

Mr. Fish.

OCEAN BEACH PUBLIC DOMAIN.

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A BILL INTITULED

AN ACT to provide for the Protection and Conservation of an Area of
Land near Dunedin known as "The Sandhills," and the Beach
adjacent thereto, and for the Management thereof as a Public
Domain. Title.

WHEREAS it is desirable that the lands described in the *First*
Schedule hereto shall be preserved and improved for public purposes: Preamble.

BE IT THEREFORE 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 Ocean Beach Public
Domain Act, 1892." Short Title.

2. In the interpretation of this Act the expressions hereafter
mentioned shall have the meanings hereby assigned to them:— Interpretation.

15 "The Board" shall mean the body of Trustees hereby incor-
porated, and, where such shall appear to be the intention
shall mean a meeting or quorum thereof:

20 "The local bodies" shall mean the Councils of the City of
Dunedin and the Boroughs of Caversham, South Dunedin,
St. Kilda, Roslyn, Mornington, Maori Hill and North-east
Valley respectively:

“The members” shall mean the persons appointed as Trustees by the said local bodies respectively for the purposes of this Act:

“Electing body” shall mean the Council of the City of Dunedin, also a body composed jointly of the Councils of the Boroughs of Caversham, South Dunedin and St. Kilda, and also a body composed jointly of the Councils of the Boroughs of Mornington, Roslyn, Maori Hill, and North-east Valley: 5

Words importing the male sex shall include the female sex. 10

Creation of Board.

3. For the purposes of administering this Act there shall be created a Board, consisting of members appointed by the electing bodies in manner and to the number hereinafter mentioned—namely: There shall be appointed by the Council of the City of Dunedin three members; by the Councils of the Boroughs of Caversham, South Dunedin, and St. Kilda two members; and by the Councils of the Boroughs of Mornington, Roslyn, Maori Hill, and North-east Valley two members. 15

Board incorporated.

4. The said members shall form a Board, and they are hereby incorporated under the name of “The Dunedin Ocean Beach Domain Board” as a body corporate, and shall by that name have perpetual succession and a common seal, with power to acquire and hold land for any tenure, and shall be capable of suing and being sued and of doing and suffering all things which a body corporate may do and suffer; and from the passing of this Act the Orders in Council of the thirteenth day of February and the twenty-eighth day of October, one thousand eight hundred and eighty-four, providing for the management of the said land shall cease to have effect, and all moneys held by the Board thereby constituted shall be paid to the Board hereby constituted. 20 25 30

Non-liability of members.

5. The members shall not be personally liable, nor shall the local bodies or the Corporations which they represent be liable, for the debts, engagements, acts, or defaults of the Board. 30

Election of members.

6. The members shall be elected as follows—namely: Immediately upon the coming into force of this Act the Council of the City of Dunedin shall proceed to elect three members, by a simple resolution; and the two other electing bodies, in the one case the Councils of the Boroughs of Caversham, South Dunedin, and St. Kilda, and in the other case the Councils of the Boroughs of Mornington, Roslyn, Maori Hill, and North-east Valley, shall hold a joint meeting, and shall proceed thereat to elect two members for each electing body: such members in each case to be the person or persons who has or have a majority of the votes of the electing body; and in the case of a joint electing body the Mayor of the borough first-named herein, and in his absence a person chosen by the meeting, shall preside, and such Chairman shall have a deliberative and a casting vote, and any such meeting may be adjourned from time to time; and it shall be open to any electing body to elect as members persons who are not members of any of the local bodies; and the certificate of the Chairman of the meeting at which any member is elected shall be *prima facie* evidence of the validity of his election. 35 40 45 50

Vacancies.

7. It shall be lawful for any member, by writing addressed or

forwarded to the Chairman, to resign his office, and in such case or in case of any vacancy occurring through the death, insanity, absence for more than two months without the leave of the Board, bankruptcy, or conviction of any indictable offence, of any member, the electing body by which he was appointed shall proceed to elect a member in his place; but in case of the vacancy arising through absence, or of bankruptcy, if he shall have been discharged, the same person may be elected; and in any case within this section the member so elected shall continue to be a member so long only as the person in whose place he is elected would have been a member.

8. One of the members elected by each electing body, and to be determined by the electing body in the first instance or instances by ballot, and in the case of the City of Dunedin in the second year by ballot, and thereafter by seniority, shall retire at the end of each year; and upon his retirement the electing body shall elect his successor, which in the case of the Council of the City of Dunedin may be done at an ordinary meeting, and in the case of any other electing body at a meeting called for the purpose by the Secretary to the Board, or if there shall be no Secretary, by the Town Clerk of Dunedin; and any member shall be capable of being re-elected.

Retirement of members.

