

# City of Christchurch Borrowing.

## ANALYSIS.

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| <p>Title.<br/>Preamble.<br/>1. Short Title.<br/>2. Commencement of Act and application.<br/>3. Repeal clause.<br/>4. Loans on mortgage of special rates.<br/>5. Notice of intention to borrow.<br/>6. Resolution to borrow subject to certain conditions.<br/>7. Special rate.<br/>8. Special rate to be recurring.<br/>9. General provisions as to rates to apply.<br/>10. Annual valuation compulsory.<br/>11. Annual amendment of special rate.<br/>12. Special order for rate.<br/>13. Limit to total of general and special rates.<br/>14. Recovery of special rate.<br/>15. Issue of debentures.<br/>16. Form &amp;c. of debentures.<br/>17. How to be offered for sale.<br/>18. Reserve Fund to be invested.</p> | <p>19. Government securities may be sold to pay off debentures.<br/>20. Surplus how to be disposed of.<br/>21. Special account for each loan and special rate.<br/>22. Power to distrain for special rate.<br/>23. Distress not to be unlawful for want of form.<br/>24. If principal or interest unpaid Receiver may be appointed.<br/>25. Amendment of rate at instance of Receiver.<br/>26. Rates to be paid to Receiver.<br/>27. Where rights of debenture holders are prejudiced by defaults &amp;c. of Council Council may be superseded in respect of special rate.<br/>28. Rule absolute and costs.<br/>29. On rule absolute Receiver to be substituted for Council.<br/>30. Receiver may pay expenses.<br/>31. Colonial and Provincial revenue not liable.<br/>32. Interpretation.<br/>33. This Act and Municipal Act to be read as one. Schedules.</p> |
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## A BILL INTITULED

AN ACT to confer enlarged Borrowing Powers upon the Mayor Councillors and Citizens of the City of Christchurch. Title.

WHEREAS it has become necessary on account of the expense connected with the effectual drainage of the City of Christchurch to confer upon the Mayor Councillors and Citizens of the said City larger borrowing powers than it is apprehended are at present vested in the said Corporation by virtue of "The Municipal Corporations Act 1867" and for that purpose to amend the said Act in so far as the same applies to the said City of Christchurch in manner hereinafter set forth: 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 shall be "The City of Christchurch Borrowing Act 1871." Short Title.

Commencement of Act and application.

**2.** This Act shall come into operation on the first day of January one thousand eight hundred and seventy-one and shall apply to the district comprised within the City of Christchurch as described in the First Schedule to "The Municipal Corporations Act 1867" and to such other portion or portions of New Zealand as His Excellency the Governor of New Zealand may from time to time by Proclamation annex to the said city pursuant to the provisions of the said Act or as may from time to time become part of the said city as a Municipal Corporation in conformity with the laws for the time being in force in that behalf in New Zealand.

Repeal clause.

**3.** Part XVI. of the said Act shall be and the same is hereby repealed as to the said City of Christchurch.

Loans on mortgage of special rates.

"Municipal Corporations Act" s. 239.

**4.** The Council of the said City may subject to the provisions hereinafter contained borrow and take up at interest on the credit of any special rate made under this Act any sums of money necessary for defraying any costs charges or expenses to be incurred as hereinafter mentioned and for the purpose of securing the repayment of any sums so borrowed with such interest as aforesaid the said City Council may issue debentures secured upon the said rate to the persons by or on behalf of whom such sums are advanced but the exercise of the above power shall be subject to the following provisions:—

