

This PRIVATE BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
31st August, 1904*

Mr. Davey.

ROMAN CATHOLIC BISHOP OF CHRISTCHURCH EMPOWERING.

[PRIVATE BILL.]

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A BILL INTITULED

AN ACT to provide for the vesting in the Bishop of the Roman Catholic Diocese of Christchurch of certain Lands, being part of the Town Reserves of Christchurch, and to enable the Bishop of the said Diocese to raise Moneys for the Building of a Cathedral Church at Christchurch, by Mortgage of the said Lands, or by Issue of Debentures secured on Mortgage of the said Lands.

WHEREAS the land described in the First Schedule hereto was, by deed dated the eleventh day of August, one thousand eight hundred and sixty-eight, and registered as No. 32641, conveyed by the Superintendent of the Province of Canterbury to the Right Reverend Phillippe Joseph Viard, the Roman Catholic Bishop for the time being of (*inter alia*) the Middle Island of New Zealand, and to whom the said Middle Island and other parts of the said colony had theretofore been assigned as his diocese, upon trust that the same should thenceforth be held and used for all or any one or more of the purposes hereinafter mentioned, that is to say, for a site for a church or place of worship of Almighty God by members of the Roman Catholic Church, or for a site for a convent or place of abode for members of the said Church, or for a site for the residence of a priest or priests of the said Church, or for a school-house or for the residence of the schoolmaster for the time being of the school in connection with the said Church, and upon no other trust, intent, and purpose whatsoever, with a proviso that if the said land should cease to be so occupied the same should revert to the Superintendent of the Province of Canterbury: And whereas the land described in the Second Schedule hereto was by deed dated the eleventh day of August, one thousand eight hundred and sixty-eight, and registered as Number 32642, conveyed by the Superintendent of the Province of Canterbury to the Reverend John Baptiste Chataigner and the Reverend John Claude Chervier, upon trust for the use of the Roman Catholic Church in the said Province of Canterbury, and to be applied and disposed of in such

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manner and for such purpose as the said Right Reverend Phillipe Joseph Viard and his successors, Bishops of the said diocese, or his or their assigns, should from time to time by writing under his or their hands direct and appoint, and for no other trust, intent, and purpose whatsoever :

And whereas each of the said deeds contained provisions for the appointment of new Trustees, and the vesting of the said lands in the new Trustees so appointed, upon the death, resignation, incapacity, or removal of the Trustees named in the said deeds respectively :

And whereas the several Trustees named in the said deeds 10 respectively have died, but no new Trustees have been appointed, and the said lands have been continuously used and are still used for the purposes mentioned in the said deeds respectively, and it is desirable that the said lands should be vested in the Bishop for the time being of the Roman Catholic Diocese of Christchurch, freed and 15 discharged from the proviso hereinbefore recited, so far as any of them are affected thereby :

And whereas moneys have been raised by private subscription to defray the cost of the building upon the said lands of a Cathedral Church in and for the said diocese, but the moneys so raised are 20 insufficient for the purpose, and it is expedient that power should be given to the Bishop of the said diocese to mortgage or otherwise raise money on security of the said lands, so as to enable him to obtain thereby, or by the issue of debentures secured on mortgage of the said lands, the moneys required for the completion and furnishing 25 of the Cathedral Church aforesaid :—

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. The Short Title of this Act is “ The Roman Catholic Bishop 30 of Christchurch Empowering Act, 1904.”

Lands to vest in the Bishop.

2. The said lands shall henceforth vest in the Bishop of the Roman Catholic Diocese of Christchurch, his successors and assigns, free, as to the land described in the First Schedule hereto, from the proviso in the said deed registered as Number 32641, and the liability 35 of the said land to revert to His Most Gracious Majesty the King, as in such proviso is mentioned or indicated.

Bishop may mortgage land vested in him.

