

210

Mr. Field.

OTAKI AND PORIRUA EMPOWERING.

[PRIVATE BILL.]

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Vesting of Otaki trust funds in the trustees. 3. Authority to trustees to establish a school or schools. 4. Conditions governing the school.</p>	<p>5. Government inspection of schools. 6. Powers of trustees. 7. Investment of proceeds of any sale and all other capital moneys. 8. Investment of rents and profits. 9. Order and scheme of Supreme Court to be subject hereto. Schedules.</p>
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A BILL INTITULED

AN ACT to enable the Otaki Trust Property and amalgamate the Porirua and Otaki Trust Properties, and to enable the same to be held and dealt with by the Porirua Trustees for the Purposes of the Establishment and Maintenance of a School or Schools at Otaki or in the Otaki District. Title.

WHEREAS the lands described in the first part of the *First* Schedule hereto (hereinafter termed the Otaki property) are vested in the New Zealand Mission Trust Board incorporated under the Religious, Charitable, and Educational Trusts Boards Incorporation Act, 1884, upon the trusts stated in the second part of the said *First* Schedule: And whereas the lands described in the first part of the *Second* Schedule hereto (hereinafter termed the Porirua property) are vested in the Porirua College Trust Board (hereinafter termed the Porirua trustees) upon the trusts stated in the second part of the said *Second* Schedule: And whereas by an order of the Supreme Court of New Zealand, Wellington District, made on the seventh day of September, nineteen hundred, the Porirua trustees were empowered to expend the net income arising from the Porirua property, and the net income from the fund representing accumulated rentals therefrom and interest, in terms of a scheme particulars of which are set forth in the *Third* Schedule hereto: And whereas it has been agreed between the New Zealand Mission Trust Board and the Porirua trustees that upon the Porirua trustees being empowered to vary the scheme detailed in the said *Third* Schedule so as to enable them to expend all accumulations of income and interest from the Porirua property, together with the net income of the Porirua property and the net income of the fund representing accumulated rentals therefrom and

interest (~~excepting such portion of such income as the Porirua Trustees may deem it desirable to expend in scholarships in accordance with the said scheme of the Supreme Court~~) in and towards the erection and maintenance of a school or schools at Otaki or in the Otaki District, and in and towards the establishment of scholarships at any college or colleges to be selected by the General Synod (preference being given to the scholars mentioned in paragraph (b) of section three hereof), then the Otaki property and the fund representing accumulated rentals therefrom and interest, and also the moneys received by the New Zealand Mission Trust Board in respect of the insurance of certain buildings on the Otaki property destroyed by fire in the year nineteen hundred and three, and the accumulations thereof (*all of which are hereinafter referred to as the Otaki trust funds*), shall be vested in trustees for the purposes of such school or schools upon the conditions hereinafter detailed :

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.

1. This Act may be cited as the Otaki and Porirua Empowering Act, 1907.

*New clause.*

Vesting of Otaki trust funds in the trustees.

1A. Immediately upon the passing of this Act the Otaki trust funds shall, without any conveyance or assurance whatever, vest in the trustees for an estate of inheritance in fee-simple in possession in the case of land, and absolutely in the case of other than land, upon the trusts and subject to the provisions hereinafter declared, and subject also to any existing leases and tenancies, to the intent that the same may be amalgamated with the Porirua property and funds.

Authority to trustees to establish a school or schools.

2. The Porirua trustees are hereby empowered to employ the net income from the Porirua and Otaki property, ~~ies, and the net income from the fund representing the accumulated rentals therefrom and interest (excepting such portion of such income as the Porirua Trustees may deem it desirable to expend in scholarships in accordance with the said scheme of the Supreme Court, or as hereinafter mentioned),~~ including as income all accumulations of rent, interest, and profits, and also the aforesaid insurance moneys, in the erection and maintenance of a school or schools at or near Otaki, in the Provincial District of Wellington, and in the acquisition of a site or sites therefor; ~~and the said order and scheme of the Supreme Court shall be read and construed as subject to and so as not to affect the provisions of this Act.~~ The Porirua Trustees are hereby further empowered to apply any part of the net income from the Porirua property and from the fund representing the accumulated rentals therefrom and interest and also in the establishment of scholarships at any college or one of three colleges to be selected by the General Synod, preference being given to the scholars mentioned in paragraph (bc) of section three four hereof.

Conditions governing the school.

3. With regard to the school or schools to be established at or near Otaki, the Porirua trustees shall as far as possible comply with the following conditions :—

*New paragraph.*

(aa.) At every such school due provision shall be made for the admission of day scholars.

