

*Mr. Maher*

## LEVIN BOROUGH EMPOWERING

[LOCAL BILL]

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### A BILL INTITULED

AN ACT to constitute as a Public Domain certain Land held by the Corporation of the Borough of Levin under the Will of Henry Playford, to confer certain Powers on the Corporation in connection therewith, and to vary accordingly the Trusts created by that Will.

WHEREAS Henry Playford, of Levin, farmer, died at Levin on the twenty-fourth day of May, nineteen hundred and thirty-six: And whereas the said Henry Playford left a last will and testament bearing date the twenty-second day of July, nineteen hundred and

thirty: And whereas probate of the said will was on the twenty-fifth day of June, nineteen hundred and thirty-six, granted by the Supreme Court of New Zealand at Wellington to the Public Trustee of the Dominion of New Zealand, the executor and trustee appointed by the said will: And whereas by paragraph three of the said will the testator devised to the Mayor, Councillors, and Burgesses of the Borough of Levin the land particularly described in the *First* Schedule to this Act in the following terms—namely, “ upon trust for all time as a motorists’ camping-ground for the use of the public free of charge except as to such facilities or conveniences as the said Corporation may install or supply, but otherwise subject to such regulations, conditions, and restrictions as the Levin Borough Council may from time to time prescribe and should the said Corporation not accept the foregoing gift within a period of twelve calendar months after notification thereof shall have been given to the said Borough Council by my Trustee or should the said land at any time after the said Corporation shall have accepted the foregoing gift for any cause cease to be used or available for the purposes and upon the conditions aforesaid for a consecutive period of twelve calendar months then I give devise and bequeath all my said estate and interest in the said piece of land to the Palmerston North Hospital Board for the benefit of the Palmerston North Public Hospital ”: And whereas by paragraph four of the said will the testator devised and bequeathed the residue of his estate, including the land described in the *Second* Schedule to this Act, after payment of his just debts, funeral and testamentary expenses, and all estate and succession duty payable in respect of his estate, upon trusts expressed as follows:—

“(a) During such time as the said piece of land ”  
 [being that described in the *First* Schedule to this Act] “ shall be held by the said Corporation upon and subject to the trusts in regard thereto set forth in the last preceding paragraph three hereof to pay

5 the income arising therefrom to the said Corporation to be applied in and towards the upkeep maintenance and improvement of the said camping-ground and in and towards payment of any outgoings and charges in connection therewith in such manner in all respects as the Levin Borough Council shall think fit:

10 “(b) Subject to the foregoing provisions hereof upon trust for the Palmerston North Hospital Board for the benefit of the Palmerston North Public Hospital”:

15 And whereas the said Corporation has established and maintained as a motorists' camping-ground the land described in the said *First* Schedule in terms of the said will: And whereas it is desirable that the said land should be made available for the use of the public as a recreation-ground, sports-ground, and gardens, as well as a motorists' camping-ground, freed and discharged from the trusts created by the said will: And  
20 whereas the said land can be more efficiently administered for the aforesaid purposes as a public domain: And whereas the annual income derived from the said residuary estate is inadequate for the purpose of  
25 developing, improving, and maintaining that land for the aforesaid purposes to a standard in keeping with modern requirements: And whereas it is desirable that the capital as well as the income of the said residuary estate should be made available for the  
30 aforesaid purposes, and accordingly that the said residuary estate should be freed from the trusts attaching thereto and vested in the Corporation, with power for the Corporation to convert it into money and expend the net proceeds of such conversion in and  
35 towards the management, administration, and improvement of the said land for such purposes as aforesaid: And whereas the Public Trustee and the Palmerston North Hospital Board have consented to the above-mentioned variations being made to the terms of the  
40 trust created by the will of the testator: And whereas the objects of this Act are not obtainable otherwise than by legislation:

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 Levin Borough Empowering (Playford Park) Act, 1948. 5
- Interpretation. **2.** In this Act, unless the context, otherwise requires,—
- “Corporation” means the Corporation of the Mayor, Councillors, and Burgesses of the Borough of Levin: 10
- “Council” means the Levin Borough Council:
- “Park” means Playford Park, described in the *First* Schedule to this Act:
- “Testator” means Henry Playford, late of Levin, farmer, deceased: 15
- “The will” means the last will and testament of the testator, dated the twenty-second day of July, nineteen hundred and thirty.
- Playford Park declared to be a public domain. **3.** (1) The land described in the *First* Schedule to this Act is hereby declared to be reserved for recreation purposes and to be set apart under Part II of the Public Reserves, Domains, and National Parks Act, 1928, as the Playford Park Domain. 20
- (2) The Council is hereby declared to be the Domain Board in respect of the park. 25
- (3) The lease in perpetuity referred to in the said *First* Schedule is hereby cancelled.
- (4) The District Land Registrar of the Land Registration District of Wellington is hereby authorized and directed to make such entries in the register and to do all such things as may be necessary to give effect to the provisions of this section. 30
- Minimum area for motorists' camping-ground. **4.** The Council shall set apart and at all times maintain as a motorists' camping-ground an area of not less than four acres within the boundaries of the park. 35
- Vesting of residuary estate in Corporation. **5.** The Public Trustee, after paying thereout all legal and other costs, charges, duties, and expenses incurred or payable by him in respect of the administration of the estate of the testator, and after retaining thereout all lawful commission or other charges for his services, shall forthwith convey, transfer, assure, and 40

pay over to the Corporation all the real and personal property comprising the residuary estate of the testator as defined by the will, to be held by the Corporation free from the trusts and reservations  
 5 imposed by the said will, but subject to any mortgages, encumbrances, or liens attaching thereto and subject to the provisions of this Act.