- (1.) Such money shall not be borrowed except for permanent works or undertakings or for the purchase of land.
- (2.) All the moneys so charged upon the security of special rates made under this Act shall not at any one time exceed in the whole the sum of fifty thousand pounds: Provided that if the amount of the ordinary rates levied in the year next preceding the year in which the moneys are proposed to be borrowed shall exceed ten thousand pounds the moneys so charged at any one time may equal five times the amount of such ordinary rates.
- (3.) The debentures shall be for sums of fifty pounds each.
- (4.) The debentures shall not carry interest for any period subsequent to the time at which the principal moneys secured thereby shall be made payable.
- (5.) All principal and interest money secured by any debenture the holder whereof shall not have claimed the same within two years after the same respectively shall have become payable shall thereupon become absolutely forfeited to the Council and shall forthwith be paid to the city fund.
- (6.) The principal money and interest secured by the debentures may be made payable in the City of London in Great Britain Christchurch New Zealand or Melbourne in the Colony of Victoria and the principal moneys of any such debentures shall be payable at such time as is mentioned therein not being later than fifty years from the issue thereof and such debentures may be made payable in such manner and such times that a proportion thereof to be fixed by the Council may be redeemable at intervals after the first advance of money.
- (7.) No debenture issued under this Act shall be liable to any stamp duty.

Notice of intention to borrow.

Ib. s. 240.

**5.** No proposition for borrowing money on the security of any special rate shall be considered by the Council unless a notice thereof stating the amount of such proposed loan the rate of interest to be paid in respect of such loan the purposes to which it is intended to be applied the manner times and places at which the principal and interest due upon the several debentures shall be payable and the amount of the special rate which it is proposed should be made for securing the

loan shall have been published in the *Government Gazette* of the Province of Canterbury and also twice in some newspaper generally circulating in the City of Christchurch at least fourteen days before such proposition shall be considered.

5 **6.** No resolution for borrowing money on the security of any special rate shall be adopted by the Council save by special order as provided in said Act or unless an ordinary annual election of Councilors shall have taken place not less than twenty-one clear days after the meeting of the Council at which such resolution shall be first  
10 agreed to and before the subsequent meeting at which such order shall be confirmed as herein required or unless at the last-mentioned meeting the resolution for confirmation shall have been carried by a majority of the whole Council.

Resolution to borrow subject to certain conditions.  
"Municipal Corporations Act" s. 241.

15 **7.** For securing the payment of the principal and interest of any loan to be contracted as herein mentioned the Council may make a special rate upon all ratable property situate within the city and every such special rate may be as near as practicable in the form contained in the First Schedule hereto.

Special rate.  
Ib. s. 242.

20 **8.** Every such special rate shall be payable by the ratepayers after the issue of the debentures at such intervals not exceeding half a 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 every ratable tenement at any time  
25 situated within the area composing the city at the time of the making of such special rate according to the annual value of each such tenement as appearing by the valuation last made affecting such tenement until all moneys due in respect of the contract of loan or of any further loan or loans contracted for the satisfaction of the same  
30 shall have been satisfied.

Special rate to be recurring.  
Ib. s. 243.

**9.** Save where it is herein otherwise expressly provided or there is something in the context repugnant thereto all the provisions in Part XV. and any other Part in said Act contained relating to rates shall apply to every such special rate as aforesaid and every such  
35 special rate shall be deemed for the purposes of the said provisions to have been made in each year upon each such ratable tenement as aforesaid at and upon the expiration of each successive period of twelve months from the date of the special order by which such rate shall have been first made.

General provisions as to rates to apply.  
Ib. s. 244.

40 **10.** Whenssoever a special rate shall have been made and be in force the Council shall and they are hereby required once at least in every successive period of twelve months after the date of the special order for making such rate to cause to be made for the city such valuation as is authorized by the provisions in said Act contained.

Annual valuation compulsory.  
Ib. s. 245.

45 And all appointments of valuers by the Council shall be subject within thirty days after the making of the same to be disallowed by the Superintendent and shall not take effect till the expiration of such period and if disallowed within such period shall be wholly void.

50 **11.** At and upon the expiration of each successive period of twelve months every such special rate shall be amended by the Council pursuant to the provisions of the said Act or if not and so far as not then amended shall be and take effect as if amended so as to conform as regards every separate ratable tenement for the time being within the city and affected by such rate to the valuation affecting such  
55 property which shall have been made by the Council.

