

[AS REPORTED FROM COMMITTEE OF THE WHOLE, 10TH SEPT., 1873.]

(Hon. Mr. Vogel.)

# Provincial Loans Act.

## ANALYSIS.

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## A BILL INTITULED

Title.

AN ACT to empower the Legislatures of Provinces to pass Laws authorizing the raising Loans for certain Purposes and subject to certain Conditions.

Preamble.

WHEREAS by the eleventh section of "The Consolidated Loan Act, 1867," it is enacted that from and after the passing of the said Act, no Act or Ordinance which may be passed by any Provincial Council of any Province in New Zealand for raising any Provincial Loan, or for the guarantee of the payment of any interest or subsidy, shall be valid: And whereas it is expedient that the Legislature of each Province should be empowered to pass laws authorizing the raising of loans subject to the conditions 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 shall be "The Provincial Loans Act, 1873."

Interpretation.

2. In this Act, unless such meaning is inconsistent with the context, the word "Ordinance" includes Act, and shall mean any Ordinance hereafter passed by a Provincial Legislature; the word "Australasia" shall include Australia, New Zealand, and Tasmania; and the expression "Provincial Treasurer" includes any person acting as or for the Provincial Treasurer of a Province.

3. Notwithstanding anything to the contrary contained in the said recited section of "The Consolidated Loan Act, 1867," or any other Act, the Legislature of any Province may, subject to the provisions and conditions hereafter contained, pass Ordinances authorizing the raising of Provincial loans, but only for the purposes hereafter provided, or for any one or more of such purposes. Nothing herein contained shall be deemed to apply to Ordinances of Provincial Councils authorizing or providing for the raising of loans by Municipalities, Road Boards, Highway Boards, or other bodies or persons, except the Superintendent and any body or person on behalf of the Province, nor shall anything herein contained be deemed to restrict or prohibit the passing of such Ordinances.

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

4. No interest or principal payable in respect of any loan authorized by any Ordinance to be raised shall be made payable or be payable at any place not within Australasia; and every 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—

Interest and principal not to be made payable beyond Australasia.

"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."

Special provision to that effect to be contained in Ordinance.

5. No loan of money raised, or debenture bond mortgage or other security made or issued, under the authority of any Ordinance, 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 every Ordinance authorizing the raising of any loan, or the making of any debenture bond mortgage or other security, shall contain a provision in the words following or to the effect thereof:—

Colony not to be liable for Provincial Loan.

"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 Provincial Loans 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."

Special provisions to that effect to be contained in Ordinance.

6. No loan raised, nor any bond debenture mortgage or other security made or issued, under the authority of any Ordinance, nor the lender of such moneys nor the holder of any such security as aforesaid, shall have, nor shall any 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 or the Superintendent thereof as such or otherwise, whether created or incurred before or after the passing of such Ordinance, any preference

No Loan Ordinance to give security over Ordinary Revenue.

or priority of claim upon or against the Ordinary Revenue of the Province or any other Revenues or moneys from time to time subject to the appropriation of the Legislature of the Province, other than and except upon or against the special security described in the Ordinance under the authority of which the loan is raised, or the bond debenture mortgage or other instrument of security is made or issued, but notwithstanding any liability of any Province or any Superintendent on behalf of such Province, created by any such Ordinance, all revenues of the Province or other money subject to the appropriation of the Legislature thereof, and all property which by law may be dealt with by the Superintendents of such Province or the Legislature thereof, except such special security described in the Ordinance, shall be subject to be appropriated dealt with and disposed of as if such liability had not been created, and that whether such liability may be not yet due or payable, or may have become actually due or payable, or be immediately or remotely contingent or otherwise.

PURPOSES FOR WHICH LOANS MAY BE RAISED.

Purposes for which loans may be raised.

7. The purposes for which loans may be authorized by an Ordinance to be raised shall be as follows, and none other:—

(1.) The construction erection or extension of buildings or works for any of the purposes or of any of the descriptions following, that is to say—

Schools, Colleges, or other Public Educational Institutions, or Lunatic Asylums, Hospitals, Harbour Works, Docks, Jetties, Wharves, Quays, and Buildings for other public purposes.

(2.) The construction of Roads, Bridges, Tramways, or Branch Railways, Waterworks, Works for Irrigation, Water Races, Sludge Channels, Drainage Works, Works for Protection of River Banks and Restraining the Overflow of Rivers, and for Improvement of Navigation of Rivers, and the Reclamation of Land.

(3.) The purchase or acquisition of land as the site of or otherwise for such Building or other works as hereinbefore in this section described.

SPECIAL SECURITIES.

What special security may be given in each case.

8. By any Ordinance authorizing the raising of any loan for any of the purposes specified in the *seventh* section hereof, such Ordinance may create and appropriate such special security for such loan as in this section is hereafter provided as applicable to such loan, and none other, except land set aside for the purpose under the express provisions of an Act of the General Assembly, that is to say—

For reclamation.

(1.) Where the loan is for the purposes of reclaiming land covered by the sea or other water, such special security may be—

The land proposed to be reclaimed, and the proceeds from the sale letting or other disposition thereof; and if by such Ordinance or any other Ordinance it is provided that the surplus of such proceeds may be applied to the construction or improvement of any jetty wharf quay or dock or other harbour works, then such special security may be the rents tolls dues and other proceeds from such wharf jetty quay dock or other harbour work, in addition to the proceeds from the land proposed to be reclaimed.

