

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE.]

House of Representatives, 2nd September, 1910.

Mr. Brown.

NAPIER RECREATION-GROUND AND THE SIR DONALD
McLEAN MEMORIAL PARK.

[LOCAL BILL.]

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Power to Trustees to transfer park to the Corporation. 4. Prior trusts affecting park to be discharged. 5. Powers of Corporation over recreation-ground. Corporation to hold same as public recreation-ground. Laying out same, &c. Games</p>	<p>and sports to be carried on. Leasing-powers. Delegation of certain powers. 6. Application of funds. 7. Certain moneys to be expended on park. 8. Evidence of compliance with conditions of section 5. 9. The Municipal Corporations Act, 1908, and the Public Reserves and Domains Act, 1908, not to apply to recreation-ground. Schedules.</p>
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A BILL INTITULED

AN ACT to enable the Trustees of the Sir Donald McLean Memorial Park to vest the same in the Corporation of Napier and to enable the said Corporation to use a certain Municipal Reserve for the Purposes of a Public Recreation-ground. Title.

WHEREAS the pieces of land firstly described in the *First* Schedule hereto are vested in Robert Donald Douglas McLean, of Napier, sheep-farmer; Charles Dugald Kennedy, of Napier, solicitor; Archibald McLean, of Greenhill, sheep-farmer; George Tait, of Raka-moana, sheep-farmer; and Patrick Stirling McLean, of Napier, solicitor (all hereinafter included in the term the Trustees), for an estate in fee-simple, and the Trustees are entitled to an estate in fee-simple in the lands secondly described in the said *First* Schedule, but have not yet completed their title thereto: And whereas the Trustees hold and are entitled respectively to the lands described in the said *First* Schedule, upon and subject to the trusts declared in a declaration of trust dated the tenth day of March, nineteen hundred and ten, and executed by the Trustees, whereby, *inter alia*, it is declared that the Trustees shall stand possessed of the said land upon trust to employ the same in ways that shall perpetuate the memory of the late Sir Donald McLean, and in particular that the Trustees shall stand possessed of the said land in trust for the purposes of a public recreation-ground to be called by the name of "The Sir Donald McLean Memorial Park": And whereas in and by the said ~~in-part-recited~~ declaration of trust it is further declared that, if at any time the Trustees ~~should~~ consider it to be in the interests of the trust estate or for the public good, they might assign and transfer the whole or any portion of the trust Preamble.

2 *Napier Recreation-ground and the Sir Donald McLean Memorial Park.*

property to some suitable Board, local body, or institution, or to the members or some of the members of any such local body or institution, or to a company or society, as to the Trustees should seem fit; provided that the trust property so transferred should be held upon trusts as nearly the same as the trusts herein declared as the circumstances would permit; and provided also that the Trustees so assigning or transferring such trust property should be the judges of the details of such trust: And whereas the registered proprietors of the land described in the *Second* Schedule have agreed to sell the said land to the Mayor, Councillors, and Burgesses of the Borough of Napier (hereinafter referred to as the Corporation) for the purpose of a public park or recreation-ground, but no transfer or assurance of the said land to the Corporation has yet been executed: And whereas the land described in the *First* Schedule has been found too limited in area to fulfil the purposes for which it

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was acquired: And whereas if the lands described in the *Second* Schedule, when vested in the Corporation, should become subject to the provisions of the Municipal Corporations Act, 1908, affecting public reserves, and the provisions of the Public Reserves and Domains Act, 1908, the powers of the Corporation to restrict the free access of the public and to charge for admission thereto would be so limited as to render the said lands incapable of being fully and adequately applied to the best advantage as a public recreation-ground: And whereas there is no sufficient recreation-ground now existing in or for the Borough of Napier save and except a piece of land containing about five acres which has hitherto been used as a recreation-ground, but which the said Council intend forthwith applying for other public purposes:

