

T A S M A N I A



1881.

ANNO QUADRAGESIMO-QUINTO

VICTORIÆ REGINÆ,

No. 16.



AN ACT to provide for the raising of Loans by Debentures upon the Credit of Moneys at the disposal of certain Local Bodies. A.D. 1881.

[8 November, 1881.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

- 1 This Act may be cited as “The Local Bodies Loans Act.” Short title.
- 2 In this Act, unless the context otherwise requires— Interpretation.
 - “Local Body” includes the Municipal Council of every Rural Municipality, the Trustees of “The *Campbell Town* Water District,” and every Road District or other District having power by law to borrow money upon mortgages secured upon any moneys, rates, or tolls at the disposal of such Council or Trustees :
 - “Gazette” means “The *Hobart Gazette* :”
 - “Ratepayer” means and includes the Municipal Electors of every Rural Municipality, the Landholders of every Road District and other District, and every other person liable to the payment of any rate or special rate made by any Council or the Trustees of any District not hereinbefore mentioned to which the provisions of this Act are applicable :
 - “Government Stock” means and includes Debentures and Treasury Bills issued by the Governor or Governor in Council :

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“Council” means the Municipal Council of every Rural Municipality :

“Trustees” means the Trustees of every Road District under “The Cross and Bye Roads Act” or other District hereinbefore mentioned :

“Roll” means the Valuation or Assessment Roll in force in the Municipality or District to which the same relates, as the case may be.

Loans may be raised by Debentures.

3 Every Local Body having power by any law hereby repealed or otherwise to raise money on the mortgage of any rate or special rate, may raise money by the sale of Debentures under the provisions of this Act for any purpose for which such Local Body may lawfully raise money by loans ; and such Debentures shall be charged upon the revenues of such Local Body.

Discharge of security given under former Act.

4 Where any Local Body having borrowed any money under any former Act upon any security therein mentioned, desires to pay off and discharge any such security, it shall be lawful for such Local Body to raise money by the sale of Debentures under this Act for the purpose of paying off and discharging any such security.

Amount which may be borrowed!

5 The amount of money borrowed at any time shall not exceed Ten times the average income of the Local Body for the Three years next preceding the *Gazette* notice of such loan, or in the case of any Local Body already indebted the difference obtained by subtracting from Ten times such average income the balance remaining unpaid of any previous loans. The amount of moneys borrowed to liquidate any loan shall not exceed the balance of principal moneys owing on account of such loan.

Notwithstanding anything hereinbefore contained the Trustees of the *Campbell Town* Water District may raise by the sale of Debentures under this Act any sum or sums of money not exceeding the sum of Seven thousand Pounds, being the maximum amount which such Trustees are authorised to borrow under the Act of Parliament of the 42nd Vict , No. 20.

Sinking Fund reckoned part payment.

6 When any Sinking Fund has been formed under this Act to liquidate any loan, the amount of such Sinking Fund, reckoning the value of stock at par, shall, for the purpose of estimating the indebtedness of the Local Body in respect of such loan, be deemed a part payment of such loan.

Form of Debentures.

7 Debentures issued by any Local Body shall be in the form in the Schedule (1), and shall be numbered consecutively beginning at the number One in an arithmetical progression wherein the common difference is one, and shall have annexed for every payment of interest which becomes payable after the day on which such Debenture is sold a coupon bearing the same number as the Debenture.

Purport of Debentures.

8 Every Debenture issued under this Act shall name the principal sum secured thereby, the rate at which interest is payable thereon, and the time and place at which such principal and interest is payable, and the per-centage upon the amount of the loan which will be invested every year so as to form a Sinking Fund to liquidate the same, and shall specify the date of the publication of the *Gazette* in which the notice of such loan appeared.

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9 Every such Debenture issued by the Municipal Council of any Rural Municipality shall be under the Common Seal of the Municipality, and shall be signed by the Warden, Council Clerk, and Treasurer, and shall bear date the day it is sealed; and every such Debenture issued by the Trustees of any Road or other District shall be signed and sealed by the Chairman and two of such Trustees, and countersigned by the Clerk of such Trustees, and shall bear date the day it is signed by such Chairman.

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Signature of
Debentures.

10 Every Debenture issued under this Act shall entitle the bearer thereof to receive payment of the principal sum named therein on presenting such Debenture, on or after the day on which such Debenture becomes payable, at the place at which such Debenture is payable.