3. For the purpose specified in the Preamble hereto, but for no other purpose, it shall be lawful for the Bishop for the time being of the Roman Catholic Diocese of Christchurch (hereinafter called 40 “ the Bishop ”), from time to time to borrow on the security of the said lands any sum or sums of money not exceeding in the aggregate the sum of twenty-five thousand pounds, either by means of a mortgage or mortgages of the said lands or any part thereof, such mortgages to contain all such covenants, provisos, agreements, powers 45 of sale, and other powers as may be agreed upon by the Bishop and mortgagee or mortgagees, or by means of debentures issued on the security of a mortgage to trustees in manner hereinafter appearing.

Debentures to be secured by mortgage to Trustees.

4. Before issuing any debenture under this Act the Bishop shall 50 execute a mortgage over the said lands to two responsible persons, as Trustees for the debenture-holders.

5. The said mortgage shall be expressed to be made for the purpose of securing the repayment of a principal sum not exceeding the sum of twenty-five thousand pounds, together with interest thereon at a rate not exceeding five pounds per centum per annum, and shall provide that all payments to debenture-holders in respect of the money secured by any debenture shall go and be in payment and satisfaction of the said principal sum and interest.

Amount of mortgage moneys.

6. The said mortgage shall contain all usual and proper covenants and provisions for the protection of the debenture-holders, and in particular a provision that the whole of the said principal sum shall immediately become due and payable in case the mortgagor makes default for the space of thirty days in payment of any interest-moneys secured by any debenture; and shall give in the like case a discretionary power to the Trustees to appoint a Receiver of the rents and profits of the said lands, but shall not empower the Trustees to sell the said lands, or any part thereof, without the sanction of the Supreme Court.

Protection of debenture-holders.

7. Any moneys received or recovered by the Trustees under or by virtue of any covenant or power expressed or implied in the said mortgage shall be held by them on trust,—

Application of mortgage moneys.

(a.) To pay thereout any costs, charges, and expenses they may have lawfully incurred in and about the collection and recovery of the said moneys;

(b.) To pay to the debenture-holders equally, in proportion to the amounts due to them respectively, all arrears of interest due in respect of the said debentures;

(c.) To pay to the debenture-holders equally, in proportion to the amounts held by them respectively, the principal moneys secured by the said debentures; and

(d.) To pay the residue (if any) to the Bishop.

8. The said mortgage shall forthwith be presented for registration to the District Land Registrar, or to the Registrar of Deeds, as the case may require; and, in case of any dispute between competing incumbrancers, the claim of each debenture-holder shall be deemed to have arisen at the time of the registration of the mortgage.

Registration of mortgage.

9. It shall not be lawful for the Bishop to issue debentures in excess of the principal sum secured by the said mortgage, or to issue debentures bearing a rate of interest higher than the rate expressed in the said mortgage.

Limit of debenture issue.

10. (1.) All debentures issued under this Act shall rank *pari passu*, without any preference or priority one over another, and all the holders thereof shall be entitled equally as between themselves to the benefits of the provisions of this Act and the said mortgage deed, and no one holder shall be preferred to any other holder by reason of priority of issue of any of the said debentures or otherwise howsoever.

Debentures, coupons, transfers, &c.

(2.) The debentures shall be signed by the Bishop, and every interest coupon shall be likewise so signed; but it shall be sufficient if the signature of the interest coupons is impressed thereon by means of a stamp.

(3.) The debentures and every interest coupon respectively shall be transferable by delivery, and payment of the sum named therein

to any person in possession of any such debenture or coupon shall discharge the Bishop of all liability in respect of such debenture or coupon.

(4.) Any debenture may also be transferred by indorsement in or to the effect of the form in the Third Schedule hereto, or by a separate form of transfer to the like effect, and such transfer or a notarially attested copy thereof may be presented for registration to the Bishop. 5

(5.) Such transfer, or the registration thereof, shall not prevent such debenture from subsequently passing by delivery alone, or affect the right of the holder thereof for the time being to demand from the Bishop payment of the moneys secured thereby in terms thereof, or his right to receive any conversion or other new debenture or compensation in exchange therefor under any scheme for such exchange, or otherwise to deal as the owner thereof with the Bishop; nor shall such transfer or registration preclude the Bishop from so dealing with such holder. 10 15

Sinking fund.

