

(Mr. O'Rorke.)

## Auckland Improvement.

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### A BILL INTITULED

AN ACT to provide for the Improvement of the City of Auckland, by laying out the Albert Barrack Military Reserves in Auckland in Streets and Places of Recreation. Title.

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 shall be "The Auckland Improvement (Albert Barrack Reserves) Act, 1872" Short Title.

2. "The Auckland Military Reserves Act, 1871," so far as it relates to the land comprised in the First Schedule hereto, is hereby repealed. Repeal of Act.

Land subject to Act.

3. The land described in the First Schedule hereto, is hereby declared to be Crown land subject to the provisions of this Act, and shall be managed and disposed of as hereinafter provided.

CONSTITUTION AND DUTIES OF COMMISSIONERS.

Constitution of Commissioners.

4. There shall be a Board of Commissioners under the style of the Auckland Improvement Commissioners (hereinafter called "the Commissioners"), who shall manage and dispose of the said land, and shall lay out and apply any moneys which from time to time shall come into their hands as such Commissioners, in the formation of a place for recreation, and in laying out and planting the same, and such other parts thereof as they may think fit (subject to this Act), and in forming streets and approaches, and who shall have all necessary powers and authorities for carrying this Act into execution. 5 10

Public Domains Acts incorporated.

5. The Commissioners, with respect to the said land, shall moreover have all the powers and liabilities conferred upon the Governor by "The Public Domains Act, 1860," and by the sixth, seventh, eighth, ninth, tenth, and eleventh sections of "The Public Domains Act Amendment Act, 1865," with respect to any land mentioned or referred to therein respectively. 15

Commissioners.

6. The number of Commissioners shall be eleven, of whom five shall be a quorum, and the Superintendent of the Province of Auckland, the Speaker of the Provincial Council, the Mayor of the City of Auckland, the Provincial Secretary for the time being, and their successors in office, and the Honorable James Farmer, Francis Dart Fenton, Esquire, Theophilus Heale, Esquire, William Thorne Buckland, Esquire, Thomas Macready, Esquire, and James Mackay, Junior, Esquire, and their successors, to be appointed as hereinafter provided, together with one person to be from time to time nominated and appointed as hereinafter mentioned by the Council of the Borough of Auckland, shall be the Commissioners. 20 25 30

Provision for discontinuance or abeyance of public office.

7. In case at any time hereafter there shall be no such Superintendent, Speaker, or Provincial Secretary, the person who at the time of such discontinuance shall hold the office respectively shall continue to be a Commissioner until the appointment of a successor to such office. 35

City Council to nominate one Commissioner.

8. The Council of the Borough of Auckland shall nominate and appoint, by resolution, a person to act as a Commissioner, and from time to time as such person shall die, or in the opinion of the said Council shall become incapable to act as a Commissioner, the said Council shall, in like manner, nominate and appoint another person to be a Commissioner, in the place of him so dying or becoming incapable to act. 40

Provision for death, &c., of named Commissioner.

9. Whenever any of the persons hereinbefore mentioned by name as Commissioners shall die, or in the opinion of the Governor shall become incapable to act, the Governor shall nominate and appoint another person in his stead, and so *toties quoties*. 45

The like for resignation &c., of appointed Commissioner.

10. If and so often as the same shall happen, any of the persons named herein, or any public officer or person to be nominated and appointed as aforesaid, shall resign or decline to act as a Commissioner, it shall be lawful for the Governor to nominate and appoint a person to be a Commissioner, in the place of the person or public officer so resigning or declining to act. 50

Commission to act notwithstanding diminution of number.

11. Provided always that the powers and authorities of the Commissioners shall not be affected or diminished by reason of any diminution of their numbers by death resignation removal or declining to act as aforesaid, but the remaining Commissioners shall have as effectual power and authority under this Act as if there were the full number of Commissioners hereinbefore provided, so long as there shall be a quorum. 55

