

New Zealand.



ANALYSIS.

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| <p>Title.
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1913, No. 6.—*Private.*

Title. AN ACT to regulate the Performance of the Trusts concerning certain Lands originally granted to the Bishop of New Zealand or to Bishops of Dioceses in New Zealand for Religious, Educational, Charitable, and other Purposes, and to make other Provisions relative to Lands held in Trust for or in connection with the Church of the Province of New Zealand, commonly called the Church of England. [11th November, 1913.]

Preamble. WHEREAS by the Bishop of New Zealand Trusts Act, 1858, and the Bishop of New Zealand Trusts Act, 1868, George Augustus, Bishop of New Zealand, was empowered to convey certain hereditaments (which had been granted, conveyed, or assured to him and his successors, Bishops of New Zealand, in trust for certain religious, educational, charitable, and other purposes) unto such trustee or trustees as the General Synod should appoint, subject to the trusts upon which the same hereditaments were held by the said Bishop; and it was by the said respective Acts enacted that the trustees for the time being of the said hereditaments should have certain powers of selling, exchanging, and leasing the same respectively: And whereas the said Bishop, in exercise of the powers given to him by the said respective Acts, conveyed hereditaments to trustees appointed by the General Synod: And whereas by the constitution and canons of the Church of the Province of New Zealand,

commonly called the Church of England, no sale or exchange of any land held on behalf of the General Synod may be made by the trustees of such land without the authority of the General Synod, but doubts have been expressed whether the trustees to whom hereditaments have been conveyed under the authority of the said recited Acts are subject to the jurisdiction of the General Synod in this and other respects, and it is expedient to remove such doubts in manner hereinafter appearing: And whereas it is expedient that the trustees of the said lands and of lands held under the Bishops in New Zealand Trusts Act, 1871, and under the Religious, Charitable, and Educational Trusts Act Amendment Act, 1865, should have the powers hereinafter given to them: And whereas in the dioceses of the said Church, or some of them, lands have been conveyed by donors and others to private trustees for various religious, charitable, educational, or other purposes in connection with the said Church, but no powers of selling, exchanging, mortgaging, or leasing the said lands were given to the trustees thereof, and it is expedient that where any such lands have become or shall hereafter become vested in any Diocesan Board of Trustees duly incorporated under the Religious, Charitable, and Educational Trusts Act, 1908, or any Act thereby repealed, such Board should have the powers of selling, exchanging, mortgaging, and leasing hereinafter given to it: And whereas it is expedient that the other provisions hereinafter contained in relation to lands of or held in connection with the said Church should be made:

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 Church of England Trusts Act, 1913. Short Title.

2. In this Act, if not inconsistent with the context, “granted hereditaments” means lands and hereditaments granted, conveyed, or assured to the said Bishop of New Zealand upon trust as aforesaid and by him conveyed under the authority of the said recited Acts of 1858 and 1868 respectively to trustees appointed by the General Synod, and includes all lands and hereditaments received or to be hereafter received in exchange for such first-mentioned lands or hereditaments, or purchased or to be hereafter purchased out of the proceeds of the sale thereof, or otherwise for the time being subject to the trusts affecting such first-mentioned lands or hereditaments. Interpretation.

3. (1.) The trustees for the time being of any granted hereditaments shall (save in the case of the property referred to in the next subsection) hold the same for and on behalf of the General Synod of the Church of the Province of New Zealand, commonly called the Church of England, upon the trusts affecting the same. Granted lands to be held for General Synod on trusts affecting same.

(2.) The trustees for the time being of those of the granted hereditaments that are comprised in Crown Grant No. 45, dated the thirteenth day of October, eighteen hundred and fifty-two, and registered in the Deeds Registration Office in Wellington as No. 4332, and of any other hereditaments for the time being affected

by the trusts of the said Crown grant (all such hereditaments being hereinafter referred to as the Whanganui Collegiate School Estate), shall hold the same upon the trusts affecting such hereditaments originally imposed by the said Crown grant, and shall send annually to the Synod of the Diocese of Wellington a report of their proceedings and a duly audited balance-sheet for the year ended the thirty-first day of March preceding the meeting of such Synod, and shall also send triennially to the General Synod such a report and balance-sheet for the three years preceding the meeting of the General Synod.

