

*W. P. S.
to A. G. F. 8.*

No. , 1900.

A BILL

To secure the repayment of moneys due by the municipal district of Lambton ; to provide for the imposition and recovery of rates in the said district, and for the application of such rates ; and for other purposes incidental to and consequent upon the said objects.

WHEREAS the council of the municipal district of Lambton has Preamble.
at various times borrowed money on debentures, mortgage, or otherwise, on the credit of land, personal estate, or annual revenues belonging to the said municipal district : And whereas large sums of money are now due by the said municipal district to the holders of such debentures and to certain other creditors of the said municipal district who have advanced money on such credit as aforesaid : And whereas there is at present no council of the said municipal district to levy any rates to repay the money so due, or to meet the interest payable thereon, or to carry on the administration of
45—(3) the

Municipal District of Lambton.

2

the said municipal district, and there is no power contained in the Municipalities Acts at present in force or otherwise to provide for the levying of such rates, and it is expedient to provide for the levying thereof for the purposes above referred to: And whereas the said debenture holders and other creditors have agreed, on the rates being levied as hereinafter mentioned and the proceeds thereof applied in the manner set forth in a certain document, a copy of which is contained in the Schedule hereto, to the repayment of the principal moneys due to them respectively by the said municipal district being postponed in the manner provided in the said indenture, and to the interest on the principal moneys for the time being owing to them respectively being reduced as therein mentioned: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

document

1. (1) An annual rate is hereby imposed upon all ratable property within the municipal district of Lambton of two shillings in the pound on the fair average annual value of such property, with, in the case of improved land, a deduction therefrom for outgoings not in any case exceeding ten per centum upon such annual value. And in assessing the average annual value of unimproved land for the purposes of this section such value shall be deemed to be a sum equal to five pounds per centum on the estimated capital value of such land, such average annual value and capital value of all such ratable property to be estimated by valuers as hereinafter provided; and the amount of such deduction as aforesaid to be determined by the receiver to be appointed as hereinafter provided.

Imposition and
recovery of special
rate.

(2) Notice of such rates shall be served, if the property is occupied, by a notice addressed to such occupier and left at or sent through the post to the premises, and, if unoccupied, by a notice addressed to the lessee or owner of such property and left at or sent through the post to his last known residence or place of business in the Colony. And as to any ratable property which is unoccupied, and the name or address of the owner of which is unknown, notice of such rate upon such last-mentioned property shall be advertised twice at least in two successive weeks in some newspaper circulating in the said municipal district: Provided that, in any such notice by advertisement as herein required, it shall not be necessary to describe such property by metes and bounds but only to state in general terms, so that the same may be intelligible, its situation and estimated area.

(3) The rate so imposed as aforesaid shall be payable by the occupier of the property in respect of which such rate is payable, if occupied, and if not occupied then by the lessee or owner:
Provided

Municipal District of Lambton.

3

Provided that nothing herein contained shall prevent any private arrangement between landlords and tenants, as between themselves, with respect to their ultimate liability to rates respectively.

2. On the application of any creditor of the said municipal district the Master in Equity of the Supreme Court of New South Wales may from time to time, as and when it shall be necessary for the purposes of this Act, appoint a fit and proper person (hereinafter referred to as receiver) to recover and receive the rates imposed by or in pursuance of this Act, to apply the proceeds of such rate in the manner provided by the document hereinbefore referred to, or in such other manner as may from time to time be agreed upon by the parties thereto or their successors in title, and to do all such acts and things as are necessary or proper for the performance and exercise of the duties and powers imposed or conferred on him by this Act: Provided that the said Master in Equity, in making such appointment as aforesaid, shall have power to impose such terms and conditions in regard thereto as he may think fit.

Appointment of
receiver.

3. The provisions of sections one hundred and thirty-seven, one hundred and thirty-eight, one hundred and thirty-nine, and one hundred and forty of the Municipalities Act of 1897 shall, so far as the same will admit, be applicable to the municipal district of Lambton, and shall to that intent be deemed to be incorporated in this Act, provided that the powers conferred and the duties imposed upon the council by section one hundred and thirty-eight aforesaid shall be exercised by and be binding on the receiver: And provided also that any penalties which may be incurred under this Act may be recovered in the same manner as those incurred under the said Municipalities Act.

Incorporation of
certain provisions
of Municipalities
Act.

4. The valuers to be appointed under the provisions of section three hereof shall deliver their valuations to the receiver, who shall, on receipt of such valuations, prepare a rate-book based thereon and complying as far as may be with the provisions of section one hundred and forty-seven of the said Municipalities Act; and it is hereby declared that such of the provisions of section one hundred and forty-seven and the following nine sections of the said Municipalities Act as have not been expressly provided for by, or are not inconsistent with, this Act, shall be applicable to the said municipal district, and to that intent shall be deemed to be incorporated in and form part of this Act: Provided that whenever any of the words "council," "mayor," or "council clerk," shall occur in any of the said sections, the word "receiver" shall be read as inserted in place thereof, respectively, and the said sections shall be read with all necessary consequential alterations, and the said receiver is hereby empowered to affix to the said rate-book the seal of the said municipal district: Provided that all legal proceedings which may be instituted by or against the said

Valuations.

