

**LEGISLATIVE COUNCIL.**

**PUBLIC DOMAINS.**

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THIS Bill is an amalgamation of "The Public Domains Act, 1860," with "The Canterbury Public Domains Act, 1872," the latter of which gives more ample powers than the former. The Bill virtually extends the provisions of the Canterbury Act to all domains within scope the of the Bill.

Clause 6 is new, granting the same authorities over domains in respect of trespassers as have been granted in respect of public reserves.

Clause 10, in relation to audit of accounts, is taken from the Counties Act, as offering a simple process of examination of such accounts.

"The Canterbury Public Domains Act, 1872," transferred to the Superintendent and Provincial Council respectively powers vested in the Governor under the Act of 1860; and since the abolition of the province there is no reason why the Act should be perpetuated. All that was proposed to be done under that Act can be done under this Act.

The Provincial Ordinances repealed are only enactments bringing lands under the aforesaid "Canterbury Public Domains Act, 1872;" and these lands are included in the first Schedule to this Bill.

**A. J. JOHNSTON.**  
**W. S. REID.**

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

Legislative Council,  
9th August, 1881.

[STATUTES REVISION COMMISSION.]

## PUBLIC DOMAINS.

### ANALYSIS.

<p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>DEFINITION OF LANDS SUBJECT TO ACT.</p> <p>3. Certain lands subject to Act. Lands derelict subject to Act. Lands within operation of Act.</p> <p>ADMINISTRATION.</p> <p>4. May manage and administer lands. Lay out lands. Dedicate ground for specific purposes. Treat for purchase of any lands. Set apart land for squares, &amp;c. Lay out foot and carriage ways. Stop up and alter roads, and make approaches. General powers.</p> <p>5. Governor also may make leases, &amp;c., thereof. Accept release. Execute deeds.</p> <p>6. Provisions in relation to trespass, &amp;c., upon domains.</p> <p>MONEYS AND ACCOUNTS.</p> <p>7. Application of moneys.</p>	<p>8. Annual accounts to be rendered to the Treasury.</p> <p>9. Audit of same.</p> <p>BY-LAWS.</p> <p>10. By-laws may be made for certain purposes.</p> <p>11. By-laws to be made public, and thereon to be binding.</p> <p>DELEGATIONS.</p> <p>12. Governor may delegate powers.</p> <p>13. Governor may appoint <i>ex officio</i> delegates.</p> <p>14. Powers and authorities of delegates.</p> <p>OFFENCES, PENALTIES, ETC.</p> <p>15. Penalties.</p> <p>16. Constable, &amp;c., may interfere to prevent damage, &amp;c.</p> <p>17. Offences.</p> <p>18. Recovery and application of penalties.</p> <p>19. Saving of existing appointments, &amp;c.</p> <p>20. References to repealed Acts to apply to this Act.</p> <p>21. Repeals. Schedules.</p>
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### A BILL INTITULED

AN ACT to consolidate the Law relating to the Management of the Public Title Domains.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Public Domains Act, 1881."

Short Title.

2. In this Act,—

Interpretation.

"Public domain," or "domain," includes any lands declared to be subject to the provisions of this Act.

#### DEFINITION OF LANDS SUBJECT TO ACT.

3. The lands specified in the First Schedule to this Act, and lands which may hereafter be set apart under any Act, or with lawful authority by the Governor, for the purposes of this Act, are hereby declared to be Crown lands subject to the provisions of this Act, and may be managed, administered, and dealt with by the Governor in manner hereinafter set forth.

Certain lands subject to Act.  
1860, No. 32, ss. 3, 4.

All other land derelict on the borders of or within the boundaries of the aforesaid lands, or any of them, shall from time to time be and shall remain Crown lands subject to the provisions of this Act, as fully and effectually as if the same had been mentioned in the First Schedule.

Lands derelict subject to Act.

*New Clause.*

Lands within operation of Act.

All lands which from time to time have been brought under the operation of any of the Acts or Ordinances hereby repealed, and at the time of the passing of this Act were subject thereto, shall be subject to the provisions of this Act.