Trustees of granted hereditaments to have scheduled powers.

4. The trustees for the time being of any granted hereditaments shall, as regards the same or any part or parts thereof, have the powers set out in the Schedule hereto.

Sales, exchanges, and mortgages to be made only by authority of General Synod.

5. The said trustees for the time being shall exercise, in relation to the granted hereditaments respectively, the powers of selling, exchanging, and mortgaging given in the Schedule hereto only by authority of the said General Synod to be given in the case of each sale, exchange, or mortgage :

Provided always that in the case of the Whanganui Collegiate School Estate the power of mortgaging shall be exercisable by the trustees thereof for the time being without the authority of the General Synod.

Continuance of powers of Acts of 1858 and 1868.

6. The trustees of the granted hereditaments respectively shall, notwithstanding the repeal of the said recited Acts of 1858 and 1868 by the Statutes Repeal Act, 1907, be deemed to have had the powers set out in the Schedule to the said Act of 1858 during the interval between the commencement of the said Act of 1907 and the commencement of this Act.

Continuance of powers of the Bishops in New Zealand Trusts Act, 1871.

7. (1.) The trustees of all lands and hereditaments conveyed under the authority of the Bishops in New Zealand Trusts Act, 1871, or otherwise for the time being held on the trusts of the grants in the said Act referred to, shall, notwithstanding the repeal of the said Act by the Statutes Repeal Act, 1907, be deemed, as from the commencement of the last-mentioned Act, to have had the powers set out in the Schedule to the said Act of 1871 ; and all the provisions contained in such Schedule shall be deemed, as from such commencement, to have remained in full force, save that the reference in clause eight of the said Schedule to the Religious, Charitable, and Educational Trusts Act, 1856, shall be deemed to be and shall, as from the fourth day of August, nineteen hundred and eight, be deemed to have been a reference to the Religious, Charitable, and Educational Trusts Act, 1908.

Trustees under Acts of 1871 and 1865 to have scheduled powers.

(2.) The trustees of the said lands, and the trustees for the time being in whom any lands shall be vested in trust for any Diocesan Synod (in lieu of the powers given to such last-mentioned trustees by the Religious, Charitable, and Educational Trusts Act Amendment Act, 1865), shall hereafter have, as regards the said lands respectively, or any part or parts thereof respectively, the powers set out in the Schedule hereto, but so that the powers of selling, exchanging, and mortgaging given in the said Schedule shall be exercised only by authority of the Diocesan Synod given in the case of each sale, exchange, or mortgage.

8. Where any lands situate in any diocese of the said Church have heretofore been or shall hereafter be conveyed or given to trustees for any religious, charitable, educational, or other purpose in connection with the said Church, and such lands have become or hereafter shall become vested in the Diocesan Board of Trustees for such diocese duly incorporated under the Religious, Charitable, and Educational Trusts Act, 1908, or under any Act thereby repealed, such Board shall have in relation to such lands respectively, or to any part or parts thereof respectively, the powers set out in the Schedule hereto, but so that the powers of selling, exchanging, and mortgaging shall be exercised only by authority of the Diocesan Synod given in the case of each sale, exchange, or mortgage:

Diocesan Boards of Trustees to have powers of selling, exchanging, mortgaging, and leasing certain lands.

Provided always that this section shall not be deemed to take away any powers affecting the said lands, nor shall it apply to the granted hereditaments as defined in this Act or to any lands referred to in section seven of this Act.

9. Every body of trustees (whether incorporated or not) of the granted hereditaments respectively and of the hereditaments referred to in section seven hereof, and every incorporated Board in respect of the hereditaments referred to in section eight and section twelve hereof, is hereby declared to be a leasing authority within the meaning of the Public Bodies' Leases Act, 1908, and shall have power to grant any leases that are in accordance with that Act.

Trustees declared to be leasing authorities.

10. (1.) The said General Synod, or any Board or persons authorized by it under the constitution, canons, or statutes for the time being of the said Church to appoint or remove trustees of hereditaments held on behalf of the General Synod, shall have and be deemed always to have had the like power to appoint new trustees and to remove trustees of the granted hereditaments as in the case of properties held on behalf of the said General Synod:

Appointment and removal of trustees.

