

New Zealand



ANALYSIS

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1940, No. 19

Title. AN ACT to make Provision with respect to Public Finance and other Matters. [30th August, 1940

BE IT 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 Finance Act (No. 2), 1940.

PART I.

PUBLIC REVENUES.

Authorizing Minister of Industries and Commerce to develop linen-flax industry.

2. (1) For the purpose of developing to the fullest extent the linen-flax industry in New Zealand the Minister of Industries and Commerce may from time to time do all such things as he deems to be necessary, and, in particular, may enter into contracts, undertake works, erect, purchase, lease, or otherwise provide buildings, land, machinery, and equipment, operate factories, and acquire, treat, manufacture, and dispose of materials and products.

(2) Every contract under this section shall be entered into in the name of His Majesty, and may be executed on his behalf by the Minister or by any person authorized by the Minister in that behalf, either generally or in respect of any specified contract or of any specified class or classes of contracts. Any such contract may be varied or discharged in the same manner.

(3) All acts done before the passing of this Act that by virtue of this section would have been valid and lawful if this section had been in force when they were done shall be deemed to have been validly and lawfully done under the authority of this section.

3. (1) In this section,—

“ Minister ” means the Minister of Finance:

“ National Savings Bond ” means a National Savings Bond issued in accordance with the National Savings Act, 1940:

“ National Security Tax ” means the National Security Tax imposed by Part II of the Finance Act, 1940:

“ Social Security Charge ” means the charge on income imposed by the Social Security Act, 1938.

Provision for collection of Social Security Charge and National Security Tax on issue of National Savings Bonds.
1940, No. 7
1940, No. 6
1938, No. 7

(2) On the issue of any National Savings Bond there shall be added to the price an amount to be fixed by the Minister as the present value of the total amount of the Social Security Charge and the National Security Tax estimated to become payable in respect of the income derivable from the bond during the term thereof, and that income shall be exempt from any further liability in respect of the said charge or tax.

(3) The amount added to the price of any bond pursuant to this section shall, on the sale of the bond, be paid in equal proportions into the Social Security Fund and the War Expenses Account.

(4) Section sixteen of the National Savings Act, 1940, shall be read subject to the provisions of this section.

(5) The amount added to the price of any bond pursuant to this section shall not be taken into account as part of the price of the bond for the purposes of section fifteen of the National Savings Act, 1940.

(6) Every bond issued in accordance with this section shall have conspicuously printed or stamped thereon words to indicate that the Social Security Charge and the National Security Tax in respect thereof have been paid in advance.

4. (1) Section twenty-nine of the Finance Act, 1940, is hereby repealed and the enactments repealed thereby are hereby revived, as from the passing of the said section twenty-nine.

(2) Section twenty-seven of the Finance Act, 1940, is hereby consequentially amended, as from the passing thereof, by repealing the second proviso to subsection seven.

Restoring exemption of charitable gifts from death duties and gift duty.
1940, No. 6

Revocation of approval of brewers' depots or bottling-stores.

See Reprint of Statutes, Vol. VII, p. 258

Extending power to levy rates under Swamp Drainage Act, 1915.

Ibid., Vol. IV, p. 568

Validating certain rates in respect of Poukawa Drainage Area. Ibid., p. 568

As to payment of compensation for certain land taken for purposes of Waitaki Boys' High School.

Ibid., Vol. VII, p. 622

1875, No. 5

5. (1) The Minister of Customs may at any time revoke any approval given by the Collector of Customs (whether before or after the passing of this Act) under subsection two of section forty-six of the Finance Act, 1917.

(2) The said subsection two is hereby amended by inserting, before the word "approved", the words "for the time being".

6. The power conferred on the Minister of Lands by section two of the Swamp Drainage Amendment Act, 1928, to make and levy a special rate on lands in any drainage area sufficient for the repayment of certain moneys, with interest thereon, is hereby declared to extend and, since the passing of that Act, always to have extended to include power to make and levy a special rate sufficient for the repayment of those moneys together with interest thereon from the time when the moneys were expended.

7. Notwithstanding that the special rate made by the Minister of Lands under subsection one of section two of the Swamp Drainage Amendment Act, 1928, on the thirtieth day of March, nineteen hundred and thirty-three, on lands in the Poukawa Drainage Area, in addition to being of an amount sufficient for the repayment of moneys then actually expended on that area together with interest thereon, included an estimated amount required to be expended to complete the drainage works in that area, the special rate is hereby validated and declared to have been lawfully made.

