



ANALYSIS

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| <p>Title.
Preamble.
1. Short Title.</p> | <p>2. Section 3 of principal Act amended.
3. Provisions relating to modification of design.
4. Private Act.</p> |
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1955, No. 2—*Private*

- Title.** AN ACT to amend the Mina Tait Horton Estate Act 1942.
[29 September 1955]
- Preamble.** WHEREAS by the Mina Tait Horton Estate Act 1942 (hereinafter referred to as the principal Act) the period within which certain conditions attached to the bequest as it is defined in the principal Act may be performed was extended: And whereas in the competitive design for the cathedral, accepted by the General Trust Board (hereinafter referred to as the Board) on the twenty-third day of October, nineteen hundred and forty-one, there was included a design for a building, being the first portion of the accepted design to be built and capable of being used as a cathedral: And whereas the estimated costs in December, nineteen hundred and thirty-eight, for the cathedral according to the accepted design and for the said first portion were respectively two hundred and

fifty thousand pounds and ninety thousand pounds: And whereas since the passing of the principal Act the cost of building has greatly increased: And whereas the cost of completing the first portion only of the cathedral according to the accepted design with certain modifications or alterations is on the basis of charges for labour and material in New Zealand in the month of June, nineteen hundred and fifty-five, estimated at three hundred thousand pounds: And whereas the amount of the said building fund, including therein the bequest, was in the month of June, nineteen hundred and fifty-five, approximately one hundred and seventy-four thousand pounds: And whereas by a judgment of the Supreme Court of New Zealand delivered by the Honourable Mr Justice Smith on the twenty-sixth day of November, nineteen hundred and thirty-six, it was declared that the terms of the bequest did not require the cathedral to be of any particular size, design, or type, but "left those matters to the discretion of the Church authorities": And whereas by reason of the acceptance by the Board of the competitive design hereinbefore referred to it would be necessary, in order to comply with the conditions of section three of the principal Act, that the cathedral building as set forth in the accepted design should be commenced within the period of time prescribed by such section and that the trustees should be satisfied at the end of that period that the said cathedral building will be properly carried on to a completed state: And whereas it is desirable, in order to give effect to the main purpose and intention expressed in the will of the testatrix, that the principal Act should be so amended that it shall be deemed a compliance with the principal Act and with the terms of the will if the first portion of the cathedral building is commenced within the period of time stated in section three of the principal Act and if the trustees are satisfied at the end of such period that the first portion will be properly carried on to a completed state: And whereas it may be expedient that the design of the first portion should be altered or modified: And whereas by the judgment of the Supreme Court hereinbefore referred to it was further declared that the trustees were not required by the will to wait until the end of the period of ten years after the death of the testatrix before they expressed their satisfaction that the cathedral would be properly carried on to a

completed state, but that they might do so at any time before the expiration of the said period of ten years: And whereas it is desirable to remove any doubts as to whether or not a similar construction shall apply to section three of the principal Act as hereinafter amended by this Act:

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. This Act may be cited as the *Mina Tait Horton Estate Amendment Act 1955*, and shall be read together with and deemed part of the *Mina Tait Horton Estate Act 1942* (hereinafter referred to as the principal Act).

Section 3 of principal Act amended.

2. Section three of the principal Act is hereby amended:

(a) By omitting in subsection one the words "said cathedral building", and substituting therefor the words "first portion":

(b) By omitting in the same subsection, after the words "period that", the words "the building", and substituting therefor the words "the first portion":

(c) By adding to the same subsection the words "The words 'first portion' shall in this section mean and include the first portion of the cathedral building as set out in the accepted design, with such modifications or alterations in the design, including therein the materials to be used, as from time to time may either—

“(a) Be proposed by the Board and approved by the trustees; or, alternatively

“(b) Be approved by the Supreme Court of New Zealand upon an application made by the Board by originating summons.”:

(d) By adding thereto the following subsection:

“(3) It is hereby declared that the trustees need not wait until the end of the period of seven years described in subsection one of this section before they express their satisfaction that the first portion will be properly carried on to a completed state, but they may do so at any time before the expiration of the said period of seven years.”

3. (1) In respect of any application which may be made to the Supreme Court under section three of the principal Act, as amended by section two of this Act, it is hereby declared that the Court may take into consideration all circumstances which may relate to the desirability or otherwise of any modification or alteration of the design of the first portion, including but without limiting the generality of such circumstances variations from time to time in the cost of labour and materials shortage of all or any material statutory provisions and regulations and by-laws affecting or controlling buildings or building and the effect of any modification or alteration upon the usefulness or appearance of the first portion.

Provisions
relating to
modification of
design.

(2) Any such application as aforesaid may be made to the Court by the Board, notwithstanding that the trustees for any reason have not approved or have refused to approve of the proposed modifications or alterations

4. This Act is hereby declared to be a private Act.

Private Act.