

New Zealand.

## ANALYSIS.

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1885, No. 20.—*Local.*

Title. AN ACT to authorize the Corporation of the Borough of Invercargill to consolidate certain Loans. [14th September, 1885.]

Preamble. WHEREAS under and by virtue of the provisions of an Ordinance of the Superintendent and Provincial Council of the Province of Otago, shortly intituled "The Otago Municipal Corporations Ordinance, 1865," and in exercise of the powers conferred by the said Ordinance, the Municipal Council of the Borough of Invercargill did by resolution dated the twenty-sixth day of March, one thousand eight hundred and seventy-three, borrow the sum of three thousand five hundred pounds, and by resolution dated the sixteenth day of February, one thousand eight hundred and seventy-four, borrow the further sum of three thousand five hundred pounds, and caused mortgage bonds to be issued for the said loans respectively, which mortgage bonds are still outstanding: And whereas by an Ordinance of the said Superintendent and Provincial Council of the Province of Otago, shortly intituled "The Invercargill Corporation Borrowing Powers Extension

Ordinance, 1875," it was enacted that the Council (meaning the said Council) might borrow at interest on the credit of the security in the said Ordinance mentioned any sums of money which, together with the amount previously borrowed under the said "Otago Municipal Corporations Ordinance, 1865," or of the Ordinance now in recital, and remaining unpaid, should not exceed the sum of thirty thousand pounds: And whereas in exercise of the powers conferred in and by the said last-mentioned Ordinance the said Council has borrowed upon the said security the two several sums of five thousand pounds and eighteen thousand pounds respectively, and has caused the debentures to be issued for the same, which debentures are still outstanding: And whereas by an Act of the General Assembly of New Zealand, shortly intituled "The Invercargill Gas Loan Act 1874 Amendment Act, 1875," it was enacted that the said Council might borrow any sums of money not exceeding in the whole the sum of sixteen thousand pounds on the credit of the security in the said Act mentioned: And whereas in exercise of the powers conferred in and by the said Act the said Council has borrowed upon the said security the sum of sixteen thousand pounds, and has caused the debentures to be issued for the same, which debentures are still outstanding: And whereas by an Act of the General Assembly of New Zealand shortly intituled "The Invercargill Gas Loan Act, 1877," it was enacted that the said Council might borrow any sums of money not exceeding, in addition to the sums already borrowed, the sum of fourteen thousand pounds on the credit of the security in the said Act mentioned: And whereas in exercise of the powers conferred in and by the said Act the said Council has borrowed upon the said security the sum of fourteen thousand pounds, and has caused the debentures to be issued for the same, which debentures are still outstanding: And whereas under and by virtue of the provisions of an Act of the General Assembly of New Zealand intituled "The Municipal Corporations Act, 1876," the said Council in exercise of the powers conferred by the said Act borrowed the sum of twenty thousand pounds as a special loan, and caused the debentures to be issued for the same, which debentures are still outstanding: And whereas the Corporation of the Borough of Invercargill are desirous of having powers to borrow, as hereinafter mentioned, money necessary as well for paying off the debts already contracted under the said several Ordinances and Acts, and redeeming the mortgage bonds and debentures already issued, as for raising a further sum for the purposes specified in Part II. of the First Schedule to this Act:

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 Borough of Invercargill Loans Consolidation Act, 1885." Short Title.

2. In this Act, if not inconsistent with the context,—

"The Council" "the Corporation," respectively mean the Corporation of the Borough of Invercargill, comprising the body corporate of the Mayor, Councillors, and burgesses of the Borough of Invercargill. Interpretation.

“The revenues” means and includes the entire revenues of the Borough of Invercargill for the time being of the Corporation applicable to municipal purposes within the borough from whatsoever source the same may be derived.

Loan of £150,000  
authorized.

3. The Corporation may, subject to the provisions of this Act, borrow and take up at interest any sum or sums of money not exceeding in the whole the sum of one hundred and fifty thousand pounds, for and to be applied to the several purposes specified in the First Schedule to this Act.

Corporation may  
issue debentures.

4. In respect of the moneys to be raised as aforesaid, and of the interest for the same, the Corporation may from time to time issue debentures charged upon the revenues, and every such debenture shall be in the form in the Second Schedule to this Act, and shall be numbered consecutively, so that no two debentures shall at any time bear the same number, and each debenture shall be for a sum not less than fifty pounds nor more than one thousand pounds.

