifth Schedule hereto.

6. The Board may, in addition to the powers and authorities vested in it, acquire, purchase, or take under the provisions of the Public Works Act, 1908, the lands described in the First and Second Schedules hereto.

Board may purchase or take certain lands.

7. (1.) The Compensation Court constituted under the Public Works Act, 1908, in determining the amount of compensation to be awarded to any claimant shall not take into account any increase of value that may arise or be considered as likely to arise to such land by reason of the construction of the work for the purposes of which the land of such claimant has been taken.

Compensation not to be affected by works.

(2.) Compensation in respect of any claim may be made or awarded either in money or, if the Board and the claimant mutually so agree, out of the land acquired under the provisions of this Act or the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1907, or reclaimed under the provisions of the Wellington Harbour Board Reclamation and Empowering Act, 1908; and where such compensation shall be made in land, the value of the land to be given shall be ascertained between the claimant and the Board, or, in case of difference, by the Court acting under the provisions of the Public Works Act, 1908, in the matter of such claim.

8. The Board may, on any land acquired under the provisions of this Act, construct such streets, drains, sewers, and watercourses as it may deem necessary, and, on such construction in compliance with the reasonable requirements of the municipal authority within whose jurisdiction such streets are situate, dedicate such streets as public streets; and such municipal authority shall take over, maintain, and light the same.

Power to construct streets, &c.

9. For the purpose of rectifying boundary-lines, street-levels, and providing access, the Board may sell or give in exchange parts of the lands acquired under this Act, or may purchase or accept in exchange adjoining lands.

Power to buy, sell, and exchange lands for certain purposes.

10. All lands purchased or acquired by the Board under this Act shall vest in the Board for the purposes for which the Board is constituted, subject to the provisions of this Act.

Vesting clause.

## SCHEDULES.

Schedules.

### FIRST SCHEDULE.

ALL those three pieces of land, being parts of Sections 5 and 7 of the Evans Bay District, in the Melrose Ward of the City of Wellington, containing together an area of about 3 roods 30 perches: first, commencing at a point "o" as shown on the plan hereinafter referred to, the said point being distant 420·67 links on a bearing of 14° 31' from a survey-peg numbered xx on a plan marked A/1258 deposited in the office of the District Land Registrar, in Wellington, the said peg being distant 10123·28 links south and 7624·85 links east from the trig. station at Mount Cook; thence about 79·5 links on a bearing of 14° 31' to the point CC, the said line being part of the eastern boundary of the land vested in the Wellington City Corporation under the Wellington

City Reclamation and Empowering Act, 1906, shown on a plan marked M.D. 2940 deposited in the office of the Marine Department, in Wellington; thence generally in an easterly direction along high-water mark to the point "p"; thence about 330 links on a bearing of 284° 28' 30" to the starting-point at "o"; second, commencing at a point "k" as shown on the plan hereinafter referred to, the said point being distant 1590·14 links on a bearing of 284° 28' 30" and 56·04 links on a bearing of 347° 37' from a survey-peg numbered xvii on the aforesaid plan marked A/1258, the said peg being distant 10939·29 links south and 10786·12 links east from the trig. station at Mount Cook; thence 300 links on a bearing of 284° 28' 30" to the point "n"; thence about 213 links on a bearing of 14° 28' 30" to high-water mark at the point "m"; thence generally in an easterly direction along high-water mark to the point "l"; thence about 178 links on a bearing of 194° 28' 30" to the starting-point at "k": third, commencing at a point "e" as shown on the plan hereinafter referred to, the said point being distant 100 links on a bearing of 284° 28' 30" and 56·04 links on a bearing of 347° 37' from the aforesaid survey-peg numbered xvii on the plan marked A/1258; thence 100 links on a bearing of 284° 28' 30" to the point "j"; thence about 230 links on a bearing of 14° 28' 30" to high-water mark at the point "h"; thence generally in an easterly direction along high-water mark to the point "f"; thence about 296 links on a bearing of 194° 28' 30" to the starting-point at "e": be the said areas, bearings, and distances a little more or less: as the same are delineated and coloured pink edged with red on a plan deposited in the office of the Marine Department, in Wellington, and marked M.D. 3187, and thereon denoted as the Third Schedule: together with all foreshore rights of access, bathing, and all other privileges and powers over so much of the foreshore at Evans Bay as lies between the eastern and western portions of the lands described in this Schedule.