8. Whereas by a Proclamation dated the twenty-third day of June, nineteen hundred and thirty-nine, and published in the *Gazette* of the sixth day of July in that year, on page 1937, an area of nineteen acres one rood twenty-six perches of land, being portion of Section 13, Block I, Oamaru Survey District, in the Otago Land District, was taken under the powers conferred by the Public Works Act, 1928, for the purposes of a secondary school: And whereas it was mutually agreed with the owners of the said land—namely, the managers of the Saint Paul's Presbyterian Congregation, Oamaru, a corporation constituted under the provisions of the Presbyterian Church of Otago Incorporation Act, 1875 (hereinafter in this section

referred to as the owners)—that the sum of seven hundred and ninety-five pounds be paid in full and final settlement of all costs, claims, demands, or damages arising out of the taking or utilization of the land for secondary-school purposes or otherwise howsoever: And whereas the owners and the lessee of the land mutually agreed that the compensation was to be paid to the owners and that the owners would settle with the lessee for any interest he may have: And whereas doubts have arisen as to whether the compensation should be paid to the owners or to the Public Trustee: And whereas it is inadvisable in this case to pay the money to the Public Trustee, all matters having been mutually agreed upon by the parties affected: Be it therefore enacted as follows:—

The Minister of Public Works is hereby authorized to pay to the owners the sum of seven hundred and ninety-five pounds in full and final settlement of all costs, claims, demands, and damages arising out of the taking or utilization of the aforesaid land for secondary-school purposes or otherwise howsoever, and the receipt of the secretary or other authorized officer of the owners for that amount shall be a full and final discharge from any further liability.

PART II.

INCOME-TAX.

9. This Part of this Act shall be read together with and deemed part of the Land and Income Tax Act, 1923 (hereinafter in this Part referred to as the principal Act).

10. (1) This section applies with respect to every company that is for the time being assessable for income-tax under section ninety-seven of the principal Act.

(2) Notwithstanding anything to the contrary in section twenty-three of the Land and Income Tax Amendment Act, 1939, no company to which this section applies shall be deemed to be a proprietary company within the meaning of the said section twenty-three.

(3) Where the Commissioner is satisfied that any amount paid as dividends by any company to which this

This Part to be read with Land and Income Tax Act, 1923.

See Reprint of Statutes, Vol. VII, p. 271

Amending provisions for assessment for income-tax of gold-mining companies.

1939, No. 34

section applies (hereinafter in this subsection referred to as the holding company) consists of dividends received by the holding company from any other company to which this section applies, there shall be deducted from the tax payable by the holding company in respect of that amount a sum equal to the tax paid or payable by the other company in respect of that amount. For the purposes of this subsection the tax paid or payable by any company in respect of any amount included in the dividends paid or payable by it in any year shall be deemed to be computed at the rate ascertained by dividing the total tax paid or payable in respect of those dividends by the number of pounds included in the total dividends paid by the company in that year.

1939, No. 34

(4) In relation to any company to which this section applies section twenty-two of the Land and Income Tax Amendment Act, 1939 (which relates to the definition of the expression "dividends") shall be construed as if the words "in excess of the amount paid up on his shares" were omitted from paragraph (e) of subsection one.

(5) This section shall apply with respect to the income-tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty, or for any subsequent year.

Special provisions as to interest on debentures issued in substitution for shares.

11. (1) For the purposes of this section,—

(a) The expression "the amount of the debenture" means, in respect of any debenture, the principal sum expressed to be secured by or owing under that debenture:

(b) The expression "shareholder" includes, in respect of any company, a person by whom or on whose behalf shares in the company have at any time been held.

(2) Where, whether before or after the passing of this Act, a company has issued debentures to its shareholders or to any class of its shareholders, and the amount of the debenture or debentures issued to each shareholder of the company or of that class has been determined by reference to the number or to the nominal value or to the paid-up value of, or by reference otherwise howsoever to the shares in that company or in any other company (whether or not that other company

is being or has been wound up) that were held by or on behalf of the shareholder at the time the debentures were issued or at any earlier time, the interest paid by the company on the debentures so issued shall be computed as part of the assessable income of the company and not of the debenture-holder.

