

Wanganui Roman Catholic Lands Act 1909

Local Act 1909 No 10
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An Act to enable the Roman Catholic Archbishop of Wellington to raise Moneys for the Purpose of purchasing Sites in the Town of Wanganui, and of building thereon a Church, Presbytery, and Convent, by Mortgage of certain Lands situate in the Town of Wanganui, and to enable him to lease the same Lands for any Term not exceeding Sixty-six Years; and also to authorise the Refund to the Trustees in the Estate of the late Charles Henry Kirk, of Wanganui, Catholic Priest, of the Estate Duty paid in respect of certain Lands.

Preamble

WHEREAS by a Crown grant dated the fifteenth day of July, eighteen hundred and fifty-three, certain land described in the First Part of Schedule 1 hereto was vested in the Right Reverend Philip Joseph Viard, Roman Catholic Bishop of Wellington, and his successors, in trust to permit the said land to be for ever used and appropriated as a site for a church or chapel for the use of persons professing the Roman Catholic religion exclusively, and to, for, and upon no other use, trust, intent, or purpose whatsoever: And whereas by a Crown grant dated the seventh day of September, eighteen hundred and fifty-seven, and registered in the Deeds Registry Office, at Wellington, as Number 12724, certain land described in the Second Part of Schedule 1 hereto was vested in the said Philip Joseph Viard and his successors, Bishops of the Roman Catholic Church at Wellington: And whereas under and by virtue of the provisions of the Roman Catholic Lands Extension Act 1890, the said lands became vested in the Roman Catholic Archbishop of Wellington: And whereas the said lands have been continuously used and are still used for the purposes mentioned in the said Crown grants respectively: And whereas a Roman Catholic church and a convent have been built upon the said land described in the First Part of Schedule 1 hereto: And whereas a presbytery has been built upon the said land described in the Second Part of Schedule 1 hereto: And whereas by reason of the expansion of the business portion of the Town of Wanganui the said land described in the First Part of Schedule 1 hereto is no longer a convenient site for a Roman Catholic church and convent, and the said land described in the Second Part of Schedule 1 hereto is no longer a convenient site for a presbytery, and the Roman Catholic Archbishop of Wellington has resolved to purchase more convenient freehold sites in the Town of Wanganui, and to erect thereon a Roman Catholic church, presbytery, and convent, and to lease the said lands described in the First and Second Parts of Schedule 1 hereto: And whereas for the purpose of purchasing such sites and erecting thereon a Roman Catholic church, presbytery, and convent the Roman Catholic Archbishop of Wellington has resolved to raise money on the security of mortgage of the said lands: And whereas under and by virtue of the provisions of the Roman Catholic Lands Act 1876, the Roman Catholic Archbishop of Wellington is empowered to grant leases for any term

not exceeding forty-two years: And whereas it is expedient that the Roman Catholic Archbishop of Wellington should have greater powers of leasing the said lands than those conferred upon him by the last-named Act: And whereas the powers requisite to enable the Roman Catholic Archbishop of Wellington to raise money on mortgage of the said lands and to grant longer leases thereof are not attainable otherwise than by legislation: And whereas the Very Reverend Charles Henry Kirk, late of the Town of Wanganui aforesaid, deceased, was for many years parish priest of the Roman Catholic Parish of Wanganui: And whereas the said Charles Henry Kirk acquired the lands described in Schedule 2 hereto with moneys belonging to the Roman Catholic Church and for the purposes of the Roman Catholic Church, but the titles to the said lands remained in the name of the said Charles Henry Kirk: And whereas the said lands have always been used and still are used for the purposes of the Roman Catholic Church: And whereas the said Charles Henry Kirk died on or about the twenty-second day of March, nineteen hundred and four, and probate of his will was, on the sixth day of April, nineteen hundred and four, granted by the District Court of Wanganui, holden at Wanganui, to the executors and trustees in the said will named: And whereas the sum of four hundred and eighty-nine dollars thirty-one and two-thirds cents was assessed by the Deputy Commissioner of Stamps, under the provisions of the Deceased Persons' Estates Duties Act 1881, and its amendments, as estate duty payable in respect of the said lands: And whereas the trustees of the will of the said Charles Henry Kirk have paid the sum of four hundred and twenty-four dollars, part of the said sum of four hundred and eighty-nine dollars thirty-one and two-thirds cents, and the balance (namely, the sum of sixty-five dollars thirty-one and two-thirds cents) remains unpaid: And whereas it is desirable that the said sum of four hundred and twenty-four dollars so paid as estate duty on the said lands should be refunded to the trustees of the will of the said Charles Henry Kirk, and that the said trustees should be exempted from payment of the said balance of estate duty:

The references to "four hundred and eighty-nine dollars thirty-one and two-thirds cents", "four hundred and twenty-four dollars", and "sixty-five dollars thirty-one and two thirds cents" were substituted, as from 10 July 1967, for references to "two hundred and forty-four pounds thirteen shillings and twopence", "two hundred and twelve pounds", and "thirty-two pounds thirteen shillings and twopence" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

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 Wanganui Roman Catholic Lands Act 1909.

2 Interpretation

In the interpretation of this Act—

The expression **the Archbishop** shall mean and include the Roman Catholic Archbishop or Bishop of the Archdiocese or Diocese of Wellington for the time being, and the administrator of the said Archdiocese or Diocese for the time being duly acting during any vacancy in the office of Archbishop or Bishop

The expression **the trustees of the will of the said Charles Henry Kirk** shall mean and include the surviving trustee named in the said will, and the trustee or trustees for the time being acting in the trusts of the said will.

