

[AS REPORTED FROM THE COMMITTEE ON THE BILL]

House of Representatives, 24 November 1961

Words struck out by the 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 Cooksley

CARTER TRUST

[PRIVATE]

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A BILL INTITULED

An Act to vary the trusts of the will of the late Charles Rooking Carter and to facilitate establishment of a home for aged persons in Carterton

- 5 WHEREAS the Public Trustee is the trustee of the will dated the sixth day of June 1896 of Charles Rooking Carter, late of Wellington in New Zealand, gentleman (hereinafter called the testator): And whereas the Public Trustee holds as such trustee certain pieces of land comprising in all two thousand
10 one hundred and seventy-eight acres three roods two point seven perches, more or less, situated near the Borough of Carterton, certain sums of money, and certain furniture and other household articles: And whereas by section 43 of the Reserves and Other Lands Disposal and Public Bodies

Empowering Act 1916 the powers of the Public Trustee in respect of the said land were enlarged and the name of the charitable institution erected on part of the said land in accordance with the provisions of the said will was changed from the Carterton Home for Aged Poor Men to the Carter Homes, and the conditions of eligibility for admission to the said homes were varied and provision was made for certain other matters: And whereas the Carter Homes, owing to their situation and for other reasons, are no longer suitable as a home for old people: And whereas a society, called the Carter Society Incorporated, has been incorporated under the provisions of the Incorporated Societies Act 1908 with the object of establishing a new home for aged persons in the Borough of Carterton: And whereas it is intended that on the establishment of the said new home any persons then living in the Carter Homes should be transferred to the said new home and the Carter Homes should be closed: And whereas it is the desire of the said society that funds which would otherwise have been used for the purposes of the Carter Homes should be available for the maintenance of the proposed new home: And whereas the Carter Homes Committee and the Public Trustee consider that the said proposals are reasonable and proper: And whereas the Carter Homes Committee desires to be relieved of its responsibilities in regard to the Carter Homes on the establishment of the proposed new home:

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

1. Short Title—This Act may be cited as the Carter Trust Act 1961. 30

2. Interpretation—In this Act, unless the context otherwise requires, —

“Carter Homes” means the institution so named in accordance with the provisions of section 43 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916, erected on a site containing four acres three roods fifteen perches, more or less, being all the land comprised in certificate of title, Volume 816, folio 67, Wellington Registry: 40

“Carter Homes Committee” means the management committee of Carter Homes constituted in accordance with the provisions of the said will:

5 “Carter Reserve” means all that piece of land containing seventy-eight acres and eight point eight perches, more or less, which has been set aside as a scenic reserve and recreation ground pursuant to sub-section (3) of the said section:

10 “New Carter Home” means the home proposed to be established on land situate in the Borough of Carterton containing two acres three roods, more or less, and being part of the land in certificate of title, Volume 586, folio 45, Wellington Registry:

15 “Society” means the Carter Society Incorporated:

“Trust lands” means all those lands at present vested in the Public Trustee as trustee of the said will, excluding the Carter Reserve and excluding the site of the Carter Homes.

20 **3. Leasing powers—**(1) In respect of the trust lands the Public Trustee shall be deemed to be a leasing authority within the meaning of the Public Bodies’ Leases Act 1908 and may lease the trust lands or any part or parts thereof in accordance with the provisions of that Act:

Provided that—

25 (a) Every such lease shall be subject to the conditions that no assignment, sublease, or encumbrance shall be valid without the prior consent in writing of the Public Trustee and that the lessee, his executor, administrator, sublessee, or assign, shall continuously
30 reside on the land, except so far as he is for the time being exempted from the requirements of residence by the consent in writing of the Public Trustee; and

35 (b) ~~(Every)~~ Any new lease or renewal of lease of the trust lands or any part thereof for a term exceeding seven years hereafter granted by the Public Trustee ~~(shall)~~ may, unless it is granted by reason of the exercise by the lessee or anyone claiming through a lessee of a right of renewal and such a provision
40 would be inconsistent with the terms of that right, contain a provision that the rent payable under the

lease shall on the seventh and fourteenth anniversaries of the commencement of such lease if it so long continues be reviewed, and the rent adjusted if necessary to a figure to be agreed upon between the parties or, failing agreement, to be settled by arbitration in accordance with the Arbitration Act 1908. 5

New

(2) For the purposes of leasing the trust lands the Public Trustee may subdivide the same, lay out, form, widen, and dedicate roads, and generally do all such things as he thinks proper for the subdivision and leasing thereof to the best advantage. 10

4. Sale of Carter Homes—Upon the Public Trustee being satisfied that the inmates of the Carter Homes have been transferred to the new Carter Home or that other suitable arrangements have been made for them to be provided with accommodation and care, the Public Trustee shall, as soon as reasonably practicable thereafter, sell the Carter Homes by public auction or private contract at such price and on such terms and conditions as the Public Trustee thinks fit. 15 20

5. Capital payments to the society—(1) The Public Trustee shall pay to the society—

- (a) The capital funds held by him as trustee of the said will (but not including funds in the account relating to the Carter Reserve) after reserving so much thereof as he thinks fit in order to provide for expenses expected to be payable therefrom: 25
- (b) The net proceeds of the sale of the Carter Homes:
- (c) The net proceeds of sale of any articles sold in accordance with section 6 of this Act. 30

(2) Moneys paid to the society in accordance with this Act shall be applied by the society in or towards meeting the cost of erection of the new Carter Home or enlarging or improving or furnishing it or discharging any liability incurred for any of those purposes or otherwise for capital purposes in connection with the new Carter Home. 35

6. Disposal of chattels—(1) When any furniture and other chattels held by the Public Trustee as trustee of the said will are in his opinion no longer required for use in the Carter Homes the Public Trustee may transfer and deliver to the society such of the chattels as the society may require and shall sell the rest of the chattels. 40

(2) Any chattels so transferred and delivered to the society shall become the property of the society.

