

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,
24th September, 1873.*

(*Mr. Ormond.*)

Hawke's Bay Loan Ordinance Empowering.

ANALYSIS.

<p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Certain lands set aside as a security for loan. 3. Interpretation. 4. Subject to this Act, Provincial Legislature empowered to pass Loan Ordinance for certain purposes. 5. Interest and principal not to be made payable beyond Australasia. Special provision to that effect to be contained in Ordinance. 6. Colony not to be liable for loan. Special provisions to that effect to be contained in Ordinance. 7. Ordinance not to give security over ordinary revenue. 8. Loan Account to be kept. 9. Proceeds of lands in Second Schedule to be applied to payment of moneys raised. 10. All proceeds of sale of land to go to Loan Account. <p>WHARFAGE AND HARBOUR DUES SHALL BE MADE A FURTHER SECURITY.</p> <ol style="list-style-type: none"> 11. 15 per cent. from Land Fund payable to Loan Account except gold revenue. 12. Ordinance to provide for collection of dues, &c. 	<ol style="list-style-type: none"> 13. Moneys at credit of Loan Account not subject to appropriation. 14. Moneys how to be withdrawn from Loan Account. 15. Provincial Auditor to certify. 16. Provincial Auditor to have powers under "The Provincial Audit Act, 1866." 17. Provincial Auditor guilty of misdemeanour, if he wilfully certifies warrant except in accordance with this Act. 18. If error unintentional, to be liable to action for amount withdrawn. 19. If Superintendent or Auditor refuse to make or certify warrant, person interested may apply to Supreme Court. 20. Debentures, &c., not liable to Stamp duty. 21. Ordinance to fix the maximum rate of interest and discount. Terms authorized not to entail higher rate of interest than £6 per cene. on moneys actually raised. 22. Works to be paid in cash. 23. Debentures, &c., to bear notice of non-liability of Colony. 24. Ordinance to be reserved for assent. 25. Act or Ordinance not to affect existing securities. Schedules.
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A BILL INTITULED

AN ACT to authorize the Provincial Legislature of Hawke's Bay to provide for raising a Loan not exceeding Two Hundred and Ten Thousand Pounds, and to set aside certain Lands as a Security for such Loan. Title.

BE IT 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 Hawke's Bay Loan Ordinance Empowering Act, 1873." Short Title.

2. The lands described in the Second Schedule hereto are hereby set aside as a security for a loan not exceeding two hundred and ten thousand pounds, to be raised under the authority of an Ordinance be passed by the Provincial Council of the Province of Hawke's Bay, by virtue of this Act, for the purposes specified in the First Schedule hereto. Certain lands set aside as a security for loan.

Interpretation.

3. In this Act, unless such meaning is inconsistent with the context, the word "Australasia" shall include Australia, New Zealand, and Tasmania; the word "Ordinance" shall include an Act of the said Provincial Legislature; and the expression "Provincial Treasurer" includes any person acting as or for the Provincial Treasurer of the Province of Hawke's Bay. 5

Subject to this Act, Provincial Legislatures empowered to pass Loan Ordinance for certain purposes.

4. Notwithstanding anything to the contrary contained in the eleventh section of "The Consolidated Loan Act, 1867," or any other Act, the Superintendent and Provincial Council of the Province of Hawke's Bay may, subject to the provisions and conditions hereafter contained, pass an Ordinance authorizing the raising of a loan not exceeding two hundred and ten thousand pounds for all or any of the purposes specified in the First Schedule hereto; but of the said loan not more than fifteen thousand pounds shall be raised before the first day of January, one thousand eight hundred and seventy-five; and such Ordinance shall make provision to that effect. 10 15

Interest and principal not to be made payable beyond Australasia.

5. No interest or principal payable in respect of such loan shall be made payable or be payable at any place not within Australasia; and the Ordinance passed under the authority of this Act shall contain a provision in the words following, or to the effect thereof, that is to say,— 20

Special provision to that effect to be contained in Ordinance.

"The interest and principal payable in respect of the loan authorized by this Ordinance to be raised shall be and be made payable at some place or places in Australasia, but not elsewhere." 25

Colony not to be liable for loan.

