

New Zealand.

## ANALYSIS.

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1932-33, No. 6.—*Local and Personal.*

AN ACT to amend the Otago Harbour Board Empowering Act, 1926, and the Otago Harbour Board Empowering Act, 1929, and to vest Further Powers in the Otago Harbour Board. Title.  
[4th March, 1933.]

WHEREAS by the Otago Harbour Board Empowering Act, 1926 (hereinafter called the principal Act), the Otago Harbour Board (hereinafter called the Harbour Board) was authorized to borrow any sums of money not exceeding in the whole three hundred and fifty thousand pounds, and it was provided that the moneys borrowed under the authority of the said Act should be applied for the general improvement of Otago Harbour in carrying out the works specified in the Schedule to the said Act: And whereas the objects upon which the said loan-moneys were to be expended were partly altered by the Otago Harbour Board Empowering Act, 1929 Preamble.

(hereinafter called the Amendment Act): And whereas the Harbour Board has reclaimed from the sea a part of its endowment including the area in the vicinity of the mouth of the Water of Leith, all as shown in the plan deposited in the office of the Marine Department at Wellington as Number M.D. 7041; and in connection with and for the purpose of such reclamation has constructed a channel or canal for the purpose of disposing of the waters of the Water of Leith (which channel or canal is hereinafter referred to as the said canal): And whereas it is deemed expedient for the purpose of providing additional flood protection to increase the capacity of the said canal partly by increasing its size, partly by a new and additional channel or canal, and partly by other works: And whereas for the purposes of the said new and additional channel or canal it is necessary to occupy and use part of the area occupied by a street alongside the said canal and called Laurel Bank: And whereas, for the purpose of replacing in part the said street, part of the proposed works consists of the acquisition and laying-off and construction as a public street in manner hereinafter mentioned of the land described in the Schedule hereto, which land is vested in the Harbour Board, and is under lease from the Harbour Board to certain lessees: And whereas it is considered by the Harbour Board that the provision of such additional flood protection is more urgent than some of the objects mentioned in the principal Act and the Amendment Act: And whereas it has been found that the actual cost of acquiring or completing respectively some of the said objects is or will be greater than the estimated cost: And whereas of the total amount authorized to be borrowed by the principal Act three several issues have been made amounting to one hundred thousand pounds, one hundred and twenty-five thousand pounds, and twenty-five thousand pounds respectively: And whereas part of the said issues was made at a discount, which discount and the brokerage paid in connection therewith amount together to the sum of seven thousand one hundred and fifty-six pounds: And whereas it is deemed expedient to empower the Harbour Board to apply ten thousand pounds, part of the loan authorized to be borrowed as aforesaid, towards the cost of such

additional flood protection and the works in connection therewith, and to make such consequential alterations in the principal Act and the Amendment Act as are hereinafter specified: And whereas it is also deemed expedient to increase the amount authorized to be expended on certain of the objects specified in the principal Act and the Amendment Act, and to reduce the amount authorized to be expended on certain others of those objects in manner hereinafter appearing: And whereas all those lands comprising Sections numbered Fifteen (15), Sixteen (16), and Seventeen (17), Block Seventy-three (LXXIII), on the plan deposited in the Lands Registry Office at Dunedin as Number 2086, and being part of the land included in certificate of title, Volume 177, folio 97, Otago Lands Registry, are vested in the Harbour Board, subject to the provisions of the Otago Harbour Board Empowering Act, 1875: And whereas the said lands or part thereof are or may be required by the Dunedin Drainage and Sewerage Board (hereinafter called the Drainage Board) in connection with the operations of that Board: And whereas certain loans raised by the Harbour Board become due and payable in nineteen hundred and thirty-four: And whereas debentures issued by the Harbour Board in respect of loans maturing in nineteen hundred and thirty-four are payable either in London or New Zealand at the option of the holders and for various reasons, but principally owing to the present high rate of exchange, it is desirable that the said Board should have power to purchase debentures issued in respect of such loans respectively: And whereas doubts have been raised as to whether the Board has such power:

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 Otago Harbour Board Empowering Act, 1932-33. Short Title.

2. (1) It shall be lawful for the Harbour Board to take under the provisions of the Public Works Act, 1928, or otherwise acquire for the purposes of a public street, the interests of the respective lessees in the area of land described in the Schedule hereto and to lay off the same area of land as a public street. Power to acquire lands and lay off street.