Annual amendment of special rate.  
Ib. s. 246.

**12.** No special rate shall be made save by special order as in said Act provided or until after the special order for raising money by loan on the security of such rate shall have been duly made and after the year of the making of such special rate the same shall not be quashed  
60 by any Court or otherwise.

Special order for rate.  
Ib. s. 247.

Limit to total of general and special rates.

"Municipal Corporations Act" s. 248.

Recovery of special rate.

Ib. s. 249.

Issue of debentures.

Ib. s. 250.

Form &c. of debentures.

Ib. s. 251.

How to be offered for sale.

Ib. s. 252.

Reserve fund to be invested.

Ib. s. 253.

Government securities may be sold to pay off debentures.

Ib. s. 254.

Surplus how to be disposed of.

Ib. s. 255.

13. The special and general rates taken together for the said city shall not at any time exceed two shillings in the pound of the assessment of the ratable property situate within the city.

14. In all cases of complaint for the recovery of a special rate such complaint may and shall be made within eighteen calendar months from the time when the matter of such complaint arose. 5

15. After such special order for borrowing and such special rate as aforesaid shall have been duly made as aforesaid the Council may cause to be made out and issued debentures of the several amounts aforesaid and charged upon such special rate and no debentures shall be issued as a charge upon any special rate exceeding the amount named in the special order aforesaid contracting the loan. 10

16. All debentures issued by the Council as a charge upon any special rate under this Act shall be in the form in the Second Schedule to this Act and be numbered consecutively beginning with number one and so proceeding in arithmetical progression ascending wherein the common difference shall be one and shall be signed on behalf of the Council by the Mayor two Councillors and Town Clerk and shall pass by delivery only and all rights and remedies in respect of such debentures shall be vested in and belong to the several holders thereof for the time being as though they were expressly named therein. 15 20

17. The Council may from time to time at such time and place as they shall by special order have appointed in that behalf offer or cause to be offered for sale such debentures or any number thereof.

18. For the purpose of providing a fund for paying the principal money from time to time becoming due in respect of the debentures charged upon any special rate the Council shall in each year set apart so much of the moneys received in such year on account of such special rate as shall not be required for the payment of the interest upon such debentures theretofore accrued due or to accrue due before the next time when such special rate shall become payable and shall invest the moneys so set apart in the purchase of General Government debentures or in such other securities as shall be previously approved of by the Governor and the interest of the moneys so invested when and as the same becomes due shall from time to time be received and invested in like manner in order that the moneys so set aside and invested may accumulate at compound interest. 25 30 35

19. As often as any moneys shall become due and payable as principal moneys secured by any debentures as aforesaid the Council shall cause so much of the said Government securities in which the said accumulated fund is invested as may be required for the purpose to be sold or otherwise converted into money and shall apply the moneys arising from such sale or conversion and any other moneys proceeding from such special rate and in the hands of the Council over and above any interest due as aforesaid to the payment of the debentures upon which such principal money shall have so become due and payable. 40 45

20. If at any time after paying or setting apart out of the produce of the special rate all moneys due for interest upon the debentures charged upon such rate and at the time of paying (out of the fund to be accumulated as herein provided or otherwise out of the produce of the special rates) all principal moneys which shall be due and payable on any such debentures there shall be a surplus of the moneys theretofore accumulated as aforesaid it shall be lawful for the Council if it shall see fit to apply such surplus in repurchasing any of the debentures charged upon the special rate which shall then be outstanding and all moneys produced by or accumulated from any special rate which shall remain after the full payment and satisfaction of all principal moneys and interest secured thereby and of all other lawful expenses touching the same shall be paid to the City Council. 50 55 60

21. The Council shall cause a separate account to be kept for each loan upon the security of a special rate of all moneys received as and for such rate and of all moneys accumulated by way of compound interest as aforesaid and of the application thereof respectively distinguishing the several sums paid or applied in payment of interest or principal or set apart as a sinking fund or otherwise applied under the provisions of this Act.