(3) The provisions of section one hundred and seventeen of the principal Act and of any other enactment shall apply with respect to all debentures to which subsection two of this section applies and to the interest payable thereunder, in the same manner as if those debentures and that interest were debentures and interest of the kinds referred to in the said section one hundred and seventeen.

(4) This section shall apply with respect to the income-tax for the year of assessment commencing on the first day of April, nineteen hundred and forty-one, or for any subsequent year.

12. (1) Section twenty-three of the Land and Income Tax Amendment Act, 1939, is hereby amended by adding to subsection one the following paragraphs:—

Amending provisions as to proprietary companies. 1939, No. 34

“(k) Where pursuant to section ninety-eight of the principal Act the Commissioner treats as a single company two or more companies any one or more of which hold shares in another company, the companies so treated as a single company shall be deemed to be one shareholder of that other company, and, for the purposes of paragraph (a) of this subsection, to be one person:

“(l) Where two or more companies (hereinafter in this paragraph referred to as the holding companies) which are under the control of the same persons hold such shares or debentures in any other company that if the holding companies were a single company the other company would be a proprietary company from which that single company would derive proprietary income, the other company shall be deemed to be a proprietary company and the income derived therefrom by the holding companies shall be deemed to be proprietary income of the holding companies:

“(m) Proprietary income derived in any income-year by a proprietary company shall be deemed to be part of the total income derived by that company in that income-year.”

(2) This section shall apply with respect to the income-tax for the year of assessment that commenced on the first day of April, nineteen hundred and forty, or for any subsequent year.

PART III.

GOVERNMENT SUPERANNUATION.

Contributors to Government Superannuation Funds may elect to accept reduced retiring-allowances in consideration of annuities to widows or approved dependants.

13. (1) In this section,—

“Approved dependant”, in relation to a contributor, means a person who, on the date of an election made by a contributor under this section, is wholly or partially dependent on the contributor, and who is approved by the Board for the purposes of such election:

“Board” means, as the case may require, the Public Service Superannuation Board, the Teachers’ Superannuation Board, or the Government Railways Superannuation Fund Board:

“Contributor” means a contributor to any Government Superannuation Fund:

“Government Superannuation Fund” or “Fund” includes the Public Service Superannuation Fund, the Teachers’ Superannuation Fund, and the Government Railways Superannuation Fund:

“Widow”, in relation to a contributor, means the woman who was the wife of the contributor on the date of an election made by him under this section.

(2) Subject to the provisions of this section, any contributor to a Government Superannuation Fund may, within the time and in the manner prescribed by this section, elect to surrender a specified portion of the retiring-allowance which, but for his election, he would be entitled to receive from the Fund on his retirement,

in order to provide for payment from the Fund to his widow or approved dependant, after his death, of an annuity of an amount to be determined by the Board:

Provided that in no case shall an annuity be granted to a widow pursuant to an election under this section of an amount that, together with any allowance that she is otherwise entitled to receive from the Fund, would exceed the rate of the retiring-allowance granted to the contributor.

(3) Where an election under this section is made by a female contributor, references in this section to the widow of a contributor shall be read as references to the husband of the contributor.

(4) The maximum amount or proportion of his retiring-allowance that any contributor may surrender on making an election under this section may be fixed by regulations, and, if not so fixed, may be determined by the Board.

(5) Nothing in the foregoing provisions of this section shall apply with respect to a contributor who retires on the ground of being medically unfit for further duty, and no election under this section shall be considered by the Board until it has obtained such medical evidence as to the health of the contributor as the Board may require or as may be prescribed.

(6) No retiring-allowance or annuity shall be granted in accordance with this section of an amount that is calculated to impose any additional liability on the Fund, and every such retiring-allowance and annuity that is granted to a contributor and to his widow or approved dependant shall, in accordance with regulations in that behalf, be computed as the actuarial equivalent of the retiring-allowance to which the contributor would have been entitled if he had not made an election under this section.

(7) Any annuity granted in accordance with this section to the widow of a contributor shall be in addition to any allowance which she would otherwise be entitled to receive from the Fund.

(8) On the taking effect of any election under this section the right of the widow of a contributor to receive, in the event of his death, a refund in respect of his contributions to the Fund, shall cease and determine, and the right of the personal representatives

of a deceased contributor to receive a refund in respect of his contributions shall be postponed, if necessary, until the death of his widow or approved dependant, and the amount of any annuity paid to the widow or approved dependant shall be taken into account in ascertaining the amount, if any, then to be paid to the personal representatives of the deceased contributor.

