

P A P E R S

RELATIVE TO

A C T S O F T H E G E N E R A L A S S E M B L Y

O F

S E S S I O N 1 8 6 1 .

24° & 25° VICTORIÆ.

ACTS OF THE GENERAL ASSEMBLY.

MEMORANDA OF MINISTERS UPON ACTS OF THE ASSEMBLY, 1861.

LOCAL AND PERSONAL ACTS.

“*New Zealand Bank Act.*”—This Act incorporates a Colonial Banking Company. The Company is well supported, and is likely to be of considerable service to the Colony, which at present has no Bank whose business is exclusively confined to this Colony. Ministers recommend it for confirmation by Her Majesty.

“*The Bank of New South Wales Act.*”—This Act enables the Bank of New South Wales to extend its operations to the Colony. Ministers recommend it for confirmation.

“*The Dun Mountain Railway Act.*”—This Act gives formal powers to the Dun Mountain Company to make a Railway to their mines. The undertaking of this Company is one likely to be beneficial to the Colony, and in particular to develop the resources of the Province of Nelson. Ministers recommend it for confirmation.

“*Picton Railway Act.*”—This Act is reserved for Her Majesty’s confirmation. The Superintendent and Provincial Council of Marlborough desired to construct a Railway between Picton and the Wairau, a work of considerable utility, but involving a heavy cost. They passed an Ordinance for raising a Loan of £60,000, but which Ordinance His Excellency’s present Advisers have felt themselves obliged to recommend the disallowance of, for reasons stated in the letter of which copy is herewith. The Loan Act having been disallowed, it might have seemed almost necessarily to follow that the Bill brought into the General Assembly for giving the requisite powers to make the Railway should have dropped with it. The Legislature, however, thought it right to pass the Act, with a view to the possible contingency of means being provided in some other form for carrying the work into execution. The powers of the Act are suspended by the 8th section till provision is made accordingly. Under these circumstances, the Government have advised His Excellency to reserve the Act for Her Majesty’s express confirmation. They do not feel themselves warranted in recommending the confirmation of it. On the other hand, if a prudent and practicable scheme were proposed for raising the requisite funds, it may be possible to bring into operation the powers created by the reserved Act, so avoiding the necessity of a fresh application to the Legislature. As a general rule, they think that undertakings of this nature should not be commenced, and the Legislature should not sanction them, till the requisite funds are provided for. In the present case this remains to be done. Upon the whole, they submit the matter for the decision of the Home Government, without offering an opinion upon it either way.

PUBLIC ACTS.

“*The Commissioner’s Powers Act.*”—This Act explains itself. It merely enables Commissioners under certain specified commissions to examine witnesses on oath. It has practically been acted on. Recommended for confirmation.

“*The Canterbury and Otago Boundary Act, 1861,*” and “*The Canterbury and Otago Boundary Act, No. 2, 1861,*” have been passed for the purpose of settling a boundary dispute between the two Provinces of Canterbury and Otago. Recommended for confirmation.

“*Advances to Agents Act*” is an adaptation of the English Act on the same subject. Recommended for confirmation.

“*Weights and Measures Ordinances Amendment Act.*”—This is intended to remedy a defect in the existing law, which does not provide for Troy-weights. Recommended for confirmation.

“*Resident Magistrates Ordinance Amendment Act*” obviates a question which has arisen as to the construction of some Local Acts and Ordinances. Recommended for confirmation.

“*Naval and Military Settlers (Marlborough) Act.*”—“*The Waste Lands Act, 1858,*” contains provisions in favour of Naval and Military Settlers in the then existing Province of Nelson. Since then, the Province of Marlborough has been separated from Nelson, under the “*New Provinces Act.*” The Superintendent and Provincial Council of Marlborough desire to extend those provisions to their Province. The Act is intended for that purpose. Recommended for confirmation.

“*Naturalization Act.*”—This is the usual annual Act. Recommended for confirmation.

