

Hon. Mr. Carroll.

GISBORNE HARBOUR BOARD ENABLING.

[LOCAL BILL.]

ANALYSIS.

Title.	
Preamble.	
1. Short Title.	16. Resolution to be gazetted.
2. Special Act.	17. Special rate.
3. Interpretation.	18. Application of proceeds of special rate. Sinking fund.
4. Returning Officer.	19. Amount of rate to be levied in certain places.
5. Power to borrow.	20. Powers of Board to levy rate.
6. How money borrowed to be expended.	21. Crown and Native lands chargeable with rate.
7. Security for loan.	22. Rate levied not to be invalidated.
8. Harbour district.	23. Powers of Board.
9. Consent of ratepayers required before any loan raised.	24. How local authority may pay its contribution.
10. Meeting of ratepayers to consider loan proposals.	25. Striking of special rate.
11. Roll of ratepayers.	26. Proceedings in case of neglect to pay contribution.
12. Roll to be signed and handed to Returning Officer.	27. In case of default Receiver may be appointed.
13. Poll to be taken.	28. When rate or contributions to vest in Receiver.
14. Result of poll.	29. Powers of Receiver.
15. Result of poll to be advertised.	30. Application of money by Receiver.
	31. When powers of Receiver to reinvest in Board. Schedule.

A BILL INTITULED

AN ACT to enable the Gisborne Harbour Board to borrow Four Hundred Thousand Pounds. Title.

WHEREAS the Gisborne Harbour Board are desirous of constructing an outer harbour to afford accommodation generally to shipping of large tonnage: And whereas the estimated cost of such harbour-works is three hundred and fifty thousand pounds: And whereas the said Board in the year eighteen hundred and eighty-five, under the provisions of the Gisborne Harbour Board Empowering Act, 1884, borrowed a sum of two hundred thousand pounds, and it is estimated that when the time for repayment of such loan arrives the sum of fifty thousand pounds (with the accumulated sinking fund and other moneys) will be required to pay off the same: And whereas the said Board is desirous of borrowing sufficient money to construct the outer harbour and provide for the balance of the old loan—namely, a total sum of four hundred thousand pounds: Preamble.

BE IT THEREFORE 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 Gisborne Harbour Board Enabling Act, 1907. Short Title.

- Special Act.** 2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1878, which Act is hereby incorporated with this Act.
- Interpretation.** 3. In this Act, if not inconsistent with the context,—
 “Board” means the Gisborne Harbour Board as constituted 5
 under the Gisborne Harbour Act, 1905 :
 “Chairman” means the Chairman of the Board :
 “Harbour district” or “district” means the harbour district established under this Act :
 “Returning Officer” means the officer appointed by the 10
 Board to conduct elections and polls within the harbour district.
- Returning Officer.** 4. The Local Elections Act, 1904, shall apply to every poll taken under this Act, and the Board shall appoint some person to be Returning Officer for the conduct of the poll hereafter authorised 15
 throughout the harbour district.
- Power to borrow.** 5. It shall be lawful for the said Board to borrow from time to time such sum or sums of money as the said Board shall deem fit, providing the total of the amounts so borrowed do not exceed in the aggregate the total sum of four hundred thousand pounds; and the 20
 said Board may borrow such sum or sums of money as aforesaid for such period or periods as it may think fit, and to renew or again borrow any or all of such sum or sums of money as they fall due for such further or other period or periods as the Board may think fit; provided that the said Board shall not borrow upon debentures for a 25
 longer period in the aggregate than forty years from the taking of the poll hereafter mentioned. Any sum or sums so borrowed shall be borrowed at a rate not exceeding four pounds per centum per annum.
- How money borrowed to be expended.** 6. Such sum of four hundred thousand pounds shall be expended 30
 as follows—namely, the sum of three hundred and fifty thousand pounds upon the construction of an outer harbour within the limits of the Gisborne Harbour as defined in the First Schedule to the Gisborne Harbour Act, 1905, and the sum of fifty thousand pounds (together with sinking fund and balance of loan) in and towards 35
 repayment of the original loan of two hundred thousand pounds.
- Security for loan.** 7. The said debentures, together with interest, shall be secured upon the rents, profits, and dues chargeable and receivable by the said Board as harbour or other dues or in respect of the harbour-works of the Port of Poverty Bay, and upon the rates and con- 40
 tributions hereinafter mentioned by virtue of this Act to be made and levied.
- Harbour district.** 8. A harbour district is hereby constituted for the purposes of this Act, as set forth in the Schedule hereto.
- Consent of ratepayers required before any loan raised.** 9. Before the loan authorised by this Act is raised, the consent 45
 of the ratepayers shall first be obtained in the manner following :—
 (a.) A notice shall be published in a newspaper circulating in the district, and shall specify the time and places in the Borough of Gisborne, and in each riding of the Counties of Waiapu and Cook, at which meetings are to be held to 50
 consider a proposal to raise such special loan or any part thereof, and the following particulars, namely :—

- (i.) The particular work proposed to be undertaken:
- (ii.) The sum proposed to be borrowed for such purpose:

5 (iii.) Any special rate or rents, profits, and dues chargeable and receivable by the said Board which it is proposed to pledge as security for such loan, subject only to any prior rates or charges for any previous loan obtained by the said Board.

