

Mr. Harker

WAERENGA-A-HIKA TRUST

[PRIVATE BILL]

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A BILL INTITULED

AN ACT to incorporate a New Board to hold the title.
Property now held by the Waerenga-a-hika Trust
Board, and to vary the Trusts upon which that
5 Property is held.

No. 3—1

Preamble.

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

WHEREAS certain property, including the land described in the Schedule hereto, is vested in the Waerenga-a-hika Trust Board (incorporated under the Religious, Charitable, and Educational Trusts Act, 1908) upon trusts declared in deed of conveyance dated the twenty-eighth day of April, eighteen hundred and sixty-two, from George Augustus, Lord Bishop of New Zealand, to the Right Reverend William, Bishop of Waiapu; the Reverend William Leonard Williams, of Turanga, Clerk; Ihaia te Noti, Poihipi te Rohe, Henare Kapa Ruru, Wiremu Pere, Matina Ruta Toti, Pita te Huhu, and Te Teira Kupa, all of Turanga: And whereas the college established by that Board was destroyed by fire in the year nineteen hundred and thirty-seven 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 Waerenga-a-hika Trust Act, 1947, and shall come into force on the first day of December, nineteen hundred and forty-seven.

Interpretation.

2. In this Act, unless the context otherwise requires,—
“ Board ” means the Waerenga-a-hika Trust Board established under this Act:

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

“ Old Board ” means the Waerenga-a-hika Trust Board incorporated under the Religious, Charitable, and Educational Trusts Act, 1908:

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

Ibid.

“ Standing Committee ” means the Standing Committee of the Diocesan Trusts Board of the Diocese of Waiapu established under Canon of the General Synod of the Church of England.

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3. (1) There is hereby established for the purposes of this Act a Board, to be called the Waerenga-a-hika Trust Board.

Incorporation of Waerenga-a-hika Trust 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 Waerenga-a-hika 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 Board established under this Act.

(4) The members of the old Board holding office immediately before the coming into operation of this Act shall continue in office as provisional members of the Board until their successors appointed under section *four* of this Act come into office.

4. (1) The Board shall consist of nine members to be appointed by the Diocesan Trusts Board of the Diocese of Waiapu established under Canon of the General Synod of the Church of England, of whom four members shall be representatives of the Whanau-a-Taupara section of the Mahaki Tribe.

Members of Board.

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

(a) Three members shall retire on the thirty-first day of March, nineteen hundred and forty-nine:

(b) Three other members shall retire on the thirty-first day of March, nineteen hundred and fifty:

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(c) The remaining three members shall retire on the thirty-first day of March, nineteen hundred and fifty-one.

(3) The members of the Board to retire in any year shall be those who have been longest in office since their last appointment, but as between persons who become members on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot. 5

(4) Subject to the provisions of subsection *two* hereof, all members of the Board shall be appointed for a term of three years computed from the expiration of the term for which their predecessors were appointed. 10

(5) The members of the Board appointed under this section 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 old Board and of the Board established under this Act shall be eligible for reappointment. 15 20

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 25

(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 30

(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. 35

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

Ibid., Vol. II, p. 887

(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. 40 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.

6. The Board may from time to time appoint and employ a Secretary and such other officers to assist in the execution of this Act as it thinks proper and necessary, and from time to time to remove any such Secretary or officers: and appoint others in the place of those so removed or who die, resign, or discontinue their office, and may out of the income of the Board pay such salaries and allowances to the said Secretary and other officers respectively as the Board thinks reasonable.

Secretary and other officers.

7. 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, 1934, to apply. 1934, No. 17

8. (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) Any three members of the Board may at any time, by notice given in writing to the Chairman of the Board, require the Chairman to call a special meeting of the Board, and thereupon the Chairman shall call a special meeting of the Board to be held not later than one month after the day on which he received the notice.

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

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

9. (1) The Board shall from time to time appoint from among its members a Chairman of the Board.

Chairman of Board.

(2) The Chairman shall preside at every meeting of the Board at which he is present. In the absence of the 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.

Procedure of Board.

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

Contracts of Board.

11. (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. 5

(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 in writing under the seal of the Board or in writing signed by two members of the Board on behalf of and by the direction of the Board. 10

(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. 15

(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. 20

Vesting of trust property in Board.

12. (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. 25 30

(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. 35

(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. 40

(5) When 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.

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

(6) The old Board is hereby dissolved.

