

## New Zealand



### ANALYSIS

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1943, No. 3—*Private*

AN ACT to incorporate a New Board to hold the Property now held by the Papawai and Kaikokirikiri Trusts Board, and to vary the Trusts upon which that Property is held. [26th August, 1943]

Title.

WHEREAS certain property, including the lands described in the Schedule hereto, is vested in the Papawai and Kaikokirikiri Trusts Board (incorporated under the Religious, Charitable, and Educational Trusts Act, 1908) upon the trusts declared in two Crown grants both dated the fourteenth day of June, eighteen hundred and fifty-three, in favour of George Augustus, Lord Bishop of New Zealand, and his successors: And whereas the college established by that Board was

Preamble.

See Reprint of Statutes, Vol. I, p. 774

destroyed by fire in the year nineteen hundred and thirty-two, and it has been found that the trust funds are insufficient for the re-establishment and maintenance of a college in accordance with the said trusts: And whereas for the purpose of making the best practicable use of the available income in furthering the education contemplated by the trusts it is expedient to extend and vary the trusts as hereinafter provided and to establish a new Board to administer the amended trusts:

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 and commencement.

1. This Act may be cited as the Papawai and Kaikokirikiri Trusts Act, 1943, and shall come into force on the first day of October, nineteen hundred and forty-three.

Interpretation.

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

“ Board ” means the Papawai and Kaikokirikiri Trusts Board established under this Act:

“ Church of England ” means the Church of the Province of New Zealand, commonly called the Church of England:

“ Financial year ” means a period of twelve months ending on such day in any year as the Board determines:

“ Minister ” means the Minister of Education:

“ Old Board ” means the Papawai and Kaikokirikiri Trusts Board incorporated under the Religious, Charitable, and Educational Trusts Act, 1908:

“ Scholarship ” means a scholarship granted under this Act, and includes a bursary.

See Reprint of Statutes, Vol. I, p. 774

Incorporation of Papawai and Kaikokirikiri Trusts Board.

3. (1) There is hereby established for the purposes of this Act a Board, to be called the Papawai and Kaikokirikiri Trusts 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 and of doing and suffering all that bodies corporate may do and suffer.

(3) All references to the Papawai and Kaikokirikiri Trusts Board in any Act, or in any agreement, deed, instrument, will, or other document (whether dated before or after the commencement of this Act), shall, unless inconsistent with the context or with the provisions of this Act, be deemed to be references to the Board established under this Act.

4. (1) The Board shall consist of eight members to be appointed by the Governor-General, of whom— Members  
of Board.

- (a) Four members shall be appointed on the recommendation of the Diocesan Trusts Board of the Diocese of Wellington established under Canon of the General Synod of the Church of England:
- (b) Three members, being Maoris or the descendants of Maoris, shall be appointed on the recommendation of the Native Land Court:
- (c) One member shall be appointed on the recommendation of the Minister.

(2) Before making any recommendation under paragraph (b) of subsection one of this section, the Native Land Court shall ascertain as far as it deems practicable the wishes of the members of the Ngatikahungunu Tribe residing in the Wairarapa district south of a straight line passing through Akitio and Pahiatua.

(3) The terms for which the first members of the Board are to be appointed shall be as follows:—

- (a) One of the members appointed on the recommendation of the Diocesan Trusts Board and one of the members appointed on the recommendation of the Native Land Court shall be appointed for a term expiring at the end of the Board's first complete financial year:
- (b) One of the members appointed on the recommendation of the Diocesan Trusts Board, one of the members appointed on the recommendation of the Native Land Court, and the member appointed on the recommendation of the Minister shall be appointed for a term expiring at the end of the Board's second complete financial year:

(c) Two of the members appointed on the recommendation of the Diocesan Trusts Board and one of the members appointed on the recommendation of the Native Land Court shall be appointed for a term expiring at the end of the Board's third complete financial year.

(4) All other members of the Board, except those appointed to fill vacancies under section five of this Act, shall be appointed for a term of three financial years computed from the expiration of the term for which their predecessors were appointed.

(5) The members of the Board shall come into office on the date on which their appointments take effect, and, unless their offices are sooner vacated, shall continue in office until their successors come into office. Retiring members of the Board shall be eligible for reappointment.

Vacancies in membership of Board.

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

- (a) Dies; or
- (b) Resigns his office by notice in writing to the Board; or
- (c) Is absent without leave from four consecutive meetings of the Board; or
- (d) Becomes a bankrupt; or
- (e) Is received or detained as a mentally defective person in any institution under the Mental Defectives Act, 1911; or
- (f) Becomes a protected person under the Aged and Infirm Persons Protection Act, 1912; or
- (g) Is convicted of any crime punishable by imprisonment for a term of one year or upwards.

(2) On the occurrence from any cause of a vacancy in the office of a member of the Board, another person shall be appointed in the same manner as the vacating member to be a member of the Board in his place. Every such appointment shall be made for the unexpired portion of the term for which the vacating member was appointed.

(3) The powers of the Board shall not be affected by any vacancy in the membership of the Board.