Debentures
payable to bearer.

11 Coupons annexed to Debentures issued under this Act may be separated from the Debentures to which they belong, and every such coupon shall entitle the person presenting the same, on or after the interest mentioned in such coupon is payable, at the place at which such interest is payable, to receive payment of such interest.

Coupons payable
to bearer.

12 Every such Debenture and every such coupon, whether separated or not from the Debenture to which it belongs, shall pass by delivery only without any assignment or endorsement.

Debentures and
coupons to pass
by delivery.

13 The principal moneys secured by every Debenture issued under this Act shall be made payable on some day not more than Thirty years after the date of such Debenture.

When Debentures
are to be made
payable.

14 Before proceeding to borrow any money for any purpose for which any Local Body may lawfully borrow money, such Local Body shall cause to be prepared a full and explicit statement of the purposes for which such money is proposed to be borrowed, and showing the total sum of money proposed to be expended for such purposes, and such statement shall be open to the inspection of the ratepayers for One month after the publication of the notice next hereinafter mentioned at all reasonable times.

Statement to be
prepared before
borrowing.

15 No proposition for borrowing money for the purposes aforesaid shall be adopted by such Local Body unless a notice thereof has been published in the *Gazette*, and also twice in some newspaper generally circulating in the Municipality or District, not less than One month nor more than Three months before such proposition is adopted, stating—

Gazette notice to
be published
before borrowing.

The amount of the principal moneys for which Debentures are proposed to be issued :

The rate of interest to be named in such Debentures :

The times and places at which the moneys due on such Debentures are to be payable :

The purposes for which the loan is to be applied.

And in case such loan is to be expended in the purchase of any works or undertakings, specifying such works or undertakings, and in case the loan is to be expended in the construction of works or undertakings, stating that the plans and specifications and estimate of such works and statement hereinbefore mentioned are open for inspection at the office of the Council Clerk where such loan is proposed to be raised by any Municipal Council, and where such loan is proposed to be raised by

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any Trustees at the principal Police Office in the District of such Trustees, if any, and if there shall be no such Police Office then at the usual place of meeting of such Trustees.

Power to demand the submission of the proposal to borrow to the ratepayers.

16 Within One month after the publication of such notice as aforesaid of any proposition to borrow money (not being a proposition to borrow money to liquidate any loan lawfully incurred under the provisions of any former Act,) any Five ratepayers may by writing under their hands demand that the question whether or not such loan shall be incurred be submitted to the election of the ratepayers.

Every such demand shall be delivered to the Warden or Council Clerk of the Municipality where any Municipal Council shall propose to borrow money, or to the Chairman or Clerk of the Trustees where such Trustees shall propose to borrow money.

Votes of the ratepayers how taken.

17 When any such demand has been made the votes of the ratepayers shall be taken upon such question on a day to be fixed by the Warden of the Municipality, or the Chairman of the Trustees, as the case may be, not less than Twenty-one nor more than Twenty-five clear days after the delivery of such demand, and such day shall be forthwith notified in some newspaper generally circulating in the Municipality or District, and on such day a poll shall be taken of all ratepayers who desire to forbid the proceeding further with such loan; and at the taking of such poll papers in the form in the Schedule (2), shall be used; and there shall be delivered to every ratepayer who desires to forbid the proceeding further with such loan as many of such papers as the number of votes to which such ratepayer appears by the Roll to be entitled.

By whom poll to be taken.

18 In every Municipality such poll shall be taken by the Warden thereof, and in every District by the Chairman of the Trustees.

Scrutineers.

19 One scrutineer to be present at place of taking such poll shall be appointed by the Council or Trustees as the case may be, and the persons demanding the poll may by writing under their hands, or the hands of any Three of them, appoint One scrutineer to be present at the place aforesaid.

Result how ascertained.

20 Immediately upon the close of the poll the Warden or Chairman, as the case may be, shall proceed, in the presence and subject to the inspection of the poll clerks, if any, and of so many of the scrutineers as please to be present, to ascertain the number of votes recorded, and shall as soon as conveniently may be on or after the day of the poll give public notice of the number of votes recorded, and shall declare the Council or Trustees, as the case may be, to be forbidden to proceed further with such loan, or not, according as such number of votes forms or does not form one-third of the aggregate number of votes to which the ratepayers of the Municipality or District are entitled according to the roll in force in such Municipality or District, as the case may be.

