

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE, 7TH JULY, 1896.]

Mr. Pinkerton.

DUNEDIN CITY BORROWING.

[LOCAL BILL.]

ANALYSIS.

<p>Title.</p> <p>Preamble.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p style="text-align: center;">BORROWING.</p> <p>3. Power to borrow £50,000 at 4 per cent.</p> <p>4. Application of loan.</p> <p>5. (1.) Successive loans to rank equally. (2.) Limitation of selling price of debentures. (3.) Currency of debentures. (4.) Form of debenture. (5.) Council may reborrow at maturity of debentures. (6.) Sections of 1886 Act <i>re</i> sinking fund not to apply. (7.) Part IX. of 1886 Act <i>re</i> loans subject to provisions of this Act.</p>	<p style="text-align: center;">SECURITY.</p> <p>6. Power to levy special rate for interest.</p> <p>7. Power to increase or diminish same, subject to Auditor-General's approval if diminished.</p> <p style="text-align: center;">DEFAULT.</p> <p>8. Power in case of default for Court or Judge to order a special rate, appoint Receiver, &c.</p> <p>9. Application of moneys received by Receiver.</p> <p>10. Office of Receiver may be declared at end when all moneys due are paid.</p> <p style="text-align: center;">MISCELLANEOUS.</p> <p>11. Judge not disqualified because a ratepayer.</p> <p>12. Irregularity in making rate not to invalidate same.</p> <p>Schedules.</p>
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A BILL INTITULED

AN ACT to empower the City of Dunedin to borrow Fifty Thousand Pounds. Title.

WHEREAS it is desirable that the indebtedness of the City of Dunedin, represented by its bank overdraft, should be paid off by means of a loan at a lower rate of interest, and that provision be made by means of such loan for the repayment of loans maturing at early dates : 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 Dunedin City Borrowing Act, 1896." Short Title.

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

"The Corporation" shall mean the corporation by the name of "The Mayor, Councillors, and Citizens of the City of Dunedin" :

"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 powers 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, or 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 "Dunedin City Debentures, 1896" ; 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 Dunedin :

“The said Act” shall mean “The Municipal Corporations Act, 1886.” 5

BORROWING.

Power to borrow £50,000 at 4 per cent.

3. The Corporation is hereby empowered to borrow at such rate of interest, not exceeding four per centum per annum, as it shall think fit, such sums of money not exceeding in the whole the sum of fifty thousand pounds, as may from time to time be authorised by resolution of the Council. 10

Application of loan.

4. Such loan or loans 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 shall determine to have been actually incurred in connection with such loan or loans : 15

(2.) In payment of a sum or sums, not exceeding in the whole the said sum of fifty thousand pounds, towards the extinction of the overdraft of the Corporation owing on municipal account : 20

New subsections.

(3.) If there shall remain any balance of the said sum of fifty thousand pounds after deducting a sum sufficient for the purposes of subsection one hereof, and after deducting a sum equal to the amount of the overdraft on municipal account at the date of the passing of this Act, such balance may be raised and applied by the Corporation either,— 25

(a.) In the payment and extinction, as they shall fall due, of the several loans in the *First* Schedule hereto specified, in so far as the same are not completely extinguished by means of the sinking fund applicable thereto. The sum for the time being unexpended, awaiting maturity of such loans, shall be held and invested by the Dunedin City Sinking Fund Commissioners incorporated by “The Municipal Corporations Act, 1886.” Or 30

(b.) In refunding to its Gas- and Water-works Accounts, or to either of such accounts, moneys heretofore paid from such accounts into the municipal account ; or 40

(c.) Partly for one and partly for the other of such purposes.

Struck out.

(3.) In the payment and extinction, as they shall fall due, of the several loans in the *First* Schedule hereto specified, in so far as the same are not completely extinguished by means of the sinking fund applicable thereto. The sum for the time being expended, awaiting maturity of such loans, shall be held and invested by the Dunedin City Sinking Fund Commissioners incorporated by “The Municipal Corporations Act, 1886” : Provided that it shall not be obligatory on the Council to apply any part of the said sum 45 50

in manner authorised by this subsection, but it may reborrow for the purpose of paying the same in manner authorised by section two hundred and ten of the said Act.