See Reprint of Statutes, Vol. V, p. 743

Ibid., Vol. II, p. 887

6. The Board is hereby declared to be a local authority for the purposes of the Local Authorities (Members' Contracts) Act, 1934.

Local Authorities (Members' Contracts) Act to apply. 1934, No. 17

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

Meetings of Board.

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

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

8. (1) The Board shall from time to time appoint from among such of its members as have been appointed on the recommendation of the Diocesan Trusts Board 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.

Chairman and Deputy 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, and the person so selected may exercise and perform all the powers and duties of the Chairman accordingly.

(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.

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

Procedure of Board.

10. (1) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board.

Contracts of Board.

(2) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith shall, if made by the Board, be either in writing under the seal of the Board or in writing signed by two members of the Board on behalf of and by direction of the Board.

(3) Any contract which if made between private persons may be made orally may be similarly made by or on behalf of the Board by any member acting by direction of the Board, but no oral contract shall be made involving the payment by the Board of a sum exceeding ten pounds.

(4) Notwithstanding anything in the foregoing provisions of this section, no contract made by or on behalf of the Board shall be invalid by reason only that it is not made in the manner prescribed by this section if it is made pursuant to a resolution of the Board or to give effect to a resolution of the Board.

Vesting of  
trust property  
in Board.

**11.** (1) On the commencement of this Act all property, whether real or personal, then belonging to the old Board shall be deemed to be vested in the Board established under this Act, subject to all encumbrances, contracts, and equities then affecting the same.

(2) All contracts made by the old Board before the commencement of this Act shall from the commencement of this Act be deemed to have been made by the Board established under this Act.

(3) All debts and liabilities incurred by the old Board before the commencement of this Act shall on the commencement of this Act become the debts and liabilities of the Board established under this Act.

(4) All proceedings by or against the old Board that are pending on the commencement of this Act may be continued, completed, and enforced by or against the Board established under this Act.

See Reprint  
of Statutes,  
Vol. VII,  
p. 1162

(5) Where any estate or interest in any land subject to the Land Transfer Act, 1915, is vested in the Board by virtue of this Act, the District Land Registrar for the land registration district in which the land is situated shall, on receiving a written application under the seal of the Board, register the Board as proprietor of that estate or interest.

(6) The old Board is hereby dissolved.

Application  
of trust  
moneys.

**12.** (1) After the Board has set aside, out of the accumulations of income as shown by the books of the old Board as at the commencement of this Act, such reserves as the Board may consider necessary to provide for the depreciation of its real and personal property, and for the stabilization of its future income, the Board may apply the whole or any part of the remainder of

those accumulations of income to augmenting the annual income available in any financial year or years for division under subsection three of this section.

(2) For the purposes of this section the net income of the Board for any financial year shall be deemed to be the income of the Board for that year after allowing for all expenses for that year and for the setting aside of such reasonable reserves as the Board may consider necessary, and shall be deemed to include any amount by which the income for that year is augmented under subsection one of this section.

(3) The Board shall appropriate two-thirds of its net income for each financial year to a fund to be called the Church of England Schools Scholarship Fund, which fund shall be available only for the purposes specified in paragraphs (a) and (b) of subsection four of this section. The remaining one-third of the net income of the Board for each financial year shall be available for all the purposes specified in the said subsection four.

(4) Subject to the foregoing provisions of this section, the Board may from time to time apply its net income towards all or any of the following purposes:—

- (a) The provision of scholarships for children of British subjects of all races, and for children of other persons being inhabitants of islands in the Pacific Ocean, but so that preference is given to boys and girls of the Ngatikahungunu Tribe residing in the Wairarapa district south of a straight line passing through Akitio and Pahiatua, and then to other Maoris or descendants of Maoris residing on the east coast of the North Island of New Zealand, and, failing such, to Maoris or descendants of Maoris of any part of New Zealand:
- (b) The provision of books, clothing, and other equipment for the holders of such scholarships; and the making of grants for any such purpose and generally for the purpose of assisting the parents or guardians of any holders of such scholarships to provide for their education:

- (c) The provision of books, clothing, and other equipment for any other such children; and the making of grants for any such purpose and generally for the purpose of assisting the parents or guardians of any such children to provide for their education:
  - (d) The provision, furnishing, maintenance, and management of residential accommodation for any such children in relation to their education:
  - (e) The making of grants, with the consent of the Minister, to the governing bodies of any schools at which any such scholarships are tenable or at which any such children are educated.
- (5) The Minister shall not consent to the making of any grant under paragraph (e) of subsection four of this section unless the Native Land Court has first consented thereto. Before granting any such consent the Native Land Court shall ascertain as far as it deems practicable the wishes of the members of the Ngatikahungunu Tribe residing in the Wairarapa district south of a straight line passing through Akitio and Pahiatua. The fact that the Minister grants any consent as aforesaid shall be conclusive evidence that the provisions of this subsection have been duly complied with.

(6) With the consent of the Minister, the Board may from time to time apply any moneys belonging to it in or towards the establishment, furnishing, maintenance, and management of a school or schools in the Wairarapa district for such children as aforesaid, including provision for residential accommodation, so that in the admission of pupils preference is given as provided in paragraph (a) of subsection four of this section.

