

New Zealand.



ANALYSIS.

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1909, No. 12.—*Local.*

AN ACT to authorise the Consolidation by the Borough of Timaru of certain Loans into a Consolidated Loan. Title.

[24th December, 1909.]

WHEREAS the several loans in the Schedule hereto specified have, at the respective times shown in the said Schedule, been issued or authorised to be issued under the authority of the statute law of this Dominion, and certain of such loans are to the extent shown in each respective case in the said Schedule still outstanding: And whereas it is expedient that the said loans so specified in the said Schedule should be converted into a consolidated debt: And whereas in respect to each such loan so specified in the said Schedule a poll of the burgesses of the Borough of Timaru, or other persons qualified to vote at such poll or polls, was duly taken, and carried, for the purpose of consenting to the issue of each such loan and the incurring of the indebtedness thereby created: Preamble.

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. This Act may be cited as the Timaru Borough Loans Consolidation Act, 1909.

Interpretation.

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

“The Corporation” shall mean the Corporation named the Mayor, Councillors, and Burgesses of the Borough of Timaru, as incorporated by law :

“The Council” shall mean the Council of the said borough, and for carrying out the provisions of this Act it shall have and exercise all the powers of the Corporation :

“The scheduled loans” shall mean the several loans in the Schedule hereto specified :

“Debentures” shall include and mean all investments representing the scheduled loans by virtue of this Act :

“The agents” shall mean the agents appointed under the provisions of this Act :

“The Court” means the Supreme Court or other Court of competent jurisdiction :

The debentures authorised by this Act to be issued shall be termed Timaru Borough Consolidated Loan Debentures, 1909, and the loan or indebtedness hereby authorised shall be termed the Timaru Borough Consolidation Loan, 1909 :

“Public notice” and “publicly notify” means published in some newspaper in general circulation in the Borough of Timaru :

The provisions of the Rating Act, 1908, shall be deemed to be incorporated herewith :

“Revenues” shall include every class of revenue which the Corporation is entitled to receive.

The Corporation authorised to issue and convert debentures.

3. (1.) It shall be lawful for the Corporation, as soon and at such time or times as may be found convenient, to redeem and convert the scheduled loans or so much thereof as it may be deemed necessary so to do as hereinafter appears, notwithstanding that certain of such loans are not yet due and payable, and certain of such loans are not yet issued, but authorised as hereinbefore recited ; and for that purpose, or for the purpose of paying off or raising the whole or any part or parts of the scheduled loans, to raise the moneys necessary for such purposes, in one sum or in several sums as may by the Council be deemed expedient ; and for those purposes to create and issue consolidated debentures, to be disposed of in exchange for or in paying off the debentures representing the scheduled loans or any part thereof, or, where no debentures have been issued in respect of any such loan or loans, or the same have not been fully issued, such debentures may be created and issued to the amount of the said loans or to part of such amount as may by the Council be considered expedient, and to the amount of such further loans as may be found necessary to redeem and convert the said loans in manner hereinafter set forth :

Provided that debentures shall not be created to a greater amount than one hundred and thirty-six thousand pounds, and shall not be issued to a greater amount than shall be found necessary as aforesaid.

(2.) Nothing in this Act shall be deemed to entitle the Corporation to compel the holder of any existing debenture to exchange or accept payment of the same before the due date thereof.

Power to raise advances on untaken portion of drainage loan.

4. With reference to the debentures issued under the loan scheduled hereto as a drainage loan of fifty thousand pounds, payable on the thirty-first day of March, nineteen hundred and thirty-three, until the consolidated loan by this Act authorised is raised the Council may hypothecate or otherwise deal with the debentures at present untaken and unsold for the purpose of obtaining advances thereon.

5. On the balance of the remaining unsold and untaken-up debentures of the drainage loan referred to in the last preceding section being raised under the authority of this Act, that portion of such debentures then previously sold and taken up, or the unconverted balance thereof, as the case may be, shall be deemed to constitute a separate loan distinct from the consolidated loan hereby authorised, and shall not be subject to the provisions of this Act except as is herein otherwise specially provided; and the holders for the time being of such debentures shall have all the same rights and remedies, including recourse against the securities of the loan of which the debentures form part, as if a loan for the amount represented by the debentures held by them had been lawfully authorised and raised.

Balance of drainage loan already sold or unconverted deemed a separate loan.

6. The holders of debentures representing the scheduled loans or any of them may, by mutual agreement between the Corporation and the agent and such holders, surrender the same in exchange for debentures created under the provisions hereof, on such terms with reference to the difference in value as shall be agreed upon.