For public buildings.

(2.) When the loan is for the purpose of constructing or extending or procuring a site for any school college or other educational institution, lunatic asylum or hospital, such special security may be—

Any land reserved or set aside for the endowment or maintenance of such school college or other educational institution, lunatic asylum or hospital, or the proceeds from the sale letting or other disposal of such land. But this Act shall not be deemed to authorize the passing of any Ordinance dealing with any such reserve in any other manner than provided by any other Act relating thereto.

(3.) For public buildings other than as aforesaid— Public buildings.

(a.) The building and the land on which the same is or is to be erected.

(b.) A special rate within the meaning of this Act.

(4.) For any jetty wharf quays dock or other harbour work, such special security shall be the tolls or dues payable for the use or in respect of such jetty wharf quay dock or other harbour work, or the tolls and dues payable for or in respect of all or any specified wharves quays jetties docks or harbour works constructed or to be constructed in the Province, or any harbour or pilotage tolls dues or fees payable in respect of vessels entering any specified harbour or harbours in such Province. For wharves, &c.

(5.) For roads or bridges, the special security shall be all or any of the subjects following, that is to say— For roads and bridges, tolls and rate.

(a.) The tolls payable in respect of the use of or traffic along such roads or bridges.

(b.) A special rate within the meaning of this Act and subject to the provisions hereof.

(6.) For any tramways or branch railway, the special security shall be all or any of the subjects following, that is to say— For tramways and branch railways.

(a.) The tolls or other moneys payable in respect of the use or traffic along such tramway or railway.

(b.) A special rate within the meaning of this Act, and subject to the provisions hereof.

(7.) For any waterwork, water race, or sludge channel in any gold fields, such special security shall be— For works in gold fields.

(a.) The dues or other moneys received for the use thereof. Dues.

(b.) A special rate within the meaning of this Act and subject to the provisions hereof. Miners' rights, &c.

(8.) For irrigation or drainage works, and works for protection of river banks and restraining the overflow of rivers, and for improvement of navigation of any river. Irrigation and Drainage Works.

(a.) The tolls, dues, or other moneys received for the use thereof.

(b.) A special rate within the meaning and for the purposes of this Act.

But this Act shall not be deemed to authorize any Provincial Legislature to pass any Ordinance providing for irrigation, drainage, protection of river banks and restraining the overflow of rivers, or the improvement of navigation of any river, which such Legislature is not otherwise empowered to pass.

PRELIMINARY REQUIREMENTS AS TO RATING ORDINANCE.

9. No Ordinance providing that any rate shall be the special security or part of the special security shall be valid, unless before the same shall have been introduced into the Provincial Council the regulations following shall have been complied with :— Preliminaries to passing Ordinance making rate a special security.

(1.) A notice by the Superintendent shall have been published in the *New Zealand Gazette*, the *Government Gazette* of the Province, and at least one newspaper circulating in such Province, at least forty days before the first day of the Petition for constituting rating district.

session of the Provincial Council in which it is proposed to introduce such Bill, which notice shall state the amount of the proposed loan, the rate of interest to be paid in respect thereof, the purposes to which it is intended to be applied, the amount of the rate which it is proposed should be made for securing the loan, and the limits of the district which it is proposed to constitute for the purpose of such rate. 5

- (2.) A petition shall have been presented to the Provincial Council previously to the introduction of such Bill, and during the session of the Council in which it is introduced, applying that the district described in the said notice should be constituted a rating district under this Act, for the purposes of a loan of the amount stated in such notice, to be applied to the purposes stated in such notice, and that a rate of the amount stated in such notice may be levied in such district as a security for such loan. 10 15

By whom to be signed.

Such petition must be signed by at least a majority in number of the occupiers and owners of rateable property in the proposed district, and the value of such rateable property so owned by such persons so signing must be at least half the value of the whole rateable property within such proposed district, and such petition so signed shall have been lodged at the office of the Clerk of the Provincial Council at least fifteen days before the first day of the Session during which it is to be presented, and shall be then open to public inspection without fee; and a notification that it has been so lodged shall be published in the Provincial Government *Gazette* and some newspaper circulating in the Province at least ten days before the first day of the said Session. 20 25

Valuer to be appointed by Superintendent to value rateable properties in proposed district.

Valuation to be made and lodged in office of Clerk of Provincial Council.

10. The Superintendent shall, at some time either before or after giving such notice as aforesaid, appoint a person to value the rateable properties in the district proposed or to be proposed. 30

The person so appointed valuer shall by such ways and means as he shall think fit, make a valuation of each of the rateable properties within the district, and shall lodge the same, together with a return showing the names of the occupiers and owners of each rateable property, so far as he can ascertain the same, in the office of the Clerk of the Provincial Council, before the first day of the session of such Council next ensuing his appointment, and such valuation and return shall be then and there open to public inspection without fee at all reasonable times. 35 40

Valuer to make declaration to value impartially.

Before making such valuation and return the person appointed to make them shall make and subscribe before a Justice of the Peace a solemn declaration to make such valuation and return impartially and truly, according to the best of his judgment and information. 45

The provisions contained in the sections of this Act numbered *twenty-seven* and *twenty-eight* shall apply to such valuer and his valuation.

Petition to be referred to Committee.

