

New Parliament.]

[AS REPORTED FROM THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL, DECEMBER 13TH, 1879.]

[LOCAL AND PERSONAL.]

Te Aro Reclamation.

ANALYSIS.

<p>Title.</p> <p>Preamble.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>3. Corporation may reclaim land and enter into contracts for that purpose.</p> <p>4. Council to make compensation.</p> <p>5. Compensation may be in money or in land.</p> <p>6. Council may raise special loan for purposes of undertaking.</p> <p>7. Council may lay out streets, &c.</p> <p>8. Council may sell.</p> <p>9. Council may let.</p> <p>10. Land to be held under Corporations Acts.</p>	<p>11. Application of "Harbours Act, 1878," to this Act.</p> <p>12. "Public Works Act, 1876," to apply.</p> <p>13. Officers may be appointed.</p> <p>14. Legal proceedings.</p> <p>15. False oath under Act perjury.</p> <p>16. Offences.</p> <p>17. Penalties.</p> <p>18. Recovery of penalties.</p> <p>19. Proceedings not to be void for want of form.</p> <p>20. Limitation of proceedings.</p> <p>21. Application of penalties.</p> <p>22. Liability not discharged by penalty in certain cases.</p> <p>23. Rights of Her Majesty saved.</p> <p>Schedule.</p>
--	--

A BILL INTITULED

AN ACT to authorize the Reclamation of Land in the Harbour of Port Nicholson. Titla.

WHEREAS by a grant from the Crown dated the twenty-fourth day of June, one thousand eight hundred and seventy-four, ~~the a~~ piece of land described in the First Schedule to this Act was granted to the Mayor, Councillors, and Citizens of the City of Wellington (hereinafter called "the Corporation"), upon trust for reclamation and for purposes of public utility: Preamble.

And whereas the said land is situated below high-water mark and the greater part thereof is usually covered by water, and the Corporation is desirous of reclaiming the same *and it is expedient that they should have power to do so, and to raise money for that purpose, and to do other things as hereinafter mentioned:*

~~And whereas, for the purposes of enabling the Corporation to carry out such proposed reclamation, it is expedient that they should be empowered to raise money and do other things as hereinafter mentioned:~~

15 BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "The Te Aro Reclamation Act, 1879." Short Title.

20 **2.** In the construction of this Act the words "the Corporation" and "the Council" shall respectively mean the Mayor, Councillors, and Citizens of the City of Wellington incorporated under "The Municipal Corporations Act, 1876;" the words "the undertaking" shall mean the works to be carried out under the provisions of this Act, and any necessary works in connection therewith. Interpretation.

25 **3.** The Corporation may from time to time fill up and reclaim the land granted to them by described in the said grant or any part thereof, and may for that purpose, if they think fit and expedient, enter into any Corporation may reclaim land, and enter into contracts for that purpose.

contract or contracts with any person or persons for the execution of the said work, or of any other works under this Act, upon such terms and conditions as may seem to them proper and reasonable; and may also from time to time, either by themselves or by any contractor for the time being for the execution of the said works, take from any convenient place within the city not being private property, or from any private property within or without the city, with the consent of the owner and of any occupier for the time being thereof, any soil or materials which may be necessary for the said works, and may also by purchase acquire any land from which it may be necessary or expedient to take any such materials as aforesaid, and may from time to time execute and carry out all such other works as they may think expedient, or which may be necessary in connection with and for the purposes of the undertaking.

Council to make compensation.

4. The Corporation shall make to every person having any estate or interest in any land injuriously affected by the execution of the works authorized by this Act, and to every person who may suffer any loss or damage from the exercise of any of the powers hereby given, full compensation for the same, and such compensation shall be ascertained in the manner pointed out in Part III. of "The Public Works Act, 1876," which Part of such Act for that and for all other purposes, in so far as the same may be applicable to and not inconsistent with the provisions of this Act, shall be deemed to be incorporated with and to form part of this Act, and apply to the works and other matters authorized by this Act; the word "borough" being read therein instead of the words "county" or "road district" or "district," and the words "Borough Council" instead of the words "County Council" or "Road Board" or "Board:" Provided always that in ascertaining and determining the title of any claimant to compensation, the Compensation Court shall not be bound to regard strict legal rights only, but may award such compensation in respect of any claim which the Court may consider reasonable and just having regard to all the circumstances.

