

New Zealand.



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1924, No. 3.—*Private.*

AN ACT to vest certain Leasehold Lands in the Roman Catholic Archbishop of Wellington and his Successors in Office, to confer various Powers in connection with such Lands, and to authorize the Rents, Interest, and Profits of such Lands to be used or applied for the Maintenance, Use, and Support of the Roman Catholic Church at Waverley, and any School or Schools now or hereafter to be established at Waverley for the Use and Benefit of Children of the Roman Catholic Faith. Title.

[22nd September, 1924.]

WHEREAS Michael Keating, late of Waverley, in the Provincial District of Wellington, farmer, deceased, duly made and executed his last will and testament, bearing date the eighteenth day of May, nineteen hundred and five, and appointed George Saunders, of Waverley aforesaid, farmer, and James Leo, of the same place, farmer, executors and trustees thereof: And whereas in and by the said will the said Michael Keating gave, devised, and bequeathed all his real, landed, and personal estate whatsoever the same might be and wheresoever the same might be situated, and whether in possession, remainder, reversion, or expectancy, to the trustees of the said will mentioned, upon trust, subject to the power of postponement in the said will contained, to sell, call in, and convert into money his real and landed estate (including chattels real) and such part of his personal estate as should not consist of money, and to stand possessed of the same upon trust, in the first place to pay thereout his debts and funeral and testamentary expenses, in the next place to pay the following pecuniary legacies—to the said George Saunders the sum of one hundred and Preamble.

thirty pounds, to the Very Reverend Michael Grogan the sum of fifty pounds, to Saint Mary's Orphanage at Wanganui the sum of twenty-five pounds; and upon further trust as to all the rest and residue of his estate for the benefit of the Roman Catholic church and schools at Waverley, to be apportioned between the said church and schools in such way and to be applied in such manner and for such purposes in, about, and concerning the premises as his said trustees in their absolute and unfettered discretion might think best: And whereas the said Michael Keating died on the twenty-fourth day of May, nineteen hundred and five, without having altered or revoked his said will, and the same was duly proved in the Supreme Court of New Zealand, Wellington District (at Wanganui), on the twelfth day of June, nineteen hundred and five, and probate thereof granted to the said George Saunders and James Leo, the executors in the said will named: And whereas the said James Leo, by deed of appointment of new trustee dated the second day of February, nineteen hundred and twelve, resigned his office of trustee under the will of the said Michael Keating, and Bernard O'Reilley, of Waverley, farmer, was appointed a trustee of the said will in his place and stead: And whereas the said Bernard O'Reilley died on the twenty-seventh day of April, nineteen hundred and twelve, and by deed of appointment of new trustee dated the thirty-first day of July, nineteen hundred and twelve, Samuel John Price, of Waverley, contractor, was appointed a trustee of the will of the said Michael Keating in place and stead of the said Bernard O'Reilley: And whereas the said George Saunders died on the fifth day of April, nineteen hundred and twenty-three, and by deed of appointment of new trustee dated the fifth day of November, nineteen hundred and twenty-three, James Larmer, of Waverley, farmer, was appointed a trustee of the will of the said Michael Keating in place and stead of the said George Saunders: And whereas the said Samuel John Price and James Larmer are now the trustees of the said will: And whereas all the debts and funeral and testamentary expenses of the said Michael Keating and the pecuniary legacies given by his said will have been respectively paid, satisfied, and discharged: And whereas the estate of the said Michael Keating consisted (*inter alia*) of certain leasehold premises situate at Waverley aforesaid, containing four hundred and twenty acres, more or less, being Section Number One, Block Fifteen, Opaku Survey District, held by the said Michael Keating under and in terms of deed of lease dated the first day of February, eighteen hundred and ninety-six, made between Her (late) Majesty the Queen acting in exercise of the powers conferred by the University Endowment Act, 1868, of the one part, and the said Michael Keating of the other part, for the term of thirty years from and inclusive of the first day of January, eighteen hundred and ninety-five, at the yearly rental of thirty-one pounds ten shillings: And whereas the whole of the estate of the said Michael Keating has been realized, with the exception of the said leasehold premises: And whereas, it being inexpedient to realize or dispose of the said leasehold premises, the trustees of the will of the said Michael Keating have, acting in terms of the powers conferred upon them by the said will of the said Michael Keating, postponed the sale, calling-in, and conversion of the said leasehold premises: And whereas the will of the said Michael Keating contains no power of leasing, subletting, or dealing with the said lease-

