

New Zealand.



ANALYSIS.

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1920, No. 1.—*Local and Personal.*

AN ACT to enable the Wanganui Borough Council to pay certain Moneys to the Wanganui Fire Board for the Acquisition of Freehold Lands and the Erection of a Fire-station in Terms of the Fire Brigades Act, 1908; to fix the Amount payable to the Insurance Companies carrying on Business in the Wanganui Fire District at the Time of the Dissolution of the Wanganui Fire Board; and to vest certain Freehold Lands in the Corporation of the Borough of Wanganui.

[3rd September, 1920.]

WHEREAS by an Act of the Provincial Council of Wellington, Session XVIII, number three, it was enacted that the Superintendent of the Province of Wellington might convey the lands particularly described in the First Schedule hereto to such persons as he thought fit, and their successors, as trustees for the Wanganui Volunteer Fire Brigade, subject to the insertion in any such conveyance of a condition that in the event of the trustees, or their successors, at any time thereafter disposing of the said lands or any portion thereof, or in the event of the rent thereof or proceeds therefrom being appropriated for any other purposes than those of the said Wanganui Volunteer Fire Brigade, the said lands should become and be charged with payment to the Superintendent of the sum of one hundred pounds as the price of the said land, to be paid on demand to the Treasurer of the Province: And whereas, in pursuance of the said enactment, the Superintendent, by deed of conveyance dated the fourteenth day of March, eighteen hundred and seventy-one, registered in the Deeds Registration Office, at Wellington, as number 13429, made between the Superintendent, of the one part, and Thomas Powell, William Hogg Watt, and Joseph William Robinson, the trustees of the Wanganui Volunteer Fire Brigade, of the other part, conveyed and assured the said lands

to the said Thomas Powell, William Hogg Watt, and Joseph William Robinson, as such trustees, and their heirs, subject to the condition in the said in part hereinbefore recited enactment: And whereas the Wanganui Volunteer Fire Brigade was disbanded as from the thirtieth day of June, nineteen hundred and eighteen: And whereas by deed of conveyance dated the eighteenth day of October, nineteen hundred and eighteen, registered in the Deeds Registration Office, at Wellington, as number 121844, made between Thomas Dick Cummins, Charles Vernon Powell, and George Spriggens, the then trustees of the Wanganui Volunteer Fire Brigade, of the one part, and the Mayor, Councillors, and Burgesses of the Borough of Wanganui (hereinafter called the Corporation), of the other part, the said Thomas Dick Cummins, Charles Vernon Powell, and George Spriggens, as such trustees, conveyed and assured the said lands to the Corporation, to hold unto the Corporation for municipal fire purposes: And whereas, pursuant to the provisions of the Fire Brigades Act, 1908, the Borough of Wanganui, being the district within the jurisdiction of the Wanganui Borough Council (hereinafter called the Council), was on the thirtieth day of October, nineteen hundred and eighteen, duly declared a fire district: And whereas the Wanganui Fire Board (hereinafter called the Board) has in terms of the Fire Brigades Act, 1908, been duly constituted: And whereas on the fourth day of April, nineteen hundred and nineteen, an originating summons was duly issued in the Supreme Court of New Zealand, Wellington District, wherein the Corporation was plaintiff and the Board defendant, for the purpose of determining, *inter alia*, the following questions—(a) Has the Board any rights, and, if so, what rights, under the trusts declared by the deeds of the fourteenth day of March, eighteen hundred and seventy-one, and the eighteenth day of October, nineteen hundred and eighteen? (b) Did either of the said deeds create a charitable trust; and, if so, is such trust now operative, or can the charitable trust be administered *cy-pres*? And whereas the Court of Appeal of New Zealand, on the twentieth day of October, nineteen hundred and nineteen, reversing the decision of the Supreme Court of New Zealand, adjudged and declared, *inter alia*, that the deed of the eighteenth day of October, nineteen hundred and eighteen, created a charitable trust, which cannot now be executed by the Corporation by reason of the existence of the Wanganui Fire District, and that a *cy-pres* scheme ought to be established for the administration of the trust so that the net income of the property may be paid to the Board for the purposes of fire-prevention: And whereas by order of the Court of Appeal of New Zealand, made on the fourth day of May, nineteen hundred and twenty, the Corporation was granted final leave to appeal to His Majesty in Council from the final judgment of the Court of Appeal, and such appeal is now being prosecuted: And whereas on or about the tenth day of October, nineteen hundred and nineteen, the Board, pursuant to the terms of the Fire Brigades Act, 1908, purchased the lands described in the Second Schedule hereto for the purposes of the said Act: And whereas the Corporation and the Board have agreed to compromise, settle, and adjust all matters in dispute between them arising out of or by virtue of the said

conveyances of the fourteenth day of March, eighteen hundred and seventy-one, and the eighteenth day of October, nineteen hundred and eighteen, and the appeal to His Majesty in Council now pending: And whereas it is expedient that such compromise, settlement, and adjustment should be effected: 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 Wanganui Borough Council Empowering and Acquisition Act, 1920. Short Title.

