121

LEGISLATIVE COUNCIL.

# PUBLIC RESERVES.

THIS Bill consolidates the various provisions relating to the administration of the public reserves.

The provisions of "The Land Act, 1877," relating to the administration of reserves have been incorporated with this Bill, with one alteration, made in section 149 of "The Land Act, 1877," for the purpose of defining more specifically the power of Land Boards to grant yearly licenses for occupation of such reserves.

Section 6 of "The Public Reserves Act, 1877," enabled the Governor to appoint persons to have the management and control of reserves not vested or granted in any way. But in attempting to grant pastoral and other licenses for cutting timber, &c., on such reserves, it was found that such managers had no authority to grant such licenses.

The power of granting yearly occupation licenses of all reserves is vested by this Bill according to the tenure of the reserve, either in the Land Board, or in the Governor with authority to delegate such power to such persons as he shall think fit; the yearly licenses to be issued permitting only the occupation of reserves for pastoral purposes, and for cutting and removing flax or timber therefrom.

The additions to the Bill are,—

Clause 19, transferred from "The Municipal Corporations Act, 1876" (in which there was an error), authorizing the granting to boroughs of reserves made for such boroughs and granted to Superintendents;

Clause 22, enabling the Governor to grant prospecting licenses for minerals;

Clause 23, transferred from "The Land Act Amendment Act, 1879," authorizing the lease of reserves for fourteen years.

The date given in clauses 16, 17, and 18 is the date of the passing of "The Public Reserves Act, 1877," hereby repealed, from which these provisions have respectively had effect.

The provisions of section 16 of "The Public Reserves Act, 1877," relating to documents from the Surveyor-General's office, seem very much out of place, and would appear to have been more fittingly added to the Land Act of that session; the section is therefore omitted from this Bill, and will be transferred to its proper place in another Bill.

> A. J. JOHNSTON. W. S. REID.

123

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

Legislative Council,

20th July, 1881.

### [STATUTES REVISION COMMISSION.]

# PUBLIC RESERVES.

#### ANALYSIS.

Title.

1. Short Title.

2. Interpretation.

#### ADMINISTRATION.

- 3. Public reserves shall be classed. 4. Governor may vest or exchange or define or
- change purpose of reserves in Class I 5. Governor may, after Gazette notice, define pur-
- pose of reserves not in Class I.
  6. Governor, after *Gazette* notice, may change purpose of reserves in Class II.
- 7. Proposed change to be subject to assent of Parliament.
- 8. Change of dedication of reserves in Class III. to be made only by special Act.
- 9. Governor may issue grants and execute deeds. 10. Gazette to be evidence of reserves being duly
- made or changed, &c.

#### GRANTS OF RESERVES.

- 11. Grants may be registered under "Land Transfer Act, 1870." 12. Memorial of trusts may be registered with
- grant. 13. Grantees to hold reserve upon trusts mentioned
- in grant.
- 14. If trusts changed, revoked, or altered, memorial of same to be made in register-book.
- 15. Reserves not to be dealt with except according to trusts.
- 16. Reserves for municipal purposes valid.

- 17. Reserves granted to boroughs to be property of borough under fresh incorporation. 18. Reserves outside borough may be granted to
- borough. 19. Reserves granted to Superintendent for boroughs
- to be granted to boroughs.

#### ALIENATION OF RESERVES.

- 20. Reserves, in some cases, may be leased for twenty-one years.
- 21. Powers of local body to be exercised by the Council, &c., thereof.
- 22. Leases of mineral reserves may be granted by Governor.
- 23. Reserves not required for immediate use may be leased for fourteen years.
- 24. Recreation reserves may be brought under Public Domains Act or granted to trustees.

TEMPORARY OCCUPATION OF RESERVES.

25. License to occupy reserves temporarily. (1.)(2.)License to be surrendered on demand. Survey to be made before license granted. (3.) Land in license may be taken for roads.

#### MISCELLANEOUS.

- 26. Powers in relation to trespass, &c., on public reserves not granted or vested in trustees, &e.
- 27. References to repealed Acts to apply to this Act. 28. Repeals. Saving.

