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Hon. Sir J. Vogel.

### LOCAL BODIES' LOANS.

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### A BILL INTITULED

- Title.** AN ACT to empower Local Bodies to raise Moneys by way of Loan, and to make provision for the repayment thereof.
- BE IT ENACTED** by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 5
- Short Title.** 1. The Short Title of this Act is "The Local Bodies' Loans Act, 1886," and it shall come into operation on the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and eighty-six.
- Interpretation.** 2. In this Act, if not inconsistent with the context,—
- "Chairman" includes a Mayor of a borough, and generally 10  
means the chief elected officer of a local authority as herein defined :
- "District" includes a borough, county, road district, town district, and river district constituted under any Act of the General Assembly relating thereto respectively : 15
- "Local authority" means the Council, Board, or other authority having power to make and levy rates in a district as herein defined :
- "Local fund" means the borough fund in a borough, the county fund in a county, the Road Board fund in a road 20  
district, and the similar general fund of a town district or river district :
- "Ordinary revenues" do not include moneys received by way of grant from the Government, or moneys borrowed by a local authority, or set apart by it for any special purpose 25  
under this or any other Act :
- "Public work or undertaking" includes public works of any nature, and any undertaking or purpose which a local authority is authorized to erect, construct, engage in, or provide for by means of borrowed money under this or 30  
any other Act of the General Assembly for the time being in force :
- "Ratepayers" mean the ratepayers in any district or part of a district, and include citizens and burgesses in a borough, and persons duly enrolled in a county as holders of miner's 35  
rights or business licenses :

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“Special order” means such an order made in accordance with the provisions of any Act in force by virtue of which a local authority can make a special order.

3. This Act shall only be in force in a district when its provisions are adopted by the local authority by special order, and until such special order takes effect it shall have no operation in such district.

A local authority may either adopt the Act generally, or may limit its operation to a particular loan or loans to be mentioned in the special order.

4. Wherever in this Act it is provided that a local authority shall give or publish a notice, such notice shall be given or published in the same manner as other notices are given or published by such local authority unless some other mode is expressly set forth in this Act.

5. Whenever any contract, debt, or liability is entered into or incurred, or any act or thing is done or suffered, by a local authority under this Act, such contract, debt, liability, act, or thing shall for all purposes be deemed to be the contract, debt, liability, or act of the corporate body which such local authority represents.

(1.) *General provisions as to raising Loans.*

6. Whenever any local authority desires to raise money for the purpose of any public work or undertaking for the construction or undertaking of which it is authorized under any Act of the General Assembly to borrow and raise money, such local authority may borrow and raise such sum or sums as may be necessary for that purpose under and subject to the provisions of this Act.

7. In addition to the purposes hereinbefore mentioned, any local authority may borrow and raise money for the purpose of erecting school buildings for schools established under “The Education Act, 1877.”

8. Except where otherwise provided in this Act, every loan raised under this Act shall be secured by a special rate to be levied, if required, to pay interest and sinking fund (if any) on such loan; but such rate shall not be levied in either of the following cases:—

(1.) If the annual and other charges on such loan can be paid out of the revenues received or derivable from the public work or undertaking; or

(2.) If such charges can be paid out of the ordinary revenue of the district; but such charges shall only be so paid out of such ordinary revenue in cases where the special rate to be levied under this Act is levied over the whole of such district.

9. The revenues to be derived from any public work or undertaking may be made a part of the security for the payment of interest and sinking fund (if any) on a loan, and such loan may be secured over such work or undertaking, and the revenues derivable therefrom, in addition to a special rate.

Or such loan may be secured wholly on such work or undertaking, and the revenues to be derived therefrom, as the primary security for the same; but in this case the local authority shall, in addition to

Act only to be in force when special order made for that purpose by local authority.

Order may be general or particular.

Notices under this Act to be given as notices are given in other cases by local authority.

Liability of local authority to be deemed liability of corporate body.

Local authority may raise money by way of loan for public works or undertakings.

Local authority may borrow money for erecting school buildings.

Loan to be secured on a special rate to be levied for securing payment of interest and sinking fund.

Security may be given wholly or partly on public works and revenues derived therefrom.

such security, make a special rate, to be levied in case of need, which shall represent at least one-half of the annual liability of the local authority in respect of the loan.

Moneys secured by special rate may be paid out of ordinary revenue in certain cases.

10. In any case where a special rate is made hereunder, which is leviable over the whole of the district, if the local body prefers to do so, it may pay out of its ordinary revenue any moneys due by it under this Act, and which are secured on such special rate. 5

And in any year in which such local body shall so pay such moneys, it may abstain from levying the said special rate, but without prejudice to all rights of levying the same in future years if such moneys be not so paid when due. 10

Annual charges on loan raised for public work in part of a district, how defrayed.

