



ANALYSIS

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1970, No. 5—*Private*

An Act to amend the Baptist Union Incorporation Act 1923

[1 December 1970]

WHEREAS by the Baptist Union Incorporation Act 1923, the Baptist Union of New Zealand was incorporated as a body corporate and provision was made *inter alia* for the Union to establish, govern, manage, and control homes, schools, colleges, and institutions of a religious, charitable, or educational character and more particularly those which might tend to enlarge or extend the work, activities, and usefulness of the Baptist denomination and for land to be transferred to the Union to be held on trust for individual churches of the Union and certain trusts were declared in the Sixth Schedule to that Act in respect of any land so transferred: And whereas it is now desired to amend the provisions of the said Act regulating the use of the common seal of the Union: And whereas it is expedient to extend the power of the Union to enable it to amalgamate into 1 Investment Fund the whole or any part of the investments and money of several trust funds: And whereas it is now desired to empower the Union to join or co-operate with any other Christian church or

denomination in promoting, forming, establishing, or maintaining any charitable institution and to empower the Union to transfer certain property for the purpose of the institution: And whereas since the passing of the said Act properties have been purchased for and donated to individual churches of the Union and vested in the name of the Union in trust for such churches and doubts have arisen as to whether the trusts contained in the said Sixth Schedule apply to such properties and it is desired to remove such doubts by declaring that the said trusts do so apply to such properties: And whereas it is desired to empower the Union to declare that any land vested in it and not held upon trust for a church shall, subject to the provisions of any will, deed, or other instrument which created the trusts upon which the land is held, be held upon trust for a named church upon the trusts contained in the said Sixth Schedule and upon other terms: And whereas it is now desired to amend the trusts contained in the Sixth Schedule by altering the provisions in case the church on whose behalf land is held in trust shall be dissolved or dispersed or reduced in number and by making express provision in case the church shall desire to dissolve or to amalgamate with another church: And whereas it is also desired to make certain consequential amendments to that Schedule:

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—This Act may be cited as the Baptist Union Incorporation Amendment Act 1970, and shall be read together with and deemed part of the Baptist Union Incorporation Act 1923 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Church members”, the following definition:

“ ‘Council’ means the body, under whatever name it may for the time being be called by the constitution and rules of the Union, which is constituted and empowered by the said constitution and rules to exercise the administrative powers of the Union during the interval between the annual conferences or assemblies of the Union.”

3. Common seal—The principal Act is hereby further amended by repealing section 6, and substituting the following section:

“6. The Council shall have the custody of the common seal, which shall be used only by authority of the Council or of a committee of the Council authorised by the Council in that behalf, and every instrument to which the seal is affixed shall be signed by the secretary of the Union or by a member of the Council authorised in that behalf by the Council or the committee thereof and countersigned by another member of the Council appointed for the purpose by the Council or the committee.”

4. Amalgamation of investments—The principal Act is hereby further amended by inserting, after section 7, the following section:

“7A. The Union may amalgamate for the purpose of investment the whole or any part of the investments and money of any capital funds which it holds upon trust for any religious or charitable purposes within the general purposes of the Union, and shall apply the income arising from such amalgamated investment in accordance with the trusts pertaining to the several funds in proportion to the amounts thereof.”

5. Joint charitable institutions—The principal Act is hereby further amended by inserting, after section 9, the following section:

“9A. (1) The Union may, if it thinks fit, join or co-operate with any other Christian church or denomination or persons belonging to or representing such a church or denomination in promoting, forming, establishing, or maintaining any charitable institution.

“(2) For the purposes of subsection (1) of this section the Union may transfer any land or other property or pay any money (not being land, property, or money held by it upon trust for any church) to a trust board, trustee, committee, corporation, or other body for the purpose of the institution if—

“(a) The transfer or payment is not contrary to the provisions of any will, deed, or other instrument which created the trusts upon which the land, property, or money is held; and

“(b) The Union is or Baptists are, in the opinion of the Union, sufficiently represented on the board, com-

mittee, or other authority controlling or administering the institution.

“(3) Land, property, or money transferred or paid pursuant to this section shall be deemed not to have been applied for a purpose tending to the promulgation of articles of faith inconsistent with those set forth in the First Schedule to this Act.”

6. Properties given to or purchased by church and vested in Union to be held on certain trusts—The principal Act is hereby further amended by inserting, after section 11, the following section:

“11A. (1) Where any land has been or shall be given or devised to the Union in trust for any church, without a declaration by the donor of the trusts upon which the same shall be held or in so far as any express trusts do not extend, the trusts set forth in the Sixth Schedule to this Act shall apply to that land.

“(2) Where a Church has caused or shall cause any land to be vested in the Union upon trust for that church without any declaration of the trusts upon which the same shall be held or in so far as any express trusts do not extend, the trusts set forth in the Sixth Schedule to this Act shall apply to that land.”

7. Properties held by Union may be declared to be held on certain trusts—The principal Act is hereby further amended by inserting, after section 11A (as inserted by section 6 of this Act), the following section:

“11B. (1) The Union may at any time declare that any land vested in it and not held upon trust for a church shall thenceforth be held by it upon trust for a named church whereupon the trusts set forth in the Sixth Schedule to this Act shall apply to that land for the benefit of the named church but that land shall be subject to payment to the funds of the Union of such sum as the Union may by that declaration require.

“(2) No declaration under subsection (1) of this section shall be contrary to the provisions of any will, deed, or other instrument which created trusts upon which the land is held by the Union.”

8. Amendment of Sixth Schedule—The Sixth Schedule to the principal Act is hereby amended by repealing clauses 17 and 18, and substituting the following clauses:

“17. Provided also that if the said church shall be dissolved or dispersed or the members thereof be reduced to no more than 10 in number or if the stated public worship of God in the said premises shall be discontinued for 6 months continuously then, and in any such case, the Union shall stand possessed of the said premises and the proceeds to arise from the sale of all or any part of the same in trust for such religious purpose or purposes (not tending to the promulgation of articles of faith inconsistent with those set forth in the First Schedule to this Act) as the Union shall think proper and shall deal with, sell, or dispose of the same in such manner as the Union shall think proper.

“18. In case the church shall desire to dissolve and shall with the prior consent of the Union express a consent and direction in relation to the said premises, then from and after the dissolution of the church, the Union shall hold the said premises upon trust for such religious purposes (not tending to the promulgation of articles of faith inconsistent with those set forth in the First Schedule to this Act) as the church shall have so directed, with full power in its absolute discretion to sell, let, or otherwise dispose of the said premises or any part thereof.

“19. In case the church shall desire to amalgamate with another church and shall with the prior consent of the Union express a consent and direction in relation to the said premises, then from and after the amalgamation of the said churches, the Union shall hold the said premises for the united church upon the trusts herein contained and upon such further trusts (if any) as may have been declared by such consent and direction.”

9. Consequential amendments to Sixth Schedule—The Sixth Schedule to the principal Act is hereby further amended:

- (a) By omitting from clause 6 the words “executive committee”, and substituting the word “Council”;
- (b) By omitting from clause 10 the words “and signed by two members of the executive committee thereof”;
- (c) By omitting from clause 12 the words “clauses 6 to 11 of this Schedule (inclusive)”, and substituting the words “clauses 6 to 11 and clauses 18 and 19 of this Schedule”.

10. Private Act—This Act is hereby declared to be a private Act.