Special account for each loan and special rate.

"Municipal Corporations Act" s. 256.

22. In case any person shall refuse or neglect to pay any rate which he shall be liable to pay under this Act for the space of fourteen days after the same has become payable it shall be lawful for the Mayor (or for any Councillors) of the said City of Christchurch by warrant signed by him addressed to some person to be therein named as his or their bailiff to authorize such person to distrain the goods and chattels in and upon the premises in respect of which such rate shall have become payable and such bailiff shall be thereby authorized to proceed thereon in like manner in all respects as in case of distraint for rent in arrear and shall cause such goods and chattels when distrained to be sold either public or privately and out of the moneys to arise by such sale shall pay first all expenses attendant upon such distress and sale secondly the amount for which such distress and sale are made and shall pay over the surplus if any to the person whose goods and chattels have been so distrained and sold and in the event of any distress not realizing sufficient to pay such amount and expenses it shall be lawful for the Mayor or any two Councillors from time to time to make and authorize further and other distress and distresses in manner aforesaid until the whole amount of such rate and expenses has been fully paid.

Power to distrain for special rate.

23. No distress made under authority of this Act shall be deemed to be unlawful nor shall the person making the same or his agent be deemed to be a trespasser on account of any defect or want of form in the warrant of distress or in any proceeding relating thereto nor shall such person or his agent be deemed to be a trespasser *ab initio* on account of any matter or thing done or omitted but the person aggrieved may recover for the special damage sustained thereby and no more.

Distress not to be unlawful for want of form.

24. If at the expiration of one week from the time when any principal money or interest has become due upon any two or more debentures secured upon a special rate made under this Act and after demand in writing by the holder or if there be more holders than one by the holders thereof severally the same be not paid the holder of such debentures may or if there be more than one holder the holders thereof jointly may without prejudice to any other mode of recovery apply for the appointment of a Receiver to the Supreme Court and the said Court is hereby empowered after hearing the parties to appoint some person to collect and receive such special rate and to order that all moneys the produce of such special rate and in the hands of any officer of the Council or other person and all moneys or securities for money constituting for the time being the accumulated fund aforesaid shall be forthwith transferred to and vested in such Receiver solely and every such order after such Receiver shall have given due security for the execution of his office shall take effect accordingly until the whole of the principal or interest or both as the case may be due for the time being together with the costs of the application and the costs of collection and all costs of and occasioned by such order are fully paid.

If principal or interest unpaid Receiver may be appointed.

"Municipal Corporations Act" s. 257.

25. The Council shall from time to time if required by notice under his hand by any Receiver appointed hereunder and on sufficient evidence in that behalf amend according to the powers of amendment hereby conferred on them any special rate in respect of all particulars described by such Receiver in such notice and shall not otherwise save at the fixed annual periods and in the manner in the previous sections

Amendment of rate at instance of Receiver.

Tb. s. 258.

hereof and in said Act mentioned amend any special rate and all the provisions hereof and of said Acts with regard to amendments by the Council shall thereupon in such case apply accordingly.

Rates to be paid to Receiver.

"Municipal Corporations Act" s. 259.

**26.** Upon such appointment being made such rate shall be paid to the Receiver so appointed and while he shall continue such Receiver he shall have the same powers of levying and recovering such rate as are hereby or by said Act conferred on the Council and the several provisions hereof relating to the receiving or recovering of rates and appeal against rates shall in such case be read as though the Receiver were mentioned therein instead of the Council and take effect accordingly and the said Receiver shall disburse the moneys coming into his hands in like manner as herein required by the Council.

Where rights of debenture holders are prejudiced by defaults &c. of Council Council may be superseded in respect of special rate.