7. Disposal of income—The Public Trustee shall apply the net income derived from the trust lands in the following manner:

- (a) In paying the costs of keeping in proper order the grave of the testator and the annuity of £25 payable under the said will to the Church of England Clergyman whose parish includes the Borough of Carterton:
- (b) In paying any amount (not exceeding in any year ten per cent of the net income for that year) required in the opinion of the Public Trustee for the expenses of and incidental to the proper management and upkeep of the Carter Reserve in so far as the income in any such year from the reserve shall be insufficient to meet those expenses:

New

Provided that the Public Trustee may in his discretion determine that any such expenses shall be paid from moneys held by him in the account relating to the Carter Reserve (whether received by the Public Trustee before or after the passing of this Act):

(c) The balance of the said net income (whether received by the Public Trustee before or after the passing of this Act) shall after the closing of the Carter Homes be paid to the society for application in such manner as the society thinks fit for the purposes of the new Carter Home:

Provided that until the closing of the Carter Homes the Public Trustee may make such payments of income as he thinks fit to the Carter Homes Committee for the purpose of the Carter Homes.

8. Power to make further capital payments—

Struck Out

(1) In addition to making the capital payments to the society provided for in section 5 of this Act the Public Trustee may in his discretion make further capital payments to the society for application as provided in subsection (2) of section 5 of this Act.

(2) *(In order that capital payments may be so made, or)* In order to provide for expenses properly payable from the capital of the testator's estate, the Public Trustee may advance money to the testator's estate in accordance with section 39 of the Public Trust Office Act 1957 or may borrow (whether upon the security of the trust lands or otherwise) such sum or sums of money as he thinks fit. 5

(3) Interest on any money so advanced or borrowed may be paid from the income derived from the trust lands and the principal may be repaid out of the said income over such period and by such instalments as the Public Trustee thinks fit. 10

9. Carter Reserve—(1) *(As from the date on which)* The Carter Homes Committee shall *(cease)* continue to *(operate pursuant to section 14 of this Act, the Public Trustee shall)* be the administering body of the Carter Reserve for the purposes of the Reserves and Domains Act 1953 until the Carter Reserve is transferred to or controlled by any local authority or other body. 15

(2) The Public Trustee may arrange for the Carter Reserve to be transferred to or controlled by any local authority or other body for use as a scenic reserve and recreation ground on condition that the name of the Carter Reserve is not changed. 20

(3) Upon the transfer *(of the control)* of the Carter Reserve or of the control thereof to any local authority or other body the Public Trustee may pay to the body which will thereafter control the Carter Reserve any money then held by him and representing income derived from the Carter Reserve (whether received by the Public Trustee before or after the passing of this Act) on condition that the money so paid be applied in the improvement or development of the Carter Reserve or otherwise in connection with the administration thereof. 25 30

New

9A. School reserve—The Public Trustee may continue to allow the part of the trust lands containing eight acres or more or less, which has in the past been used as a playing area for the Parkvale School to be used for the purposes of the said school for so long as he thinks fit, rent free, but on such other conditions as the Public Trustee thinks fit. 35 40

New

5 **9B. Site for buildings and cottage homes**—The part of the trust lands containing nineteen acres two roods ten point nine perches, more or less, which was set aside as a site for buildings and cottage homes for the purposes of the Carter Homes, in accordance with subsection (5) of section 43 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916, shall cease to be so set aside and may be leased by the Public Trustee either separately or together with any other part of the trust lands.

15 **10. Power to charge residents of new Carter Home**—The society shall have power to charge and recover from any person residing in the new Carter Home (including any flats erected in connection therewith) such amounts as may from time to time be fixed by the society:

Provided, however, that the Minister of Health may from time to time fix the maximum charges which may be so made either generally or in respect of specified persons or classes of persons.

20 **11. Admission to new Carter Home**—The society may admit persons of either sex of or over the age of sixty years to the new Carter Home without regard to the provisions contained in the said will but shall give preference to persons previously residing in the district now comprising the Borough of Carterton and the County of Wairarapa South.

25 **12. Name of home**—The society may decide from time to time what shall be the name of the new Carter Home:

Provided that Carter shall form part of the name.

30 **13. Expenses**—(1) All reasonable expenses incurred by the Public Trustee, the Carter Homes Committee, and the society in connection with the promotion of this Act may be paid by the Public Trustee out of capital moneys held by him as trustee of the testator's will or advanced by him to the testator's estate.

35 (2) Interest on any money so advanced may be paid from the income derived from the trust lands and the principal may be repaid out of the said income over such period and by such instalments as the Public Trustee thinks fit,

14. Carter Homes Committee—(1) Within one month from the closing of the Carter Homes the Carter Homes Committee shall transfer all its funds, assets, books, documents, papers, and records to the society for the purposes of the society.

(2) As from the date of such transfer, the society shall pay and discharge all outstanding debts and liabilities of the Carter Homes Committee. 5

(3) Upon making the said transfer the Carter Homes Committee shall be subject to no further liability or responsibility in respect of the carrying out of the provisions of the said will except as provided in section 9 of this Act. 10

15. Society's rules—(1) The rules of the society relating to its name and objects, the constitution of its executive committee, and the disposal of its assets and funds on winding up may be altered, added to, or rescinded only with the consent of the Minister of Health. 15

(2) The Registrar of Incorporated Societies shall not register any alteration in the rules of the society unless satisfied that it does not infringe the provisions of this section.

16. Repeal—Section 43 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1916 is hereby repealed, together with any bylaws heretofore made thereunder. 20

17. Private Act—This Act is hereby declared to be a private Act. 25