

New Zealand.



ANALYSIS

<p>Title. Preamble.</p> <p>1. Short Title. 2. Interpretation</p> <p style="text-align: center;">BORROWING.</p> <p>3. Power of Corporation to borrow. 4. Purposes for which loan raised. 5. Debentures, coupons, and poll Currency of debentures. Limit of interest on debentures. Form of debenture Council may reborrow at maturity of debentures Sections of 1886 Act <i>re</i> sinking fund not to apply. Part IX. of 1886 Act <i>re</i> loans subject to provisions of this Act. Poll to be taken before moneys borrowed Proposal when carried or negatived. Proof that raising of loan authorised.</p> <p>6. Limitation of bank overdraft.</p> <p style="text-align: center;">SECURITY.</p> <p>7. Power to make a special rate.</p>	<p>8. Special rate to continue until money paid. 9. Provision of "The Municipal Corporations Act, 1886," to apply, and limit of rate.</p> <p style="text-align: center;">DEFAULT.</p> <p>10. Power to Judge to order Council to levy a special rate. 11. Application of moneys borrowed, and balances. 12. Purchaser of debenture not concerned. 13. Holders of debentures may apply to a Judge of the Supreme Court for the appointment of a Receiver. 14. Power for recovery of rates to rest in Receiver. 15. Power of Receiver to amend special rate, and application of moneys</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>16. Judge not deemed interested on account of liability for rates. 17. Objection to rate struck not allowed as defence.</p> <p>Schedule.</p>
--	---

1899, No. 17.—*Local.*

AN ACT to empower the City of Auckland to borrow One Hundred Thousand Pounds. Title.
[13th October, 1899.]

WHEREAS it is desirable that the indebtedness of the City of Auckland represented by its bank overdraft on various accounts should be paid off by means of a loan at a lower rate of interest, and further to provide funds for the Council to carry out the following works within the city: The completion of drainage, forty-four thousand three hundred and fifty-four pounds; auxiliary water-supply, twelve thousand pounds; payment for a site for a fire-brigade station, and housing of firemen, horses, and appliances, three thousand pounds; and the paving of Queen Street, Auckland, with wood, asphalt, or other approved material, ten thousand six hundred and forty-six 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. The Short Title of this Act is "The Auckland City Borrowing Act, 1899." Short Title.

Interpretation.

2. In the interpretation of this Act the following expressions shall have the meaning hereby assigned to them:—

“The Corporation” shall mean the Corporation by the name of “The Mayor, Councillors, and Citizens of the City of Auckland”:

“The Council” shall mean the Council of the said city, and for carrying out the provisions of this Act it shall have and exercise all the power of the Corporation:

“The agents” shall mean the agents appointed or acting under the provisions of this Act, and such agents may be any bank, company, person, or persons:

“The Court” shall mean the Supreme Court of New Zealand:

“The debentures” authorised by this Act to be issued shall be termed “Auckland City Debentures, 1899,” and the security and remedies therefor shall extend to the coupons thereto attached:

“Public notice,” and “publicly notify,” and similar expressions shall mean and have reference to a publication in some newspaper in general circulation in the City of Auckland:

“The said Act” shall mean “The Municipal Corporations Act, 1886.”

BORROWING.

Power of Corporation to borrow.

3. The Corporation is hereby empowered to borrow at such rate of interest not exceeding four pounds per centum per annum in the following manner, viz.:—

Any sum not exceeding fifty thousand pounds at any time during the year one thousand nine hundred;

Any further sum not exceeding ten thousand pounds at any time during the year one thousand nine hundred and one;

Any further sum not exceeding ten thousand pounds at any time during the year one thousand nine hundred and two;

Any further sum not exceeding ten thousand pounds at any time during the year one thousand nine hundred and three;

Any further sum not exceeding ten thousand pounds at any time during the year one thousand nine hundred and four;

Any further sum not exceeding ten thousand pounds at any time during the year one thousand nine hundred and five;

or at such later dates or in such smaller sums and upon such terms and conditions as the Council shall direct, so long as the interest to be paid for the money so borrowed shall not exceed four per centum per annum.

Purposes for which loan raised.