- (a.) The scholars ~~at such school or schools~~ shall be children of British subjects of all races, and children of other poor and destitute persons, being inhabitants of islands in the Pacific Ocean.
- 5 (b.) In the admission of scholars ~~to the said school or schools~~ preference shall be given to members of the Ngatiraukawa, Ngatiawa, or Ngatitua Tribes, and then to other Maoris or descendants of Maoris residing on the west coast of the North Island of New Zealand, and failing such to Maoris or descendants of Maoris of any part of New Zealand, and this ~~clause~~ *paragraph* shall apply to both sexes.
- 10 (c.) Religious education *shall be given to the scholars* according to the discipline and doctrines of the Church of the Province of New Zealand (commonly called the Church of England), ~~industrial training, and instruction in the English language shall be given to the scholars at such school or schools, but no scholar shall be refused admission on the ground of religious belief.~~
- 15 *New paragraph.*
- 20 (d.) Industrial or technical education (which shall be made a feature of every such school) shall also be given, together with instruction in the primary-school subjects :
- 25 Provided nevertheless that, so far as day scholars are concerned, it shall not be a condition of any scholar being admitted into or continuing in the school—
- (i.) That he shall attend or abstain from attending any Sunday school or any place of religious worship ; or
- 30 (ii.) That he shall attend any religious observance or any instruction in the school or elsewhere from which observance or instruction he may be withdrawn by his parent or guardian ; or
- (iii.) That he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs.
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*Struck out.*

40 4. The Diocesan Trusts Board of the Diocese of Wellington is hereby empowered to appoint six trustees for the purposes hereinafter mentioned, and such trustees and their successors in office shall immediately upon their appointment be a body corporate under the style of "the Otaki Trustees," with perpetual succession and a common seal, and power to hold and dispose of real and personal property of whatever nature, sue and be sued in all proceedings, civil or criminal, and do and suffer all that corporate bodies may do and suffer.

Incorporation of Otaki Trustees.

45 5. The regulations relating to the Otaki Trustees as set forth in the *Fourth* Schedule hereto are hereby enacted, and shall have the same force and effect as if set forth in the body of this Act.

Regulations.

50 6. Immediately upon the first appointment by the said Diocesan Trusts Board of the trustees forming the Otaki Trustees, the Otaki property shall, without any conveyance or assurance whatever, vest in

Vesting of Otaki property in trustees.

the Otaki Trustees for an estate of inheritance in fee-simple in possession upon the trusts and subject to the provisions hereinafter declared, and subject also to any existing leases and tenancies; and the fund representing accumulated rents and profits from the Otaki property and interest, and the securities representing the investment of the same, and also the fund representing the moneys received in respect of the insurance on the buildings destroyed by fire as aforesaid and the accumulated interest thereof, and the securities representing the investment of the same, and all other accumulations (if any), shall upon such first appointment, without any conveyance or assurance whatever, also vest in and belong to the Otaki Trustees upon and subject to the said trusts and provisions. 5 10

*New clause.*

Government inspection of schools.

6A. Every such school shall, so far as the secular subjects specified in paragraph (d) of section three are concerned, be subject to Government inspection by Inspectors of the Education Department in the same manner and to the same extent as the schools mentioned in section one hundred and sixty-three of the Education Act, 1904. 15

Powers of trustees.

7. (1.) The Otaki trustees are hereby empowered—

(a.) With the consent of the General Synod while the Otaki property is vested in such trustees, and of the Governor in Council, to sell the same or any part thereof, lands vested in them or any part thereof, either by public auction or by private contract, and upon such terms and conditions as they shall think fit, with power to buy in or rescind or vary any contract of sale: 20 25

*Struck out.*

(b.) To let the same or any part thereof, with the consent of the Porirua Trustees, for such term, at such rent, and on such conditions as they may deem proper, and to accept a surrender of any leases so granted: 30

*New paragraph.*

(b.) To lease lands vested in them, for which purpose the trustees shall be deemed to be a leasing authority within the meaning of the Public Bodies' Powers Act, 1887, and shall be subject to the provisions of that Act: 35

(c.) To execute such deeds and instruments as may be necessary to perfect any such sale, rescission, variation, letting, or surrender, and generally to act in regard to the Otaki property as if they were the absolute owners thereof, or leasing. 40

*Struck out.*

(2.) The net proceeds of any sale, and all other capital moneys in the hands of the Otaki Trustees (including the accumulated rents, profits, insurance moneys, and interests to be vested in them as aforesaid), shall be invested in one or more of the investments authorised by law for investment of trust funds, and such investments may from time to time be transposed into or for others of any nature hereby authorised. 45

*New clause.*

Investment of proceeds of any sale and all other capital moneys.

