

Hon. Mr. Carroll.

GISBORNE HARBOUR BOARD ENABLING.

[LOCAL BILL.]

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A BILL INTITULED

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

WHEREAS the Gisborne Harbour Board ~~are~~ *is* 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~~ *said former* 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 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 Board to conduct elections and polls within the harbour district.	5 10
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 throughout the harbour district.	15
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 but so that the total of the amounts so borrowed do not exceed in the aggregate the total sum of four hundred thousand pounds ; and the said Board may borrow such sum or sums of money as aforesaid for such period or periods as it may think fit, and to <i>may</i> 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 ; <i>Struck out.</i>	20 25
	provided that the said Board shall not borrow upon debentures for a 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.	30
	6. Such sum of four hundred thousand pounds shall be expended 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 repayment of the original loan of two hundred thousand pounds.	35
	<i>New clause.</i>	
How money borrowed to be expended.	6. The moneys so borrowed shall be applied by the Board as to part thereof in provision of such capital sum as shall be required, in addition to the unexpended balance and accumulating sinking fund of the said loan of two hundred thousand pounds borrowed in the year eighteen hundred and eighty-five, to discharge and pay off the debentures of the said loan when the same mature ; and as to the remaining part thereof, in 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.	40 45
Security for loan.	7. The said debentures <i>for all moneys so borrowed</i> , 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 contributions hereinafter mentioned by virtue of this Act to be made and levied <i>under the authority of this Act.</i>	50

Struck out.

8. A harbour district is hereby constituted for the purposes of this Act, as set forth in the Schedule hereto.

9. Before the loan authorised by this Act is raised, the consent of the ratepayers shall first be obtained in the manner following:—

New clauses.

8. The harbour district hereby constituted for the purposes of this Act is the whole area comprised within the boundaries of the Borough of Gisborne and the County of Cook.

Harbour district.

9. Before the Board proceeds to borrow moneys under the authority of this Act it shall cause meetings of the ratepayers to be held and a poll to be taken as by this Act is provided.

Consent of ratepayers required before any loan raised.

(a.) A 10. The Board shall cause a notice ~~shall to be published in a some newspaper circulating in the district, and shall specify the specifying a time and places in for the Borough of Gisborne, and in and a time and place for each riding of the Counties of Waipuu and County of Cook, at which meetings of ratepayers are to be held to consider a proposal to raise such special loan or any part thereof, and the following particulars, namely:— and containing a brief summary of the provisions of this Act. The time appointed shall not be less than fourteen days after the first publication of this notice.~~

Notices of poll.

Struck out.

(i.) The particular work proposed to be undertaken:

(ii.) The sum proposed to be borrowed for such purpose:

(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. The Chairman shall call meetings of the ratepayers to be held within the Borough of Gisborne, and at such places within the Counties of Waipuu 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 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 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.

New clause.

11. Every such meeting shall be presided over by some person appointed by the Chairman of the Board for such meeting. If the person so appointed shall be absent or shall refuse to preside, then the meeting shall elect some person present to preside. At every such meeting, after due consideration and discussion of the proposal, the person presiding shall notify that a poll in accordance with the

Meeting of ratepayers to consider loan proposals.

provisions of the Act will be taken. If at the place and within one hour after the time appointed for any such meeting not more than two ratepayers are present, such meeting shall for the purposes of this Act be deemed to have been duly held, and the proposal to have been duly discussed and considered, and the notification of a poll to have been duly made.

Roll of ratepayers.

~~11.~~ 12. 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 *the names of* all ratepayers within such district; and every *such* ratepayer ~~within the district~~ shall be entitled to *exercise one* vote ~~according to the following scale, that is to say; and no more.~~

Struck out.

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|--|----|
| (a.) If his rateable property is valued on any valuation roll at not more than one thousand pounds, he shall have one vote : | 15 |
| (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 : | |
| (c.) If such property is so valued at more than two thousand pounds, he shall have three votes. | 20 |

Roll to be signed and handed to Returning Officer.

~~12.~~ 13. ~~The roll for the harbour district~~ *Such roll* 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.

Poll to be taken.

~~13.~~ 14. The poll shall be taken as follows : --

- (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 latest~~ *date appointed for any* 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 *harbour* district as he shall think fit and necessary for the due taking of such poll.
- (c.) All the provisions of the Local Elections Act, 1904, as regards taking a poll *on a proposal* 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.~~ *the taking of the poll.*

New paragraph.

- (d.) The statement of the proposal in the voting-paper shall be as follows : " Proposal to borrow moneys not exceeding in the aggregate £400,000 for the purposes defined in the Gisborne Harbour Board Enabling Act, 1907."

Result of poll

~~14.~~ 15. If the total number of votes ~~at all the polls given~~ recorded 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~~ shall be fully empowered to exercise the powers of borrowing, and all other

powers conferred by this Act; 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~~ *be so empowered*.

5 ~~15.~~ 16. 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~~ *proposal* to be carried or rejected, as the case may be.

Result of poll to be advertised.

Struck out.

10 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
15 thing required to be done hereunder or under the Local Elections Act, 1904.