Schedules.

# A BILL INTITULED

AN ACT to consolidate the Law regulating the Vesting and the Administration Title. of the Public Reserves in the Colony.

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 Reserves Act, 1881."
- 2. In this Act, if not inconsistent with the context,-
  - "Alienate" and "alienation" respectively includes a limited disposal by lease or license, as well as an absolute disposal by sale or otherwise:
  - "Borough" means any city, town, or borough incorporated under any enactment of the General Assembly or of any Provincial Legislature :
  - "Crown grant" and "grant" includes certificate of title, memorandum of transfer, conveyance, or instrument evidencing or affecting the title to any public reserve :
  - "Crown lands" include all lands formerly designated Crown lands, waste lands, and confiscated lands respectively:

No. 16-2.

Short Title.

Interpretation. 1877, No. 36, s. S.

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"Local body" means the body corporate of any borough, county, road or highway district, River Conservators, or the persons or body having the management or control of the local affairs of any district, town or place not hereinbefore mentioned:

# New Clause.

"Trustees" means and includes any persons or body corporate however designated, in whom the property of any agricultural or pastoral society, charitable institution, cemetery, museum, library, athenæum, mechanics' institute, school, and other institutions of a similar character is vested : "Public reserve" and "reserve" includes---- 5

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Land heretofore granted, reserved, or set apart for any of the purposes mentioned in the First Schedule hereto, by or under the authority of Her Majesty's Letters Patent or Royal Instructions, or of any Ordinance of New Zealand or of New Munster respectively, or of any Act of the General Assembly, or of any Provincial Ordinance, or by the Governor- 15 in-Chief, Governor, or Lieutenant-Governor, or by the New Zealand Company or its agents, or the Canterbury Association or its agents; and

Any land which has heretofore been granted, reserved, or set apart for any such purposes as aforesaid by any authority whatsoever 20 which in the opinion of the Governor-in-Council shall be thought sufficient; and

Any land hereafter granted, reserved, or set apart for any such purposes as aforesaid by or under the authority of "The Land Act, 1877," or any other lawful authority; and 25

Any land heretofore or hereafter vested in or acquired by Her Majesty or the Governor, or any Superintendent, for any of the purposes aforesaid, by purchase, gift, or otherwise.

#### ADMINISTRATION.

**3.** All public reserves within the colony shall be divided into the classes **30** named in the several Classes I., II., and III. in the First Schedule hereto respectively.

4. In the case of any public reserve set apart for any of the purposes comprised in Class I., whether the same be now vested in Her Majesty or the Governor, or be set apart under the one hundred and forty-fourth section of 35 "The Land Act, 1877," and whether the same be granted or not, the Governor may, by Order in Council gazetted, do any of the following things :—

- If in the opinion of the Governor there is any doubt or uncertainty as to which of the purposes comprised in the said Class I. the reserve should be dedicated, the Governor may define the purpose of such reserve or 40 any part thereof to be such one or more of such purposes as to him shall seem fit.
- If in the opinion of the Governor it is expedient that such reserve or any part thereof should become vested in any local body or trustees, the Governor may declare that, from and after a date to be named in such 45 order, such reserve or part thereof shall be so vested; and thereafter such reserve or part thereof, as the case may be, shall be vested in such local body, or trustees, as the Governor shall appoint, upon trust for the same purposes as those for which such reserve was or shall be set apart. 50

1878, No. 34, s. 4.

Public reserves shall be classed. *Ibid.*, s. 5.

Governor may vest or exchange or define or change purpose of reserves in Class I. *Ibid.*, s. 6. Public Reserves.

- If, in the opinion of the Governor, it is expedient to change the purpose of such reserve or any part thereof to some other purpose, being one or more of the purposes comprised in the said Class I., or to exchange any such reserve for other land of equal value to be dedicated to the same or one or more of the purposes so named, the Governor may make such change, exchange, or dedication, as the case may be, and define the purpose to which such reserve or part thereof, or such land acquired in exchange, shall be dedicated.
- 5. In the case of any public reserve now vested in Her Majesty or the Governor may, after 10 Governor, whether the same be granted or not, such reserve not being for one of the purposes comprised in Class I., if there shall, in the opinion of the not in Class I. Governor, be any doubt or uncertainty as to the purpose for which such reserve 1878, No. 34, s. 7. was set apart, the Governor may, by notice gazetted, define such purpose or purposes as to either the whole or any part of such reserve, subject to the action

15 of the General Assembly as hereinafter mentioned.

