

(Mr. Wales.)

Presbyterian Church of Otago Incorporation.

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A BILL INTITULED

AN ACT to incorporate the Trustees under "The Presbyterian Church of Otago Lands Act, 1866," and also to give power to incorporate the Members of the Deacons' Court of any Congregation of the Presbyterian Church now, or which hereafter may be, under the jurisdiction or control of the Synod of the Presbyterian Church of Otago and Southland.

WHEREAS it is expedient to incorporate the Trustees under the said Act, and also to give power to incorporate the members of the Deacons' Court of any congregation of the Presbyterian Church now, or which hereafter may be under the jurisdiction or control of the said Synod:

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

1. The Short Title of this Act shall be "The Presbyterian Church of Otago Incorporation Act, 1875."

2. All the Trustees acting under "The Presbyterian Church of Otago Lands Act, 1866," and their successors in office, shall for ever hereafter be and be called one body politic and corporate in deed and in law by the name and style of "The Otago Presbyterian Church Board of Property" (hereinafter referred to as "the said Board"), and by this name and style they and their successors in office may sue prosecute and shall be sued, plead and be impleaded, defend and be defended in any Court of Judicature in the Colony of New Zealand

or elsewhere, in all actions proceedings suits plaints indictments informations prosecutions matters and things of what kind or quality soever, in the same manner and form and as fully and effectually as any person in the Colony of New Zealand may or can do.

May use a common seal.

3. The said Board may have and use a common seal for the affairs and business thereof; and it shall be lawful for the said Board the same common seal from time to time to break change alter or make new as to the said Board shall seem expedient. 5

To have perpetual succession.

4. By the name aforesaid the said Board shall have perpetual succession, and at all times hereafter shall be able and capable in law to purchase acquire have take hold receive and enjoy in perpetuity, or for any terms of lives or years, any lands messuages buildings rents possessions or hereditaments of what nature or kind soever, and also all manner of goods chattels choses in action and things whatsoever. 10

Property vested in body.

5. All property, whether real or personal, now or which hereafter may be vested in held by or belonging to the Trustees or any of them acting under the said Act, shall be and the same is hereby vested in the said Board upon the same trusts as the same is now held, and with and under the same powers and provisions as are or may be in force as regards such property respectively. And all that parcel of land known as sections numbered respectively eight (8) and nine (9) on the Record Map of the Town of Port Chalmers shall be and the same is hereby vested in the said Board without any conveyance or other assurance. 15 20

Certain lands in Schedules of Ordinances of 1872 and 1874 vested in the Board.

6. The several parcels of land mentioned and described in the First and Second Schedules to "The Dunedin Manse Reserve Ordinance Act, 1872," and in the First Fourth Fifth and Sixth Schedules to "The Dunedin Presbyterian Church Lands Ordinance Amendment Ordinance, 1874," shall be and the same are hereby vested in the said Board, and shall be held upon the trusts and with and under the same powers of administration and management respectively as are recited and declared in the said Ordinances, and "The Dunedin Church Lands Ordinance, 1861," as regards such several parcels of land respectively. 25 30

Power to Board to execute deeds and contracts.

7. By the name and style aforesaid it shall be lawful for the said Board to enter into make and execute the deeds conveyances leases contracts and other instruments, and to do and perform the acts and things mentioned or referred to in the said Act of 1866, or "The Presbyterian Church of Otago Lands Act 1866 Amendment Act, 1874," or the said Ordinances, or any of them respectively; and the said name and style shall throughout the said Act of 1866 (except section 24 thereof), and also throughout such Amendment Act of 1874 and the said Ordinances respectively, where practicable, be read in lieu of the words "the said Trustees," or any similar expression in substance mentioned or referred to therein respectively; but nothing herein contained shall create any additional or fresh obligation on the said Board. 35 40 45

Remedies and powers vested in Board.

8. All rights remedies and powers now existing or which hereafter may exist or arise under upon or in respect of any deed agreement matter or thing made entered into or done by any former or present Trustees, or by the Superintendent of the Province of Otago, under or purporting to be under or in pursuance of the said Acts, or all or any of the said Ordinances respectively mentioned or referred to in sections six and seven of this Act, or which exist or hereafter may arise in respect of or in anywise relating to the property, real or personal, for the time being held subject to any of the trusts thereof respectively, shall be exercised and enforced in the name of, and only by and against, as the case may be, the said Board, and not otherwise. 50 55

Vesting property held under "The Land Transfer Act, 1870."