12. The Commissioners may frame rules for the direction of their proceedings, and may appoint from time to time their Chairman, and shall enter in a book correct accounts of their proceedings. Commissioners to frame rules.
13. Any contract notice deed or other instrument required to be made given or executed in carrying this Act into execution, may be made in the name of the Auckland Improvement Commissioners, and shall be effectual if signed by any two of them, authority so to sign having been previously given by the Commissioners at a regular meeting. Execution of instruments.
14. The first meeting of the Commissioners shall be at the office of the said Superintendent, on the \_\_\_\_\_ day of \_\_\_\_\_ next, at the hour of eleven in the morning; and until the Commissioners shall make other provision in this behalf by resolution, a meeting shall be held on the first Monday in every month, at the same time and place. First meeting of Commissioners.
15. The Commissioners shall set out and reserve as absolutely inalienable not less than fifteen acres of the said land as ground for recreation and amusement, and may lay out and plant and enclose the same in such manner as they think fit, and may make such orders and regulations respecting the same as the Governor may make under the said Public Domains Acts in reference to any land referred to therein. Recreation ground.
16. The Commissioners may lay out the remainder of the said land with streets and otherwise as in their judgment shall best promote the improvement of the City of Auckland. Remainder of land to be laid out.
17. Provided always that a street from Wellesley Street to Symonds Street, near its junction with Abercrombie Street, and a street from Coburg Street, near Victoria Street, to Princes Street, with as good gradients as can conveniently be obtained, and not less than sixty-six links wide, shall form an essential part of any plan of such disposal. Essential streets.
18. They may remove any wall house or building on the said land except the Militia store, and may sell the materials thereof on such terms and subject to such conditions as they think fit, or they may from time to time dedicate and appropriate any such building to any purpose of public utility or recreation, and may revoke such dedication. Buildings may be removed, &c.
19. Before land abutting on any street to be formed under the provisions of this Act shall be offered for lease, such street shall be formed and paved both as to carriage way and foot way, and properly sewered, as to the Commissioners shall seem fit. Streets to be formed, sewered, &c.
20. The Commissioners may widen or alter, either in direction or level, Coburg Street and Victoria Quadrant, and may deal with the same and the ground and soil thereof as to them may seem necessary for their improvement as streets. Streets finally to pass to City Council.
21. The management and control of all streets formed by the Commissioners, or subject to their interference by virtue of this Act, shall pass to the Council of the Borough of Auckland when the Commissioners shall give notice to them that such streets are completed. Power to lease.
22. All land subject or to be subject to this Act, excepting such part or parts thereof as may be made inalienable under the provisions hereinbefore contained, and not required for streets or approaches, may be demised and leased by the Commissioners in such quantities, and subject to such conditions, and at such times as they shall think fit, and for any term of years not exceeding ninety-nine and not less than thirty, and for such rents as can be got for the same by public auction, without any price premium or foregift for the making of such lease. And it shall not be lawful for the Commissioners to dispose by sale of any of the said land in any other manner. Form of lease.
23. All leases under this Act shall be made in the name of Her Majesty or her successors, and shall be executed and sealed in the usual form of grants of Crown lands by the Governor. Application of moneys.

## APPLICATION OF MONEYS.

Audit of accounts.

24. All moneys coming into the hands of the Commissioners by virtue of this Act shall be applied in the payment of interest on the money borrowed and for a sinking fund as aforesaid, and in payment for clerical professional and other assistance, and for the formation of streets and approaches, and for making or altering streets, and for planting laying out and fencing the proportion of the said land reserved as aforesaid for recreation, and generally for the purpose of carrying this Act into execution, and the surplus shall be applied as may be from time to time directed by Act of the Provincial Legislature of Auckland. 5 10

Saving personal liability of Commissioners. Leases, &c., not subject to Stamp duty.

25. The accounts of the Commissioners shall be audited annually by the Provincial Auditor.

26. Nothing contained in this Act, or to be contained in any agreement or other instrument entered into made or executed by the Commissioners or any of them, in exercise of the powers of this Act, shall charge the person of any of the Commissioners executing such agreement or instrument, or his heirs executors or administrators, or any of their lands goods or chattels, with or for the performance of all or any of the terms or conditions in such agreement or instrument contained. 15 20

Leases, &c., exempt from Stamp duty.

27. No lease or other instrument which shall be made under the powers hereinbefore contained, and no contract or other instrument which shall be made by the Commissioners in carrying this Act into execution, shall be liable to any Stamp duty. 25

## RAISING MONEY BY MORTGAGE.

Money may be raised by debentures.

28. In order to raise money for the purposes of carrying this Act into execution, it shall be lawful for the Commissioners from time to time to issue debentures for any sums of money not exceeding in the aggregate the sum of fifteen thousand pounds, bearing interest after a rate to be therein fixed, not exceeding six per cent. per annum, payable half-yearly. 30

Form of debentures.

