

1203.

Mr. Morrison.

OCEAN BEACH PUBLIC DOMAIN ACT 1892
AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to amend "The Ocean Beach Public Domain Act, 1892," and to extend the Functions of the Board thereby constituted. Title.

WHEREAS it is desirable that the Board created and incorporated by "The Ocean Beach Public Domain Act, 1892," should be constituted as well for the purpose of managing its own property as for protecting property in the vicinity thereof from invasion by the sea, and to this end it is desirable to extend the powers and functions of the said Board in manner herein appearing :

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

1. The Short Title of this Act is "The Ocean Beach Public Domain Act 1892 Amendment Act, 1901." Short Title.

2. This Act shall be read as amending and extending "The Ocean Beach Public Domain Act, 1892" (herein called "the said Act"), and "The Ocean Beach Public Domain Act 1892 Amendment Act, 1894" (herein called "the amending Act"). Act to be read with prior Acts.

3. To the terms interpreted in section two of the said Act there shall be added the following :— Interpretation.

"The district" shall mean the whole area within the jurisdiction of the local bodies.

"Borough" shall include the City of Dunedin.

All references in the said Act to "The Municipal Corporations Act, 1886," and the Schedules thereto shall be deemed to be read as references to "The Municipal Corporations Act, 1900," and the corresponding Schedules thereto.

Power to the Board to protect low-lying lands from invasion by the sea.

4. In addition to the powers and functions mentioned in sections fifteen and thirty-five of the said Act, and of other powers by the said Act conferred on the Board, it shall have power to protect from invasion by the sea all or any of the low-lying lands included within the Boroughs of St. Kilda, South Dunedin, and Caversham, and for that purpose to erect, execute, and maintain all such sea-walls, groins, embankments, and other works of every kind, whether upon its own land or upon other lands (including Crown lands), as it shall deem necessary, and to expend therein as well any moneys borrowed by it as its general revenues, and similarly to expend such moneys and revenues in carrying out and executing the powers and functions heretofore conferred on and vested in it; and, further, for the attainment of the objects of the said Act and this Act, the Board shall have power to do and suffer all such things as are or may be conducive to the attainment of such objects.

Works constructed to remain property of the Board.

5. Whenever in pursuance of the powers hereby conferred upon it the Board shall erect any works, or construct anything upon land not vested in it, such works or constructions shall nevertheless be and remain the property of the Board, and may be repaired and maintained by it.

Power to Board to take land.

6. For the purpose of constructing such works as it is by section *four* hereof empowered to construct, the Board may, pursuant to "The Public Works Act, 1894," take any land, and for this purpose it shall have and possess, and may exercise within the district, all the power and authority of a Borough Council.

7. The maximum borrowing powers of the Board are hereby extended to twenty thousand pounds, as if that sum had been mentioned in section seventeen of the said Act.

Repeal of section 18.

8. Section eighteen of the said Act is repealed, and the following enacted in lieu thereof:—

"Such sum or sums shall be raised by debentures of such amounts as the Board shall think fit, with such currency as the Board shall determine, bearing interest at such rate as the Board shall, subject to section nineteen of the said Act, determine."

Section 19 amended.

9. Section nineteen of the said Act is amended by the insertion of the words "five per centum per annum" in lieu of the words "six per centum."

Debentures to rank *pari passu*.

10. The debentures issued by the Board to the extent hereby empowered shall rank *pari passu*, and the holders thereof shall not be entitled to any priority by reason of priority of number or date of issue, or date on which the borrowing was sanctioned by the electors.

Section 21 amended.

11. Section twenty-one of the said Act shall be amended by the addition of the words, "or to reborrow the sums thereby represented, or any of them, upon such terms as may be allowed by law."

Section 22 amended.

12. Section twenty-two of the said Act is amended as follows:—

- (1.) The roll to be formed thereunder shall contain the names of and the right of vote shall extend to all such electors or burgesses as have under the law for the time being in force in boroughs the right to vote upon proposals to raise loans, and as to the number of votes capable of being given by each elector shall be on the same footing as such borough electors or burgesses.

