



ANALYSIS

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1960, No. 4—*Private*

An Act to incorporate the trustees of the Hawke's Bay Centennial Memorial Trust Fund set up for the purpose of assisting the establishment of a University of Hawke's Bay and to make provision for the powers and administration of the University of Hawke's Bay Trust Board and for other purposes [27 October 1960]

WHEREAS for the purpose of making all arrangements for celebrating appropriately the centennial of the Province of Hawke's Bay which occurred on the first day of November, nineteen hundred and fifty-eight, there has been established by unanimous agreement of all municipalities and County Councils whose districts are wholly or partly within the Provincial District of Hawke's Bay the Hawke's Bay Centennial Council (hereinafter called "the Council"): And whereas the Council consists of representatives from every municipality and County Council and also the members of Parliament for the several electorates which are wholly or partly within the said provincial district: And whereas the Council has resolved that as a fitting memorial to mark the centenary of the said province there should be established a fund called the Hawke's Bay Centennial Memorial Trust Fund comprising money and other assets with which in the due course of

time to assist in establishing a University of Hawke's Bay: And whereas divers sums of money have been paid to and received by the Council for the said purpose: And whereas Hilda Margaret Hetley, of Taradale, widow, has by deed made the twentieth day of September, nineteen hundred and sixty, covenanted with Walter Edwin Bate, of Hastings, solicitor, and Richard Alexander Nimon, of Havelock North, sheep farmer, as trustees appointed by the Council to give and transfer to a properly constituted Board of trustees having for its primary purpose the establishment in the due course of time of a University of Hawke's Bay for an estate in fee simple all those pieces or parcels of land situate in the Land Registration District of Hawke's Bay, being firstly, that piece of land containing forty-nine acres two roods twenty-two decimal six perches, more or less, situate in the Taradale Town District and being Block VII of Heretaunga Survey District, being parts of Blocks 1, 2, and 55, Puketapu Crown Grant District, and being the balance of Lot 6 on a plan of subdivision of Blocks 1, 2, and 55, Puketapu Crown Grant District, and the balance of the land in certificate of title, H.B. Volume 74, folio 44, after deducting the land taken by Proclamation 1851, and secondly, that piece or parcel of land containing one rood twenty-eight decimal one perches, more or less, situate in Taradale Town District, being Lot 1 on Deposited Plan No. 7271, being part of Block 1, Puketapu Crown Grant District, and all the land in certificate of title, H.B. Volume 117, folio 280, and situated at Otatara near Taradale, as a site for a University of Hawke's Bay: And whereas it is the intention of the said Hilda Margaret Hetley that the gift of the said land should not only mark the centenary of the said province but should also be given to and received by the trustees in memory of her deceased husband, Frederick St. Arnaud Hetley: And whereas it is desirable that there be constituted a body corporate with perpetual succession and a common seal and that provision be made for vesting in the said body corporate the said divers sums of money and also the said land, and that the said body corporate should be given adequate powers of management and control of all money, land, and other assets which may be now or hereafter vested in it and for certain other matters:

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 University of Hawke's Bay Trust Act 1960.

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

“Board” means the University of Hawke's Bay Trust Board established under this Act:

“The said land” means the land described in the Preamble to this Act:

“The trustees” means the trustees named in the said deed.

3. Constitution of Board—(1) There is hereby established for the purposes of this Act a Board to be called the University of Hawke's Bay Trust Board.

(2) The Board shall be a body corporate, with perpetual succession and a common seal, and shall be capable of holding real and personal property, of suing and being sued, and of doing and suffering all that bodies corporate may do and suffer.

4. Membership of Board—(1) The Board shall consist of:

- (a) One representative of the City of Napier and the Borough of Taradale to be appointed by agreement between the Napier City Council and the Taradale Borough Council or in the event of disagreement between those two local authorities by the Minister of Internal Affairs:
- (b) One representative of the City of Hastings and the Borough of Havelock North to be appointed by agreement between the Hastings City Council and the Havelock North Borough Council or in the event of disagreement between those two local authorities by the Minister of Internal Affairs:
- (c) Two representatives of all of the counties and boroughs (except Taradale and Havelock North) whose districts are wholly or partly within the said province to be appointed by agreement among the said Councils and boroughs or in the event of disagreement by the Minister of Internal Affairs:
- (d) One member of Parliament whose electorate is wholly or partly within the Provincial District of Hawke's Bay and who shall be appointed by the Minister of Internal Affairs:

- (e) Three members, one of whom shall be a University graduate, who shall be appointed by the Governor-General.

The first members of the Board to be appointed in terms of paragraphs (a), (b), and (c) of this subsection shall be appointed within sixty days after the date of the passing of this Act.

(2) (a) Except as otherwise provided by this Act every member of the Board shall hold office for a term of three years but may from time to time be reappointed.

(b) Notwithstanding anything to the contrary in this Act every member of the Board, unless he sooner vacates office, shall continue to hold office until his successor comes into office.