Proceedings to be had as upon election of Councillors or Trustees.

21 Subject to the foregoing provisions, upon the submitting of any such question as aforesaid to the election of the ratepayers, all proceedings shall be had and taken as nearly as may be as upon an election of Councillors or Trustees, as the case may require.

If no demand made or ratepayers fail to forbid, Council, &c. may proceed.

22 If no such demand is made as aforesaid that the question whether or not such loan be incurred be submitted to the election of the ratepayers, (or if upon such demand being made the ratepayers fail to forbid

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the Council or Trustees from proceeding further with such loan,) the Council or Trustees may at any time, not less than One month nor more than Three months after the last publication of such notice as aforesaid, proceed, in manner hereinafter provided, to pass a special resolution for borrowing money for the purposes mentioned in such notice. A.D. 1881.

23 No resolution agreed to by any Local Body for borrowing money under this Act shall be of any force or effect unless such resolution has been agreed to by such Local Body in some meeting, whereof special notice has been given, and has been confirmed in a subsequent meeting held not sooner than Four weeks after the preceding meeting, and which subsequent meeting has been advertised once at least in each of the weeks intervening between the two meetings in some newspaper generally circulating in the neighbourhood, and special notice of such meeting given to each of the Councillors or Trustees, as the case may be. Resolution for borrowing money.

24 No such special resolution for borrowing money shall be adopted by such Council or Trustees unless at the meeting thereof at which such resolution is confirmed as herein required the motion for confirmation is carried by a majority of the whole number of Councillors or Trustees. Confirmation of special resolution for borrowing.

25 After any special resolution for borrowing money has been made as aforesaid, the Council or Trustees, as the case may be, may at such time and place as they by special resolution have appointed in that behalf, offer or cause to be offered for sale Debentures as specified in the *Gazette* notice to the amount therein specified. How Debentures to be offered for sale.

26 Notwithstanding anything hereinbefore contained, if the Council or Trustees publish a notice of their intention to borrow money in the *Gazette*, and are not forbidden by the ratepayers from proceeding with such loan, and not less than Two months after the publication of such notice issue Debentures signed and sealed as aforesaid as in pursuance of such intention, such Debentures shall be good and valid as against such Local Body in favour of any purchasers thereof without fraud and *bonâ fide*. Protection to *bonâ fide* purchasers of Debentures.

27 The provisions contained in Sections Fourteen to Twenty-six of this Act, both inclusive, shall not apply to any proceedings taken by the Trustees of "The Campbell Town Water District" to raise money by the sale of Debentures under this Act for the purposes of the Act of Parliament of the Forty-second *Victoria*, Number Twenty, and such Trustees may raise money by the sale of Debentures under this Act for the purposes aforesaid notwithstanding that such Trustees have not complied with the provisions of this Act contained in the said Sections, and all Debentures issued and sold by such Trustees for the purposes aforesaid shall be good and valid as against such Trustees in favour of any purchasers thereof without fraud and *bonâ fide*. Provisions contained in Sections 14 to 26 not to apply to Trustees of Campbell Town Water District.

28 When any Local Body has incurred a loan under the provisions of this Act, a Sinking Fund shall be formed to liquidate the same in the manner following:— Sinking Fund.

The Council or Trustees, as the case may be, shall cause a sum, being such per-centage of the principal sum secured by the Debentures issued to raise such loan as is named in such Debentures, not being at any time less than Two Pounds per centum of such principal sum, to be in every year after the

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issue of such Debentures and until the complete liquidation of such loan, or until the Colonial Treasurer and the Colonial Auditor for the time being under their hands certify that the amount of the Sinking Fund formed hereunder is sufficient to secure the liquidation of such loan, invested in the purchase of Government Stock ; which stock shall be placed in the books in the Colonial Treasury in the names of the Colonial Treasurer and of such Local Body to an account intituled as of such loan.

Investment of the interest of the Sinking Fund.

29 All interest accruing due on any such stock for the time being standing to the credit of any account forming any Sinking Fund, shall be invested in the purchase of Government Stock, which shall be placed to the credit of the same account.

Application of Sinking Fund to meet Debentures.

30 When any Debentures issued by any Local Body are about to fall due, any Government Stock comprised in any Sinking Fund formed to liquidate the same may be sold out and the proceeds thereof paid into such bank to the account of such person or persons as the Colonial Treasurer and such Local Body may determine ; and the moneys so paid into such bank shall be paid out to the bearers of the Debentures issued by such Council or Trustee on presentation and delivery up of the same.