11. Where any public work or undertaking is constructed or undertaken for the benefit of part of a district (whether called by any distinctive name or not), and the votes to be taken as hereinafter provided authorize the levying of a special rate for all or any of such purposes within such part of the district, then the annual or other charges shall be paid out of the revenues received or derived from such work, and so much of the special rate so authorized to be levied as may be necessary for that purpose. 15

Provisions applying to raising loan in a district to apply to part of a district.

12. All the provisions of this Act applicable to the raising of a loan in a district, and the security to be given in respect thereof by a special rate, and generally all other the provisions of this Act, shall, *mutatis mutandis*, apply in respect of such part of a district. 20

One loan may be raised for two or more purposes.

13. If the local authority of any district desires to raise loans for any two or more of the purposes for which loans may be raised under this or any other Act, the local authority may raise the whole sum required for such purposes by one loan; but shall, before submitting the proposal to the ratepayers, divide the sum to be raised, and shall thereafter raise such loan and appropriate such part thereof as may be agreed to by the votes of the ratepayers to each of the purposes for which the loan is authorized to be raised. 25 30

Local authorities of two or more districts may unite to raise loan.

14. The local authorities of any two or more districts may unite to raise one joint loan in order to provide the sums required by each for any public work or undertaking for which a loan may be raised under this or any other Act; but the proposal to raise such loan must be carried by a poll, in the manner herein provided, by the ratepayers of each such district severally, and the local funds of each district pledged as a security for such loan shall be jointly and severally liable for the whole loan. 35

Apportionment of loan raised by joint authorities.

15. Whenever any such joint loan shall be so raised, the local authorities interested may agree as to the mode in which such loan shall be apportioned, and what part of the special rate shall be raised by each of them, and also which of such authorities shall have supervision and control of the public work or undertaking upon which such loan is to be expended. 40 45

The local authority of any district may permit any other local authority to construct or carry out a public work or undertaking in such first-mentioned district on such terms as may be agreed between such local authorities; and the local authority so receiving permission may, if so authorized by the votes of the ratepayers as hereinafter provided, apply all or any part of the moneys raised under this Act for the purposes of such work or undertaking in like manner as it could do in its own district. 50

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16. The local authority of any district may raise a loan by special order, without taking any poll thereon, as hereinafter provided, for the following purposes:—

Loan may be raised in certain cases without a poll.

5 (1.) To repay any liabilities or overdraft existing at the time this Act comes into force in a district, and incurred for any purpose for which a loan may be raised, and which under any law then in force could be repaid, as provided by this section :

10 (2.) To pay off or consolidate any loans theretofore raised and secured upon a special rate or rates.

Such repayment or consolidation may be effected in such manner and on such terms and conditions as the local authority thinks fit ; but the annual charge on the district shall not be thereby increased :

15 (3.) For any further or additional sums which the local authority may be empowered to raise under any Act of the General Assembly which authorizes the same to be raised without taking a poll of the ratepayers.

20 (4.) Where a local authority has been duly authorized under any Act of the General Assembly to borrow and raise money by way of loan for the purposes of a public work or undertaking upon the security of a special rate, and a portion of such loan yet remains to be raised for the purposes aforesaid.

25 17. All moneys raised by loan under this Act shall be paid into a separate account at the bank where the local fund is kept.

Moneys raised by loan to be paid into separate account.

30 Such account shall be called by the name of such loan, and shall not be expended or drawn out of such account except for the special purposes to which such moneys have been appropriated or are intended to be appropriated.

Nothing herein contained shall prejudice or affect any enactment in force in a district relating to the mode of keeping or operating upon any separate or special account of moneys raised by way of loan.

35 18. All special rates raised under this Act or any other Act shall be applicable to the loan for which such special rates were authorized, and for no other purpose whatsoever ; but no person or body corporate lending money to a local authority shall be concerned to inquire whether such authority required to borrow such money, or be affected by the non-application or misapplication thereof or any part thereof.

Special rates to be applicable only to the loan for which they are raised.

40 19. During the construction of the works for which any loan is raised the local authority may pay out of such loan the first year's interest thereon, but the intention to do so shall be stated to the ratepayers in the notice of intention to raise money by way of loan to be given as hereinafter provided.

First year's interest may be paid out of loan.

45 20. The local authority may, in any case where it is deemed advisable that any sums of money at credit of any loan account should be placed on deposit at interest, deposit such sums of money at interest with any bank upon such terms as such bank and the local authority may agree.

Deposit of loan may be made at interest.

