

(Mr. Pyke.)

Dunedin Corporation Borrowing.

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A BILL INTITULED

AN ACT to enable the Corporation of the City of Dunedin to further extend its Borrowing powers, and to amend its form of Security for the Repayment of Moneys raised on Loan.

WHEREAS by an Ordinance of the Superintendent and Provincial Council of Otago, made and passed in the twenty-eighth year of the reign of Her present Majesty (Session XX., No. 191), intituled "The Otago Municipal Corporations Ordinance, 1865," it was enacted that the Council (meaning thereby the Mayor and Councillors of the City of Dunedin) might borrow at interest on the credit of the rates thereby authorized to be levied from time to time (except special rates) any sum which, with any amount previously borrowed and remaining unpaid, should not exceed one thousand pounds, and in the event of any part of such sum being repaid, might re-borrow the same, but so that there should not be owing on the security aforesaid more than one hundred thousand pounds at any one time; and for securing the repayment of the moneys so to be borrowed, with interest, the Council might assign such rates, or any part thereof, to the person who should advance or lend such money, or his trustees, as security for the repayment of such advance, with interest.

But the Council should not be authorized to borrow or re-borrow any sum or sums of money until a resolution to that effect should have been previously made by the Council, at a meeting specially called for that purpose, and at which two-thirds of the members should be present. And whereas by the Ordinance now in recital it was further provided as follows :—

Terms of Assignment.

- XCIX. Every such assignment shall be by deed under the seal and at the expense of the Corporation, and wherein the consideration shall be truly stated, and may be according to the form in Schedule F, or to the like effect.

Assignment to be without prejudice.

- C. All persons to whom such assignments shall be made, or who shall be entitled to the moneys thereby secured, shall, in proportion to the sums therein respectively mentioned, be creditors on the rates equally one with another, without any preference in respect of the priority of advancing such moneys, or of the dates of any such assignments respectively.

Register of Assignments to be kept.

- CI. A register of such assignments shall be kept by the Town Clerk, and within fourteen days after the date of such assignment a memorial specifying the number and date thereof, the principal sums secured thereby, and the names of the parties thereto, with their proper additions, shall be entered in such register, and such register may be perused at all times by any person interested therein without charge.

Transfer of Assignment.

- CII. Any party entitled to any such assignment may transfer his right and interest to any other person by deed wherein the consideration shall be duly stated, and any such transfer may be according to the form in the Schedule G, or to the like effect.

Register of such Transfers to be kept.

- CIII. Within twenty-one days after the date of every such transfer, if executed within the said province or otherwise, within twenty-one days after the arrival thereof in the said province, it shall be produced to the Town Clerk, who thereupon shall cause a memorial thereof to be registered in the same manner as in the case of the original assignment; and for such registration the Town Clerk may demand a sum not exceeding five shillings; and until such registration the Corporation shall not be in any manner responsible to the transferee in respect of such mortgage.

Interest payable half-yearly.

- CIV. The interest of money borrowed upon every such assignment granted under the provisions hereof shall be of an equal rate, and in no case exceed seven per centum per annum, and shall be payable half-yearly to the several persons entitled thereto unless otherwise provided by the conditions of such securities respectively.

Sinking Fund.

- CV. It shall be lawful for the Council, and it is hereby required from and out of the rates so chargeable as aforesaid, in

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each and every year from the first raising of any sums of money under the authority hereof, until the whole amount so raised and the interest thereon shall have been duly paid, to set apart as a sinking fund such sums of money as to the Council shall seem sufficient to pay the amount of the principal money so raised, and such sums shall be paid over by the Council as soon as they shall be so set apart to three persons to be appointed from time to time by the Superintendent of Otago to act as trustees thereof, and such sums shall be by such trustees invested in such securities as the Superintendent shall from time to time direct, and the annual profits of such sums so invested shall be in like manner invested, and such sums so invested and the proceeds of the securities on which they have been invested, and the annual increase thereof, shall be applied in payment of the principal moneys so raised, but the interest on the moneys so raised shall be paid annually or otherwise by the Council out of the Corporation funds not set apart, and such interest shall not be paid out of the sinking fund. The trustees of the said sinking fund shall, when directed by the Superintendent so to do, make sale of and realize the securities upon which such sums of money so set apart as aforesaid have been invested, and pay thereout such of the moneys raised by such Council and the interest thereon as shall be due or payable, and for the payment of which the moneys invested in such securities were set apart.

Application of Rates charged with money borrowed.

CVI. The moneys raised by the rates hereby authorized to be charged with such securities as aforesaid, shall be applicable to the payment of interest of all principal money borrowed, and secondly to the specified and general purposes of this Ordinance.