9. Should any electing body fail for six weeks to elect a member as hereinbefore provided, the Governor may appoint a member to fill up the vacancy caused by such non-election, who shall hold office as if elected.

Failure to elect members.

10. The first Board shall hold office for the period up to the first day of April next following its election; and for the year commencing on the said first day of April, and thenceforward, the year for the purposes of this Act shall commence on the first day of April in each year.

Term of office.

11. The Board shall hold its meetings at the Town Hall at Dunedin, or at such other place and at such times as it shall from time to time appoint; and at such meetings its Chairman, who shall be chosen each year by the Board, or such Chairman as may in his absence be chosen for the meeting, shall preside, and shall have a deliberative as well as a casting vote, and four members shall form a quorum.

Meetings and Chairman.

12. The Board shall keep minutes of its meetings and proceedings, and the meetings and proceedings of its Committees, and shall keep proper books of account.

Books.

13. The Board may by resolution from time to time appoint, and may remove or re-appoint, fit persons to be officers or servants of the Board, and prescribe their duties, and may pay such persons such salaries and allowances as the Board may deem fit.

Appointment of officers.

14. The lands described in the *First* Schedule hereto shall be and the same are hereby vested in the Board upon and subject to the trusts created by this Act.

Lands vested.

15. The Board shall have power to control and manage the lands vested in it, and such other lands as may be placed under its management as delegate of the Governor in virtue of "The Public Domains Act, 1881," and shall be deemed to be in possession of the said lands and all such lands.

Management of lands.

16. The Board shall have power to borrow a sum or sums not

Power to borrow.

	exceeding in the whole the sum of ten thousand pounds for the purpose of executing protective works and improving the said lands.	
Loan and interest.	17. Such sum or sums shall be raised by debentures of fifty pounds each, with a currency of twenty years, terminable on the thirty-first day of March, bearing interest at the rate of five per centum per annum, such interest being payable on the thirty-first day of March and the thirtieth day of September in each year: Provided that no more than two thousand pounds shall be raised by way of loan in any one year under the provisions of this Act.	5
Form of debentures.	18. Such debentures shall be in the form in the <i>Second</i> Schedule hereto, and shall be numbered consecutively so that no two debentures shall at any time bear the same number.	10
Renewal or reissue of debentures.	19. Upon the maturity of the debentures hereinbefore mentioned the Board shall have power to renew or reissue the same for such period as it shall determine, or to exchange them for other debentures at lower rate of interest.	15
Contributions of local bodies.	20. The Board shall on its first coming into office, and thereafter before the first day of June in each year, ascertain approximately the net amount necessary to meet the charges for interest and bank charges connected with the payment thereof, and transmit a statement thereof to each local body above-mentioned, together with a requisition (in the form in the <i>Third</i> Schedule hereto) for payment of its contribution thereto. But such requisition shall not in any case be for a larger amount than would be produced by a rate of one half-penny in the pound on the rateable value of property in the borough represented by such local body, as declared and shown in the rate-book of such local body for the current year.	20
Payment of contributions.	21. Such requisition shall be made by a resolution of the Board, which may, after the expiry of one month from the passing thereof, demand the amount thereof of the local bodies in the proportions which the value of the rateable property in the said city and in each borough bears to the whole value of such rateable property; and, in the event of any local body failing to pay the same within three weeks after such demand, may sue such local body therefor as a debt, or may by summons before a Judge of the Supreme Court obtain a writ of <i>mandamus</i> from the Supreme Court, commanding the local body to levy the necessary rate and pay the proceeds to the Board; and it shall be lawful in any case for any local body from whom any such sum is demanded either to pay the same out of the Borough Fund or to make a special rate therefor.	25
Amounts received to be banked.	22. Upon receipt of the amount due by any local body the same shall be forthwith paid into a separate banking account to be kept by the Board; and no sum shall be withdrawn from such account except for the payment of interest.	40
Appointment of Receiver in case of default.	23. Should the Board make default in the payment of interest, and the local bodies fail to pay their contributions to the Board, it shall be lawful for the debenture-holders or any of them, whether any requisition under section <i>twenty-one</i> hereof shall have been made by the Board or not, to apply to the Supreme Court to appoint a Receiver, who when appointed shall so long as he retains office have and exercise all such of the powers and functions of the Board as may from time to time be conferred on him by the Supreme Court or a	45
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Judge thereof, and in addition shall have the power by an order under his hand to make such rates as the local bodies are by section *twenty-one* hereof empowered to make: Provided that before enforcing any such order he shall file the same in the Supreme Court.

24. The Board shall have power—

Powers of Board.