10 10. The Chairman shall call meetings of the ratepayers to be held within the Borough of Gisborne, and at such places within the Counties of Waiapu and Cook as the said Board shall by ordinary resolution decide, upon a day not more than fourteen days after the first publication of such notice, to consider the said proposal; and the Chairman shall appoint one of the members of the said Board
15 to preside at such meeting if such member shall be willing to act, and if no such member is willing to act, or becomes incapacitated from acting from any cause, then such person as the Chairman thinks fit. The member or person so appointed shall preside at the meeting to be held in the borough or place for which he has
20 been appointed. After due consideration and discussion of the proposal, the person so appointed to preside at the meeting shall give notice that a poll will be taken.

Meeting of ratepayers to consider loan proposals.

25 11. It shall be the duty of the Secretary of the said Board, at the request of the Chairman, to prepare a roll for the harbour district as defined in this Act, setting forth all ratepayers within such district; and every ratepayer within the district shall be entitled to vote according to the following scale, that is to say:—

Roll of ratepayers.

- 30 (a.) If his rateable property is valued on any valuation roll at not more than one thousand pounds, he shall have one vote:
- (b.) If such property is so valued at more than one thousand pounds but not more than two thousand pounds, he shall have two votes:
- 35 (c.) If such property is so valued at more than two thousand pounds, he shall have three votes.

12. The roll for the harbour district shall be signed by the Chairman or two members of the Board, and when so signed shall be delivered to the Returning Officer, and shall be the roll upon which the poll shall be taken.

Roll to be signed and handed to Returning Officer.

40 13. The poll shall be taken as follows:—

Poll to be taken.

- 45 (a.) At the written request of the Chairman, authorised by ordinary resolution of the Board, the Returning Officer shall publish a notice setting forth the day (not less than one week nor more than four weeks from the day of the aforesaid meetings) on which the poll will be taken.
- (b.) A poll shall be taken in the harbour district, and the Returning Officer shall provide such polling-places within the district as he shall think fit and necessary for the due taking of such poll.
- 50 (c.) All the provisions of the Local Elections Act, 1904, as regards taking a poll shall, so far as they are applicable, and except as in this Act is otherwise provided, apply to

the taking of the polls on the proposal to raise the special loan.

Result of poll.

14. If the total number of votes at all the polls given for the proposal represent a majority of the votes recorded within the whole harbour district, the resolution 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 resolution shall be deemed to be rejected, and the Board shall not so proceed.

Result of poll to be advertised.

15. As soon as conveniently may be after the result of the poll has been ascertained, the Returning Officer shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the resolution to be carried or rejected, as the case may be.

Resolution to be gazetted.

16. When any such resolution is carried, the Chairman shall send a notice thereof to the Colonial Secretary, who shall publish the same in the *Gazette*; and such notice so gazetted shall be final and conclusive that the raising of the loan to which it refers has been duly authorised under the provisions of this Act, notwithstanding any omission or irregularity in any provision, matter, or thing required to be done hereunder or under the Local Elections Act, 1904.

Special rate.

17. The Board, after the passing of this Act, shall, if the resolution in favour of the proposal be carried as aforesaid, make and levy a special rate which shall not exceed annually upon the capital value of all rateable property in the harbour district one penny in the pound for the Borough of Gisborne, one halfpenny in the pound for the County of Cook, and one farthing in the pound for the County of Waiapu. Such special rate is in addition to other rates provided for the aforesaid special loan of two hundred thousand pounds.

Application of proceeds of special rate.

18. (1.) The proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loan or loans to be raised under the provisions of this Act. The amount to be levied by the Board in each year shall not exceed such amount as is required to provide for the payment of interest on the aggregate amount for which debentures shall at that time be issued, and, in addition, ten shillings per centum per annum on such aggregate amount to be appropriated for the purpose of a sinking fund.

Sinking fund.

(2.) The annual amount required to provide interest and sinking fund shall mean such sum as the Board may in any year estimate to be necessary for that purpose, after taking into account the estimated balance of ordinary revenue available, deducting working-expenses, cost of administration, and the interest accrued or accruing within that year upon the said special loan of two hundred thousand pounds.

Amount of rate to be levied in certain places.

19. The rate to be levied under this Act on the rateable property in the Borough of Gisborne shall be double the rate to be levied on the rateable property in the County of Cook, and the rate to be levied in the County of Cook shall be double the rate to be levied in the County of Waiapu, provided always that the said rate shall respectively not exceed the amount authorised by section *seventeen* hereof.