7A. The net proceeds of any sale of real property, and all other capital moneys belonging to the trustees, may be invested in one or more of the modes of investment authorised by law for investment of trust funds, or, with the consent of the General Synod and the 50

Governor in Council, in the purchase of other lands to be held upon the same trusts and with the same powers as are by this Act declared with respect to the Otaki and Porirua properties, and such investment may from time to time be transposed into or for others of any nature hereby authorised. It shall also be lawful for the trustees to purchase the estate or interest of any lessee or tenant in land the reversion whereof is vested in the trustees, so as to enable them to take possession thereof.

*Struck out.*

8. Subject to the provisions of section *nine* hereof, the rents, issues, and profits received by the Otaki Trustees from the Otaki property, and the net income received by the Otaki Trustees from the investments aforesaid, and also the accumulated funds (if any), shall from time to time as soon as practicable be paid over to the Porirua Trustees to be applied by them in or towards the erection and maintenance of the aforesaid school or schools at or near Otaki.

Trust of income of Otaki property.

9. In either of the events following, that is to say:—

Provision for re-vesting of Otaki property.

(a.) If the General Synod of the Church of the Province of New Zealand (commonly called the Church of England) shall pass a resolution declaring that in its opinion the Porirua Trustees have not within a reasonable time established a school or schools at or near Otaki in accordance with the provisions of this Act; or

(b.) If the said General Synod shall at any time pass a resolution declaring that the school or schools to be established at or near Otaki as aforesaid fails or fail to carry out the provision in section *three* hereof with regard to religious instruction—

the Otaki property (except as hereinafter mentioned) and the investments aforesaid, and the net unexpended rents and profits and income thereof, and all other moneys and properties in the hands of the Otaki Trustees, shall thereupon (subject to any conveyances and leases previously made and to deduction of all expenses properly incurred by the Otaki Trustees), without any conveyance or assurance whatever, revert in and belong to the New Zealand Mission Trust Board as trustee upon the trusts on which the Otaki property is now held:

Provided always that if the Porirua Trustees shall have expended out of the Porirua Trust Fund any sum or sums of money in the erection of school buildings on any portion of the Otaki property, the said buildings (with the land on which the same shall be standing, and which shall have been occupied in connection therewith for the use or recreation of the children or students being taught thereat) shall not so revert in the New Zealand Mission Trust Board unless the New Zealand Mission Trust Board shall, with the consent of the General Synod, refund to the Porirua Trustees the moneys actually expended by them on the said buildings.

10. A statutory declaration by the president of the said General Synod of the passing of either of the resolutions mentioned in section *nine* shall be conclusive evidence of the passing thereof, and upon such declaration being made the passing of such resolution and the validity thereof shall not be called in question upon any ground whatever.

Evidence of re-vesting.

investment of  
rents and profits.

Order and scheme  
of Supreme Court  
to be subject  
hereto.

Schedules.

*New clauses.*

11. The accumulated rents, profits, and other income moneys belonging to the trustees may, while not required for immediate expenditure, be invested in any of the aforesaid modes of investment, and the proceeds of such investment shall be deemed to be income.

12. The aforesaid order and scheme of the Supreme Court shall be read and construed as subject to and so as not to affect the provisions of this Act.

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SCHEDULES.

FIRST SCHEDULE.

OTAKI LANDS.

*First Part.*

ALL that parcel of land situate at Otaki, in the Provincial District of Wellington, New Zealand, containing by admeasurement 396 acres 2 roods 30 perches, or thereabouts, being the whole of the land comprised in a certain Crown grant dated the 5th day of February, 1852, and registered in the Deeds Register Office at Wellington as No. 60763.

Also all that parcel of land situate at Otaki aforesaid, containing by admeasurement 68 acres 2 roods 35 perches, or thereabouts, being the whole of the land comprised in a certain Crown grant dated the 5th day of February, 1852, and registered in the Deeds Register Office at Wellington as No. 60762: save and except such portion thereof, containing by admeasurement 39 acres and 14 perches, as is comprised in Proclamation registered as aforesaid under No. 453.

Also all that parcel of land situate at Otaki aforesaid, containing by admeasurement 62 acres, or thereabouts, being the whole of the land comprised in a certain Crown grant dated the 16th day of July, 1853, and registered in the Deeds Register Office at Wellington as No. 60764.

Also all that parcel of land situate at Otaki aforesaid, containing by admeasurement 33 acres 3 roods, or thereabouts, being the whole of the land comprised in a certain Crown grant dated the 18th day of June, 1853, and registered in the Deeds Register Office at Wellington as No. 60761.

*Second Part.*

In trust for the use and towards the maintenance and support of a school to be established under the superintendence of the Church Missionary Society at Otaki for the education of children of British subjects of all races and children of other poor and destitute persons being inhabitants of islands in the Pacific Ocean so long as religious education, industrial training, and instruction in the English language shall be given to the youth educated therein or maintained thereat.