Time and place of  
payment.

5. Every debenture shall be repayable both as to principal and interest at a place or places within or without the colony named in such debenture, and at a time or times named therein, not longer than fifty years from the issue thereof.

Coupons.

6. The interest on every debenture shall not exceed five per centum per annum on the amount thereof, and shall be payable half-yearly, and separate coupons for each sum so payable in the form in the Third Schedule to this Act, and numbered consecutively for each debenture, shall be attached thereto. No debenture shall be sold by the Corporation at such a price as to produce to the purchaser an interest of more than six per centum on the price paid.

Debentures and  
coupons transferable  
by delivery.

7. 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 Corporation of all liability in respect of such debenture or coupon. No stamp duty shall be payable in respect of any such debenture or coupon.

Agents for raising  
loans.

8. The Corporation may appoint any joint-stock company or any such company, and one or more persons or any two or more persons, within or out of the colony, to be agents for raising and managing the loan authorized to be raised under this Act or any part of the amount thereof, and such agents shall have full power to raise such loan in such manner, and either at once or at such times, in such parts and upon such terms and conditions as the Council shall direct.

How debentures to  
be signed.

9. All such debentures shall be issued under the common seal of the said Corporation, and shall be signed by the Mayor and countersigned by the Town Clerk for the time being of the said Corporation, or the person acting as such.

Hypothecation.

10. Pending the raising of any such loan, the Council may borrow any sum or sums of money, not exceeding the whole amount authorized to be borrowed, by the hypothecation or mortgage of any debentures hereby authorized to be issued, with power of sale in case of default, at such a price as to produce to the purchaser an interest of not more than six per centum on the price paid. 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 six per centum; and the moneys to be borrowed shall be applied in like manner as the moneys authorized to be raised by sale of the debentures; and any money borrowed under the powers conferred under this Act shall, in the first place, be applied in payment and redemption of the debts and loans existing under the hereinbefore recited Acts and Ordinances.

11. It shall be lawful for the Council, through its agents or otherwise, to arrange with the holder of any mortgage, bond, or debenture heretofore issued under any of the said hereinbefore-recited Ordinances or Acts for the purchase of the same, either immediately or at any future time, and for such price and upon such terms and conditions as to the Council shall seem meet, and also to arrange with the holder of any such mortgage, bond, or debenture, to cancel and deliver up the same at any time upon receiving in lieu thereof a debenture or debentures under this Act.

Corporation may arrange for purchase or exchange of mortgage or debentures under previous Acts.

12. At the time appointed by any debentures issued under this Act for the payment of the principal money secured thereby, the Corporation may, if they think fit, borrow such sum of money as may be necessary for the purpose of paying off such part of the said principal moneys as is not provided for by the accumulated sinking fund hereinafter required to be held for the payment thereof, and may for that purpose issue and sell debentures under the provisions of this Act which shall be secured upon the revenues, and have the same force and effect as the debentures for the payment of which the money is to be borrowed.

When debentures due, Corporation may borrow again.

13. There shall be kept at the office of the Council a register of all debentures from time to time issued under the authority of this Act, and after the issue of any debenture an entry shall be made in the register of the number and date thereof as stated in the debenture, and every such register shall be open to public inspection during office hours at the said office without fee or reward; and any clerk or other person having the custody of the same refusing to allow such inspection shall be liable to a penalty not exceeding twenty pounds. And a certificate in the form or to the effect set forth in the Fourth Schedule of this Act under the common seal of the Corporation, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said borough, stating the amount previously borrowed upon the security of this Act 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. And a certificate in the form or to the effect set forth in the Fifth Schedule to this Act, under the common seal of the Corporation, and purporting to be signed by the Mayor and Town Clerk respectively for the time being of the said borough, shall be conclusive evidence in any Court of judicature as against the said Corporation, that all conditions required by the law to enable and empower the said Council to borrow the sum or sums of money named in such certificate had been duly performed, observed, and fulfilled.

Register of debentures to be kept.

Agents to forward  
notice of issue of  
debentures by them.

