

[AS REPORTED FROM THE LOCAL BILLS COMMITTEE]

House of Representatives, 6 October 1961

Words struck out by the Local Bills Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Mr A. E. Allen

BEACHLANDS DOMAIN BOARD EMPOWERING

[LOCAL]

ANALYSIS

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A BILL INTITULED

5 An Act to confer certain powers on the Beachlands Domain Board, and in particular authorising and empowering it to apply certain moneys held in trust for the charitable purpose of building a public hall upon the lands known as the Beachlands Domain, in such manner as it deems fit, (*in developing and effecting improvements to and in providing amenities for any public domain and public reserve under its control and management*) in the develop-
10 ment and improvement of that domain

15 WHEREAS certain lands more particularly described in the Schedule to this Act and known as, and in this Act referred to as, the Beachlands Domain are vested in Her Majesty the Queen as a public domain: And whereas the said lands are controlled and administered by the Beachlands Domain Board as the administering body thereof duly constituted under the provisions of the Reserves and Domains Act 1953: And whereas between the years nineteen hundred and thirty-five and

nineteen hundred and fifty-one certain moneys were from
 time to time raised in diverse manners by way of voluntary
 contribution, by the sale of goods voluntarily contributed, by
 moneys paid as the price of admission to entertainments, and
 otherwise, and all such moneys were paid to and received by 5
 the Beachlands Domain Board for the purpose of erecting
 a pavilion or hall on part of the Beachlands Domain for the
 use of and by the general public: And whereas by notice
 (*published in the New Zealand Gazette on the twenty-fourth*
day of March, nineteen hundred and fifty-two) dated the 10
twenty-fourth day of March, nineteen hundred and fifty-two,
and published in the *Gazette* of the third day of April, nineteen
hundred and fifty two, under the provisions of section 48
 of the Public Reserves and National Parks Act 1928 (now
 section 47 of the Reserves and Domains Act 1953) the 15
 Manukau County Council, being the local authority of
 the body corporate called the Chairman, Councillors, and
 Inhabitants of the County of Manukau, was appointed
 to be the Beachlands Domain Board in respect of the
 Beachlands Domain: And whereas consequent upon and 20
 subsequently to the appointment of the said Council as the
 Beachlands Domain Board in the manner and at the time
 aforesaid the said moneys (in this preamble hereinafter
 referred to as the pavilion or hall fund) were deposited in an
 account number 878464 of the Post Office Savings Bank at 25
 Auckland in the joint names of the said body corporate and
 of Walter Stanley Hopping, of Omana Beach, near Whitford,
 retired, and Arthur Edgar Ashcroft, of Auckland, County
 Clerk: And whereas the Beachlands Ratepayers Progressive
 Association, a society duly incorporated under the provisions 30
 of the Incorporated Societies Act 1908 (in this preamble
 hereinafter referred to as the association), or its predecessor
 in title, has now erected a hall at Beachlands on certain free-
 hold land acquired by and now vested in the association as
 registered proprietor thereof but such land is not and never 35
 has been the Beachlands Domain or any part thereof: And
 whereas by a writ of summons issued on the sixteenth day of
 September, nineteen hundred and fifty-seven, out of the
 Supreme Court of New Zealand at Auckland in a certain
 action number 382/57 against the said body corporate and 40
 the said Walter Stanley Hopping and the said Arthur Edgar
 Ashcroft as defendants, the association, as plaintiff in the
 said action claimed, *inter alia*, a declaration that the pavilion
 or hall fund and all interest accrued due thereon had been 45
 received by such defendants and was held by them in trust
 for the Association for the purpose of the erection of a hall
 at Beachlands and for the taking of accounts as to the moneys
 withdrawn from the pavilion or hall fund and judgment in

favour of the association for the amount (if any) found to be due to it: And whereas the said action duly came on for trial in the said Supreme Court before the Honourable Mr Justice Shorland on the twenty-third day of September, 5 nineteen hundred and fifty-eight: And whereas on the twenty-fourth day of November, nineteen hundred and fifty-eight, it was adjudged in the said action, *inter alia*, that the pavilion or hall fund is held in trust by the said body corporate and the said Walter Stanley Hopping and the said Arthur Edgar 10 Ashcroft to be applied to the charitable purpose of building a public hall upon the Beachlands Domain: And whereas no such hall has yet been built upon the Beachlands Domain or any part thereof and in consequence and because of the erection of a hall on the land owned by the association at 15 Beachlands as aforesaid it has now become undesirable, impracticable, and inexpedient to carry out the charitable purpose for which the pavilion or hall fund is held in trust as aforesaid, namely, the erection of public hall on the Beachlands Domain or any part thereof, and such charitable purpose 20 is therefore now useless: And whereas on account of the nature and diversity of the contributions made to the pavilion or hall fund and because of the lapse of time since such contributions were made it is impossible to establish and identify the contributors to the pavilion or hall fund or to comply with 25 the provisions of the Charitable Trusts Act 1957 in respect thereof: And whereas by reason of the matters aforesaid it is desirable to make provision that the pavilion or hall fund should be expended and applied in and towards the general purposes hereinafter set forth without further depletion thereof 30 than was occasioned by the costs of the said action (otherwise than as is provided for in this Act):

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

35 **1. Short Title**—This Act may be cited as the Beachlands Domain Board Empowering Act 1961.