5. Extraordinary vacancies—(1) The office of any member of the Board shall be vacated if the member—

- (a) Is adjudged a bankrupt; or
- (b) Is convicted of any offence punishable by imprisonment; or
- (c) Becomes a mental defective within the meaning of the Mental Health Act 1911; or
- (d) Becomes a protected person within the meaning of the Aged and Infirm Persons Protection Act 1912; or
- (e) Resigns his office by notice in writing to the Board; or
- (f) Is absent without leave from four consecutive meetings of the Board; or
- (g) Dies.

(2) On the occurrence from any cause of a vacancy in the office of a member of the Board, the said vacancy shall be filled by an appointment made in the same manner and by the same person or persons as that of the person whose place on the Board has become vacant.

(3) The Board may act notwithstanding any vacancy in its membership, and the validity of any act of the Board shall not be affected or called in question by reason of any defect or informality in the appointment of any member of the Board.

6. Meetings of Board—(1) Meetings of the Board shall be held at such times and places as the Board or the Chairman from time to time determines.

(2) At any meeting of the Board a majority of the members of the Board shall form a quorum.

(3) All questions before the Board shall be decided by a majority of the valid votes recorded thereon.

7. Chairman of Board—(1) The Board shall from time to time appoint from among its members a Chairman and a Deputy Chairman of the Board. During any vacancy in the office of Chairman or whenever the Chairman is unable to act, whether by reason of absence or otherwise, the Deputy Chairman may exercise and perform all the powers and duties of the Chairman.

(2) The Chairman shall preside at every meeting of the Board at which he is present. In the absence of the Chairman and the Deputy Chairman from any meeting of the Board, the members present shall select one of their number to be the Chairman for the purposes of that meeting.

(3) At any meeting of the Board the Chairman shall have a deliberative vote, and in the case of an equality of votes shall also have a casting vote.

8. Board may regulate its procedure—Subject to the provisions of this Act, the Board may regulate its procedure in such manner as it thinks fit.

9. Contracts of Board—Part II of the First Schedule to the Public Bodies Contracts Act 1959 is hereby amended by inserting in its appropriate alphabetical order the following item:

“The University of Hawke’s Bay Trust Board	1960, No. 4 (Private)—The University of Hawke’s Bay Trust Act 1960.”
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10. Vesting of property in Board—All property whether real or personal held on the passing of this Act or thereafter received by the Council for the purposes of a centennial memorial for the Province of Hawke’s Bay shall vest without transfer or assignment in the Board for the purposes of a University of Hawke’s Bay or for any purpose ancillary thereto or for any purpose preliminary to the establishment of such a University, and whether by the establishment in the meantime of faculties of learning by an existing University or otherwise calculated to accelerate the establishment of such a University or for any purpose connected therewith, and the Board shall receive and hold all such property whether real or personal upon and subject to all trusts, powers, contracts, equities, and encumbrances then affecting the same.

11. Life interest in the said land—(1) The Board shall have power to receive and hold the said land subject to the estate or interest reserved by the said Hilda Margaret Hetley as provided in subsection (2) of this section for the purposes set forth in section 10 of this Act.

(2) On the passing of this Act the District Land Registrar for the Land Registration District of Hawke's Bay shall upon request register a transfer to the said Hilda Margaret Hetley of a freehold estate or interest in the said land for life in possession to the intent that the said Hilda Margaret Hetley shall thenceforth have and enjoy the said land for and during her life and to the Board for a freehold estate or interest in remainder in the said land expectant upon the termination of the said estate for life of the said Hilda Margaret Hetley to the intent that the Board shall from and after the death of the said Hilda Margaret Hetley enjoy an estate in fee simple in the said land.

12. Board may accept gifts—The Board shall have power to accept and receive and hold in its corporate name either by way of gift or by way of devise or bequest, any estate or interest in land, money, or other property generally and all revenue to be derived therefrom for the purposes set forth in section 10 of this Act, and shall be competent and entitled to hold and administer such land, money, and other property upon the trusts and for the purposes for which the same was accepted, received, given, devised, or bequeathed:

Provided that the Board shall keep the property comprised in any such trust and the revenue to be derived therefrom separate and distinct from the general properties of the Board, and in the execution of any such trusts the Board shall have and be subject to such powers and duties as are conferred and provided by the instrument creating such trust and such other powers and duties as may be conferred and imposed upon trustees by law.

13. Powers of Board—Subject to the provisions of this Act, the Board shall have power to do all or any of the following things:

- (a) To own, maintain, preserve, manage, control, operate, improve, and develop any lands or other assets for the time being vested in it as a site for a University of Hawke's Bay or for any of the purposes for which the Board is established in such manner as the Board shall think fit:

- (b) To expend money in any manner which in the opinion of the Board may be desirable for carrying out the purposes for which the Board is established, and for insuring any buildings, plant, and equipment against damage or destruction by fire and earthquake or otherwise:

Provided that in the event of any buildings or other structures situated on any land vested in the Board being destroyed or damaged by fire or earthquake the Board may rebuild or not as it may determine and in the event of the insurance money arising from any policy of insurance proving in the opinion of the Board to be insufficient for the purpose of rebuilding or repairing in a satisfactory manner, the Board may employ any other funds vested in the Board towards satisfactorily repairing or rebuilding such buildings or other structures:

