

(Mr. Macandrew.)

# Otago Loan Ordinance Empowering.

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## A BILL INTITULED

AN ACT to authorize the Provincial Legislature of Otago to provide for raising a Loan not exceeding Three Hundred Thousand Pounds, and to set aside certain Lands as a Security for such Loan.

BE IT 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 Otago Loan Ordinance Empowering Act, 1873."
2. The lands described in the Second Schedule hereto are hereby set aside as a security for a loan not exceeding three hundred thousand pounds, to be raised under the authority of an Ordinance to be passed by the Provincial Council of the Province of Otago, by virtue of this Act, for the purposes specified in the First Schedule hereto.
3. In this Act, unless such meaning is inconsistent with the context, the word "Australasia" shall include Australia, New Zealand, and Tasmania; the word "Ordinance" shall include an Act of the said Provincial Legislature; and the expression "Provincial Treasurer"

includes any person acting as or for the Provincial Treasurer of the Province of Otago.

Subject to this Act, Provincial Legislatures empowered to pass Loan Ordinance for certain purposes.

4. Notwithstanding anything to the contrary contained in the eleventh section of "The Consolidated Loan Act, 1867," or any other Act, the Superintendent and Provincial Council of the Province of Otago may, subject to the provisions and conditions hereafter contained, pass an Ordinance authorizing the raising of a loan not exceeding three hundred thousand pounds for all or any of the purposes specified in the First Schedule hereto; but not more than ten thousand pounds of the said loan shall be raised before the first day of January, one thousand eight hundred and seventy-five, and the said Ordinance shall make provision to that effect. 5 10

Interest and principal not to be made payable beyond Australasia.

5. No interest or principal payable in respect of such loan shall be made payable or be payable at any place not within Australasia; and the Ordinance passed under the authority of this Act shall contain a provision in the words following, or to the effect thereof, that is to say,— 15

Special provision to that effect to be contained in Ordinance.

"The interest and principal payable in respect of the loan authorized by this Ordinance to be raised shall be and be made payable at some place or places in Australasia, but not elsewhere." 20

Colony not to be liable for Provincial Loan.

6. Neither the loan of money raised, nor any debenture bond or other security made or issued under the authority of such Ordinance as aforesaid, shall create any charge or liability of any kind whatever, either direct indirect contingent or otherwise, upon the Colony or its Revenues or the Government thereof, by reason or on account of the non-payment of the principal interest or sinking fund thereof, or the neglect or omission of any act matter or thing required or directed by this Act to be done by any officer or other person, or on any other account whatever; nor shall the lender of any such moneys, or the holder of any such debenture bond or other security, have any claim whatever in respect thereof, either direct indirect contingent or otherwise, on the Colony or its Revenues or the Government thereof, by reason or on account of the matters aforesaid or on any other account whatever: And the Ordinance authorizing the raising of such loan, or the making of any debenture bond or other security for such loan, shall contain a provision in the words following, or to the effect thereof:— 25 30 35

Special provisions to that effect to be contained in Ordinance.

"Neither the loan hereby authorized to be raised, nor the debentures bonds or other securities hereby authorized to be made or issued, shall create any charge or liability of any kind whatever, either direct indirect contingent or otherwise, on the Colony, its Revenues, or the Government thereof, by reason or on account of the non-payment of the principal interest or sinking fund thereof or secured thereby, or the neglect or omission of any act matter or thing directed by this Ordinance or the Act of the General Assembly called "The Otago Loan Ordinance Empowering Act, 1873," to be done by any officer or other person, or on any other account whatever; nor shall the lender of any moneys so raised, nor the holder of any such debenture bond or other security, have any claim whatever in respect thereof, direct indirect contingent or otherwise, upon the Colony, or the Revenues or Government thereof, or on any such account as aforesaid, or on any other account whatever." 40 45 50 55

Ordinance not to give security over Ordinary Revenue.