“*Imprisonment for Debt Ordinance Amendment Act*” is intended to relieve Insolvent Debtors from a provision in the original Ordinance obliging them to lie in prison for two months before obtaining their discharge. Recommended for confirmation.

“*Jury Ordinance Amendment Act.*”—The publication of the names of Jurors in Newspapers is found to be attended with unnecessary expense. The lists are otherwise published sufficiently. Recommended for confirmation.

“*New Zealand Land Claimants Ordinance Amendment Act.*”—The practice has prevailed in the case of Land Orders of the New Zealand Company for parties to deal with their Land under the

bare equitable title conferred on them by their Land Orders without having obtained Crown Grants. It is the business of the Commissioner under the New Zealand Company's Land Claimants Ordinance to investigate the claims of parties to Crown Grants of such Lands, and great practical difficulty arises in determining who are the parties entitled to receive Crown Grants, and some risk to the Government from the necessity of recognising derivative transactions and subdivisions of land without limit of time. To put a limit to these, it is intended to fix a day (the 31st December, 1861), after which the Commissioner shall not be bound to recognise any such derivative transactions. Recommended for confirmation.

"*Law Practitioners Act.*"—This Act has been framed mainly upon the advice of the Judges of the Supreme Court, a copy of whose Report is herewith forwarded, and to carry out their recommendations. Recommended for confirmation.

"*Balneavis Remission Act.*"—Removes a question raised as to the issue of a Crown Grant to Captain Balneavis, to which the Legislature, on full consideration, admitted him to be equitably entitled. Recommended for confirmation.

"*The Lost Land Orders Act*" applies a remedy in cases where Land Orders have been inadvertently lost, whereby parties are disabled from obtaining Crown Grants. Recommended for confirmation.

"*Registration of Electors Act*" provides an additional facility for Electors registering themselves as voters. Recommended for confirmation.

"*Standing Orders for Private Bills*" enable an *ad interim* provision to be made for regulating the practice in regard to Private Bills. It will be merely in force for the next Session. Recommended for confirmation.

"*Arms Act Continuance Act, 1861,*" continues "The Arms Act, 1860," with a proviso enabling the Governor in Council to relax or suspend the provisions of that Act. Recommended for confirmation.

"*The Otago and Southland Public Debt Apportionment Act*" supplements a defect in "The New Provinces Act" as regards the apportionment of the debts between the old and the new Provinces—the Province of Southland having been created out of the Province of Otago. It is intended to leave the apportionment of the debts to arbitration. Recommended for confirmation.

"*Hawke's Bay Naval and Military Settlers Act.*"—The object of this Act is precisely the same as the Marlborough Naval and Military Settlers Act. Recommended for confirmation.

"*Nelson Waste Lands Regulations Amendment Act.*"—The "Waste Lands Act, 1858," having fixed the power of legislating in the matter of the waste lands in the General Assembly, it is necessary that changes of regulations from time to time desired by the Provinces should be effectuated by Act of the Assembly. The Superintendent and Provincial Council of Nelson lately proposed some changes of regulation (substantially the same as the enactments of the present Act). The main objects were, first, that, to a limited extent, power should be given to appropriate land in payment for public works. To this the General Assembly fixed a limit, viz., that the total amount so appropriated should not exceed in value £2,000 in any one year, so as to prevent the power from being abused to the detriment of the Land Fund. A more important object was to give the Provincial Government the power to grant leases of mineral lands without binding the lessees to work the minerals (see sec. 14). The Superintendent and Provincial Council of Nelson allege that experience has shewn that any such conditions are an effectual bar to mining enterprise in the Colony. They have, therefore, decided on fixing an acreage rent (see sec. 12), and trusting to the ordinary motives of self-interest in the lessees to induce them to work the mines effectually. If they are worked a royalty becomes payable to the Government (under sec. 13). If the rent be unpaid, the lease may be forfeited (sec. 15). The General Assembly added a proviso, that no land should be so disposed of which was adapted for agricultural purposes. The effect of this restriction will be practically to limit the application of the new law to mountainous districts unavailable for agricultural settlement. The Act has been reserved for Her Majesty's assent. Ministers, though not holding themselves responsible for it, recommend it for confirmation.

