

Hon. Mr. Mason

OTAKI AND PORIRUA TRUSTS

[PRIVATE BILL]

ANALYSIS

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A BILL INTITULED

AN ACT to incorporate a New Board to hold the Title.
Property now held by the Porirua College Trust
Board under the Otaki and Porirua Empowering
5 Act, 1907, and to vary the Trusts upon which that
Property is held.

WHEREAS certain property, including the lands Preamble.
described in the Schedule hereto, is vested in the
Porirua College Trust Board (incorporated under the

See Reprint
of Statutes,
Vol. I, p. 774
1907 (Private),
No. 3

Religious, Charitable, and Educational Trusts Act, 1908) upon the trusts declared in the Otaki and Porirua Empowering Act, 1907: And whereas it has been found that the income available to the Porirua College Trust Board is insufficient for the maintenance of a school in accordance with the said trusts, and the school established by that Board was closed at the end of the year nineteen hundred and thirty-nine: 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: 5

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:— 15

Short Title
and com-
mencement.

1. This Act may be cited as the Otaki and Porirua 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,— 20

“ Board ” means the Otaki and Porirua Trusts Board established under this Act:

“ Church of England ” means the Church of the Province of New Zealand, commonly called the Church of England: 25

“ 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: 30

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

Incorporation
of Otaki and
Porirua
Trusts Board.

3. (1) There is hereby established for the purposes of this Act a Board, to be called the Otaki and Porirua Trusts Board. 35

(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. 40

(3) All references to the Porirua College Trust 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 Otaki and Porirua Trusts Board.

5 **4.** (1) The Board shall consist of eight members to be appointed by the Governor-General, of whom—

Members
of Board.

10 (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:

15 (b) Three members (of whom all shall be Maoris or the descendants of Maoris and at least one shall be a member of the Ngatitōa Tribe) shall be appointed on the recommendation of the Raukawa Marae Trustees constituted under section ten of the Native Purposes Act, 1936:

1936, No. 56

20 (c) One member shall be appointed on the recommendation of the Minister.

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

25 (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 Raukawa Marae Trustees shall be appointed for a term expiring at the end of the Board's first complete financial year:

30 (b) One of the members appointed on the recommendation of the Diocesan Trusts Board, one of the members appointed on the recommendation of the Raukawa Marae Trustees, 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:

35 (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 Raukawa Marae Trustees shall be appointed for a term expiring at the end of the Board's third complete financial year.

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(3) 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.

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(4) 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.

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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.

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(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.

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

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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 Meetings of Board.

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.

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(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 Porirua College Trust Board shall be deemed to be vested in the Otaki and Porirua Trusts Board subject to all encumbrances, contracts, and equities then affecting the same. 5

(2) All contracts made by the Porirua College Trust Board before the commencement of this Act shall from the commencement of this Act be deemed to have been made by the Otaki and Porirua Trusts Board. 10

(3) All debts and liabilities incurred by the Porirua College Trust Board before the commencement of this Act shall on the commencement of this Act become the debts and liabilities of the Otaki and Porirua Trusts Board. 15

(4) All proceedings by or against the Porirua College Trust Board that are pending on the commencement of this Act may be continued, completed, and enforced by or against the Otaki and Porirua Trusts Board. 20

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. 25

(6) The Porirua College Trust 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 Porirua College Trust 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. 30 35 40

(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.

5 (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
10 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
15 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
20 given to boys and girls of the Ngatiraukawa, Ngatiawa, and Ngatittoa 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
25 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
30 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
35 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
40 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 Ngatiraukawa, Ngatiawa, and Ngatittoa Tribes. 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. 5 10

(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 at or near Otaki 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. 15 20

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. 25

(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. 30 35

(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 40

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.

10 **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.

15 (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

20 (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
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 30 duly complied with.

(3) Notwithstanding the foregoing provisions of this section, the Board may, without the consent of the Minister, sell any land in accordance with any consents granted by the General Synod and the Governor-General in Council under section six of the Otaki and Porirua Empowering Act, 1907, and subsisting on the commencement of this Act.

1907, (Private), No. 3

35 **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.

Investment of trust funds.