## ADMINISTRATION.

Governor may manage and administer lands.  
1860, No. 32, s. 5.  
Lay out lands.

4. The Governor may manage and administer all such lands, and may exercise all or any of the powers following:—

Dedicate ground for specific purposes.

(1.) Lay out, inclose, and plant the same, or any of them, and build any lodge, museum, or other ornamental building therein, and in such manner as he may think fit:

(2.) From time to time set apart and dedicate any part of the said lands for any specific purpose of public amusement or recreation, and permit the use thereof upon such terms and conditions as he may think fit, and may annul any such setting apart and dedication:

Treat for purchase of any lands.

(3.) Treat and agree for the purchase, exchange, or lease of any tenements and hereditaments which he may deem necessary for the purposes of this Act, or for the improvement of the said lands, and enter into any contract which he may think fit; and all tenements and hereditaments so agreed to be purchased shall be conveyed to Her Majesty, to be subject to the provisions of this Act:

Set apart land for squares, &c.

(4.) Appropriate any part of the said lands for squares, gardens, or open places, and leave any part thereof for yards or courts to be attached to any houses agreed to be leased, as he may think fit:

Lay out foot and carriage ways.

(5.) Cause such parts of the said lands to be laid out for carriage-ways and such parts thereof for footways as he may think proper:

Stop up and alter roads, and make approaches.

(6.) From time to time make, stop up, divert, widen, or alter any bridges, ways, or watercourses in, upon, through, across, or over any part of the said lands, subject to the payment of compensation for damage thereby to adjacent lands:

General powers.

(7.) Do any other thing which may be requisite for the proper and beneficial management and administration of the said lands, or any part thereof.

Governor also may make leases, &c., thereof.

5. The Governor also may

(1.) When and as he shall think fit, in the name and on behalf of Her Majesty, by deed, demise and lease any of the said lands for such consideration in money or otherwise, to such persons, for such period not exceeding twenty-one years, subject to such rents or conditions, and in such manner and form as he shall from time to time think fit:

Accept release.

(2.) Accept any surrender of any lease granted:

Execute deeds.

(3.) In the name and on behalf of Her Majesty execute all deeds and assurances that may be necessary for effectually executing the powers by this Act conferred upon him or any of them; and such deeds and assurances shall be valid and effectual against Her Majesty and all persons claiming under her:

*New Clause.*

Provisions in relation to trespass, &c., upon domains.  
1878, No. 34, s. 16.

6. The Commissioner of Crown Lands for the land district within which any public domain not under the control of any delegates of the Governor is situate, shall have and exercise over such public domain all the rights, powers, duties, and functions which such Commissioner has over Crown lands; and, in addition, the following provisions shall be in force:—

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(1.) When any person without right, title, or license is in occupation of any part of any such public domain, the Commissioner aforesaid, or any person appointed by him, may enter a plaint in the Resident Magistrate's Court of the district in which the domain or any part lies to recover possession thereof :

If on the hearing the defendant does not appear, or appears but fails to establish in himself an absolute right and title to the possession, the Court may order him to give up possession and to pay costs :

If possession be not given pursuant to such order, the Resident Magistrate, or any Justice of the Peace, may issue a warrant requiring the bailiff of the Court, or any constable, to give possession of such land to the plaintiff.

The provisions of sections ninety-one, ninety-two, ninety-three, and ninety-five of "The Resident Magistrates Act, 1867," shall apply to any proceedings under this subsection.

(2.) Any person who without right, title, or license allows any cattle, horses, or other animals to trespass upon any such public domain, or who without right, title, or license shall fell, remove, or sell any timber growing or being thereon, or otherwise trespasses on such public domain, shall be liable to a penalty not exceeding fifty pounds, recoverable in a summary way.

No person shall be convicted under this subsection except on the information of the Commissioner aforesaid, or any person appointed in writing by him.

MONEYS AND ACCOUNTS.

7. All sums of money which shall be received under or by virtue of this Act, or in any other manner howsoever, in respect of the lands from time to time subject to the provisions of this Act, shall be applied in managing, administering, and improving the lands in respect of which the money may have been received, and generally towards carrying into execution the purposes and objects of this Act.