11. On the presentation of such petition as aforesaid the same shall be referred to a Select Committee of the Provincial Council. 50

Such Committee shall inquire and report to the Council whether or not in their opinion the notice hereinbefore required has been given, and the petition is signed as hereinbefore required, and the other provisions herein contained relating thereto complied with.

The Committee shall accept the valuation and return so lodged as aforesaid as conclusive as to the value of the rateable properties in the district, and the names and number of the owners and occupiers of such properties. 55

If Committee report that preliminaries complied with, Ordinance may be proceeded upon.

12. If such Committee report that the notice has been duly given, and the petition is duly signed, and the provisions of this Act relating to such petitions been complied with, the Ordinance may be 60

introduced and proceeded with, but not otherwise, and such report shall be transmitted to the Governor with the Ordinance when the said Ordinance is forwarded to the Governor for his assent. If before the expiration of ten days after the receipt by the Governor of any such Ordinance a memorial be presented to the Governor, signed by not less than twenty persons being owners or occupiers of rateable property within the district created by such Ordinance, alleging that the provisions of section nine of this Act have not with respect to such Ordinance been complied with, the Governor's assent shall not be given to such Ordinance unless and until such compliance shall have been proved to the satisfaction of some person appointed by the Governor for the purpose, and any person so appointed shall enquire by such ways and means as he thinks fit as to such compliance and report thereon to the Governor.

15 PROVISIONS AS TO RATES AS SPECIAL SECURITY.

13. In every Ordinance which provides that a special rate shall be special security or part of the special security for any loan, such Ordinance shall constitute and define for the purposes of such Ordinance and rate a district within the Province. Where rate is security, a district to be defined.

14. The district shall contain within it the public building road bridge tramway railway waterworks water race sludge channel drainage or irrigation works, the portion of the river of which the navigation is improved, or other works for the purposes whereof the loan is to be raised. District to contain the work for which loan authorized.

15. Such district (hereafter called a "rating district") shall be continuous, and not be composed of separated parts of the Province. What the district to be.

16. In every Ordinance providing that a rate shall be the or part of the special security, provision shall be made for the appointment and removal of an officer to make and collect the rate, to be called the "Rating Commissioner of such District." Rating Commissioners and other officers.

RATEABLE PROPERTY AND MODE OF MAKING RATE.

17. For the purposes of any such rate as aforesaid, all land within the rating district shall be rateable property within the meaning of this Act, save as is hereinafter excepted, that is to say— What to be rateable property.

35 Land the property of Her Majesty and unoccupied, unless the same shall have been sold or leased or contracted to be sold or leased, or unless a license to occupy the same shall have been issued.

40 Land the property of Her Majesty and used for public purposes.

Land and buildings the property of and in the occupation of the Crown or the Government of the Colony, or of the Province in which such lands and buildings are.

45 Hospitals benevolent institutions and buildings used exclusively for public charitable purposes, or for literary and scientific institutions.

Churches chapels and other buildings used exclusively for public worship; the dwellings of officiating ministers of religious denominations.

50 Buildings used as schools, provided they be inhabited only by the master or the mistress of such schools, or his or her family and servants, and such schools be schools receiving aid from the Government of the Colony or the Province in which such schools are, or otherwise of a public character, together with the land immediately surrounding and appertaining to the same.

55 Burial-grounds.

Land vested in the Superintendent of any Province, or any Corporation, Commissioners or other persons under "The Public Reserves Act, 1854," or "The Public Reserves Act Amendment Act, 1862," or any Act or Ordinance of any Provincial Legislature passed in pursuance of the said two last-mentioned Acts or either of them, unless the same are let or are occupied otherwise than for the public purpose for which such lands are reserved. 5

Lands reserved under "The University Endowment Act, 1868," unless the same are let. 10

Lands reserved for the benefit of any person of the Native race, unless the same are in the occupation of any other than an Aboriginal Native.

Lands over which the Native title has not been extinguished, unless the same are in the occupation of any other than an Aboriginal Native. 15

Lands in respect of which a certificate of title or memorial of ownership may have been made under any law for the time being in force relating to Native lands, unless the same are in the occupation of any other than an Aboriginal Native. 20

Provided that nothing herein contained shall exempt from being rated hereunder any lands of the Crown occupied under a license from the Crown or other lawful authority for any purpose whatever, nor lands of the Crown which have been or shall hereafter be sold or leased, or which have been or shall be contracted to be sold or leased, on the ground that no grant or lease from the Crown has been made to the purchaser or proposed lessee or tenant thereof, but such lands shall be liable to be rated as if a Crown grant or lease thereof had been made and issued. 25

Special rate to be made before loan raised.

18. Whenever in any Ordinance it is provided that a rate shall be the special security or part of the special security for any loan, the Rating Commissioner shall, before any part of the loan is raised, and upon the Superintendent of the Province notifying to such Commissioner his desire to raise the loan, make a special rate equally upon all rateable property situate within the district. 30

Rate to be either on annual value or capital value to sell.

Such special rate shall be either on the annual value of such property or on the fair capital value to sell of such property, as shall be provided in the Ordinance authorizing the loan, and shall be of such sum in the pound of such value as shall be fixed in the said Ordinance; but in the case of a rate on the annual value, such rate shall not exceed one shilling in the pound of such annual value, and in the case of a rate on the value to sell shall not exceed one penny in the pound of such value; every person occupying under lease or license Crown lands for pastoral purposes only shall be rated in respect of the same in proportion of one-half part only of the net annual value thereof. 35

Limit of rate.

