

## New Zealand.



### ANALYSIS.

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### 1883, No. 3.—*Local.*

**Title.** AN ACT to empower the Corporation of the Mayor, Councillors, and Citizens of the City of Dunedin to adopt and redeem, as Liabilities of the said Corporation, certain instruments purporting to be Debentures of the Corporation of the City of Dunedin feloniously stolen and fraudulently issued and disposed of by Joseph Morgan Massey, late Town Clerk of the said Corporation. [20th August, 1883.]

**Preamble.** WHEREAS by "The Dunedin Waterworks Act, 1874," the Corporation of the City of Dunedin was empowered to borrow the principal sum of two hundred thousand pounds for the purposes therein mentioned, and by the said Act it was provided that, save as therein mentioned, sections seventeen to thirty, both inclusive, of "The Municipal Corporations Waterworks Act, 1872," as amended by "The Municipal Corporations Waterworks Act Amendment Act, 1873," should apply to the raising of the principal moneys aforesaid, and of the interest of the same: And whereas, in pursuance of the powers contained in the said Acts, the said Corporation of the City of Dunedin issued certain debentures for, and representing portions of, the said principal sum of two hundred thousand pounds, such debentures having coupons for interest thereunto attached, and the said debentures and coupons being respectively in the forms contained in Schedule A to this Act, such debentures and coupons being hereinafter referred to as "A debentures": And whereas, in the year one thousand eight hundred and seventy-five, the Council of the City of Dunedin agreed to give to the holders of A debentures other debentures in lieu of or exchange for the same, such other debentures and the coupons thereunto attached being respectively in the forms contained in Schedule B to this Act, such last-mentioned debentures and coupons being here-

inafter referred to as "B debentures": And whereas, in pursuance of the said agreement, many holders of A debentures exchanged such debentures for B debentures: And whereas, for the purpose of effecting such exchanges, certain parcels of B debentures were from time to time sealed with the common seal of the said Corporation, and signed by Keith Ramsay, as Mayor of the said Corporation, and Henry Smith Fish, junior, as a Councillor thereof, and were left in the custody of Joseph Morgan Massey, then and for long afterwards the Town Clerk of the said Corporation, for the purpose of being delivered to the persons entitled to receive the same in exchange for an equivalent number of A debentures: And whereas, by virtue of the provisions of "The Municipal Corporations Act, 1876," and of a certain Proclamation of the Governor of New Zealand bearing date on or about the twentieth day of December, one thousand eight hundred and seventy-seven, issued in pursuance of the said Act, the said City of Dunedin became a borough constituted under that Act: And whereas, by "The Municipal Corporations Act Amendment Act, 1878," the City of Dunedin was declared to be, and to have been, from the twenty-first day of December, one thousand eight hundred and seventy-seven, a borough constituted under "The Municipal Corporations Act, 1876," under the name of "The City of Dunedin": And whereas, in and by "The Municipal Corporations Act, 1876," it is provided that, when any place becomes a borough under that Act, the Municipal Corporation of such borough constituted under that Act shall, in respect of all property, rights, claims, obligations, liabilities, contracts, and engagements, and for all purposes whatsoever in law or equity, be deemed to be the same Corporation as that existing in such place before its constitution as a borough under that Act: And whereas, by the said last-mentioned Act, it is further provided that the inhabitants of every borough constituted under that Act shall be a body corporate, under the name of the Mayor, Councillors, and Burgesses of the borough, or the Mayor, Councillors, and Citizens of the city, and by that name shall have perpetual succession and a common seal, with such capacities and powers as are therein mentioned: And whereas the said Joseph Morgan Massey continued to be the Town Clerk of the said Corporation until the twenty-first day of February, one thousand eight hundred and eighty-two, when he ceased to hold the said office: And whereas some time after that date it was discovered that the said Joseph Morgan Massey had feloniously stolen and fraudulently sold to certain persons in the Colony of Victoria thirty-four B debentures, that is, thirty-two for one hundred pounds each, and two for fifty pounds each, which had been left in his custody for the purpose of being exchanged for an equivalent number of A debentures as aforesaid, but for which no A debentures have ever been received by him in exchange, pursuant to that purpose: And whereas the said Joseph Morgan Massey was thereupon arrested, and was afterwards duly indicted, tried, and convicted upon the charge of having feloniously stolen from the said Corporation certain of the said B debentures which had been so left in his custody as aforesaid, and was thereupon sentenced to penal servitude: And whereas, the said Joseph Morgan Massey having failed, in his duty as such Town Clerk as aforesaid, to keep a proper register of debentures issued by the said

Corporation, it cannot at present be ascertained how many of the B debentures, sealed and signed as aforesaid, remained in his custody unexchanged for A debentures at the time of his dismissal, or whether he has fraudulently issued and disposed of any more than the said thirty-four B debentures; but it is believed that he feloniously stole from the safe of the said Corporation more of such debentures, signed and sealed as aforesaid, with the fraudulent intent to sell and convert the same into money: And whereas, before the said dismissal of the said Joseph Morgan Massey, the said Corporation had borrowed and issued debentures for the whole of the said sum of two hundred thousand pounds irrespective of the said debentures so stolen and sold by the said Joseph Morgan Massey as aforesaid, and of any other B debentures which he may have also stolen: And whereas the said Corporation cannot, without the authority of the Legislature, lawfully assume any liability in respect of such stolen debentures: And whereas the said Corporation is desirous of assuming such liability in order to indemnify the persons who have innocently become purchasers of the said stolen debentures, and all subsequent holders thereof; and it is expedient to empower the said Corporation to indemnify such purchasers accordingly, and to make such provisions in relation to the premises as are hereinafter contained:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is “The Massey Frauds Indemnity Act, 1883.”