hold premises otherwise than by sale and conversion : And whereas the trustees, with the consent and concurrence of the persons beneficially entitled, have from time to time subleased the said leasehold premises : And whereas by memorandum of lease dated the ninth day of April, nineteen hundred and fourteen, the then trustees of the will of the said Michael Keating, acting under and in pursuance of an order of the Supreme Court of New Zealand, underleased the said leasehold premises to Matthew Casey, of Waverley, farmer, for the term of ten years and six months computed from the first day of April, nineteen hundred and fourteen, at the yearly rental of three hundred and fifteen pounds : And whereas doubts exist as to the validity of the said underlease and as to the power of the trustees to grant the same : And whereas since the death of the said Michael Keating a school for the teaching and benefit of children of the Roman Catholic faith and a residence for teachers employed in such school have been erected at Waverley aforesaid : And whereas the trustees have from time to time applied the income of the estate of the said Michael Keating in or towards payment of the cost of the erecting of such buildings, and the same has now been fully paid : And whereas doubts have arisen as to the validity of such payments : And whereas, pursuant to and in terms of the powers granted by section thirty-three of the Reserves and other Lands Disposal and Public Bodies Empowering Act, 1914, the said Samuel John Price and James Larmer surrendered the said lease of the first day of February, eighteen hundred and ninety-six, and all their estate and interest therein in manner as provided by section twelve of the Public Bodies' Leases Act, 1908, and by memorandum of lease dated the twenty-fifth day of July, nineteen hundred and twenty-three, the said lands as particularly described in the Schedule hereto were leased to them for the term of one year and six months from and inclusive of the first day of July, nineteen hundred and twenty-three, at the annual rental of thirty-one pounds ten shillings, together with the right to a renewal of the said lease for the further term or terms therein mentioned, at a rent to be ascertained in manner as therein provided : And whereas it is desirable that the said leasehold premises should be vested in the Roman Catholic Archbishop of Wellington, and that the rents, profits, and income arising from the same should be devoted, in such shares and proportions as the said Roman Catholic Archbishop of Wellington and his successors for the time being shall deem just, for the benefit of the Roman Catholic church at Waverley, and any school or schools now or hereafter established at Waverley aforesaid for the teaching and benefit of children of the Roman Catholic faith, and that the powers of leasing and other powers hereinafter set forth shall be granted, and that the acts and deeds of the trustees of the estate of the said Michael Keating in the management of the said estate and the application of the income, rents, and profits thereof should be validated : And whereas such objects are not attainable 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 :—

1. This Act may be cited as the Roman Catholic Archbishop Short Title. Empowering Act, 1924.

Interpretation.

2. The expression "the Archbishop" wherever used herein shall mean and include the Roman Catholic Archbishop of Wellington for the time being.

Vesting estate or interest in lands.

3. The lands particularly described in the Schedule hereto shall, as from the date of the passing of this Act, vest in the Archbishop for all the residue of the term of years created by the said memorandum of lease dated the twenty-fifth day of July, nineteen hundred and twenty-three, subject to the payment of the rent reserved by and the performance by the lessee of the covenants by the lessee and conditions in the said memorandum of lease of the twenty-fifth day of July, nineteen hundred and twenty-three, contained or implied and on the lessee's part to be performed and observed, and with the right to take the benefit and advantage of the covenants for renewal in the said memorandum of lease contained or implied, freed and discharged from the trusts of the will of the said Michael Keating.

Power to lease lands.

4. The Archbishop may from time to time, subject to the provisions of the said memorandum of lease of the twenty-fifth day of July, nineteen hundred and twenty-three, or any lease granted in renewal or substitution therefor, and upon such terms and conditions not inconsistent with the terms and conditions of the said memorandum of lease of the twenty-fifth day of July, nineteen hundred and twenty-three, or any lease granted in renewal or substitution therefor, underlease or sublease the said lands or any part thereof for such term of years not exceeding the term of years granted by the said memorandum of lease of the twenty-fifth day of July, nineteen hundred and twenty-three, or any lease granted in renewal or substitution therefor, and at such rent (varying or fixed) as he shall determine.

No consideration to be given or accepted for any lease.

5. No fine, bonus, premium, or foregift shall be given or accepted as the consideration or any part of the consideration for any underlease or sublease hereby authorized to be granted.

Every lease to take effect within six calendar months from the grant of same.