New Section.

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4A. It is hereby further enacted that,—

(1.) After the whole of the said sum of fifty thousand pounds shall have been raised it shall not be lawful for the Council to owe to its bankers on overdraft on any account at the end of any financial year any sum exceeding the amount of ordinary revenue for that year payable into such account, and then outstanding and uncollected.

(2.) Until the whole of the said sum of fifty thousand pounds shall have been raised, the limit for overdraft prescribed by section two hundred and one of "The Municipal Corporations Act, 1886," shall be reduced *from time to time* by the aggregate of the amounts paid into the municipal account from time to time out of the loan authorised by this Act.

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

(1.) The debentures issued under this Act shall rank *pari passu*, and have no preference or priority the one over the other by reason of date of issue or otherwise. They shall be payable to bearer, and shall be transferable by delivery. No stamp duty shall be payable in respect of any such debenture or coupon.

Successive loans to rank equally.

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

Limitation of selling price of debentures.

(3.) The debentures issued under the provisions of this Act shall have a currency not exceeding twelve years from the date of issue.

Currency of debentures.

(4.) Such debentures and the coupons attached thereto shall be in the form or to the effect set forth in the *Second Schedule* hereto, with such modifications as to the Council seem desirable; and the same need not have the corporate seal attached thereto, and may be signed either by the Mayor and Treasurer or by the Agents, and they shall be numbered consecutively, and the signatures to any coupon 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 the payment of the principal sum of the debenture.

Form of debenture.

(5.) At the maturity of the said debentures the Corporation may reborrow such sum or sums as may be required for the repayment of the loan or loans represented thereby, and the provisions of this Act shall apply to such reborrowing and all successive reborrowings.

Council may reborrow at maturity of debentures.

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

Sections of 1886 Act re sinking fund not to apply.

Part IX. of 1886 re
loans subject to
provisions of this
Act.

- (7.) The provisions of this Act shall 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.
- (8.) The production of a copy of the resolution of the Council authorising the raising of a loan under the authority hereof, purporting to be authenticated by the seal of the ~~Council~~, Corporation, 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.

SECURITY.

Power to levy special
rate for interest.

6. The Council may, shall, by special order, make and levy as security for any such loan or loans such special rate or special rates as it may deem necessary, and may pledge the same as security for any such loan, and in so doing its authority shall not be limited to the making and pledging of a special rate or special rates estimated as sufficient to cover the interest of such loan, but it may make and pledge a rate or rates of a greater amount: Provided that it shall not be required to levy more in any year during the currency of such loan than shall be sufficient to provide such interest, so long as such interest shall be punctually paid.

Power to increase or
diminish same,
subject to Auditor-
General's approval
if diminished.

7. The Council shall have power from time to time to amend any special rate made by it under the provisions hereof by increasing or diminishing the same; but no special rate shall be diminished by the Council under the powers herein contained unless the Controller and Auditor-General shall, previously to such reduction, in writing approve thereof, and such reduction shall only continue for so long a period as he shall approve.

DEFAULT.

Power in case of
default for Court or
Judge to order a
special rate, appoint
Receiver, &c.

8. In every case in which default shall be made in the payment of any interest on any of the debentures issued under the provisions hereof, and in every case in which default shall be made in the payment of any principal secured by any of such debentures, the following provisions shall have effect:--

- (1.) The Court or any Judge thereof shall have power, by order, to direct the Council to make and levy a special rate or special rates upon all lands, buildings, and other rateable property within the said city, according to the annual rateable value thereof, for the purpose of meeting such interest or repaying such principal, as the case may be, and in so doing to determine the amount required to be levied to produce such interest, and the amount which shall annually be levied for the purpose of repaying such principal: Provided that if there shall happen to be no valuation of such rateable property applicable to the power hereby given, the Court or Judge may order one to be made.
- (2.) Every such order for the making of a rate shall take the place and have the effect of a special order under section six hereof.