20. For the purpose of making, levying, and recovering the said rates, the Board shall have and may exercise all the powers of making, levying, or recovering rates in the said borough and counties comprising the harbour district which any local body having rating-
 5 powers within such borough or county has or may have under the law for the time being in force regulating the making and recovery of rates therein respectively.

Powers of Board to levy rate.

21. All Crown land and all Native lands within the said harbour district shall be charged with payment of the aforesaid special rate.

Crown and Native lands chargeable with rate.

10 22. No rate made under this Act shall be capable of being set aside or of being quashed by any proceeding of any Court or otherwise, and no defect in the same shall be set up as a defence to any action which may be brought to recover the same.

Rate levied not to be invalidated.

15 23. (1.) For the purpose of raising the amount authorised to be levied under this Act towards providing interest and sinking fund on the loan hereby authorised, the said Board is hereby empowered by special resolution to—

Powers of Board.

20 (a.) Suspend, from a date to be fixed by such resolution, the operation of the rate already made towards providing such interest and sinking fund as aforesaid, without prejudice, however, to the recovery of any moneys theretofore accrued due or owing in respect of such rate :

25 (b.) Declare that the Council of the Borough of Gisborne and the Councils of the Counties of Cook and Waiapu shall be liable to contribute the amount authorised to be levied as aforesaid, in proportion to the rateable value of all rateable property comprised within the boundaries of such borough and counties respectively, and situated within the said harbour district :

30 (c.) Fix on the aforesaid basis the amount of the proportion of the contribution to be made by each of the aforesaid local authorities respectively in each year from the first day of January to the thirty-first day of December inclusive, and the time or times for the payment thereof either in one sum or by two equal instalments :

35 (d.) From time to time vary, alter, or rescind any of the acts authorised by paragraphs (a) to (c) inclusive.

(2.) The provisions of section seventy-four of the Rating Act, 1894, shall be deemed to be incorporated herewith.

40 24. Every contributory local authority declared liable to pay any such contribution as aforesaid may pay the same out of the ordinary funds at its disposal, or out of any general rate or rates levied by it, or out of any moneys received by way of subsidy; or may, if it thinks fit, and shall if the means aforesaid are insufficient
 45 for the payment of the amount required, levy a rate to provide such amount, and the power to levy such rate shall be in addition to any power of rating already possessed by such local authority.

How local authority may pay its contribution.

50 25. Every rate authorised under the *last preceding* section of this Act shall be struck, made, levied, and collected in, with, under, and subject to the same powers, rights, and authorities, and in all respects in the same manner, as rates for general or ordinary purposes levied by such local authority, and may be included in and collected with any such last-mentioned rate or rates.

Striking of special rate.

Proceedings in case of neglect to pay contribution.

26. If any local authority declared liable to contribute as aforesaid shall neglect or refuse to pay the amount of such contribution or any instalment thereof, as the case may be, to the said Board for the period of one month after the time fixed for the payment, such contribution or instalment may be recovered by the said Board in any Court of competent jurisdiction as a debt due to the Board by the Corporation represented by such contributory local authority, or payment thereof may be enforced by the said Board by proceeding in the Supreme Court for a writ of *mandamus* to compel the members of such local authority to pay such contribution or instalment within a time to be limited by the Court or a Judge thereof, or to take the necessary steps to provide for such payment and to make such payment within a time to be limited as aforesaid. 5

In case of default Receiver may be appointed.

27. When and so often as the Board or any local authority declared liable to contribute as aforesaid shall fail to pay at the proper time and place for so paying any sum either of principal or interest a contribution which it ought to pay under this Act, then immediately or at any time thereafter any person to whom 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 rate liable for the payment of such sum. 10

When rate or contributions to vest in Receiver.

28. The before-mentioned special rate, and any contributions from any local authority declared liable to contribute as aforesaid, shall from the date of the said order, and upon its being publicly notified by the Receiver, vest in the Receiver and shall cease to be vested in the Board. 25

Powers of Receiver.

29. All powers for the recovery of such rate and contributions shall, after the appointment of the Receiver, and upon its being publicly notified, cease to be exercised by the Board and shall be exercised by the Receiver. 30

Application of money by Receiver.

30. (1.) 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 necessary expenses;
 (c.) In payment *pro rata* of the sums then overdue by the Board which are secured by the said rate; and
 (d.) The residue, after payment of the above, to the Board.
 (2.) The Receiver shall account for all such moneys in such manner as the Judge directs. 35

When powers of Receiver to reinvest in Board.

31. When all sums of money then overdue are paid, or at any time by an order of a Judge of the Supreme Court, on the application of the Board, if such Judge shall think fit to make such order, the powers of the Receiver shall cease, and he shall forthwith pay any moneys in his hands to the Board, who shall again be capable of exercising the powers of which the appointment of the Receiver had deprived them. 40

Schedule.

SCHEDULE.

The Gisborne Harbour District.
 The Borough of Gisborne.

The County of Cook.
 The County of Waipapu.