6. Every underlease or sublease hereby authorized to be granted shall take effect within a period of six calendar months from the grant of the same, or from the date of an agreement to grant the same.

Surrenders of leases may be accepted.

7. It shall be lawful for the Archbishop from time to time, upon such terms as he shall determine, to accept a surrender of any underlease or sublease of the said lands, or any part thereof (whether with respect to the whole or any part or parts of the lands comprised in such underlease or sublease), and whether such underlease or sublease shall have been created prior or subsequent to the passing of this Act.

Disposal of rents and profits.

8. The Archbishop shall, out of the rents and profits arising or accruing from the underleasing or subleasing of the said lands or any part thereof,—

- (a.) Pay the rents, charges, and other outgoings payable under the said memorandum of lease of the twenty-fifth day of July, nineteen hundred and twenty-three, or any lease granted in renewal or substitution therefor :
- (b.) Pay or apply the balance of such rents and profits for the maintenance, repair, support, and benefit of the Roman Catholic church at Waverley, and any school or schools now or hereafter to be established at Waverley aforesaid for the use and benefit of children of the Roman Catholic

faith, in such shares and proportions as he shall in his absolute discretion think proper.

9. It shall be lawful for the Archbishop—

(a.) To erect any additional school or schools at Waverley aforesaid for the use or benefit of children of the Roman Catholic faith :

Power to erect schools or make additions, &c., to any existing schools.

(b.) To enlarge or make additions or improvements to any existing school or schools.

10. For all or any of the purposes mentioned in section nine hereof the Archbishop may, and he is hereby expressly authorized and empowered,—

Power to borrow.

(a.) To borrow such sum or sums of money as may be necessary, at such rate of interest not exceeding seven pounds per centum per annum.

(b.) For the purpose of securing the payment of any moneys borrowed under this Act, to mortgage or otherwise give security over, and for such term of years as he may deem necessary or advisable, the leasehold premises described in the Schedule hereto. Such mortgage may contain a power of sale on default being made by the mortgagor in payment of principal or interest moneys, or the breach, non-observance, or non-performance of any covenant or agreement on the part of the mortgagor, and on such default continuing for thirty days, and all other usual and proper covenants applicable to mortgages of leasehold property.

(c.) To pay or apply the whole or any part of the rents and profits arising or accruing from the underleasing or sub-leasing of the said lands, or any part thereof, in or towards the payment of the principal and interest moneys or either of the same.

11. It shall be lawful for the Archbishop, and he is hereby expressly authorized and empowered,—

Power to sell or assign leasehold premises.

(a.) To sell, assign, transfer, or dispose of the said leasehold premises, either by public auction or private contract, at such price as he shall determine :

(b.) To allow such part of the purchase-money, not exceeding two-thirds thereof, to remain on mortgage of the said leasehold premises for such term of years, at such rate of interest, and upon such conditions as he shall determine :

(c.) To invest the moneys arising from the sale of the said leasehold premises upon mortgage of real estate in New Zealand, or such other securities as trustees are authorized to invest trust funds in New Zealand :

(d.) To pay or apply the interest payable in respect of the balance of the purchase-money or arising from the said investments for the maintenance, repair, support, and benefit of the Roman Catholic church at Waverley, and any school or schools now or hereafter to be established at Waverley aforesaid for the use and benefit of children of the Roman Catholic faith, in such shares and proportions as he shall determine.

Power to farm lands
and apply profits.

12. It shall be lawful for the Archbishop, and he is hereby expressly authorized and empowered,—

- (a.) To farm, manage, use, and cultivate the said leasehold premises :
- (b.) To employ such manager or managers, farm servant or servants, labourer or labourers, as he shall determine :
- (c.) To pay the rents and other charges and outgoings payable under the said lease of the twenty-fifth day of July, nineteen hundred and twenty-three, or any lease granted in renewal or substitution therefor, out of the profits of such farming :
- (d.) To pay or apply the balance of such profits in or towards the maintenance, repair, support, and benefit of the Roman Catholic church at Waverley, and any school or schools now or hereafter to be established at Waverley aforesaid for the use and benefit of children of the Roman Catholic faith, in such shares and proportions as he shall determine.

Schedule.

SCHEDULE.

ALL that piece or parcel of land, situate in the Provincial District of Taranaki, containing 420 acres, more or less, being Section 1, Block 15, on the plan of the Opaku Survey District, and being the whole of the land comprised in memorandum of lease dated the 25th day of July, 1923, from His Majesty the King to Samuel John Price and James Larmer.