(2) The Harbour Board shall to the satisfaction of the local authority (being the Corporation of the City of Dunedin) construct the said area of land as a public street in so far as shall be necessary to place the same with regard to metalling, kerbing, and channelling in as good a state as that part of the existing street which it replaces, and the Harbour Board shall also alter the footpath, kerbing, and channelling of the other part of the said existing street in so far as shall be necessary to accord with the decreased width of the street, with all necessary metalling.

(3) When and so soon as the works mentioned in subsection two hereof shall be completed the said area of land shall be and become a public street within the meaning of the Municipal Corporations Act, 1920, and the Harbour Board shall produce to the District Land Registrar at Dunedin a certificate signed by the Chairman of that Board and the Mayor of the City of Dunedin to the effect that the said works have been completed and that the said land has become a public street. The District Land Registrar shall register such certificate against the title to the land affected and shall have the street coloured off and noted on Deposited Plan No. 3389.

(4) The provisions of this section shall take effect notwithstanding anything to the contrary contained in the Municipal Corporations Act, 1920, the Town-planning Act, 1926, or any other Act; and the District Land Registrar of the Land Registration District of Otago shall accordingly upon request register any transfer or surrender vesting in the Harbour Board the interests of the respective lessees in the said area of land.

**Compensation.**

**3.** The following provisions shall apply in respect of lands taken or acquired under the last preceding section or injuriously affected by the said works:—

(a) Compensation payable to lessees from the Harbour Board of the said area of land for or in respect of their respective interests in such land and for injurious affection by the said works to or of the remaining lands held by such lessees respectively and compensation payable to lessees of other lands held under lease from the Harbour Board for injurious

affection thereof by the said works may be paid or satisfied either by a money payment or by a reduction of the rent payable under the respective leases, or partly by the one method and partly by the other.

- (b) The amount of the said compensation and the method of payment or satisfaction thereof as aforesaid may be determined by arbitration under the Arbitration Act, 1908.
- (c) Any reduction of rent agreed upon or awarded may be effected by a memorandum in writing executed by the Harbour Board and by the lessee and the mortgagee under any mortgage registered against the lease, and such memorandum shall upon request be registered against the lease by the District Land Registrar of the Land Registration District of Otago.
- (d) In the case of the lease of any portion of the said area of land upon and after the vesting in the Harbour Board of the leasehold interest therein the lease of the land of which the same forms a part shall be read and construed and take effect in all respects as if the land remaining subject thereto had been the only land originally demised thereby but subject to the reduction of rent effected by any such memorandum as aforesaid.

4. The Harbour Board is hereby empowered to construct and carry out the works shown in the plan deposited in the office of the said Marine Department as Number M.D. 7042, notwithstanding that the said works will decrease the width of the street called Laurel Bank adjacent to the said canal.

Power to execute works.

5. The Harbour Board is hereby empowered to apply ten thousand pounds of the moneys borrowed or to be borrowed under the authority of the principal Act towards the cost of the works mentioned in sections two and four hereof (hereinbefore and hereinafter called the said works).

Power to apply loan-moneys.

6. The said reclamation and canal and the said works shall be deemed for all purposes to be harbour-works duly authorized and executed under and in

Reclamation and works to be deemed harbour-works.

accordance with the Harbours Act, 1923, including section one hundred and seventy-one.

Amendment of  
principal Act  
and Amendment  
Act.

7. The principal Act, as amended by the amendment Act, and the Amendment Act are hereby amended as follows:—

(1) The respective amounts authorized to be expended on the items hereinafter in this subsection mentioned shall be and are hereby increased by the amounts set opposite those items respectively:—

- (a) Acquisition of dredging-plant—two thousand one hundred and fifty pounds.
- (b) Reinstatement of North Spit mole—twenty-two thousand pounds.
- (c) Cranes for and redecking and strengthening Victoria Wharf and for railway connection—three hundred and ninety-six pounds.

(2) The respective amounts authorized to be expended on the items hereinafter in this subsection mentioned shall be and are hereby reduced by the amounts set opposite those items respectively:—

- (a) Shed appliances for handling goods—one thousand five hundred and fifty pounds.
- (b) Finishing Leith Canal—two thousand two hundred and ninety-one pounds.
- (c) Extension of Victoria Wharf—seven thousand one hundred and thirty pounds.
- (d) New shed, Rattray Street Wharf, and cargo-handling appliances—thirteen thousand seven hundred and thirty-one pounds.
- (e) Railway connection with Victoria Wharf—two thousand pounds.
- (f) Renewal of Birch Street Wharf—fifteen thousand pounds.