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6. In the case of any public reserve now or hereafter vested in Her Majesty Governor, after Gazette notice, may or the Governor for any of the purposes comprised in Class II., whether the same change purpose of rebe granted or not, and in the case of any reserve made under the authority of serves in Class II. Ibid., s. 8. section one hundred and forty-four of "The Land Act, 1877," if it shall, in

20 the opinion of the Governor, be expedient to change the purpose of such reserve or any part thereof from the purpose or presumed purpose for which it was set apart to any other purpose, or if it shall, in the opinion of the Governor, be expedient to exchange any of the land comprised in such reserve for other land of equal value, to be dedicated to one or more of the purposes comprised 25 in the said Class II. :

The Governor may, by notice gazetted, make such change, exchange, or dedication, as the case may be, and, in such notice, declare the manner and terms thereof, subject to the action of the General Assembly as hereinafter mentioned.

- 7. Every notice by the Governor under the two last foregoing sections shall Proposed change to 30 be gazetted during four consecutive weeks, and shall be laid before both Houses be subject to assent of Parliament. of Assembly within ten days of the first publication thereof, if Parliament be  $I_{bid}$ , s. 9. then sitting, and, if not, within ten days after the beginning of the then ensuing session.
  - If either House of Assembly shall during such session declare, by resolution, that such House does not assent to any such definition of purpose, change, exchange, or dedication, then no further action shall be taken in the matter.
    - If no such resolution be passed by either House, then, from and after the termination of the then session of Parliament, such definition of purpose, change, exchange, or dedication, as the case may be, in accordance with the terms of such notice, shall be valid and effectual for all purposes whatsoever.

And the Governor shall notify, in the Gazette, the action of the General 45 Assembly in respect of any such reserve, as the case may require.

8. No change shall be made in the dedication of any public reserve made Change of dedication or set apart for any of the purposes comprised in Class III. of the First Schedule III. to be made only hereto, except by special Act of the General Assembly in that behalf.

9. For the purpose of giving full effect to any Order in Council as herein- Governor may issue 50 before provided, the Governor may issue such grants, and execute such deeds, grants and execute assurances, and instruments, as the circumstances of each case may require, 1878, No. 34, s. 10. and may antevest the legal estate as he may think necessary or advisable.

of reserves in Class by special Act. Ibid., s. 11. leeds

Gazette notice, define purpose of reserves

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Gazette to be evidence of reserves being duly made or changed, &c. Ibid.

Grants may be registered under "Land Transfer Act, 1870." *Ibid.*, s. 12.

Memorial of trusts may be registered with grant. *Ibid.*, s. 13.

Grantees to hold reserve upon trusts mentioned in grant. *Ibid.*, s. 14.

If trusts changed, revoked, or altered, memorial of same to be made in registerbook. *Ibid.*, s. 15.

Reserves not to be dealt with except according to trusts. 1877, No. 36, s. 15.

Reserves for municipal purposes valid. 1877, No. 36, s. 8. 10. Any instrument signed, or purporting to be signed, by the Governor, and purporting to *define the purpose*, or change, exchange, or dedicate any reserve, or part thereof, in pursuance of any such Order in Council, and any notification in the Gazette to the purport aforesaid, shall be conclusive evidence that such definition of purpose, change, exchange, or dedication as the case may be, is duly and lawfully made.

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#### GRANTS OF RESERVES.

11. Every Crown grant of a public reserve which has been or hereafter shall be issued or made may be registered under the provisions of "The Land Transfer Act, 1870," notwithstanding that the trusts of such reserve are 10 expressed or referred to in the Crown grant; and every such Crown grant already registered under "The Land Transfer Act, 1870," shall, notwithstanding such expressions of trust, be deemed duly registered.