3 Archbishop may borrow

For the purposes mentioned in the Preamble hereto it shall be lawful for the Archbishop from time to time to borrow, on the security of the said lands described in Schedule 1 hereto, any sum or sums of money not exceeding in the aggregate the sum of fifty thousand dollars, by means of a mortgage or mortgages of the said lands or any part or parts thereof, such mortgages to contain all such covenants, provisoes, agreements, powers of sale, and other powers as may be agreed upon by the Archbishop and the mortgagee or mortgagees; and the Archbishop may also apply the moneys so borrowed in building a church, presbytery, and convent on sites already acquired in the Town of Wanganui.

The reference to “fifty thousand dollars” was substituted, as from 10 July 1967, for a reference to “twenty-five thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

4 Archbishop may lease

It shall be lawful for the Archbishop to lease the said lands described in Schedule 1 hereto, or any part or parts thereof,—

- (a) For any term not exceeding sixty-six years, without right of renewal:
- (b) For any term not exceeding twenty-one 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 not exceeding twenty-one years, 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; or
 - (ii) With a provision that, prior to the expiration of the term, a new lease for a further term not exceeding twenty-one years, 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 person other 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; or
 - (iii) With a provision that the lessee, his executors, administrators, or assigns, may, at any time prior to the expiration of the term, at his or their option, either have a new lease as provided by subpara-

graph (i) hereof, or have a new lease put up to public auction under subparagraph (ii) hereof.

5 Provisions as to valuation

Every valuation under paragraph (b) of the last preceding section hereof shall be made by three indifferent persons, one to be appointed by the Archbishop, 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 due effect to the provisions of the said paragraph.

6 Conditions of leasing

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

- (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 Archbishop 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 Archbishop thinks fit.

7 Archbishop may accept surrenders of leases

The Archbishop may, on such terms and conditions as he thinks fit, accept a surrender of any lease, 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.

8 Provisions as to subdivision

For the purpose of more effectively leasing the said lands it shall be lawful for the Archbishop to subdivide the same, and for the purpose of subdivision, but subject to the provisions

of any Act for the time being in force relating to municipal corporations, to lay out and form streets and right-of-ways thereon, and to dedicate the same to the public.

9 Refund of estate duty

The Minister of Finance is hereby authorised to refund to the trustees of the will of the said Charles Henry Kirk the said sum of four hundred and twenty-four dollars paid by them for estate duty as mentioned in the Preamble hereto, and the same sum may be paid to the said trustees without any further appropriation than this Act; and the said trustees are hereby exempted from the payment of the said sum of sixty-five dollars thirty-one and two-thirds cents, the unpaid balance of estate duty mentioned in the Preamble hereto.

The references to “four hundred and twenty-four dollars”, and “sixty-five dollars thirty-one and two-thirds cents” were substituted, as from 10 July 1967, for references to “two hundred and twelve pounds”, and “thirty-two pounds thirteen shillings and twopence” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

Schedule 1

First Part.

ALL that piece or parcel of land containing 1 acre, more or less, situate in the Town of Wanganui, in the Provincial District of Wellington, being sections numbered 157, 158, 159, and 160 on the plan of the Town of Wanganui: bounded towards the north-west by Section 156 on the said plan, 250 links; towards the north-east by a public road or street, being the boundary of Queen’s Park, 400 links; towards the south-east by Section 161 on the said plan, 250 links; and towards the south-west by Victoria Avenue, 400 links: be the same several measurements a little more or less: and being all the land described in Crown Grant No 65.

Second Part.

ALL that piece or parcel of land containing 2 roods, more or less, situate in the Town of Wanganui, in the Provincial District of Wel-

lington, being the sections numbered 161 and 162 on the plan on the Town of Wanganui: bounded towards the north-west by Section 160, 250 links; towards the north-east by a public road or street, being the boundary of Queen's Park, 200 links; toward the south-east by Maria Place, 250 links; and towards the south-west by Victoria Avenue, 200 links: be the said several measurements a little more or less: being all the land described in Crown Grant No 1215, registered at Wellington as No 12724.

Schedule 2

FIRSTLY, all that piece or parcel of land situate in the Town of Wanganui, containing 1 acre 1 rood, more or less, being the sections numbered 141, 142, 143, 146, and 148 on the public map of the said Town of Wanganui, and being the whole of the land comprised in certificate of title, Vol. 23, folio 41.

Secondly, all that piece of land situate in the Town of Wanganui, containing 1 rood, more or less, being the section numbered 144 on the plan of the Town of Wanganui, and being the whole of the land comprised in certificate of title, Vol 55, folio 297.

Thirdly, all that piece of land situate in the Town of Wanganui, containing 3 roods, more or less, being part of Suburban Block 36, Town of Wanganui, and being the sections numbered 837, 838, and 839.

Fourthly, all that piece of land containing 17 perches, more or less, situate in the Town of Wanganui, and being the allotment numbered 12 on plan deposited in the office of the Registrar of Deeds, at Wellington, as No 49 of a subdivision into allotments of Suburban Block 14 on the plan of the Town of Wanganui.

Fifthly, all that piece of land containing 2 roods, more or less, being Section 105, Mangaweka Township, and being the whole of the land comprised in certificate of title, Vol. 89, folio 205.