Municipal District of Lambton.

4

said receiver as such may be instituted by or against him, either in his own name or in the name of the said municipal district, and that he shall be entitled to re-imburse himself out of the funds in his hands as such receiver for any costs and expenses which he shall properly incur in connection with such proceedings.

5. The annual rate imposed by this Act shall be payable for Term of rate. the year one thousand nine hundred, and for each and every subsequent year until all the hereinbefore mentioned debts of the said municipal district shall have been discharged, but it shall not be necessary in any proceedings for the recovery of any such rate to prove that any debts remain due by the said municipal district.

6. It is hereby declared that the document hereinbefore referred to, a copy of which is set forth in the Schedule hereto, and the provisions thereof, shall be binding on the said municipal district and on the other parties thereto, whether it has been executed by or on behalf of the said municipal district or any other of the said parties or not. Certain documents to be binding on parties thereto.

7. This Act may for all purposes be cited as the "Municipal Short title. District of Lambton Act, 1900."

SCHEDULE.

THIS indenture made the day of June, one thousand nine hundred, between the Municipal District of Lambton, a municipality duly incorporated under the Municipalities Acts, of the first part; the Commercial Bank of Australia (Limited), of Sydney, in the Colony of New South Wales (hereinafter called the said Bank), of the second part; and Mary Griffiths and Mary Morris, representatives of John Griffiths, deceased, late of Lambton, near Newcastle, in the Colony aforesaid, James Meikle, of Waratah Terrace, Newcastle, aforesaid, Mathew Downie and Florence Downie, of Wickham, near Newcastle aforesaid, John Platt, of Lambton aforesaid, Mary Morris, of Newcastle aforesaid, Ann Beveridge, of Stockton, near Newcastle aforesaid, James Brown, of New Lambton, near Newcastle aforesaid, William Hay, of Lambton, aforesaid, Frederick Rogers, of Hamilton, near Newcastle aforesaid, and Henry Lawrence, of Newcastle aforesaid (hereinafter called debenture holders), of the third part.

WHEREAS the said municipal district has at various times borrowed money from the said debenture holders or from the former holders of the debentures held by such debenture holders, and from the said Bank, and to secure the repayment thereof respectively has given to the debenture holders or to such former holders as aforesaid debentures over certain rates and revenues of the said municipal district, and has given to the said Bank a mortgage over (*inter alia*) all the rates, assessments, and other revenues of the said municipal district: And whereas default having been made by the said municipal district in repayment of the moneys so as aforesaid borrowed from the said Bank, a receiver of the rates and other revenues of the said municipal district was, in or about the month of December, one thousand eight hundred and ninety-eight, on the application of the said Bank, appointed by the Supreme Court of New South Wales, and such receiver has since been and still is engaged in collecting the said rates and other revenues: And whereas default has also been made by the said municipal district in repayments of the amounts due under and secured by the debentures hereinbefore mentioned, and of the interest thereon respectively: And whereas it appears that the said municipal district is unable to repay the

Municipal District of Lambton.

5

the total amount of its indebtedness or the interest due under the various securities given by it to its various creditors: And whereas in order to facilitate a satisfactory settlement of the existing difficulties the said Bank has agreed to reduce the principal amount of the indebtedness of the said municipal district to it to the extent hereinafter mentioned, and the said debenture holders and the said Bank have agreed to forego all interest due prior to the first day of January, one thousand nine hundred, and to accept interest for the future at the rate of three pounds per centum per annum in lieu of the higher rates to which they are respectively entitled under the securities held by them respectively, and have also agreed to accept repayment of the principal sums due to them respectively in deferred instalments as hereinafter mentioned: And whereas by reason of the resignations and retirements of several aldermen of the said municipal district the number of alderman thereof remaining in office is not sufficient to constitute the necessary quorum of the council of such municipal district: And whereas no rates have been levied in respect of ratable property within the said municipal district for the current municipal year, and, in the absence of such quorum as aforesaid, there exists no power under the Municipalities Acts or otherwise to levy any such rates: And whereas under existing circumstances there is no prospect of a quorum of such council being obtained, and it is deemed expedient that proper rates should be imposed upon all such ratable property as aforesaid by special legislative authority, which it is intended to apply for without delay, and that the proceeds of such rates should be applied in manner hereinafter appearing. Now this indenture witnesseth that in consideration of the premises and of the agreements by each of the parties with the others off them hereinafter contained the parties hereto respectively agree, as follows:—

1. It is hereby agreed and declared that whenever the words "municipal district of Lambton" or "the said municipal district" occur in these presents the same shall, where permitted by the context, be taken to mean and include the municipal district of Lambton and the council thereof for the time being; and the words "the said Bank" shall be taken to mean and include the Commercial Bank of Australia (Limited), and its assigns; and the words "debenture holders" shall be taken to mean and include the parties hereto of the third part and their respective executors, administrators, and assigns.