7. Neither the loan raised, nor any bond debenture or other security made or issued, under the authority of such Ordinance, nor the lender of such moneys, nor the holder of any such security as aforesaid, shall have, nor shall such Ordinance give to any such loan nor to any such lender, or to any holder of any such security, as against any other liabilities of any kind, either of the Province of Otago or

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the Superintendent thereof as such or otherwise, whether created or incurred before or after the passing of such Ordinance, any preference or priority of claim upon or against the Ordinary Revenue of such Province or any other Revenues or moneys from time to time subject to the appropriation of the Legislature of the said Province, other than and except upon or against the lands described in the Second Schedule; but notwithstanding any liability of the said Province, or the Superintendent on behalf of the said Province, created by such Ordinance, all Revenues of the said Province or other money subject to the appropriation of the Legislature thereof, and all property which by law may be dealt with by the Superintendent of the said Province or the Legislature thereof, except such lands described in the Second Schedule, shall be subject to be appropriated dealt with and disposed of as if such liability had not been created, and that whether such liability may be not yet due or payable, or may have become actually due or payable, or be immediately or remotely contingent or otherwise.

The Ordinance authorizing the raising of such loan shall contain a provision in the words of the preceding part of this section, or to the effect thereof.

8. There shall be kept at the Bank at which the Provincial Account of the said Province is for the time being kept an account to be called "The Loan Account of the Ordinance" [*naming the Short Title of the Ordinance passed under the authority of this Act*].

Loan Account to be kept.

9. The revenue arising from the lands described in the Second Schedule hereto, shall stand charged with payment of moneys authorized to be raised under the said Ordinance: Provided always that the said lands shall be sold and disposed of in the same manner in all respects as other waste lands of the Crown in the said Province, under the laws for the time being in force relating to the sale letting and disposal of such waste lands in the said Province, and the laws (if any) relating to the sale of such lands in the said Province on deferred payment, and the setting apart of lands for special settlement; but no such lands shall be sold at a less price than one pound per acre.

Proceeds of lands in Second Schedule to be applied to payment of moneys raised.

10. The proceeds of the sale or leasing of the lands described in the Second Schedule hereto, shall be paid by the Receiver of Land Revenue into the Loan Account as aforesaid; and all moneys so paid shall from time to time be applied in or towards payment of the principal and interest falling due on the moneys raised under the said Ordinance.

All proceeds of sale of land to go to Loan Account.

11. The Legislature of the said Province may provide that during the period for which such loan may be raised, so much of the Revenue of the said Province, not exceeding fifteen pounds out of every one hundred pounds, paid or payable to the Land Fund of the said Province, as defined by "The Public Revenues Act, 1867," except so much thereof as arises from the duty on the export of gold or miners' rights business licenses or mining leases under any Act regulating mining for gold, shall be paid to the credit of the said Loan Account:

£15 per cent. from Land Fund payable to Loan Account, except Gold Revenue.

And if it shall be so provided by such Ordinance, then such percentage as aforesaid shall be paid accordingly, and shall stand charged with the payment of the moneys authorized to be raised under such Ordinance as aforesaid.

12. Moneys standing to the credit of the Loan Account as aforesaid, shall be applied in accordance with the said Ordinance, and so long as such loan or any part thereof is unpaid, such moneys shall not be subject to any other appropriation by the Provincial Council of such Province.

Moneys at credit of Loan Account not subject to appropriation.

13. No part of any moneys at the credit of the said account shall, except as hereafter provided, be drawn from such account, or be

Moneys how to be withdrawn from Loan Account.

issued or paid by the Provincial Treasurer, except in pursuance of warrants under the hand of the Superintendent of the said Province, directed to such Provincial Treasurer, and certified by the Provincial Auditor of the said Province. Every such warrant shall state the purpose for which the money is to be paid.

Provincial Auditor to certify.

14. Every such warrant shall, before the same is signed by the Superintendent, be laid before the Provincial Auditor, who shall not certify the same except he be first satisfied that the purpose specified in the warrant is one upon which moneys at the credit of the account may be expended, and that the amount specified is at the credit of such account.

Provincial Auditor to have powers under "The Provincial Audit Act, 1866."