12. Whenever any grant registered under "The Land Transfer Act, 1870," does not contain or have expressed therein the trusts of such reserve, and the 15 trusts to which such reserve is to be dedicated shall have been declared by any Order in Council, as hereinbefore provided, the Governor may, by notice in writing, direct the District Land Registrar to indorse on the folium of the register-book constituted by such grant, and on the duplicate thereof, if produced to him for that purpose, a memorial of the trusts of such reserve as 20 expressed in such notice, and the trusts so indorsed shall be deemed the trusts of such reserve, and such trusts shall be deemed as valid and effectual as if set forth in the grant itself.

13. Every grantee or other person in whom any public reserve has been or hereafter shall be granted or vested as aforesaid shall, notwithstanding registra-25 tion under "The Land Transfer Act, 1870," hold such public reserve unto him, and his heirs, successors, and assigns, upon the trusts expressed or referred to in the grant or indorsed thereon.

14. If such trusts shall, after registration of the grant, be legally changed, revoked, or altered, the District Land Registrar shall, upon being satisfied 30 thereof, enter in the register-book, and also upon the duplicate Crown grant, if the same can be obtained for that purpose, a memorial of the particulars of such change, revocation, or alteration, and the authority whereby such change, revocation, or alteration has been effected, and the day and hour of such entry in the register-book. 35

From and after such entry, the land the subject thereof shall be discharged from the original trusts, or such of them as shall have been changed, revoked, or altered, and shall be held by the grantees, their heirs, successors, or assigns, upon the substituted trusts (if any) as if such trusts had been originally expressed in the grant.

15. No District Land Registrar shall, without special authority of law, register or otherwise give effect under "The Land Transfer Act, 1870," to any dealing with any public reserve except in conformity with the trusts upon which such reserve is held for the time being.

16. All reserves made, previous to the eighth day of December in the year 45 one thousand eight hundred and seventy-seven, for the endowment of Municipal Corporations, or generally for municipal or other public purposes for any town not being a borough at the time of making such reservation, shall nevertheless be valid, and shall be granted to or vested in the corporate body of such town whenever the same shall become incorporated. 50

127

Public Reserves.

17. All reserves granted or vested, previous to the day last aforesaid, in Reserves granted to the corporate body for the time being of any borough, which may have been or boroughs to be promay become incorporated afresh under the provisions of an enactment other than under fresh incorporathat under which such borough was originally incorporated, shall be deemed to

5 be vested for the same purposes and no other in the corporate body of the said borough under its new incorporation, without any deed or instrument of conveyance or transfer.

18. Where any land has, previous to the day aforesaid, been lawfully set Reserves outside · apart, reserved, or acquired for municipal purposes for any borough outside the borough may be granted to borough

10 limits of such borough, the same shall be granted to or vested in the corporate Ib., s. 10. body of such borough, anything to the contrary in "The Counties Act, 1876," or "The Municipal Corporations Act, 1876," notwithstanding.

### New Clause.

19. All reserves made for the use or endowment of a borough, or town not Reserves granted to being a borough, or for the recreation of the inhabitants thereof respectively, Superintendent boroughs, to be 15 and which have been granted to the Superintendent of a Province, and have now granted to boroughs. become vested in Her Majesty under "The Abolition of Provinces Act, 1875," 1876, No. 52, s. 352. shall be granted to the corporate body of such borough or town respectively in trust for the same purposes for which such reserves are respectively held at the

20 passing of this Act.

## ALIENATION OF RESERVES.

20. All local bodies, or the trustees to whom any reserve shall be granted, Reserves, in some or in whom any reserve shall be vested, shall, in respect of such reserve, have cases, may be leased for twenty-one years. the same rights, powers, and duties as a Commissioner of Crown lands has in 1877, No. 36, s. 7. 25 respect of Crown lands.

In respect of any reserve, and any racecourse, they may lease the same or any portion thereof for any term not exceeding twenty-one years, for such rent and upon such terms as they may think fit :

Provided that every such lease shall be disposed of either by public auction or by public tender, as the lessors in each case may think fit : 30

But this provision of leasing reserves shall not apply to any reserve made for any purpose of public health or recreation.

