

Harbour Fund was thus made applicable, under the terms of the Act, not only to permanent works and improvements, but also to current expenditure in the harbour service, and, singularly enough, to the payment of interest on loans. As Parliament could not have intended that interest should be paid out of capital, it may be inferred that it was not contemplated in the 172nd section of "The Harbours Act, 1878," that the Harbour Fund should include borrowed money, although such is the effect of the section.

The Acts under which moneys were from time to time, prior to 1882, borrowed by the Board, contain no specific provisions for their expenditure; all moneys were, therefore, correctly carried, and all expenditure charged, to the General Harbour Fund. But in "The Otago Harbour Board Further Empowering Act, 1882," by which the Board was authorized to raise a further loan of £200,000, a special provision was inserted as follows: "Out of the sum or sums of money raised under the authority of this Act, not less than one-half of such sum or sums shall be expended on harbour works undertaken for the improvement of the bar at the Otago Heads, so that vessels drawing twenty-three feet of water can safely enter the harbour, and for the general improvement of the Lower Harbour."

This provision is a statutory appropriation of half the loan to a special purpose, and in effect creates a separate trust fund in favour of the bar and Lower Harbour.

A separate account of this trust fund ought at once to have been opened in the books of the Board, credited with half the sums received from the new loan, and debited with the expenditure on the Lower Harbour works. This has not been done: all expenditure has been carried to the general account, and statements have occasionally been made up to show how the account of the Lower Harbour stood, instead of a complete current account having been kept showing the unexpended balance from time to time. Hence, in eliminating from the general account the items chargeable against the Lower Harbour, a question has arisen whether any, and, if any, how much, of the sums expended on the Lower Harbour, prior to the passing of the Act of 1882, ought to be charged against the fund created by that Act. An account has been submitted to me (Appendix A) showing the mode in which the Harbour Board propose to charge the Lower Harbour Account; and the result would thus be that, of the £100,000 appropriated by the Act of 1882, the whole, except a balance of £11,280 18s. 10d., had been, up to the 31st August last, expended as provided by the Act.

This account is constructed upon the assumption that certain expenditure on the Lower Harbour, made prior to the passing of the Act of 1882, may be legitimately charged on the Lower Harbour Account; and the principal charge thus made is a sum of £23,850, being half the cost of a hopper dredge, which, it is stated, was ordered expressly for the bar and Lower Harbour works.

It is alleged, on the other side, that this dredge was bought and paid for before the passing of the Act of 1882, and was therefore paid for out of the previous loan of 1880; but it is stated, in reply, that, that loan being already exhausted, the dredge was really paid for out of an overdraft allowed by the bank in anticipation of the new loan, and on the express stipulation that, if the new loan was not procured, the dredge was to be sold in order to meet the overdraft.

If the argument relied on by the Board is admissible, I cannot perceive why the whole cost of the dredge may not be charged to the Lower Harbour Account, as well as the half, as it is admitted that this dredge was ordered and is mainly used for dredging the bar and Lower Harbour, other and more suitable dredges being in use in the Upper Harbour.

Again, if it can be maintained that the half-cost of the hopper dredge, tugs, punts, &c., can be charged against the Lower Harbour Account consistently with the Act, the same principle might be applied to a greater extent than is even proposed at present. The value of the plant belonging to the Board has increased year by year from £34,500, at which it was estimated in 1876, to £155,815, the value taken credit for in 1884. Part of the plant purchased in former years is probably still in use in the Lower Harbour works, and its half value might, on the principle asserted, be charged against the loan of 1882 equally with that now proposed to be so charged.

Some other charges in the account (Appendix A) seem to me less defensible than those of the dredge: such, for example, as the half cost of the tugs, which are mainly used for towing vessels over the bar and up and down the harbour. The Act does not authorize the expenditure of the Lower Harbour Fund on any general services which are common to the Upper and Lower Harbour equally, but confines it to works for the *improvement* of the bar and Lower Harbour.

The accounts of the Lower Harbour must, I think, be constructed strictly with a view to the wording and intention of the Act of 1882, which says that the £100,000 "shall be expended on harbour works undertaken for the improvement of the bar," &c.; and the intention may be, to a certain extent, inferred from the circumstances preceding the passing of the Act. The very fact that for the first time Parliament thought it necessary to allocate the expenditure of the new loan to different parts of the harbour, indicates that it recognized that differences of opinion, and perhaps that conflicting interests, were involved in the previous expenditure of the harbour funds. No other reason can be assigned why Parliament should have interfered with the discretion, which had hitherto been left to the Board, to allocate its funds to different parts of the harbour works at its pleasure; and the debates on the passing of the Act of 1882 prove that the claims of what are supposed to be rival interests were fully before the House at the time the limitation on the discretion of the Harbour Board was imposed. I cannot therefore think that by the words "*shall be expended*" Parliament intended that expenditure *which had already taken place*, and which was the subject of the complaints for which it was attempted to apply a remedy, should be included in the special appropriation it then made. It is true that Acts of Parliament must be read according to their actual meaning, not according to any presumed intention; but where, as in the present case, the grammatical meaning of the language accords with the intention suggesting it, the latter affords an additional reason why the strict reading should be adhered to, and no wider latitude of interpretation be admitted than that which the words themselves imply.