

New Zealand.



ANALYSIS.

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1938, No. 2.—*Local and Personal.*

AN ACT to vest in the Mayor, Councillors, and Burgesses of the Borough of New Plymouth, for the Purpose of a Recreation-ground, certain Lands heretofore vested in the New Plymouth Harbour Board, and to provide for the Control and Management of such Lands. Title.

[14th September, 1938.]

WHEREAS the New Plymouth Harbour Board (hereinafter referred to as the Board) is the owner of the lands described in the First and Third Schedules hereto in trust for the construction and maintenance of Preamble.

such docks, piers, and other works as may be deemed advisable by the Board for facilitating the trade and commerce of the Town of New Plymouth: And whereas the said lands are not required by the Board for the said purposes or for any other purposes: And whereas the Board is desirous of vesting the lands described in the First Schedule hereto, subject to the provisions of this Act, in the Mayor, Councillors, and Burgesses of the Borough of New Plymouth (hereinafter referred to as the Corporation) for the purposes of a recreation-ground as a memorial of the celebration in the year nineteen hundred and forty-one of the first one hundred years of organized settlement of the Provincial District of Taranaki in the Dominion of New Zealand, and the New Plymouth Borough Council (hereinafter referred to as the Council) is willing that the said land should be so vested: And whereas in order to provide access to such recreation-ground the Board is desirous of vesting the lands described in the Third Schedule hereto, subject to the provisions of this Act, in His Majesty the King for the purposes of a public road:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as the Paritutu Centennial Park Act, 1938.

Special Act.

2. This Act shall be deemed to be a special Act within the meaning of the Harbours Act, 1923.

Lands vested in the Corporation of the Borough of New Plymouth.

3. (1) The lands described in the First Schedule hereto (being lands heretofore vested in the Board) are hereby vested in the Corporation in fee-simple, free from the trusts and reservations heretofore affecting them, but subject, nevertheless, to the provisions of subsections two and three of this section, and shall be held by the Corporation for the purposes of a recreation-ground, as a memorial of the Centennial of Taranaki in the year nineteen hundred and forty-one.

(2) There is reserved to and vested in the Board the exclusive right in perpetuity, and without compensation, to remove for the purposes of the Board, but not for sale, from any beach forming part of the park any shingle or gravel lying on or forming part of such

beach, but so, nevertheless, that the Board shall exercise its powers under this subsection in a reasonable manner, with as little interference as possible with the use by the public of the beach and the amenities provided thereon.

(3) There is reserved to and vested in the Board for the purpose of exercising its powers under the provisions of subsection two of this section full and free right and liberty in perpetuity, and without compensation, of ingress, egress, regress, and way for the Board, its workmen, officers, employees, and contractors, with or without vehicles, plant, or appliances, in, over, and upon those parts of the park described in the Second Schedule hereto, and also full and free right and liberty to construct and use for the purposes hereinbefore mentioned permanent or temporary roadways over any one or more of the pieces of land described in the said Second Schedule.

(4) The District Land Registrar for the Land Registration District of Taranaki is hereby authorized to make such entries in the register as are necessary to give full effect to the provisions of this section.

4. The lands described in the First Schedule hereto, and any other land that may hereafter be acquired or otherwise provided in extension thereof (all herein referred to as the park), shall hereafter be known as "the Paritutu Centennial Park".

Paritutu
Centennial
Park named.

5. (1) The lands described in the Third Schedule hereto (being lands heretofore vested in the Board) are hereby vested in His Majesty the King in fee-simple for the purposes of a public road, free from the trusts and reservations heretofore affecting them.

Lands vested in
His Majesty
the King for
public road.

(2) Notwithstanding that the lands described in the Third Schedule hereto are so vested in His Majesty the King for the purposes of a public road, the Board shall not thereby be released from the obligations in respect of such lands which otherwise would have been imposed upon it by the provision of subsection five of section one hundred and twenty-five of the Public Works Act, 1928.

(3) Except as otherwise provided by section three of this Act, the District Land Registrar of the Land Registration District of Taranaki shall refuse to register

any instrument affecting any allotment or subdivision of the land now owned by the Board, and of which prior to the passing of this Act the park formed part, abutting on the lands described in the Third Schedule hereto, unless and until he is satisfied that the Board has complied with the requirements of subsection five of section one hundred and twenty-five of the Public Works Act, 1928, in respect of the lands by this section vested in His Majesty the King for the purposes of a public road.

Board not to be required to provide further reserves.

6. The vesting of the park in the Corporation as a recreation reserve shall determine any rights which the Crown, the Taranaki County Council, or the New Plymouth Borough Council, or any other authority might otherwise possess to require further reserves to be set aside by the Board should it at any future time, or from time to time, subdivide for the purpose of sale, lease, or other disposition the balance or any part of the balance of the land then owned by it of which prior to the passing of this Act the park formed part:

Provided that the Minister of Lands may as a condition to his approval under the provisions of section sixteen of the Land Act, 1924, of any such future subdivision, require any area, not exceeding one acre two roods, of that portion of the Board's land abutting on the existing recreation reserve shown as Lot 55 on Deposited Plan 5074, Taranaki Registry, to be set aside as a recreation reserve.

