

## New Zealand



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### 1946, No. 2—*Private*

AN ACT to expedite the Establishment of the Dilworth Title.  
Ulster Institute, and to confer upon the Dilworth Trust Board Additional Powers for the Purpose of enabling it to carry out more effectually the Trusts of the Will of the Late James Dilworth.

[9th October, 1946

WHEREAS James Dilworth, late of Remuera, Auckland, settler, deceased, by his last will dated the fifteenth day of November, eighteen hundred and ninety-four, probate whereof was granted by the Supreme Court of New Zealand at Auckland to the executors and trustees therein named on the first day of February, eighteen hundred and ninety-five, gave the residue of his real and personal estate to the said trustees upon certain trusts: And whereas the said will contains, *inter alia*,

Preamble.

directions for the erection of buildings and the establishment and maintenance of an institution (hereinafter referred to as the Dilworth School), which directions are set out in full in the preamble to the Dilworth Trustees Acts Amendment Act, 1912: And whereas by the Dilworth Trustees Act, 1902, the Dilworth Trustees Act 1902 Amendment Act, 1905, and the said the Dilworth Trustees Acts Amendment Act, 1912, the said directions were amended and the powers of the said trustees extended as in the said Acts set forth: And whereas the said trustees were on the twenty-eighth day of March, nineteen hundred and three, duly incorporated under the provisions of the Religious, Charitable, and Educational Trust Boards Incorporation Act, 1884, with the name or title of the Dilworth Trust Board (hereinafter referred to as the Trust Board): And whereas by section four of the Dilworth Trustees Acts Amendment Act, 1912, the said trustees were empowered to erect the buildings for, and to carry on the work of, the Dilworth School and an industrial branch thereof upon certain land in the Parish of Manurewa, described in the Schedule to the said Act, and were further empowered to sell any part or parts of such lands not required for the said purposes, and to invest the proceeds in the purchase of other lands to be held on the like trusts: And whereas the Trust Board, pursuant to its powers in that behalf, has subsequently sold parts of the said land at Manurewa and invested the proceeds in the purchase of certain lands at Wiri, near Auckland, and holds the same on the said like trusts as appertained to the said land at Manurewa, and it is desirable that the balance of the said land at Manurewa and the said land at Wiri be released from any trust, either express or implied, with reference to such purposes: And whereas, pursuant to section three of the Dilworth Trustees Act 1902 Amendment Act, 1905, the Trust Board is at present carrying on the work of the Dilworth School on the land therein described, situated at Great South Road, Auckland, and it is desirable that the Trust Board should have power at its discretion at any time hereafter to erect the said buildings for the accommodation and work of the Dilworth School on such land or on any other suitable lands for the time being belonging to the Trust Board: And whereas by

section six of the Dilworth Trustees Act, 1902, the said trustees were empowered to invest any of the trust funds of the said estate upon first mortgage of freehold lands in the Provincial District of Auckland and upon mortgage of leasehold interests in the lands belonging to the said estate, provided that no advance under any mortgage of leasehold lands should exceed three-fifths of the value of the lessee's interest in such lands: And whereas it is desirable that the Trust Board should have extended power to invest its funds on mortgage of the lessee's interest in any of the said lands: And whereas the said will contains the following further direction—namely, “I direct that the said Trustees shall pay annually to the Anglican Bishop of the Diocese of Auckland pertaining to the Church of the Province of New Zealand commonly called the Church of England the sum of One hundred pounds in trust that it shall be equitably dispensed by him according to his best discretion for augmentation of the stipends or salaries of such clergymen having charge of rural parishes or districts of the said diocese as shall severally possess an income of less than Two hundred pounds a year and such sum is to be paid in equal half-yearly instalments the first whereof is to be paid within six calendar months after my death But I direct that the said Trustees shall cease to make such annual payment or shall diminish the amount thereof so soon as and according as they shall in their absolute discretion consider the then existing circumstances to be such that the said Parishes or Districts ought not to require such assistance for the support of their Minister”: And whereas it is desirable that the discretion granted by the said direction for the dispensing of the said sum of one hundred pounds should be extended:

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

1. This Act may be cited as the Dilworth Trust Board Act, 1946. **Short Title.**

2. In this Act the expression “the Trust Board” and “the Trustees” includes the trustees for the time being of the said will, whether incorporated or unincorporated. **Interpretation.**

Certain lands freed from trusts and trustees empowered to erect and carry on school on other lands.

3. The balance of the said land at Manurewa and the said land at Wiri belonging to the Trust Board shall be released from any trust, express or implied, with reference to the erection of the said buildings or the carrying-on of the work of the Dilworth School there or with reference to the investment of the proceeds of the sale of such lands in the purchase of other lands to be used for such purposes, and the said lands may be leased or sold, and the Trust Board may exercise in regard thereto all or any of the powers exercisable by the Trustees in relation to any other of the lands of the said estate in the same locality; and it shall be lawful for the Trust Board, whenever it may deem it advisable so to do, to erect the said buildings and carry on the work of the Dilworth School upon any part of the said land at Great South Road, Auckland, described in the said section three of the Dilworth Trustees Act 1902 Amendment Act, 1905, or on any other lands for the time being belonging to the Trust Board which in the opinion of the Board shall be suitable for the purpose; and it shall be lawful for the Trust Board to purchase or otherwise acquire in any part of the Provincial District of Auckland any additional or other area of land which in the opinion of the Board shall be suitable for the purpose and to erect the said buildings and carry on the work of the Dilworth School thereon; and the Board may, whenever it deems it advisable so to do, establish and maintain the Dilworth School on any such lands, whether now belonging to or hereafter acquired by the Board, in the same manner in all respects as if the same were the land on which by the said will the Trustees thereof were directed to erect the said buildings and carry on the work of the said institution, and all the powers and provisions of the said will, as amended by any statute relating to the said institution, shall, *mutatis mutandis*, have effect and apply as fully and effectually to all intents and purposes as if the lands upon which the said buildings shall be erected and the work of the Dilworth School carried on were the land upon which the said Trustees were directed by the will to erect such buildings and carry on the work of the said institution; and it shall also be lawful for the Trust Board at any time hereafter, upon any land for the time being

belonging to the said estate and deemed by the Trust Board to be suitable for the purpose, to establish and maintain a branch of the said institution for the purpose of giving industrial education to such pupils of the institution as the Trust Board shall consider suitable for that purpose:

Provided always that the Trust Board may from time to time sell or let all or any parts of the land so held or acquired which may not be required for the purposes aforesaid under any of the powers of sale or letting conferred upon it by the said will or by statute.

4. Section six of the Dilworth Trustees Act, 1902, is hereby amended by omitting the words "three-fifths", and substituting the words "two-thirds".

Extended  
powers of  
investment.

5. The said will shall be read as if, in the said direction for payment to the Bishop of Auckland for the benefit of certain clergymen, the word "such" and the words "having charge" and the words "as shall severally possess an income of less than Two hundred pounds a year" were deleted therefrom.

Extended  
powers of  
assisting  
certain  
clergymen.

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

Private Act.