Limit of rates under several Ordinances.

Rates to an extent of more than three times the amount which may be imposed under one Ordinance passed under this Act shall not be imposed on or in respect of any rateable property under several of such Ordinances in force at one time without the consent in writing of the owner and of the occupier of the rateable property. 40

Rate to be levied by Rating Commissioner.

19. Every such rate shall be made and levied by the Rating Commissioner upon every person who occupies, or if there be no occupier then upon the owner of any rateable property whatsoever within the rating district; and the said rates shall be vested in the Rating Commissioner for the time being until collected and paid into the Provincial Loan Account, as hereafter provided: Provided that notwithstanding any of the provisions hereof, whereby the owner of rateable property is to be rated to or to pay any rate on the default or instead of the occupier thereof, the Crown shall not be rated to or pay any rate. 45



20. Notice of the intention of making every such rate, and of the time at which the same is intended to be made, and of a place where a statement of the proposed rate is deposited for inspection by the ratepayers, shall be given by the Rating Commissioner, by placards posted up in public, and shall be advertised in some newspapers generally circulating within the rating district in the week immediately previous to such rate being made, or as nearly so as may be.

Notice of making of rate.

21. Every such rate shall be fairly transcribed in a book to be called the "rate book" to be kept for that purpose, and may be in such form as the Rating Commissioner shall direct; and every such rate shall contain an account of every particular set forth at the head of the respective columns so far as the same can be ascertained, and every such rate shall be signed by the Rating Commissioner.

Form of rate.

22. The statement of the proposed rate, and the rate immediately after the same is made, shall be open to the inspection of any person interested or rated in such rate at all reasonable times, and any such person may take copies of or extracts from such statement or rate without paying anything for the same; and any person having the custody of such statement or rate who shall refuse to permit or shall not on request by any person so interested or rated as aforesaid permit him to take copies of or extracts from such statement or rate, shall for every such offence be liable to a penalty of five pounds.

To be signed.

Rate to be open to inspection.

23. The Rating Commissioner may from time to time amend any such rate by inserting therein the name of any person claiming and entitled to have his name therein as owner or occupier, or by inserting the name of any person who ought to have been rated, or by striking out the name of any person who ought not to have been rated, or by raising or reducing the sum at which any person has been rated if it appears to him that such person has been underrated or overrated, or by making such other amendments therein as will make such rate conformable to this Act; and no such amendment shall be held to avoid the rate: Provided always that every person aggrieved by any such alteration shall have the same right of appeal therefrom as he would have had if his name had been originally inserted in such rate and no such alteration had been made; and as respects such person, the rate shall be considered to have been made at the time when he received notice of such alteration; and every person whose rates are altered shall be entitled to receive seven days' notice of such alteration before the rate shall be payable by him.

Rate may be amended.

24. The Rating Commissioner for every rating district, within one month after the Superintendent shall have notified to him his intention to raise the loan for the purpose of which such district shall have been constituted, or as soon after as conveniently may be, shall cause to be made for such rating district a valuation of all rateable property within the district by competent persons to be called valuers, and such rate made by the Rating Commissioner for the purposes of this Act shall be made upon such valuation; and in every such valuation the property rateable shall be computed either at its annual value, that is to say at the rent at which the same might reasonably be expected to let from year to year, or at its value to sell, accordingly as is provided in the Ordinance constituting the district: Provided that in the case of an annual value rate, such annual value in no case shall be computed at less than five pounds per centum upon the fair capital value to sell of the fee-simple of such rateable property, and that all rateable property for the purpose of such annual value rate, which shall not since the sale alienation or other disposition thereof by the Crown have been improved by building cultivation enclosure, or in other like manner, shall be computed as of the annual value of five per centum upon the fair capital value of the fee-simple thereof.

Rating Commissioner to cause valuation to be made of rateable property.