14. If any agents shall raise any loan authorized to be raised under this Act they shall, within fourteen days after the issue of any debenture by them, forward notice in writing thereof, and of the number and date of such debenture to the Corporation; and the Treasurer of the Corporation shall, within fourteen days after the receipt of such notice by him, or, in the case of any debenture issued by the Corporation within fourteen days after the issue thereof, cause an entry to be made thereof as provided by the last-preceding section; and if such agents shall neglect or fail to forward such notice in writing as aforesaid within the time aforesaid, they shall be liable to a penalty not exceeding twenty pounds; and if such Treasurer shall neglect or fail to make such entry as aforesaid within the time aforesaid he shall be liable to a penalty not exceeding twenty pounds.

Sinking fund.

15. Before the first raising of any sums of money under the authority of this Act, the Council shall decide whether there shall be a sinking fund provided, and in case the Council shall decide to provide a sinking fund, then the Council shall from and out of the revenues in each and every year from the first raising of any sums of money under the authority of this Act, until the whole amount so raised and the interest thereon shall have been duly paid, set apart as a sinking fund such sums of money as shall be sufficient to pay the amount of the principal money so raised in the time or times within which it is provided in the debentures that it shall be repaid; and such sums shall be paid over by the Council, as soon as they shall be so set apart, to three Commissioners to be appointed by the Council (who may from time to time remove them, or any of them, and appoint another or others in the room of the Commissioner or Commissioners so removed), and shall be invested, together with all interest and profits accruing therefrom, in such securities as the Council may from time to time direct.

Commissioners to  
furnish accounts.

16. Such Commissioners shall send to the Council, at such times as the Council shall direct, 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 Council a balance-sheet showing all transactions in respect of such moneys or securities during the year ending on such day. Such Commissioners shall, together with such balance-sheet, send to the Council a certificate under their hands of all the securities held by the Commissioners, and shall, if required, verify the same by statutory declaration.

Fund to be applied  
in payment of loan.

17. When the principal moneys of the loan shall become payable, the accumulations of such sinking fund, if the same shall have been decided upon under the fifteenth section of this Act, shall be applied in or towards payment thereof.

Special rate.

18. The Council may, whenever necessary for the purpose of paying the sinking fund, if the same shall have been decided upon as aforesaid, and the annual interest payable upon all or any part of the moneys secured by any debentures issued under the provisions of this Act, or any Act which this Act is intended to supersede, and in lieu of the special and recurring rates then in existence, make a special rate upon all rateable property in the borough to an amount not exceeding in any one year the sum of one shilling in the pound of the

annual value of such property, or an equivalent sum on the capital value of such property, and such special rate shall, as near as practicable, be in the form prescribed in respect to special rates in "The Municipal Corporations Act, 1876."

**19.** Every such special rate shall be payable at such intervals not exceeding one year as the Council shall in and by the special order for making such rate appoint, and every such special rate shall, without any further proceeding by the Council or otherwise, be and continue to be an annual recurring rate upon every rateable tenement at any time situated within the area of the borough at the time of the making of such special rate, according to the annual value of each such tenement or the capital value, as the case may be, as appearing by the valuation last made affecting such tenements, until all moneys owing in respect of the moneys raised under the authority of this Act shall have been paid off and discharged; and the Council may from time to time amend such special rate by increasing or diminishing the same if necessary, so that the annual produce shall suffice to provide the interest, and if a sinking fund shall have been decided upon as aforesaid, as shall also suffice to provide for the sinking fund on account of the loan.

Special rate to continue until moneys paid off.

**20.** Save where it is herein otherwise expressly provided, or there is something in the context repugnant thereto, all the provisions contained in "The Municipal Corporations Act, 1876," and any Act or Acts amending or substituted for the same relating to special rates, shall apply to every such special rate as aforesaid.

Provisions of "The Municipal Corporations Act, 1876," to apply.

**21.** Notwithstanding anything in "The Municipal Corporations Act, 1876," to the contrary, the limit of rates to be made and levied within the borough as fixed by the said Act may be exceeded by the Council for the purposes of this Act to the extent authorized by this Act; and the said Council may levy a rate for general municipal purposes as well as the special rate authorized to be levied hereunder.

Limits of rates extended.

**22.** It shall be lawful for the Supreme Court of New Zealand, upon application duly made by the holder of any debenture or coupon issued under the authority of this Act, if the interest payable in respect of such debenture or coupon shall be in arrear or unpaid, by a rule or order of the said Court, to require the Corporation 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 special rate to insure and provide for such payment. And it shall be lawful for the said Supreme Court, upon cause being shown to the said rule or order or upon proof of the due service of the same if the Corporation shall not appear to show cause, to pronounce such decision thereon and make such order as to costs, and by and to whom the same shall be paid as may to the said Court appear to be just and right.