50 21. Where the ratepayers of any district do not exceed one hundred in number, the local authority may raise and levy a special rate under this Act without giving any notice or taking any poll,

Provision for raising loan without poll in district which contains not more than 100 ratepayers.

as hereinafter provided, if the consent of at least three-fourths of such ratepayers the rateable values of whose properties as appearing on the valuation-rolls of such district are collectively greater than such rateable values of those ratepayers who do not so consent to the levying of such special rate, be testified by their signatures in writing, in such manner as the Governor in Council shall direct. 5

Loans raised prior to the bringing into operation of this Act deemed loans under this Act.

22. All loans authorized to be raised by the local authority of any district, which are secured by a special rate under any Act or ordinance in force prior to the date when this Act is brought into operation in a district shall be deemed to be loans within the meaning of this Act: 10

Proviso.

Provided that where at the date when this Act is brought into operation a local authority has obtained authority in accordance with any such Act or Ordinance to raise a loan of money for any purpose authorized by or under such Act or Ordinance upon the security of a special rate, such local authority may borrow and raise such loan or any residue or part thereof under this Act, and thereupon may exercise all such powers and authorities in respect of such loan or the residue or part thereof, including the making and levying a special rate in the manner provided by this Act, as if such loan had been originally authorized under this Act. 15 20

Repeal of certain provisions of Acts when this Act adopted by local authority.

23. When a local authority adopts the provisions of this Act by special order passed for that purpose as aforesaid the consequences hereinafter mentioned shall ensue according to the terms of the special order: 25

- (1.) If the Act is adopted generally, then the provisions of the Act or Acts set forth in the First Schedule hereto affecting the district of such local authority shall be and be deemed to be repealed in such district.
- (2.) If the Act is adopted only in respect of a particular loan or loans, then the provisions of the said Acts shall be deemed to be repealed in the district affected only so far as regards such particular loan or loans. 30

Saving of things done.

But no repeal effected under this Act shall affect the terms on which any money has been borrowed or any rate made or levied, debt-benture issued, or other security given or made under the authority of any such Act, and before this Act is so brought into operation. 35

(2.) *Special rate to be raised.*

Special rates may be made as security for interest, & , on loan.

24. For the purpose of providing the interest and sinking fund (if any) upon any loan raised by a local authority, or so much thereof as is necessary to be paid out of a special rate under this Act, the local authority shall by special order make and levy special rates. 40

If such special order shall only affect a part of the district such part shall be distinctly defined in the special order.

Special rate to be an annual recurring rate.

25. Every special rate shall be an annual recurring rate, and shall be payable at such interval as such special order directs. It shall be levied if required year by year without further proceeding by the local authority until the loan in respect of which such special rate was made is paid off. 45

Special rate to be calculated to yield 10 per cent. more than estimated charges in respect of loan.

26. Subject to the provisions of this Act every special rate authorized to be raised shall be so calculated as to yield, if necessary, ten pounds per centum more than the annual or other charges to be paid in respect of the loan. 50

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27. (1.) Unless it shall become necessary to raise the full amount of special rate authorized, no greater sum shall be levied in any one year than shall be sufficient to pay such annual or other charges.

Proportion in which special rate to be levied in certain cases.

5 (2.) Where the revenues to be derived from a public work or undertaking form part of the security, the amount of special rate may be reduced to the extent which it is considered such revenues will justify.

10 (3.) Where such revenues shall not be sufficient at any time such rate may be increased for a portion of the term of the loan, or if necessary the rate to be raised shall be so much less as the revenue to be derived as aforesaid will permit.

15 28. Every local authority empowered to raise a special rate under this Act or any part or proportion thereof may do so at such times and in such manner as will enable such authority to be ready to meet its engagements sufficiently in advance of the time they fall due.

Special rates to be raised in time to enable local authority to meet its engagements.

20 29. If any special rate authorized to be raised and levied is not sufficient to meet the annual or other charges upon a loan, the local authority may from time to time amend such rate by increasing or diminishing the same, so that the annual produce thereof shall suffice to provide the interest and sinking fund on account of the loan secured thereon.

Special rate may be amended if not sufficient to meet charges.

25 30. No special rate shall be diminished under the powers herein contained, except the Controller and Auditor-General shall, previously to any such reduction, in writing approve thereof, and such reduction shall only continue for so long a period as he shall approve.

Special rate not to be diminished without approval of Controller and Auditor-General.

31. No special rate shall be quashed by any proceedings in any Court or otherwise.

Special rate may not be quashed.

30 32. Nothing in this Act shall be deemed to interfere with or control the powers of a local authority to make and levy a separate rate in accordance with any law under which such separate rate can be made and levied.

Act not to interfere with power of local authority to make separate rate

35 Nor shall anything in this Act control or affect the power of any local authority to make and levy a special rate under any Act of the General Assembly which may be, or under this Act shall, remain in force in the district for any purpose authorized by such Act.

Or a special rate.