Compensation may be in money or in land.

5. Compensation in respect of any such claim as aforesaid may be made or awarded either out of the land reclaimed under the provisions of this Act, or in money, as the Corporation may think fit; and, where the Corporation shall elect to make such compensation in land the value of the land to be given shall be ascertained either by agreement between the claimant and the Corporation, or, in case of difference, by the Court acting under the provisions of "The Public Works Act, 1876," in the matter of such claim.

Council may raise special loan for purposes of undertaking.

6. The Council may, for the purpose of defraying the cost of any undertaking entered upon under section three of this Act, and for the payment of any costs, charges, and expenses attending or incidental to the passing of this Act, and of paying any compensation payable under this Act, and of the costs of any proceedings or matters connected with the ascertainment of such compensation, raise by way of special loan, as defined by "The Municipal Corporations Act, 1876," such sums as may be necessary, subject to all the provisions of "The Municipal Corporations Act, 1876," in respect of special loans, *except that it shall be imperative upon the Council to make provision for the repayment of all sums borrowed for the purposes aforesaid, or any of them, by means of a sinking fund, in manner provided in that behalf by the said Act and this Act.*

Council may lay out streets, &c.

7. The Council may, appropriate any part of the area included in the said grant to the purposes of wet or dry docks, or both, and the construction of any such docks shall be deemed to be part of the works authorized by this Act, and the Council may also, so soon as any part of the said land shall be reclaimed from the sea, lay out and construct streets and squares, or other thoroughfares or public places, through

or within any part of the same, or appropriate any part of the same to any other public purpose of utility for the benefit of the city.

8. The Council may from time to time sell all or any part or parts of the said land, when the same shall have been reclaimed from the sea, for such price or prices in money as they shall think fit, but every such sale shall be by public auction, after not less than two calendar months' notice of the same, and, upon payment of the purchase-money for the same, the Council may convey the same to the purchaser or purchasers, and every such conveyance made as last aforesaid shall vest the land comprised therein in such purchaser or purchasers; and all moneys received upon any such sale shall, after defraying the expenses incidental to the same, be applied in the first place to the purposes of the sinking fund hereinbefore mentioned, and, subject thereto, shall be in discharge of any debentures issued by the Corporation of Wellington in respect of any other loan raised by them under the provisions of any special Act, or of "The Municipal Corporations Act, 1876."

Council may sell.

9. The Council may from time to time demise or let all or any part or parts of the said lands when the same shall have been reclaimed from the sea, for such term of years in possession, not exceeding forty-two years, and at such annual rent or rents as they shall think reasonable, but every such letting shall be by public auction, after not less than two calendar months' notice of the same.

Council may let.

10. Subject to the special provisions of this Act, the land granted by the said recited grant or such part shall be part of the property of the Council, held by them under the provisions of "The Municipal Corporations Act, 1876," and any other Acts for the time being relating to Municipal Corporations in New Zealand.

Land to be held under Corporations Acts.

11. The Council may shall, during and in the execution of any of the other works authorized by this Act, conform and be subject to the provisions of section one hundred and fifty-six of "The Harbours Act, 1878," which shall apply absolutely to this Act, and shall also conform and be subject to all other the provisions of "The Harbours Act, 1878," so far as the same do not conflict with the powers given by this Act.

Application of "Harbours Act, 1878," to this Act.

Part Section 11, and Sections 12 to 16 struck out.

construct in any convenient part or parts of the Harbour of Port Nicholson, not being private property, any wharves, piers, or jetties, and erect any sheds, machinery, and works which the Council shall judge necessary and proper either for the convenience or reception of vessels loading and unloading any materials to be used in connection with the said works, and, subject as hereinafter mentioned, may authorize the use of the same by any person or persons other than and in addition to any persons employed by them or otherwise engaged in carrying out the undertaking, at such rate of tolls or dues as they shall think fit: Provided always that in carrying into effect the powers conferred by this section and the next succeeding five sections, the Council shall conform to the provisions of any Act passed during the present session of Parliament relating to the Harbour of Port Nicholson.

12. The Corporation may lease any dock, and any warehouses, buildings, yards, cranes, machines, or other conveniences provided by them for the purposes of the same, and at such rents and upon such terms and conditions as shall be agreed upon between the Corporation and the persons taking the same: Provided no such lease be granted for a longer term than seven years.