15. The Provincial Auditor of the said Province shall, in the performance of his duties under this Act, have all the powers conferred on him by "The Provincial Audit Act, 1866," and the Acts amending the same, in relation to the Revenues of the said Province and the accounts thereof.

Provincial Auditor guilty of misdemeanour, if he wilfully certifies warrant except in accordance with this Act.

16. If the Provincial Auditor shall wilfully certify any warrant except in accordance with this Act, he shall be guilty of a misdemeanour, and on conviction be liable to imprisonment for any term not exceeding two years; and if any moneys shall have been withdrawn from the said account in pursuance of such warrant, he shall also forfeit and pay on such conviction a penalty equal to the sum so withdrawn; and every penalty so enforced shall be paid to the Loan Account.

If error unintentional, to be liable to action for amount withdrawn.

17. If the Provincial Auditor shall through unintentional error or carelessness or negligence, or otherwise than wilful default, certify any warrant except in accordance with this Act, and any moneys shall have been withdrawn in pursuance thereof, he shall be liable to forfeit and pay to Her Majesty a sum equal to the sum so withdrawn, and such sum, with full costs of suit, shall be recoverable by action suit or information in the Supreme Court, in like manner as money due to Her Majesty within the Colony, and such sum, when recovered, shall be paid into the Loan Account.

If Superintendent or Auditor refuse to make or certify warrant, person interested may apply to Supreme Court.

18. If the Superintendent shall refuse or neglect to make or sign any warrant authorizing the issue of any moneys from the said account for the payment to any person of any sum which he is entitled to be paid from the said account, and if the Provincial Auditor shall refuse to certify any warrant made by the Superintendent for the payment to any person of any sum which he is entitled to be paid from such account, in any such case such person may apply in a summary way to a Judge of the Supreme Court for an order to the Superintendent or Auditor, as the case may be, to make or certify such warrant; and if the Superintendent or Auditor shall neglect or refuse to obey such order, the Supreme Court or Judge thereof may appoint some other person to do, in the name of the Superintendent or Auditor, the act ordered to be done, and the act done by such person shall have the same effect as if done by the Superintendent or Auditor as the case may be.

Debentures, &c., not liable to Stamp duty.

19. No debentures bonds or other securities made or issued under the authority of such Ordinance shall be liable to any Stamp duty.

Ordinance to fix the maximum rate of interest and discount.

20. The said Ordinance shall fix the maximum rate of interest to be paid on the loan thereby authorized to be raised, and on the debentures bonds or other securities thereby authorized to be issued, and also the maximum rate of discount at which such loan may be raised, and at which such bonds debentures or other securities may be issued sold hypothecated or otherwise disposed of.

Terms authorized not to entail higher rate of interest than £6 per cent. on moneys actually raised.

The said Ordinance shall not authorize the raising of the loan on terms which, taking into consideration the rate of interest authorized to be paid and the discount at which the loan is authorized to be

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raised, will entail a higher rate of interest than six pounds for every one hundred pounds actually raised.

21. Upon every debenture bond or other security made or issued under the authority of the said Ordinance, there shall be written or printed in legible characters the words following:—  
“The Colony of New Zealand and the Revenues and Government thereof are not, directly indirectly or contingently, liable for or in respect of this security.—See “The Otago Loan Ordinance Empowering Act, 1873.”

Debenture, &c., to bear notice of non-liability of Colony.

22. The said Ordinance passed under the authority of this Act shall be reserved for the Governor’s assent.

Ordinance to be reserved for assent.

23. Nothing in this Act contained, or in the Ordinance to be passed by virtue hereof, shall prejudice vary or affect any security or securities heretofore charged upon the Revenues of New Zealand, or any part of them.

Act or Ordinance not to affect existing securities.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

THE construction of a Railway from Tuapeka to Dunstan, a distance of sixty miles; (estimated cost, £300,000.) ... .. £300,000

SECOND SCHEDULE.

ALL those waste lands of the Crown lying parallel to and within a distance of ten miles from each side of the Tuapeka and Dunstan Railway, throughout its whole length; estimated to contain 75,000 acres.