(3.) *Votes of Ratepayers to be taken.*

33. When a local authority desires to raise money by way of loan, it shall publish once in each week, for four successive weeks, in some newspaper circulating in the district, a notice setting forth—

Notice of intention to raise loan to be published.

(1.) The particular public work or undertaking proposed to be constructed or undertaken;

45 (2.) The sum proposed to be borrowed for such purpose; and if it is proposed that the cost of raising the loan, or that interest for one year during construction of the public work or undertaking shall be paid out of moneys to be borrowed, such proposals shall be included in the notice;

(3.) The amount (if any) to be set apart in each year towards paying off the loan;

- (4.) Any public work or undertaking, or the revenues to be derived therefrom, which it is proposed to give as security or part security for such loan;
- (5.) The special rate or any tolls, or the rents and profits of any property which it is proposed to pledge as security or part security for such loan, not being moneys received by way of grant from the Government, or moneys theretofore pledged as security for any loan or appropriated to any special purpose. 5
- 34.** The local authority shall call a meeting of the ratepayers for a day not more than ten days after the last publication of such notice to consider the said proposal, and notice of such meeting shall be given in some newspaper circulating in the district. 10
- 35.** (1.) In boroughs and town districts, and in road districts, and river districts not divided into subdivisions, the meeting shall be held at such time and place as shall be specified in the notice, and the Chairman shall preside at such meeting. 15
- (2.) In counties and in road districts, and river districts divided into subdivisions, the meeting shall be held in each riding and subdivision at such time and place as shall be specified in the notice. 20
- The Chairman shall appoint one of the members of the local authority elected for the riding or subdivision to preside at each meeting if such member shall be willing to act; and if no such member shall be willing to act, or becomes incapacitated from acting from any cause, then such person as the Chairman thinks fit. 25
- (3.) The member or person so appointed shall be called the Presiding Officer, and he shall be Chairman of the meeting to be held in the riding or subdivision for which he has been appointed, and shall act as Returning Officer at the taking of any poll as hereinafter provided. 30
- After due consideration and discussion of the proposal at any such meeting the Chairman or Presiding Officer shall give notice that a poll will be taken thereon. 35
- 36.** In a borough divided into wards, after any such notice shall have been published and before the poll shall be taken on the proposal, a special roll shall be made up by the Town Clerk by combining the rolls of the several wards of such borough into one roll, and setting opposite the name of each ratepayer on such roll the number of votes to which he is entitled according to the scale set forth in any Act of the General Assembly in respect of his rateable property within the entire borough. 40
- Every such roll shall be signed by the Mayor and two Councillors. 45
- 37.** Every poll required by this Act shall be taken as follows:—
- (1.) The Chairman shall publish a notice setting forth the day, not less than one nor more than three weeks from the day of the said meeting, on which the poll shall be taken.
- (2.) The Chairman shall give notice in writing to the Returning Officer, requiring him to take the poll upon the day so appointed. 50

Local authority to call meeting of ratepayers.

Where meeting to be held.

Chairman presiding officer.

Special roll to be prepared in a borough divided into wards.

How poll to be taken.



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- (3.) The Returning Officer shall upon the said day proceed to take the poll in the manner provided by "The Regulation of Local Elections Act, 1876," for taking a poll at any election, and shall provide voting-papers and all other things necessary for taking the poll.
- 5 (4.) The voting-papers shall be printed in the form in the *Second* Schedule, and shall contain in full the notice mentioned in section \_\_\_\_\_, with the words legibly printed below in two distinct lines: "I vote for the above proposal," and "I vote against the above proposal."
- 10 (5.) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves un erased.
- 15 (6.) In every borough or town district, and in every road district and river district not divided into subdivisions, there shall be only one polling-booth, at some central part of the district.

Form of voting Paper.

In the case of a borough divided into wards every ratepayer shall be entitled to vote at any such poll taken in the district according to the scale of votes set opposite his name in any special roll made as aforesaid; and in the case of an undivided borough, a town district, road district, and river district every ratepayer shall be entitled to vote as he would at an election of a member of the local authority.

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- 25 (7.) In every county, and in every road district and river district which is divided into subdivisions, the poll shall be taken in each riding of a county or other subdivision of the road district or river district, in like manner as the same would be taken at a poll for any election of a member of the local authority, and every ratepayer shall be entitled to vote in such riding or subdivision accordingly.
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For the purposes of such poll the Presiding Officer to be appointed as aforesaid shall act as Returning Officer in each riding or subdivision as the case may be; and each Presiding Officer in a riding or other subdivision shall forthwith, after the close of the poll, forward the result of the polling in such riding or subdivision, and all voting and other papers to the Chairman, who shall ascertain the total votes given for and against the proposal.