is held in trust: And whereas the Trustees and the Corporation, being desirous in the interests of the public that the lands described in the *Second* Schedule hereto should be applied for and to the purposes of a public recreation-ground for the Borough of Napier in such manner as that adequate provision should be thereby made for the exercise of sports and games under the most favourable conditions possible, and the Trustees and the Corporation being desirous, moreover, that the said borough should at the same time be provided with a free public park, the Trustees and the Corporation have accordingly agreed that upon the Trustees and the Corporation respectively obtaining the powers and authorities hereinafter declared, the Trustees will transfer as a gift to the Corporation the lands described in the *First* Schedule hereto for the purposes of a public park for the Borough of Napier, and freed and discharged from all and every the trusts now affecting the same, and will also give to the Corporation the sum of one thousand pounds to be applied by the Corporation in the improvement and ornamentation of the said lands described in the *First* Schedule hereto as a public park, but by the said agreement of the Trustees and the Corporation it is made a condition precedent to the making of the said gifts of land and money by the Trustees to the Corporation that the Corporation should during the present session of Parliament obtain the certain

Napier Recreation-ground and the Sir Donald McLean Memorial Park. 3

powers and authorities ~~hereinafter declared~~ and that otherwise the said gifts will not be made: ~~And whereas in the interests of~~
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5 the Borough of Napier and the inhabitants thereof it is expedient that the said gifts of land and money should be made, and that such powers and authorities as are hereinafter declared should be conferred upon the Trustees and the Corporation in reference to the premises:

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

1. This Act may be cited as the Napier Recreation-ground and the Sir Donald McLean Memorial Park Act, 1910.

Short title.

2. In this Act, if not inconsistent with the context,—

Interpretation.

15 “Corporation” means and includes the Mayor, Councillors, and Burgesses of the Borough of Napier, and ~~their~~ successors:

“Park” means and includes the lands described in the *First* Schedule hereto:

20 “Recreation-ground” means and includes the lands described in the *Second* Schedule hereto:

“Trustees” means and includes the registered proprietors at the time of the coming into operation of this Act of the land described in the *First* Schedule hereto, and the survivor of them, and the executors, administrators, and assigns of such survivor.

25 3. Upon completion by the Corporation of its title to the recreation-ground it shall be lawful for the Trustees to transfer to the Corporation the park for an estate in fee-simple, free of any purchase-money or encumbrance, to be held by the Corporation as and for the purposes of a public park to be known as “The Sir Donald McLean Memorial Park.”

Power to Trustees to transfer park to the Corporation.

30 4. The park, when so transferred as aforesaid, shall vest in the Corporation freed and discharged of all trusts theretofore affecting the same, and ~~shall thereafter be subject to the provisions of~~

Prior trust affecting park to be discharged.

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Part XXIX of the Municipal Corporations Act, 1908, and the provisions of Part I of the Public Reserves and Domains Act, 1908.

40 5. Upon the transfer mentioned in section ~~one~~ *three* of this Act being effected, and upon payment by the Trustees to the Corporation of the sum of one thousand pounds, ~~the following provisions shall apply, that is to say,—~~

Powers of Corporation over recreation-ground.

45 (a.) The recreation-ground shall be held by the Corporation as and for the purposes of a public recreation-ground for the Borough of Napier *under the provisions of the Public Reserves and Domains Act, 1908.*

Corporation to hold same as public recreation-ground.

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50 (b.) The Corporation may enclose, lay out, level, drain, and plant the recreation-ground or any part thereof, and may lay out and construct and maintain thereon or any part thereof all such tracks, grounds, lawns, pavilions, stands, and other buildings and things as may in the opinion of

Laying out same, &c.

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Games and sports to be carried on.

the Corporation from time to time be necessary or proper for the purposes of sport and recreation.

(c.) The Corporation may from time to time permit the carrying-on upon the recreation-ground of all lawful sports, games, exhibitions, meetings, and amusements as it shall think proper, with liberty at all times, and notwithstanding anything in any other Act to the contrary, to license or allow persons to enter upon the recreation-ground or any part thereof for the purpose of using and enjoying the same in manner aforesaid or for other legitimate purposes, and to exclude persons from the recreation-ground or any part thereof, and with liberty also at all times to make and enforce such charges for the use of or admission to the recreation-ground or any part thereof as the Corporation determines.