6. Neither the loan of money raised, nor any debenture bond mortgage or other security made or issued under the authority of such Ordinance as aforesaid, shall create any charge or liability of any kind whatever, either direct indirect contingent or otherwise, upon the Colony or its Revenues or the Government thereof, by reason or on account of the non-payment of the principal interest or sinking fund thereof, or the neglect or omission of any act matter or thing required or directed by this Act to be done by any officer or other person, or on any other account whatever; nor shall the lender of any such moneys, or the holder of any such debenture bond mortgage or other security, have any claim whatever in respect thereof, either direct indirect contingent or otherwise, on the Colony or its Revenues or the Government thereof, by reason or on account of the matters aforesaid or on any other account whatever: And the Ordinance authorizing the raising of such loan, or the making of any debenture bond mortgage or other security for such loan, shall contain a provision in the words following, or to the effect thereof:— 30 35 40

Special provisions to that effect to be contained in Ordinance.

"Neither the loan hereby authorized to be raised, nor the debentures bonds mortgages or other securities hereby authorized to be made or issued, shall create any charge or liability of any kind whatever, either direct indirect contingent or otherwise, on the Colony, its Revenues, or the Government thereof, by reason or on account of the non-payment of the principal interest or sinking fund thereof or secured thereby, or the neglect or omission of any act matter or thing directed by this Ordinance or the Act of the General Assembly called "The Hawke's Bay Loan Ordinance Empowering Act, 1873," to be done by any officer or other person, or on any other account whatever; nor shall the lender of any moneys so raised, nor the holder of any such debenture bond mortgage or other security, have any claim whatever in respect thereof, direct indirect contingent or otherwise, upon the Colony, or the Revenues or Government thereof, or on any such account as aforesaid, or on any other account whatever." 45 50 55 60

7. Neither the loan raised, nor any bond debenture mortgage or other security made or issued, under the authority of such Ordinance, nor the lender of such moneys, nor the holder of any such security as as aforesaid, shall have, nor shall such Ordinance give to any such loan nor to any such lender, or to any holder of any such security, as against any other liabilities of any kind, either of the Province of Hawke's Bay or the Superintendent thereof as such or otherwise, whether created or incurred before or after the passing of such Ordinance, any preference or priority of claim upon or against the Ordinary Revenue of such Province or any other Revenues or moneys from time to time subject to the appropriation of the Legislature of the said Province, other than and except upon or against the lands described in the Second Schedule and the wharfage and harbour dues as hereinafter provided.

Ordinance not to give security over Ordinary Revenue.

15 The Ordinance authorizing the raising of such loan shall contain a provision in the words of the preceding part of this section or to the effect thereof.

8. There shall be kept at the Bank at which the Provincial Account of the said Province is for the time being kept an account to be called "The Loan Account of the Ordinance" [*naming the Short Title of the Ordinance passed under the authority of this Act*].

Loan Account payable thereto.

9. The revenue arising from the lands described in the Second Schedule hereto, shall stand charged with payment of moneys authorized to be raised under the said Ordinance: Provided always that the said lands shall be sold and disposed of in the same manner in all respects as other waste lands of the Crown in the said Province, under the laws for the time being in force relating to the sale letting and disposal of such waste lands in the said Province: Provided that no such lands shall be sold except at public auction or at a less price than ten shillings per acre.

Proceeds of lands in Second Schedule to be applied to payment of moneys raised.

10. The proceeds of the sale or leasing of the lands described in the Second Schedule hereto, shall be paid by the Receiver of Land Revenue into the Loan Account as aforesaid; and all moneys so paid shall from time to time be applied in or towards payment of the principal and interest falling due on the moneys raised under the said Ordinance.

All proceeds of sale of land to go to Loan Account.

11. The Legislature of the said Province may provide that during the period for which such loan may be raised, so much of the revenue of the said Province, not exceeding fifteen pounds out of every one hundred pounds, paid or payable to the Land Fund of the said Province, as defined by "The Public Revenue Act, 1867," except so much thereof as arises from the duty on the export of gold or miners' rights business licenses or mining leases under any Act regulating mining for gold, shall be paid to the credit of the said Loan Account:

£15 per cent. from Land Fund payable to Loan Account, except gold revenue.

And if it shall be so provided by such Ordinance then such percentage as aforesaid shall be paid accordingly, and shall stand charged with the payment of the moneys authorized to be raised under such Ordinance as aforesaid.

WHARFAGE AND HARBOUR DUES SHALL BE MADE A FURTHER SECURITY.

12. In the Ordinance passed under the authority of this Act it shall be provided that the wharfage and harbour dues on goods imported to and exported from the Port of Napier in the said Province and which shall be levied under any Ordinance of the said Province or which shall be levied under the authority of the Ordinance hereby authorized to be passed as aforesaid and at such rates as shall be fixed thereby, shall respectively stand charged with the payment of the moneys authorized to be raised under such Ordinance as a further security for the payment of the same.

Ordinance to provide for collection of dues, &c.