9. Upon production to any District Land Registrar in the Province of Otago, appointed under "The Land Transfer Act, 1870," 60

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or any amendment thereof, of a Crown grant certificate of title or other instrument, and a transfer or statutory declaration by at least three of the persons therein named, or by any three of the Trustees then acting under the said Act of 1866, to the effect that the land mentioned or referred to in any such instrument is held subject to the trusts or provisions of any of the said Acts or Ordinances, such Registrar shall cause such land to be transferred to or otherwise vested in the said Board.

10 **10.** In appointing new Trustees under section 24 of the said Act of 1866, it shall be sufficient for all purposes to enter in a book of the said Board a minute in the form of or to the effect set forth in the First Schedule hereto; and such minute, if attested by at least one witness, shall be conclusive evidence of such appointment, and shall be *prima facie* evidence of any other statement therein contained. Appointment of new Trustees.
 15 And it shall not be necessary to prove in any proceeding or matter that any Trustee has been appointed under the said Acts or Ordinances, or any of them; and all acts done by any such Trustee shall be valid, notwithstanding any defect that may afterwards be discovered in his appointment.

20 **11.** Contracts on behalf of the said Board may be made varied or discharged, as follows, that is to say,— How contracts to be made varied or discharged.

(1.) Any contract which if made between private persons would be by law required to be in writing under seal or by deed may be made varied or discharged in the name and on behalf of the said Board, in writing under the common seal of the said Board, attested by at least three of the Trustees acting for the time being under the said Act of 1866; and the fact of such Trustees purporting to act or sign as such shall be *prima facie* evidence of their being such Trustees.

(2.) Any contract which if made between private persons would be by law required to be in writing, and signed by the parties to be charged therewith, may be made varied or discharged in the name and on behalf of the said Board in writing, signed by any person acting under the express authority of the said Board.

(3.) Any contract which if made between private persons would by law be valid, although made by parol only and not reduced in writing, may be varied or discharged by parol in the name and on behalf of the said Board, by the factor thereof for the time being acting under the express authority of the said Board.

45 **12.** It shall be lawful for the Governor-in-Chief of the said Colony of New Zealand, or other the officers administering the Government thereof for the time being, to issue or caused to be issued a grant from the Crown to the said Board and its assigns of all that parcel of land numbered section four hundred and two on the Record Map of the Town of Port Chalmers, in the Province of Otago. Crown grant to be issued.

50 **13.** It shall be lawful for the said Board to convey and assure by way of sale exchange or otherwise, for the purposes of roads streets railway lines or other similar public purposes, so much and such parts of the lands referred to in sections five and six of this Act or either of them, or otherwise vested in or held for the time being by the said Board, and for such purposes to execute all necessary deeds; and upon the execution thereof, all trusts and provisions affecting the land purporting to be conveyed shall cease and determine, and all lands obtained in exchange for land so conveyed by the Board shall be held upon trusts similar to those on which the land so conveyed was held; and all moneys received as compensation for land so conveyed shall be Power to assure land for roads &c.
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 60 invested in similar securities to those in which the Trustees are now

authorized to invest moneys, and the income therefrom respectively shall be applied in the same manner as the income from the land so conveyed would have been applied.

DEACONS' COURTS.

Members of Deacons' Courts may be incorporated.

14. It shall be lawful for the members of the Deacons' Court of any congregation under the jurisdiction or control of the said Synod to apply to the Registrar at Dunedin in the Province of Otago of the Supreme Court of New Zealand, by written application in the form or to the effect set forth in the Second Schedule hereunder written, signed by the Chairman and the Clerk of such Court, to be made a corporate body; and upon receipt of such application such Registrar shall issue a certificate in the form or to the effect set forth in the Third Schedule hereto, incorporating the members of the Deacons' Court making such application, and by the name mentioned in such certificate; such members and their successors in office shall for ever thereafter be and be called one body politic and corporate in deed and in law by such name and style, and shall have and may exercise all or similar powers rights and privileges to those mentioned or referred to in sections two three and four of this Act; and the issue of such certificate, or a certified copy thereof, shall be conclusive evidence that all conditions precedent have been complied with, and of the congregation named therein being under such jurisdiction or control aforesaid, and all Courts and persons shall take judicial notice of the signature and seal to such certificate and certified copy respectively.