Leasing-powers.

(d.) The Corporation shall have and may exercise in respect of the recreation-ground or any part or parts thereof all and singular the powers of leasing and letting lands conferred upon Municipal Corporations by Part XIX of the Municipal Corporations Act, 1908, but subject to the conditions prescribed by the said Act, and subject also to the condition that the demised premises shall be used only for the purposes mentioned in paragraphs (a) and (b) of this present section.

Delegation of certain powers.

(e.) In any lease or upon any letting of the recreation-ground or any part or parts thereof the Corporation may delegate to the lessee or tenant all or any of the powers conferred upon the Corporation by paragraph (c) of this present section.

Application of funds.

6. All moneys received by the Corporation for the rents, issues, and profits of the recreation-ground or any part thereof shall, after deducting therefrom all necessary expenses incurred in the management thereof, be applied in or towards the cultivation, improvement, and ornamentation of the recreation-ground, the erection or repair of all buildings authorized to be erected thereon, and generally in rendering the same suitable for the purposes by this Act authorized concerning the same:

Provided that if in any year after providing for and satisfying all the expenses and purposes aforesaid there shall be any surplus of income derived from the recreation-ground in the hands of the Corporation, such surplus income shall be paid into and form part of the District Fund.

Certain moneys to be expended on park.

7. The said sum of one thousand pounds to be paid by the Trustees to the Corporation as aforesaid shall be applied and expended by the Corporation upon and in respect of the park in such ways and for such purposes as are authorized by Parts XXIX and XXX of the Municipal Corporations Act, 1908, and the Public Reserves and Domains Act, 1908, and not otherwise.

Evidence of compliance with conditions of section 5.

8. Upon registration of the necessary instrument of transfer from the Trustees to the Corporation in respect of the park, and upon payment by the Trustees to the Corporation of the sum of one

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thousand pounds referred to in section *five* of this Act, the Mayor of the Borough of Napier shall grant a certificate under his hand that the conditions precedent to the coming into operation of the said section *five* have been duly complied with. The said certificate shall
5 be published in the *Gazette*, and, so published, shall be conclusive evidence that the said conditions have been complied with, and that the said section *five* came into operation on the day of the date of such certificate.

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10 9. In so far as the provisions of the Municipal Corporations Act, 1908, and the Public Reserves and Domains Act, 1908, or any of them are repugnant to or inconsistent with the provisions of this Act, such two first-mentioned Acts or such of their provisions as aforesaid shall not apply to the recreation-ground or any part thereof.

The Municipal Corporations Act, 1908, and the Public Reserves and Domains Act, 1908, not to apply to recreation-ground.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

1. ALL that piece or parcel of land, situate in the ~~Provincial District of~~ Hawke's Bay *Land District*, containing 10 acres and 35½ perches, more or less, being portions of the Whare-o-Maraenui Block, and being the lot numbered 697 on a plan deposited in the Land Transfer Office, at Napier, under No. 2172, and being all the land comprised in certificate of title, Volume 52, folio 202 (Hawke's Bay District Land Registry).

2. And also all those pieces or parcels of land, situate as aforesaid, containing together 2 roods, more or less, being other portion of the Whare-o-Maraenui Block, and being the lots numbered 519 and 520 respectively on the said plan, and being part of the land comprised in certificate of title, Volume 50, folio 295 (Hawke's Bay District Land Registry).

SECOND SCHEDULE.

ALL that piece or parcel of land, situate in the ~~Provincial District of~~ Hawke's Bay *Land District*, containing by admeasurement 20 acres, more or less, being part of the Whare-o-Maraenui Block, comprising the lot numbered 696, on the said deposited plan No. 2171, and being part of the land comprised in certificate of title, Volume 52, folio 223 (Hawke's Bay District Land Registry).

By Authority : JOHN MACKAY, Government Printer, Wellington.—1910.