

No. L.

AN ACT to authorize the Corporation of the City of
Dunedin to consolidate certain Loans.

CITY OF DUNEDIN
LOANS CONSOLIDA-
TION.

[29th November, 1877.]

WHEREAS by an Ordinance of the Superintendent and Provincial
Council of Otago, made and passed in the twenty-eighth year
of the reign of Her present Majesty (Session XX., No. 191), shortly
intituled "The Otago Municipal Corporations Ordinance, 1865," it
was enacted that the Council (meaning thereby the Mayor and
Councillors of the City of Dunedin) might borrow at interest on the
credit of the rates thereby authorized to be levied from time to time
(except special rates) any sum which, with any amount previously
borrowed and remaining unpaid, should not exceed one hundred

Preamble.

thousand pounds, and in the event of any part of such money being repaid might re-borrow the same, but so that there should not be owing on the security aforesaid more than one hundred thousand pounds at any one time: And whereas by another Ordinance of the Superintendent and Provincial Council of the Province of Otago, made and passed in the thirty-seventh year of the reign of Her present Majesty (Session XXXIII., No. 434), shortly intituled "The Dunedin City Council Borrowing Powers Extension Ordinance, 1874," the powers of the said Council to borrow upon the security of the rates (except special rates), which the said Council were by law authorized to levy, were increased and enlarged from the sum of one hundred thousand pounds to the sum of two hundred thousand pounds: And whereas in exercise of the powers conferred in and by the said Ordinances the said Council has from time to time borrowed various sums of money upon the security of the said rates, and in order to secure the repayment thereof, together with the interest payable in respect of the principal moneys so borrowed, the Council has from time to time issued or caused to be issued mortgages of rates in the form prescribed by the said "Otago Municipal Corporations Ordinance, 1865," for sums amounting in the whole to the sum of one hundred and one thousand two hundred pounds, and which mortgages are now outstanding: And whereas by an Act of the General Assembly of New Zealand, passed in the thirty-ninth year of the reign of Her present Majesty (No. 58), shortly intituled "The Dunedin Corporation Borrowing Powers Extension and Debentures Act, 1875," the powers of the said Council to borrow upon the security of the rates (except special rates), which the said Council were by law authorized to levy, were increased and enlarged to the sum of three hundred thousand pounds, it being by the said Act provided that, out of the sum of three hundred thousand pounds thereby authorized to be raised, an amount of one hundred thousand pounds should be devoted to the purpose of draining the said City of Dunedin, and for the sanitary improvements thereof, and for no other purpose whatever: And whereas the said Council have, in exercise of the powers conferred upon them by the said Act, from time to time borrowed various sums of money upon the security of the said rates, and have, in order to secure the payment thereof, caused debentures to be issued in the form provided by the said Act, for sums amounting in the whole to the sum of one hundred thousand pounds, and such debentures are now outstanding: And whereas by an Act of the General Assembly of New Zealand, passed in the thirty-fifth year of the reign of Her present Majesty (No. 73), shortly intituled "The City of Dunedin Borrowing Act, 1871," the Corporation of the City of Dunedin were authorized to construct gasworks, or to purchase and hold certain gasworks therein mentioned, and also to purchase and hold certain waterworks therein mentioned; and by the said Act power was given to the Corporation of the said city to borrow and raise in the manner therein provided any sum or sums not exceeding in the whole the sum of one hundred thousand pounds, to be expended as by the said Act is provided: And whereas by another Act of the General Assembly of New Zealand, passed in the thirty-sixth year of the reign of Her present Majesty (No. 55), shortly intituled "The Dunedin Gas and Waterworks Loan Act, 1872," it was, amongst other things, enacted that the moneys authorized to be borrowed under "The City of Dunedin Borrowing Act, 1871," should be limited to the sum of thirty thousand pounds, and that all moneys so borrowed should be expended solely for the purchase or construction of gasworks for the supply of the City of Dunedin with gas: And

City of Dunedin Loans Consolidation.