Provided always that, in the case of the trustees of the Whanganui Collegiate School Estate, the General Synod, or any such body or persons as aforesaid, shall have power to remove trustees only for bankruptcy, insanity, conviction for an indictable offence, or absence from the Dominion without leave from the College Board of Trustees for a period exceeding six months.

(2.) The Synod of the diocese in which are situate any hereditaments held on the trusts of any of the grants referred to in the Bishops in New Zealand Trusts Act, 1871, or held in trust for the Diocesan Synod, or referred to in section eight of this Act, or any Board or persons authorized by such Synod, shall have and be deemed always to have had power to appoint new trustees and to remove trustees of such hereditaments.

11. The Church of England Lands Buildings Leases Act, 1872, is hereby repealed.

Repeal of Church of England Lands Buildings Leases Act, 1872.

12. All lands situated in the Dominion vested in or held by or on behalf of the Church Missionary Society for Africa and the East are hereby vested in the New Zealand Mission Trust Board, a body incorporated under the Religious, Charitable, and Educational Trusts Act, 1908, and the said Board shall have, in relation to all and singular such lands and any other lands vested in or held by it, the powers set out in the Schedule hereto, in addition to and without limiting any other powers possessed by it.

Certain lands vested in and powers given to the New Zealand Mission Trust Board.

General Synod may appoint body to authorize dealings with lands.

13. Notwithstanding anything hereinbefore contained, any authority hereinbefore required to be given by the General Synod to any sale, exchange, or mortgage may be given either by the General Synod itself, or by any body authorized by it in that behalf, and such body shall have power (subject to any limitations imposed and regulations made by the General Synod) to give any such authority whenever the General Synod is not in session.

Clause for protection of purchasers.

14. It shall not be incumbent upon any purchaser, vendor, mortgagee, lessee, or other person to or with whom any sale, exchange, purchase, mortgage, or lease shall be made under the provisions of this Act to inquire as to the authority or power in any respect of the trustees or Trust Board to make any such sale, exchange, purchase, mortgage, or lease; and, in particular, it shall not be incumbent upon any such person to inquire whether the proposed dealing is consistent with the trusts on which the hereditaments proposed to be dealt with are held, or whether the authority of the General Synod, or any body authorized by it, or of any Diocesan Synod, has been given where required by this Act; or to inquire otherwise as to the propriety or regularity of the transaction, or as to the application of any money received by any such trustees or Trust Board upon any such sale, exchange, mortgage, or lease.

Saving as to the Diocese of Christchurch.

15. Nothing in this Act shall in any way affect or impair any legislation (whether provincial or general) regulating or relating to the trusts of Church lands in the Diocese of Christchurch, or affecting any lands, trusts, or powers heretofore or now vested or hereafter to be vested in the Church Property Trustees of the Diocese of Christchurch, or in any way make any land or trustee of land in the said diocese subject to the control of the General Synod.

Schedule.

SCHEDULE.

1. POWER of sale by public auction or private contract except where a sale is expressly forbidden by the terms of the trust.

2. Power of exchange for other freehold hereditaments in New Zealand, with power to give (out of any moneys applicable to that purpose), or to receive, any money for equality of exchange.

3. The net sale-moneys and the net moneys received for equality of exchange shall be laid out in the purchase of other freehold hereditaments in New Zealand, or effecting permanent improvements to any other hereditaments held on the same trusts as affected those sold or given in exchange, or be invested in any securities for the time being permitted by the law of New Zealand for the investment of trust funds.

4. All hereditaments purchased or received in exchange shall be held upon the trusts that affected the hereditaments sold or given in exchange.

5. Power to mortgage, but so that all moneys borrowed shall be expended only in effecting permanent improvements to the property mortgaged, or to other property held on the same trusts as that mortgaged, or in paying off any mortgage theretofore effected over any such property, or for the purpose of paying debts incurred by the trustees for the purpose of developing the estate prior to the passing of this Act.

6. Power, where not inconsistent with the trust, to lease any hereditaments for not exceeding twenty-one years or, if leased for building purposes, for not exceeding sixty years. Every such lease shall take effect in possession or within six calendar months from the date thereof, and shall reserve such rent and contain such covenants and provisions as the trustees may deem reasonable. This power is in addition to the powers given by the Public Bodies' Leases Act, 1908.