And the said Ordinance shall expressly provide for the appointment of an officer whose duty it shall be to collect, under the provisions of any such Ordinance as aforesaid such wharfage and harbour dues

or other moneys as shall arise from the importation and exportation of of goods as aforesaid, and to pay the same from time to time as received into the said Loan Account.

Moneys at credit of loan not subject to appropriation.

13. Moneys standing to the credit of the Loan Account as aforesaid, shall be applied in accordance with the said Ordinance, and so long as such loan or any part thereof is unpaid, such moneys shall not be subject to any other appropriation by the Provincial Council of the said Province. Any moneys in excess of the amount required to pay the interest and principal or sinking fund falling due at any early date may be invested in debentures authorized by the General Assembly and for the payment of which the Colony is liable. 5 10

Moneys how to be withdrawn from Loan Account.

14. No part of any moneys at the credit of the said account shall, except as hereafter provided, be drawn from such account, or be issued or paid by the Provincial Treasurer, except in pursuance of warrants under the hand of the Superintendent of the said Province, directed to such Provincial Treasurer, and certified by the Provincial Auditor of the said Province. Every such warrant shall state the purpose for which the money is to be paid. 15

Provincial Auditor to certify.

15. Every such warrant shall before the same is signed by the Superintendent, be laid before the Provincial Auditor, who shall not certify the same unless he be first satisfied that the purpose specified in the warrant is one upon which moneys at the credit of the loan account may be expended, and that the amount specified is at the credit of such account. 20

Provincial Auditor to have powers under "The Provincial Audit Act, 1866."

16. The Provincial Auditor of the said Province shall, in the performance of his duties under this Act, have all the powers conferred on him by "The Provincial Audit Act, 1866," and the Acts amending the same, in relation to the revenues of the said Province and the accounts thereof. 25

Provincial Auditor guilty of misdemeanour if he wilfully certifies warrant except in accordance with this Act.

17. If the Provincial Auditor shall wilfully certify any warrant except in accordance with this Act, he shall be guilty of a misdemeanour, and on conviction be liable to imprisonment for any term not exceeding two years; and if any moneys shall have been withdrawn from the said account in pursuance of such warrant, he shall also forfeit and pay on such conviction a penalty equal to the sum so withdrawn; and every penalty so enforced shall be paid to the Loan Account. 30 35

If error unintentional, to be liable to action for amount withdrawn.

18. If the Provincial Auditor shall through unintentional error or carelessness or negligence, or otherwise than wilful default, certify any warrant except in accordance with this Act, and any moneys shall have been withdrawn in pursuance thereof, he shall be liable to forfeit and pay to Her Majesty a sum equal to the sum so withdrawn, and such sum, with full costs of suit, shall be recoverable by action suit or information in the Supreme Court, in like manner as money due to Her Majesty within the Colony, and such sum, when recovered, shall be paid into the Loan Account. 40 45

If Superintendent or Auditor refuse to make or certify warrant, person interested may apply to Supreme Court.

19. If the Superintendent shall refuse or neglect to make or sign any warrant authorizing the issue of any moneys from the said account for the payment to any person of any sum which he is entitled to be paid from the said account, and if the Provincial Auditor shall refuse to certify any warrant made by the Superintendent for the payment to any person of any sum which he is entitled to be paid from such account, in any such case such person may apply in a summary way to a Judge of the Supreme Court for an order to the Superintendent or Auditor, as the case may be, to make or certify such warrant, and if the Superintendent or Auditor shall neglect or refuse to obey such order, the Supreme Court or Judge thereof may appoint some other person to do, in the name of the Superintendent or Auditor, the act ordered to be done, and the act done by such person shall have the same effect as if done by the Superintendent or Auditor as the case may be. 50 55 60

20. No debentures bonds mortgages or other securities made or issued under the authority of such Ordinance shall be liable to any Stamp duty.

Debentures &c. not liable to Stamp duty.

21. The said Ordinance shall fix the maximum rate of interest to be paid on the loan thereby authorized to be raised, and on the debentures bonds or other securities thereby authorized to be issued, and also the maximum rate of discount at which such loan may be raised, and at which such debentures bonds or other securities may be issued sold hypothecated or otherwise disposed of.

Ordinance to fix the maximum rate of interest and discount

10 The Ordinance shall not authorize the raising of the loan on terms which, taking into consideration the rate of interest authorized to be paid and the discount at which the loan is authorized to be raised, will entail a higher rate of interest than six pounds for every one hundred pounds actually raised.

Terms authorized to entail higher rate of interest than £6 per cent. on money actually raised.