# New Clauses.

21. The powers granted to any local body by this Act shall be exercised by Powers of local body the governing authority of such local body, in like manner as such governing to be exercised by 35 authority may exercise any other power on behalf of such local body.

22. All powers of the Governor, under the provisions of any Act relating Leases of mineral to mining, to grant mineral leases or licenses of land containing or supposed to reserves may be contain minerals other than gold, may be exercised by the Governor in respect 1877, No. 29, s. 158. of all public reserves not granted or otherwise alienated from the Crown, but

subject to the conditions contained in any such Act aforesaid.

23. Where any reserve heretofore made, or hereafter to be made, shall not Reserves not required for the time being be required for the specific purpose for which the same was for immediate use originally made, or shall be only partially required for such purpose, it shall be fourteen years. lawful for the Governor to lease such reserve, or any part thereof, upon such 1879, No. 21, 8. 26.

45 terms and conditions as he shall think fit:

Provided always that every such lease shall be disposed of at public auction or public tender, and shall be for not a longer term than fourteen years.

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tion. 1877, No. 36, s. 9.

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granted to borough.

Superintendent for

the Council, &c., thereof.

granted by Governor.

**Recreation** reserves may be brought under Public Domains Act, or granted to trustees. 1877, No. 36, s. 11.

24. All reserves at any time made for any purpose of public health or recreation,

(1.) May by Order in Council be brought under the operation of, and declared to be subject to, the provisions of "The Public Domains Act, 1881," and such reserves shall thereafter be managed, adminis- 5 tered, and dealt with in manner directed by the said Act; or,

- (2.) May be vested in or granted to any local body, trustees, or other persons; and any such reserves, or any part thereof, may be enclosed, laid out, and planted, and there may be erected thereon any buildings for ornamental purposes, but not for making any 10 profits therefrom :
  - Provided always that no disposition shall be made in respect of any such reserve whereby the public shall be excluded from the free access thereto, except that it shall be lawful for the governing authority of such local body, or such trustees or other persons, to lease the same 15 for any period not exceeding three years for the purpose of having the same fenced in or laid down in artificial grass :

Provided also that the provisions of this section relating to management of reserves shall not apply to racecourses.

### TEMPORARY OCCUPATION OF RESERVES.

License to occupy reserves temporarily. Ib., s. 6.

25. Licenses may be granted to occupy for pastoral purposes, or for the purpose of cutting, felling, and removing timber or flax, any reserve or part of any reserve, either heretofore made or hereafter to be made, if not required for immediate or early use for the purposes for which it may have been reserved :

By the Land Board within whose jurisdiction any such reserve is situate, in 25 the case of reserves vested in Her Majesty;

By the Governor, or by such fit persons as he shall approve to have the control and management of such reserve, in the case of reserves not granted or vested in any particular manner :

Provided as follows:

- 30 (1.) Every such license shall be surrendered to the Governor upon demand at any time after notice of not less than twelve months, without any right to compensation on any account whatever accruing to the licensee :
- (2.) No such license shall be granted until a survey has been made of the 35 land applied for to the satisfaction of the Governor, who may require the applicant to have such survey made at his own expense, the cost of such survey as shall be fixed by the Governor to be repaid to the person having it made out of the first rent received for the land so surveyed : **40**
- (3.) Nothing in any such license contained shall affect the right of the Governor to take any part of the lands therein mentioned for the construction of roads, railways, or tramroads through the said land to an extent not exceeding one-twentieth part of such land, and such right may be exercised by the Governor at any time during the 45 currency of the license, and the licensee shall have no claim for compensation except a reduction in his rent in proportion to the extent of land taken.

License to be surrendered on demand. 1877, No. 29, s. 149.

Survey to be made before license granted. Ib., s. 150.

Land in license may be taken for roads. Ib., s. 151.

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### MISCELLANEOUS.

