

# Church Property Trustees (Canterbury) Indemnity Act 1890

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**An Act to empower the Church Property Trustees to refund to Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra Moneys paid by them as Mortgagees for Property-tax on account of the Holders of certain Debentures issued by the said Church Property Trustees for a Loan of One Hundred Thousand Dollars, and to enable the said Trustees to pay out of the General and Dean and Chapter Estates to the said Mortgagees the said and all Moneys payable by them for Property-tax in the future in respect of the said Loan.**

The reference to "One Hundred Thousand Dollars" was substituted, as from 10 July 1967, for a reference to "Fifty Thousand Pounds" pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

### **Preamble**

WHEREAS the Church Property Trustees, incorporated by ordinances of the Superintendent and Provincial Council of the late Province of Canterbury intituled the Church Property Trust Ordinance, Session 2, Number 3, and The Church Property Trust Ordinance Amendment Ordinance 1867, in or about the year one thousand eight hundred and seventy-nine, borrowed in London, England, for the purposes of their trust, a sum of one hundred thousand dollars for a term of thirty-one years, secured upon mortgage of certain lands, being part of the lands known as the General Church Estate and the Dean and Chapter Estate, in New Zealand, to Hugh Percy Murray-Aynsley, Henry John Tancred, and Charles Christopher Bowen, as mortgagees of the said lands and as trustees on behalf of the holders of the debentures and coupons hereinafter mentioned, and by the issue of five hundred debentures of two hundred dollars, which were executed by the Church Property Trustees, and made payable by them to the bearers thereof, and bearing interest at the rate of six dollars per centum per annum, payable half-yearly on the fifth day of January and the fifth day of July in every year, according to the coupons annexed thereto: And whereas by inadvertence no statement under The Property Assessment Act 1879, was required by the Property-tax Commissioner or made by the Church Property Trustees, and no tax was therefore paid in respect of the said sum of one hundred thousand dollars under and pursuant to the said Act until after the passing of The Property Assessment Act 1885: And whereas payment of the arrears of tax payable in respect of the said sum of one hundred thousand dollars was thereupon required by the Property-tax Commissioner from the said mortgagees, Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra (who had previously thereto been appointed a mortgagee and trustee in the place of Henry John Tancred, deceased): And whereas, disputes having arisen between the said mortgagees and the Church Property Trustees as to the liability of the mortgagees to pay the said arrears of tax, the said mortgagees were, by the order of the Court of Appeal of this colony, adjudged to pay, and did pay, the same: And whereas the said mortgagees have since from time to time paid various sums of money for property-tax accrued due in respect of the said sum of one hundred thousand dollars: And whereas the said

mortgagees have from time to time incurred law and other costs in connection with their liability to pay the said tax: And whereas the said mortgagees or other the mortgagees for the time being will be liable in future from time to time to pay property-tax on the said sum of one hundred thousand dollars: And whereas by reason that the interest due on the said debentures is payable by the Church Property Trustees direct to the holders thereof, and not by the said mortgagees: And whereas no moneys by way of interest under the said mortgage could have been claimed in the past from the Church Property Trustees by the said mortgagees, or can be so claimed in the future so long as the interest due on the said debentures is duly paid direct to the holders thereof by the Church Property Trustees: And whereas the said mortgagees have had and will have no moneys passing through their hands out of which they can deduct the said tax: And whereas it is doubtful whether the said arrears of tax could be recovered from the holders of the said debentures and coupons, and great difficulties must in the future arise and expense be incurred if the said mortgagees, after payment of the said tax, are compelled to take steps from time to time to recover the amount thereof from the holders of the said debentures and coupons respectively: And whereas the Church Property Trustees are desirous of obtaining the necessary legislative authority to enable them to pay to the said mortgagees all moneys heretofore from time to time paid by them for property-tax on the said sum of one hundred thousand dollars, and interest thereon, and all law-costs heretofore incurred in relation thereto, and from time to time to pay to the said mortgagees or other the mortgagees for the time being all such sums of money as they, the said mortgagees or others the mortgagees for the time being, may from time to time, under any Act for the time being in force, be called upon to pay as property-tax on the said sum of one hundred thousand dollars:

The references to “one hundred thousand dollars”, “two hundred dollars”, and “six dollars” were substituted, as from 10 July 1967, for references to “fifty thousand pounds”, “one hundred pounds”, and “six pounds” pursuant to section 7(1) and (2) Decimal Currency Act 1964 (1964 No 27).

