



ANALYSIS

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1982, No. 4—*Private*

An Act to transfer the powers of the Cornwall Park Trust Board in relation to Cornwall Park trust land and to adjust rating exemptions applicable to such land

[17 December 1982]

WHEREAS the Cornwall Park Trust Board, a Board incorporated under the Charitable Trusts Act 1957, has vested in it the land first and thirdly described in the First Schedule to this Act, being a portion of land situated in the Borough of One Tree Hill in the Auckland Regional District and known as Cornwall Park, together with the land secondly described in the said First Schedule: And whereas the Board holds that land as trustee under the following deeds and declarations of trust bearing date, respectively, (a) the 10th day of June 1901 (hereinafter called the trust deed); (b) the 22nd day of October 1907 (hereinafter called the second trust deed); (c) the 30th day of March 1908 (hereinafter called the third trust deed); (d) the 7th day of April 1908 (hereinafter called the deed of variation): And whereas the trust deed contains the following provision, namely, Lastly it is hereby expressly agreed and declared that it shall be lawful for the trustees at any time or times hereafter during the lifetime of the donor the said John Logan Campbell and with his consent and approval in writing by any deed or deeds expressly referring to this power to declare such supplementary further or additional trusts powers and provisions of and concerning the aforesaid lands premises and trust property or any part or

parts thereof being in furtherance of the purposes and objects of the gift of the donor the said John Logan Campbell and not repugnant to these presents as the trustees and the said John Logan Campbell may think fit: And whereas in exercise of the powers thereby conferred, John Logan Campbell and the trustees for the time being executed the deed of variation, the recitals and operative provisions of which are set out in the Second Schedule to this Act, setting out certain additional powers in respect of the land described in the Schedule thereto and in the Schedule to the third trust deed and known as endowment land: And whereas the land first described in the First Schedule to this Act is among the land described in the deed of variation and the third trust deed: And whereas the Board, the Minister of Works and Development, the Auckland Regional Authority, and the One Tree Hill Borough Council have agreed that the land first described in the First Schedule to this Act should cease to be subject to the additional powers set out in the deed of variation and that the land secondly and thirdly described in the First Schedule to this Act should, with certain qualifications, become subject to those powers: And whereas those objects cannot conveniently be attained without the authority of Parliament:

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 Cornwall Park Endowment and Recreation Land Act 1982.

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

“Board” means the Cornwall Park Trust Board:

“Area 1”, “Area 2”, and “Area 3” mean, respectively, the land first, secondly, and thirdly described in the First Schedule to this Act:

“Specified date” means the 1st day of January 1980.

3. Transfer of Board’s powers—(1) Area 1 is hereby declared to be no longer subject to the powers conferred upon the Board in respect of endowment land by the deed of variation and shall remain as open park land in perpetuity.

(2) Area 2 and Area 3 are hereby declared to be subject to the powers referred to in subsection (1) of this section, but in exercising those powers the Board shall preserve the present character of Area 2 and Area 3, and to this end each shall

continue to be used in essentially the same manner and for essentially the same purpose as at the specified date and to the extent authorised by the provisions of the One Tree Hill Borough Council's operative district scheme under the Town and Country Planning Act 1977 as they applied to Area 2 and Area 3 on the specified date, and no subsequent change in those provisions shall operate to extend the powers conferred on the Board by this subsection.

4. Adjustments to rating exemptions—The provisions for exemption from liability for the payment of rates contained in section 2 of the Cornwall Park Trustees Rating Exemption Act 1938 shall—

- (a) On and after the 1st day of April 1982 apply to Area 1 as if that land were described in the Schedule to that Act;
- (b) Continue to apply to Area 3 notwithstanding the change in the powers of the Board in respect of that land;
- (c) Not apply to Area 2.

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

SCHEDULES

FIRST SCHEDULE

1. All that piece of land containing 13.7393 hectares, more or less, being part Allotments 10 and 13, Section 12, Suburbs of Auckland, situated in Block I, Otahuhu Survey District, and shown marked "A" on Survey Office plan 55018. Part certificate of title 1012/215, North Auckland Registry.

2. All that piece of land containing 5.1945 hectares, more or less, being part Allotments 19 and 21, Section 11, and part Allotments 8 and 8A, Section 12, Suburbs of Auckland, situated in Block I, Otahuhu Survey District, and shown marked "B" on Survey Office plan 55019. Part certificate of title 1012/215, North Auckland Registry.

3. All that piece of land containing 8.5448 hectares, more or less, being part Allotment 19, Section 11, and part Allotment 8, Section 12, Suburbs of Auckland, situated in Block I, Otahuhu Survey District, and shown marked "C" on Survey Office plan 55019. Part certificate of title 1012/215, North Auckland Registry.

SECOND SCHEDULE

TERMS OF DEED OF VARIATION OF TRUST DATED 7 APRIL 1908

WHEREAS by memorandum of transfer of the Tenth day of June One thousand nine hundred and one the said John Logan Campbell transferred to David Limond Murdoch and the said Arthur Mielziner Myers Robert Hall and Alfred Seymour Bankart certain lands known as Cornwall Park and by Deed of Declaration of Trust of the said date the said David Limond Murdoch Arthur Mielziner Myers Robert Hall and Alfred Seymour Bankart did declare that they would hold the said land and all property at any time affected by the trusts of the said Deed now in recital upon the trusts in such deed severally declared: And whereas the said David Limond Murdoch has ceased to be a trustee under such declaration of trust and the said David Whamond Duthie is appointed trustee in his place: And whereas by memorandum of transfer of the Thirtieth day of March One thousand nine hundred and eight the said Donor transferred to the trustees the properties mentioned in the schedule hereto as an extension of the said Cornwall Park to be subject to all the trusts and powers mentioned in the said Deed of Trust of the Tenth day of June One thousand nine hundred and one: And whereas by the last mentioned deed of the Tenth day of June One thousand nine hundred and one it was declared that it should be lawful for the trustees for the time being of such deed during the lifetime of the Donor and with his consent and approval in writing to declare such supplementary further or additional trusts powers and provisions concerning any of the trust property or any part or parts thereof as the trustees and the said Donor might think fit: And whereas the parties hereto are desirous of declaring the further trusts and powers herein contained with regard to those pieces of land included in the said Transfer of the Thirtieth day of March One thousand nine hundred and eight and mentioned in the schedule hereto:

SECOND SCHEDULE—*continued*

NOW IT IS HEREBY DECLARED AND AGREED that with regard to the lands mentioned in the Schedule hereto the trustees thereof for the time being shall have the following powers:

1. To let or lease the said lands or any part or parts thereof in such manner at such rent or rents for such term or terms and upon such conditions and subject to such reservations in all respects as to the said trustees may seem expedient.

2. To make allowances to and arrangements with tenants to accept surrenders of leases or tenancies to allow compensation for improvements or otherwise deal with any such lease or tenancy.

3. If the said trustees should think necessary to grant rights of way over or form as roads any part or parts of the said land so as to give access to any public road or so as more conveniently to subdivide the same.

4. To subdivide the said lands into such lots or sections as to the trustees may seem expedient.

5. For all or any of the purposes aforesaid to expend money out of the income from the said Cornwall Park and any extension thereof as a whole or from any part thereof.