29. Every debenture shall be in the form or to the effect set forth in the Second Schedule to this Act, and shall be valid and effectual if signed by three Commissioners. 35

Debentures to be numbered consecutively, and have coupons attached.

30. The debentures shall be numbered consecutively, commencing with number one, and shall have coupons attached thereto for every half-year's interest, payable to bearer.

Commissioners may make arrangement for places of payment.

31. The Commissioners may from time to time make such arrangements as they may think fit for the payment of any of the debentures or coupons at any office or bank in Auckland or elsewhere. 40

Debentures, where to be sold.

32. Debentures issued under this Act may be sold in New Zealand or elsewhere, as the Commissioners may think fit, and shall be sold by public tender, at a price not being less than a minimum to be from time to time fixed by the Commissioners. 45

No preference between debenture holders.

33. The holder of any debenture shall not have any preference over any other holder by reason of any other priority of date or otherwise, but all debenture holders shall rank alike and be entitled to equal rights.

Debentures may be hypothecated.

34. Prior to the sale of any debentures, it shall be lawful for the Commissioners from time to time to borrow and raise money by the hypothecation or mortgage of such debentures, upon such terms and conditions as the Commissioners may think fit. 50

## Security.

Debentures to be a first charge on the rents.

35. The debentures, together with interest and sinking fund, shall be a first charge on the rents of the land and hereditaments specified in the First Schedule to this Act. 55

*Sinking Fund.*

36. For the purpose of providing a sinking fund for the liquidation of the principal, there shall, on the tenth day of January in such year, as shall be fixed by the Commissioners, not being later than the tenth day of January next after the expiration of two years after the date of the first debentures issued, be set apart out of the said rents and rates a sum equal to one per centum on all debentures issued at that time.

Sinking fund provided.

37. Such sum shall be applied in taking up so many debentures as the sum so set apart will cover, and the balance (if any) shall be deposited at interest in some bank and added, together with the interest, to the amount set apart for the same purpose in the next succeeding year.

How to be applied.

38. The order in which the debentures shall be taken up shall be determined by lot in a convenient manner, on a day and at a place to be from time to time fixed by the Commissioners.

Order in which debentures shall be paid.

39. On the tenth day of January in every subsequent year, a sum equal to one per centum on the total amount for which debentures have then been issued, with the addition of a sum equal to the interest on all debentures already paid off, shall be applied in taking up so many debentures to be determined by lot as aforesaid, as such two sums with any balance from the preceding year, and interest thereon added together, will cover, and the balance (if any) shall be deposited at interest in some bank, and added, together with the interest thereon, to the amount to be set apart for the same purpose in the next succeeding year.

Further provision as to application of sinking fund.

40. When it shall be so decided by lot that any debenture shall be paid off, interest thereon shall be paid up to the tenth day of January following, but no longer: Provided that the full amount of the debentures, with interest thereon to that date, be paid on presentation, and such debentures, with the coupons belonging thereto, and not then due, shall be given up to some person authorized by the Commissioners to receive the same.

Interest to cease after time fixed for payment of debentures.

## RECEIVER.

41. In case any interest due in respect of any debenture shall be in arrear, or any sum due in respect of the sinking fund shall not be applied as hereinbefore provided, for six calendar months, it shall be lawful for the holder of any debenture to apply by petition to the Governor praying that a Receiver may be appointed.

Interest or sinking fund in arrear, debenture holder may apply for a Receiver.

42. On being satisfied that such default as alleged has been made, the Governor shall, by writing under his hand and seal, appoint some fit and proper person to be Receiver with the powers hereinafter mentioned.

Governor may appoint one.

43. Upon his appointment the Receiver shall enter into possession of the land and hereditaments specified in the said Schedule, and thenceforth all rents arising therefrom shall be paid to the Receiver, or some person appointed by him in writing, and all books papers accounts muniments of title and other documents relating to the matters aforesaid, shall be handed over to the Receiver by the person in whose possession the same may be.

Receiver to enter into possession of rents and rates.

44. The money so received shall be applied—first, in payment of the expenses incurred in the execution of the powers hereby vested in the Receiver; secondly, in or towards payment rateably amongst the several debenture holders of arrears of interest and future interest from time to time accruing; thirdly, in discharge of any sums due and accruing in respect of the sinking fund; and if there be any surplus the same may be expended in improving any portion of the property held in security, and the balance, if any, shall be temporarily deposited at interest at some bank in New Zealand, so as to be available when required for any of the purposes aforesaid.