#### SECOND SCHEDULE.

ALL that piece of land, being a part of Section 2 of the Evans Bay District, in the Melrose Ward of the City of Wellington, and being so much of the land referred to in the certificate of title, Vol. cxxxii, folio 196, registered in the office of the District Land Registrar, in Wellington, as lies to the eastward of the Evans Bay Road, containing an area of about 1 rood 14 perches: bounded towards the south, 83 links, on a bearing of 110° 56', by Section 3 of the Evans Bay District; towards the west, 470 links, on a bearing of 189° 25' 30", by Evans Bay Road; and towards the east by the high-water mark of Evans Bay: be the said area, bearings, and distances a little more or less: as the same is delineated and coloured pink edged with brown on a plan deposited in the office of the Marine Department in Wellington, and marked M.D. 3187, and thereon denoted as the Sixth Schedule.

#### THIRD SCHEDULE.

ALL that piece of land, being a part of Section 3 of the Evans Bay District, in the Melrose Ward of the City of Wellington, containing an area of about 20 acres, and being the whole of the land referred to in certificate of title, Vol. xxi, folio 287, registered in the office of the District Land Registrar, in Wellington: bounded towards the north, 1098 links, by Section 2 of the Evans Bay District; towards the east by Evans Bay; towards the south-west, 724 links, and towards the west, 1750 links, by other parts of Section 3: be the said area and distances a little more or less: as the same is delineated and coloured green edged with blue on a plan deposited at the office of the Marine Department, in Wellington, and marked M.D. 3187, and thereon denoted as the Seventh Schedule.

#### FOURTH SCHEDULE.

ALL that piece of land, being a portion of the bed of the Harbour of Port Nicholson, situated in Evans Bay, and being the whole of the land referred to in Crown Grant No. 5992 and in certificate of title, Vol. xx, folio 127, registered in the office of the District Land Registrar, in Wellington, containing an area of about 10 acres 1 rood 29 perches: bounded towards the north-west, 650 links, by Section 3 of the Evans

Bay District ; towards the north-east, 1657 links, by Evans Bay ; towards the south-east, 607 links, by Evans Bay ; towards the south-west, 1842 links, by Evans Bay : be the said area and distances a little more or less : as the same is delineated and coloured blue edged with yellow on a plan deposited in the office of the Marine Department, in Wellington, and marked M.D. 3187, and thereon denoted as the Eighth Schedule.

## FIFTH SCHEDULE.

THIS DEED made the twenty-first day of July one thousand nine hundred and eight between the Wellington Patent Slip Company (Limited) a company incorporated under the Companies Acts of New Zealand (hereinafter called "the Company") of the one part and the Wellington Harbour Board (hereinafter called "the Board") of the other part

Whereas pursuant to the provisions of several Acts of the General Assembly of New Zealand and Ordinances of the Provincial Council of the Province of Wellington and by conveyance from the Superintendent of the Province of Wellington and grant from the Crown the Company is seised and possessed of certain lands in the Evans Bay District and in the bed of Wellington Harbour which lands are more particularly described in the First Schedule to these presents And whereas the Company has erected a patent slip upon part of the said lands and works appurtenant thereto and plant in connection therewith and has for many years carried on upon the said lands repairing and other work incidental to the patent slip And whereas the Union Steam Ship Company of New Zealand (Limited) (hereinafter called "the Union Company") lately acquired a large number of the shares in the Company and has proposed to carry on upon part of the land not occupied by the patent slip certain operations of the Union Company And whereas the Board has proposed to acquire by purchase the said lands and all right therein of the Company and all the rights of the Company in connection therewith and has caused to be introduced into Parliament a Bill to effect that amongst other purposes which Bill is intituled the Wellington Harbour Board Reclamation and Empowering Bill 1908 And whereas the Company has lodged at the Private Bill Office a petition in due form praying leave to oppose the said Bill And whereas the Board and the Company for the purpose of determining the price to be paid to the Company by the Board and for the purpose of arriving at an equitable arrangement as between the Board the Company and the Union Company as to the period during which the Company may still continue to use and occupy the said lands and to carry on the operations of the patent slip and for the purpose of settling all the matters in dispute between the Board and the Company have met and agreed upon the several questions at issue and have agreed to set forth the same in these presents and mutually to seek confirmation by Parliament of the terms of such agreement

Now these presents witness and the Board and the Company do and each for itself its successors and assigns covenant with the other in manner following that is to say :—

1. The benefit of the covenants and agreements on the part of the Board herein expressed and implied is intended to inure as well to the Union Company as to the Company and the Union Company shall be entitled to claim the benefit of the rights conferred upon the Company hereunder and the Union Company shall be bound by and shall in all respects observe and perform the covenants obligations and duties herein undertaken by the Company and the same may be enforced against the Union Company as well as against the Company.