(3.) The Court or any Judge thereof shall have power, by order, to vest such rate in any Receiver who may be appointed under the powers hereof.

5 (4.) Any person to whom such principal or interest is overdue may apply *ex parte*, by petition, or similarly by motion or summons in any action, or by originating summons to the Court or any Judge thereof for relief under this Act; and the Court or Judge may, if satisfied of the truth of any of the matters alleged in support of such application, appoint, upon such terms as to security and remuneration as it or he shall think fit, a Receiver of any rate liable for the payment of such principal or interest; and the said Court or Judge shall have full power and jurisdiction to make such orders from time to time that complete justice shall be done to all parties interested, and to determine and direct in what manner and to what extent such rate shall be collected and received and applied in payment of the principal and interest secured by the debentures issued hereunder.

20 (5.) All powers and remedies for the recovery of any such rate shall after the same shall have been so vested in the Receiver, and upon the order so vesting the same being publicly notified, cease to be exercised by the Council, and shall be exercisable by the Receiver.

25 (6.) The remedies hereinbefore provided shall be in addition and without prejudice to any other lawful remedy competent for the recovery of the overdue principal and interest.

9. All moneys received by the Receiver in respect of rates under the powers hereof shall be applied—

Application of moneys received by Receiver.

30 (1.) In payment of the expenses of the application and order;

(2.) In payment of the Receiver's remuneration, fixed as aforesaid, and his reasonable and necessary expenses;

(3.) In payment of the sums then overdue which are secured by such rate;

35 (4.) The residue, after payment of the above, to the Corporation.

Office of Receiver may be declared at end when all moneys due are paid.

40 10. When all sums overdue in respect of the said debentures and interest are paid, it shall be lawful for the Court or Judge to make an order declaring that the office of the Receiver with reference to the said loan or loans is at an end; and thereupon the said rate shall revert to the Corporation.

MISCELLANEOUS.

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

Judge not disqualified because a rate-payer.

45 12. No objection shall be allowed in any Court to any rate which the Council or a 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 in 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 quashing such rate or restraining the recovery thereof.

Irregularity in making rate not to invalidate same.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

Date of Issue.	Date of Maturity.	Amount of Loan.	Rate of Interest.	Act or Ordinance Authorising Loan.
1868	1898	£ 20,900	7	"The Otago Municipal Corporations Ordinance, 1865."
1871	1901	7,100	7	"The Otago Municipal Corporations Ordinance, 1865."

SECOND SCHEDULE.

FORM OF DEBENTURE.

Loan of £50,000. City of Dunedin.
 Dunedin City Debenture (1896) Loan. Secured by Special Rate.
 DEBENTURE for £ , payable at , on , 19 . Issued by the
 Council of the City of Dunedin, New Zealand, under "The Dunedin City Borrowing Act, 1896."

[N.B.—The holder of this debenture has no claim in respect thereof upon the Government of the Colony of New Zealand, or the revenues of such colony.]

ON presentation of this debenture at , on or after the day of , 19 , the bearer thereof will be entitled to receive £ . Interest on this debenture will cease after the day when the payment falls due, unless default is made in payment.

Issued under the corporate seal of the City of Dunedin, the day of , 189

C.D., Treasurer.

A.B., Mayor.
 [or E.F., } Agents.
 G.H., }

FORM OF COUPON.

DEBENTURE No. , of the City of Dunedin, New Zealand. Issued under "The Dunedin City Borrowing Act, 1896." Secured by Special Rate.

ON presentation of this coupon at , on or after the day of 18 [or 19], the bearer thereof will be entitled to receive £

C.D., Treasurer.

A.B., Mayor.
 [or E.F., } Agents.
 G.H., }