(9) The foregoing provisions of this section shall, with any necessary modifications, apply to contributors who, before the commencement of this Act, have retired otherwise than on the ground of being medically unfit for further duty.

(10) Every election under this section shall be in writing delivered to the Board. In the case of a contributor who has retired before the commencement of this Act, such election may be made at any time before the thirty-first day of March, nineteen hundred and forty-one. In any other case, an election may be made at any time within the three months preceding the retirement of the contributor or may be made after his retirement and before he has accepted the first instalment of a retiring-allowance.

(11) The Governor-General may, by Order in Council, make all such regulations as may be required for the purposes of this section.

14. (1) If any male contributor to the Government Railways Superannuation Fund dies, whether before or after becoming entitled to a retiring-allowance, the following provisions shall, subject to the provisions of section one hundred and fourteen of the Government Railways Act, 1926, apply:—

(a) If he leaves a wife surviving him, there shall be paid out of the Fund to the widow, at her election, either—

(i) An annuity of eighteen pounds during her widowhood; or

(ii) The amount of the deceased contributor's contributions to the Fund, less any sums received by him from the Fund in his lifetime:

(b) Any such election by the widow shall be final, and shall be deemed to be made when the first payment from the Fund is received and accepted by her:

Death of male contributor to Government Railways Superannuation Fund.

See Reprint of Statutes, Vol. VII, p. 868

- (c) If the said contributor leaves a child or children under the age of fourteen years, there shall be paid out of the Fund to or on behalf of each such child the sum of five shillings a week until such child attains the age of fourteen years:
- (d) If the said contributor leaves no widow, the amount of his contributions to the Fund, less any sums which he has received out of the Fund in his lifetime, and less any sums which have been paid or may become payable in the future to or on behalf of any child or children under the age of fourteen years under the foregoing provisions, shall be paid to the personal representatives of the deceased contributor in trust for the persons entitled thereto under his will, or, in case of his intestacy, for the next-of-kin or other persons entitled to his estate under the Statutes of Distribution.

(2) The foregoing provisions of this section shall, subject to such modifications and conditions as the Government Railways Superannuation Fund Board, with the approval of the Minister of Finance, determines, extend to apply to every case where the death of the contributor occurred before the passing of this Act.

(3) Nothing in this section shall be construed to authorize the payment of any annual or other periodical allowance in respect of any period before the passing of this Act.

(4) This section is in substitution for section one hundred and thirteen of the Government Railways Act, 1926, and that section is hereby accordingly repealed.

15. (1) This section applies with respect to every person who for the time being is exclusively engaged as an employee of an approved organization and who immediately before becoming so engaged was a contributor to the Public Service Superannuation Fund, the Teachers' Superannuation Fund, or the Government Railways Superannuation Fund.

(2) For the purposes of this section the expression "approved organization" means any organization that is for the time being approved by the Minister of

Repeal.

See Reprint
of Statutes,
Vol. VII, p. 867

Superannuation
rights of
employees of
Government-
service
organizations.

Finance for the purposes of this section, and consists wholly or substantially of persons who are employed by the Government or are contributors to any of the aforesaid Superannuation Funds.

(3) The Governor-General may, from time to time, by Order in Council, declare that any person to whom this section applies shall be entitled or shall be required to continue to be a contributor to the appropriate Superannuation Fund (hereinafter in this section referred to as the Fund) or shall be deemed to have been or to be a contributor to the Fund during and in respect of the period of his engagement with the approved organization.

(4) Any such Order in Council may be made subject to such conditions as the Governor-General in Council may think fit.

(5) The contribution of any such person to the Fund shall be a percentage of the salary paid to him by the approved organization, and that percentage shall be the same as he was contributing to the Fund immediately before his engagement by the organization. There shall in addition to that contribution be paid into the Fund by the approved organization such further sum or sums as the Governor-General in Council shall determine.

(6) Any such person shall, subject to the provisions of this section and of any Order in Council made thereunder, have all the rights, privileges, and liabilities to which a contributor to the Fund is entitled or subject under the provisions of any Act establishing or affecting the Fund, and continuous service under any such engagement as aforesaid shall for the purposes of those provisions be deemed to be service to which those provisions relate.