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

**23.** The moneys to be borrowed under the provisions of this Act shall be applied to the several purposes specified in the First Schedule to this Act in the proportions therein set forth, and to no other purposes whatsoever.

How moneys to be applied.

**24.** The Council shall keep separate accounts of all moneys received and expended under the provisions of this Act for each of the

Separate accounts to be kept.

purposes therein mentioned, and such accounts shall be balanced twice at least in every year.

Purchaser of debentures not concerned to see to application of moneys.

**25.** No purchaser of a debenture or debentures issued under the provisions of this Act shall in any manner be concerned to see to the application of the moneys paid for the same, or be in anywise chargeable or accountable for the loss, misapplication, or non-application of the same, or to inquire as to the necessity for raising the same.

Payment of debentures.

**26.** When any money shall become due and payable as principal money secured by any debentures issued under this Act the Council shall apply the accumulated sinking fund, if the same shall have been decided upon as aforesaid, and all other moneys for the time being in their hands available for that purpose, to the payment of the debentures upon which such principal moneys shall have so become due and payable.

Holder of debentures may apply to a Judge of the Supreme Court for the appointment of a Receiver.

**27.** If at the expiration of fourteen days from the time when any principal money has become due upon any debenture issued under this Act, and after presentation of such debenture at the place where the same is payable, it shall not be paid, the holder of such debenture may, without prejudice to any other mode of recovery, apply to a Judge of the Supreme Court of New Zealand by petition in a summary way for the appointment of a Receiver; and the Judge is hereby empowered, if satisfied of the truth of the matters alleged in such petition, to appoint some fit person to collect and receive the whole or a competent part of the revenues until such principal and any interest due or to accrue due thereon, together with costs of the application and the costs of collection, are fully paid; and upon such appointment being made all securities held by the Council or by any Commissioners appointed under this Act as accumulated sinking fund, if the same shall have been decided upon as aforesaid for the payment of such loan, shall vest in the Receiver so appointed, and shall cease to be vested in the Corporation or the said Commissioners; and all moneys arising from the revenues or such competent part of the revenues as the Court shall order, until payment of such principal and interest, and the costs of the application and the costs of collection as aforesaid, shall be paid to the Receiver so appointed, and when so paid shall be rateably apportioned between the debenture holders.

Powers for recovery of rates to vest in Receiver.

**28.** All powers for the recovery of rates, tolls, rents, or other moneys of the Corporation shall, after the appointment of a Receiver, and in respect to all moneys so to be vested in him, cease to be exercised by the Council and shall be vested in the Receiver.

Powers of Receiver to amend special rate.

**29.** The Receiver shall, in respect of any special rates vested in him, have the power given to the Council to amend a special rate as provided by the one hundred and thirteenth section of "The Municipal Corporations Act, 1876," but such power shall be exercised only upon an order by a Judge of the Supreme Court.

Receiver to give security.

**30.** Every Receiver shall, before entering on his office, give such security for the faithful execution thereof as the Judge shall direct.

Application of money by Receiver.

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

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

- (2.) In payment of such remuneration to the Receiver and in such expenses of his office as the Judge directs.
- (3.) In the payment of the principal and interest of the loan.
- (4.) The residue, after payment of the above, shall be paid into the Borough Fund for the use of the Corporation.

And the Receiver shall account for all such moneys in such manner as the Judge shall direct.

**32.** When all the principal and interest of the loan is paid, or at any other time, by an order of the Judge, the powers of the Receiver shall cease and shall re-vest in the Council, and he shall forthwith pay any moneys in his hands into the Borough Fund Account.

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

**33.** No holder of any debenture or coupon to be issued under the authority of this Act shall have any claim in respect thereof upon the public revenues of the Colony of New Zealand.

Holders of debentures to have no claim on colonial revenue.

**34.** This Act shall not come into operation until the Mayor of the Borough of Invercargill has published a notice once in each week for four successive weeks in a newspaper published in the Borough of Invercargill, setting forth a proposal to bring this Act into operation, and setting forth also a schedule of the particular public works, with an estimate of the cost thereof respectively, proposed to be undertaken under Part Two of the First Schedule to this Act, and the several requirements specified in sections one hundred and forty-one, one hundred and forty-two, one hundred and forty-three, one hundred and forty-four, and one hundred and forty-five of "The Municipal Corporations Act, 1876," have been complied with.