Property to become vested.

15. Upon the issue of the certificate of incorporation of the members of any such Deacons' Court, all property whether real or personal held by such members or any of them, or by any other person or persons on behalf of the congregation the members of the Deacons' Court of which shall have been so incorporated, shall thereupon vest without any conveyance or other assurance in such members and their successors in office by the name or style mentioned in such certificate, upon and subject to such trusts and with and under the same powers of administration as may exist as regards such property respectively.

Remedies and powers vested in Deacons' Courts.

16. All rights remedies and powers existing at the date of incorporation, or which may afterwards exist or arise under upon or in respect of any deed contract instrument matter or thing made entered into or done by all or any of the former existing or future members of the Deacons' Court so incorporated, shall be exercised and enforced only by and against, as the case may be, the Deacons' Court so incorporated by the name and style thereof, and not otherwise.

Contracts may be made varied or discharged.

17. Contracts made on behalf of the members of any Deacons' Court incorporated as aforesaid may be made varied or discharged as follows, that is to say,—

- (1.) Any contract which if made between private persons would be by law required to be in writing under seal or by deed may be made varied and discharged in the name and on behalf of the said Court in writing under the common seal of the said Court, attested by at least three of the deacons acting for the time being; and the fact of such deacons purporting to act as such shall be *prima facie* evidence of their being such deacons.
- (2.) Any contract which if made between private persons would be by law required to be in writing, and signed by the parties to be charged therewith, may be made varied or discharged in the name and on behalf of the said Court in writing, signed by any person acting under the express authority of the said Court.

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5 (3.) Any contract which if made between private persons would by law be valid, although made by parole only and not reduced into writing, may be made varied or discharged by parol in the name and on behalf of the said Court by any person acting under the express authority of the said Court.

10 18. Upon production to any District Land Registrar in the Province of Otago, appointed under "The Land Transfer Act, 1870," or any amendment thereof, of a Crown grant certificate of title or other instrument, and a statutory declaration or transfer by at least three of the persons therein named, or by any three of the persons acting as deacons of any Court incorporated as aforesaid, to the effect that the land mentioned or referred to in any such instrument is held on behalf of such Court, such Registrar shall cause such land to be transferred to or vested in the said Court in the name and style mentioned in the certificate of incorporation.

Land may be transferred to corporate name.

15 19. All acts done by persons purporting to act as members of any Deacons' Court incorporated as aforesaid shall be valid, notwithstanding any defect that may exist or be afterwards discovered in their appointment or qualifications.

Acts of Deacons' Court valid notwithstanding defect in appointment.

20 20. In the event of
25 (a.) Any congregation ceasing to exist; or
(b.) The members of any congregation becoming so divided as to render the existence of such congregation in the opinion of the Synod undesirable; or
(c.) There being no person or body within the Province of Otago to convey assign or otherwise deal with property, whether real or personal, belonging to or held on behalf of any congregation; or
30 (d.) The persons or body corporate in whom or in which any such property is shall or may be vested refusing or neglecting to obey the directions of the Synod as hereinafter provided;

Property to be subject to control of Synod in certain events.

35 then and in any of the said events all property, whether real or personal, held by the Deacons' Court (whether incorporated or not) of any such congregation, or by any other person or body on behalf thereof or otherwise belonging thereto, shall be held or disposed of, and the income and proceeds of such property applied, as the Synod shall by resolution direct; and it shall be lawful for the Moderator for the time being of the Synod, by a deed poll setting forth such resolution or the effect thereof, and attested by the Clerk for the time being of such Synod, to assure assign or otherwise deal with the said property, and the income or proceeds thereof, as the said Synod by any such resolution may have directed; and such deed, if purporting to be signed and attested as aforesaid, shall be evidence of the facts therein respectively stated, and shall effectually convey and assign in law and in equity the whole property and premises thereby purporting to be conveyed assigned or otherwise dealt with; and any such resolution or deed purporting to be signed and attested as aforesaid shall be conclusive evidence of the existence of such Synod, and of the happening of all conditions precedent: Provided always that it shall be lawful for any person or body in whom or in which the said property or any part thereof is shall or may be vested to assure assign or deal with the same in terms of any such resolution in lieu of the said Moderator.