Application of moneys.  
1860, No. 32, s. 6.

8. In the month of January in every year there shall be rendered and given an account to the Colonial Treasurer of the amount of all moneys which shall have been received during the year ending on the thirty-first of December preceding under or by virtue of the authority of this Act, or otherwise howsoever, and of the application of all such moneys, with the vouchers thereof respectively.

Annual accounts to be rendered to the Treasury.  
*Ibid.*, s. 7.

*New Clause.*

9. All such accounts shall be examined by such person as the Colonial Treasurer shall appoint for the purpose.

Audit of same.  
*Ibid.*, s. 8.

The Auditor so appointed may require all necessary books, accounts, and vouchers to be produced to him, and shall compare the said accounts therewith respectively, and with any other documents explaining the same; and shall within thirty days after receiving such accounts certify to the same, either wholly or with such exceptions as he shall think fit, to the Treasurer.

BY-LAWS.

10. The Governor in Council may with respect to any domain make by-laws, orders, and regulations for—

By-laws may be made for certain purposes.  
1872, No. 19, s. 5.

The management, preservation, and disposition thereof, or any part thereof ;  
 The government and control of all persons, horses, carriages, and vehicles using or frequenting the same ;  
 Regulating the time of their admission and exclusion ;  
 The depasturing of cattle thereon ;  
 The preservation of plants and animals therein ;  
 The exclusion of dogs or any other animals therefrom, and their destruction if intruding therein ;  
 The prevention of any nuisance ; and  
 Generally regulating the using of the domain.

When any such by-laws are made by any body corporate to whom the powers aforesaid shall be delegated they shall be made in the manner in which such body is authorised to make by-laws, or, if not so authorised, shall be made under the seal of the body corporate, and when made by any persons having such delegated powers as aforesaid, they shall be signed by one of such delegates ; and any such by-laws may from time to time, in like manner and by the like authority, be repealed or altered, and others made in lieu thereof.

By-laws to be made public, and thereon to be binding.  
 1872. No. 19, s. 5.

11. Such by-laws shall be painted on boards, or printed on paper and pasted on boards, and hung up or affixed and continued at one or more of the principal entrances into the domains, so as to give notice thereof to the public ; and such boards shall from time to time be renewed as often as the by-laws thereon or any part thereof shall be obliterated or destroyed.

Such by-laws, when so published and affixed, shall be binding upon and be observed by all persons, and shall be sufficient to justify all persons acting under the same ; and, for proof of the making, publication, and affixing of such by-laws, it shall be sufficient to prove that a printed copy or painted board containing a copy of such by-laws was affixed and continued in manner by this Act directed, and, in case of its being afterwards displaced or damaged, then that such paper or board was replaced as soon as conveniently might be.

#### DELEGATIONS.

12. The Governor, by Order in Council, may from time to time delegate all or any of the powers hereby conferred, except the powers conferred by section *five* and by this section, to any person or persons or body corporate for any period, and subject to such stipulations as may be specified in such Order, and every such delegation may from time to time in like manner be altered or revoked.

Governor may delegate powers.  
 1860, No. 32, s. 11.

No such alteration or revocation shall destroy or affect the validity of instruments executed or acts done during the subsistence of such delegation.

Governor may appoint *ex officio* delegates.  
*Ibid.*

13. In making any delegation to persons, the Governor may appoint any mayor, chairman, or other officer of a local body corporate or institution to be *ex officio* one of such delegates, who shall vacate his appointment as a delegate on quitting his office, and be replaced by his successor in office.

Powers and authorities of delegates.  
*Ibid.*

14. All rights, powers, duties, and functions vested by this Act in a Commissioner of Crown Lands may be exercised and performed by any person appointed in writing by delegates in respect of land under their control, and such person may exercise and perform such rights, powers, duties, and functions accordingly.

#### OFFENCES, PENALTIES, ETC.

Penalties.  
*Ibid.*

15. Any person offending against any by-law made under this Act shall for every such offence be liable to a penalty not exceeding *five* pounds.