13. No such docks, wharf, or pier or jetty as aforesaid shall be deemed to be legal landing-places for the shipping and unshipping of goods until the same have been approved of by the Secretary of Customs for that purpose, and such quays and the same, and the use

thereof, shall be subject to all the same rules, regulations, and restrictions to which legal landing-places are or may be subject by the law relating to the duties of Customs, and to the lading and unloading of goods.

14. Subject to any rules, regulations, and restrictions which may be in force under the provisions of any laws for the time relating to the duties of Customs, and to the lading and unloading of goods within the Harbour of Port Nicholson, the Council may from time to time make, alter, or revoke regulations providing for and regulating the discharge as well of goods and merchandise required for the purposes of the undertaking as of any other goods and merchandise which can conveniently be discharged at or shipped from any wharves, jetties, or piers constructed for the purposes of or in connection with the undertaking as aforesaid; and in and by such regulations the Council may provide for the payment by persons using the same of dues or fees, and for the collecting of any such dues and fees, and for the recovery of the same by any authorized officer of the Council.

15. The Council may, by such regulations, impose penalties for any breach thereof, not exceeding *five* pounds for any one offence.

16. All dues and fees paid and collected pursuant to any such regulations shall form part of the Borough Fund.

New Clause.

“Public Works Act, 1876,” to apply.

12. Nothing in this Act or in “The Municipal Corporations Act, 1876,” contained shall prevent the Minister, in the case of Government works, from taking and acquiring from time to time any part of the lands which shall have been reclaimed under the provisions of this Act for any of the purposes mentioned in “The Public Works Act, 1876,” in manner pointed out by Part II. of that Act, subject nevertheless to the payment of compensation in respect of the land so taken and acquired, such compensation to be ascertained and paid in manner pointed out by Part III. of that Act: Provided always that in respect of any of the said land which may be so taken and acquired within two years after the reclamation thereof, the amount of compensation to be paid to the Corporation shall be the cost of reclamation only and no more: Provided also that all moneys paid to the Corporation by way of compensation as aforesaid shall be appropriated to the purposes of the sinking fund directed to be formed as aforesaid.

Officers may be appointed.

17. 13. It shall be lawful for the Council, by instruments under the seal of the Council, to appoint any officers or persons whom they shall think necessary for the purpose of superintending the carrying out of or conducting the undertaking, or for any purpose connected therewith, and every person so appointed shall have and possess and may exercise, so far as may be necessary for the purposes of the undertaking, all such powers and authorities as shall be given to him or them by any such instrument.

Legal proceedings.

18. 14. No writ or process shall be sued out against the Council, or any member thereof, or any officer or person whomsoever appointed as aforesaid, and acting under the direction of the Council, for anything done or intended to be done under the provisions of this Act until the expiration of one month next after notice in writing shall have been delivered to the Council or other person as aforesaid, clearly and explicitly stating the cause of action, and the name and place of abode of the intended plaintiff and of his attorney or agent in the action; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action which is not stated in the last-mentioned notice, and unless such notice be proved the jury shall find for the Council or other defendant; and every such action shall be brought or commenced within six months next after the accrual of the cause of action and not afterwards, and

shall be tried in the jurisdiction where the cause of action occurred and not elsewhere; and the Council or other defendant shall be at liberty to plead a general denial of the material allegations in the declaration (hereafter called "the general issue"), and give this Act and all special matter in evidence thereunder; and the Council or any person to whom such notice of action is given as aforesaid may tender amends to the plaintiff, his attorney or agent, at any time within one month after service of such notice, and in case the same be not accepted may plead such tender in bar with the general issue; and if the jury find generally for the Council or other defendant, or if the plaintiff be non-suited or discontinued, or if judgment be given for the Council or other defendant, then the Council or other defendant shall be entitled to the full amount of costs of defence, and have judgment accordingly; and in case amends have not been tendered as aforesaid, or in case the amount tendered be insufficient, the Council or other defendant may, by leave of the Court, at any time before trial, pay into Court, under plea, such sum of money as they or he may think proper, and by the like leave may, together with such plea, plead the general issue or any special plea or pleas, any rule of Court or practice to the contrary notwithstanding.