When Act to come into operation.

**35.** "The Invercargill Municipal Council Empowering and Waterworks Loan Act, 1875," and "The Invercargill Waterworks Loan Act, 1878," are hereby repealed.

Repeal.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

PART I.—CONSOLIDATION.

To CONVERT the undermentioned loans, specified in the preamble to this Act, into a loan to be raised under this Act, namely:—

	£
1. The loan raised by authority of a resolution dated the 26th day of March, 1873 ... ..	3,500
2. The loan raised by authority of a resolution dated the 16th day of February, 1874 ... ..	3,500
3. The loans raised under the authority of "The Invercargill Corporation Borrowing Powers Extension Ordinance, 1875" ...	23,000
4. The loan raised under the authority of "The Invercargill Gas Loan Act 1874 Amendment Act, 1875" ... ..	16,000
5. The loan raised under the authority of "The Invercargill Gas Loan Act, 1877" ... ..	14,000
6. The loan raised under the powers conferred by "The Municipal Corporations Act, 1876" ... ..	20,000
	£80,000



## PART II.

For the construction of waterworks, the enlargement of the gasworks, the laying of gas-pipes, and erecting gas-lamps; the formation, gravelling, and making of streets and footpaths, and making asphalt footpaths, and drainage, and other public works in the Borough of Invercargill

70,000  
£150,000

## SECOND SCHEDULE.

COLONY OF NEW ZEALAND.—“THE BOROUGH OF INVERCARGILL LOANS CONSOLIDATION ACT, 1885.” £150,000 LOAN. SECURED ON THE REVENUES OF THE CORPORATION OF THE BOROUGH OF INVERCARGILL.

*Debenture for £* . . . *Redeemable,* . . . *No.* . . .

ISSUED by the Corporation of the Borough of Invercargill, New Zealand, under an Act of the General Assembly of New Zealand, intituled “The Borough of Invercargill Loans Consolidation Act, 1885.”

ON presentation of this debenture at , on or after the day of , 19 , the bearer thereof will be entitled to receive the sum of £ sterling.

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

Issued under the common seal of the Corporation of the Borough of Invercargill, New Zealand, this day of , 188 ,

(L.S.)

Mayor.  
Town Clerk.

NOTE.—The holder of this debenture has no claim in respect thereof upon the public revenues of the Colony of New Zealand.

N.B.—The holder of this debenture and the coupons attached may obtain payment thereof respectively, at maturity, in by giving to the said Municipal Council three months' previous notice in writing in that behalf.

## THIRD SCHEDULE.

“THE BOROUGH OF INVERCARGILL LOANS CONSOLIDATION ACT, 1885.”

*Coupon.* . . . *Debenture No.* . . .

ON presentation of this coupon at [State place of payment] on or after the day of , 188 , the bearer thereof will be entitled to receive £ . . .

(L.S.)

Mayor.  
Town Clerk.

## FOURTH SCHEDULE.

“THE BOROUGH OF INVERCARGILL LOANS CONSOLIDATION ACT, 1885.” £150,000 LOAN.

*Certificate of existing Liabilities of Mortgage and Debentures.*

THIS is to certify that, prior to this day of , 188 , the Corporation of the Borough of Invercargill has borrowed, upon the security of the revenues (within the meaning of the above-mentioned Act), the sum of £ , and no more ; and that the 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 £150,000, authorized by law to be raised by the said Corporation of the Borough of Invercargill upon the security of the revenues, there yet remains to be raised and borrowed the sum of £ .

Issued under the common seal of the Corporation of the Borough of Invercargill, this day of , 188 .

(L.S.)

Mayor.  
Town Clerk.

## FIFTH SCHEDULE.

“THE BOROUGH OF INVERCARGILL LOANS CONSOLIDATION ACT, 1885.” £150,000  
LOAN.

*Certificate of Authority given by the Corporation of the Borough of Invercargill to  
borrow Money.*

THIS is to certify that at a meeting of the Council of the Corporation of the Borough of Invercargill, 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 revenues of the said Corporation, and that debentures bearing interest at the rate of                      per centum 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 common seal of the Corporation of the Borough of Invercargill  
this                      day of                      , 188                      .

(L.S.)

Mayor.  
Town Clerk.

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