16. If any breach or non-observance of any such by-law be attended with danger, hindrance, or annoyance to the public, or to any persons being lawfully in the domain, any constable or peace officer, or any person employed in the domain, may summarily interfere to obviate or remove such danger, hindrance, or annoyance, and that without prejudice to any liability to penalty incurred by the breach or non-observance of any such by-law.

Constable, &c., may interfere to prevent damage, &c.

17. Whoever shall do or attempt to do any of the following things upon or within the boundaries of any domain without the license of the Governor, or of any corporation, person or persons to whom his powers may be delegated, shall be liable to a penalty over and above the damage done not exceeding twenty pounds :—

Offences.  
1872, No. 19, s. 6.

Light a fire ;

Wilfully break a fence, or any part of a fence, or enter the domain by any other than an authorized entrance ;

Wilfully break or cut a tree or plant ;

Wilfully dig or cut the sod ;

Shoot at any bird or animal with gun or other instrument ;

Wilfully take away, destroy, or injure any bird or animal, being in the domain, or any egg of any bird ;

Take away any wood, shrub, plant, or other thing.

18. All penalties and forfeitures under this Act may be recovered in a summary manner, and shall be paid into the Public Account, and shall be applied as other moneys under this Act are directed to be applied by section seven.

Recovery and application of penalties.  
*Ibid.*, s. 7.

#### MISCELLANEOUS.

19. All Orders in Council, delegations, regulations, by-laws, offices, and appointments constituted or made under any of the Acts and Ordinances hereby repealed, and subsisting at the commencement of this Act, shall be deemed to have been constituted or made under this Act, and shall have effect accordingly.

Saving of existing appointments, &c.

#### *New Clause.*

20. Wherever in any Act now in force reference is made to any Act hereby repealed, such first mentioned Act shall take effect and operate as if reference had been made therein to this Act instead of to such repealed Act.

References to repealed Acts to apply to this Act.

21. The Acts and Provincial Ordinances enumerated in the Second Schedule are hereby repealed.

Repeals.

### SCHEDULES.

Schedules.

#### FIRST SCHEDULE.

##### AUCKLAND.

ALL that piece or parcel of land situate in the Parish of Waitemata, in the County of Eden, containing 196 acres, more or less, and known as the Government Domain or Auckland Park. Bounded towards the North-east by Suburban Section No. 95, 120 links, 300 links, 310 links, 306 links, 306 links, 304 links, and 300 links, and by a stream ; towards the South-east by a road 1,876 links, and by a road 960 links and 560 links ; towards the South by a road 569 links, and by a road 1,187 links ; towards the South-west by a road 1,612 links ; towards the West by the Provincial Hospital grounds, 299 links, 520 links, 824 links, and 220 links, by a stream dividing it from Suburban Section No. 18, to a marked puriri tree, and by the said Suburban Section No. 18, 691 links

1860, No. 32.

and 396 links; towards the North-west and North by a mill-race, by a line 175 links, and again by the mill-race, and by a line 423 links and 405 links, to where the boundary commenced.

1860, No. 32.

All that piece or parcel of land situated in the City of Auckland, containing 8 acres 3 roods and 5 perches, more or less, and known as the Government House grounds. Bounded towards the North-east by Waterloo Quadrant, 950 links, and by a curved line connecting that street with Symonds Street; on the East by the said curved line and by Symonds Street, 970 links; towards the South-west by the wall of the Albert Barracks, 175 links, 23 links, 212 links, 23 links, 198 links, 197 links, 23 links, 213 links, 22 links, 230 links, 174 links, 43 links, and 70 links; towards the West by Princes Street; and towards the North by a line, 99 links.

1868, No. 67.

#### WELLINGTON.

All that parcel of land in the City of Wellington, comprising 2 acres 1 rood and 24 perches, more or less. Bounded on the South-east by a line starting from the south-east corner of Section No. 629, 400 links in length, along the Tinakori Road; thence on the North-east by 600 links along the south-west boundary-line of Section No. 632, now belonging to Charles Harrison, to Grant Road; thence on the North-west by 400 links along Grant Road to the north corner of Section No. 629, and from that point by 600 links along the north-east boundary-line of that section now belonging to Joseph Godfrey Holdsworth to the point of commencement.