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- 40 (8.) In no case shall any ratepayer have the right to exercise more than five votes in the whole at any such poll as aforesaid.
- 45 (9.) All the provisions of "The Regulation of Local Elections Act, 1876," as regards taking a poll, shall, so far as they are applicable and except as by this Act otherwise provided, apply to the taking a poll on the proposal to raise a loan.

General provisions.

38. If the number of votes given for the proposal is not less than three-fifths of the total number of votes polled, then, and not otherwise, the resolution in favour of the proposal shall be deemed to be carried, and the local authority may proceed with the proposal

When proposal to raise loan deemed to be carried.

accordingly; but if not, then the resolution shall be deemed to be rejected, and the local authority shall not so proceed.

Chairman to give public notice of result of poll.

39. As soon as conveniently may be after the result of the poll has been ascertained, the Chairman shall cause a notice of the number of votes recorded for and against the proposal, as above provided, to be published in the *Gazette*, and also in one or more newspapers circulating in the district; and, in such notice, shall declare the resolution to be carried or rejected, as the case may be. 5

Notice to be gazetted and be conclusive.

40. Every notice so published in the *Gazette* shall be conclusive evidence that the raising of the loan to which it refers has been duly authorized, and that all proceedings and things under this Act in relation thereto have been lawfully taken and done. 10

Penalty on Chairman publishing false notice.

41. If the Chairman shall knowingly and wilfully insert, or cause or allow to be inserted in any notice published as aforesaid, any false statement as to the number of votes recorded for and against any proposal to which such notice relates, he shall be liable to a penalty not exceeding five hundred pounds, to be recovered in a summary way before a Resident Magistrate in the manner provided by "The Justices of the Peace Act, 1882." 15

Votes in part of a district, how ascertained.

42. When it is necessary to take the votes of the ratepayers in any part of a district, whether such part shall be a legal division of such district or not, such votes shall be ascertained in the manner hereinbefore provided, and all the provisions of this Act shall extend thereto as far as applicable; but the notices to be given and the proceedings to be had in such case shall be limited to the part of the district to be affected by the raising of the loan. 20 25

Special roll to be prepared for part of a district which is not a legal division.

43. Where such part of a district is not a legal division the Clerk may prepare from the existing ratepayers' roll a special roll for the purposes of voting, and shall set opposite the name of each ratepayer the number of votes he is entitled to exercise. Every such special roll shall be signed by the Chairman and two members of the local authority. 30

Local authority inviting tenders, &c., for loan may state it is part of a larger loan.

44. A local authority may, when disposing of a loan to be raised under this Act, or calling for tenders for the same, or in any other manner inviting subscriptions for such loan, state that it is part of a larger loan to be raised in future. 35

Status of such further loan.

And, if it shall become necessary to raise such larger loan, all debentures issued in respect thereof from time to time shall rank *pari passu* and have equal priority in all respects with the portion of the loan intended to be raised at once; but before any such further part of the loan is raised the votes of the ratepayers shall be taken in respect of such proposal in the same way as if such further part were an original loan to be raised under this Act. 40

#### (4.) *Miscellaneous as to Borrowing.*

Form of debenture.

45. Every debenture issued under this Act shall be in the form in the *Third* Schedule or to the effect thereof, and shall be numbered consecutively, so that no debenture shall at any time bear the same number, and shall be for a sum of not less than twenty pounds. 45

Form may be altered in certain cases.

46. Where any public work or undertaking, or the revenues to be derived therefrom, forms the whole or part of the security for a 50

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loan, such form may be varied or altered as may be necessary to perfect such security, and, subject to this Act, may include a power of sale in case of default in payment of principal or interest.

47. Every debenture shall be repayable, both as to principal and interest, at a place or places within or without the colony named in the debenture, and at a time or times named therein, and shall state on the face thereof the funds upon which the principal and interest is secured.

Time and place of payment of debentures.

48. The interest on every debenture shall not exceed *six* per centum on the amount thereof, and shall be payable half-yearly or otherwise; and separate coupons for each sum so payable, in the form in the *Fourth* Schedule, and numbered consecutively for each debenture, shall be attached thereto.

Interest not to exceed 6 per cent.  
Coupons.

No such debenture shall be sold at such a price as to produce to the purchaser an interest of more than *six* per centum on the price paid.

49. Notwithstanding anything contained in the *last preceding* section, the interest on every debenture of any district the total annual revenue of which shall not be more than one thousand pounds may exceed *six* per centum on the amount thereof, but shall not exceed *seven* per centum on such amount.

Amount of interest may be increased in certain cases, but not to exceed 7 per cent.

No such debenture shall be sold at such a price as to produce to the purchaser an interest of more than seven per centum on the price paid.

50. Debentures and coupons respectively shall be transferable by delivery, and payment to any person in possession of any such debenture or coupon of the sum named therein shall discharge the corporate body which such local authority represents from all liability in respect of such debenture or coupon.