(7) Any such person's pay shall for the purpose of computing any retiring-allowance or other money to be granted to a contributor and calculated on the basis of his pay be deemed to be the average rate of pay received by him during the three years immediately preceding the termination of his engagement with the approved organization:

Provided that in no case shall any such person be entitled to a retiring-allowance exceeding three hundred pounds per annum.

(8) The Governor-General in Council may, as and when he thinks fit, revoke, alter, or amend any Order in Council made under the provisions of this section:

Provided that if any such Order in Council is revoked any moneys paid into the Fund by any person or organization affected thereby shall be repaid without interest out of the Fund to that person or organization:

Provided also that if any such person has after retirement received payment in respect of any retiring-allowance to which he shall have become entitled, his right to continue to receive such allowance shall not be affected by the revocation of any Order in Council made under the provisions of this section.

(9) The Governor-General may by Order in Council make all such regulations as may be necessary to give effect to the provisions of this section.

(10) Where any person in respect of whom an Order in Council is issued under this section is, upon the termination of the period of his engagement with the approved organization, reappointed to any service in respect of which he is entitled or required to be a contributor to any of the aforesaid Funds, the period of his continuous service for superannuation purposes shall be deemed to include the period of his engagement as aforesaid.

(11) Section one hundred and eighteen of the Government Railways Act, 1926, subsection two of section fourteen of the Government Railways Amendment Act, 1927, and subsection one of section twenty of the Statutes Amendment Act, 1938, are hereby repealed. All Orders in Council and generally all acts of authority that originated under any of the enactments hereby repealed, and are subsisting or in force at the passing of this Act, shall enure for the purposes of this section as fully and effectually as if they had originated under this section, and accordingly shall, where necessary, be deemed to have so originated.

16. (1) Where any contributor to the Public Service Superannuation Fund, the Teachers' Superannuation Fund, or the Government Railways Superannuation Fund has retired from the service in respect of which he was a contributor for the purpose of becoming a candidate for a seat in the House of Representatives

Repeals.

See Reprint
of Statutes,
Vol. VII,
pp. 869, 881
1938, No. 20

Power to
postpone
superannuation
rights of
members of
Parliament.

or by reason of the fact that he has become a member of Parliament he may, with the approval of the Minister in charge of the Department in which he was employed, or (in the case of a contributor to the Teachers' Superannuation Fund) with the approval of the Minister of Education, postpone for such period as the Minister approves the acceptance by him of a refund of the contributions made by him to the Fund or the other benefits to which he may be entitled from the Fund, and the making of any election which he may be entitled to make in respect of such benefits.

(2) This section shall apply whether the contributor has retired before or after the passing of this Act, or before or after he is entitled to a retiring-allowance, and whether his retirement was voluntary or pursuant to any Act or otherwise.

(3) The period approved by the Minister as aforesaid shall expire not later than thirteen months after the contributor ceases to be a member of Parliament or (in the case of an unsuccessful candidate at any election who is not a member at the time of the election) shall expire not later than three months after the date of the election. Subject to the foregoing provisions of this subsection, the Minister may from time to time extend the period at the request of the contributor. The period may be at any time terminated by the contributor by notice in writing addressed to the appropriate Superannuation Fund Board. The period shall be deemed to commence from the date of the contributor's retirement and, together with any extensions thereof, is hereinafter in this section referred to as the period of postponement.

(4) If the contributor is during the period of postponement reappointed to any service in respect of which he is entitled or required to be a contributor to any of the aforesaid Funds, the period of his service after his reappointment shall be deemed for superannuation purposes to be continuous with the period of his service before his retirement.

(5) No contributions shall be payable by the contributor to the Fund, and no payments shall be made to the contributor for his own benefit out of the Fund, in respect of the period of postponement or

any part thereof, and no part of that period shall be regarded as part of the period of the contributor's service for superannuation purposes. Subject to the foregoing provisions of this subsection, the contributor shall be deemed to continue to be a contributor to the Fund during the period of postponement.

PART IV.

LOCAL AUTHORITIES.

17. It shall be lawful and be deemed to have been lawful for any local authority or public body to expend out of its general fund or account any sum or sums of money for the purpose of welcoming, entertaining, or otherwise tendering hospitality to the officers and men of any ships of the Royal Navy or of any other navy, whether British or foreign, which have visited or may hereafter visit New Zealand.

