

*This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.*

*House of Representatives,  
30th August, 1934.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

*26th September, 1934.*

*Mr. Smith.*

NEW PLYMOUTH BOROUGH LAND EXCHANGE  
AND EMPOWERING.

[LOCAL BILL.]

ANALYSIS.

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A BILL INTITULED

- AN ACT to effect an Exchange of certain Lands Title.  
between the Corporation of the Borough of New Plymouth and the Taranaki Jockey Club (Incorporated); to confer on the New Plymouth Borough Council certain Additional Powers in regard to Lands held by the Corporation under the Taranaki Botanic Garden Act, 1876; and to change the Purpose of certain Moneys held by the Council.
- 10 WHEREAS the Corporation of the Mayor, Councillors, Preamble.  
and Burgesses of the Borough of New Plymouth (hereinafter in this Act referred to as the Corporation) is the owner of the lands described in the *First* Schedule hereto as to the land firstly described therein in trust for a
- 15 botanic garden and public recreation-grounds, and as to the land secondly described therein for the purposes of a recreation-ground: And whereas the Taranaki Jockey

No. 4—5.

Club (Incorporated), a duly incorporated society having its registered office in Brougham Street, New Plymouth (hereinafter in this Act referred to as the club), is the owner in fee-simple in possession of the land described in the *Second* Schedule hereto: And whereas it is for the mutual advantage of the Corporation and the club that the exchange of the said lands authorized by this Act should be effected: And whereas by the Taranaki Botanic Garden Act, 1876, certain lands therein mentioned and described were vested in a Board of Trustees for public recreation as therein constituted in trust for a botanic garden and public recreation-grounds: And whereas the said Board in accordance with the provisions of the said Act acquired certain other lands in trust for the same purpose: And whereas the Governor-General, in pursuance of the provisions of the said Act, dissolved the said Board, and the said lands thereupon vested in the Corporation, to be managed in accordance with the provisions of the said Act: And whereas it is expedient that the powers of the New Plymouth Borough Council (hereinafter in this Act referred to as the Council) in respect of the said lands should be extended: And whereas the sum of three hundred and fifty pounds received by the Council as a bequest under the last will of Charles Score Sanders (deceased), late of New Plymouth, Retired Farmer, was by the terms of such bequest required to be used for the enlargement and improvement of the Rhododendron Dell in Pukekura Park, New Plymouth: And whereas the said dell is now and was at the time of the receipt of the said sum planted to its existing limits: And whereas it is not desirable to enlarge such dell, owing to experience having shown that the soil therein is not the most suitable for the growth of rhododendrons and the soil of the land immediately surrounding is less suitable: And whereas the Council is desirous of establishing a rhododendron garden on lands situate partly in the said park and partly in the recreation reserve owned by the Council and immediately adjoining the said park, and it is expedient that the Council should be empowered to use the said sum for this purpose: And whereas the Corporation under the provisions of the New Plymouth Borough Council and New Plymouth Harbour Board Empowering Act, 1933, acquired for the

purposes of a recreation reserve the lands described in the Second Schedule to that Act (hereinafter in this Act referred to as the Brooklands Recreation Reserve): And whereas the Corporation has also acquired the land  
5 described in the *Third* Schedule to this Act for the purpose of a public plantation and also as a recreation reserve (hereinafter in this Act referred to as the Highlands Recreation Reserve): And whereas the Brooklands Recreation Reserve abuts upon the lands vested in the  
10 Corporation under the provisions of the Taranaki Botanic Garden Act, 1876, now and for many years past known as Pukekura Park, and the Highlands Recreation Reserve abuts upon the Brooklands Recreation Reserve: And  
15 whereas it is expedient that the Brooklands Recreation Reserve, the Highlands Recreation Reserve, and Pukekura Park should be amalgamated and be known as Pukekura Park:

*Struck out.*

20 And whereas it is expedient to make special provision with respect to the expenditure of gifts or bequests of moneys to the Corporation in connection with Pukekura Park:

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

1. This Act may be cited as the New Plymouth Borough Land Exchange and Empowering Act, 1934.

2. The lands described in the *First* Schedule hereto (being lands heretofore vested in the Corporation) are  
30 hereby vested in the club in fee-simple free from the trusts and reservations heretofore affecting them, and the land described in the *Second* Schedule hereto (being land heretofore vested in the club) is hereby vested in the Corporation in fee-simple free of encumbrances, and  
35 shall be held by the Corporation for the purposes of a recreation-ground.