"*Protection of Birds and Animals.*"—The object of this Act is to encourage the breeding of imported birds and animals. Recommended for confirmation.

"*Auckland Representation Act.*"—The object of this Act is explained by the preamble. Recommended for confirmation.

"*Official Administrators Act.*"—Under the rules of the Supreme Court, in cases of intestacy the Court grants Letters of Administration to the person who happens to be the Registrar of the Court for the time being, and who becomes thereby what is termed the Official Administrator. The object of the Act is to provide for the case of changes in the office of Registrar of the Supreme Court. Recommended for confirmation.

"*Parliamentary Costs Taxation Act.*"—This Act requires no explanation. Recommended for confirmation.

"*Land Registry Amendment Act,*" and "*Survey Correction Act.*"—A separate Memorandum explains the object of these Acts.

"*Civil Service Superannuation Act.*"—Dispenses with the necessity of a medical certificate of bad health or infirmity in the case of persons aged 50 and upwards. Recommended for confirmation.

"*Appropriation Act.*"—Needs no explanation. Recommended for confirmation.

"*The Auckland Immigration Certificate Act,*" "*The Pensioners Claims Act,*" and "*The Auckland Immigration Certificate Act Amendment Act.*"—These Acts relate to sundry cases of land claims arising within the Province of Auckland. The first Act extends the benefit of an Act (confirmed by the Waste Lands Act, 1858,) to a meritorious class of immigrants from Nova Scotia, placing them on the same footing as immigrants from the United Kingdom. The second Act is intended to get rid of

long-standing grievances on the part of some of the Pensioners, who complain that the promises held out to them when they came to the Colony have not as yet been fairly fulfilled. The third Act gives the power to investigate claims under the "Auckland Immigration Certificate Act, 1858," to a Commissioner to be appointed by the Governor, instead of leaving that power in the hands of the Provincial Council of Auckland. Ministers, though not responsible for these Acts, recommend them for confirmation.

"*The Intestate Native Succession Act.*"—This Act will explain its own object. It will be seen that very embarrassing questions arise when Natives die who have obtained Crown Grants of land. Their social condition is not such as to make it possible to apply to them the ordinary law of descent. To bring them under such a law, which they would not understand, would tend to discourage them in exchanging their present Tribal tenure for Crown Titles. The only practicable mode of avoiding the difficulty appears to be that provided for by the Act, viz., to leave the Governor power on the death of a Native to remodel the succession and distribution of his land, so as to adapt it to Native habits and ideas. Recommended for confirmation.

* "*Diseased Cattle Act.*"—The disease called Pleuro-Pneumonia has broken out amongst Cattle in some of the Australian Colonies, and is making great ravages amongst the stock there. Great alarm prevails lest it should be introduced into this Colony, particularly in the Southern Provinces.

One of the Provincial Legislatures has already passed an Ordinance prohibiting the importation of Cattle altogether, with the view of preventing the introduction of the disease into that district. The Ordinance has been disallowed, for the reason (amongst others) that the General Assembly has passed an Act on the subject applicable to the whole Colony. The magnitude of the interests at stake justify a measure of unusual stringency. The General Assembly has passed an Act, the main features of which are to provide for a system of inspection and quarantine, and (in cases where Cattle are imported from districts notoriously infected) to prohibit importation altogether.

The Act vests the powers created under it in the Governor in Council; but gives the Governor power to delegate the same to the Superintendents of Provinces, subject to restrictions and regulations.

The Governor has delegated the powers under the second, fourth, fifth, seventh, ninth, and tenth Sections to the Superintendents, and has made regulations, of which copies are transmitted with the Act. The intention is to allow the Superintendents to exercise the delegated powers, as it were, provisionally; and, when the Governor shall have received from the various Provinces their respective regulations, the General Government propose to assimilate them, and to establish uniform regulations applicable throughout the Colony.