Authorizing and validating expenditure by local authorities in respect of visits of warships.

18. (1) Notwithstanding anything to the contrary in any Act, the Buckley Drainage Board shall have, in respect of that portion of the Mangaore Stream situated in the Borough of Shannon and the Horowhenua County between the Main Road and Johnson Street in the said county, all the powers of a River Board duly constituted in accordance with the provisions of the River Boards Act, 1908.

Conferring special powers on Buckley Drainage Board as to Mangaore Stream.

(2) The Buckley Drainage Board shall maintain the left bank of the aforesaid portion of the Mangaore Stream and shall expend annually on the maintenance thereof such sums of money as the Board, the Horowhenua County Council, the Shannon Borough Council, the Minister of Public Works, and any landowner may mutually agree to contribute, being not greater in any individual case than the sum of ten pounds.

See Reprint of Statutes, Vol. IV, p. 513

(3) Any such contributions by any local authority shall be paid annually to the Board out of the general fund or account of the contributing local authority, and any sums agreed to be paid by the Minister of Public Works shall be paid out of moneys appropriated by Parliament for the purpose.

PART V.

MISCELLANEOUS.

Disqualification provisions as to members of Parliament not to apply to certain payments.

See Reprint of Statutes, Vol. VI, p. 469

Difference between wholesale and retail price of motor-spirits to be refunded in certain cases. 1933, No. 36

19. The provisions of the Electoral Act, 1927, or of any other Act, as to the disqualification of members of Parliament or of candidates for election as members of Parliament shall not apply with respect to any payment that may be received out of public moneys by the Right Honourable Joseph Gordon Coates in respect of the purchase from him of a sound camera and equipment for the purposes of the Government film studios.

20. Whereas the prices at which motor-spirits may be sold are fixed by certain regulations (hereinafter in this section referred to as the district regulations) made under the Motor-spirits (Regulation of Prices) Act, 1933: And whereas by the district regulations it is provided that where any purchaser of motor-spirits purchases or has purchased for use in his own business and not for resale not less than specified quantities of motor-spirits the motor-spirits shall be sold at reduced prices (hereinafter in this section referred to as wholesale prices): And whereas in the month of September, nineteen hundred and thirty-nine, restrictions were imposed on the quantities of motor-spirits that could be purchased, and consequently purchasers of motor-spirits who would otherwise have purchased the specified quantities of motor-spirits which would have entitled them to purchase at wholesale prices were unable to purchase those quantities: And whereas the district regulations have since been amended by reducing the quantities specified but the amendment did not come into force until the eighth day of March, nineteen hundred and forty: And whereas it is desirable to provide that persons who, if the amendment had come into force on the first day of September, nineteen hundred and thirty-nine, and applied with respect to all motor-spirits purchased on or after that date, would have been entitled to pay wholesale prices for any motor-spirits, instead of the higher prices actually paid by them, should be entitled to a refund of any moneys paid in excess of the wholesale prices: Be it therefore enacted as follows:—

(1) If any person has bought motor-spirits for use in his own business and not for resale and satisfies

the Minister of Industries and Commerce that if the aforesaid amendment of the district regulations, being the Motor-spirits Prices General Regulations 1938, Amendment No. 8 (Statutory Regulations 1940, Serial number 1940/42), had come into force on the first day of September, nineteen hundred and thirty-nine, and had applied with respect to all motor-spirits purchased on or after that date, that person would have been entitled to purchase the motor-spirits at the wholesale prices for the time being in force, the vendor of the motor-spirits shall refund to that person any amount paid for the motor-spirits in excess of those wholesale prices.

(2) Any vendor of motor-spirits liable to make a refund under this section shall make the refund not later than sixteen days after he receives notice that the Minister has been so satisfied as aforesaid.

(3) Any such notice may be signed on behalf of the Minister by any officer of the Industries and Commerce, Tourist and Publicity Department.

21. Notwithstanding anything to the contrary in the will of James Dilworth, late of Remuera, Auckland, settler (deceased), or in the Dilworth Trustees Act, 1902, or in the Dilworth Trustees Act 1902 Amendment Act, 1905, or in the Dilworth Trustees Acts Amendment Act, 1912, the trustees of the said will may select to be a pupil of the Dilworth Ulster Institute any boy who, during any war in which His Majesty may be engaged and whether before or after the passing of this Act, may have arrived in New Zealand from any part of the United Kingdom under any Government scheme, whether or not he is under the age of ten years.