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

**1 Short Title**

The Short Title of this Act is The Church Property Trustees (Canterbury) Indemnity Act 1890.

**2 Interpretation**

In the construction of this Act—

The **Church Property Trustees** means the trustees, and their successors, constituted a body politic and corporate by the name of **The Church Property Trustees** under ordinances of the Superintendent and Provincial Council of the late Province of Canterbury intituled the Church Property Trust Ordinance, Session II, No 3, and The Church Property Trust Amendment Ordinance 1867;

The **General Church Property Estate** means all property vested in or belonging to the Church Property Trustees under the said ordinances, and known as **The General Church Property Estate**, but does not include property held upon trusts particularly mentioned and declared concerning the same; and

The **Dean and Chapter Estate** means the estate mentioned and referred to in Part 3 of The Church Property Trust (Canterbury) Act 1879.

**3 Church Property Trustees to pay Messrs Murray-Aynsley, Bowen, and Westenra the amount paid for property-tax, with interest, and costs**

The Church Property Trustees shall, and they are hereby authorised, out of any moneys for the time being in their hands, whether capital or income moneys, forming part of or arising from the estates known as the General Church Property Estate and the Dean and Chapter Estate, to pay to the said Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra all sums of money so paid by them as aforesaid for property-tax to the Property-tax

Commissioner, and interest thereon from the respective dates of payment thereof until payment to the said Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra pursuant to the provisions of this Act, and also all law-costs which have been incurred by the said Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra in connection with the payment of the property-tax on the said sum of one hundred thousand dollars and their liability to pay the same under the said judgment of the said Court of Appeal.

The reference to “one hundred thousand dollars” was substituted, as from 10 July 1967, for a reference to “fifty thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**4 Church Property Trustees to pay property-tax to mortgagees**

The Church Property Trustees shall and they are hereby authorised, out of the income for the time being in their hands forming part of or arising from estates mentioned in section three of this Act, but, if such income shall not be sufficient for the purpose hereinafter mentioned, then out of any capital moneys for the time being in their hands forming part of or arising from the estates mentioned in section three of this Act, to pay to the said Hugh Percy Murray-Aynsley, Charles Christopher Bowen, and Richard Westenra, or other the mortgagees for the time being, all such sums of money as they, the said mortgagees or other the mortgagees for the time being, may from time to time, under any Act for the time being in force, be called upon to pay as property-tax on the said sum of one hundred thousand dollars or any part thereof.

The reference to “one hundred thousand dollars” was substituted, as from 10 July 1967, for a reference to “fifty thousand pounds” pursuant to section 7(1) Decimal Currency Act 1964 (1964 No 27).

**5 Powers hereinbefore given relating to payments to have priority to charges and trusts mentioned in Part 3, Church Property Trust (Canterbury) Act 1879.**

The powers given by this Act to the Church Property Trustees with reference to the payments authorised by sections three and four of this Act, out of any moneys in their hands,

whether capital or income moneys, forming part of or arising from the Dean and Chapter Estate shall be exercised by the Church Property Trustees in priority to and notwithstanding the charges and trusts, or any of them, mentioned and declared in respect of the said Dean and Chapter Estate in Part 3 of The Church Property Trust (Canterbury) Act 1879.

**6 Costs to be paid out of estates**

All costs, charges, and expenses of and incident to the preparing for, obtaining, and passing of this Act, or otherwise in relation thereto, shall be paid by the Church Property Trustees out of the said estates.