Application of money

Arrears being paid, application may be made to withdraw Receiver.

45. At any time when the arrears of interest and sinking fund have been fully paid and discharged, it shall be lawful for the Commissioners to apply to the Governor, by petition, praying that the Receiver may be withdrawn, and possession given to the Commissioners.

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Governor may comply.

46. It shall be lawful for but not compulsory on the Governor, on being satisfied that all arrears of interest and sinking fund have been paid and discharged, and that there is a reasonable probability that the same will not again be allowed to run into arrear, to comply with the prayer of the petition.

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Interest again in arrear, Receiver may be again appointed.

47. Provided that whenever at any future time any interest or sinking fund is again permitted to get into arrear for three calendar months, it shall be lawful for the Governor from time to time, upon a like petition, and in like manner, to appoint a Receiver with the same powers as are by this Act given to the first appointed Receiver.

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Receiver's powers.

48. During the time any Receiver is in possession he may exercise all the powers and perform all the functions and duties given to and imposed on the Commissioners by this Act: Provided that no lease shall be granted without being first approved of by the Governor, and may employ and pay all such persons as may be necessary or proper to assist in the discharge of the duties imposed by this Act.

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Receiver's remuneration.

49. The Receiver shall be paid such remuneration out of the money received under this Act, by way of salary or commission or otherwise, as shall be from time to time fixed by the Governor in that behalf.

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Penalty for obstructing Receiver.

50. Any person who shall in any way obstruct or interfere with the Receiver, or with any person appointed by him, while in the exercise of the powers or performance of the duties given or imposed by this Act, or who, after being applied to, shall neglect or refuse to give up to the Receiver any books papers accounts muniments of title or other documents directed to be handed over to him by this Act, shall for every such offence forfeit and pay any sum not exceeding one hundred pounds, to be recovered in a summary way.

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#### SECURITY LIMITED.

Debentures chargeable on rents only.

51. No debenture holder shall have any claim whatever in respect of any debenture issued under this Act on the revenue of the Colony of New Zealand, or of the Province of Auckland, but every such debenture shall be chargeable only on the rents charged therewith by this Act.

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Schedules.

### SCHEDULES.

#### FIRST SCHEDULE.

ALL that parcel of land within the City of Auckland, bounded towards the South-east by Symonds Street; towards the North-east and afterwards towards the East by Government House Grounds; towards the North and North-west by a line across Princes Street, and by Victoria Quadrant; towards the West by Coburg Street; again towards the North by Wellesley Street, and again towards the West by Barrack Street; towards the South-west by lands heretofore granted, and towards the South by lands heretofore granted, and by Abererombie Street; as the same is delineated on the map deposited in the office of the Secretary for Crown Lands, whereon the same is distinguished by a red line.

Also all that parcel of land situate on the east side of Symonds Street, in the Suburbs of Auckland, coloured blue on the plan aforesaid; except such portion thereof as is described in Schedule H to "The Auckland Reserves Act, 1858," and such portions as have been set apart for public roads, and as a reserve for the site of a Grammar School.

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SECOND SCHEDULE

FORM OF DEBENTURES.

*Auckland Improvement Loan.*—£15,000.

AUTHORIZED by an Act of the General Assembly, and thereby charged upon the Auckland Military Reserves, and not upon the ordinary or other revenue of New Zealand, or of the Province of Auckland.

The principal to be repaid at par by the application to annual drawings of a one per centum accumulative sinking fund.

The bearer of this Debenture will be entitled to receive from the Auckland Improvement Commissioners \_\_\_\_\_ pounds sterling, on the tenth day of the month of January following that on which this bond shall have been drawn for payment.

The bearer will further be entitled to receive interest thereon half-yearly at the rate of \_\_\_\_\_ per centum per annum from the \_\_\_\_\_ day of \_\_\_\_\_, 187\_\_\_\_, inclusive, to the day on which the above principal shall have become due and payable by reason of this bond having been drawn.

The drawing will take place in the \_\_\_\_\_ month of \_\_\_\_\_, commencing in 187\_\_\_\_, and will be conducted in the presence of such of the debenture holders as may be pleased to attend, and of a Notary Public.

The Debentures drawn will be paid off at par on the tenth day of January following, together with interest up to that day, inclusive, and no longer.

A.B., } Improvement  
C.D., } Commissioners.  
E.F., }