

New Parliament.]

This PUBLIC BILL, originated in the HOUSE OF REPRESENTATIVES, and having this day passed as now printed is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
12th November, 1879.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Mr. W. J. Hurst.

City of Auckland Loans Consolidation.

ANALYSIS.

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A BILL INTITULED

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

WHEREAS under and by virtue of the provisions of Part XXI. of an Act of the General Assembly of New Zealand, No. XXIV., made and passed in the thirty-first year of the reign of Her present Majesty, shortly intituled "The Municipal Corporations Act, 1867," the Council of the Borough of Auckland did, by resolution dated the twenty-third day of October, one thousand eight hundred and seventy-one, borrow the sum of twenty thousand pounds, and caused the debentures to be issued for the same, which debentures are still outstanding: And whereas by an Act of the Superintendent and Provincial Council of Auckland made and passed in the thirty-seventh year of Her present Majesty, and shortly intituled "The City of Auckland Loan Empowering Act, 1874," it was enacted that the Council (meaning thereby the Mayor, and Councillors, and Burgesses of the Borough of the City of Auckland) might borrow at interest, on the

Preamble.

No. 39.—3.

credit of security in the said Act mentioned, any sums of money not exceeding in the aggregate the sum of fifty thousand pounds: 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 thirty-five thousand pounds, and has caused debentures to be issued 5 for the same, which debentures are still outstanding: And whereas by an Act of the General Assembly of New Zealand passed in the thirty-sixth year of the reign of Her present Majesty, shortly intituled "The Auckland Waterworks Act, 1872," No. LVIII., the Municipal Council of the City of Auckland were authorized to borrow the sum of one 10 hundred thousand pounds for the construction of waterworks, under the provisions of "The Municipal Corporations Waterworks Act, 1872," for the supply of the City of Auckland with water: And whereas the said Municipal Council constructed the said waterworks, and, by virtue of the powers conferred upon them by the said Act, and upon security 15 in the said "Municipal Corporations Waterworks Act, 1872," provided, borrowed the said sum of one hundred thousand pounds, and caused debentures to be issued for sums amounting in the whole to one hundred thousand pounds, and such debentures are now outstanding: And whereas, the said sum of one hundred thousand pounds being 20 found insufficient for the completion of the said waterworks, the said Municipal Council of the City of Auckland were, by an Act of the General Assembly of New Zealand passed in the fortieth year of Her present Majesty, shortly intituled "The Auckland Waterworks Act Amendment Act, 1876," No. V., authorized to borrow an additional 25 sum of twenty-five thousand pounds in addition to the sum of one hundred thousand pounds authorized to be raised under "The Auckland Waterworks Act, 1872:" And whereas the said Municipal Council borrowed the said sum of twenty-five thousand pounds under and by virtue of the powers conferred upon them by the said "Auck- 30 land Waterworks Amendment Act, 1876," and upon the security in the said "Municipal Corporations Waterworks Act, 1872," and caused debentures to be issued for sums amounting to the said sum of twenty-five thousand pounds: And whereas the Corporation of the City of Auckland are desirous of having powers to 35 borrow as hereunder-mentioned money necessary as well for paying off the debts already contracted under the said several Acts and redeeming the debentures already issued as for raising the a further sum of one hundred and seventy thousand pounds for works of public utility in the City of Auckland, and it is expedient that such powers should be given for that 40 purpose for the purposes specified in Schedule A 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:—

Short Title.

1. The Short Title of this Act is "The City of Auckland Loans 45 Consolidation Act, 1879."

Interpretation.

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

"The Council," "the Corporation," respectively mean the Corporation of the City of Auckland, comprising the body corporate of the Mayor, Councillors, and Citizens of 50 the City of Auckland:

"The revenues" means (~~excepting rents receivable from land, endowments, and money receivable by way of grant from the General Government~~) and includes the entire revenues of the City of Auckland, including rates, whether general or 55 special, for the time being of the Corporation applicable to municipal purposes within the city, from whatsoever source the same may be derived.

Loan of £250,000 authorized.

3. The Corporation may, subject to the provisions of this Act, borrow and take up at interest any sum of money not exceeding in 60

the whole the sum of three *two* hundred and fifty thousand pounds, whereof the sum of two hundred and fifty thousand pounds may be forthwith or from time to time raised, at the discretion of the said Council, for and to be applied to the several purposes specified in Schedule A to this Act, and the remaining one hundred thousand pounds may be from time to time raised by way of special loan, in accordance with the provisions of sections one hundred and thirty nine to one hundred and forty six, inclusive, of "The Municipal Corporations Act, 1876."

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 B 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.

Corporation may issue debentures.

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.

Time and place of payment

6. The interest on every debenture shall not exceed six 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 C 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 seven per centum on the price paid.

Coupons.

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.

Debentures and coupons transferable by delivery.

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 agent 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.

Agents for raising loan.

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.

How debentures to be signed.

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 seven 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; 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.

Hypothecation.

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

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

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.

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Struck out.

~~12.~~ At the time appointed by any debentures issued under this Act for the payment of the principal money secured thereby, the Corporation may, by special order, 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.

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Register of debentures to be kept.

~~13.~~ 12. 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 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.

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Agents to forward notice of issue of debentures by them.

14. 13. 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.

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Sinking fund.

~~15.~~ 14. 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 Commis-

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sioners 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.

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14- 15. 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.

Commissioners to furnish accounts.

17- 16. When the principal moneys of the loan shall become payable, the accumulations of such sinking fund shall be applied in or towards payment thereof.

Fund to be applied in payment of loan

18- 17. The Council may, 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 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 city to an amount not exceeding in any one year the sum of two shillings and sixpence 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.

