

New Zealand.



ANALYSIS.

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1886, No. 5.

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| Title. | AN ACT for empowering Trustees and others holding Property for particular Charitable Purposes to appropriate the same in certain Cases to other Charitable Purposes. [30th July, 1886.] |
| Preamble. | WHEREAS it has happened and may hereafter happen that property has been conveyed, devised, or bequeathed, or is in some manner held for particular purposes of a charitable nature, and afterwards it has become or may become impossible to apply the same or a part or a residue thereof to such particular purpose, or such purpose may be uncertain or illegal, and it is expedient that in such cases means should be provided whereby such property or part or residue thereof, as the case may be, may be disposed of for other purposes of a charitable kind :
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. The Short Title of this Act is "The Charitable Trusts Extension Act, 1886." |
| Interpretation. | 2. In this Act, if not inconsistent with the context,—
"Charitable purpose" includes any of the following purposes, that is to say,—
(1.) The promotion of any of the objects and purposes for which the institutions specified in the Second Schedule to "The Hospitals and Charitable Institutions Act, 1885," have been established: Provided that no property dealt with under this Act shall be applied in such way as to exonerate or relieve the public funds from any charge |

or expense which, but for such application, would be incurred.

(2.) The supply of the physical wants of sick, aged, destitute, poor, or helpless persons, or of the expenses of funerals of poor persons ;

(3.) The education, physical, mental, technical, or social, of the poor or indigent ;

(4.) The reformation of criminals, prostitutes, or drunkards :

“ Property ” means real and personal property of every kind, and includes money :

“ Trustees ” include executors or administrators and any person or persons, body corporate or association, in whom any property is vested that is or may become subject to this Act.

3. In any case within the preamble to this Act where it has become or shall become impossible or impracticable to carry out the trusts upon which any property is held, or the amount available has proved or shall prove inadequate to carry out the original charitable purpose, or such purpose has or shall have been already effected, or such purpose is illegal or uncertain, then the property so held or any part or residue thereof may be disposed of for some other charitable purpose, or a combination of such purposes, in the manner and subject to the provisions hereinafter contained.

Property held in terms of Act for certain charitable purposes may be disposed of for other charitable purposes.

4. Whenever the trustees of any property vested in them under the circumstances hereinbefore mentioned are desirous that the same shall be dealt with subject to this Act they may prepare or cause to be prepared a scheme for the disposition of the property in accordance with this Act.

Trustees may prepare a scheme.

5. Every scheme prepared under this Act shall be submitted to the Attorney-General, together with full information of all the facts upon which it is proposed to make such disposition, and with copies of any instruments necessary to explain the scheme so prepared ; and the Attorney-General shall in respect of every such scheme have the powers and duties hereinafter mentioned :—

Scheme to be laid before Attorney-General.

- (1.) He may remit the proposed scheme to the Trustees for amendment if he considers that it will not properly carry out the objects contemplated, and in so doing shall state in writing the objections which he entertains to the scheme as proposed.
- (2.) He may report on the scheme submitted, and such report shall be laid before a Judge of the Supreme Court under the provisions of this Act, or he may decline to make any such report, and allow the scheme to be laid before the Judge to be dealt with as hereinafter provided.
- (3.) Every report by the Attorney-General on any such scheme, and such scheme, with or without any such report, shall be filed in the office of the Registrar of the Supreme Court at or nearest the place where the Trustees reside or the property is situated, or, if the property is personal property and the Trustees reside out of the colony, then in some office named by the Attorney-General, and such

report and scheme, or the scheme alone if there is no report, shall be open to inspection by the public without any fee or charge.

Notice of reference to Supreme Court to be gazetted.

6. Notice of the reference to the Supreme Court of any scheme shall be published once in the *Gazette*, and twice in each week in one newspaper circulating in the judicial district where such reference has been made for three weeks before such scheme shall be considered by the Supreme Court.

Judge of the Supreme Court to have jurisdiction.

7. A Judge of the Supreme Court shall have jurisdiction and authority to hear and determine all matters relating to such scheme, and all proceedings therein shall be had in a summary way, and the Judge may decide what persons shall be heard before him in support of or in opposition to the scheme.

If Judge satisfied shall make order, otherwise may refuse.

8. If the Judge shall be satisfied that the scheme proposed is proper and not contrary to law, public policy, or good morals, he shall make an order approving of the scheme with or without any modification or variation he thinks fit; but if he shall be satisfied that such scheme is not proper or is contrary to law, public policy, or good morals, and is not capable of amendment, he may refuse to make any order in respect thereof.

Judge may adopt Attorney-General's report.

9. When the Attorney-General has made a report on a scheme submitted to him as aforesaid, the Judge before whom the same is laid may adopt such report, and make order thereon accordingly.

Order filed.

10. Every order made by a Judge under this Act shall be filed with such Registrar of the Supreme Court as aforesaid.

No fee payable to Registrar.

11. No fee shall be payable to the Registrar in respect of any report, scheme, order, inspection, or other proceeding filed or made under this Act.

Order of Judge to be gazetted.

12. Notice that a Judge has made an order in respect of any scheme submitted as aforesaid, or has refused to make any such order, shall be published in the *Gazette* by the Registrar of the Supreme Court where the scheme is filed.

Notice of refusal of a scheme to be gazetted.

13. Notice of the refusal of any scheme shall be published in the *Gazette* as soon as conveniently may be after the Attorney-General or a Judge of the Supreme Court shall have decided that it ought to be refused, together with a statement of the grounds for such refusal.

Scheme may be varied or altered.

14. Every scheme adopted as aforesaid may from time to time be varied or altered, and the provisions of this Act relating to the adjustment of a scheme shall, *mutatis mutandis*, apply to any variation or alteration of such scheme, whether as originally adjusted or as varied or altered.

Scheme may provide for payment of expenses.

15. The Trustees may provide in their scheme that all reasonable expenses of preparing a scheme to be submitted to the Attorney-General for report under this Act, or that may be laid before a Judge of the Supreme Court as aforesaid, shall be paid out of or be a charge on the property affected.

Scheme may be administered by hospital or charitable institution.

16. Any scheme may provide that the objects and purposes of such scheme may in whole or in part be carried out by any hospital or charitable institution constituted under "The Hospitals and Charitable Institutions Act, 1885," and in any such scheme the funds or property mentioned in such scheme or part thereof, as the case

may be, may be administered by the office-bearers for the time being of any such hospital or institution.

17. The Trustees in whom any property is vested with respect to which a scheme has been approved by a Judge of the Supreme Court under this Act shall convey, transfer, or pay over the same, with all profits or interest which may have accrued thereon, to the institution, body, or person designated to hold or receive the same under such scheme, and, upon so doing, shall no longer be liable in respect of any express or implied trust upon which they may have held such property, except for wilful negligence or misappropriation thereof.

Trustees may convey or transfer property in accordance with scheme.

Such Trustees may execute all instruments and do all acts necessary for giving effect to this section.

18. Proceedings to enforce the trusts and provisions of any scheme so certified and recorded as aforesaid, or in opposition thereto by any person deeming himself interested in the property, may be taken in the Supreme Court either by *ex parte* petition or by summons before a Judge in Chambers, and the Court or Judge may make such orders as it or he may think fit respecting notice to parties and the hearing of such petition or summons.

Proceedings to enforce or oppose any scheme may be taken in Supreme Court.