- (1.) To let for a term not exceeding five years portions of the said lands, and to provide for the removal of buildings and improvements erected by lessees:
- 10 (2.) To grant licenses for the temporary occupation of or otherwise for the use of land for sites for booths, stands, stalls, tents, and bathing machines, and to fix and exact fees for the same:
- 15 (3.) To allow of the removal of sand and earth from the said land, but so as not to injure the land from which the same is taken; and to charge fees for such removal:
- (4.) To grant licenses for plying for hire with vehicles, horses, and asses on the said land and beach, and to fix and exact fees therefor.

25. The Board shall have power to make by-laws and regulations thereunder for the management of the said land and Ocean Beach, and for the protection thereof, and of all trees, shrubs, and herbage thereon, and respecting the grazing and wandering of animals thereon, and the leaving of glass, metal, and other dangerous materials thereon, and the use of firearms thereon, and in all respects for regulating the conduct of persons resorting thereto and being thereon; and every by-law shall fix a maximum fine for the breach of any provision thereof not exceeding five pounds. Such by-law to be made by resolution of the Board at a special meeting thereof, of which meeting not less than seven days' notice shall have been given to each member of the Board.

Making of by-laws.

26. Every such by-law, whether made under the foregoing or any other power given to the Board, shall be forwarded to the Governor before the same shall come into force, and a minute shall be entered in the minute-book of the Board showing when the same was so forwarded; and the production of a copy of such by-law with the seal of the Board thereon shall be conclusive proof that the same has been regularly made and *prima facie* proof that the same has not been disallowed by the Governor, and every by-law shall have the same force and be interpreted in the same manner as if it were part of this Act, and shall override the provisions of any by-law made by any local body inconsistent therewith.

Confirmation of by-laws.

27. The Board shall have power, out of the funds so borrowed as aforesaid,—

Works, &c., on which loan-money may be expended.

- 45 (1.) To build, erect, or acquire baths, and to extend the baths already constructed and hereby vested in the Board, and to let the same, or charge for admission thereto:
- (2.) To protect and secure the said land from invasion or injury by the sea, or from injury by winds:
- 50 (3.) To plant with trees, shrubs, grass, or herbage, and otherwise improve the same:
- (4.) To lay out roads, paths, and places therein, and to execute all such works as may be conducive to the objects with which this trust is created:

- (5.) To pay all preliminary expenses for surveys, engineering, and experiments, and the costs and charges prior to and connected with the passing of this Act.
- Works may be erected on Crown lands. 28. Whenever the Board shall deem it desirable to erect any protective or other works upon any adjacent Crown lands, or upon any land or road vested in any Municipal Corporation, it may do so with the permission of the Commissioner of Crown Lands or of the local body, as the case may be, and thereafter such works shall be deemed to belong to and to be in the possession of the Board without proof of such permission. 5
- Powers of Board under Public Domains Act. 29. In addition to the powers hereby specially given, the Board shall have all the powers contained in the following sections and parts of sections of "The Public Domains Act, 1881," namely: Section four, excepting subsection three thereof; sections six, ten, fifteen, sixteen, and seventeen; and the Chairman shall exercise the powers and authorities by the said sections given to the Governor or to the Commissioner of Crown Lands. 15
- Revenues. 30. The revenues of the Board shall consist of all rents, fees, dues, and donations, and all fines in respect of breaches of this Act and of by-laws made hereunder. 20
- Bank account. 31. Such revenue and all moneys belonging to the Board shall, subject to the provisions of section *twenty-two* hereof, be paid into such bank as the Board shall from time to time appoint to an account to be called "The Ocean Beach Domain Board Account;" and all payments thereout shall be made by cheques signed by two members of the Board, and countersigned by the Secretary of the Board; but no moneys shall be drawn out of such account at the bank except by the authority of the Board. 25
- Accounts to be kept. 32. The Board shall keep a full and true account of all its receipts and disbursements, which shall be duly entered therein in order of date. 30
- Auditor. 33. The Controller and Auditor-General shall be the Auditor of the Board, and shall have in respect of all moneys belonging to the Board and the accounts thereof, and all persons dealing or concerned therewith, the same powers which under provisions of "The Public Revenues Act, 1878," and any Act amending the same, are vested in him in respect of the public moneys and accounts and of all persons dealing therewith. 35
- Balance-sheet. 34. Within thirty days after the thirty-first day of March, in each year, the officer or the person for the time being acting as Secretary of the Board shall balance all accounts, and shall prepare and send to the Auditor a balance-sheet for the past year. 40
- Audit. 35. The Auditor, or an Audit Officer authorised by him, shall forthwith attend at the office of the Board and shall examine the said balance-sheet, and shall compare it with the Board's books, and with the bank pass-book, bank receipts given to collectors, vouchers, and other documents explaining and supporting the same; and the Auditor shall within fifteen days after receiving such balance-sheet, or as soon thereafter as may be possible, return the same to the Board duly certified, either wholly or with such exceptions as he may think fit. 45
- Lands required for defence purposes. 36. All land now occupied by the Crown for defence purposes 50

5 shall be deemed to be excluded from the operation of this Act; and it shall be lawful for Her Majesty at any time to vest in the Crown any part of the lands hereby vested in the Board which may be required for defence purposes by notice published in the *Government Gazette*, and without compensation, and without resorting to such notice Her Majesty may for defence purposes treat the whole of the lands hereby affected as Crown lands.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

LANDS VESTED IN THE BOARD.