19- 18. 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.

Special rate to continue until moneys paid off.

20- 19. 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 "Municipal Corporations Act, 1876," to apply.

21- 20. 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. And the said Council may levy a rate for general municipal purposes as well as the special rate authorized to be levied hereunder, but so always that there shall not be leviable in the said City of Auckland a greater amount for rates in any one year than two shillings and sixpence in the pound on the annual value of the rateable property in the city.

Limits of rates extended.

Proviso and Section struck out.

Provided always that it shall not be lawful for the said Corporation to borrow more than one hundred and ninety-five thousand pounds until and unless the rates and revenues levied and received by the Corporation to the extent authorized under this Act shall be sufficient to pay the annual interest of the said sum of one hundred and ninety-five thousand pounds and such further sums as may from time to time be proposed to be borrowed.

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22. All moneys accumulated prior to the date hereof by the said Corporation by way of sinking fund in respect of any of the loans for which this Act is intended to make provision shall be and become ordinary revenue of the said Corporation from and after the passing of this Act.

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

23. 21. 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.

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How moneys to be applied.

24. 22. The moneys to be borrowed under the provisions of this Act shall to the extent in each case provided in and by the said herein-before-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, shall be applied to the several purposes specified in the Schedule to this Act, in the proportions therein set forth, and to no other purposes whatsoever.

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Separate accounts to be kept.

25. 23. 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.

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

26. 24. 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 any wise chargeable or accountable for the loss, misapplication, or non-application of the same, or to inquire as to the necessity for raising the same.

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Payment of debentures.

27. 25. 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.

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

28. 26. 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 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

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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.

5 29. 27. 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.

10 30. 28. 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. Power of Receiver to amend special rate.

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

15 32. 30. All moneys received by the Receiver shall be applied only under the order of a Judge of the Supreme Court as follows:— Application of money by Receiver.

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

20 (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.

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

33. 31. 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.

30 34. 32. 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.

New clause.

33. This Act shall not come into operation until the Mayor of the City of Auckland has published a notice once in each week, for four successive weeks, in a newspaper in the City of Auckland, setting forth a proposal to bring this Act into operation, 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.

SCHEDULES.

Schedules

SCHEDULE A.						£
Market Loan	...	...	...	...	...	20,000
City Endowment Loan, 1874	...	...	...	...	...	35,000
"Waterworks Act, 1872"	...	...	...	...	...	100,000
"Waterworks Amendment Act, 1876"	...	...	...	...	...	25,000
To provide for payment of Improvement Commissioners' Debentures and works of public utility on the lands comprised in the said Trust	...	...	...	...	...	35,000
City Endowment Loan, for works of public utility in City of Auckland	...	...	...	...	...	15,000
For Erection of Town Hall, Public Offices, Free Public Library, and Public Bath	...	...	...	...	...	20,000
						<u>£250,000</u>

New Schedule.

SCHEDULE A.

I.

CONSOLIDATION.

To convert the under-mentioned loans, specified in the preamble to this Act, into a loan to be raised under this Act, viz.,—

1. The Loan raised by authority of a resolution dated the 23rd of October, 1871	£	20,000	£
2. The Loan authorized and partly raised under "The City of Auckland Loans Empowering Act, 1874"	£	50,000	
3. The Loan raised under "The Auckland Waterworks Act, 1872"	£	100,000	
4. The Loan raised under "The Auckland Waterworks Act Amendment Act, 1876"	£	25,000	
			195,000

II.

1. To pay off the debt due by the Commissioners appointed and incorporated under an Act of the General Assembly intituled "The Auckland Improvement (Albert Barrack Reserve) Act, 1872," and the several Acts amending the same, and to improve the property to be transferred, and especially to give full effect to the provisions of section 13 of the said Auckland Improvement Act	£	35,000	
2. To erect a Town Hall, Public Offices, and Public Baths, and to establish a Free Public Library	£	20,000	
			55,000
			£250,000

SCHEDULE B.

COLONY OF NEW ZEALAND.

"City of Auckland Loans Consolidation Act, 1879." Loan, £350,000 £250,000.

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

Debenture for £ Redeemable, 19 No.
Issued by the Corporation of the City of Auckland, New Zealand, under an Act of the General Assembly of New Zealand intituled "The City of Auckland Loans Consolidation Act, 1879."

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 Auckland, New Zealand, this day of , 18 .

(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 the Cities of Wellington, Auckland, Dunedin, London, Melbourne, or Sydney, by giving to the said Municipal Council three months' previous notice in writing in that behalf.]

SCHEDULE C.

"The City of Auckland Loans Consolidation Act, 1879."

COUPON. DEBENTURE No.

On presentation of this coupon at [state place of payment], on or after the day of , 18 , the bearer thereof will be entitled to receive £ .

(L.S.)

Mayor.
Town Clerk

SCHEDULE D.

The City of Auckland Loans Consolidation Act, 1879." £350,000 £250,000 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 Auckland 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 £350,000 £250,000 authorized by law to be raised by the said Corporation of the City of Auckland 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 Auckland, this day of , 18 .

(L.S.)

Mayor.
Town Clerk.

SCHEDULE E.

"The City of Auckland Loans Consolidation Act, 1879." £350,000 £250,000 Loan.
CERTIFICATE OF AUTHORITY GIVEN BY THE CORPORATION OF THE CITY OF AUCKLAND
TO BORROW MONEY.

THIS is to certify that, at a meeting of the Council of the Corporation of the City of Auckland 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 Auckland, this day
of 18 .

(L.S.)

Mayor
Town Clerk.