1860, No. 32.

All that piece or parcel of land situated in the City of Wellington, containing 5 acres 2 roods and 16 perches, more or less, and known as the Government House Domain. Bounded towards the North by Sydney Street, 834 links; towards the North-east by Charlotte Street, 528 links; towards the South-east by Lambton Quay, 283 links; towards the South by Kumutoto Street, 818 links; and towards the West by Town Section No. 505, 556 links.

#### CANTERBURY.

##### *Lyttelton.*

1877, Local, No. 3.

All that parcel of land comprising 4 acres 2 roods 37 perches, more or less, being part of Rural Section No. 375, as conveyed by deed dated 2nd July, 1875, Thomas Hodsson Parkinson to William Rolleston, as Superintendent of the Province of Canterbury. Commencing at a point on the north-eastern side of the road reserved along high-water mark, the said point being distant south-easterly about 540 links from the south-eastern corner of Section No. 1857, and bearing therefrom  $135^{\circ} 15'$  (mag.); thence North-easterly by a line bearing  $61^{\circ}$  (mag.), 175 links, to the road running through the aforesaid Section No. 375; thence South-westerly along that road, 106 links and 475 links; thence South-easterly along that road, 142 links and 180 links; thence North-easterly along that road, 151 links and 708 links; thence South-easterly along that road, 136 links, 74 links, 98 links, and 166 links; thence South-easterly along the same road to the aforesaid road reserved along high-water mark; and from thence returning South-westerly and North-westerly along that road to the commencing-point.

*Ibid.*

All that parcel of land comprising 3 roods 31 perches, more or less, being part of Rural Sections Nos. 375 and 714, as conveyed by deed dated 2nd July, 1875, Thomas Hodsson Parkinson to William Rolleston, as Superintendent of the Province of Canterbury. Commencing at a point on the north-western side of the road reserved along high-water mark, the said point being the southernmost corner of Section No. 714; thence South-westerly along that road

to the road running through the said sections; thence North-easterly along that road, 583 links; thence North-westerly along that road, 195 links and 82 links; thence North-easterly along that road, 102 links, 161 links, and 190 links; thence south-easterly along the same road to the aforesaid road reserved along high-water mark; and from thence returning South-westerly along that road to the commencing-point.

All that parcel of land comprising 29 perches, more or less, being part of Rural Section No. 714, as conveyed by deed dated 2nd July, 1875, Thomas Hodsson Parkinson to William Rolleston, as Superintendent of the Province of Canterbury. Commencing at a point on the northern side of the road reserved along high-water mark, the said point being the south-eastern corner of the said section; thence North-westerly by a line bearing  $125^{\circ} 30'$  (mag.), 94 links; thence South-westerly along the road running through the said section to the aforesaid road reserved along high-water mark; and from thence returning North-easterly along that road to the commencing-point.

1877, Local, No. 3.

#### *Arowhenua.*

Description of Reserve No. 307 (in red), being a reserve for a public garden and recreation-ground in the Township of Arowhenua: One hundred and thirty-three acres in the Township of Arowhenua. Bounded on the North by High Street and by Reserve No. 277 (in red); on the West by the said reserve, and also by the reserve for railway; on the East by Taumatahahu Creek; on the South by the bank of the River Temuka.

Cant. Ord., 1872,  
Sess. 38, No. 2.

#### *Malvern.*

Description of Reserve No. 1252 (in red), being a site for a public recreation-ground and racecourse: All that parcel of land in the Provincial District of Canterbury, in the Colony of New Zealand, situate in the Malvern District, containing by admeasurement 100 acres, more or less. Commencing at a point on the north-eastern side of the Coal Tramway Reserve, the said point being the westernmost corner of Section No. 14381; thence North-westerly following the said reserve a distance of 11 chains 60 links; thence Northerly following the road forming the eastern boundary of Reserve No. 1248 (in red), 34 chains 11 links; thence Easterly along the southern boundary of Section No. 9256, a distance of 27 chains 75 links to the high bank of an old river-bed; thence South-easterly following the said high bank to a point in line with the north-western boundary of the said Section No. 14381; and from thence returning South-westerly along the said line and boundary 42 chains 10 links to the commencing-point: and numbered 1252 (in red) on the map of the Chief Surveyor of the Province of Canterbury setting out and describing the rural land in the Malvern District aforesaid.