11. In order to provide a sinking fund for the repayment of the debentures, the Bishop may in every year, so long as any debentures remain outstanding, set aside such sum as may be agreed on between him and the Trustees, and may accumulate the same at compound interest by investing the same and the resulting income thereof on any securities on which trust moneys may be invested in New Zealand; or he may apply the same towards reduction of the debt secured by the debentures in any manner authorised by the conditions on which the debentures are issued. 20 25

Matters of arrangement.

12. Subject to the provisions of this Act, the mode of issue of the debentures, the amount of principal money to be secured by each debenture, the rate of interest thereon, the form and conditions and term of currency thereof, the place and times of payment of principal and interest-moneys, the rights, powers, and remedies of the debenture-holders in case default be made in payment of any moneys secured by any debenture, and all other matters necessary to be provided for in carrying out the intent and purpose of this Act shall be matters of arrangement between the Bishop and the Trustees. 30 35

Notice of arrangement.

13. No offer to take and pay for any debenture shall be binding on the offerer until he has received notice of all the terms of the said arrangement, and has by words or conduct assented thereto:

Provided that any transferee of a debenture by delivery or otherwise from the first or any subsequent holder thereof shall be presumed to have taken the same with notice of all the terms aforesaid. 40

Rights of debenture-holders may be modified.

14. It shall be lawful for the Trustees, with the consent of not less than one-half in number of the debenture-holders, being the holders of three-fourths or more in value of the debentures then outstanding, to agree with the Bishop that the rights of the debenture-holders be thenceforth altered or modified. 45

Terms of new agreement.

15. Any such agreement may, among other things, provide:—

- (a.) For the release of any part of the mortgaged lands; or 50
- (b.) For the postponement of the date of payment of the principal sum secured by the mortgage; or

(c.) For the reduction of the rate of interest payable in respect of the debentures.

16. A notice setting out the effect of the said agreement shall be inserted in six consecutive issues of some newspaper published in the City of Christchurch, also twice in the *New Zealand Gazette*; and from and after the date of the last insertion every debentureholder shall be deemed to have notice of the agreement and shall be bound thereby.

Notice of next agreement.

17. In case any Trustee dies, or becomes incapable of acting, the surviving or continuing Trustee may appoint a new Trustee in place of the Trustee so dying or becoming incapable of acting; but if no such appointment be made, the powers exercisable by the Trustees under this Act or the said mortgage may be exercised by the survivor of them, or by such continuing Trustee, and the receipt of the surviving or continuing Trustee shall be a good discharge.

Vacancy in office of Trustees.

SCHEDULES.

Schedules.

FIRST SCHEDULE.

ALL that parcel of land in the Land District of Canterbury, situate in the City of Christchurch, containing by admeasurement 3 acres or thereabouts, being part of the Town Reserves of the City of Christchurch. Bounded on the north by Lot 10 of the said reserves; on the south by the South Town Belt of the said City; on the east by Lot 147 of the said reserves; and on the west by the eastern side of Barbadoes Street in the said City.

SECOND SCHEDULE.

ALL that parcel of land in the Land District of Canterbury, situate in the City of Christchurch, containing by admeasurement 2 acres and 35 perches, more or less, being the Lot numbered 147 of the Town Reserves of the City of Christchurch. Bounded on the north by Lot 10 of the said reserves; on the east by Lot 156 of the said reserves; on the south by the South Town Belt of the said City; and on the west by the Roman Catholic Reserve.

THIRD SCHEDULE.

TRANSFER.

I, A. B., of _____, hereby transfer to _____ the within debenture [or a certain debenture dated _____, 19____, and numbered _____] of the Roman Catholic Bishop of Christchurch in New Zealand.

Dated this _____ day of _____, 19____.

A. B.

Signed by the said A. B. in the presence of—

C. D.,
[Address and occupation].