- Form of valuation.** 25. Every valuer shall make and return his valuation in such form as shall be directed by the Rating Commissioner, and shall also at the same time state in such return, with regard to each rateable property, the several particulars required by the Rating Commissioner.
- Valuers to make declaration.** 26. Before any valuation or return shall be made, the person appointed to make it shall make and subscribe a solemn declaration to make such valuation and return impartially and truly according to the best of his judgment, and an entry or minute shall be made by the Rating Commissioner, of the making and subscribing of such declaration and of the date thereof; and any Justice to whom application is made for that purpose shall administer such declaration.
- Power of valuer.** 27. Every valuer shall, for the purpose of making the valuation and return as aforesaid, have power to enter at all reasonable hours in the daytime into and upon any rateable property within the borough, without being liable to any legal proceedings on account thereof.
- Questions may be put by valuer to occupier.** 28. It shall be lawful for any valuer to put to any person in occupation or charge, or being the owner of any rateable property which such valuer shall have been authorized under the provisions hereof to value, questions upon all such matters as shall be necessary to enable such valuer to state correctly the several particulars herein required to be stated in his valuation and return with regard to the premises; and if after being informed by such valuer of his purpose in putting such questions, and of his authority under this Act to put the same, any such person in occupation or charge, or any such owner shall refuse or wilfully omit to answer the same to the best of his knowledge and belief, or shall wilfully make any false answer or statement in reply to such question, such person shall on summary conviction forfeit and pay for every such offence a penalty not exceeding ten pounds.
- Right of owner in cases where lease made before constitution of rating district.** 29. When any owner is rated in respect of any rateable property in any rating district in the occupation of any tenant under a lease or agreement made prior to the constitution of such rating district, such tenant shall repay to the owner all sums paid by him during the continuance of such lease on account of any rates under this Act payable by the occupier, unless it shall have been agreed that the owner shall pay all rates in respect of such property; and every sum so payable by the tenant to the owner may be recovered, if not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.
- Owner, where name not known, to be rated as "owner" only.** 30. Whenever the name of any owner liable to be rated under the provisions of this Act is not known to the Rating Commissioner, it shall be sufficient to rate such owner as the owner of the property to be rated by the designation of "the owner," without stating his name. In this Act the word "owner," when used with reference to any lands in respect of which any rate is to be made or paid, shall mean the person for the time being entitled to receive, or who if the land were let to a tenant at a rack rent would be entitled to receive the rack rent from the occupier.
- Appeal.** 31. There shall, with respect to any such rate, be an appeal in the like cases provided for in the third and fourth sections of "The Appeals from Provincial Rating Act, 1871;" and the provisions of the sections of the said Act numbered from three to nine, both inclusive, shall apply to every rate made under the provisions of this Act; and in applying the said provisions the terms "rating authority" therein shall mean the Rating Commissioner of the district, and "district" shall mean rating district:

## RECOVERY OF RATES.

- Recovery of rate before Justices by action.** 32. If any person rated under the provisions of this Act fail to pay any of the said rates due from him for the space of fourteen days after demand thereof in writing by the Rating Commissioner of the

rating district, or his Collector duly authorized in that behalf, the Rating Commissioner may recover such rates from the person so making default before any Justice, or by an action of debt in any Court having jurisdiction; and upon any complaint or suit for the recovery of any rate from any person, the invalidity or badness of the rate as a whole shall not avail to prevent such recovery.

**33.** In any proceeding to levy and recover, or consequent on the levying or recovering of any rate under the provisions of this Act, the books of rates of the Rating Commissioner, and all entries made therein signed by the Rating Commissioner, by the production thereof alone, shall be evidence of such rate and of the contents thereof, without any evidence that the notices required by or other requirements of this Act have been given or complied with. Rate book evidence.

**34.** If any person quit or be about to quit any rateable property before he have paid the rates then payable by him in respect thereof, and do not pay the same to the Rating Commissioner or his Collector, on demand, any Justice may order the same to be paid by such person. Remedy against person quitting before payment of rates.

**35.** When the occupier or owner who is rated to any such rate ceases to be the occupier or owner of the property in respect whereof he is rated before the end of such period, such occupier or owner shall be liable to pay a portion only of the rate payable for the whole of the period for which such rate was made, proportionate to the time during which he continued to be the occupier or owner; and in every such case the person who after the making of such rate shall be the occupier or owner of any property so rated as aforesaid during part of the period for which such rate was made and liable to be rated in respect thereof, shall pay a portion of such rate proportionate to the time during which he occupied or held the property so rated, and the same shall be recovered from him in the same manner as if he had been originally rated for such property. Rates to be apportioned on the holder, &c., quitting.

**36.** When the occupier of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the Rating Commissioner of the district, or his Collector, may demand the amount of such rate, or any part thereof, from the owner of the rateable property, and on non-payment thereof may recover the same from such owner before any Justice; and subject to any agreement previously made between the said owner and occupier, the said owner may recover the sums so paid, if not paid on demand, from such occupier as arrears of rent could be recovered from the said occupier by the said owner. Owner to pay rates in default of occupier.

**37.** When the owner of any rateable property is rated in respect thereof, and the rate remains unpaid for three months, the Rating Commissioner of the rating district, or his Collector as aforesaid, may demand the amount of such rate or any part thereof from the occupier for the time being of such rateable property, and on non-payment thereof may recover the same before any Justice in like manner as rates may be recovered from any occupier liable to be rated; and every such occupier shall be entitled to deduct from the rent payable by him to such owner so much as was so paid by or recovered from him. Rates due from owner may be recovered from occupier.

**38.** Provided always that no such occupier as in the last preceding section referred to shall be required to pay any further sum than the amount of rent due from him at the time of the demand made upon him for such amount of rate, or which after such demand, and after notice not to pay the same to his landlord, at any time accrues and becomes payable by him, unless he refuse, on application being made to him for that purpose by or on behalf of the Rating Commissioner of the district, truly to disclose the amount of his rent and the name and address of the person to Occupier not to be required to pay more than amount of rent due from him.

whom such rent is payable; but the burden of proof that the sum demanded of such occupier is greater than the rent due by him at the time of such notice or which has since accrued shall be upon such occupier.

"The Sale of Land for Non-payment of Rates Act, 1862," applicable.

39. The provisions contained in the sections numbered from three to seven inclusive of "The Sale of Land for Non-payment of Rates Act, 1862," and the Schedule thereto, shall apply to any rate imposed under this Act, whether such rate shall have been made on the occupier or owner of the rateable property. 5

Penalty on occupier refusing to give name of owner.