4. Such loan shall be raised and expended exclusively for the purposes herein specified, that is to say:—

(1.) In payment of such commissions, charges, and expenses, including the cost of obtaining this Act, as the Council

may determine to have been actually incurred in connection with such loan :

- (2.) Repayment of existing overdraft at the National Bank of New Zealand (Limited), at Auckland, of about thirty thousand pounds, and for the construction of the following works, namely :—

Drainage, forty-four thousand three hundred and fifty-four pounds ;

Auxiliary water-supply, twelve thousand pounds ;

Purchase of land, and the erection of necessary buildings for a fire-brigade station, and housing of firemen, horses, and appliances, three thousand pounds ; and for

Paving with wood, or asphalt, or other approved material, Queen Street, Auckland, ten thousand six hundred and forty-six pounds.

5. The following provisions shall apply to the loan to be raised under the powers herein contained :—

- (1.) The debentures issued under the provisions of this Act shall have a currency not exceeding twenty-one years from the date of issue.

Debentures,
coupons,
and poll.
Currency of
debentures.

- (2.) No debenture issued under this Act shall be sold at a price that will produce to the purchaser a greater interest than four pounds per centum per annum.

Limit of interest
on debentures.

- (3.) Such debentures and the coupons attached thereto shall be in the form or to the effect set forth in the Schedule hereto, with such modifications as to the Council seem desirable, and the same shall have the corporate seal attached thereto or thereon, and be signed by the Mayor and treasurer, and shall be numbered consecutively, and the signatures to any coupons may be made by lithography or any other process ; and the sum secured by any such debenture shall, both as to principal and interest, be payable at a place or places to be determined by the Council, and stated in such debenture and coupon ; and the place for the payment of coupons need not be the same as for payment of the principal sum of the debenture.

Form of debenture.

- (4.) At the maturity of the said debentures the Corporation may, without taking the vote of the ratepayers, reborrow such sum or sums as may be required for the repayment of the loan represented hereby ; and the provisions of this Act shall apply to such reborrowing and all successive reborrowings.

Council may re-
borrow at maturity
of debentures.

- (5.) Sections numbered from two hundred and four to two hundred and seventeen, both inclusive, of "The Municipal Corporations Act, 1886," shall not apply to the loan raised under the provisions hereof.

Sections of 1886
Act re sinking
fund not to apply.

- (6.) The provisions of this Act shall, so far as this loan is concerned, be paramount to and prevail over the provisions of the said Act and all Acts amending the same or passed in substitution therefor, and all other general Acts.

Part IX. of 1886
Act re loans sub-
ject to provisions
of this Act.

Poll to be taken before moneys borrowed.

(7.) Before any moneys shall be borrowed under this Act the Council shall take a poll of the ratepayers. For the purposes of such a poll the provisions of section one hundred and eighty-two of "The Municipal Corporations Act, 1886," shall not apply, but in lieu thereof it is hereby enacted—

Proposal when carried or negatived

If a majority of the votes given upon the taking of any poll under the authority of this Act shall be in favour of the proposal upon which the poll shall be taken, then and in such case the said proposal shall be deemed carried, and the Council may proceed with such proposal accordingly; but, if not, then the said proposal shall be deemed rejected.

Proof that raising of loan authorised.

(8.) If the poll when taken is in favour of raising the loan, then the production of the resolution of the Council authorising the raising of the loan, under the authority hereof, purporting to be authenticated by the seal of the Corporation and signed by the Mayor, shall be conclusive evidence that such loan has been duly authorised, and may be raised; and a certificate of the Council similarly authenticated shall be conclusive evidence of the appointment of any agent or agents.

Limitation of bank overdraft.

6. It is hereby further enacted that after sufficient money has been borrowed under the above authority to pay off the said overdraft, the amount of the overdraft mentioned in section two hundred and one of "The Municipal Corporations Act, 1886," shall be further limited by the amount of thirty thousand pounds mentioned in subsection two of section four hereof.

SECURITY.