Interpretation.

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

“The Corporation,” as hereinafter used, means the Corporation of the Mayor, Councillors, and Citizens of the City of Dunedin:

“The Council,” as hereinafter used, means the Borough Council of the City of Dunedin.

Council empowered to adopt stolen debentures as Corporation liabilities.

3. From and after the passing of this Act it shall be lawful for the Council to adopt and assume, on behalf of the Corporation, the responsibility of paying, according to the tenor, date, and currency of such debentures, the principal and interest moneys mentioned in all B debentures and coupons bearing the said common seal and the said signatures of the said Keith Ramsay and Henry Smith Fish, junior, whether such debentures shall be in the hands of the original purchasers thereof or of any subsequent holder or holders, the true intent of this Act being to authorize the Council to place all the B debentures, sealed and signed as aforesaid, which have been stolen by the said Joseph Morgan Massey as aforesaid, and which he has already sold, or may hereafter sell, or put in circulation, upon the same footing in all respects as debentures heretofore lawfully issued by the Corporation as now or formerly constituted in exercise of the said borrowing power. And it is hereby declared that the power hereinbefore given to the Council shall be deemed to be an extension of the said borrowing power limited to or by the total amount of the principal sums mentioned in all such B debentures, sealed and signed as aforesaid, as the Council shall adopt in exercise of the said power hereinbefore given: Provided always that it shall be lawful for the Council

forthwith, or at any time hereafter, to redeem by way of purchase any of such stolen debentures as aforesaid by the immediate payment to the purchaser or purchasers or the holder or holders thereof respectively of such sum or sums of money as may be mutually agreed upon between the Council and such purchaser or purchasers, holder or holders, and in such case or cases the moneys required to effect such redemption shall be taken out of the revenues arising from the waterworks belonging to the Corporation.

4. The Council shall provide in manner following a sinking fund for the eventual payment of the principal moneys mentioned in all such B debentures as aforesaid as the Council shall adopt as aforesaid and allow to remain in circulation until the same shall become due according to the tenor and currency thereof, that is to say, the Council shall forthwith, or as soon as conveniently may be after such adoption, pay to the Commissioners of Sinking Funds appointed under "The City of Dunedin Loans Consolidation Act, 1877," out of the said revenues arising from the waterworks belonging to the Corporation, a sum sufficient to place such B debentures so adopted as aforesaid on a par as regards sinking fund with debentures of the same currency heretofore lawfully issued by the Corporation or its predecessor in exercise of the said borrowing power; and the Council shall, from and out of the same revenues, in each and every year, from and after such payment to the said Commissioners as aforesaid, until the whole amount of the principal moneys of such B debentures so adopted as aforesaid and the interest thereon shall have been duly paid, set apart as a sinking fund and forthwith pay to the said Commissioners such sums of money as, together with such previous payment to the said Commissioners as aforesaid, shall be sufficient to pay the amount of such principal moneys in the time within which it is provided in the said debentures that they shall be repaid.

Council to provide sinking fund.

5. From and immediately after the adoption or redemption by the Council in manner aforesaid of any such B debentures as aforesaid, the said Joseph Morgan Massey shall be deemed in law to all intents and purposes to be, and upon and continuously from the twenty-first day of February, one thousand eight hundred and eighty-two, to have been, indebted to the Corporation in, and the Corporation shall be entitled forthwith to sue for and recover in an action against him, the amount of the principal sums mentioned in all and every such debentures or debenture so adopted or redeemed as aforesaid: Provided always that in any such action as aforesaid the claim of the plaintiffs shall be deemed to be sufficiently stated if in words to the following effect, that is to say:—"That the defendant is indebted to the plaintiffs in the sum of \_\_\_\_\_ pounds, being the aggregate amount of the principal sums mentioned in certain B debentures, specified in the particulars hereunder written, which the Council of the City of Dunedin have adopted (or redeemed, as the case may be) in pursuance of 'The Massey Frauds Indemnity Act, 1883.'"

Corporation empowered to sue Massey.

6. In case any person or persons who purchased any of the said stolen debentures directly or indirectly from the said Joseph Morgan Massey shall, before the passing of this Act, have commenced, or permitted the Council to use his or their names for the purpose of commencing, an action or actions against the said Joseph Morgan

Council authorized to indemnify purchasers of debentures who have sued Massey for fraudulent misrepresentation.