Committee to control park.

7. (1) The Council, in exercise of the powers conferred upon it by Part V of the Municipal Corporations Act, 1933, shall, during the month of November in the year nineteen hundred and thirty-eight, and thereafter from time to time during the second month after the month in which the Councillors elected at each triennial or other general election of the Council come into office, appoint a Standing Committee, constituted as hereafter mentioned, and shall, subject to the limitations imposed by Part V of the Municipal Corporations Act, 1933, delegate to such Standing Committee (hereinafter referred to as the Committee) all the powers and duties possessed by or imposed upon the Council in respect of the park.

(2) The Committee shall consist of nine members, of whom—

- (a) Five members, including one member to be nominated by it to represent the Native race, shall be nominated by the Council:
- (b) Two members shall be nominated by the Board:
- (c) Two members shall be nominated by the Taranaki County Council.

(3) Nominations for the first appointment of members of the Committee shall be made and forwarded to the Council during the month of October, nineteen hundred and thirty-eight, and nominations for subsequent appointments of members of the Committee shall be made and forwarded to the Council in the month preceding that in which by the provisions of subsection one hereof such appointments are required to be made.

(4) Subject to the provisions of this Act, the Council shall appoint to be members of the Committee all persons who have been nominated for appointment in accordance with the provisions of this Act.

(5) The Council shall not on the appointment of the Committee exercise the power conferred upon it by section forty-nine of the Municipal Corporations Act, 1933, to appoint a Chairman of the Committee.

(6) The Council shall not, without the consent in writing of the Board, exercise any of the powers conferred upon it by subsection one of section fifty of the Municipal Corporations Act, 1933, and any alteration or reconstitution of the Committee made with such consent shall be limited to discharging some or all of the members and replacing them with new members appointed in the same way as their predecessors.

(7) If from any cause any body being under a duty to nominate a member of the Committee, whether in respect of a first appointment, ordinary vacancy, or extraordinary vacancy, shall fail, neglect, or refuse so to do within the time appointed in that behalf, and such failure, neglect, or refusal shall continue for one calendar month after notice in writing shall have been given by the Council to the body by whom such nomination should be made that the Council intends to exercise its powers hereunder, the Council may dispense with such nomination and appoint any person whomsoever to be a member of the Committee.

Disqualification
of members of
Committee.

8. The following persons shall be incapable of being appointed to be or of being members of the Committee, that is to say:—

- (a) An alien:
- (b) A person of unsound mind:
- (c) A bankrupt who has not obtained his order of discharge, or whose order of discharge is suspended for a term not yet expired, or is subject to conditions not yet fulfilled:
- (d) A person convicted of any offence punishable by imprisonment, unless he has received a free pardon or has served his sentence, or otherwise suffered the penalty imposed on him:
- (e) Any person holding any office or place of profit, other than that of Mayor or Deputy Mayor of the Borough of New Plymouth, or Chairman of the Board, or Chairman of the Taranaki County Council, under or in the gift of the Council, the Board, or the Taranaki County Council.

Authorities
Local
(Members'
Contracts) Act,
1934, to apply.

9. The Committee is hereby declared to be a local authority for the purposes of the Local Authorities (Members' Contracts) Act, 1934.

Vacation of
office by
members of
Committee.

10. (1) A member of the Committee may resign his office by writing under his hand delivered to the Chairman of the Committee, and in such case, or in the case of his death, incapacity, or ouster from office, or his absence without leave of the Committee from four consecutive ordinary meetings thereof, his office shall become vacant.

(2) If any member of the Council or of the Board or of the Taranaki County Council is appointed to be a member of the Committee and thereafter ceases to be a member of the Council or Board by which he was nominated, he shall, on the expiration of two months after he has so ceased to be a member of that Council or Board, vacate his office as a member of the Committee, unless in the meantime he has been confirmed in his office by resolution of the Council or Board by which he was nominated.

Vacancies on
Committee to
be filled.

11. (1) If from any cause whatsoever the office of a member of the Committee becomes vacant, such vacancy shall be filled by the Council, subject to the

provisions of this Act, by the appointment of some person nominated by the body by which the member of the Committee whose office has become vacant was nominated.

(2) Every such nomination shall be made and forwarded to the Council within one calendar month after the office of the member of the Committee has become vacant.

12. (1) A separate account shall be kept by the Council of all moneys paid to or received by it in respect of the park. Council to keep separate account.