Provided also that if any such buildings or other structures on the said land are destroyed or damaged by fire or earthquake during the lifetime of the said Hilda Margaret Hetley she may require the Board to expend any insurance money received by it in consequence of such destruction or damage in repairing, rebuilding, or reinstating the buildings or other structures so far as the insurance money shall extend:

- (c) To provide within the Provincial District of Hawke's Bay any service or facility which the Board shall think fit for the purpose of either directly or indirectly assisting or aiding the Board in promoting its primary functions as set out in this Act:
- (d) To construct or erect any buildings or install plant or equipment, or re-erect, reinstate, or repair any buildings, plant, or equipment destroyed or damaged by fire, earthquake, or otherwise; and to construct, erect, or install such additional buildings, plant, or equipment as the Board may deem necessary or advantageous for the purpose of its primary functions aforesaid:
- (e) To sell any real or personal property belonging to the Board upon such terms as the Board thinks fit, save that the Board may sell the said land or any part thereof only with the prior consent of the Minister of Education:

- (f) To purchase or otherwise acquire or take on lease or bailment any real or personal property upon such terms as the Board thinks fit:
- (g) To let or lease, upon such terms as it thinks fit, any property which for the time being may be vested in the Board and not immediately required for any of its purposes:
- (h) To enter into any contracts or arrangements for the provision by any person or body of any services or facilities which the Board is authorised to provide:
- (i) To borrow money, on mortgage or otherwise, upon such terms as it thinks fit:
- (j) From time to time to invest any of its funds not immediately required in any manner in which trustees are authorised by law to invest trust funds:
- (k) From time to time to prepare and publish advertisements, pamphlets, and other publications containing information and matters of interest relative to the establishment of a University of Hawke's Bay; and from time to time to effect, subsidise, or join with any person or body in effecting, any purpose or object or take any other action which in the opinion of the Board is calculated directly or indirectly to make known the advantages of or further the establishment of a University of Hawke's Bay:
- (l) To take and act upon the opinion of any barrister of the Supreme Court of New Zealand whether in relation to the interpretation of this Act or any other document or any statute or as to the administration of any of the trusts declared and authorised by this Act without being liable to any person who may claim to be in any way beneficially interested in respect of any act done in accordance with such opinion:

Provided nevertheless that nothing in this provision contained shall prohibit the Board from applying to the Supreme Court if it should think fit or prohibit any other person who may so claim to be beneficially interested from so doing.

14. Bylaws—(1) Subject to the provisions of this Act the Board shall have power to make such bylaws as it deems necessary or desirable for all or any of the following purposes:

- (a) Maintaining, preserving, and keeping in good repair any buildings erected or used by the Board for any of its purposes and for the protection thereof from destruction or damage:
- (b) Regulating the extent to which the public may have access to any of the lands, buildings, or other assets belonging to the Board:
- (c) Providing for the administration and proceedings of the Board or such other matters with respect to which bylaws are necessary or convenient for giving effect to this Act.

(2) Any bylaws made by the Board shall be made by resolution of the Board and shall have the seal of the Board duly affixed thereto.

15. Costs of completion of deed—Upon the passing of this Act the Board shall pay all costs and expenses incurred by the said Hilda Margaret Hetley and by the Council in or about the antecedent negotiations between them, the preparation and completion of the said deed, and the promotion of this Act.

16. Registration of documents—Where any estate or interest in any lands subject to the Land Transfer Act 1952 is vested in or transferred to or acquired by the Board by virtue of or pursuant to powers given by this Act, the District Land Registrar for the Land Registration District in which the land is situated shall accept such documents for registration without fee, register the Board as proprietor of that estate or interest, make such entries in the register books, and do all such other things as may be necessary to give effect to the provisions of this Act.

17. Travelling expenses of members—The members of the Board shall be entitled to receive from the funds of the Board a refund of all money reasonably expended by them in respect of their attendance at meetings of the Board or otherwise in transacting the business of the Board.

18. Banking of money—(1) All money belonging to the Board amounting to five pounds and upwards shall, within seven days after it comes to the hand of the proper officer of the Board, be paid into the account of the Board at such bank as the Board from time to time appoints.

(2) No money shall be withdrawn from the bank except by authority of the Board and by cheque signed by any one member of the Board and countersigned by an officer appointed by the Board for the purpose.

19. Accounts of Board—The Board shall cause proper books of account to be kept for all matters relating to its affairs, and at the end of each financial year the Board shall cause to be prepared a report of the operation of the Board for that year. The report shall contain a statement of the total assets and liabilities as at the end of the year together with an account of receipts and payments and of the income and expenditure showing financial transactions for the year. A copy of the report with accounts duly audited by an auditor appointed for the purpose by the Board shall be furnished to the Minister of Education. No person shall be qualified for appointment as an auditor of the Board who would not be qualified for appointment as auditor of a company under the Companies Act 1955.

20. Action of members—No member of the Board shall be personally liable for any act done or omitted by the Board or by any member thereof in good faith in the course of the operations of the Board.

21. Regulations—(1) The Governor-General may from time to time, by Order in Council, make such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this Act shall be laid before Parliament.

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