Debentures and coupons transferable by delivery.

No stamp duty shall be payable in respect of any such debenture or coupon.

51. The local authority, or, in the case of a joint special loan, the local authorities, of the districts jointly raising such loan, may appoint any incorporated company or association, or any such company or association, together with one or more persons, or any two or more persons, within or out of the colony, to be Agents for raising and managing any loan authorized to be raised under this Act, and such Agents shall have full power to raise such loan by bonds, debentures, or otherwise, in such manner, and either at once or such times, in such parts, and upon such terms and conditions, as such local authority or joint local authorities direct.

Agents for raising loans may be appointed by local authority.

All such bonds or debentures shall be signed by the Chairman, and countersigned by such other officer as the local authority directs, or shall be signed by the Agents, if any, for raising the loan.

52. Pending the raising of any such loan, the local authority or such Agents may borrow any sum or sums of money, not exceeding one-third of the whole amount authorized to be borrowed, by the hypothecation or mortgage of any debentures hereby authorized to be issued, but all moneys so borrowed shall be a first charge upon, and shall be repaid out of, the loan when raised, and the rate of interest on moneys so borrowed shall in no case exceed *seven* per centum.

Hypothecation, &c., pending raising of loan.

53. Whenever any security given under this Act shall include

Loan to be first

charge on public works when part of security.

any public work or undertaking which the local authority is empowered to give as security, the moneys secured shall be a first charge on such work or undertaking.

Debenture-holders to have no claim on revenues of the colony.

54. No claim of any holder of debentures or coupons secured on the local fund, or of any creditor of the corporate body of any district, shall attach to or be paid out of the public revenues of New Zealand or by the Government thereof. 5

Members of local authority personally liable for moneys illegally borrowed or expended.

55. If the local authority of any district at any time,—

(1.) Borrows any money or issues any debentures on the credit of the corporate body of the district in excess of or otherwise than in accordance with the provisions of this Act in that behalf; or, 10

(2.) Borrows, under this or any other Act, on the credit aforesaid, any moneys which the local authority of the district is not legally bound to repay; or 15

(3.) Permits any money so borrowed to be expended in any manner or for any purpose other than that for which it was borrowed and ought to be expended;

every member of such local authority who consents thereto shall, for every such offence, be liable to a penalty of not exceeding *one hundred* pounds, to be recovered with full costs of suit by the Controller and Auditor-General in any Court of competent jurisdiction when authorized by the Colonial Secretary so to do; and 20

All moneys so illegally borrowed shall be deemed to be a debt jointly and severally due to such corporate body from each and all of the members of the local authority who consented to such illegal borrowing, and may be recovered from such members or any of them in any Court of competent jurisdiction, and may be sued for by any ratepayer on behalf of the corporate body. 25

Vote of member of local authority dissenting may be recorded.

56. Any member of a local authority voting against any such illegal borrowing, illegal issue of debentures or expenditure as mentioned in the *last-preceding* section, may require that his vote shall be recorded on the minutes or other proceedings of such local authority accordingly. 30

If no division taken, votes deemed unanimous.

57. At any meeting at which any vote for the expenditure of money borrowed in accordance with this Act or otherwise, or for the borrowing and raising of any money on loan, or in any matter incidental to such expenditure or borrowing shall be proposed, then, if no division is taken on such proposal, and in case the same shall be carried, it shall be assumed that the voting thereon has been unanimous. 35 40

If a division taken, votes to be recorded.

Any member of the local authority may ask that a division be taken on any such proposal, and thereupon it shall be the duty of the Chairman or other person presiding at such meeting to make and keep a record of the votes of the members voting on such division, and to instruct the Clerk or other proper officer to enter such record on the minutes of the local authority. 45

Penalty on Chairman failing to record votes, and on officer failing to enter in minutes.

58. If such Chairman or other person neglects or refuses to make and keep a record of votes on any such division being taken, or if any Clerk or other officer, being so instructed as aforesaid, neglects to enter such record on the minutes as aforesaid, the Chairman, person, or Clerk so offending shall be liable to a penalty not less than *five* and not exceeding *twenty* pounds, to be recovered in a summary way. 50

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(5.) *Repayment of Loans.*

59. Before raising any loan, the local authority may make provision for the repayment thereof, either—

Sinking funds may be established.

- 5 (1.) By making, with or without a sinking fund, the whole loan repayable at a stated period, or any parts thereof at a stated period or periods; or
- (2.) By making any debentures of such loan repayable by periodical drawings; or
- 10 (3.) Where such loan is made by the Government may agree with the Colonial Treasurer to make annual payments thereon in such manner as may be authorized by any Act of the General Assembly.

