

New Zealand.



ANALYSIS.

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1910, No. 6.—*Local.*

Title. AN ACT declaring certain Lands in the Town of Wanganui to be vested in the Wellington Diocesan Board of Trustees, and to make other Provisions relative to the said Lands.

[14th October, 1910.]

Preamble. WHEREAS by Crown grant dated the fourteenth day of February, one thousand eight hundred and sixty, all that parcel of land described in the Schedule hereto was granted to the Right Reverend Father in God, George Augustus, Bishop of New Zealand, upon trust that the same should be consecrated as a site for a church and burial-ground according to the rites of the United Church of England and Ireland; and the Bishop of New Zealand, in pursuance of the powers vested in him in that behalf by the Bishop of New Zealand Trusts Act, 1858, did convey the land so granted to him to trustees appointed by the General Synod of the religious body then known as "The Branch of the United Church of England and Ireland in New Zealand," but now known as "The Church of the Province of New Zealand, commonly called 'The Church of England'": And whereas the successors in title as trustees of the said land are now incorporated under the provisions of the Religious, Charitable, and Educational Trust Boards Incorporation Act, 1884, and named "The Wellington Diocesan Board of Trustees": And whereas the trusts of the said land as regards a burying-ground have long since ceased to be capable of being carried out, by reason of a Provincial Ordinance forbidding the burying of the dead in the said land as from the seventh day of March, one thousand eight hundred and fifty-five, and the area of the said land is larger than is required only for the site of

a church, and the General Synod is desirous that the said Board should have powers whereby the land might be more effectually utilised for the benefit of the Church in the Borough of Wanganui and the district surrounding the same :

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 Church Acre Act, 1910. Short Title.

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

Interpretation.

“The Board” means and includes “The Wellington Diocesan Board of Trustees” incorporated under the Religious, Charitable, and Educational Trust Boards Incorporation Act, 1884, and any other Board or body of trustees in which the said land may hereafter become vested by direction of the General Synod, or any Board or Commission duly appointed by the General Synod to act in the appointment of trustees :

“The Diocesan Synod” means and includes the Synod of the Diocese of Wellington of the Church of the Province of New Zealand, commonly called “The Church of England”:

“The General Synod” means and includes the General Synod of the Church of the Province of New Zealand, commonly called “The Church of England.”

3. The lands described in the Schedule hereto (throughout this Act referred to as the said allotment) are hereby declared to be now vested in the Board upon trust for the General Synod for the use and benefit of the Parish of Wanganui and the Parochial Districts of Wanganui and Aramoho, and so much of the Parochial District of Waverley-Waitotara as was included in the original Parish of Wanganui, or, in the case of the subdivision or alteration of boundaries, for the use and benefit of such parishes or parochial districts as shall within their boundaries include the whole or portions of the area now comprised within the Parish of Wanganui or the Parochial Districts of Wanganui and Aramoho, and such part as aforesaid of the Parochial District of Waverley-Waitotara, or any of them, and subject within the limits of such trusts to the direction and control from time to time of the Diocesan Synod, or of the General Synod on appeal from the Diocesan Synod, as provided by the Constitution of the said Church.

Declaring trusts of land.

4. Notwithstanding anything hereinbefore contained, it shall be lawful for the Board (without any further or other consent than as required by the proviso to this section) to lease part of the said allotment—namely, Sections 168 and 169, containing together two roods, be the same a little more or less, or any part or parts thereof,—

Power of Board to lease part of the land.

(a.) For any term not exceeding sixty years without right of renewal :

(b.) For any term less than sixty years—

(i.) With a provision that the lessee, his executors, administrators, or assigns, may at any time prior to the expiration of the term have a new lease for a further

term for the same period as, or any less or greater period than, the original term, and containing the same covenants and provisions (including this present provision), at a rent to be fixed by valuation of the land only, without regarding the value of any buildings or improvements thereon :

Provided that such original term, together with all renewals thereof, do not exceed in all sixty years : or

(ii.) With a provision that prior to the expiration of the term a new lease for a further term of the same period as, or any less or greater period than, the original term, and containing the same covenants and provisions (including this present provision), shall be put up to public auction at the upset price of the annual value of the land only (to be fixed by valuation without regarding the value of any buildings or improvements thereon), subject to a condition that in the event of any other person than the lessee, his executors, administrators, or assigns, becoming entitled to the new lease, then such person shall before being let into possession pay to the lessee, his executors, administrators, or assigns, the value of such buildings and improvements (to be fixed by valuation), whether erected or made by the lessee, his executors, administrators, or assigns, or any former lessee or tenant of all or any part of the lands included in the lease :

Provided, however, that the term of the original lease, together with the total terms of all such new leases, shall not exceed in all sixty years :

(iii.) With a provision that the lessee, his executors, administrators, or assigns, may at any time prior to the expiration of the said term, at his or their option, either have a new lease as provided by subparagraph (i) hereof, or have a new lease put up to public auction under subparagraph (ii) hereof, with its proviso.

Provided always that no lease shall be granted under paragraph (a) or paragraph (b) of this section for a term exceeding forty-two years, or for any term which with the renewals thereof would exceed in all forty-two years, without the previous consent of the Standing Committee of the Diocese of Wellington and of a majority of the Standing Committees of all the dioceses in New Zealand of the said Church. Such consent may be given either generally or to any particular dealing or dealings. No intending lessee shall be concerned to inquire whether any such consent has been given.