(2) Notwithstanding the foregoing provisions of this section, the Board may, without the consent of the Minister, exercise the right reserved by Memorandum of Lease number 20542, from the Porirua College Trust Board to Arthur Emmett, of Titahi Bay, farmer, to repurchase from the said Arthur Emmett, his executors, administrators, or assigns part of Lot 65 on Deposited Plan number 7627. 5

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. 10

Accounts
of Board.

17. The Board shall cause proper books of account to be kept for all matters relating to the trust estate. 15

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. 20

(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. 25

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. 30

Repeals and
savings.
1907 (Private),
No. 3
1940, No. 19

20. (1) The Otaki and Porirua Empowering Act, 1907, and section twenty-four of the Finance Act (No. 2), 1940, are hereby repealed.

(2) All scholarships awarded and retiring-allowances granted by the Porirua College Trust Board, and generally all acts of authority that originated under the enactments hereby repealed, 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 duly originated under this Act, and accordingly shall, where necessary, be deemed to have so originated. 35 40

(3) All matters and proceedings commenced under that Act, and pending or in progress on the commencement of this Act, may be continued, completed, and enforced under this Act.

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

SCHEDULE

Schedule.

LANDS VESTED IN THE OTAKI AND PORIRUA TRUSTS BOARD
BY THIS ACT

Otaki Lands

1. All that piece of land containing 23 acres 2 roods and 34·8 perches, more or less, situate in the Borough of Otaki, being Piritaha No. 4 Block and part of the English Church Mission and School Grant, and being also Lots 1, 2, 3, 4, 5, 6, 7, and 8 on Deposited Plan No. 12156, and being the whole of the land comprised in certificate of title, Vol. 484, folio 44, Wellington Registry.

2. All that piece of land containing 306 acres 3 roods and 4 perches, more or less, situate partly in Block VIII of the Waitohu Survey District and partly in the Borough of Otaki, being part of the Church Mission and School Grant and part of Moutere Block, and being also Lots 1, 2, 3, and 4 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 237, Wellington Registry.

3. All that piece of land containing 82 acres, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant, and being also Lot 5 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 236, Wellington Registry.

4. All that piece of land containing 33 acres 3 roods and 20 perches, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant, and being also Lot 6 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 238, Wellington Registry.

5. All that piece of land containing 5 acres, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant, and being also Lot 7 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 233, Wellington Registry.

6. All that piece of land containing 34 acres and 2 roods, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant,

and being also Lot 8 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 240, Wellington Registry.

7. All that piece of land containing 5 acres, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant, and being also Lot 9 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 234, Wellington Registry.

8. All that piece of land containing 5 acres, more or less, situate in Block VIII of the Waitohu Survey District, being part of the Church Mission and School Grant, and being also Lot 10 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 235, Wellington Registry.

9. All that piece of land containing 8 acres 2 roods and 3·3 perches, more or less, situate in the Borough of Otaki, being part of the Church Mission and School Grant, and being also Lot 11 on Deposited Plan No. 3364, and being the whole of the land comprised in certificate of title, Vol. 461, folio 239, Wellington Registry.

10. All that piece of land containing 31 acres 2 roods and 27 perches, more or less, situate in Block IX of the Waitohu Survey District, and being all the land in Deposited Plan No. 3608, and being the whole of the land comprised in certificate of title, Vol. 247, folio 67, Wellington Registry.

Porirua Lands

11. All that piece of land containing 375 acres, more or less, situate in Block XI of the Paekakariki Survey District, and being part of the College Reserve, together with a right-of-way reserved by Transfer No. 226931 over part of the land in Deposited Plan No. 10900, being the whole of the land comprised in certificate of title, Vol. 447, folio 193, Wellington Registry.

12. All that piece of land containing 3 acres 1 rood and 10·19 perches, more or less, situate in the Town of Titahi Bay Extension No. 5, being part of the College Reserve and part of Section 110 of the Porirua District, and being also Lots 5, 6, 7, 8, 9, 10, 14, 15, 30, 31, 35, 60, and 69 on Deposited Plan No. 7626, and parts of the said Section 110, Porirua District, being also marked "Right-of-way" on the said plan, being the balance of the land comprised in certificate of title, Vol. 434, folio 164, Wellington Registry.