19. 15. Every person who upon any examination on oath under the provisions of this Act shall wilfully and corruptly give false evidence shall be liable to the penalties inflicted upon persons guilty of wilful and corrupt perjury. False oath under Act perjury.

20. 16. The following shall be deemed to be offences against this Act, in addition to any other offences therein expressly specified:— Offences.

Wilfully or carelessly breaking or injuring any of the property or works belonging to or under the management or control of the Council, or of any contractor with the Council under this Act:

Generally the doing or permitting or suffering to be done any act or thing whatsoever whereby the undertaking or any works connected therewith shall be injured.

21. 17. And every person guilty of any such offence shall for every such offence be liable to a penalty not exceeding fifty pounds, and a further penalty not exceeding ten pounds for each day whilst the offence is continued. Penalties.

22. 18. All penalties imposed by this Act may be sued for and recovered in manner for the time being provided by law for the recovery of penalties by any Act of the General Assembly of New Zealand, but no such penalty shall be recovered at the suit of any person other than a party aggrieved or the Council, without the consent in writing of the Attorney-General for New Zealand first had and obtained. Recovery of penalties.

23. 19. No proceeding under or in pursuance of this Act shall be quashed or vacated for want of form, nor shall the same be removed by *certiorari* or otherwise into the Supreme Court. Proceedings not to be void for want of form.

24. 20. No penalty imposed by this Act shall be recovered unless proceedings for the recovery thereof shall have been commenced within six months after the commission or occurrence of the offence upon which the penalty attaches. Limitation of proceedings.

25. 21. The Court by which any penalty under this Act shall be imposed on any person shall in all cases award one-half of the same to be paid to the Council, to be by them placed to the ~~Te Aro Reclaimed Land Revenue~~ account hereinbefore mentioned, and the other half shall be paid to Her Majesty, and be applied in manner provided by law for the application of penalties of the like nature. Application of penalties.

26. 22. Notwithstanding the liability of any person to any penalty under the provisions of this Act, he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed. Liability not discharged by penalty in certain cases.

Rights of Her Majesty saved.

27. 23. Nothing in this Act contained shall prejudice, or be deemed to prejudice or affect, any right, title, or interest of Her Majesty, her heirs and successors.

Schedule.

SCHEDULE.

ALL that parcel of land in the Provincial District of Wellington; and Colony of New Zealand, containing by admeasurement seventy (70) acres, more or less, situate in the Harbour of Port Nicholson, and being the reserve marked "K" on the plan of the City of Wellington. Bounded towards the North-east by land included in a Crown grant to his Honor the Superintendent of Wellington, dated June the twentieth, one thousand eight hundred and sixty-two, one hundred and sixty (160) links, and by other parts of the said Harbour of Port Nicholson one thousand two hundred and two (1202) links, one thousand two hundred and two (1202) links, one thousand two hundred and two (1202) links, and one thousand two hundred and two (1202) links; towards the East by other part of the said harbour, nine hundred and seven (907) links; towards the South-east by Clyde Quay nine hundred and forty-one (941) links, and by Sections numbered two hundred and twenty-two (222), two hundred and twenty-three (223), two hundred and twenty-four (224), and two hundred and twenty-five (225), eight hundred and sixteen (816) links; towards the South-west by Sections numbered two hundred and eighteen (218), two hundred and nineteen (219), two hundred and twenty (220), and two hundred and twenty-one (221), eight hundred (800) links; by Sections numbered two hundred and twelve (212), two hundred and thirteen (213), two hundred and fourteen (214), two hundred and fifteen (215), two hundred and sixteen (216), and two hundred and seventeen (217), and by Reserve numbered nine (9), one thousand four hundred and thirty-five (1435) links; by Sections numbered two hundred and eight (208), two hundred and nine (209), two hundred and ten (210), and two hundred and eleven (211), eight hundred and fifty-four (854) links; and by Sections numbered two hundred and five (205), two hundred and six (206), and two hundred and seven (207), five hundred and fifty (550) links; and towards the North-west by land reclaimed by Sir George Grey six hundred and thirty-six (636) links, by said land granted to his Honor the Superintendent of Wellington one thousand eight hundred and seventy-three (1873) links, and by other part of the said harbour five hundred and thirty-two (532) links; excepting always the piece of land one hundred and fifty (150) links wide extending along the whole northern front of the said land.