2. On the expiration of twenty-five years from the thirtieth day of September one thousand nine hundred and eight the Board shall pay to the Company its successors or assigns the sum of thirty thousand pounds (£30,000) and then and thereupon the land described in the First Schedule to these presents and all the rights and powers of the Company in relation to the patent slip and to the said lands and to the works and to the undertaking shall vest in the Board.

3. During the said period of twenty-five years the Company and the Union Company may use and occupy the said land and the slip and works and every part thereof without restriction of any kind save firstly that the Company shall always maintain in full efficiency the patent slip and all plant works and additions and provide the necessary appliances as heretofore in connection therewith for all vessels

requiring to use the same and secondly the limitations in these presents expressly defined.

4. As soon as conveniently may be the Company and the Board shall agree upon and cause to be defined by survey part of the said lands (hereinafter called "the defined area") including if both parties agree other lands adjacent thereto. It is now agreed that the seaward boundary of the defined area shall be distant at least ten feet within the seaward limit of lands (if any) to be reclaimed from the sea by the Company as hereinafter provided and where there is no such reclamation then at least ten feet within high-water mark. Within the defined area the Company or the Union Company may erect any buildings they think fit and the Board shall not be required at the expiration of the said period of twenty-five years to make any payment to the Company or to the Union Company in respect of such buildings or any other improvements. At the expiration of the said period of twenty-five years the Company or the Union Company shall be entitled to a lease of the defined area upon the terms and subject to the conditions hereinafter provided. The boundaries of the defined area may at any time within the said period of twenty-five years be altered by agreement between the Board and the Company and the defined area may accordingly be enlarged or diminished from time to time by agreement provided that the Board shall not be required by reference to the Minister of Marine or otherwise to pay for improvements effected by the Company upon any part excluded.

5. With respect to all the land not comprised within the defined area the Company and the Union Company shall be entitled at the expiration of the said period of twenty-five years to payment for buildings and improvements hereafter erected and effected thereon. Provided first that such buildings and improvements have been erected or effected with the consent and approval of the Board in writing secondly that such payment shall in no case exceed the actual cost of such buildings and improvements less any depreciation in the value thereof thirdly that the amount to be paid shall be ascertained by the award of two arbitrators one to be appointed by each party or by their umpire in the event of their difference.

6. The Company may reclaim such portion of the foreshore of the bed of the harbour immediately fronting upon and adjoining the said lands described in the First Schedule hereto or any part thereof as shall be agreed upon between the Board and the Company the portion so to be reclaimed being within the area marked "Ninth Schedule" on the plan deposited in the office of the Marine Department at Wellington marked and numbered M.D. 3187. For the purpose of any such reclamation and for any other purpose connected with the said lands the Company may take and remove spoil from any part of the said lands to any other part thereof or to the bed of the harbour adjacent thereto. But the Board shall not until the expiration of the said period of twenty-five years reclaim any part of the land within the Ninth Schedule on the said plan in such manner as to interfere with access by water to the said lands. Any such reclamation by the Company executed pursuant to agreement with the Board shall be an improvement within the meaning of clause five hereof.

7. The Company may during the said period of twenty-five years erect wharves jetties and breastworks extending into the bed of the harbour from any part of the said lands provided that the plans of any such proposed work and of the location thereof shall be first submitted to the Board and agreed to by the Board. Every such construction agreed to by the Board shall be deemed to be an improvement of the said lands within the meaning of clause five hereof. The Company shall maintain in good order throughout the said period of twenty-five years all works constructed under this clause.

8. The Company may at any time and shall if required by the Board after the first four years of the said period of twenty-five years erect and equip a second and smaller slip upon the said lands for the special convenience of the smaller vessels. This second slip shall be erected and constructed in such manner as shall be agreed upon between the Board and the Company and shall be deemed an improvement of the said lands within the meaning of clause five hereof.