3. The District Land Registrar of the Land Registration District of Taranaki shall, upon application under the respective seals of the club and the Corporation,  
40 amend any existing certificates of title affected by the *last preceding* section, and issue to the club and the Corporation respectively certificates of title in respect of the lands vested in them by that section.

Short Title.

Exchange of lands between New Plymouth Borough Council and Taranaki Jockey Club.

District Land Registrar to amend existing certificates of title and issue fresh certificates of title.

4 *New Plymouth Borough Land Exchange  
and Empowering*

Lands deemed to be a recreation reserve, and powers of Council extended accordingly.

4. Without in any way restricting the powers of the Council under the Taranaki Botanic Garden Act, 1876, the lands vested in the Corporation under the provisions of that Act shall be deemed to be a recreation reserve within the meaning of the Public Reserves, Domains, and National Parks Act, 1928; and the powers of the Council in respect of the said lands are hereby extended accordingly. 5

Purpose of certain moneys held by the Council changed.

5. The said sum of three hundred and fifty pounds may be applied by the Council in the laying-out and planting of a rhododendron garden on lands owned by it situate partly in the said Pukekura Park and partly in the recreation reserve adjoining thereto. 10

Amalgamation of certain borough reserves under the name of Pukekura Park.

6. On the passing of this Act the Brooklands Recreation Reserve and the Highlands Recreation Reserve shall be deemed to be vested in the Corporation for the same purposes and subject to the same trusts and with the same powers as the lands vested in the Corporation under the Taranaki Botanic Garden Act, 1876, and such last-mentioned lands, together with the Brooklands Recreation Reserve and the Highlands Recreation Reserve, shall hereafter be known as Pukekura Park. 15 20

*Struck out.*

Special provisions as to gifts or bequests of money in respect of Pukekura Park.

7. (1) Where after the passing of this Act any gift or bequest of any moneys is received by the Corporation or the Council for any purpose in connection with any of the lands mentioned in the *last preceding* section, such gift or bequest shall, unless a contrary intention is clearly expressed in the instrument making the same, be deemed to be a gift or bequest in respect of the whole of the lands to be hereafter known as Pukekura Park. 25 30

(2) Where by any such instrument as aforesaid any gift or bequest to the Corporation or the Council is made subject to conditions as to expenditure for a particular purpose, or in a particular manner, and it is impossible, impracticable, or inexpedient for the Council strictly to comply with such conditions, or if the Council is of opinion that strict compliance with the conditions would defeat the purpose for which the gift or bequest is made, the Council may, by petition under seal of the Corporation, apply to the Supreme Court for an order authorizing expenditure of the moneys affected for such other purposes or in such other manner in connection with Pukekura Park as will best effect the true intent and purpose of the gift or bequest. 35 40 45

*Struck out.*

5 (3) The making or refusal of any order under the *last preceding* subsection shall be in the discretion of the Court, and the Court may direct the petition to be publicly notified in such manner for such time as it thinks fit, and any person or persons to appear before it to give such evidence as it may require to enable it to decide whether or not such order is necessary or desirable.

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SCHEDULES.

Schedules.

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FIRST SCHEDULE.

ALL those pieces of land situate in the Borough of New Plymouth, containing together 3 roods 16·44 perches, more or less, being, firstly, Section 1264 and part of Section 1263 on the public map of the Town of New Plymouth, containing 1 rood 29·49 perches, more or less, and being part of the land comprised in certificate of title, Volume 127, folio 10, Taranaki Register; and, secondly, part of Section 34 on the public map of Fitzroy District (Block V, Paritutu Survey District), containing 1 rood 26·95 perches, more or less, and being part of the land comprised in certificate of title, Volume 138, folio 99, Taranaki Register: the said pieces of land being more particularly delineated upon the plan deposited in the Lands and Survey Office at New Plymouth as Number 910, roads, and thereon edged pink.

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SECOND SCHEDULE.

ALL that piece of land situate in the Borough of New Plymouth, containing 1 acre 2 roods 16·87 perches, more or less, being parts of Sections 34 and 35 on the public map of Fitzroy District (Block V, Paritutu Survey District), and being part of the lands comprised in certificate of title, Volume 108, folio 217, Taranaki Register: the said piece of land being more particularly delineated upon the plan deposited in the Lands and Survey Office at New Plymouth as Number 910, roads, and thereon edged pink.

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THIRD SCHEDULE.

ALL that parcel of land situate in the Borough of New Plymouth, containing 7 acres 2 roods 13 perches, more or less, being Lot 2 on Deposited Plan No. 5439, and being part of Section 49 on the public map of Fitzroy District, and being the whole of the land comprised in certificate of title, Volume 138, folio 106, Taranaki Register.