13. (1) The Board shall, out of the accumulations of income as shown by the books of the old Board as at the commencement of this Act, apply the sum of four thousand and six hundred pounds to augmenting the Endowment Fund of the Turanga Pastorate, and after that has been done, and after the Board has set aside out of the remainder of those accumulations of income 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 ultimate 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.

Application of
trust-moneys.

(2) For the purpose 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 one-half of its net income for each financial year to a fund to be called the Waerenga-a-hika 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-half 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 the post-primary education of children being Maoris or descendants of Maoris, but so that preference is given firstly to boys and girls of the Whanau-a-Taupara section of the Mahaki Tribe, and secondly to boys and girls of other sections of that tribe: 5
 - (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: 10
 - (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: 20
 - (d) The provision, furnishing, maintenance, and management of residential accommodation for any such children in relation to their education: 25
 - (e) The making of grants to the governing bodies of any schools at which any such scholarships are tenable or at which any such children are educated: 30
 - (f) All reasonable costs and expenses incurred in the preparation and passing of this Act or any Act amending or in substitution of this Act. 35
- (5) With the consent of the Standing Committee, the Board may from time to time apply any moneys belonging to it in or towards the erection, furnishing, and maintenance of Anglican Church buildings for Maori congregations within the Turanga Pastorate, and 40

also in and towards the cost of improvements to or maintenance of the Waerenga-a-hika Native Cemetery. Before applying for any such consent the Board shall ascertain, as far as it deems practicable, the wishes of
 5 the members of the Whanau-a-Taupara section of the Mahaki Tribe residing in the Counties of Cook and Waikohu and the Borough of Gisborne.

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

Scholarships.

(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
 15 modification in value or conditions of tenure.

(3) Scholarships awarded out of the Waerenga-a-hika 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
 20 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
 25 of the parents or guardians of the recipient.

15. (1) The Board may—

(a) From time to time, with the consent of the Standing Committee, sell the land vested in the Board or any part thereof, either by
 30 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 and dispose of chapel building.

(b) From time to time 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
 35 of that Act:

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

(c) With the consent of the Standing Committee, dispose of, in such manner and on such terms as the Board may decide, the chapel building standing at the time this Act comes into force on the land vested or deemed to be vested in the Board. 5

(2) The Standing Committee 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 10 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.

(3) Notwithstanding anything to the contrary in the Public Bodies' Leases Act, 1908, or in this or any other 15 Act or in any deed or instrument, the Board is hereby empowered from time to time to grant a lease or leases to the Education Board of the District of Hawke's Bay of the whole or any part or parts of that piece of land containing two acres, more or less, being Lot No. 21 20 on a plan deposited in the Land Registration Office at Gisborne under No. 1538, being part of the Waerenga-a-hika Block (School Estate), and being part of the land in certificate of title, Volume 81, folio 193, Gisborne Registry, and the Board is further empowered from 25 time to time to include in any such lease or leases or under a separate lease or leases any additional area of land, either adjoining the said Lot No. 21 or elsewhere, as the Board may see fit; and any lease or leases under 30 this subsection may be at such rent, for such term, and generally subject to such covenants, conditions, and restrictions, including therein a right of renewal and a right to payment of compensation for improvements, as the Board may see fit. In granting the lease or leases 35 authorized by this subsection it shall not be necessary for the Board to comply with section eight of the Public Bodies' Leases Act, 1908.

Investment of
trust funds.

16. Any moneys belonging to the Board and available for investment may be invested in any investments 40 for the time being authorized by law for the investment of trust funds, or, with the consent of the Standing

Committee, in the purchase of lands. Subject to the *last preceding* section, any such investments may be varied from time to time.

5 **17.** 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. Travelling-expenses.

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

19. (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. Annual report, including statement of accounts.

15 (2) The report shall contain a statement of the total assets and liabilities as at the end of the financial 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 Synod of the Diocese of Waiapu and to the General Synod of the Church of England.

20. 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. Members of Board not personally liable.

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

SCHEDULE

Schedule.

LAND VESTED IN THE WAERENGA-A-HIKA TRUST BOARD BY THIS ACT

ALL that parcel of land situate in the district of Poverty Bay, containing 599 acres and 27·3 perches, more or less, situated in Blocks I and XIV, Waimata Survey District, being Lots 1 to 51 both inclusive, 41A and 46A on deposited plan No. 1538, and being part of the Waerenga-a-hika Block (School Estate), and being the whole of the land in certificate of title, Volume 81, folio 193, Gisborne Registry.