Power to Treasurer to transfer Sinking Fund after re-purchase of Debentures.

31 At any time on the presentation on behalf of the Local Body of any Debentures and all Coupons not then payable belonging thereto, together with a certificate signed by the Colonial Treasurer and Colonial Auditor stating what amount of Government Stock credited to any such account as aforesaid will be sufficient to secure the holders of all Debentures secured by such Stock other than the Debentures so presented, and upon the cancellation of such Debentures and Coupons, the Colonial Treasurer may join in transferring any balance of Stock credited to such account over and above the amount mentioned in such certificate.

Power to Council, &c. to transfer Stock by attorney.

32 For the purpose of purchasing, transferring, receiving, or otherwise dealing with any Government Stock, or any interest accruing thereon, or any other purpose connected therewith, every Municipal Council may, subject to the provisions as to Attorneys contained in any Act or Acts now or hereafter to be in force relating to Government Stock, appoint an Attorney or Attorneys under the Common Seal of the Municipality, and the Trustees of any District may, subject as aforesaid, by writing under the hands and seals of the Chairman and One Trustee and the Clerk of such Trustees, appoint an Attorney or Attorneys, and such Council and Trustees may by such Attorney or Attorneys do all acts, matters, and things relating to such Stock that a private person might do.

When Treasurer may transfer.

33 Except for the purposes herein provided, or if ordered so to do by the Supreme Court or a Judge thereof, the Colonial Treasurer shall not join in transferring any Stock forming part of any such Sinking Fund as aforesaid.

Bearer of Debenture may inspect Sinking Fund.

34 The bearer of any Debenture secured by any Sinking Fund may at all reasonable times inspect the account of such fund in the books in the Colonial Treasury.

Priorities of Debenture holders.

35 If any Local Body have incurred more loans than one, every Sinking Fund formed under the provisions hereof shall be applicable

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in the first instance in liquidation of the Debentures and of all interest thereon which such fund was formed to liquidate, and, save as aforesaid, both as to principal and interest, the holders of Debentures by the sale of which different loans were raised shall have priority according to the priority of the *Gazette* notices of such loans published as aforesaid, and the holders of Debentures by the sale of which the same loan was raised shall rank as between themselves *pari passu*.

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36 If any Local Body make default in payment of any principal money or interest secured by any Debentures or coupon, or in forming a Sinking Fund to liquidate any Debentures as hereinbefore directed, the Supreme Court may, on the petition of the holder or holders of any Debenture or Debentures issued by such Local Body, not being Debentures secured upon any special rate, appoint some person or persons not exceeding Three to be a Receiver or Receivers of the rates payable to such Local Body.

Power to appoint a Receiver if Council, &c. make default.

Every such Receiver shall be deemed an Officer of, and shall act under the direction of the Supreme Court.

37 The Supreme Court may from time to time remove any Receiver appointed under this Act, and on the death or removal of any such Receiver may appoint some other person in his place.

Power to remove Receivers.

38 The Receiver or Receivers appointed under this Act shall be entitled to receive all rates other than special rates payable to such Local Body, and to make and levy rates so that the rates so received, made, and levied do not exceed One shilling and Sixpence in the Pound upon the annual value of all rateable property in the Municipality or District, as the case may be, and for the purposes aforesaid such Receiver or Receivers shall be deemed the Council of such Municipality, or the Trustees of such District, and may exercise all the powers thereof.

Powers of Receivers.

39 Every such Receiver shall be entitled to such commission as remuneration for his services as the Supreme Court may appoint.

Commission to Receiver.

40 The Supreme Court may order all stock forming any such Sinking Fund as aforesaid to be transferred into the name or names of the Receiver or Receivers.

Transfer of Sinking Fund to Receiver.

41 Such Receiver or Receivers shall hold all moneys and the proceeds of all stock forming any Sinking Fund received by him or them after payment of costs and expenses and of his or their commission for the benefit of all holders of Debentures of the Local Body not secured by any special rate, according to their respective priorities and subject thereto, for the Local Body.

Purposes for which Receiver is to hold moneys.