40. If on the request of any Collector of rates duly authorized by the Rating Commissioner as such, the occupier of any property refuses or wilfully omits to disclose or wilfully misstates to the Rating Commissioner or Collector making such request the name of the owner of such property, or of the person receiving or authorized to receive the rents of the same, such occupier shall be liable on summary conviction to a penalty not exceeding five pounds. 10 15

Rate when payable.

41. Every such rate shall be payable by the ratepayers, after the making of the rate, at such intervals not exceeding half a year as the Ordinance authorizing the loan shall appoint.

Rate once made to be annual recurring rate till loan paid off.

42. Every such rate shall after the same shall have been once made, and without any further proceeding by the Rating Commissioner or otherwise, be and continue to be an annual recurring rate upon every rateable property at any time situate within the area comprising the rating district, according to the value of each such property, as appearing by the valuation last made affecting such property until all moneys due in respect of the loan shall have been satisfied. 20 25

Annual valuation compulsory.

43. In every rating district the Rating Commissioner thereof shall and he is hereby required, once at least in every successive period of twelve months after the date of the notification from the Superintendent of his desire to raise the loan for the purpose of which the rating district shall have been constituted, to cause to be made for the rating district such valuation as is authorized by the provisions hereinbefore contained. 30

Annual amendment of rate so as to conform to last valuation.

44. At and upon the expiration of each successive period of twelve months, every such rate shall be amended by the Rating Commissioner of the district, or if not, and so far as not then amended, shall be and take effect as if amended, so as to conform as regards every separate rateable property for the time being within the rating district, and affected by such rate, to the valuation affecting such property which shall have been made by the Rating Commissioner. 35 40

Within what time rates to be enforced.

45. The Rating Commissioner shall enforce payment of all rates (if not otherwise paid) by complaint or suit within six calendar months from the time when the rate became payable; but such rates may be enforced at any time thereafter.

After rate made debentures may be issued.

46. After such rate as aforesaid shall have been duly made as aforesaid, the debentures, bonds, mortgages or other securities authorized to be made by the Ordinance, providing that such rate shall be a special security, may be made and issued, but not before. 45

#### TOLLS AND RENTS OF SPECIAL SECURITIES NOT TO BE REDUCED. 50

Tolls dues and rates not to be reduced till loan charged thereon paid off.

47. Neither the scale of tolls or dues, nor the amount of any rate which shall form the special security or part of the special security for any loan under this Act, shall, until all the moneys borrowed and charged on such special security shall have been paid off or extinguished, be reduced. 55

Rents and purchase money of lands to be reclaimed not to be reduced.

48. If in any Ordinance passed under the authority of this Act any land reclaimed or to be reclaimed is the special security or part of the special security for any loan, and in such Ordinance the upset price or rates of purchase money or rents shall be fixed, such upset

price or rates shall not be reduced until such loan shall have been paid off or extinguished, unless it be expressly provided to the contrary in such Ordinance.

RESERVES AS SPECIAL SECURITIES.

5 49. If by any Act of the General Assembly any land within any Province shall be set aside as a special security for a loan to be raised for any one or more of the purposes aforesaid the Legislature of such Province may, by an Ordinance to be passed under and in pursuance of this Act, authorize such loan to be raised, and enact that 10 the revenues arising from such land shall be a special security for such loan.

Under Act of General Assembly land may be made special security for a loan for any of the purposes authorized.

If by any such Act of the General Assembly, the land is authorized to be made a special security for several loans each for one or more of such purposes as aforesaid a separate Ordinance shall be passed for 15 each Loan, and each Ordinance shall specify what portion of the Revenues arising from such land shall be a special security for the Loan authorized by it.

20 The portion of such revenue so to be specified shall in each case bear such proportion to the whole revenue arising from the whole land, as the estimated cost of the works, for the construction of which the loan is raised, bears to the estimated aggregate cost of the construction of all the works for which the several loans are proposed to be raised.

What portion to be defined.

25 In any case where land is made a special security for a loan for any purpose or purposes any other of the special securities authorized by this Act and applicable to the purpose or purposes may be made an additional security.

Any special security applicable to the purpose may be given in addition.

PROVINCIAL LOAN ACCOUNT.

30 50. There shall be kept at the Bank at which the Provincial Account of each Province is for the time being kept an account to be called "The Provincial Loan Account of the Province of [naming the Province], and to the credit of the said account there shall be paid all moneys which it is by this Act provided shall be paid thereto, and also all rates tolls dues and other moneys whatever 35 arising from or in respect of every special security created under the authority of this Act by the Legislature of such Province.

Provincial Loan Account, and moneys payable thereto.

40 51. The rates tolls dues or other moneys arising from or in respect of each such special security shall be paid to a separate sub-account called "The Loan Account of the [naming the Province] Ordinance" [naming the Short Title of the Ordinance creating the special security Ordinance]; and all moneys not arising from or in respect of any special security shall be kept at a separate sub-account called "The General Loan Account of the Province of [naming the Province]."

Separate account of each special security.

45 52. From and after the passing of this Act there shall from time to time be paid to the credit of the Provincial Loan Account of each Province fifteen pounds out of every hundred pounds paid or payable to the Land Fund of such Province, as defined by "The Public Revenues Act, 1867," except so much thereof as arises from 50 the duty on the export of gold or miners' rights business licences or mining leases under any Act regulating mining for gold, and a like proportion of all moneys received on account of the sale letting occupation or other disposal of lands within such Province taken under "The New Zealand Settlements Act, 1863," and any Act amending 55 the same; and all such moneys as by this section are payable to "The Provincial Loan Account" of any Province shall be paid to the General Loan Account of the said Province.