LOCAL.

whereas by another Act of the General Assembly of New Zealand passed in the thirty-eighth year of the reign of Her present Majesty (No. 44), shortly intituled "The City of Dunedin Gasworks Act, 1874," the amount authorized to be borrowed and raised under "The City of Dunedin Borrowing Act, 1871," was extended to one hundred thousand pounds, inclusive of the sum of thirty thousand pounds mentioned in "The Dunedin Gas and Waterworks Loan Act, 1872 : " And whereas the said Corporation of the City of Dunedin have, in exercise of the powers conferred upon them by the said last recited Act, from time to time borrowed various sums of money in the manner and upon the security provided in "The City of Dunedin Borrowing Act, 1871," and have caused debentures to be issued for sums amounting in the whole to the sum of forty-nine thousand four hundred pounds, and such debentures are now outstanding : And whereas by an Act of the General Assembly of New Zealand, passed in the thirty-eighth year of the reign of Her present Majesty (No. 45), shortly intituled "The Dunedin Waterworks Act, 1874," the Corporation of the City of Dunedin were authorized to borrow the sum of two hundred thousand pounds for the purpose of purchasing the property of a certain company called "The Dunedin Waterworks Company," and for carrying out the undertakings in connection with the same, and to extend the said works if necessary : And whereas the said Corporation purchased the property of the said Company, and by virtue of the powers conferred upon them by the said Act borrowed various sums of money in the manner and upon the security in the said Act, and in "The Municipal Corporations Waterworks Act, 1872," provided, and have caused debentures to be issued for sums amounting in the whole to the sum of one hundred and twenty thousand three hundred pounds, and such debentures are now outstanding : And whereas the Corporation of the City of Dunedin are desirous of having power to borrow as hereinafter mentioned moneys necessary as well for paying off the debts already contracted under the Ordinances and Acts before mentioned, as for raising the balances of the said several sums of three hundred thousand pounds, one hundred thousand pounds, and two hundred thousand pounds, thereby respectively authorized to be raised as hereinafter mentioned, and it is expedient that power should be given to them for that purpose :

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 shall be "The City of Dunedin Loans Consolidation Act, 1877." Short Title.

2. In this Act, if not inconsistent with the context, the following words and expressions shall have the meanings hereinafter respectively assigned to them, that is to say,— Interpretation.

"The Corporation" shall mean the Corporation of the City of Dunedin.

"The Council" shall mean the Council of the City of Dunedin.

"The revenues" shall mean the entire revenues, whether general or special (including the income and rates derived from gasworks and waterworks), for the time being of the Corporation applicable to municipal purposes within the city, from whatsoever source the same may be derived.

3. For the purpose of paying off and discharging all existing debts under the provisions of the said hereinbefore recited Ordinances and Acts respectively, and for raising the balances or sums of money authorized to be raised thereunder respectively, and not yet borrowed, the amounts of which balances and the purposes respectively to which Corporation may borrow.

LOCAL.

City of Dunedin Loans Consolidation.

the amounts thereof when raised may be applied are mentioned in the Schedule C to this Act, the Corporation may borrow and take up at interest any sum of money not exceeding in the whole the sum of six hundred thousand pounds.

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 Schedule A 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 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 on the amount thereof, and shall be payable half-yearly, and separate coupons for each sum so payable in the form in Schedule B 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 Treasurer 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 eight 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.

Corporation may
arrange for purchase
or exchange of mort-
gages or debentures
under previous Acts.

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

City of Dunedin Loans Consolidation.

LOCAL.

the same at any time upon receiving in lieu thereof a debenture or debentures under this Act.

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 Schedule D 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 city, 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 Schedule E 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 city, shall be conclusive evidence in any Court of judicature as against the said Corporation that all conditions required by law to enable and empower the said Council to borrow the sum or sums of money named in such certificate had been duly performed, observed, and fulfilled.

Register of debentures to be kept.

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 of not exceeding twenty pounds.

Agents to forward notice of issue of debentures by them.

15. The Council shall, from and out of the revenues (except moneys received by way of grant from the General Government) 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

Sinking fund.

LOCAL.

City of Dunedin Loans Consolidation.

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 shall be applied in or towards payment thereof.

Special rate.