15 22. All works authorized to be constructed under this Act shall be contracted and paid for in cash, and not by debentures or other securities authorized to be issued by Ordinance of Provincial Council.

Works to be paid cash.

20 23. Upon every debenture bond or other security made or issued under the authority of the said Ordinance, there shall be written or printed in legible characters the words following:—"The Colony of New Zealand and the Revenues and Government thereof are not, directly indirectly or contingently, liable for or in respect of this security.— See "The Hawke's Bay Loan Act Empowering Act, 1873."

Debenture &c. to bear notice of non liability of Colony

25 24. The Ordinance passed under the authority of this Act shall be reserved for the Governor's assent.

Ordinance to be reserved for assent

25 25. Nothing in this Act contained, or in the Ordinance to be passed by virtue hereof, shall prejudice vary or affect any security or securities heretofore charged upon the revenues of New Zealand or any part of them.

Act or Ordinance not to affect existing securities.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

For the Construction of Works to improve the Harbour of Port Ahuriri ...	£10,000
For the Construction of a Breakwater at Port Ahuriri	200,000
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	£210,000

SECOND SCHEDULE.

Block A.—Estimated area, 62 acres, Town of Napier. Bounded on the North by Sections Nos. 541, 543, a Public Reserve, Sections Nos. 499, 498, 495, 493, 491, 489, 487, 485, 483, 481, by Waghorn Street, by Sections Nos. 468, 467, 466, 457, and by Harding Road; on the East and South by Battery Road to its junction with Spencer Road; and on the West by a straight line bearing north from the junction of Spencer Road with Battery Road to the south-west corner of Town Section No. 537 on Gough Island; thence by that Section and Sections Nos. 534, 528, 527, and from the north-west corner of Section No. 527 by a straight line to the starting point at the south-west corner of Section No. 541.

Block B.—Whare o Maranui Block—estimated area, 1,798 acres. Bounded to the North by the Ahuriri Lagoon 5,978 links, and the Town of Napier; to the East by the Tutae o Mahu Block; to the South by the Meanee Road, and by Suburban Sections Nos. 43, 42, 41, 40, and 39, of Te Whare o Maranui Block; and to the West by the Meanee River: Provided that a Native reserve of ten acres, included within the above-named boundaries, is excluded.

Block C.—Mohaka Waikare Block—estimated area, 50,000 acres. Starting at the southern boundary of Block No. 12, Mohaka District, where it is intersected by the Ngahapu Creek. Bounded on the North by Blocks Nos. 12, 28, 21, Mohaka District, the Mohaka River Blocks Nos. 23 and 24, Mohaka District, and by the Mohaka River; on the East and South by a line bearing south-west from the starting point at the Ngahapu Creek to the junction of the Pukahu Creek with the Waikare River; on the South by the Waikare River to its source at Patua Wahine, and by a line bearing north-west to the Mohaka River: Provided that Blocks Nos. 24 and 34, Mohaka District, containing 84 acres, and included within the above boundaries, are excluded.

Any such agreement shall define the area of land to be included therein, and may be made to endure for any period not exceeding years; and subject to the stipulations to be therein contained, and to this Act, such agreement may authorize the person with whom the same is made to dig and search for minerals, and to erect and maintain all necessary works for that purpose, upon such terms and stipulations as the Superintendent shall think fit; but every such agreement shall contain a provision to the effect that, in case of abandonment of the land or in case of forfeiture of any rights conferred by such agreement, the possession of such land shall be resumed by the Superintendent, and the surface thereof shall be restored to its original condition by or at the expense of the person with whom the agreement shall have been made.

Any such agreement may contain a provision that a lease of the land included therein shall be granted for a term of years not exceeding years, at such rent and upon and subject to such terms and conditions as the Superintendent shall think fit; but the Governor shall be a party to and join in and execute any such lease.

4. For the purposes of being a party to and joining in and executing any such lease as aforesaid, the Governor and his successors shall be and be deemed to be a corporation sole, and in any such lease as aforesaid he may insert such further or other stipulation as he shall think necessary.

5. In order to give effect to the provisions hereinbefore contained, it shall be lawful for the Superintendent, subject to this Act, in the manner provided by "The Public Reserves Act, 1854," to enter into and execute any such lease as aforesaid; but nothing herein contained shall be deemed to authorize a lease of any land which, under the provisions of the said Act or of any other Act or Ordinance, may have been set apart or reserved for any specific purpose, or may be by any such Act or Ordinance authorized to be dealt with for any such purpose.

Governor a corporation sole for purposes of this Act.

Leases may be granted by Superintendent, but not to interfere with reserves set apart under "The Public Reserves Act, 1854," for specific purposes.