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

Like proportion of revenue from Confiscated Lands.

If no loan is charged against.

If for the time being no loan is charged on the General Loan Account for any Province, the Provincial Council of such Province may by Ordinance provide that such moneys as by this section are payable to the Provincial Loan Account of such Province or any defined portion thereof, shall be a special security for any loan for any one or more of the purposes aforesaid. 5

In such Ordinance the period during which such moneys or the defined portion thereof, as the case may be, shall be such special security, shall be specified.

During the period fixed such moneys or the defined portion thereof, as the case may be, shall be paid to the Separate Sub-account of such Ordinance. 10

Such moneys or the defined portions thereof, as the case may be, may be made a special security alone, or in addition to any other special security authorized by this Act. 15

Revenues from special loan reserves to be paid to Provincial Loan Account.

**53.** All lands within any Province which by any Act of the General Assembly are set apart for the purposes of any loan or loans to be raised under the authority of any Ordinance or Ordinances to be passed under this Act, shall be sold or leased under and in accordance with the law for the time being in force relating to the sale or leasing of waste lands of the Crown within the Province in which such lands are; but free grants thereof shall not be made, nor shall such lands be sold or leased at less rates than those at which such lands could by law be sold or leased at the time of the Act passing, and all proceeds from such lands shall be paid into the Provincial Loan Account of such Province. 20 25

Proceeds of reserves for loans generally to General Loan Account.

If by such Act of the General Assembly setting apart the lands it be provided that the land shall be for the purposes of Provincial Loans of the Province raised under Ordinances passed by virtue of this Act generally, then all proceeds from such lands shall be paid to the said General Loan Account of such Province. 30

Proceeds of reserves for special security to sub-account.

If by the Act of the General Assembly setting apart the lands it be provided that the lands shall be a special security for a single loan, then the whole of such proceeds shall be paid to the separate sub-account of the Ordinance authorizing the loan; but if by such Act it is provided that the lands shall be a special security for several loans, then such portion of the proceeds of such land as is defined in the Ordinance authorizing each of such loans shall be paid to the separate sub-account of such Ordinance. 35

Where rate a special security, a separate Ordinance to be passed.

**54.** In any case in which a rate is to be the special security either wholly or partly for any loan for any such purposes as aforesaid, a separate Ordinance shall be passed in each case, and in such cases a single or several loans for more purposes than one shall not be authorized by one Ordinance. 40

Where tolls special security, a separate Ordinance in each case.

**55.** In any case in which tolls or dues are to be the special security either wholly or partly for any loan for any of the purposes aforesaid, a separate Ordinance shall be passed in each case, and in such cases a single or several loans for more purposes than one shall not be authorized by one Ordinance unless the purposes are of a like kind, and the tolls or dues are made one common security for the whole loan or all the loans without preference or priority as to any part thereof. 45 50

#### COLLECTION OF MONEYS PAYABLE TO LOAN ACCOUNT.

Where tolls, &c., are special security, Ordinance to provide for appointment of officer to collect, &c.

**56.** In every Ordinance passed under the authority of this Act providing that any tolls dues rates or proceeds of reclaimed land or reserves shall be a special security for any loan to be raised thereunder, such Ordinance shall also expressly provide for the appointment of an officer whose duty it shall be to collect, under the provisions of such Ordinance, such tolls dues rates or other moneys, and to pay the same 55

from time to time as received into the Provincial Loan Account of the Province, to the credit of the proper sub-account, as hereinbefore provided.

57. If at any time no person be appointed under the powers contained in any such Ordinance to collect and pay into the Provincial Loan Account any such tolls dues rates or other moneys as aforesaid, and the vacancy in such office shall have continued for fourteen days, the Governor in Council, on the application to him by the Provincial Auditor or any person interested, or without such application if he thinks fit, may appoint any person he thinks fit to such office, and the person so appointed shall have all such powers and perform all such duties as if appointed under this Ordinance; and all such costs incurred by any person appointed by the Governor in Council as the Governor in Council allows, may be either charged against the Province or be deducted from the amounts collected, as the Governor in Council may from time to time direct.

If no person appointed Governor in Council may appoint.

58. The Provincial Treasurer of the Province shall give such directions and take such measures as will enable such payments to be duly made.

Provincial Treasurer to give directions for payments into Account.

59. If any officer whose duty it is to pay any moneys into the Provincial Loan Account of any Province wilfully fails to do so, or wilfully fails to pay the same to the proper sub-account within such time as it shall be his duty so to do, he shall be guilty of misdemeanour.

Officers neglecting to pay in guilty of misdemeanour.

If the Provincial Treasurer of any Province whose duty it is to collect or pay into the Provincial Loan Account of any Province any moneys whatever, wilfully fails to do so within such time as it shall be his duty so to do, he shall be guilty of misdemeanour.

On wilful neglect.

For the purposes of this section, the Provincial Treasurer of every Province, and every such officer whose duty it is to pay into the Provincial Loan Account of any Province any moneys whatever, shall be deemed to have wilfully failed to do so, if it be proved to have been his duty to pay such moneys into the said Account and that he has failed to do so for seven days after notice in writing from the Provincial Auditor of the Province to pay in the same has been served upon him or at his last usual place of residence.