20 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
25 provided for the aforesaid special loan of two hundred thousand pounds.

30 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.

35 (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
40 within that year upon the said special loan of two hundred thousand pounds.

45 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.

New clauses.

50 17. (1.) As soon as conveniently may be after the poll the Chairman shall send to the Colonial Secretary, for publication in the *Gazette*, a notice of the number of votes recorded for or against

Resolution to be gazetted

the proposal, and in such notice shall declare the proposal to be carried or rejected, as the case may be.

(2.) If in the notice so published in the *Gazette* it is declared that the proposal was carried, such notice so published shall be conclusive evidence that the raising of the loan has been duly authorised, and that all proceedings and things required by this Act as conditions precedent to the exercise by the Board of the borrowing-powers hereby conferred have been duly and lawfully taken and done, and that the Board is fully empowered and authorised to borrow any sum or sums of money not exceeding in the aggregate the sum of four hundred thousand pounds. 5
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(3.) If in the said notice it is declared that the proposal was rejected, it shall be lawful for the Board at any time after the expiration of twelve calendar months from the date of the publication in the *Gazette* of such notice to direct that another poll be held in the same manner and subject to the same conditions upon the same proposal. 15

Special rate.

18. If the proposal be declared to be carried, a special rate upon all rateable property in the harbour district, for the purpose of providing interest and sinking fund upon moneys to be borrowed under the authority of this Act, shall be deemed to have been duly made and struck by the Board in manner provided by law and in accordance with the provisions of the Rating Act, 1894, and to have been duly appropriated and pledged by the Board as a security for all moneys to be borrowed under the authority of this Act, and shall be a continuing annually recurring rate without further proceedings by the Board until repayment in full of all moneys so borrowed. Such special rate shall be one penny in the pound upon the capital value of all rateable property in the Borough of Gisborne, and one half-penny in the pound upon the capital value of all rateable property in the County of Cook. 20
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Estimates of revenue and expenditure.

19. (1.) The Board shall in each year cause an estimate to be prepared, in such manner and according to such principle and method as the Board approves, of the anticipated revenue of the year (exclusive of any rate to be levied under this Act) and of the anticipated expenditure of the year (including interest and sinking fund upon the moneys borrowed under the authority of this Act, but exclusive of capital expenditure on loan account); and shall upon such estimate determine the deficiency of such revenue to meet such expenditure. 35
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(2.) Any credit or debit balance of the Board's general account at the close of each year shall be carried forward to the account of the succeeding year for the purpose of the estimate of such succeeding year and the determination of the deficiency of the revenue of such succeeding year to meet the expenditure thereof. 40

Levy of special rate.

(3.) The Board shall direct the levy in each year of such part of the said special rate as shall be sufficient to provide such deficiency. 45

(4.) The Board may for the purposes of such direction and levy adopt some convenient fraction of a penny, notwithstanding that the sum thereby produced may exceed such deficiency. 50

(5.) The direction for every such levy shall be by resolution of the Board, and shall appoint a date or dates for payment thereof,

and every such direction shall have the force and effect according to its tenor of a rate duly made and struck on all rateable property in accordance with the provisions of the Rating Act, 1894.

5 (6.) Nothing in this section or in this Act shall be construed as in any manner limiting or affecting the rights of the holders of debentures to be issued by the Board to require the levy of the whole of the rate as defined by section *eighteen* hereof if any default be made by the Board in payment of any interest or capital moneys secured by such debentures.

10 19A. Notwithstanding any provision contained in the Harbours Act, 1878, it shall be lawful for the Board to make and levy harbour dues to be charged and collected in respect of goods produced or manufactured upon lands outside the harbour district, and in respect of goods shipped on behalf of persons residing outside the harbour district, in excess of the dues to be made and levied in respect of the same goods if produced or manufactured within the harbour district, or shipped on behalf of persons resident within the harbour district: Provided—

Differential dues may be levied.

20 (a.) That the limit of such excess shall be one-third of the dues chargeable in respect of the same goods when produced or manufactured within the harbour district:

25 (b.) That such excess dues shall be chargeable equally in respect of the same description of goods wheresoever outside the harbour district the same are produced or manufactured, and wheresoever outside the harbour district the persons on whose behalf the same are shipped may reside.

30 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-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.

35 ~~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.

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

Rate levied not to be invalidated.

Struck out.

45 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.

50 (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:

(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 :	
	(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 :	5
	(d.) From time to time vary, alter, or rescind any of the acts authorised by paragraphs (a) to (c) inclusive.	10
	(2.) The provisions of section seventy-four of the Rating Act, 1894, shall be deemed to be incorporated herewith.	
How local authority may pay its contribution.	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 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.	15 20
Striking of special rate.	25. Every rate authorised under the <i>last preceding</i> 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.	25
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 <i>mandamus</i> 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.	30 35 40
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 <i>ex parte</i> , 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.	45 50
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.

5 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.

10 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 afore-
 said 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.
 15 (2.) The Receiver shall account for all such moneys in such
 manner as the Judge directs.

20 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.

SCHEDULE.

The Gisborne Harbour District.
 The Borough of Gisborne.

The County of Cook.
 The County of Waiapu.