(2.) The notice need not be published on consecutive days, provided that no more than two days elapse between two appearances thereof.

(3.) Such notice shall, in lieu of the matters provided by the said section, set forth the following:—

(a.) A general description of the work or class of works proposed to be undertaken;

(b.) The sum proposed to be borrowed for such work or works;

(c.) The day on which such poll shall be taken;

(d.) The place or places where such poll will be taken.

13. The second paragraph of section twenty-five is repealed, and in lieu thereof the following is enacted:—

Repeal of part of section 25.

“ If the said proposal shall be rejected, the Board may, after the expiry of six months from the day of such rejection, take another or further poll, and all the provisions of this Act relating to or arising from the taking of the original or preceding poll shall, *mutatis mutandis*, apply to the taking of any further poll.”

14. No purchaser or holder of any debenture shall be concerned to inquire whether any further poll was taken after the prescribed interval, or whether any preceding proposal which had been rejected was or was not identical with that which had been carried, and any such debenture shall be valid notwithstanding any irregularity or any violation of the foregoing provisions, whether the purchaser or holder shall have had notice of such irregularity or violation or not.

Debentures deemed valid notwithstanding any irregularity.

15. For the purposes of section twenty-two of the said Act the Town Clerk of Dunedin, or some other person appointed by the Board, shall be the Returning Officer, and the Town Clerk of each of the other boroughs in the district, or some person appointed by the Board, shall be Deputy Returning Officer; and for the purpose of section twenty-six of the said Act the Town Clerk of Dunedin, or any person appointed as Returning Officer for Dunedin, shall be authorised to make the said declaration.

Returning Officer to be appointed.

16. All debentures issued under the said Act, and the coupons for interest attached thereto, shall be secured upon the contributions payable under section twenty-nine of the said Acts and under this Act, and the rates leviable under section two of the amending Act and under this Act, and upon all sums payable to the Board under the said Acts or this Act, including the general revenues of the Board, and the form of debenture given by the said Act shall be adapted accordingly.

Securities of debentures.

17. Section twenty-eight of the said Act and section two of the amending Act shall be read as if the words one halfpenny in the pound had been three farthings in the pound in each of the said sections, and section two of the amending Act as amended by this Act shall be deemed to confer upon the Board a power to make and levy a rate on all the rateable property in the district.

Amount of rate.

Board empowered to levy rate.

18. The said contribution to an amount not exceeding a sum or sums equal to a rate of one-eighth of a penny in the pound on the annual value of the rateable property in each borough in the district, and the said rates to the amount of one-eighth of a penny in the pound on such property, shall be payable to, and capable of being

Contribution of $\frac{1}{8}$ d. in the pound leviable.

sued for, levied, and recovered by the Board for the purpose of obtaining revenues for the objects of its incorporation as extended by this Act, and not merely for the purpose of meeting the charges in section twenty-eight of the said Act specified.

Powers of Receiver.

19. Any Receiver appointed under the said Act, shall have without the sanction of the local bodies or the electors thereof, all the power of making requisitions and of recovering the sums payable thereunder, and all the power of levying and recovering rates which are conferred by the said Act and this Act. 5

Power to Board to levy differential rates.

20. Whenever it is proposed to execute protective works which in the opinion of the Board will come under its extended powers as expressed in and conferred by section *four* hereof, the Board shall have power to levy differential rates upon the rateable property in the boroughs within the district, and, further, shall have power to make requisitions for differential contributions from the said boroughs under sections twenty-eight and twenty-nine of the said Act, as hereby amended. 10 15

Special district to be defined.