ALL that area of land in the Provincial District of Otago, being Section No. 28, Block VII., Otago Peninsula Survey District, and Section No. 4, Block XII., Dunedin and East Taieri Survey District, containing by admeasurement 128 acres 2 roods and 14 poles, more or less. Bounded towards the north-west generally by Application No. 12, Block XII., Dunedin and East Taieri Survey District, by a road-line, to the north-west corner of Section No. 5, Block XII., Dunedin and East Taieri Survey District; again by the said road-line from the north-east corner of said Section No. 5 to Section No. 27, Block VII., Otago Peninsula Survey District; thence by that section and the said road-line to Section No. 8, Block III., Anderson's Bay Survey District; thence by the said section and again by the said road-line to the north-west corner of Section No. 26, Block VII., Otago Peninsula Survey District; towards the east by that section to its south-west corner, and thence by a line due south to the high-water mark of the ocean, also by Section No. 5, Block XII., Dunedin and East Taieri Survey District; towards the south generally by the said high-water mark to its intersection with the south-east boundary-line of Application No. 12 first mentioned; and towards the west by said Section No. 5; excepting a road-line 60 links wide intersecting the above described area: as the said area of land is more particularly delineated on the plan hereto annexed and thereon edged with a pink colour.

And also all that area of land in the said Provincial District of Otago, being Section No. 6, Block XII., Dunedin and East Taieri Survey District aforesaid, and Section No. 31, Block VII., Otago Peninsula Survey District aforesaid, containing by admeasurement 152 acres more or less. Bounded towards the north generally by the southern boundaries of Section No. 1, Ocean Beach Survey District, of Application No. 12, and Sections Nos. 4 and 5, Block XII., Dunedin and East Taieri Survey District, and Section No. 28, Block VII., Otago Peninsula Survey District; towards the east by Section No. 5, Block XII., Dunedin and East Taieri Survey District; also by the eastern boundary of Section No. 28, Block VII., Otago Peninsula Survey District, continued to low-water mark of the ocean; towards the west by the western boundary-line of Section No. 1, Ocean Beach Survey District, continued to low-water mark of the ocean, also by Section No. 5, Block XII., Dunedin and East Taieri Survey District; towards the south generally by the said low-water mark of the ocean: as the said area of land is more particularly delineated on the aforesaid plan and thereon edged with a green colour.

SECOND SCHEDULE.

FORM OF DEBENTURE.

"*The Ocean Beach Public Domain Act, 1892.*"

£10,000 secured on a special rate on all rateable property in the City of Dunedin and the Boroughs of Caversham, South Dunedin, St. Kilda, Mornington, Roslyn, Maori Hill, and North-east Valley.

No. DEBENTURE FOR £50. £50.
Redeemable 19

Issued by the Dunedin Ocean Beach Domain Board under an Act of the General Assembly of New Zealand, intituled "*The Ocean Beach Public Domain Act, 1892.*"

ON presentation of this debenture at the Town Hall, Dunedin, on or after the day of 1892, the bearer thereof will be entitled to receive the sum of £50 sterling.

Interest on this debenture will cease from and after the day when payment falls due, unless default is made in payment after presentation.

Issued under the seal of the Dunedin Ocean Beach Domain Board this day of of 18 .

Chairman.

Members

Secretary.

N.B.—The holder of this debenture has no claim in respect thereof upon the revenues of the Colony of New Zealand.

FORM OF COUPON ATTACHED TO DEBENTURE.

"*The Ocean Beach Public Domain Act, 1892.*"

COUPON DEBENTURE No.

Due

ON presentation of this coupon at the Bank of , Dunedin, on or after the day of 18 , the bearer thereof will be entitled to receive £ .
Dunedin, New Zealand, day of 18 .

Chairman.

Secretary.

THIRD SCHEDULE.

FORM OF REQUISITION.

THE Dunedin Ocean Beach Domain Board hereby requires of the City of Dunedin [or Borough of *as the case may be*] payment of a contribution of £ pursuant to section *twenty* of "*The Ocean Beach Public Domain Act, 1892.*"