Ministers confidently recommend the measure for Her Majesty's allowance.

"*Provincial Audit Act.*"—The object of this measure is to provide a system of Audit for the Provincial Governments. Recommended for confirmation.

"*Public Debt Apportionment Act.*"—It will be remembered that the £500,000 loan was apportioned between the respective Provinces of the Colony in specific proportions. Originally the sum of £200,000 was divided amongst the three Provinces of Nelson, Canterbury, and Otago, £66,666 13s. 4d. being assigned to each. By a subsequent arrangement, the share of Nelson was reduced to £45,000, and the respective shares of Canterbury and Otago increased to £77,500. By the late settlement of the boundary line between Canterbury and Otago, Canterbury has lost and Otago has gained a considerable tract of country. This has occasioned a necessity for re-adjusting the shares of the debt. This Act (passed with the assent of the representatives of both Provinces) effects that object. Recommended for confirmation.

"*New Provinces Act Amendment Act*" provides a few additional restrictions on the creation of new Provinces under the New Provinces Act, 1858. Recommended for confirmation.

"*Customs Duties Amendment Act.*"—Two changes are made by this Act in the "Customs Duties Act." Under the original Act, Naval and Military Officers were entitled to drawback on wine alone. By the present Act the system of drawback is abolished as cumbersome in practice and open to abuse; but the privilege is granted instead, to Naval and Military Officers, of taking wine, ale, beer, and spirits, out of bond without paying duty, subject to such restrictions and regulations as may be prescribed by Order in Council. Recommended for confirmation.

WM. FOX.

28th September, 1861.

DESPATCHES FROM THE SECRETARY OF STATE RELATIVE TO ACTS
OF THE ASSEMBLY, 1861.

No. 1.

COPY OF A DESPATCH FROM MR. C. FORTESCUE TO GOVERNOR SIR G. GREY, K.C.B.

Downing-street,
26th November, 1861.

SIR,—

With reference to your predecessor's Despatch, No. 119, of the 6th September, I have the honor to inform you that I have laid before the Queen the Act of the Legislature of New Zealand entitled "An Act to prevent the Importation of Diseased Cattle," and that it will be left to its operation.

I have, &c.,

Governor Sir George Grey,
&c., &c., &c.

C. FORTESCUE,
In the absence of the Duke of Newcastle.

NEW ZEALAND.
No. 107.

No. 23 of 24 & 25 Vic.

* The Memorandum on the Diseased Cattle Act was transmitted to the Governor in a separate communication on the 5th September.

NEW ZEALAND. COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G.
No. 4. GREY, K.C.B.

Downing-street,
20th January, 1862.

SIR,—

With reference to my Despatch, No. 3, of this date, I have the honour to inform you that I have had under my consideration the Bill passed by the Legislature of New Zealand, entitled "An Act to enable the Superintendent of the Province of Marlborough to construct a Railway from Picton Harbour to the Wairau, both in the said Province of Marlborough"—which has been reserved for the signification of Her Majesty's pleasure thereon.

As this enactment was not recommended for confirmation by Colonel Gore Browne's responsible advisers, I have been unable to advise Her Majesty to assent to it.

Governor Sir George Grey,
&c., &c., &c.

I have, &c.,

NEWCASTLE.

No. 3.

NEW ZEALAND. COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G.
No. 3. GREY, K.C.B.

Downing-street,
20th January, 1862.

SIR,—

I have the honor to acknowledge the receipt of your predecessor's Despatch, No. 128, of the 1st October, forwarding copies of all the Acts passed by the Legislature of New Zealand during the Session of last year.

Act No. 23 was left to its operation by the Despatch addressed to your predecessor on the 26th November last.

I have to acquaint you that I have laid before the Queen the Acts whose numbers, dates, and titles are given in the annexed Schedule, and that they will be left to their operation.

As regards the Private Act No. 4, I have to refer you to my Despatch, No. 4, of this date.

The remaining Acts are under the consideration of Her Majesty's Government.