2. The Wanganui Borough Council may, and it is hereby expressly authorized and empowered, to pay to the Wanganui Fire Board the sum of three thousand pounds, for or towards the purchase or acquisition of the lands particularly described in the Second Schedule hereto and the erection of a fire-station thereon in terms of the Fire Brigades Act, 1908, and the amendments thereof; and the Wanganui Fire Board shall pay, apply, or use the said sum of three thousand pounds for the purposes in this section mentioned. Purchase of lands for fire-prevention purposes.

3. The lands particularly described in the First Schedule hereto shall, as from the date of the passing of this Act, vest in the Mayor, Councillors, and Burgesses of the Borough of Wanganui for an estate in fee-simple, freed and for ever discharged from all or any trusts created, or intended to be created, or that have been created, by— Vesting certain lands in Corporation.

(a.) An Act of the Province of Wellington, Session XVIII, number three, intituled “An Act to grant a Piece of Land to the Wanganui Fire Brigade.”

(b.) Deed of conveyance dated the fourteenth day of March, eighteen hundred and seventy-one, registered in the Deeds Registration Office, at Wellington, as number 13429, and expressed to be made between Isaac Earl Featherston, Superintendent of the Province of Wellington, of the one part, and Thomas Powell, William Hogg Watt, and Joseph William Robinson, of the other part:

(c.) Deed of conveyance dated the eighteenth day of October, nineteen hundred and eighteen, registered in the Deeds Registration Office, at Wellington, as number 121844, and expressed to be made between Thomas Dick Cummins, Charles Vernon Powell, and George Spriggens, of the one part, and the Mayor, Councillors, and Burgesses of the Borough of Wanganui, of the other part—

for municipal purposes, or such other purpose or purposes as the Wanganui Borough Council shall by resolution of the Council determine.

4. In the event of the Wanganui Fire District, at any time hereafter, ceasing to be a fire district in manner as provided by the Fire Brigades Act, 1908, or its amendments, and the property and liabilities of the Wanganui Fire Board becoming thereby the property and liabilities of the Mayor, Councillors, and Burgesses of the Borough of Wanganui, the Mayor, Councillors, and Burgesses of the Borough of Wanganui shall repay to the insurance companies carrying on business in the Wanganui Fire District at the date of Dissolution of the Wanganui Fire Board.

the dissolution of the Wanganui Fire Board such sums of money as shall (including all contributions actually made by the insurance companies towards any sinking fund established or created by the Wanganui Fire Board) have been actually contributed by the insurance companies towards the cost to the Wanganui Fire Board of the acquisition of such property; and the insurance companies shall accept such sums in full settlement and discharge of all claims under or by virtue of the Fire Brigades Act, 1908, or the amendments thereof, or otherwise howsoever. The provisions of the Fire Brigades Act, 1908, or the amendments thereof, shall, wherever the same are inconsistent with this section, be modified accordingly.

Power to borrow.

5. For the purpose of providing the said sum of three thousand pounds the Wanganui Borough Council may, and it is hereby expressly authorized and empowered—

- (a.) To borrow from time to time any sums of money, not exceeding in the whole the sum of three thousand pounds, on such terms as will produce to the lender a rate of interest not exceeding five pounds ten shillings per centum per annum :
- (b.) For the purpose of securing the payment of the moneys borrowed under this Act, mortgage, pledge, or otherwise give security over, for such term of years as the Council may deem necessary or advisable, the lands particularly described in the First Schedule hereto; such mortgage may contain a power of sale on default being made in payment by the mortgagor 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 freehold properties :
- (c.) To pay such sum of three thousand pounds out of its General Account:
- (d.) To pay from time to time the interest accruing due on the said sum of three thousand pounds out of its General Account:
- (e.) To execute all necessary deeds and documents.

Schedules

SCHEDULES.

FIRST SCHEDULE.

ALL that piece of land situate in the Town of Wanganui, containing 1 rood, more or less: bounded towards the north by St. Hill Street, 100 links; towards the south-east by land granted for the purpose of a Hebrew Synagogue, 250 links; and towards the south-west and north-west, 100 links and 250 links respectively, by Cook's Gardens.

SECOND SCHEDULE.

ALL that piece or parcel of land, being Lots 5, 6, and 7 on deposited plan No. 569, parts of Sections 219 and 220, Town of Wanganui, containing 1 rood 33 $\frac{1}{2}$ perches, and being part of the land in certificate of title, Volume 90, folio 213.