Power to make a special rate

7. The Council may, whenever necessary for the purpose of paying the annual interest payable on all or any part of the moneys secured by any debentures issued under the provisions of this Act or "The City of Auckland Loans Consolidation Act, 1879," or any Act which that Act was intended to supersede, or "The City of Auckland Additional Loan Act, 1883," and in lieu of the special rate authorised by section seventeen of "The City of Auckland Loans Consolidation Act, 1879," make a special rate upon all rateable property in the City of Auckland within its present area, or the area existing at the date of the making of the last-mentioned special rate, to an amount not exceeding in any one year the sum of two shillings in the pound on the annual value of such property; and such special rate shall as near as practicable be in the form prescribed with respect to special rates in "The Municipal Corporations Act, 1886."

Special rate to continue until money paid

8. Every such special rate shall be payable at such intervals, not exceeding one year, as the Council shall in and by the special order for making such rate appoint; and every such special rate shall, without any further proceeding by the Council or otherwise, be and continue to be an annual recurring rate upon all rateable property at any time situated within the area of the City of Auckland at the time of the making of such special rate, according to the annual value of each such property as appearing on the valuation-list made affecting such property, until all moneys owing in respect of the moneys

raised under the authority of this Act, and of "The City of Auckland Loans Consolidation Act, 1879," and "The City of Auckland Additional Loan Act, 1883," shall have been paid off and discharged; and the Council may from time to time amend such special rates by increasing or diminishing the same, if necessary, so that the annual produce shall suffice to provide the interest and sinking funds on account of the loans for which such provision has been made.

9. Save where it is herein otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions contained in "The Municipal Corporations Act, 1886," and any Act or Acts amending or substituted for the same, relating to special rates shall apply to every such special rate as aforesaid.

Provision of
"The Municipal
Corporations Act,
1886," to apply,
and limit of rate.

Notwithstanding anything in any Act to the contrary, the limit of rates to be made and levied within the said City of Auckland may be exceeded by the Council for the purposes of this Act, and the said "City of Auckland Loans Consolidation Act, 1879," and "The City of Auckland Additional Loan Act, 1883," to the extent authorised by this Act; and the said Council may levy a rate for general municipal purposes, as well as the special rate authorised to be levied hereunder, but so always that there shall not be leviable by the said Council in the said City of Auckland a greater amount for special and general rates in any one year than two shillings in the pound on the annual value of all rateable properties in the city; but this provision shall not in any manner limit or control the power to make a rate for hospital and charitable-aid purposes as provided by "The Hospitals and Charitable Institutions Act, 1885," or any Act amending the same or in substitution therefor, nor shall the foregoing provision limit or control the power to make library rates.

DEFAULT.

10. It shall be lawful for the Supreme Court of New Zealand, upon application duly made by the holder of any debenture or coupon issued under the authority of this Act, if the interest payable in respect of such debenture or coupon shall be in arrear or unpaid, by a rule or order of the said Court to require the Corporation to show cause why such interest should not forthwith be paid, and, failing such payment, why a writ of mandamus should not issue requiring the said Council to levy a special rate to insure and provide for such payment; and it shall be lawful for the said Supreme Court, upon cause being shown to the said rule or order, or upon proof of the due service of the same, if the Corporation shall not appear to show cause, to pronounce such decision thereon, and to make such order as to costs, and by whom and to whom the same shall be paid, as may to the said Court appear just and right.

Power to Judge to
order Council to
levy a special rate

11. The moneys to be borrowed under the provisions of this Act shall be applied to the several purposes specified in section four of this Act in the proportions therein set forth, and to no other purpose or purposes whatever.

Application of
moneys borrowed,
and balances.

The Council shall keep separate accounts of all moneys received and expended under the provisions of this Act for each of the purposes herein mentioned, and such accounts shall be balanced twice at least in every year.

Purchaser of debenture not concerned.

12. No purchaser of a debenture or debentures issued under the provisions of this Act shall in any manner be concerned to see to the application of the moneys paid for the same, or be in anywise chargeable or accountable for the loss or non-application of the same, or to inquire into the necessity for raising the same.

Holders of debentures may apply to a Judge of the Supreme Court for the appointment of a Receiver.