26. The Commissioner of Crown Lands for the land district within which Powers in relation to any public reserve not granted to or vested in any local body, trustees, or public reserves not other persons is situate, shall have and exercise over such public reserve all the trustees, &c. rights, powers, duties, and functions which such Commissioner has over Crown 1878, No. 34, s. 16. 5 lands; and, in addition, the following provisions shall be in force :----

(1.) When any person without right, title, or license is in occupation of such public reserve as aforesaid, 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 reserve 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 reserve as aforesaid, or who without right, title, or license shall fell, remove, or sell any timber growing or being thereon, or otherwise unlawfully trespasses on such public reserve, 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.

### New Clause.

27. Wherever in any Act now in force reference is made to any Act or part References to reof an Act hereby repealed, such first-mentioned Act shall take effect and operate pealed Acts to apply to this Act. as if this Act had been referred to therein instead of any such repealed Act or part of Act.

# 28. The Acts and parts of Acts enumerated in the Second Schedule hereto Repeals. are hereby repealed; but this repeal shall not affect-

(1.) Anything already done or suffered; or

(2.) Any right or title already acquired or accrued :

And all grants, leases, licenses, and other instruments, and contracts made. 40 granted, entered into, and all things done, under the authority or in pursuance of the enactments hereby repealed, shall be deemed to have been respectively made, granted, entered into, or done, and may be continued and perfected, under this Act.

# SCHEDULES.

# FIRST SCHEDULE. CLASS I.

RESERVES FOR COUNTY, LOCAL, AND MUNICIPAL PURPOSES. Abattoirs. Aqueducts and watercourses. Acclimatization. Baths. Agricultural and pastoral societies. Bridges.

Schedule. 1878, No. 34.

granted or vested in

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RESERVES FOR COUNTY,	ETC., PURPOSES—continued.
Canals.	Plantations.
Cattle-yards.	Police stations and purposes.
Cemeteries.	Provincial Government purposes.
Drains and watercourses.	Public pounds.
Embankments.	Public buildings, and other objects for local
Ferries.	governing bodies.
Gravel-pits.	Quarries.
Growth and preservation of timber.	Reservoirs.
Improvement and protection of rivers.	Sewage purposes.
Internal communication by land or water.	Sites of markets.
Irrigation purposes.	Supply of water to towns.
Landing-places upon rivers and lakes.	Turnpikes.
Libraries.	Washhouses.
Mechanics' Institutes and Athenæums.	Water-races and canals.

### CLASS II.

RESERVES FOR PUBLIC WORKS AND GENERAL PURPOSES.

Courthouses. Commonages on gold fields and elsewhere. Drill-sheds and rifle ranges. Fisheries.	Railways and stations. River-frontage reserves. Shearing reserves, and for travelling stock. Telegraphs.
Gaols or prisons.	Tramways.
Museums.	And any other reserve not herein defined,
Public buildings of the General Govern- ment.	and made for any purpose of public safety, utility, advantage, or enjoy-
Quarantine grounds for stock and other- wise.	ment.

## CLASS III.

RESERVES FOR HARBOURS AND NAVIGATION, AND MISCELLANEOUS PURPOSES.

Coal reserves.	Quays.
Docks.	Reserves for improvement of harbours.
Foreshore reserves. Landing-places. Lighthouses.	Reserves for military purposes and defence. Signal stations.

RESERVES FOR EDUCATION, CHARITABLE PURPOSES, AND RECREATION.

Asylums. Charitable institutions. Colleges. Endowments for education. Endowments for Universities. Hospitals. Parks and domains. Public gardens. Recreation reserves. Reformatories. Sites and grounds for schools.

NATIVE RESERVES.

Reserves for the use, support, or education of aboriginal natives.

## SECOND SCHEDULE.

### ACTS AND PARTS OF ACTS REPEALED.

1877, No. 36.—The Public Reserves Act, 1877.

1878, No. 34.—The Public Reserves Act Amendment Act, 1878. 1876, No. 52.—The Municipal Corporations Act, 1876. Section 352. 1877, No. 29.—The Land Act, 1877. Sections 148 to 151, both inclusive.

1879, No. 21.-The Land Act 1877 Amendment Act, 1879. Section'26.

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