Scholarships.

**13.** (1) The conditions of tenure of every scholarship shall be determined by the Board, which shall select the recipient of every scholarship and the school at which it may be held.

(2) Every scholarship shall be of such value as the Board in its discretion determines, and may in such discretion be renewed from year to year with or without modification in value or conditions of tenure.

(3) Scholarships awarded out of the Church of England Schools Scholarship Fund shall be held only at schools conducted by the Church of England; and,



unless there is in any case reason to the contrary, preference shall be given in the case of other scholarships to schools conducted by the Church of England.

(4) In selecting the school at which any scholarship may be held in accordance with the last preceding subsection the Board shall give consideration to the wishes of the parents or guardians of the recipient.

(5) Where any parent or guardian of a selected recipient of a scholarship requests the Board to select a particular school and the Board refuses or fails to select that school, the parent or guardian may apply to a Judge of the Supreme Court by motion in Chambers for an order determining the school at which the scholarship may be held, and (subject to subsection three of this section) the Judge may make an order accordingly. Every such order shall be final, without any right of appeal or review. The costs of all parties of and incidental to any such motion and order (as between solicitor and client) shall be paid by the Board out of its income.

14. (1) The Board may from time to time—

(a) With the consent of the Minister, sell the lands vested in the Board or any part thereof, either by public auction or by private contract, and upon such terms and conditions as the Board thinks fit, with power to buy in or rescind or vary any contract of sale:

Powers  
of Board  
to sell or  
lease lands.

(b) Lease any lands vested in the Board, for which purpose the Board shall be deemed to be a leasing authority within the meaning of the Public Bodies' Leases Act, 1908, and shall be subject to the provisions of that Act.

See Reprint  
of Statutes,  
Vol. IV,  
p. 1031

(2) The Minister shall not consent to the sale by the Board of any land that was originally acquired from any Maori tribe or hapu unless the Native Land Court has first consented thereto. Before granting any such consent the Native Land Court shall ascertain as far as it deems practicable the wishes of the members of the tribe or hapu concerned. The fact that the Minister grants any consent as aforesaid shall be conclusive evidence that the provisions of this subsection have been duly complied with.

Investment  
of trust  
funds, &c.

15. (1) Any moneys belonging to the Board and available for investment may be invested in any investments for the time being authorized by law for the investment of trust funds, or, with the consent of the Minister, in the purchase of lands. Subject to the last preceding section, any such investments may be varied from time to time.

(2) The farming operations heretofore carried on by the old Board are hereby validated, and the Board established under this Act may carry on upon any land vested in it the business of farming in all or any of its branches until the Board can in its discretion conveniently lease the land and dispose of the stock. The Board may use such portion of its income as it considers necessary for the carrying-on of any such farming operations.

Travelling-  
expenses.

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

Accounts  
of Board.

17. The Board shall cause proper books of account to be kept for all matters relating to the trust estate.

Annual report,  
including  
statement  
of accounts.

18. (1) At the end of each financial year the Board shall cause to be prepared a report of the operations of the Board for the year.

(2) 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 income and expenditure showing the financial transactions for the year.

(3) Copies of the report shall be furnished to the Minister, to the Synod of the Diocese of Wellington, and to the General Synod of the Church of England.

Members  
of Board not  
personally  
liable.

19. 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.

Repeal and  
savings.  
1940, No. 19

20. (1) Section twenty-three of the Finance Act (No. 2), 1940, is hereby repealed.

(2) All scholarships awarded by the old Board that are subsisting or in force on the commencement of this Act shall enure for the purposes of this Act as fully

and effectually as if they had originated under this Act, and accordingly shall, where necessary, be deemed to have so originated.

21. This Act is hereby declared to be a private Act. Private Act.

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## SCHEDULE

Schedule.

### LANDS VESTED IN THE PAPA WAI AND KAIKOKIRIKIRI TRUSTS BOARD BY THIS ACT

#### *Papawai Land*

ALL that parcel of land containing 395 acres 1 rood and 18 perches, more or less, situate in Block XIV of the Tiffin Survey District, being parts of Section 42, Moroa Block, and being the whole of the land comprised in certificate of title, Vol. 336, folio 222, Wellington Registry.

#### *Kaikokirikiri Land*

All those parcels of land containing together 177 acres 2 roods and 25.4 perches, more or less, situate partly in the Borough of Masterton and partly in Block IV of the Tiffin Survey District, being parts of Section 110, Bishops Reserve, and part of Subdivision 33N, Ngaumutawa Block, and being also Lots 1, 2, 3, 4, 5, 7, 9, and 11 on Deposited Plan No. 7899, and being the whole of the land comprised in certificate of title, Vol. 370, folio 80, Wellington Registry.

#### *Clareville Land*

All that piece of land situated in the Taratahi Plain, Wairarapa District, containing 150 acres, more or less, which said piece of land comprises Section 85 and part of Section 86 on the public map of the said Taratahi Plain deposited in the office of the Commissioner of Crown Lands at Wellington, being the whole of the land comprised in certificate of title, Vol. 9, folio 40, Wellington Registry.

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