Evidence of wilful neglect.

60. It shall be the duty of the Provincial Auditor of each Province to prosecute according to law the Provincial Treasurer of such Province, and every other officer who shall have committed any such misdemeanour as aforesaid.

Provincial Auditor to prosecute.

40 ACCOUNTS.

61. Separate accounts shall be kept by the Provincial Treasurer of each Province of all moneys paid to the credit of the General Loan Account, and of each sub-account in the Provincial Loan Account, showing in detail the payments into and out of the General Loan Account and each such sub-account, and the same shall at all convenient times be open to inspection without charge of the Provincial Auditor; and the General Loan Account shall be open to the inspection without charge of every person who shall be the holder of any debenture bond mortgage or other security, made or issued under any Ordinance passed by virtue of this Act and not charged on a special security; and each sub-account shall be open to the inspection without charge of every person who shall be the holder of any debenture bond mortgage or other security made or issued under any Ordinance passed by virtue of this Act, charged on the special security from which the moneys at the credit of such sub-account shall have arisen.

Separate accounts to be kept of each sub-account.

## PAYMENTS OUT OF LOAN ACCOUNT, ETC.

- 62.** Moneys standing at the Provincial Loan Account of any Province to the credit of the General Loan Account may be from time to time appropriated by the Provincial Legislature of such Province to the payment of the principal interest or sinking fund of any loan or loans charged thereon, and, except as hereafter provided, to no other purpose. 5
- Money at General Loan Account to be subject to appropriation for payment of loans.
- As to loans charged on the General Loan Account, there shall not be given any priority one over the other, but such loans shall have priority according to the date of the raising thereof. 10
- No priority amongst general loans.
- Loans raised under this Act, charged on a special security, may be also charged on the General Loan Account, but such charge shall only extend to so much of the principal interest and sinking fund of any loan charged on a special security as cannot be met by such special security, and shall be subject to appropriation by the Provincial Council. 15
- Balance of loans on special security may be paid out of General Loan Account.
- Moneys standing to the credit of any sub-account of the Provincial Loan Account of any Province, shall be applied in accordance with the Ordinance under which the loan to which such account pertains is raised, 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 such Province. 20
- Moneys at sub-account not subject to appropriation.
- 63.** So long as no loan is charged on the General Loan Account of any Province, and so long as or so far as the fifteen per centum of land fund payable thereto under the fifty-second section of this Act is not made a special security, the said fifteen per centum of land revenue or the portion thereof not made a special security may be appropriated by the Legislature of such Province to such purposes as it may think fit. 25
- If no loan charged on General Loan Account, the 15 per cent. of land fund payable thereto may be appropriated to other purposes.
- 64.** No part of any moneys at the credit of the Provincial Loan Account of any Province shall, except as hereafter provided, be drawn from such account, or be issued or paid by any Provincial Treasurer, except in pursuance of warrant under the hand of the Superintendent, directed to such Provincial Treasurer, and certified by the Provincial Auditor of the Province. Every such warrant shall state the purpose for which the money is to be paid and out of which account the same is to be paid, whether the General Loan Account or a sub-account, and if a sub-account the same shall be specified. 30
- Moneys how to be withdrawn from Loan Account.
- 65.** Every such warrant shall before the same is signed by the Superintendent be laid before the Provincial Auditor, who shall not certify the same except he be first satisfied that the purpose specified in the warrant is one upon which moneys at the credit of the particular account specified in the warrant may be expended, and that the amount specified is at the credit of such account. 35
- Provincial Auditor to certify.
- 66.** The Provincial Auditor of each 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 Province and the accounts thereof. 40
- Provincial Auditor to have powers under "The Provincial Audit Act, 1866."
- 67.** If any 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 Provincial Loan 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 particular account from which the moneys shall have been withdrawn under such warrant. 45
- Provincial Auditor guilty of misdemeanour if he wilfully certifies warrant except in accordance with this Act. 55



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68. If any 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 recoverable, shall be paid into the particular account from which the money aforesaid shall have been withdrawn.

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

69. If the Superintendent of any Province shall refuse or neglect to make or sign any warrant authorizing the issue of any moneys from the Provincial Loan Account of such Province 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 of any Province shall refuse to certify any warrant made by the Superintendent of such Province 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.

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

MISCELLANEOUS.

70. No debentures bonds mortgages or other securities made or issued under the authority of an Ordinance passed under this Act shall be liable to any Stamp Duty.

Debentures &c. not liable to Stamp Duty.

71. Every 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 bonds debentures or other securities may be issued sold hypothecated or otherwise disposed of.

Ordinance to fix the maximum rate of interest and discount.

No Ordinance shall authorize the raising of any 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 not to entail higher rate of interest than £6 per cent. on moneys actually raised.

72. Upon every debenture bond mortgage or other security made or issued under the authority of any Ordinance passed by virtue of this Act, 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 Provincial Loans Act, 1873."

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

73. Every Ordinance passed under the authority of this Act shall be reserved for the Governor's assent.

Ordinance to be reserved for assent.

74. Every Ordinance purporting to be passed under the authority of this Act shall, if assented to by the Governor, be deemed and taken to be passed under and in conformity with the provisions of this Act and be valid, notwithstanding that any of the provisions of this Act contained in the sections hereof numbered nine to twelve both inclusive may not have been complied with.

Ordinance if assented to, to be deemed valid.