Extending powers of Dilworth trustees as to British children.
1902 (Local), No. 14
1905 (Local), No. 19
1912 (Local), No. 9

22. Whereas Thomas Edmund Smith, of Kaiiua, Miranda, in the Provincial District of Auckland, farmer, who died on or about the sixth day of February, nineteen hundred and twenty-one, by his last will dated the seventh day of October, nineteen hundred and twenty, appointed Charles Frederick Bennett, of Auckland, land agent, Arthur Edwin Bennett, of Palmerston North, contractor, and Christopher James Parr, of Auckland, solicitor, to be his executors and trustees, and by a codicil to that will dated the eighth day of October, nineteen hundred and twenty, directed

Administration by Public Trustee of a certain trust under the will of Thomas Edmund Smith.

his trustees to set aside such sum as they might think fit and apply the same in the donation and maintenance of a bed or beds (the number being in the discretion of the trustees) in the Thames Public Hospital: And whereas probate of the will and codicil was on the fifth day of April, nineteen hundred and twenty-one, granted by the Supreme Court of New Zealand at Auckland to the said executors and trustees: And whereas the said trustees are still administering the will for the charitable and other purposes therein set out but are desirous of being relieved of their trust with respect to the said Thames Public Hospital bed and wish to hand over the administration of the trust thereof to the Public Trustee: And whereas the trustees in the discretion vested in them under the codicil have fixed the sum of three thousand pounds as a reasonable sum to set aside for the foundation of a trust fund to provide an income for the maintenance of a bed in the Thames Public Hospital: And whereas the Public Trustee is willing to accept the said Thames Hospital Bed Trust and to administer the said sum of three thousand pounds for the purposes thereof: Be it therefore enacted as follows:—

(1) The trustees shall pay to the Public Trustee the sum of three thousand pounds, and shall thereupon be deemed to be relieved of the said trust imposed on them by the codicil as hereinbefore recited.

(2) The setting-aside of the said sum shall, so far as the amount is concerned, be deemed to be a valid and satisfactory exercise of the discretion contained in the codicil and reposed in the trustees, and the Public Trustee shall be concerned to administer the trusts hereinafter set forth only in respect to the said sum.

(3) The Public Trustee shall invest the said sum from time to time either in the Common Fund of the Public Trust Office or upon securities for the time being authorized for the investment of trust funds in New Zealand as he in his sole discretion deems fit.

(4) The net income to be derived by the Public Trustee from the investment as aforesaid shall be paid in perpetuity by the Public Trustee to the Thames Hospital Board or to such other authority as may for the time being have the control and

management of the Thames Public Hospital, to be applied in or towards the maintenance of a bed in the Thames Public Hospital:

Provided that if the said Board or other authority at any time hereafter deems that the moneys so received or any part thereof could in the interests of the Thames District be better applied for any of the general charitable purposes of the said Board or authority, the same may be so applied.

(5) The receipt of the secretary or other authorized officer of the said Board or other authority shall be a sufficient discharge to the Public Trustee for all moneys payable by the Public Trustee hereunder, and the Public Trustee shall not be concerned to see to the application thereof.

(6) The Public Trustee shall have with respect to the said trust fund all the statutory and other powers vested in him as if the said trust fund were an estate under administration by him:

Provided that the Public Trustee shall not be at liberty to resort to the capital of the trust fund for any purpose.

23. All scholarships awarded before the passing of this Act by the Porirua College Trust Board or by the Papawai and Kaikokirikiri Trusts Board (being Boards duly incorporated under the Religious, Charitable, and Educational Trusts Act, 1908) shall be deemed to have been validly and lawfully awarded, and all payments made in respect of any such scholarship (whether before or after the passing of this Act) shall be deemed to be valid and lawful.

Validating grant of scholarships by Porirua College Trust Board and by Papawai and Kaikokirikiri Trusts Board. See Reprint of Statutes, Vol. I, p. 774

24. The retiring-allowances granted by the Porirua College Trust Board to Mr. Webster Harold Wills and Captain Pirimi Perarika Tahiwī, the principal and assistant teachers of the Otaki School, on the closing of the school at the end of the year nineteen hundred and thirty-nine are hereby validated and declared to have been lawfully granted.

Validating certain retiring-allowances granted by Porirua College Trust Board.