SECOND SCHEDULE.

PORIRUA LANDS.

*First Part.*

ALL that piece or parcel of land situate and being at the entrance of Porirua Harbour, in the Provincial District of Wellington, New Zealand, and bounded on the southern side by a line running from Rocky Bay, near Teti Bay, at an angle of 99° with the magnetic meridian till it intersects the base of the hills on the south side of the Onepoto Creek, the foot of the hills forming the boundary from thence to the head of the creek; on the east by Porirua Harbour; and on the north and west by the sea: the content being 500 acres, or thereabouts, the said piece of land being the whole of the land comprised in a certain Crown grant to the Right Reverend George Augustus, Lord Bishop of New Zealand, dated the 28th day of December, 1850, and registered in the Deeds Register Office at Wellington as No. 246.

*Second Part.*

In trust for the use and towards the maintenance of a school to be established at Porirua under the superintendence of the Bishop of New Zealand for the education

of children of British subjects of all races and of children of other poor and destitute persons being inhabitants of islands in the Pacific Ocean so long as religious education, industrial training, and instruction in the English language shall be given to the youth educated therein or maintained thereat.

THIRD SCHEDULE.

SCHEME for the application of rents accruing from a piece of land comprised in a Crown grant dated the 28th day of December, 1850, to George Augustus, Bishop of New Zealand, of a piece of land granted for the endowment of a school at Porirua, and also for the application of the interest accruing from the investment of such rents.

That the trustees of the said land be empowered to expend the net rents and profits arising from the said land and the net income from the fund representing accumulated rentals and interest in the following manner :—

1. A school or college being about to be established in the Wairarapa Valley out of endowments vested in trustees for the General Synod of the Church of the Province of New Zealand (commonly called the Church of England) upon the trusts the same as those expressed in the Crown grant of the land at Porirua, the net rent and income in the hands of the plaintiffs as far as the same will permit shall be devoted to the maintenance of scholars in the Wairarapa institution, a fair sum being charged for maintenance and education.

2. That preference shall be given to children belonging to the Ngatitōa Tribe, failing them preference to children of the West Coast Tribe.

3. That the proposed system of education shall be such as appears in this judgment.

4. That no youth shall be refused a scholarship on the ground of religious belief, no religious test whatever being applied to the applicants.

5. That the General Synod of the Church of the Province of New Zealand (commonly called the Church of England), or by its consent the Diocesan Synod of the Diocese of Wellington, or its Standing Committee, shall have power to make rules and regulations not inconsistent with the foregoing portion of this scheme under and subject to which the same shall be carried out.

*Struck out.*

FOURTH SCHEDULE.

REGULATIONS REGARDING THE OTAKI TRUSTEES.

1. The number of the Otaki Trustees shall be six ; not less than half shall be laymen, of whom at least one shall (if possible) be Maori ; trustees shall be males appointed by the aforesaid Diocesan Trusts Board, and to hold office until the appointment of their successors by the said Diocesan Trusts Board, but to be eligible for reappointment.

2. Any trustee shall *ipso facto* vacate his office if he dies, or becomes a bankrupt, or refuses to act, or neglects to act for three consecutive meetings of the trustees without the consent of the other trustees, or consent given by resolution at a meeting of the trustees, or ceases to reside in New Zealand for more than six months in succession without leave of the other trustees, or becomes a confirmed lunatic, or resigns his office by writing under his hand addressed to the trustees at their registered office.

3. The said Diocesan Trusts Board shall be the sole judge as to whether any trustee has become disqualified or ceased to be a trustee.

4. Subject to the provisions of this Act, the Standing Committee of the Synod of the Wellington Diocese may make regulations to govern the election and appointment of trustees.

5. The trustees may from time to time make, alter, or revoke by-laws for all or any of the following purposes : For the use and custody of the common seal ; for prescribing the quorum at their meetings, and the conduct of business thereat, and the functions and duties of any officer or person employed by them ; and generally for the purpose of giving effect to this Act, so long as such by-laws are not inconsistent with this Act or any trust or duty vested in or imposed upon such trustees.

6. The trustees may pay to any officer or person employed by them such salary as they deem proper.

7. The accounts of the trustees shall be kept in such form and rendered to such persons as the aforesaid General Synod from time to time determines, and the said General Synod may appoint an auditor thereof, and may also at any time require a report from the trustees as to any matter under the control of the trustees, which report it shall be the duty of the trustees to furnish.

8. The registered office of the Otaki Trustees shall be at such place as the said Standing Committee may from time to time appoint. Any notice or legal process shall be deemed to be served upon the Otaki Trustees if left at their registered office.