And whereas the forms mentioned and referred to in the said Ordinance, and distinguished by a reference to Schedules F and G to the said Ordinance appended, are set forth in Schedules A and B of this Act. And whereas by another Ordinance of the said Superintendent and Provincial Council of Otago intituled "The Dunedin City Council Borrowing Powers Extension Ordinance, 1874," the hereinbefore in part recited Ordinance intituled "The Otago Municipal Corporations Ordinance, 1865," was amended, and the power of the said Council to borrow upon the security of the rates aforesaid was increased and enlarged from the sum of one hundred thousand pounds to two hundred thousand pounds sterling: And whereas it is expedient to further extend the borrowing powers of the said Council to the sum of three hundred thousand pounds: And whereas the ordinary rates which under the said "Otago Municipal Corporations Ordinance, 1865," the said Council is authorized to levy are limited to two shillings and sixpence in the pound for each Municipal year on the annual assessment of rateable property: And whereas in exercise of the powers conferred in and by the said Ordinances, the said Council has from time to time borrowed various sums of money upon the security of the said rates, and in order to secure the repayment thereof together with the interest payable in respect of the principal moneys so borrowed, the said Council has from time to time issued or caused to be issued mortgages of the said rates in the form set forth in the said Schedule F of the first mentioned Ordinance: And whereas the form prescribed by the said Schedule F has proved inconvenient in practice, and the

negotiability of the securities for money borrowed under the authority of the said Ordinances is or may be prejudicially affected by reason of a strict adherence to the form prescribed: And whereas it is desirable that further provision should be made for the easy transfer of the securities of the said Corporation of the City of Dunedin:

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

Short Title.

1. The Short Title of this Act shall be "The Dunedin Corporation Borrowing Powers Extension and Debentures Act, 1875."

"Otago Municipal Corporations Ordinance, 1866," and "Dunedin City Council Borrowing Powers Extension Ordinance, 1874," to be read (in part) with this Act.

2. The provisions of the Ordinances of the Superintendent and Provincial Council of the Province of Otago, intituled respectively "The Otago Municipal Corporations Ordinance, 1865," and "The Dunedin City Council Borrowing Powers Extension Ordinance, 1874," shall be applicable to the moneys to be borrowed under this Act, and the securities for the same and the interest thereon, and, so far as they relate to the moneys to be borrowed under this Act, shall be incorporated with and shall be read and construed as if forming part of this Act.

Council may borrow money under certain conditions.

3. Notwithstanding anything in the said lastly hereinbefore recited Ordinances contained it shall be lawful for the Council of the City of Dunedin to borrow at interest on the credit of the rates which the Council are by law authorized to levy from time to time (except special rates) any sum or sums which, with any amount previously borrowed under the said lastly hereinbefore recited Ordinances or either of them or of this Act, and remaining unpaid, shall not exceed in the whole three hundred thousand pounds: Provided nothing herein contained shall be deemed to authorize the Council of the City of Dunedin to borrow upon the security of the ordinary annual rates leviable under the eighty-seventh section of "The Otago Municipal Corporations Ordinance, 1865," any larger sum than two hundred thousand pounds in the whole, or at a higher rate of interest than seven per centum per annum: Provided always that, in the event of any part of such sum being repaid, the said Council may reborrow the same or an equivalent amount of money, but so that there shall not be owing on the security of the said ordinary annual rates more than two hundred thousand pounds at any one time: And provided also that, in computing the said sum of two hundred thousand pounds, all moneys heretofore borrowed under the hereinbefore recited Ordinances or either of them upon the security aforesaid, and remaining outstanding and unpaid shall be taken into account.

Existing borrowing powers not enlarged.

Certificates under the corporate seal, and signature of the Mayor and Town Clerk, conclusive as against Corporation of amounts outstanding.

4. A certificate in the form or to the effect set forth in Schedule C of this Act, under the common seal of the Corporation of the City of Dunedin, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said city, stating the amount previously borrowed upon the security of the said ordinary annual rates and then outstanding and unpaid, shall be conclusive evidence in any Court of Judicature, as against the said Corporation, that no more than the total sum of money mentioned in the said certificate had at the date of such certificate been previously borrowed and then remained outstanding and unpaid.

Certificates &c. conclusive evidence, as against Corporation, of authority to borrow.

5. A certificate in the form or to the effect set forth in Schedule D of this Act, under the common seal of the Corporation of the City of Dunedin, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said city, stating that at a meeting of the said Council specially called for the purpose a resolution was made and passed (there being present at such meeting two-thirds of the members of the said Council) authorizing the sum or sums named in such last-mentioned certificate to be borrowed upon the security of the said ordinary annual rates, shall be conclusive evidence

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in any Court of judicature as against the said Corporation, that all conditions required by law to enable and empower the said Council to borrow the sum or sums of money named in the certificate in this section referred to had been duly performed observed and fulfilled.

