



DUNEDIN PUBLIC LANDS ORDINANCE, 1854.

IN THE SEVENTEENTH YEAR OF THE REIGN OF HER MAJESTY
QUEEN VICTORIA.

No. 5. A

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AN ORDINANCE for Protecting, Leasing, and Improving the Lands in and about Dunedin, reserved for Public Purposes, and promoting those Purposes.

WHEREAS certain Terms of Purchase of Land within the Settlement of Preamble. Otago had been issued by the New Zealand Company before the fourth day of July 1850, and the said Terms were in force on that day as contracts between the New Zealand Company and the Association of Lay Members of the Free Church of Scotland, constituted for promoting the said Settlement, commonly called the Otago Association: And whereas by the provisions of the Act of the Session of Parliament holden in the tenth and eleventh years of her Majesty, chapter one hundred and twelve, the lands of the said Company in New Zealand reverted to and became vested in her Majesty as part of the demesne lands of the Crown, subject nevertheless to

any contract then subsisting in regard to any of the said lands. And whereas by the foresaid Terms of Purchase it was agreed that the lands comprising the Settlement of Otago should, under the arrangements therein set forth, and subject to such amendments as should be made by the said Company and the said Association concurrently, be sold to persons to be brought forward or approved by the said Association, and that the Association, including those persons, should carry out the enterprise on their own principles, and as far as possible in their name: And whereas it was part of the said arrangements, and by the foresaid Terms of Purchase, expressly stipulated that in laying out the chief Town of the Settlement, named Dunedin, due provision should be made for the public purposes hereinafter mentioned: And whereas the Sales of Land effected by the said Association were made after, in pursuance of the said arrangements, certain lands in and about the Town of Dunedin were set apart, reserved, and destined for such public purposes by the said Company and the said Association concurrently, in and to which lands the community of the said Settlement of Otago thereby acquired right for the purposes foresaid: And whereas the said Association, who were contracting parties on behalf of the purchasers of land within the said Settlement, have intimated their desire, that others elected by and fully representing the community of Otago should come into the room and place of the said Association with relation to the said Public Lands: And whereas it will tend to the peace, order, and good government of the Province of Otago that the said Public Lands should be regulated in manner and to the effect after-mentioned:

BE IT ENACTED by the Superintendent of the Province of Otago, by and with the advice and consent of the Provincial Council thereof, as follows:—

Certain Lands reserved for public purposes declared public property.

1. The lands reserved for public purposes, such as Fortifications, Public Buildings, sites for places of Public Worship and Instruction, Baths, Wharves, Quays, Cemeteries, Squares, a Park, and other places for health and recreation in and about the Town of Dunedin, in pursuance of the foresaid Terms of Purchase of Land within the said Settlement agreed upon between the New Zealand Company and the Otago Association, and delineated on the plans or maps prepared by the Company's and the Government Surveyor, are and shall be, and are hereby declared to be, public property.

Board of Commissioners to have the management thereof.

2. A Board of Commissioners shall be formed for the purpose of carrying into effect the provisions of this Ordinance, and acting as Conservators, Trustees, and Managers of the foresaid lands, and shall be called "The Board of Commissioners for the Management of the Public Lands in Dunedin."

Constitution, and qualification of Members of the Board.

3. The said Board of Commissioners shall consist of the Members of the Provincial Council of Otago for the time being, and Six other persons, who shall be elected by, and themselves shall be, at the time of their election, persons qualified and entitled to vote in any of the Electoral Districts of the Province of Otago for the election of members of the Provincial Council, and of members of the House of Representatives.

Mode of Election.

4. The Superintendent of the Province shall, before the 1st day of April next, assemble the said Electors at a given time and place within the Town of Dunedin, of which notice shall be given in the Provincial Government Gazette and otherwise as he shall direct, at least ten days previously, for the purpose of electing the six Commissioners aforesaid. And he shall yearly thereafter, before the 1st day of April, assemble the said electors in like manner, for the purpose of electing three Commissioners as hereby enacted; and the electors assembled at such meeting shall make said election by a majority of their number; and the Superintendent shall appoint a proper person to preside at such meetings, who shall have a casting vote in case of equality.

5. Three of said six Commissioners shall go out of office yearly by rotation, and three persons qualified as aforesaid shall be elected in their stead. Provided always, that any Commissioner going out of office and qualified as aforesaid shall be eligible for re-election. And the Superintendent of the Province shall decide which three of the first six elected Commissioners shall go out of office at the end of the first year.

Three to go out of office yearly, and three to be elected in their stead.

6. In case of the insolvency, departure from the Province, or mental incapacity of any of the said six Commissioners, the seat of such Commissioner shall be vacant, and every such vacancy, and vacancy by death, shall be filled up within a month by the Superintendent of the Province electing another Commissioner, who shall hold office till next yearly election, but shall be eligible for re-election.

Vacancies occurring within the year to be temporarily filled up.

