

New Zealand

ANALYSIS

Title.	7. Power to borrow on mortgage.
Preamble.	8. Power to lease.
1. Short Title.	9. Power to accept surrender of leases.
2. Interpretation.	10. Power to rescind or vary contracts.
3. Power to sell and dispose of hereditaments.	11. Protection of purchasers and mortgagees.
4. Power to exchange hereditaments.	12. Power to lay off and dedicate roads.
5. Mode of application of moneys received.	13. Power to dedicate reserves.
6. Trusts affecting hereditaments acquired.	14. Delegation of powers.
	15. Private Act.

1940, No. 1—*Private*

AN ACT to empower the Roman Catholic Bishop of the Diocese of Dunedin to sell, exchange, mortgage, and lease Hereditaments vested in him and to exercise certain other Powers.

[11th October, 1940

WHEREAS by the Roman Catholic Bishop of Dunedin Empowering Act, 1924, and the Roman Catholic Bishop of Dunedin Empowering Act, 1935, the Roman Catholic Bishop of Dunedin was empowered to exercise certain powers specified therein over certain specified lands and hereditaments vested in him and specified in the said Acts: And whereas certain other lands and hereditaments are vested in the said Bishop for certain religious, charitable, and educational or other purposes in connection with the

Roman Catholic Church, and it is anticipated that additional lands and hereditaments will hereafter become so vested in him: And whereas it is expedient that, with regard to all lands now vested or hereafter to become so vested in the Roman Catholic Bishop of Dunedin, such Bishop should have the powers of selling, exchanging, mortgaging, leasing, acceptance of surrenders of leases, varying contracts, laying off and dedicating roads, and other powers hereinafter given to the Roman Catholic Bishop of Dunedin:

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

Short Title.

1. This Act may be cited as the Roman Catholic Bishop of Dunedin Empowering Act, 1940.

Interpretation.

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

“ Bishop ” means the Roman Catholic Bishop for the time being of the Diocese of Dunedin:

“ Hereditaments ” means any land of any estate or tenure now or hereafter vested in the Bishop, whether solely or jointly or in common with any other person or persons, and includes chattel interests in land now or hereafter vested as aforesaid, whether or not such land or such chattel interests in land are subject to any trust, express or implied; but does not include any land in respect of which the Bishop may lawfully at the date of the passing of this Act exercise all the powers hereby conferred.

Power to sell and dispose of hereditaments.

3. The Bishop may sell and dispose of any hereditaments by public auction, public tender, or private contract, except in cases where a sale is expressly forbidden by the terms of the trust on which the hereditaments are vested in the Bishop, and any such sale may be for cash or on credit, or partly for cash and partly on credit.

Power to exchange hereditaments.

4. The Bishop may exchange any hereditaments vested in him for other freehold hereditaments in New Zealand, with power to pay out of any moneys applicable for that purpose or to receive any money for equality of exchange.

5. The net proceeds of any sale and the net moneys received for equality of exchange shall be dealt with in any one or more of the following ways—that is to say: they shall be laid out in the purchase of other freehold hereditaments in New Zealand, or expended in effecting permanent improvements to any other hereditaments held or to be held on the same trusts as affected the hereditaments sold or given in exchange, or they shall be invested in any securities for the time being permitted by the law of New Zealand for the investment of trust funds.

Mode of application of moneys received.

6. All hereditaments purchased or received in exchange, and all such investments and the income arising therefrom, shall be held upon the trusts that affected the hereditaments sold or given in exchange.

Trusts affecting hereditaments acquired.

7. The Bishop shall have the power to borrow money on the security of mortgage of any hereditaments, but so that all moneys so borrowed shall be expended only in effecting permanent improvements to the hereditaments mortgaged or to other hereditaments held on the same trusts as those mortgaged, or in paying off any mortgage theretofore effected over any such hereditaments; and any such mortgage may confer upon the mortgagee a power authorizing him to sell the mortgaged hereditaments for default in the payment of principal or interest or in the observance or performance of any of the covenants contained or implied in any such mortgage.

Power to borrow on mortgage.

8. The Bishop shall have power to lease any hereditaments for a period not exceeding ninety-nine years, but so, nevertheless, that every 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 Bishop may deem reasonable, and so also that no fine, foregift, or premium shall be payable in respect of any such lease.

Power to lease.

9. The Bishop may accept the surrender of any lease on such terms and conditions as he shall think fit.

Power to accept surrender of leases.

10. The Bishop may from time to time rescind or vary any contract of sale or any contract to effect an exchange or to grant a lease.

Power to rescind or vary contracts.

Protection of
purchasers and
mortgagees.

11. No purchaser of any hereditaments, no person giving to the Bishop any money by way of exchange, no person from whom the Bishop shall borrow any money, and no lessee paying any rent to the Bishop shall be bound or concerned to inquire into or to see to the application of any money paid by him to the Bishop or be responsible for the misapplication thereof, and no person effecting an exchange shall be concerned to see to the vesting of any land exchanged by him.

Power to
lay off and
dedicate
roads.

12. The Bishop shall have power in respect of any hereditaments to lay off, form, construct, and dedicate roads, and to pay the costs and expenses in connection therewith, out of any money subject to the same trusts as those upon which the hereditaments so to be dedicated were held, or out of any other money applicable for the purpose.

Power to
dedicate
reserves.

13. The Bishop shall have power to set apart such reserves as may be required by any legislation or the regulations thereunder for the time being in force, or by lawful authority, to be set apart in the event of any hereditaments being subdivided for sale, lease, or other disposition.

Delegation of
powers.

14. The Bishop may from time to time empower by deed any person or persons to exercise during his absence from New Zealand all or any of the powers and authorities conferred upon him by this Act, and the exercise of such powers and authorities by such person or persons shall be as valid and effectual to all intents and purposes as if the same had been exercised by the Bishop himself.

Private Act.

15. This Act is hereby declared to be a private Act.