60. In order to provide funds for the creation of a sinking fund, or for the repayment of debentures becoming due by periodical drawings, the local authority may permanently appropriate any part of the local fund, except moneys received by way of grant from the Government, or moneys theretofore pledged as security for any loan or appropriated for any special purpose.

May be charged on part of local fund.

61. The local authority shall appoint, and may from time to time remove and reappoint, Commissioners within or out of the colony, to whom they shall pay all moneys so appropriated as a sinking fund or for the repayment of debentures as above provided; and such Commissioners shall dispose of such moneys—

Sinking Fund Commissioners may be appointed.

- 25 (1.) In the case of a sinking fund, by investing the same, together with all interest and profits accruing therefrom, in such securities as the Council from time to time directs;
- (2.) In the case of periodical drawings, by paying all debentures coming due, according to the conditions on which the loan is raised.

30 The Public Trustee alone may be appointed a Commissioner for the purposes of this enactment, or if other Commissioners are appointed they may include any incorporated company or association within or out of the colony as one or more of such Commissioners.

Who may be Commissioners.

35 62. Such Commissioners shall send to the local authority, at such times as it directs, accounts of all moneys and all securities in their hands, and shall, immediately after the thirty-first day of March in each year, send to the local authority a balance-sheet showing all transactions in respect of such moneys or securities during the year ending on such day.

Commissioners to send accounts to local authority.

40 Such Commissioners shall, together with such balance-sheet, send to the local authority a certificate, under the hand of the Controller and Auditor-General, or such person as he may appoint for the purpose, of all the securities held by the Commissioners.

45 63. When the principal money of any loan becomes payable, the accumulated sinking fund provided for repaying the same shall be applied in the payment thereof.

Sinking fund to be applied to pay off loan.

50 64. When the principal money of any loan becomes payable, except where the debentures of such loan are paid by periodical drawing as above provided, it shall be lawful for the local authority to reborrow moneys under the provisions of this Act, for the purpose

Local authority may reborrow to pay off loan.

of paying so much of the said principal moneys as is not provided for by any accumulated sinking fund held for the payment thereof.

If debenture or coupon not paid when due, Receiver may be appointed.

65. If the sum secured by any debenture or any coupon issued under this Act is not paid, upon presentation of such debenture or coupon respectively at the place where and the time when the same is payable, or at such place and at any time thereafter, the holder thereof may apply to a Judge of the Supreme Court, by petition in a summary way, for relief under this Act; and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint a Receiver of such part of the local fund as is liable under the provisions of this Act for the payment of such debenture or coupon. 5 10

Public work may, on order of Judge of Supreme Court, be sold for payment of overdue principal and interest.

66. If the principal and interest of any loan is secured either wholly or in part upon any public work or undertaking, or the revenues to be derived therefrom, and is not paid as aforesaid, the holder of such security may, without prejudice to any other remedy given by this Act, apply to a Judge of the Supreme Court in manner aforesaid for relief; and the Judge may, if satisfied of the truth of the matters alleged (and save as provided by the *next succeeding* section of this Act), order that such public work or undertaking or such part thereof as is liable under the provisions of this Act for the payment of such money shall be sold at such time or times, and either together or in parts, and on such terms and conditions as the Judge thinks fit. In the meantime the Judge may appoint a Receiver of the revenues derivable from such public work or undertaking. 15 20

No public reserve or land granted by Crown to local authority to be sold.

67. No public reserve or land which may in any manner have been granted or set apart by the Crown for the use, convenience, or enjoyment of the ratepayers or inhabitants of a district, and which forms part of any such security as aforesaid, shall be sold under any power contained in or derived under this Act. 25

Local fund or public work, &c., to vest in Receiver.

68. Such part of the local fund or the public work or undertaking, or the revenues derivable therefrom, as is liable under the provisions of this Act for the principal and interest of the loan secured by any such debenture or coupon respectively, and as is specified in the order of the Judge in that behalf, and all securities held by the local authority or by any Commissioners as above provided as accumulated sinking fund for the repayment of such loan, shall, from the date of the said order, vest in the Receiver, and shall cease to be vested in the corporate body of the district or in the said Commissioners. 30 35

Powers for recovery of rates, &c., to vest in Receiver.

69. All powers for the recovery of rates, tolls, rents, or other moneys of the local fund shall, after the appointment of a Receiver, and in respect to all moneys hereby vested in him, cease to be exercised by the local authority, and shall be exercised by the Receiver. 40

Power to Receiver to amend special rate.

70. The Receiver shall, in respect of any special rates vested in him, have the power given to the local authority to amend a special rate, as provided by section *twenty-five* of this Act; but such power shall be exercised only upon an order by a Judge of the Supreme Court. 45

Receiver to give security.

71. Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as the Judge directs. 50

Application of money by Receiver.