7. No meeting of the said Commissioners shall be competent for the despatch of any business unless one-third of the whole members of the Board of Commissioners be present; and all questions shall be decided by the majority of the votes of the members present other than the Chairman; but in cases wherein the votes are equal, the Chairman shall have a casting vote.

Quorum.

8. It shall be lawful for the said Commissioners to make bye-laws for the orderly conduct of the business of the Board; which bye-laws shall be laid before the Superintendent of the Province, and, being by him in Council approved, and published in the Government Gazette, shall become binding and in force.

Bye-Laws to be made.

9. It shall be lawful for the said Commissioners at any time to take, or cause to be taken, all necessary measures for preventing or abating any encroachment, nuisance, or trespass, whereby the aforesaid lands, or the rights of the public thereto, may be in anywise injured.

Duty of Commissioners as Conservators of said Lands.

10. Any person who shall be guilty of any encroachment, nuisance, or trespass on the said lands may either be deemed guilty of a misdemeanour, and upon conviction thereof shall be liable to suffer fine or imprisonment, or may be deemed guilty of a civil wrong, and shall be liable in damages.

Penalty for Trespass.

11. All actions or proceedings against persons committing such offences shall be at the instance of the Solicitor of the Province for the public interest, or of such other public prosecutor as the Superintendent of the Province shall appoint; and it shall be lawful for any two Justices of the Peace to take cognizance of and decide in a summary way in all such actions.

Proceedings for recovery thereof.

12. It shall be lawful for the Commissioners from time to time to let on lease for any period not exceeding 19 years any part of said lands for any purpose not inconsistent with the purposes for which they were destined and reserved by the aforesaid Terms of Purchase, and, on expiry of every lease, to grant a new lease for a similar period, or other period not exceeding 19 years as aforesaid. Providing always, that if the subject of any such lease shall be applied to any purpose inconsistent with the terms and conditions of lease, or the original destination of the lands of which it forms a part, such lease shall, in the option of the Commissioners, be *ipso facto* void and null.

Leases of said Lands for periods not exceeding 19 years.

13. If any grant of any part of said lands for any of the public purposes aforesaid shall be applied for, such application shall be accompanied with plans and specifications of the buildings or improvements proposed to be made thereon, and full information in writing of the objects and purposes of such application; and if, on consideration thereof, it shall appear to the Commissioners that the application should be entertained, they shall lay the whole, accompanied with any recommendation they shall think fit to make, before the Superintendent and Provincial Council.

Grants of said Lands.

Water frontages. 14. In letting water frontages for wharves, it shall be one of the conditions of lease that no such wharf, nor any wall or fence enclosing the same, shall be made or built within thirty feet of high-water mark; and the space between such erection and high-water mark shall be open at all times as a public highway or thoroughfare.

Centre area of Moray Place not to be built on. 15. It shall not be lawful to erect any building whatever within or upon the centre area of the Square called Moray Place, delineated on the Record Map of the Town of Dunedin, except a parapet wall and railing, or fence, for enclosing the said area, which shall for ever remain otherwise an open area.

Town Belt. 16. In leases of portions of that part of the said lands called the Town Belt, stipulations shall be made for preserving the trees and shrubs thereon, or such part of them as it may be desirable to preserve, with a view to the ornament and amenity of the ground, and also for draining and improving it, and ultimately laying it down in grass, with walks and carriage drives, as a public park or place of public recreation. Provided that no buildings or other erections, other than the necessary fencing, shall be erected on said lands.

Rents to be paid and accounted for by Treasurer. How to be applied. 17. All rents by such leases, and other monies stipulated to be paid, shall be paid to the Provincial Treasurer; and the said rents, or such part as the Commissioners shall think proper of said rents, and of all other monies recovered or received by virtue of this Ordinance, shall be applied for the improvement of the said lands, and in furtherance of the purposes and objects for which the said lands were destined and reserved, in such manner, at such times, and to such extent, as the Commissioners shall direct.

Money to be paid under warrant of Superintendent. 18. The Superintendent of the Province shall from time to time issue his warrant to the Provincial Treasurer for any sum or sums of money required by the Commissioners, not exceeding the sum received by the Provincial Treasurer in pursuance of this Ordinance, and at the time in his hands.

Accounts to be paid, audited, and published. 19. Full and distinct accounts of all sums of money by the Provincial Treasurer received and paid in pursuance of this Ordinance shall be kept, and a full abstract or balance sheet thereof, certified to have been examined and audited by two or more persons who shall have been appointed for that purpose at yearly meetings of the Electors as aforesaid, shall be published annually in the Provincial Government Gazette.

Commencement of Ordinance. 20. This Ordinance shall come into operation from and after the day of the passing thereof.

Passed the Provincial Council this 7th day of March, 1854.

ARCHIBALD ANDERSON,
Speaker.

ROBERT CHAPMAN,
Clerk of Council.

Assented to on behalf of the Governor, at Dunedin, the Tenth day of March, One Thousand Eight Hundred and Fifty-four.

W. CARGILL,
Superintendent of the Province of Otago.

[Several of the Provisions of this Ordinance are virtually repealed by the General Assembly's Public Reserves Act, 1854.]