42 Every Local Body shall cause a separate account to be kept in some bank for every loan incurred by them, and all money forming part of such loan shall be paid into such account, and shall be applied to the purposes for which the same was borrowed; and if after all such purposes are performed there is any surplus of such money, the Council or Trustees, as the case may be, may apply the same in the re-purchase of any Debentures by the sale of which such money was borrowed, or in the purchase of Government Stock to be credited to the Sinking Fund formed to liquidate the same; and so long as any part of such loan remains unpaid no part of such money shall be otherwise applied.

Separate account to be kept of every loan.

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Balance of loan
how applicable.

43 If after the liquidation of any loan there is any balance of Stock to the credit of the Sinking Fund or of the proceeds thereof, the same shall be applicable as part of the Municipal Fund, or as part of the moneys at the disposal of such Trustees, as the case may be.

Consolidated
Revenue Fund
not liable.

44 No claim of any holder of Debentures issued by or on behalf of any Local Body, or of any creditor of any Local Body, shall attach to or upon or be in anywise paid or satisfied out of or by the Consolidated Revenue Fund or other Public Revenue of the Colony of *Tasmania*, or by the Government thereof.

Debentures not
liable to Stamp
Duty.

45 Debentures and coupons annexed thereto issued by any Local Body under this Act, shall not be liable to the payment of any Stamp Duty under any Act imposing Stamp Duties in this Colony.

Trustees may
invest in Deben-
tures.

46 It shall be lawful for the Trustees for the time being of any Bank for Savings in *Tasmania*, now or hereafter to be established, and the Trustees of any "Certified Friendly Society" under "The Friendly Societies Act," to advance and lend to any Local Body, upon the security of any Debentures issued and sold by such Local Body under this Act, any sum of money which such Local Body is lawfully authorised to borrow, anything in any Act to the contrary notwithstanding.

Repeal.

47 The Act and parts of Acts set forth in the Schedule are hereby repealed, but such repeal shall not affect anything duly done thereunder, or any obligation or liability incurred thereunder, but every such obligation and liability may be enforced as if this Act had not been passed:

All sums of money secured or charged upon any Rate or Special Rate before the commencement of this Act by any Local Body under any enactment hereby repealed shall remain secured and charged, and the mortgages in respect thereof shall remain in force until such sums of money shall be repaid or until such mortgages shall be discharged.

SCHEDULE.

(1.)

No.

DEBENTURE, £

Issued by (the Warden, Councillors, and Electors of the Rural Municipality of _____, or as the case may be,) under the provisions of "The Local Bodies Loans Act."

Transferable by delivery.

THIS Debenture was issued by the above-named Municipality [or as the case may be] in pursuance of a notice published in the *Hobart Gazette* of the _____ day of _____, and is to secure to the bearer a principal sum of £ _____, payable at _____ on the _____ day of _____: Interest at the rate of £ _____ per centum per annum on such principal sum in the meanwhile is payable by equal half-yearly payments on the _____ day of _____ and the _____ day of _____, and a coupon is annexed for each payment which entitles the bearer of such coupon thereto. Such principal sum and interest are payable at _____, and are charged in accordance with the provisions of the above-named Act upon the Municipal revenues of the Warden, Councillors, and

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Tasmania
Note attached

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Electors of the Rural Municipality of _____, [or as the case may be,] and are not otherwise secured. £ _____ per cent. on the amount of the loan will be invested every year in accordance with the said Act to form a Sinking Fund. A.D. 1881.

Dated this _____ day of _____

A.B. [Warden.] (L.S.)
K.L. Council Clerk.
G.H. Treasurer.

(2.)

Rural Municipality of _____ [or as the case may be.]
THIS is to forbid the Municipal Council of the Rural Municipality of _____ from proceeding further with a loan, notice of which has been published in the *Hobart Gazette* of _____

DIRECTIONS.

This paper is to be dropped by the voter desiring to forbid the above-mentioned loan into the ballot-box. The voter is not permitted to take his ballot-paper out of the ballot room or polling booth.

(3.)

ACTS TO BE REPEALED.

<i>Date and Number of Act.</i>	<i>Title of Act.</i>	<i>Extent of Repeal.</i>
29 Vict. No. 8.	<i>The Rural Municipalities Act, 1865.</i>	Sections 137 to 151, both inclusive.
33 Vict. No. 8.	"The Cross and Bye Roads, 1870."	Sections 99 to 113, both inclusive.
39 Vict. No. 10.	"The Rural Municipalities Amendment Act, 1875."	The whole Act.

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