5 6. In lieu of or in addition to the form of mortgage prescribed in and by Schedule F of "The Otago Municipal Corporations Ordinance, 1865," the said Council may cause debentures, sealed with the common seal of the said Corporation, and signed by the Mayor and Town Clerk of the said city, to be issued in the form given in Schedule E to this
10 Act, or as near thereto as may be, for sums of not less than one hundred pounds each, and separate coupons for each payment of interest shall be attached thereto. The principal and interest moneys expressed in and secured by such debentures and coupons may be made payable at any place or places within or out of the Colony of
15 New Zealand.

Debentures may be issued.

7. Every debenture and coupon to be issued as aforesaid shall pass by delivery, and all rights and remedies in respect of such debentures and coupons shall be exclusively vested in the holders thereof respectively, as if they were expressly named therein.

Debentures &c. to pass by delivery.

20 8. No debenture or coupon to be issued as aforesaid shall be liable to stamp duty under any laws for the time being in force in New Zealand.

No stamp duty to attach.

25 9. The debentures and coupons hereby authorized to be issued shall operate and be a charge enforceable in equity upon the ordinary annual rates of the said Corporation of the City of Dunedin, leviable under the eighty-seventh section of "The Otago Municipal Corporation Ordinance, 1865," or under any Act or Ordinance amending such provision now or which may hereafter be in force: Provided always, that there shall be no priority as between the holders of the said debentures and mortgagees claiming under the two several Ordinances herein-
30 before mentioned, but they shall all hold their securities *pari passu*.

Debentures secured on ordinary annual rates.

35 10. The said debentures or any of them may be offered for sale in such manner at such places, and through such channels and agencies, as the said Council may at any time or from time to time direct.

Debentures may be offered for sale.

40 11. The debentures shall and may be redeemable in such manner and at such time or times not exceeding _____ years from the issuing or making of the same respectively as the Council may determine, and of such determination the time fixed and appointed in and by the said debentures for the payment and redemption thereof shall be conclusive evidence against the said Corporation; and the interest secured by the said debentures shall be payable half-yearly.

Principal and interest moneys when payable.

45 12. There shall be kept at the offices of the said Council in the City of Dunedin aforesaid, a register of all debentures issued and made under the authority of this Act, and within fourteen days after notice of the sale of any debenture shall have been received by the said Town Clerk an entry shall be made in the said register of the number and date of the debenture so sold and of the particulars relating thereto, and every such register shall be open to public inspection at all reasonable times without fee or regard; and any person having charge of
50 the said register, who shall improperly or without reasonable excuse refuse to allow such inspection, shall be liable to a penalty, to be summarily enforced, not exceeding twenty pounds.

Register to be kept.

55 13. The provisions contained in the hundred and fifth section of "The Otago Municipal Corporations Ordinance, 1865," relative to the creation of a sinking fund, and recited in the preamble of this Act, shall extend to and apply to all moneys borrowed upon debentures under the authority of this Act.

Sinking fund.

60 14. The provisions contained in the hundred and sixth section of "The Otago Municipal Corporations Ordinance, 1865" (recited in the preamble of this Act), shall extend and apply to the payment of

Interest on debentures made first annual charge on ordinary rates.

interest upon the moneys borrowed upon debentures under the authority of this Act.

Supreme Court may direct rate to be levied for payment of interest.

15. It shall be lawful for the Supreme Court of New Zealand, on application duly made to it by the holder of any mortgage of rates issued under the authority of the said two Ordinances, or either of them, or the holder of any debenture or coupon issued under the authority of this Act, if the interest payable in respect of any such mortgage debenture or coupon shall be in arrear, by a rule or order of the said Court, to require the said Corporation of the City of Dunedin to show cause why such interest should not be forthwith paid, and failing such payment, why a writ of *mandamus* should not issue requiring the said Council to levy a rate or rates to insure and provide for such payment, and that notwithstanding at the time of such application the said Council, for the municipal year then current, have exhausted its rating powers by having previously levied a rate or rates amounting in the whole to the sum of two shillings and sixpence in the pound on the assessment made for the year under the authority of the said "Otago Municipal Corporations Ordinance, 1865," or any Act or Ordinance amending the same; and it shall be lawful for the said Supreme Court, upon cause being shown to the said rule or order, to pronounce such decision thereon, and make such order as to costs and by and to whom the same shall be paid, as may be just and right.

Holder of debenture to have no claim upon colonial or provincial revenue.

16. The holder of any debenture or coupon to be issued under the authority of this Act shall have no claim in respect thereof upon the revenues of the Colony of New Zealand, or any of the provinces or counties thereof.