9. There shall not be any preference or priority claimed by the Union Company or granted by the Company to the Union Company in respect of the use of either slip or the appurtenances thereto by the vessels of the Union Company nor shall any preference or priority be granted to any other person or company. The order of user of either slip by vessels requiring the use thereof shall so far as possible be determined as a public authority if possessed of either slip would determine the same. The

Company shall from time to time furnish to the Board at its request a list of ships which have theretofore been put on the slips and also of ships whose owners have been refused the use of the slips as requested by them and shall also furnish dates and particulars of all applications and the reason for refusal of any such applications so that it may be shown that no priority or preference has been granted.

10. The Company may add to its plant and appliances in connection with the patent slip or may renew the existing plant and appliances in such manner and to such extent as shall be agreed upon between the Board and the Company. Such additions and renewals are deemed to be improvements of the said lands within the meaning of clause five hereof.

11. The Company being bound throughout the said period of twenty-five years to maintain its works in a state of complete efficiency renewals to effect that purpose shall not be improvements within the meaning of clause five hereof. The question whether any renewals are wholly or in part within the provisions of this or of the last preceding clause shall be determined by agreement between the Board and the Company.

12. The dues and other charges payable in respect of the use of the patent slip or in connection therewith shall not at any time during the said period of twenty-five years exceed the rate specified in the scale heretofore fixed by the Company and specified in the Second Schedule hereto unless the Board shall expressly agree in writing to the increase of any such dues or charges either permanently or temporarily.

13. When the smaller slip is equipped and established a scale of rates and charges for the use of the same shall be agreed upon between the Board and the Company from time to time and shall be a separate and distinct scale.

14. Except as by this clause is provided no goods or cargo of any kind shall be landed at or shipped from any wharf jetty or breastwork or on any part of the said land. Machinery coal plant material and goods to be used by the Company or the Union Company for or in connection with the operations works and buildings on the said land or to be stored on the said land for the use of the Company or of the Union Company may at any time be landed at or shipped from any such wharf jetty or breastwork but there shall be paid to the Board the same rates dues and charges in respect of such goods and other articles as would be payable in respect thereof in any other part of the harbour. No berthage rate or any charge for the use of or in connection with any such wharf jetty or breastwork by vessels lying thereat or adjacent thereto shall be payable to the Board during the said period of twenty-five years inasmuch as the same will be provided entirely at the expense of the Company and until the end of the said period the Company will receive no repayment in respect thereof.

15. If the Company shall in exercise of the powers conferred upon it by its grants from and contracts with the Crown propose to alter the road upon the said land it shall first submit to the Board plans showing the proposed deviation and mode of construction and shall obtain the agreement of the Board thereto. Such deviation and the cost of construction of the said road shall be deemed an improvement within the meaning of clause five hereof.

16. If any land of adjoining owners shall be required by the Company for the purposes of the construction of the said road the Board and the Company shall agree as to the area to be acquired and the terms of acquisition and the Company may purchase the same and the actual cost of acquisition of the same shall be deemed an improvement within the meaning of clause five hereof.

17. The Company shall not be entitled to make any claim against the Board in excess of the actual cost of its improvements upon the ground that works carried out by the Company may have actually increased the capital value of the land. The Company shall as each work is carried on supply to the Board details of the expenditure incurred by the Company in respect thereof.

18. The Engineer of the Board and the Secretary of the Board shall have access at all reasonable times to the said lands and may inspect the machinery plant and buildings thereon and the works and operations carried on.

19. With respect to the defined area the capital value of the land without improvements shall be ascertained within the last year of the said period of twenty-five years by agreement between the Board and the Company and if they shall fail to agree then by the award of two arbitrators one to be named by each party or by their umpire in case of their difference. The Board shall offer to the Company

or to the Union Company a lease of the defined area at a rental equal to five per centum of the capital unimproved value so ascertained for a term of fourteen years commencing at the expiration of the said period of twenty-five years such lease to contain a provision for continuous consecutive renewals each of a term of fourteen years at a rental for each term equal to five per centum on the capital unimproved value of the land at each renewal.

20. Wherever in these presents rights and powers are conferred upon the Company such rights and powers may be exercised by the Company its successors or assigns or by the Union Company its successors or assigns.