As to valuations.

5. Every valuation under paragraph (b) of the last preceding section hereof shall be made by three indifferent persons, one to be appointed by the Board, one by the lessee, his executors, administrators, or assigns, and the third by such two appointed persons, before entering upon the valuation ; and the lease may contain any subsidiary matter to give effect to the provisions of the said paragraph.

6. The powers of leasing given by section four of this Act shall be subject to the conditions and exceptions following:—

Conditions of leasing.

- (a.) Every lease shall take effect in possession, or within six months from its date.
- (b.) The rent reserved shall be a rack-rent, without fine, premium, or foregift, but need not be uniform for the whole term.
- (c.) The amount paid for valuation of buildings and improvements by an incoming tenant to either the outgoing tenant or the Wellington Diocesan Board of Trustees shall not be deemed to be a premium.
- (d.) Every such lease may contain such covenants, conditions, and provisions, not being contrary to this Act, as the Board thinks fit.

7. The Board may, on such terms and conditions as it thinks fit, accept a surrender of any lease granted under section four of this Act, whether with respect to the whole or any part of the land comprised in the lease, and may again, subject to the provisions of this Act, lease the land comprised in the surrendered lease.

Power of Board to accept surrenders.

8. For the purpose of more effectively leasing the said lands under section four it shall be lawful for the Board to subdivide the same, and for the purpose of such subdivision, but subject to the provisions of any Act for the time being in force relating to Municipal Corporations, to grant private rights of way thereon for the term of any lease and any new leases granted in pursuance of paragraph (b) of section four of this Act.

Power of Board to subdivide and grant rights of way.

9. (1.) The Board is hereby expressly authorized and empowered and required, without any further authority or license than is by this Act conferred, and notwithstanding the provisions of the Wanganui Cemetery Act, 1862, the Cemeteries Act, 1908, or any other Act or law relating to disinterments, to carefully dig over that portion of the said allotment which is authorized to be leased under section four, and disinter and remove therefrom any bodies buried therein, before granting any lease of the same, and to disinter and remove therefrom any bodies buried in the remainder of the said allotment before erecting any buildings over the graves in which the same are buried, and to rebury all such bodies in such portion of the said allotment as shall not be leased or required for erection of buildings, or in consecrated ground elsewhere, or in a public cemetery.

Power to disinter and rebury bodies.

(2.) No intending lessee shall be concerned to inquire whether this section has been complied with.

10. The rents arising from time to time from any leases granted in pursuance of the above-mentioned powers shall be applied—

Application of rents.

- (a.) Towards removing the present buildings on the said allotment, and erecting on the portion of the said allotment other than that mentioned in section four hereof a new church:
- (b.) Towards removing the present church known as St. John's, Town of Wanganui, and erecting in its place a new church:
- (c.) Towards acquiring lands in the Gonville Town District for the purpose of a church, and erecting thereon a church:

(d.) Towards such other purposes for the benefit of the Parish of Wanganui and the Parochial Districts of Wanganui and Aramoho, and such part as aforesaid of the Parochial District of Waverley-Waitotara, or such parish or parishes or parochial district or districts as may hereafter enclose within their boundaries the whole or portions of the area now comprised within the Parish of Wanganui or the Parochial Districts of Wanganui and Aramoho and the said part of the Parochial District of Waverley-Waitotara, or any of them, as the Diocesan Synod (subject to appeal to the General Synod as provided by the Constitution of the Church) may from time to time direct, including the costs of and incidental to the preparation and promotion of this Act:

Provided that all such churches and other buildings towards which the said rents are to be so applied shall belong to the Church of the Province of New Zealand, commonly called "The Church of England."

Power to borrow on security of rents.

11. For the purposes mentioned in the subsections of the last preceding section, or for any such purpose, it shall be lawful for the Board from time to time to borrow, on the security of the rents to accrue from any portion or portions of the said allotment leased under section four of this Act, such sums as may be required for any of such purposes, by means of a mortgage or mortgages of the said rents or any part or parts thereof; such mortgage or mortgages to be in such form and to contain all such covenants, agreements, powers of attorney to collect rents, and other powers incidental to the security as may be agreed upon between the Board and the mortgagee or the mortgagees.

Protection of mortgagees.

12. No intending mortgagee shall be concerned to inquire whether the money proposed to be raised is required for the purposes aforesaid or any of them, or how much money is required to be raised, or to see to the application of the money when raised, or to inquire whether any conditions or provisions of this Act as to removal of bodies or otherwise have been complied with, or into the propriety in any respect of the transaction; and the receipt in writing of the Board for the money advanced shall be an effectual discharge therefor to the person advancing the same.

Power of Board to indemnify itself for costs.

13. The Board shall be entitled to indemnify itself out of the moneys received by virtue of the exercise of all or any of the powers hereby granted against all costs and expenses which may be incurred in administering the trusts and exercising the powers vested in them, and also the costs of this Act.

Schedule.

SCHEDULE.

ALL that piece or parcel of land in the Province of Wellington, containing by admeasurement 1 acre, more or less, being the sections numbered 166, 167, 168, and 169 upon the plan of the said Town of Wanganui: bounded towards the north by a line parallel to the Victoria Avenue, 400 links; towards the east by section numbered 170, 250 links; towards the south by Victoria Avenue aforesaid, 400 links; and towards the west by section numbered 165, 250 links.