Massey to recover damages for fraudulent misrepresentation in respect of the said stolen debentures, it shall be lawful for the Council to indemnify such purchaser or purchasers against, and, if necessary, to recoup to him or them out of the borough fund of the Corporation, any loss or damage, costs or expenses which such purchaser or purchasers may have incurred or sustained, or may incur or sustain, by having commenced, or having permitted to be commenced, and by continuing or allowing to be continued to judgment and execution, any such action or actions as aforesaid: Provided always that it shall be lawful for the Council to require and obtain from such purchaser or purchasers as aforesaid, as a condition of such indemnity as last aforesaid, an agreement or undertaking on the part of such purchaser or purchasers that the surplus of any damages recovered and actually received in any such action or actions as aforesaid from the defendant or his estate, after payment of all expenses (if any) incurred by such purchaser or purchasers in or about such litigation, over and above the costs recovered and actually received from the defendant or his estate, shall be paid to or retained by the Corporation for its own use and benefit.

Schedules.

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SCHEDULES.

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SCHEDULE A.

FORM OF DEBENTURE.

COLONY OF NEW ZEALAND.—THE CITY OF DUNEDIN WATERWORKS LOAN OF £200,000,  
*Debenture for £ . . . No.*

Payable at the office of the Municipal Council in the City of Dunedin, or at the Bank of New Zealand in Melbourne or London, on the first day of January, one thousand nine hundred and twenty-five.

Issued by the Corporation of the City of Dunedin, in New Zealand, under the Acts of the General Assembly of New Zealand the Short Title whereof respectively is "The Municipal Corporations Waterworks Act, 1872," "The Municipal Corporations Waterworks Act Amendment Act, 1873," and "The Dunedin Waterworks Act, 1874."

N.B.—The holder of this debenture has no claim in respect thereof upon the Government of the Colony of New Zealand, or upon the Provincial Government of the Province of Otago, or the revenue thereof.

ON presentation of this debenture at the office of the Municipal Council, in the City of Dunedin, or at the Bank of New Zealand in Melbourne or London, on or after the first day of January, one thousand nine hundred and twenty-five, the bearer thereof will be entitled to receive \_\_\_\_\_ pounds.

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

Issued under the seal of the Corporation, the 1st day of January, 1875.

KEITH RAMSAY, Mayor.

J. M. MASSEY, Town Clerk.

H. S. FISH, Jun., Councillor.

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FORM OF COUPON.

Debenture No. \_\_\_\_\_, of the Corporation of the City of Dunedin, Otago, New Zealand, issued under "The Municipal Corporations Waterworks Act, 1872," "The Municipal Corporations Waterworks Act Amendment Act, 1873," and "The Dunedin Waterworks Act, 1874." Due \_\_\_\_\_.

ON presentation of this coupon at the office of the Municipal Corporation of the City of Dunedin, or at the Bank of New Zealand in Melbourne or London, on or after the day of \_\_\_\_\_, the bearer hereof will be entitled to receive \_\_\_\_\_ pounds.

KEITH RAMSAY, Mayor.

J. M. MASSEY, Town Clerk.

H. S. FISH, Jun., Councillor.

## SCHEDULE B.

## FORM OF DEBENTURE.

COLONY OF NEW ZEALAND.—THE CITY OF DUNEDIN WATERWORKS LOAN OF £200,000.

*Debenture for £* . . . *No.* . . .

Payable at the office of the Bank of New Zealand, London, on the first day of January, one thousand nine hundred and twenty-five.

Issued by the Corporation of the City of Dunedin, New Zealand, under the Acts of the General Assembly of New Zealand the Short Title whereof respectively is "The Municipal Corporations Waterworks Act, 1872," "The Municipal Corporations Waterworks Act Amendment Act, 1873," and "The Dunedin Waterworks Act, 1874."

N.B.—The holder of this debenture has no claim in respect thereof upon the Government of the Colony of New Zealand, or upon the Provincial Government of the Province of Otago, or the revenue thereof.

ON presentation of this debenture at the Bank of New Zealand, London, on or after the first day of January, one thousand nine hundred and twenty-five, the bearer thereof will be entitled to receive . . . pounds.

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

Issued under the seal of the Corporation, the 1st day of January, 1875.

KEITH RAMSAY, Mayor.

J. M. MASSEY, Town Clerk.

H. S. FISH, Jun., Councillor.

N.B.—The holder of this debenture may obtain payment thereof, at maturity, at the office of the Municipal Council in the City of Dunedin, or at the Bank of New Zealand in Melbourne, by giving to the said Municipal Council three months' previous notice in writing in that behalf.

## FORM OF COUPON.

Debenture No. . . . of the Corporation of the City of Dunedin, Otago, New Zealand, issued under "The Municipal Corporations Waterworks Act, 1872," "The Municipal Corporations Waterworks Act Amendment Act, 1873," and "The Dunedin Waterworks Act, 1874." Due . . .

ON presentation of this coupon at the Bank of New Zealand, London, on or after the . . . day of . . . , the bearer hereof will be entitled to receive . . . pounds, payable in Dunedin or Melbourne, on notice being given in accordance with the footnote to the debenture.

KEITH RAMSAY, Mayor.

J. M. MASSEY, Town Clerk.

H. S. FISH, Jun., Councillor.