Provisoos to  
section 3 of  
principal Act  
to apply.

8. The several provisoos to section three of the principal Act shall apply and operate as if the alterations made by the Amendment Act and this Act had been contained in the principal Act.

Power to sell  
land.

9. Notwithstanding the provisions of the Otago Harbour Board Empowering Act, 1875, or any other Act, it shall be lawful for the Harbour Board to sell and transfer to the Drainage Board, and for the Drainage Board to purchase, the said Sections Fifteen, Sixteen, and Seventeen, Block Seventy-three, Dunedin.

or any part thereof, for such consideration and with, upon, and subject to such terms and conditions, as the said Boards shall mutually agree on; and the moneys received by the Harbour Board from time to time as the price or prices of the lands sold and purchased as aforesaid shall if received before the first day of January, nineteen hundred and thirty-four, be applied towards the redemption of the debentures falling due on the said first day of January, nineteen hundred and thirty-four, in respect of moneys borrowed by the Harbour Board, and if received after that date shall be paid into and form part of the sinking fund in connection with any loan raised by the Harbour Board as that Board shall determine and in the meantime, and until such application or payment, as the case may be, the Harbour Board may invest such moneys in such securities as the Board may determine or may deposit the same at interest in any bank, and the income derived from such investment or deposit shall be added to the principal sum and be applied for the same purpose.

10. (1) It shall be lawful for the Harbour Board to apply the whole or part of all or any of its Reserve Funds in the purchase of debentures issued in respect of any loan raised by the said Board and which becomes due and payable in nineteen hundred and thirty-four.

Power to  
purchase  
debentures.

(2) For the purchase of any such debenture the Board may pay more than the face or nominal value thereof to such extent as the Minister of Finance may approve.

(3) Any debenture so purchased shall not be deemed to be redeemed, and the Board shall continue to pay the interest payable thereunder into the Reserve Fund the moneys of which are used in the purchase of the debenture, and shall upon the maturity of the debenture pay the full face or nominal amount thereof into such Reserve Fund:

Provided that in the case of the Loans (1934) Redemption Reserve Fund the total amount standing to the credit of that Reserve shall thereupon be utilized for the redemption of debentures maturing on the first day of January, nineteen hundred and thirty-four, and for expenses in connection therewith.

(4) The purchase of any debenture or debentures as aforesaid shall not, nor shall anything herein contained, limit or affect the power of the Board to borrow moneys for the purpose of repaying the loan or respective loans in respect of which any debenture or debentures so purchased were issued, including the amount or amounts payable under or by virtue of such debenture or debentures.

Commencement  
of Act and  
validation.

11. This Act shall be deemed to have come into force on the first day of November, nineteen hundred and thirty-one, and such expenditure of loan-moneys, such execution of works, and such other acts as would have been lawful if this Act had been passed at the time of such expenditure, works, and acts respectively, are hereby validated.

Special Act.

12. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923.

Schedule.

#### SCHEDULE.

ALL those parcels of land containing together 5.12 poles, be the same a little more or less, situated in the City of Dunedin, being part of Allotments numbered respectively Five (5) and Seven (7) on the plan of subdivision of part of Block Seventy-two (LXXII), deposited in the Lands Registry Office at Dunedin as Number 3389, which parcels of land are bounded and admeasured as follows: Commencing at the southernmost corner or angle of said Allotment Seven, and running thence in a north-easterly direction on a bearing of  $21^{\circ} 39' 42''$  for a distance of 41.85 links; thence in a south-westerly direction on a bearing of  $246^{\circ} 39' 42''$  for a distance of 21.43 links; thence in a north-westerly direction on a bearing of  $291^{\circ} 39' 42''$  for a distance of 211.42 links, to a point in the north-westerly boundary of said Allotment Five; and thence in a south-easterly direction on a bearing of  $118^{\circ} 39'$  for a distance of 114.15 links; thence again in a south-easterly direction on a bearing of  $118^{\circ} 07'$  for a distance of 114 links, back to the commencing-point: and bounded towards the south-east by Harbour Terrace; towards the north-west and north-east respectively by other parts of said Allotments Five and Seven; and towards the south-west by Laurel Bank. All as more particularly shown in the plan deposited in the office of the Marine Department at Wellington as M.D. 7043, and therein coloured pink.