2. Out of the proceeds of the annual rate to be levied by or under statutory authority as hereinbefore mentioned, the receiver, to be appointed as provided by the proposed Act, shall first pay the expenses incident to carrying out the provisions of the said Act and of these presents, and shall next retain the remuneration to which he shall be entitled as hereinafter provided, and out of the balance in his hands he shall pay to the said debenture holders, and the said Bank, interest on the amounts for the time being due to them respectively by the said municipal district after the rate of three pounds per centum per annum by equal half-yearly payments on the first days of January and July in each year, such interest to be computed from the first day of January, one thousand nine hundred; and the first of such payments to be made on the first day of July, one thousand nine hundred; and shall next pay to the council of the said municipal district a sum, not exceeding one hundred pounds in any one year, to be applied by the said council towards the construction, maintenance, and repair of the streets, roads, bridges, sewers, and drains within the said municipal district, and towards securing the sanitation thereof, and shall pay the balance remaining in his hands to the said debenture holders, and the said Bank, respectively in reduction of the principal moneys due to them respectively by the said municipal district, and in proportion to the amount of such principal moneys for the time being due to them respectively, such payments to be made on the days hereinbefore appointed for the payment of interest as aforesaid, or as soon thereafter as may be.

3. The said debenture holders and the said bank agree, subject to the proviso lastly hereinafter contained, to forego all interest due to them respectively prior to the first day of January, one thousand nine hundred, and shall accept interest on the balance of the principal moneys for the time being owing to them respectively by the said municipal district after the rate of three pounds per centum per annum in lieu of the higher rates to which they are entitled under the securities held by them respectively.

4.

Municipal District of Lambton.

6

4. The amount of principal moneys due to the said Bank by the said municipal district shall be taken and admitted to be the sum of seven thousand pounds in lieu of the amount which the said Bank is entitled to claim under the securities by it, which last-mentioned amount the Bank claims to exceed the sum of twelve thousand five hundred pounds: Provided that on the sale of certain securities held by the said Bank being completed, and the net proceeds of such sale received by the said Bank hereinafter provided, the said Bank shall be entitled to receive or retain the amount of such proceeds without any further reduction of the amount so as aforesaid due to the said sum of seven thousand pounds.

5. The lands comprised in a certain memorandum of mortgage of the twenty-ninth day of September, one thousand eight hundred and ninety, given by the council of the said municipal district to the said Bank, and the electric lighting plant thereon, and all poles, wires, lamps, fittings, and other accessories until recently connected with the supply of light to the said municipal district, shall, with all convenient despatch, be sold either by public auction or private contract, and either together or lots, and in such place or places, and generally in such manner as the said Bank shall see fit: And the said municipal district shall, at the request in writing of the said Bank, signed by the inspector or manager for the time being at Sydney, join in any title or sales, and shall at all times do all things necessary or desirable for the purpose completely and advantageously carrying out the terms and agreements herein contained: And the said municipal district hereby irrevocably appoints such inspector and agent, and each of them, its joint and several attorneys and attorney in its or their own or names, to do all such things as shall be necessary or desirable for the purpose effecting such sales or sales, and for other the purposes aforesaid.

6. Nothing herein or in the said proposed Act contained shall be construed to affect the rights or remedies of the said respective creditors under their securities held by them respectively, or under the Municipalities Acts or otherwise, or affect the priorities of the said respective creditors: Provided, however, that one of the provisions of the said proposed Act, and so long as the provisions thereof shall remain in force, the rates to be imposed thereby or thereunder are received and disposed of in the manner hereinbefore provided, the covenants and agreements hereinbefore contained shall bind on all the parties hereto.

7. All the costs between solicitor and client of Minter, Simpson & Co., solicitors having the carriage of the proceedings in connection with the receivership existing including their costs relating to the appointment of such receiver and to various proceedings before the Supreme Court and the Master in Equity, and to various schemes of compromise or arrangement, and generally their costs relating to the carriage of such proceedings as aforesaid, and including their costs of and incidental to the preparation and carrying out of these presents, and of and incidental to the preparation and carriage thereof hereinafter referred to shall be paid out of the moneys in the hands of or held by the present receiver, Hugh Henry Macdonnell, or his successor, and out of the base in such receiver's hands the like costs of the solicitor for the said debenture holders shall be paid: Provided always, that if after payment of the costs hereinbefore referred to there shall remain any moneys in the hands of or collected by such receiver, the same shall be paid to the said debenture holders and the said Bank in full satisfaction of the same due to them respectively by the said municipal district prior to the first day of January, one thousand nine hundred, and in proportion to the amount of principal moneys due to them respectively, the said Bank's proportion of such moneys to be calculated on the said sum of seven thousand pounds.

In witness whereof the parties hereto have executed these presents this day and year first above written.