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

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- (1.) In the payment of the expenses of the application and order and of any sale authorized as aforesaid;
- (2.) In the payment of such remuneration to the Receiver, and in such expenses of his office, as the Judge directs;
- 5 (3.) In the payment of the principal and interest of the loan in respect of which the Receiver is appointed;
- (4.) The residue, after payment of the above, in payment into the local fund for the use of the corporate body of the district;
- 10 and the Receiver shall account for all such moneys in such manner as the Judge directs.

73. When all the principal and interest of the loan in respect of which the Receiver was appointed is paid, or at any time by an order of the Judge of the Supreme Court upon the application of the local authority, the powers of the Receiver shall cease and shall revert  
15 in the local authority; and he shall forthwith pay any moneys in his hands into the local fund.

When loan paid off, Receiver's powers to cease.

74. The sum of money named in any debenture and in any coupon shall, when the same respectively becomes payable, be a debt of the corporate body of the district to the holder of such debenture  
20 or coupon for the amount named therein.

Debentures and coupons to be a debt of the corporate body.

75. Every local authority may agree with any creditor to extend the time for payment of any principal or interest owing by it, and may convert a loan raised under the provisions of any Act, which under this Act may become repealed, into a loan under this Act, and  
25 may issue and deliver to a creditor in respect of any such loan debentures, coupons, or other security under this Act.

Time for payment of loan may be extended. Conversion of loans.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

REPEAL OF ACTS.

No. of Act.	Short Title of Act.	Extent of repeal.
No. 52 of 1876 ...	"The Municipal Corporations Act, 1876"	Sections 112, 113, 114, 140 to 155 (both inclusive), and 157 to 172 (both inclusive).
No. 13 of 1877 ...	"The Municipal Corporations Act 1876 Amendment Act, 1877"	Section 5.
No. 48 of 1880 ...	"The Municipal Corporations Acts Amendment Act, 1880"	Sections 8, 9, 10, 11, and 12.
No. 47 of 1876 ...	"The Counties Act, 1876" ...	Sections 112, 113, 114, 140 to 154 (both inclusive), and 157 to 171 (both inclusive).
No. 47 of 1885 ...	"The Counties Acts Amendment Act, 1885"	Sections 21 and 24.
No. 35 of 1883 ...	"The Town Districts Act 1881 Amendment Act, 1883"	Section 18, so far as the same incorporates sections 140 to 172 of "The Municipal Corporations Act, 1876," and prescribes the number of votes required to carry a special loan proposal, and also section 19.
No. 49 of 1884 ...	"The River Boards Act, 1884" ...	Sections 95, 96, and 111 to 119 (both inclusive).
No. 28 of 1885 ...	"The River Boards Act 1884 Amendment Act, 1885"	Sections 5, 6, 7, and 8.

## SECOND SCHEDULE.

## FORM OF VOTING-PAPER FOR LOANS.

PROPOSAL to raise a loan, upon which a poll will be taken upon the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_.

[Insert the notice required by section \_\_\_\_\_ of the Act.]

1. I vote for the above proposal.
2. I vote against the above proposal.

N.B.—The voter must erase the line marked 2, if he wishes to vote for the proposal; and line 1, if he wishes to vote against it.

## THIRD SCHEDULE.

## FORM OF DEBENTURE,

No. \_\_\_\_\_ [Name of district] of \_\_\_\_\_ £  
 Loan of [Specify the public work or undertaking, special rate, or other property on which loan secured.] \_\_\_\_\_

Debenture for £ \_\_\_\_\_

Payable at [State place of payment], on \_\_\_\_\_  
 Issued by the [Name of local authority] of the [Name of district] of \_\_\_\_\_, New Zealand, under "The Local Bodies' Loans Act, 1886."

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 [State place of payment], on or after the day of \_\_\_\_\_, 18 \_\_\_\_, 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 Common Seal of the [Name of corporate body] of \_\_\_\_\_, the day of \_\_\_\_\_, 18 \_\_\_\_.

C.D., Treasurer [or other officer appointed for that purpose.] \_\_\_\_\_  
 A.B., Mayor [or Chairman].  
 [Or F.F., } Agents.]  
 G.H., }

## FOURTH SCHEDULE.

## FORM OF COUPON.

Debenture No. \_\_\_\_\_ of the [Name of corporate body] of \_\_\_\_\_, New Zealand.  
 Issued under "The Local Bodies' Loans Act, 1886," secured on [Specify the public work or undertaking, special rate, or other property on which loan secured].

On presentation of this coupon at [State place of payment], on or after the day of \_\_\_\_\_, 18 \_\_\_\_, the bearer hereof will be entitled to receive £ \_\_\_\_\_.

C.D., Treasurer [or other officer as above.] \_\_\_\_\_  
 A.B., Mayor [or Chairman].  
 [Or E.F., } Agents.]  
 G.H., }