Governor Sir George Grey,
&c., &c., &c.

I have, &c.,

NEWCASTLE.

Enclosure in No. 3.

Schedule of Acts.

No. 1.—24 & 25 Vic.:—"An Act to enable certain Commissioners appointed under the Seal of the Colony to examine Witnesses on Oath." Assented to 3rd July, 1861.

No. 2.—24 & 25 Vic.:—"An Act to define the boundary between the Provinces of Canterbury and Otago." Assented to 15th July, 1861.

No. 3.—24 & 25 Vic.:—"An Act to amend the Law relating to advances *bonâ fide* made to Agents intrusted with goods." Assented to 15th July, 1861.

No. 4.—24 & 25 Vic.:—"An Act for amending an Ordinance for establishing Standard Weights and Measures, and for the prevention of the use of such as are false and deficient." Assented to 30th July, 1861.

No. 5.—24 & 25 Vic.:—"An Act to declare that certain Statutes do not apply to Civil cases before Resident Magistrates and Justices of the Peace." Assented to 30th July, 1861.

No. 7.—24 & 25 Vic.:—"An Act for the Naturalization of certain persons in the Colony of New Zealand." Assented to 9th August, 1861.

No. 8.—24 & 25 Vic.:—"An Act to amend the Ordinance of the Legislative Council, intituled an Ordinance for the relief of persons imprisoned for Debt." Assented to 15th August, 1861.

No. 9.—24 & 25 Vic.:—"An Act to amend the Jury Amendment Ordinance." Assented to 17th August, 1861.

No. 10.—24 & 25 Vic.:—"An Act to amend the New Zealand Company's Land Claimants Ordinance, Session XI., No. 15." Assented to 17th August, 1861.

No. 11.—24 & 25 Vic.:—"An Act to regulate the practice of the Profession of the Law in New Zealand." Assented to 29th August, 1861.

No. 12.—24 & 25 Vic.:—"An Act to authorize the issue of a Grant for certain land to Henry Colin Balneavis." Assented to 29th August, 1861.

No. 13.—24 & 25 Vic.:—"An Act for authorizing the issue of Crown Grants in certain cases of loss of original Land Orders." Assented to 3rd September, 1861.

No. 14.—24 & 25 Vic.:—"An Act to amend the Registration of Electors Act, 1858." Assented to 3rd September, 1861.

No. 15.—24 & 25 Vic.:—"An Act to amend the Canterbury and Otago Boundary Act, 1861." Assented to 6th September, 1861.

No. 16.—24 & 25 Vic.:—"An Act to authorize the preparation and the *interim* validity of amended Standing Orders for Private Bills." Assented to 6th September, 1861.

No. 17.—24 & 25 Vic.:—"An Act to continue the Arms Act, 1860." Assented to 6th September, 1861.

No. 24.—24 & 25 Vic.:—"An Act to provide for the audit accounts of Provincial Governments." Assented to 6th September, 1861.

No. 26.—24 & 25 Vic.:—"An Act to amend the New Provinces Act, 1858." Assented to 6th September, 1860.

No. 28.—24 & 25 Vic.:—"An Act to provide for the protection of certain Animals and Birds within the Colony of New Zealand." Assented to 6th September, 1861.

No. 29.—24 & 25 Vic.:—"An Act to divide the Province of Auckland into new Electoral Districts for the election of Members of the Provincial Council." Assented to 6th September, 1861.

No. 30.—24 & 25 Vic.:—"An Act for the due rendering of Accounts by Official Administrators ceasing to hold the office of Registrar of the Supreme Court." Assented to 6th September, 1861.

No. 32.—24 & 25 Vic.:—"An Act to amend the Act of the Legislature of the Province of Auckland, intituled the 'Immigration Certificate Act, 1858.'" Assented to 6th September, 1861.

No. 33.—24 & 25 Vic.:—"An Act for the taxation of Costs on Private Bills in the General Assembly." Assented to 6th September, 1861.