21. Such differential rates and contributions shall be arrived at by defining a special district, which the Board is hereby empowered by resolution to define, in respect of which there shall be payable by the boroughs affected to the Board a further contribution equal to a rate not exceeding three farthings in the pound on the rateable property in the said special district, and in respect of which the Council of any borough affected shall have power, in addition to the power conferred by section twenty-nine, to make and levy a further special rate to the said amount, and in respect of which the Board may in the alternative make and levy a special rate or special rates from year to year upon all such rateable property in the special district to the extent not exceeding three farthings in the pound on the annual value of such property in addition to the rates which it is empowered to levy under section two of the amending Act as hereby amended. 20 25 30

Boundaries of special district.

22. The said special district shall comprise all the rateable property in the Borough of St. Kilda and so much of the Boroughs of Caversham and South Dunedin as the Board with or without the assistance of any engineer or surveyor shall by resolution determine, with power from time to time by further resolution to amend the description contained in such resolution by the inclusion therein or the exclusion therefrom of any rateable property: Provided that from such determination any party aggrieved, including any borough in the district, may by summons appeal to any Stipendiary Magistrate sitting in Dunedin, who shall have power to vary the description contained in such resolution so as to exclude therefrom not merely any rateable property of the appellant, but such other rateable property as such Stipendiary Magistrate shall consider to have been wrongly included in such description, whether by the Board or by any Stipendiary Magistrate, and similarly to include therein such rateable property as he shall consider to have been wrongly excluded therefrom, whether by the Board or by any Stipendiary Magistrate. 35 40 45 50

Board empowered to levy rates.

23. For the purpose of levying rates, the Board shall in respect of each of the boroughs in the district base the same upon the rate-

book of such borough so far as the same is applicable, and upon any addendum thereto affecting the Borough of Caversham necessitated by the division of property in describing the special district, and such addendum shall when necessary be made in the manner in which the rate-book is by "The Rating Act, 1894," directed to be made.

24. The Board may at its option either make, levy, and collect its own rates in manner provided for the making and collection of rates by "The Rating Act, 1894," which for all the purposes of this Act is deemed to be incorporated herewith, or may by resolution fix the amount thereof and direct the same to be made, levied, and collected by the several local bodies in the district named in the resolution or order making the said rate; and it may exercise the option hereby given in different ways as to the several boroughs in the district.

Manner of levying and collecting rates.

25. When the Board shall have directed any rate to be levied and shall have fixed the amount in the pound of such rate according to the powers in that behalf vested in it, and shall determine that the same shall be collected by local bodies in respect of the several boroughs in the district, or by the Borough Councils of Caversham and South Dunedin in respect of any part of the said special district within those boroughs respectively, it shall cause a copy of the resolution or order making the rate to be forwarded separately to each local authority which it desires to collect such rates, whereupon the following duties shall arise and the following consequences shall ensue:—

Copy of resolution to levy rate to be sent to each local authority concerned.

(1.) Every such local authority shall proceed to make, levy, and collect such rate in the district or part of a district within its jurisdiction as nearly as may be, and with such powers, and the rate shall be payable by and recoverable from such persons and in such manner in every respect as if the rate were levied by such local authority for its own purposes under the powers of rating then vested in it.

(2.) Every such local authority shall be entitled to retain all reasonable costs and expenses incurred in and about making, levying, collecting, and recovering the same, and reasonable remuneration for clerical and other work.

(3.) Such costs, expenses, and remuneration may form the subject of an agreement between the Board and any such local authority; but if any dispute shall arise as to the amount so to be retained or otherwise in relation thereto, the same shall be decided by the Controller and Auditor-General, or some other person to be from time to time appointed by the Governor in their behalf.

26. The rating powers conferred upon the Board and the boroughs respectively by this Act shall be additional to all other rating powers vested in the boroughs or any other body in respect of the same property, and shall be exercisable notwithstanding that the maximum allowed by "The Municipal Corporations Act, 1900," or any other Act, has already been reached.

Powers conferred on Board by this Act additional to those conferred by "Municipal Corporations Act, 1900."