Cant. Ord., 1873,  
Sess. 39, No. 11.

#### *Mandeville.*

Description of Reserve No. 74 (in red), being a site for a public recreation-ground: All that parcel of land situate in the Mandeville District, in the Provincial District of Canterbury, containing 15 acres and 32 perches, more or less. Commencing at a point on the North Road, the same being the north-west corner of Section No. 338E, following along the said road in a northerly direction a distance of 19 chains; and running back Easterly a distance of 8 chains in a rectangular block: and numbered 74 (in red) on the map of the Chief Surveyor of the Province of Canterbury setting out and describing the rural land in the Mandeville District aforesaid.

*Ibid.*



*Rangiora.*

Cant. Ord., 1872,  
Sess. 38, No. 2.

Ten acres, situate at Rangiora, north of and adjoining Rural Section No. 1197, having 10 chains frontage on a road leading to the Ashley, and back Easterly, adjoining Section No. 1197, 10 chains; and numbered 132 (in red) on the maps in the Land Office, Christchurch: for purposes of public recreation, as described in a notification of his Honor the Superintendent of the 13th December, 1858, and published in the Provincial Government *Gazette* of the 31st December, 1858.

*Timaru.*

*Ibid.*

Description of Reserve No. 251 (in red), being site for a racecourse in the Timaru District: One hundred and ninety-seven acres, more or less. Commencing at a point on the western side of the South Road, the same being the first bend or turn in the road north of the north-eastern corner of Section No. 3789, following the said road in a northerly direction a distance of 41 chains; thence Westerly at a right angle a distance of 35 chains 50 links; thence again at a right angle Southerly a distance of 39 chains 98 links to the north-eastern boundary of Section No. 7457; following South-easterly along that boundary a distance of 29 chains 80 links to the north-western corner of the before-mentioned Section No. 3789; following Easterly along the northern boundary thereof a distance of 21 chains 18 links to the road above mentioned, and from thence returning along that road to the commencing-point: and numbered 251 (in red).

*Ibid.*

Description of Reserve No. 262 (in red), being a site for a public garden and pleasure-ground in the Town of Timaru: Twelve acres 3 roods 37 perches, more or less. Bounded on the Northward by Brown Street, a distance of 7 chains 21 links; on the Eastward by Ross Street, a distance of 18 chains 17 links; on the Southward by Catherine Street, a distance of 6 chains 97 links; and on the Westward by Rural Section No. 707, a distance of 18 chains 20 links: subject nevertheless to the reserve for a boulevard, 2 chains wide, on the western boundary of the town, for which reserve no allowance is made in the acreage: and numbered 262 (in red).

*Ibid.*

Description of Reserve No. 344 (in red), being reserve for a public park, &c., in the Town of Timaru: Fifty-six acres, more or less, situate in the Town of Timaru. Bounded on the Northward by Queen Street; on the Eastward by High Street; on the Southward by the boulevard, 2 chains wide; and on the Westward by the continuation of King Street.

## SECOND SCHEDULE.

## ACTS OF THE GENERAL ASSEMBLY.

- 1860, No. 32.—The Public Domains Act, 1860.  
 1865, No. 17.—The Public Domains Act Amendment Act, 1865.  
 1868, No. 67.—The Public Domains Acts Extension Act, 1868.  
 1872, No. 19.—The Canterbury Public Domains Act, 1872.  
 1877, Local No. 3.—The Lyttelton Public Domain Act, 1877.

## ORDINANCES OF THE PROVINCE OF CANTERBURY.

- Sess. XXXVIII., No. 2.—The Public Domains Ordinance, 1872.  
 Sess. XXXIX., No. 11.—The Public Domains Ordinance, 1873.

By Authority: GEORGE DIDSBURY, Government Printer, Wellington.—1881.