(2) Such moneys, or any part thereof, may be applied by the Committee from time to time in exercising the powers and duties delegated to it by the Council, and (in extension and not in restriction of any of such powers and duties) in effecting any of the following purposes or things:—

- (a) The enlargement and extension of the park:
- (b) The provision of access to the park, whether within or without the park, and the improvement of any existing access thereto:
- (c) The provision of access from any one or more of the islands forming part of the park to the foreshore:
- (d) The provision and operation of camps for motorists and other travellers:
- (e) The provision and operation of tea-rooms and the purchase of foodstuffs, groceries, refreshments, tobacco, and other things for resale to frequenters of the park:
- (f) Conducting, holding, promoting, and providing prizes for, or joining with any person or body in conducting, holding, promoting, and providing prizes for any function, game, contest, recreation, or gathering having for its object the popularizing of the park or the raising of funds therefor:
- (g) Generally in effecting, subsidizing, or otherwise assisting any purpose or object which in the opinion of the Committee is calculated directly or indirectly to advance the interests of the park, or to advertise its attractions.

Limitation of expenditure by Committee.

13. Notwithstanding anything to the contrary in the Municipal Corporations Act, 1933, it shall not be lawful for the Committee in any financial year, without the consent in writing of the Council, to incur any liability or commit the Corporation to any liability for any sum in excess of the amount (if any) standing to the credit of the said separate account after allowance has been made for any revenue for that year due and properly payable into that account, and for all sums with which the said separate account is by law chargeable.

Local authorities may contribute to funds of the Committee.

14. (1) Any local authority within the meaning of the Local Bodies' Finance Act, 1921-22, whose district or office is situate within the Provincial District of Taranaki may from time to time out of its ordinary funds contribute such sums as it thinks fit towards the funds of the Council in respect of the park or towards the cost of any work, purpose, or thing which the Committee is authorized to undertake.

(2) Any such local authority may pay such funds as aforesaid to the Council without being liable to see to the proper expenditure thereof.

(3) Where a County Council makes any contribution pursuant to this section, such contribution may, with the consent of the Councillor or Councillors representing any riding of the county, be made wholly or in part out of the separate account of that riding.

(4) The New Plymouth Harbour Board, in lieu of or in addition to making a contribution as aforesaid, may, with the approval in writing of the Committee, apply any part of its ordinary funds in itself carrying out, effecting, or providing any work, purpose, or thing which the Committee is authorized to undertake.

Buildings not to be erected without consent of Council.

15. (1) It shall not be lawful for the Committee to erect, or to permit, suffer, or allow, any building or buildings to be erected in the park without the consent in writing of the Council.

(2) The Council, in its discretion, may refuse any application for its consent under this section, or may grant its consent upon or subject to such conditions as it thinks fit:

Provided that the Council shall not consent to the erection of any building or buildings that in its opinion may interfere with the use or occupation of the park as a recreation-ground and shall not permit any

building or buildings to be used or occupied for any purpose which in the opinion of the Council is inconsistent with the use or occupation of the park as a recreation-ground.

16. (1) Any by-law capable of being applied to the park made by the Council, whether before or after the passing of this Act, shall, unless a contrary intention appears in any such by-law, extend and apply to the park and any person or persons using the same or being thereon.

Borough
by-laws to
apply.

(2) The Council, in extension and not in restriction of any of its existing powers so to do, may make such by-laws as it deems necessary or desirable for the proper conduct of persons using or frequenting the park and the foreshore abutting thereon, and for limiting the parts of such foreshore that may be utilized for bathing, and for regulating the conduct and dress of persons being on or in the vicinity of such foreshore.

17. Except as herein expressly provided, nothing in this Act shall take away, restrict, or modify any power conferred upon the Council by the Municipal Corporations Act, 1933, the Public Reserves, Domains, and National Parks Act, 1928, or any other Act.

Powers of
Council under
other Acts not
restricted.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL those pieces of land in the Land Registration District of Taranaki containing together by admeasurement eighty-nine acres eighteen perches (89 acres 0 roods 18 perches), be the same a little more or less, being part of Section 811, Grey District, and parts Sections 137, L, and A, Omata District, together with the islands known as Motu-o-Tamatea, Pararaki, and Mataora, Block IV, Paritutu Survey District, all of the said land being parts of the land comprised in certificates of title, Volume 115, folio 142, and Volume 102, folio 146, Taranaki Registry: as the said pieces of land are more particularly delineated and shown edged pink on plan deposited in the office of the Chief Surveyor at New Plymouth under No. 7675.

SECOND SCHEDULE.

ALL those pieces of land in the Land Registration District of Taranaki containing by admeasurement two acres thirty-four perches (2 acres 34 perches), be the same a little more or less, being parts of the lands described in the First Schedule hereto: as the said pieces of land are more particularly delineated and shown coloured yellow on plan deposited in the office of the Chief Surveyor at New Plymouth under No. 7675.

THIRD SCHEDULE.

ALL those pieces of land in the Land Registration District of Taranaki containing by admeasurement seven acres one rood thirty-two perches (7 acres 1 rood 32 perches), be the same a little more or less, being part of Section 811, Grey District, and part of Section 137, Omata District, all of the said lands being parts of the land comprised in certificates of title, Volume 115, folio 142, and Volume 102, folio 146, Taranaki Registry: as the said pieces of land are more particularly delineated and shown coloured pink and blue on plan deposited in the office of the Chief Surveyor at New Plymouth under No. 7675.