55 21. In this Act the word "Synod" shall mean the Synod of the Presbyterian Church of Otago and Southland, or other the highest Church Court for the time being of such Church. The expression the "Deacons' Court" shall mean the persons, whether incorporated or not, acting in the management of the temporal affairs of any

Interpretation clause.

congregation, and appointed according to the laws or usages of the said Church; and the fact of such persons acting as Deacons shall be *prima facie* evidence of their having been properly and duly appointed as aforesaid. And the word "congregation" shall mean any congregation or body of Christians within the Province of Otago already or hereafter to be sanctioned by or which is or may be under the jurisdiction or control of the said Synod. 5

Schedules.

SCHEDULES.

FIRST SCHEDULE.

MEMORANDUM of the appointment of a new Trustee [or new Trustees] under and by virtue of "The Presbyterian Church of Otago Incorporation Act, 1875," and "The Presbyterian Church of Otago Lands Act, 1866," which has taken place at a meeting of the continuing or surviving Trustees, appointed and acting under the said Acts, duly convened and held for that purpose at _____ on the _____ day of _____, of which _____ was Chairman, and the following Trustees were present, namely, —[*Names of Trustees present*].

Names of all the Trustees under the said Acts on the _____ day of _____ 187____. It was moved by A.B., and seconded by C.D., and carried, "That W.S. be and he, is hereby appointed a Trustee under the said Acts, in place of the said _____, resigned [*State cause*]."

Dated at Dunedin, in the Province of Otago, this _____ day of _____ 18____.

A.B., Chairman.

Signed by the said A.B. as Chairman of the said meeting at and in the presence of the said meeting, on the day and year aforesaid, in presence of—
C.D., of Dunedin, Accountant.

SECOND SCHEDULE.

THE members of the Deacons' Court of [*Name*] Presbyterian Congregation, in the Province of Otago, do hereby make application to the Registrar at Dunedin of the Supreme Court of New Zealand to have the following persons and their successors in office, Deacons for the time being of the said congregation, incorporated by the name or style of [*Here insert corporate name*], under the provisions of "The Presbyterian Church of Otago Incorporation Act, 1875."

Names of present Deacons of the said congregation [*Set forth names of all the Deacons appointed and acting*].

Dated at _____ in the Province of Otago, this _____ day of _____, 18____, and signed by the Chairman and the Clerk of the said Court for and on behalf of all the members of the said Court.

A.B., Chairman, } of the said Deacons'
C.D., Clerk, } Court of _____

Signed by the said A.B. as Chairman and C.D. as Clerk of the said Deacons' Court, for and on behalf of all the members thereof, at and in presence of a meeting thereof.

Witness—L.K. of _____ [*Occupation and address*].

I, C.D., of [*Address and occupation*], do solemnly and sincerely declare—

1. That I am the Clerk of the said Deacons' Court.
2. That at a meeting of the members of the said Court, duly convened, it was resolved by at least two-thirds of the members present to make the said application in manner aforesaid; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Justices of the Peace Act, 1866."

C.D.

Declared by the said C.D. at _____ in the Province of Otago, this _____ day of _____ 18____, before me—
One of Her Majesty's Justices of the Peace for the Colony of New Zealand.

THIRD SCHEDULE.

THIS Certificate, issued under and in pursuance of "The Presbyterian Church of Otago Incorporation Act, 1875," is to certify that all the present and future members of the Deacons' Court of [*Name*] Congregation, in the Province of Otago, have this day of _____ been and they are hereby made a corporate body by the name and style of "The [*Here insert corporate name*]," under and by virtue of the said Act.

Given under my hand and seal at Dunedin aforesaid this _____ day of _____, 18____.

(L.S.)

Registrar.