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

40 “Board” means the Beachlands Domain Board constituted under the provisions of the Reserves and Domains Act 1953:

“Charitable purpose” means a charitable purpose as defined in section 38 of the Charitable Trusts Act 1957:

“Corporation” means the body corporate constituted by the Counties Act 1956 under the name of the Chairman, Councillors, and Inhabitants of the County of Manukau:

Struck Out

“Public domain” and “public reserve” shall have the meanings assigned to those terms respectively in and by the provisions of the Reserves and Domains Act 1953.

3. Authorising expenditure and application of trust fund in development, etc., of public domains and public reserves— Notwithstanding anything to the contrary in this Charitable Trusts Act 1957, and in particular Part IV thereof, or in any other Act or in the judgment of the Supreme Court in the said action number 382/57, the Board and the Corporation and the said Walter Stanley Hopping and the said Arthur Edgar Ashcroft

Struck Out

are, and each of them is, hereby authorised and empowered from time to time to expend and apply all or any part of the said moneys now deposited and held in the said account number 878464 of the Post Office Savings Bank at Auckland for the charitable purpose of building a public hall upon the Beachlands Domain, being the lands more particularly described in the Schedule hereto, and all interest now accrued and hereinafter to accrue due thereon (hereinafter referred to as the said trust fund)

New

or the trustees for the time being of the money now deposited and held in account number 878464 of the Post Office Savings Bank at Auckland for the charitable purpose of building a public hall on the Beachlands Domain as described in the Schedule to this Act and of all interest accrued and hereafter accruing on that money (which money and interest are hereinafter referred to as the said trust fund) are, and each of them is, authorised and empowered to expend and apply all or any part of the said trust fund

in such manner as

the Board or the Corporation shall from time to time think fit

Struck Out

5 in the general development of and in effecting improvements to and in the provision of amenities for any public domain or public reserve which may at any time be under the control and management of the Board, including the lands described in the Schedule to this Act.

New

10 in or towards the general improvement and development of the said Beachlands Domain or of any land which may hereafter be added thereto.

4. Expenses of promoting Act to be paid out of trust fund—

15 The costs of promoting this Act and of investigating all matters preparatory and incidental thereto, including all disbursements and legal expenses and whether incurred by the Board or the Corporation, shall be paid and discharged by the Board or by the Corporation and the said Walter Stanley Hopping and the said Arthur Edgar Ashcroft or the trustees for the time being of the said trust fund out of the said trust fund.

20 **5. Validation of expenditure and payments previously made—**All such expenditure and any such payments (if any) made out of the said trust fund at any time before the passing of this Act are hereby validated and declared to have been validly and lawfully made.

SCHEDULE

Struck Out

ALL those parcels of land vested in Her Majesty the Queen as a Domain within the meaning of the Reserves and Domains Act 1953 and known as the Beachlands Domain, being the recreation reserves numbered Lots 40 and 1130 on Deeds Plan No. 619, and Lots 108, 114, 157, 167, 175, and 1131 on Deposited Plan No. 19657, all being part of Allotments 17 and 44 of the Parish of Maraetai, containing together 7 acres 1 rood 38·8 perches situated partly in Block IV of the Otahuhu Survey District and partly in Block I of the Wairoa Survey District.

Also all that parcel of land containing 7 acres 2 roods 35 perches, more or less, being Section 1, Block IV, of the Otahuhu Survey District, known as Motukaraka Island.

New

BEACHLANDS DOMAIN

ALL those areas in the North Auckland Land District containing together 26 acres 3 roods 37·2 perches, more or less, and described as follows:

Lots 108, 114, 157, 167, 175, and 1131, D.P. 19657, and Lots 970 and 1026, D.P. 21695, being parts Allotment 17, Maraetai Parish, Block I, Wairoa Survey District: Area, 4 acres 1 rood 3·2 perches, more or less.

Also Lots 960 and 1016, D.P. 19523, and Lots 961 to 969 inclusive and 1017 to 1025 inclusive, D.P. 21695, being part Allotments 17 and 44, Maraetai Parish, Block I, Wairoa Survey District: Area, 4 acres 3 roods 39 perches, more or less.

Also Lots 40 and 1130, Deeds Plan 619, being parts Allotment 44, Maraetai Parish, Block I, Wairoa Survey District: Area, 3 acres 2 roods 35 perches, more or less.

Also Section 1, Block IV, Otahuhu Survey District (Motukaraka Island): Area, 14 acres, more or less (S.O. Plan 11022).