Schedules.

SCHEDULES.

SCHEDULE A.

FORM OF MORTGAGE OF RATES.

Mortgage number Corporation of
 BY virtue of an Ordinance intituled "The Otago Municipal Corporations Ordinance, 1865," the Mayor and Councillors and Citizens of the City of Dunedin, in the Province of Otago, in consideration of the sum of, paid to them by A.B., of, for the purposes of the said Ordinance, do grant and assign unto the said A.B., his executors, administrators, and assigns all [*Here describe the rates or moneys to be mortgaged*]. To hold to the said A.B., his executors, administrators, and assigns, from the day of the date hereof until the said sum of, with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied; and it is hereby declared that the said principal sum shall be repaid on the day of, and that in the meantime the interest thereof shall be paid on the day of, and the day of in every year.

In witness whereof the said Mayor and Councillors have hereunto set their corporate seal this day of, 187

SCHEDULE B.

FORM OF TRANSFER OF MORTGAGE.

I, A.B., in consideration of the sum of, paid to me by C.D., of, hereby transfer to the said C.D., his executors, administrators, and assigns, a certain mortgage number, made by the Mayor and Councillors of the City of Dunedin, by virtue of "The Otago Municipal Corporations Ordinance, 1865," bearing date the day of, for securing the sum of and interest at the rate of per centum per annum, and all my right and estate and interest in the money thereby secured, and to the rates thereby assigned.

In witness whereof I have hereunto set my hand and seal this day of, 18

Signed, sealed, and delivered in the presence of

SCHEDULE C.

"CITY OF DUNEDIN DEBENTURE ACT, 1875."

£200,000 LOAN.

Certificate of existing Liabilities of Mortgage and Debentures.

THIS is to certify, that prior to this the day of, 187, the Corporation of the City of Dunedin has borrowed upon the security of its ordinary annual rates,

leviable under the eighty-seventh section of "The Otago Municipal Corporations Ordinance, 1865," the sum of £ , and no more, and that the mortgages and debentures issued in respect of the moneys so borrowed, and now outstanding and unpaid, do not exceed, in the whole, the sum of £ : And it is further certified, that of the sum of £200,000 authorized by law to be raised by the said Corporation of the City of Dunedin, upon the security of its said ordinary annual rates, there yet remains to be raised and borrowed the sum of £

Issued under the seal of the Corporation of the City of Dunedin, Otago, New Zealand, this day of , 187 .

(L.S.)

Mayor.
Town Clerk.

SCHEDULE D.

"CITY OF DUNEDIN DEBENTURE ACT, 1875."

£200,000 LOAN.

Certificate of Authority given by the Corporation of the City of Dunedin to borrow Money.

THIS is to certify, that at a meeting of the Council of the Corporation of the City of Dunedin, specially called for the purpose, and at which meeting two-thirds of the members of such Council were present, a resolution was made and passed authorizing and directing that the sum of £ should be borrowed upon the security of the ordinary annual rates of the said Corporation, and that debentures bearing interest at the rate of seven per cent. per annum, payable half-yearly, should be issued as security for the repayment of the moneys authorized and directed to be borrowed as aforesaid: And it is hereby further certified, that all conditions required by law to enable the Council of the said Corporation to borrow the said sum of £ have been duly performed, observed, and fulfilled.

Issued under the seal of the Corporation of the City of Dunedin, Otago, New Zealand, this day of , 187 .

(L.S.)

Mayor.
Town Clerk.

SCHEDULE E.

"CITY OF DUNEDIN DEBENTURE ACT, 1875."

£200,000 Loan.—Secured on the ordinary rates of the Corporation of the City of Dunedin.

No. . £100 .

DEBENTURE FOR £100.

Redeemable 18

Issued by the Corporation of the City of Dunedin, New Zealand, under an Act of the General Assembly of New Zealand, intituled "The City of Dunedin Debentures Act, 1875."

ON presentation of this Debenture at , on or after the day of 187 , the bearer thereof will be entitled to receive the sum of £100 sterling.

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

Issued under the seal of the Corporation of the City of Dunedin, New Zealand, this day of , 187 .

(L.S.)

Mayor.
Town Clerk.

N.B.—The holder of this Debenture has no claim in respect thereof upon the revenues of the Colony of New Zealand, or any of the provinces or counties thereof.

SCHEDULE F.

"CITY OF DUNEDIN DEBENTURES ACT, 1875."

Coupon Debenture No. .

Due

ON presentation of this Coupon at , on or after the day of , 187 , the bearer thereof will be entitled to receive £ .
Dunedin, New Zealand, day of , 187 .

(L.S.)

Mayor.
Town Clerk.