6. Simultaneously with conveyance, assurance, and payment to the Corporation of the real and personal  
 10 property constituting the residuary estate of the testator, the Corporation shall, upon being satisfied in that behalf, execute such deed as the Public Trustee may reasonably require releasing and discharging the Public Trustee from the duties imposed on him by the  
 15 will in connection with that property, such deed to be prepared by the solicitors to the Public Trustee at the cost of the Corporation.

Release of Public Trustee from duties under will.

7. Notwithstanding anything in the Municipal Corporations Act, 1933, or any other Act, the Council  
 20 may subdivide the land described in the *Second* Schedule to this Act, or any part or parts thereof, into suitable building allotments, and lay out, form, and construct such roads and streets thereon as the Council thinks proper, and may for the purpose of  
 25 developing the land as building allotments exercise all the powers conferred upon local authorities by the Municipal Corporations Act, 1933, or any other enactment conferring powers upon local authorities.

Council may subdivide and road land in residuary estate.

8. The Council may, by special order, and without  
 30 taking the steps prescribed by sections nine to thirteen of the Local Bodies' Loans Act, 1926, raise a special loan for the purpose of exercising any of the powers conferred by section *seven* of this Act.

Borrowing-powers.

9. (1) The Council is hereby authorized to sell all  
 35 the land described in the *Second* Schedule to this Act, or any part thereof, either by public auction, public tender, or private contract, or partly by one and partly by the other, of such modes of sale, at such price or prices, and subject to such conditions as to title, time,  
 40 or mode of payment of purchase-money or otherwise as it thinks fit, and with or without a grant or reservation of rights of way, rights of water easement,

Council may sell land in residuary estate.

drainage easements, or other rights and privileges of every description in relation to any of the allotments sold or any land remaining unsold, or any part thereof, or any other land vested in the Corporation, on such terms as it thinks fit; and to lease the said land or 5 such part or parts thereof as shall for the time being remain unsold at such rents, for such terms, and subject to such conditions as the Council thinks fit; and to execute such agreements, transfers, leases, and other documents as may be required in connection with the 10 sale or lease of the said land or any part thereof.

(2) Nothing in this section shall be construed to derogate from the provisions of the Servicemen's Settlement and Land Sales Act, 1943.

Recital evidence that sale lawful.

**10.** A recital in any transfer from the Corporation 15 to any purchaser or purchasers of the land described in the *Second* Schedule to this Act, or any part or parts thereof, to the effect that the sale in respect of which such transfer is given is made in pursuance of the provisions of this Act shall be conclusive evidence 20 that such sale is lawful.

Expenses of subdivision and sale.

**11.** The Council is hereby authorized and empowered to defray out of the moneys arising from the sale of any allotment or land sold under this Act, and out of any moneys coming into its hands as part of the 25 residuary estate of the testator, the costs and expenses of and incidental to the subdivision and sale of the said land or any part thereof, including the costs and expenses of and incidental to the laying-off, formation, and construction of any roads or streets thereon, and 30 any liabilities incurred pursuant to section *eight* of this Act.

Disposal of any other property forming part of residuary estate.

**12.** If any part of the residuary estate of the testator, other than the land described in the *Second* Schedule to this Act, transferred to the Corporation 35 pursuant to this Act consists of property not in the form of money, the Council shall sell that property or otherwise convert it into money in such manner and on such terms as it thinks fit.

Application of moneys under this Act.

**13.** Subject to the provisions of this Act, all moneys received by the Corporation pursuant to this Act shall form part of the funds of the Playford Park Domain Board and shall be applied accordingly.

14. Upon the passing of this Act the will shall  
cease to have any force or effect. Will ceases to  
have effect.

5 15. All costs, charges, and disbursements of and  
5 incidental to the preparation, obtaining, and passing  
of this Act or otherwise in relation thereto shall be  
paid out of moneys coming into the hands of the  
Council pursuant to this Act. Costs of Act.

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SCHEDULES

Schedules.

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FIRST SCHEDULE

PLAYFORD PARK

ALL that parcel of land situate in the Borough of Levin, containing by admeasurement twenty acres and fourteen perches (20 acres 0 roods 14 perches), more or less, being Village Homestead Settlement Allotment No. 68 on the map of the Levin Village Settlement, Waiopēhu Survey District, and being the whole of the land comprised in lease in perpetuity from the Crown No. 811, recorded in Volume 14A, folio 192 (Wellington Registry).

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SECOND SCHEDULE

LAND INCLUDED IN TESTATOR'S RESIDUARY ESTATE

ALL that parcel of land forming part of residuary estate situate in the Borough of Levin, containing by admeasurement twelve acres three roods thirty-two decimal seventy-two perches (12 acres 3 roods 32.72 perches), more or less, being part of Lot 2 and Lot 4 of Section 48, Levin Village Settlement, and Subdivision A of Section 67, Levin Village Settlement, and being the balance of the land comprised in certificate of title, Volume 440, folio 8 (Wellington Registry), subject to Part XIII of the Land Act, 1924.