No. 36.—24 & 25 Vic.:—"An Act to amend the Civil Service Superannuation Act, 1858." Assented to 6th September, 1861.

No. 37.—24 & 25 Vic.:—"An Act to apply certain sums out of the Ordinary Revenue and other monies to the service of the year ending the thirtieth day of June, One thousand eight hundred and sixty-two." Assented to 7th September, 1861.

No. 3. (Local and Personal).—24 & 25 Vic.:—"An Act to empower the Dun Mountain Copper Mining Company (Limited) to construct a Railway and for other purposes." Assented to 17th August, 1861.

No. 4.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G. GREY, NEW ZEALAND.
K.C.B. No. 10.

Downing Street,
22nd February, 1862.

SIR,—

With reference to my Despatch No. 3 of the 20th ultimo, I transmit to you herewith an Order of the Queen in Council, confirming the reserved Act of the Legislature of New Zealand, "to regulate the descent of Lands held by persons of the Native Race under Title derived from the Crown."

I have, &c.,

NEWCASTLE.

Governor Sir George Grey,
&c., &c., &c.

No. 5.

COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G. GREY, NEW ZEALAND.
K.C.B. No. 12.

Downing Street,
24th February, 1862.

SIR,—

With reference to my Despatch No. 3 of the 20th ultimo, I have the honor to inform you that I have laid before the Queen the Acts passed by the Legislature of New Zealand, entitled "An Act to apportion the Public Debt of the former Province of Otago between the Provinces of Otago and Southland," and "An Act to amend the Public Debt Apportionment Act, 1858," and that they will be left to their operation.

I have, &c.,

NEWCASTLE.

Governor Sir George Grey,
&c., &c., &c.

No. 6.

NEW ZEALAND. COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G. GREY,
K.C.B.

No. 18.

Downing Street,
14th March, 1862.

SIR,—

With reference to my Despatch, No. 3, of the 20th January, I have to acquaint you that I have laid before the Queen the Acts of the General Assembly of New Zealand, Nos. 19 and 27 of 24 and 25 Vic., and that they will be left to their operation.

The titles and dates of these Acts are stated in the annexed Schedule.

I have, &c.,
NEWCASTLE.

Governor Sir George Grey,
&c., &c., &c.

Enclosure in No. 6.

Schedule of Acts.

No. 19.—“An Act for declaring the effect of the Waste Lands Act, 1858, so far as the same relates to Naval and Military Settlers in the Province of Hawke’s Bay.” Assented to, 6th September, 1861.

No. 27.—“An Act to Amend the Customs Duties Act, 1858.” Assented to, 6th September, 1861.”

No. 7.

NEW ZEALAND. COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G. GREY,
K.C.B.

No. 28.

Downing Street,
26th March, 1862.

SIR,—

With reference to my Despatch, No. 3, of the 20th of January, I transmit to you the accompanying Order of the Queen in Council, confirming the Act of the Legislature of New Zealand “to extend to the Province of Marlborough certain provisions of the Naval and Military Settlers Act, 1860.”

I have, &c.,
NEWCASTLE.

Governor Sir George Grey,
&c., &c., &c.

No. 8.

NEW ZEALAND. COPY OF A DESPATCH FROM HIS GRACE THE DUKE OF NEWCASTLE TO GOVERNOR SIR G. GREY,
K.C.B.

No. 27.

Downing Street,
26th March, 1862.

SIR,—

With reference to my Despatch, No. 3, of the 20th January, I transmit to you the accompanying Orders (three) of the Queen in Council, confirming the reserved Acts of the Legislature of New Zealand, entitled respectively:—

“An Act to Amend the Regulations for the sale or disposal of Crown Lands in the Province of Nelson.”

“An Act to enable the Superintendent of the Province of Auckland to issue Certificates, by way of Land Orders, to certain persons.” And,

“An Act to provide for the settlement of certain outstanding Claims by Pensioners lately serving in the New Zealand Fencible Force.”

I have, &c.,
NEWCASTLE.

Governor Sir George Grey,
&c., &c., &c.