18. The Council shall, whenever necessary for the purpose of paying the sinking fund and the annual interest payable upon all or any part of the moneys secured by any debentures issued under the provisions of this Act, make a special rate upon all rateable property in the city not exceeding in any one year the sum of one shilling in the pound of the annual 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."

Special rate to continue until moneys paid off.

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 city at the time of the making of such special rate, according to the annual value of each such tenement 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 sinking fund on account of the loan.

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

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.

Limits of rates extended.

21. Notwithstanding anything in "The Municipal Corporations Act, 1876," to the contrary, the limit of rates to be made and levied within the city, 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.

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

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;

City of Dunedin Loans Consolidation.

LOCAL.

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.

23. The moneys to be borrowed under the provisions of this Act shall, to the extent in each case provided in and by the said hereinbefore recited Ordinances and Acts respectively, be applied as specially directed in such Ordinances and Acts respectively, and shall, as between the Corporation and the ratepayers of the city, be deemed to have been borrowed under and for the purposes of such Ordinances and Acts respectively, and to be charged and chargeable as herein respectively mentioned.

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

Separate accounts to be kept.

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.

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

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, 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.

Payment of debentures.

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 the 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 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.

Holder of debenture may apply to a Judge of the Supreme Court for the appointment of a 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 for recovery of rates to vest in Receiver.

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

Power of Receiver to amend special rate.

LOCAL.

City of Dunedin Loans Consolidation.

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 the payment of the expenses of the application and order.

(2.) In the 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.

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

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 revert in the Council, and he shall forthwith pay any moneys in his hands into the Borough Fund Account.

Holders of debentures to have no claim on colonial revenue.

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.

Schedules.

SCHEDULES.

SCHEDULE A.

COLONY OF NEW ZEALAND.

"The City of Dunedin Loans Consolidation Act, 1877." Loan £600,000.

Secured on the revenues of the Corporation of the City of Dunedin.

Debenture for £ Redeemable 19 No

Issued by the Corporation of the City of Dunedin, New Zealand, under an Act of the General Assembly of New Zealand, intituled "The City of Dunedin Loans Consolidation Act, 1877."

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 Seal of the Corporation of the City of Dunedin, New Zealand, this day of 18

(L.S.) Mayor.
Treasurer.

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, at the office of the Municipal Council in the City of Dunedin, or at, in Melbourne or Sydney, by giving to the said Municipal Council three months' previous notice in writing in that behalf.

SCHEDULE B.

"The City of Dunedin Loans Consolidation Act, 1877."

COUPON. DEBENTURE NO.

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

Mayor.
Treasurer.

Auckland College and Grammar School.

LOCAL.

SCHEDULE C.

BALANCES of loans not yet raised :—	£
Municipal purposes	98,800
Gasworks	50,600
Waterworks	79,700

SCHEDULE D.

"The City of Dunedin Loans Consolidation Act, 1877." £600,000 Loan.

CERTIFICATE OF EXISTING LIABILITIES OF MORTGAGE AND DEBENTURES.

THIS is to certify that, prior to this day of , 18 , the Corporation of the City of Dunedin 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 600,000 authorized by law to be raised by the said Corporation of the City of Dunedin upon the security of the revenues, there yet remains to be raised and borrowed the sum of £ .

Issued under the Seal of the Corporation of the City of Dunedin, this day of 18 .

(L.S.)

Mayor.
Town Clerk.

SCHEDULE E.

"The City of Dunedin Loans Consolidation Act, 1877." £600,000 Loan.

CERTIFICATE OF AUTHORITY GIVEN BY THE CORPORATION OF THE CITY OF DUNEDIN TO BORROW MONEY.

THIS is to certify that, at a meeting of the Council of the Corporation of the City of Dunedin specially called for the purpose, and at which meeting two-thirds of the members of such Council were present, a resolution was made and passed authorizing and directing that the sum of £ should be borrowed upon the security of the revenues of the said Corporation, and that Debentures bearing interest at the rate of five 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 Seal of the Corporation of the City of Dunedin, this day of 187 .

(L.S.)

Mayor.
Town Clerk.