Ib. s. 260.

**27.** Upon affidavit by the Receiver of any special rate that by reason of any act of misfeasance or default contrary to the provisions or true intent of this Act of the Council or of any officer of or valuers appointed by such Council the rights hereunder of the holders of debentures of such special rates have been or are being defeated abridged or prejudiced it shall be lawful for the Supreme Court to grant a rule or order calling such Council or as the case may be upon such Council officer and valuers to show cause to the Court why such Council should not in respect of such special rate and of all acts matters and things precedent to or attendant or consequent on the administration of such rate hereunder be superseded by such Receiver.

Rule absolute and costs.

Ib. s. 261.

**28.** If upon the return of such rule or order it shall appear to the Court that by reason of any such act misfeasance or default the rights of such holders have been or are being defeated abridged or prejudiced the Court may make absolute such rule or order and if the matter shall not so appear may discharge such rule or order and in either and every such case with or without the payment of costs to or by any of the parties as to the Court shall seem meet.

On rule absolute Receiver to be substituted for Council.

Ib. s. 262.

**29.** When any such rule or order shall have been made absolute in addition to the ordinary powers of the Receiver of such special rate such Receiver having given such further security for the due execution of the provisions hereof as the Supreme Court shall direct shall and may in the place and stead of the Council and for such time as shall be named in such rule or order do and suffer as well with regard to the making of valuations as with regard to all other matters and things whatsoever touching or concerning such special rate and the debentures charged thereon all such acts matters and things as the Council or any officer of the Council may or are required to do and suffer under the provisions hereof and of the said Act and all the said provisions shall apply accordingly but no valuation made by any such Receiver shall be deemed to be made or avail for any purpose save that of such special rate only.

Receiver may pay expenses.

Ib. s. 263.

**30.** Every such Receiver shall and may disburse out of the moneys received by him as and for such special rate all such moneys as shall have been lawfully expended in and about the obtaining of such rule or order and in and about the several proceedings thereon.

Colonial and Provincial revenue not liable.

Ib. s. 264.

**31.** No claim of any holder of debentures secured upon any special rate under this Act or of any creditor of the Council shall attach to or upon or be in anywise paid or satisfied out of or by the ordinary or other general revenue of New Zealand or by the General Government thereof or by the Provincial Government of the Province of Canterbury.

Interpretation.

**32.** The word "land" shall mean and include any estate or interest in or easement over real property.

This Act and Municipal Act to be read as one.

**33.** The said Act and this Act shall (for the purposes of this Act) be read as one Act.

City of Christchurch Borrowing.

FIRST SCHEDULE.

FORM OF SPECIAL RATE.

AN Assessment to the Special Rate made by special order dated the day of 18 , after the rate of pence in the pound by virtue of "The City of Christchurch Borrowing Act 1871."

Table with 10 columns: No. on the Rate, Surname of Person rated, Christian Name of Person rated, Trade or Occupation, Name of Owner of Rateable Property, Description and Situation of Rateable Property, Ward of Borough (where Borough divided into Wards), Electoral District and Division, Annual Value, Rate at d. in the pound.

SECOND SCHEDULE.

FORM OF DEBENTURE. (TRANSFERABLE BY DELIVERY.)

"City of Christchurch Borrowing Act 1871."

N.B.—The holder of this debenture has no claim with respect thereof upon the Provincial Government of Canterbury of New Zealand or the ordinary or public revenue thereof. This debenture entitles the bearer to pounds sterling which with interest thereon at the rate of pounds per centum per annum is hereby secured upon a special rate made the day of 18 by the Council of the above [and further describing the special rate] such interest being payable half-yearly on the first day of and the first day of in every year (dividend coupons for which are annexed) at and such principal money being payable on the day of 18 at

Dated this day of 18 at

18 (Signed)

A.B. Mayor, C.D. } E.F. } Councillors. G.H. Town Clerk.