Debenture-holders may exchange for debentures issued hereunder.

7. For adjusting the terms of such conversion as is referred to in the last preceding section, the Corporation may pay to such holders the agreed difference in value between the debentures so surrendered and the debentures issued in exchange therefor, and such payment shall be made either in cash or by delivery of debentures for a further amount issued under the provisions hereof.

Terms of conversion.

8. All sums which may be necessary for the purpose of paying in cash to holders of converted debentures the agreed difference in value between such debentures and the debentures issued in exchange therefor may be paid out of the proceeds of debentures to be created and sold under the provisions of this Act.

Difference between converted debentures and debentures issued hereunder may be paid out of proceeds of debentures hereunder.

9. In any case in which the holder of any debentures representing any part of any of the scheduled loans shall prefer to accept an immediate cash price therefor, the Corporation or its agent may pay in cash the price agreed upon with him, and sell such debentures created under the provisions hereof as may be necessary to provide for such case.

Cash may be paid for debentures.

10. The Council may by resolution, to be evidenced by an instrument under its common seal, appoint any bank, company, or any person in England, and in such other place or places as may be found necessary or expedient, to be an agent for the purpose of managing the conversion and other operations contemplated by this Act; and such agent may exercise all such authority as is hereby

Appointment of agents.

conferred on the Corporation or the Council, unless the Council shall limit the authority of such agent.

Form of debentures and interest thereon.

11. The debentures and coupons issued under the provisions of this Act shall be in or to the effect of the form of debenture and coupon numbered (3) and (4) in the Second Schedule to the Local Bodies' Loans Act, 1908, subject, however, to the provisions of the Local Bodies' Loans Amendment Act, 1908; but it shall not be necessary for coupons to be under the common seal of the Corporation, but they shall be signed by the Mayor and Treasurer of the said borough or by the agent; and the debentures 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 of not less than fifty pounds, and shall have attached thereto coupons for interest payable half-yearly, and the coupons shall be numbered consecutively for each debenture; and no debenture or coupon shall be liable to stamp duty. The signature of any person to any coupon as hereinbefore provided for may be lithographed or impressed thereon.

Place of payment of debentures.

12. The principal and interest represented by each debenture and coupon shall be payable at a place or places named in the debenture within or without New Zealand, and shall have currency as shall appear therein, and may state alternative places for payment, and the place or places for payment of principal need not be the same as for the payment of interest.

Maximum interest.

13. No debentures shall be sold by the Council or its agents at a price that will produce to the purchaser a greater interest than four pounds ten shillings per centum per annum.

Debentures to rank *pari passu* and be payable to bearer.

14. The debentures shall rank *pari passu*, and have no preference or priority the one over the other by reason of priority of date of issue or otherwise. They shall be payable to bearer, and transferable by delivery.

Poll of burgesses or other steps not necessary.

15. (1.) It shall not be necessary that any meeting of the burgesses of Timaru shall be called or held, or that any poll shall be taken or other steps taken, for the purpose of consenting to or in respect of the issue of any debentures under the authority of this Act, or the incurring of the indebtedness thereby created, or otherwise for the authorisation of anything herein provided for.

(2.) All proceedings may be taken and rights exercised in respect of the loan or loans hereby authorised in all respects as with regard to loans lawfully authorised under the Local Bodies' Loans Act, 1908, or the enactments for which it has been substituted, and this Act shall be sufficient authority for the raising of the same accordingly; but this provision shall not be construed as in anywise limiting the other rights conferred on the said Corporation or Council by this Act.

Debentures to be a debt of Corporation.

16. The sum of money named in any debenture and in any coupon shall be a debt of the Corporation to the holder of such debenture or coupon for the amount named therein.

Power to reborrow to repay debentures hereunder.

17. When the principal money secured by the debentures issued hereunder becomes payable, the Corporation shall have power to reborrow moneys under the provisions of this Act for the purpose of paying the same.

18. The rate of interest payable under the debentures issued under the authority of this Act shall not in any case exceed the sum of four pounds ten shillings per centum per annum, and such debentures shall have a currency not exceeding fifty years.

Rate of interest and currency of debentures.

19. The several rates, rents, and revenues forming or intended to form the securities for the scheduled loans respectively, and generally all existing powers, remedies, and securities in respect to the scheduled loans, shall remain unimpaired as the securities for so much of the scheduled loans as shall for the time being remain unredeemed, unconverted, or unconsolidated; and, subject to the foregoing provisions in this section, the debentures and coupons issued under the provisions hereof shall be secured and be a charge upon the rates, rents, and revenues now forming the security for the said scheduled loans.