13. If at the expiration of fourteen days from the time when any principal money has become due upon any debenture issued under this Act, and after presentation of such debenture at the place where the same is payable, it shall not be paid, the holder of such debenture may, without prejudice to any other mode of recovery, apply to a Judge of the Supreme Court of New Zealand, by petition in a summary way, for the appointment of a Receiver; and the Judge is hereby empowered, if satisfied of the truth of the matter as alleged in such petition, to appoint some fit person to collect and receive the whole or a competent part of the revenues until such principal and any interest due or to accrue due thereon, together with costs of the application, and all moneys arising from the revenues or such competent part of the revenues as the Court shall order until payment of such principal and interest and the costs of the application and the costs of collection as aforesaid, shall be paid to the Receiver so appointed, and when so paid shall be rateably apportioned between the debenture-holders.

Power for recovery of rates to rest in Receiver

14. All powers for the recovery of rates, tolls, rents, or other moneys of the Corporation shall, after the appointment of a Receiver, cease to be exercised by the Council, and shall be vested in the Receiver.

Power of Receiver to amend special rate, and application of moneys

15. The Receiver shall, in respect of any special rates vested in him, have the power given to the Council to amend a special rate, as provided by the two-hundred-and-fourteenth section of "The Municipal Corporations Act, 1886," but such power shall be exercised only upon an order of a Judge of the Supreme Court.

Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as the Judge shall direct.

All moneys received by the Receiver shall be applied only under the order of a Judge of the Supreme Court as follows:—

- (1.) In payment of the expenses of the application and order:
- (2.) In the payment of such remuneration to the Receiver and in such expenses of his office as the Judge directs:
- (3.) In the payment of the principal and interest of the loan.
- (4.) The residue, after payment of the above, shall be paid into the Borough Fund for the use of the Corporation, and the Receiver shall account for all such moneys in such manner as the Judge shall direct.

When all the principal and interest of the loan are paid, or at any other time by an order of the Judge, the powers of the Receiver shall cease and shall revert in the Council, and he shall forthwith pay any moneys in his hands into the Borough Fund Account.

No holder of any debenture or coupon to be issued under authority of this Act shall have any claim in respect thereof upon the public revenues of the Colony of New Zealand or the Government thereof.

MISCELLANEOUS.

16. No Judge shall, solely on account of his liability to pay rates, be deemed to be interested in any proceedings in which he is judicially concerned.

Judge not deemed interested on account of liability for rates

17. No objection shall be allowed in any Court to any rate which the Council or the Receiver shall purport to strike, make, or levy under the provisions of this Act, or which shall or may form the security for the debentures or coupons issued hereunder; and no informality or irregularity, whether in form or substance, or in the making, striking, or levying of such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceeding for the recovery of such rate, or be entertained as a ground for questioning such rate, or restraining the recovery thereof.

Objection to rate struck not allowed as defence

Nothing herein contained shall in any manner prejudice the holder of any debenture issued under the authority of "The City of Auckland Loans Consolidation Act, 1879," or "The City of Auckland Additional Loan Act, 1883."

SCHEDULE.

Schedule.

FORM OF DEBENTURE

"The Auckland City Borrowing Act, 1899"

£100,000 Loan, secured on the Revenue of the Corporation of the City of Auckland.

Debenture for £100; redeemable, 19 . [No.]

ON presentation of this debenture at the office of the said body corporate, in Coburg Street, Auckland, New Zealand, on or after the day of 19 , the bearer thereof will be entitled to receive a sum of £100 sterling

Interest on this debenture will cease after the day when payment falls due, unless default is made in payment on presentation.

Issued under the seal of the Corporation of the City of Auckland, New Zealand, this day of , 19 .

[L.S.]

, Mayor
, Town Clerk

NOTE.—The holder of this debenture has no claim in respect thereof upon the public revenues of the Colony of New Zealand.

FORM OF COUPON.

DEBENTURE No. of the body corporate of the Mayor, Councillors, and Citizens of the City of Auckland, under "The Auckland City Borrowing Act, 1899."

ON presentation of this coupon at the office of the said body corporate, in Coburg Street, Auckland, New Zealand, on or after the day of , 19 , the bearer will be entitled to receive £

, Mayor.
, Town Clerk.