21. Wherever in these presents it is provided that matters shall be the subject of agreement between the Board and the Company or that the consent of the Board is necessary to the performance by the Company of any act or to the undertaking by the Company of any work or that any benefit or privilege of the Company is conditional upon the agreement or consent of the Board the parties hereto agree and declare that in the event of the failure of agreement by the parties or of the refusal of any consent or approval by the Board or in the event of the Board neglecting to express its assent the Company or the Union Company shall have the right to refer the matter in respect of which the parties have failed to agree or in respect of which the Board has refused its consent or in respect of which the Board has neglected to declare its assent to the Minister for the time being in charge of the Marine Department who shall determine the same and whose decision shall be final and binding upon both parties and shall have the same effect as is by these presents given to the agreement between the parties or the consent of the Board as the case may require. The only exceptions to the operation of this clause are the matters which are expressly referred in case of difference to the award of arbitrators or their umpire and the matter expressly excepted by the last part of clause four hereof.

22. These presents are executed with the intent that force and effect shall be given to the provisions thereof by the said Bill or by some other Act to be passed by Parliament during its present session and the parties agree to promote such legislation with that object the provisions of the said Bill to be modified so as to accord with these presents and these presents to be set forth in the said Bill or in a Schedule thereto if Parliament permits. If effect is not given to all the provisions of these presents by legislation during the present session of Parliament then these presents shall have no effect and the rights of the Board and of the Company and of the Union Company respectively shall remain unaffected by these presents and either party shall be free from any obligation to the other in respect of the negotiations leading up to the agreement expressed in these presents.

In witness whereof these presents have been executed the day and year first hereinbefore written.

#### THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

All that piece of land being part of Section 3 of the Evans Bay District in the Melrose Ward of the City of Wellington containing an area of about 20 acres and being the whole of the land referred to in certificate of title Volume xxi folio 287 registered in the Office of the District Land Registrar in Wellington bounded towards the north 1098 links by Section 2 of the Evans Bay District towards the east by Evans Bay towards the south-west 724 links and towards the west 1750 links by other parts of Section 3 be the said area and distances a little more or less as the same is delineated and coloured green edged with blue on a plan deposited at the Office of the Marine Department in Wellington and marked M.D. 3187 and thereon denoted as the Seventh Schedule.

Also all that piece of land being a portion of the bed of the Harbour of Port Nicholson situated in Evans Bay and being the whole of the land referred to in Crown Grant No. 5992 and in certificate of title Volume xx folio 127 registered in the Office of the District Land Registrar in Wellington containing an area of about 10 acres 1 rood 29 perches bounded towards the north-west 650 links by Section 3 of the Evans Bay District towards the north-east 1657 links by Evans Bay towards the south-east 607 links by Evans Bay towards the south-west 1842 links by Evans Bay be the said area and distances a little more or less as the same is delineated and coloured blue edged with yellow on a plan deposited in the Office of the Marine Department in Wellington and marked M.D. 3187 and thereon denoted as the Eighth Schedule.



## THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

*Tariff of Charges of the Wellington Patent Slip Company (Limited).*

A minimum rate of ten pounds will be charged on all vessels under 200 tons gross register. Vessels over 200 tons gross will be charged at the following rates:—

For the first day or part of a day on slip	...	1s. per ton
For each additional day	... ..	6d. per ton

(A day to mean any time between sunrise and sunset)

But vessels undergoing repairs must give way if room be required for another vessel and will then be charged with the cost of "blocking off" and replacing on carriage for launching. The above rates cover the cost of all assistance rendered by the Patent Slip Company (Limited) in hauling up and launching but not the cost of blocking off and replacing a vessel on the carriage or shifting the blocks after hauling up which will in all cases be borne by the vessel.

The Common Seal of the Wellington Harbour Board was hereunto affixed by order of the said Board in the presence of— [L.S.]

THOMAS M. WILFORD, Chairman.  
F. G. BOLTON,  
T. KENNEDY MACDONALD, } Members.  
H. E. NICHOLLS, Acting-Secretary.

The Common Seal of the Wellington Patent Slip Company (Limited) was hereunto affixed pursuant to a resolution of the Board of Directors of the said Company in the presence of— [L.S.]

H. BEAUCHAMP,  
W. A. KENNEDY, } Directors.  
EDWARD RICHARDSON, Secretary.