Security for scheduled loans and unconsolidated debentures.

20. The Council may pay the first year's interest on any loan or loans hereby authorised, and all expenses of and incidental to the authorisation and flotation of such loan or loans, out of the proceeds thereof; and may also, in order to save exchange, pay interest to the date of the payment-off or conversion of any scheduled loan or loans, or any part thereof, out of the proceeds of the loan or loans hereby authorised; but in the latter case the money so paid shall be recouped from the District Fund out of such revenue forming part thereof as is applicable by law to its payment.

First year's interest on any loan raised and expenses thereof may be paid out of proceeds thereof.

21. (1.) For the purpose of providing the interest upon the debentures issued under the authority of this Act, and for providing a sinking fund for the repayment of debentures, the Council shall have power, by special order or special orders, to make and levy a special rate or special rates upon all rateable property within the said borough as at present constituted or hereafter extended or altered according to the annual rateable value thereof.

Power to Council to levy special rate.

(2.) Every such special rate shall be annually recurring, and shall be payable at such intervals as the order making the same directs, and shall be levied year by year without further proceedings by the Council until the debt created by such debentures is paid off; and the Council shall have power to pledge or hypothecate, for the payment of principal or interest (or both) to debenture-holders, such special rate and all such portions of the assets or revenues of the Corporation as may by law be pledged or hypothecated for the security of debenture-holders under the Local Bodies' Loans Act, 1908, and its amendments.

22. The Council shall have power from time to time to amend any special rate made by it under the provisions hereof by increasing or diminishing the same; and particularly may reduce the special rate made in respect of the drainage loan, nineteen hundred and eight, to an amount sufficient to provide for the charges for which such special rate stands as security, but with that exception no special rate shall be diminished by the Council under the powers herein contained unless the Controller and Auditor-General shall, previously to any such reduction, in writing approve thereof, and reduction shall only continue for so long a period as he shall approve.

Power to Council to amend special rate.

23. No objection shall be allowed in any Court to any rate which the Council shall purport to make or levy, or have made or levied, or which shall or may form the security for the debentures or

No objections allowed to rates struck hereunder.

coupons issued hereunder or for the scheduled loans, or any of them, or any part thereof; and no irregularity, defect, or omission, whether in form or in substance, in the making, striking, or levying of any such rate, or in the election or appointment of any body or person acting in connection therewith, shall be allowed by any Court as a defence to any action or proceeding for the recovery of any such rate, or be entertained as a ground for quashing any such rate or restraining the recovery thereof.

Act to prevail over conflicting public Acts.

24. Whenever there shall be any provision of any public Act, whether incorporated herewith or not, which shall conflict with the securities established or maintained in favour of debenture-holders by this Act, or which shall be in any way contrary to any provisions of this Act, the provisions of this Act shall prevail.

Local Bodies' Loans Act, 1908, and Amendment Act to apply.

25. Subject as is hereinbefore in this Act provided, and where not inconsistent therewith, the provisions of the Local Bodies' Loans Act, 1908, and of the Local Bodies' Loans Amendment Act, 1908, particularly (but without prejudice to the generality of this provision) those relating to sinking funds and debentures, shall apply to and be deemed to be incorporated with the provisions of this Act *mutatis mutandis*; and the provisions of the Local Bodies' Loans Amendment Act, 1908, in respect to guarantee by the Government of loans to local bodies shall be applicable to the whole or any part or parts of any loans authorised to be raised under this Act, if the Minister of Finance so approves, notwithstanding the fact that the sum of seven thousand three hundred pounds has already been raised in respect of the loan of fifty thousand pounds mentioned in the Schedule hereto as for drainage purposes, and that a special rate has already been made in respect of that loan; and this Act shall suffice in lieu of further compliance with the provisions of Part I of the Local Bodies' Loans Act, 1908.

Schedule.

SCHEDULE.

Date of Issue.	Date of Maturity.	Amount of Loan, and Purpose.	Rate of Interest.
1880	1st July, 1910 ...	£60,000 for constructing water-works and supplying the borough with water	7 per cent.
1908	31st March, 1933	£50,000 for borough drainage and sewerage works, and house and other building connections. (£42,700 of this not taken up or sold)	4½ per cent.
1909	Currency to be not more than 50 years	£18,000 for various improvements to the borough water-works. (None of this has yet been sold)	Not exceeding 5½ per cent.*
1909	Currency to be not more than 50 years	£6,000 for formation and improvement of certain borough streets. (None of this has yet been sold)	Not exceeding 5½ per cent.*

* Including sinking funds.