



## ANALYSIS

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1954, No. 3—*Private*

Title.

AN ACT to provide for the acquisition and holding upon trusts of real and personal property by the Loyal Orange Institution of New Zealand (Incorporated).  
[28 September 1954]

Preamble.

WHEREAS it is desirable that the Loyal Orange Institution should in the circumstances hereinafter set forth have power and authority to vest in itself real and personal property which now belongs or may hereafter belong to any lodge or is now or may hereafter be held by any person on behalf of the Loyal Orange Institution or any lodge or any members thereof or for the purposes or objects of any lodge or by any person or persons upon trust for any lodge or any members thereof for the purpose of promulgating the principles and furthering the practice of the Protestant religion:

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 Loyal Orange Institution of New Zealand (Incorporated) Trust Act 1954. Short Title.
2. In this Act, unless the context otherwise requires,— Interpretation.
  - “ Court ” means the Supreme Court of New Zealand:
  - “ Loyal Orange Institution ” means the Loyal Orange Institution of New Zealand (Incorporated):
  - “ Lodge ” includes any Male, Female, Grand, District, Primary, Past Masters, Past Mistresses, Intermediate, Juvenile, or Junior Lodge, Chapter, or other group or organization of persons constituted or operating under or in accordance with the constitution and rules for the time being of the Loyal Orange Institution:
  - “ Property ” means land and any estate, right, or interest therein, and money, securities for money, and all other personal property whatsoever.
3. (1) In any case where— Vesting of trust property in Loyal Orange Institution.
  - (a) At a general meeting of any lodge at least three-quarters of the members personally present thereat vote in favour of a resolution of which written notice has been given to all financial members of that lodge at least seven clear days before the date of that general meeting requesting the Loyal Orange Institution to exercise its vesting powers pursuant to this section in respect of all or any property owned by that lodge or vested in trustees on behalf of that lodge; or
  - (b) From the records of any lodge owning property or beneficially interested in property vested in trustees on its behalf it appears that the financial membership of that lodge is less than six in number; or

(c) Any lodge owning property or beneficially interested in property vested in trustees on its behalf fails to hold at least four meetings in each year or to hold a meeting for any consecutive period of six months; or

(d) All the trustees holding property on behalf of the Loyal Orange Institution or on behalf of any members thereof or for any of the purposes or objects of the Loyal Orange Institution or on behalf of any lodge or any of the members thereof or for the purposes or objects of any lodge or upon trust for any lodge or any of the members thereof for the purpose of promulgating the principles and furthering the practice of the Protestant religion are dead or have been out of New Zealand for the space of twelve months or are desirous of being discharged from all or any of the trusts or powers reposed in or conferred on them or refuse or are unfit to act or are incapable of acting therein,—

then, subject to the provisions of this Act, the Loyal Orange Institution is hereby empowered and authorized in all or any of such cases from time to time by resolution of the Grand Executive thereof to vest in the Loyal Orange Institution—

(i) All property covered by any resolution passed in accordance with the provisions of paragraph (a) of this subsection; and

(ii) All property owned by or beneficially held for any lodge coming within the provisions of paragraph (b) or paragraph (c) of this subsection; and

(iii) All property held on any of the trusts set forth in paragraph (d) of this subsection in the name of trustees who are dead or who have been out of New Zealand or who desire to be discharged or who refuse or are unfit to act or who are incapable of acting as more particularly set forth in paragraph (d) hereof.

(2) Within a period of ninety days after the vesting of any property in the Loyal Orange Institution in accordance with the provisions of this Act the Loyal Orange Institution shall execute and deliver to the lodge or the person or persons who owned or were otherwise entitled

to the same immediately prior to the vesting thereof as aforesaid a deed or deeds of trust or other suitable declaration, acknowledgment, or instrument defining the trusts affecting and the beneficial interests in all or any of that property in such form and to such effect as the Loyal Orange Institution and the lodge or person or persons concerned, as the case may be, decide, or if the parties affected fail to agree upon the terms thereof or upon the beneficial interests in the property or if the identity of the lodge or person or persons entitled is uncertain or unknown or if the Loyal Orange Institution refuses or neglects to execute the same, such deed or deeds, declaration, or acknowledgment or instrument as shall be settled or ordered by the Court upon application made to the Court by the Loyal Orange Institution or the person or persons concerned or any of them as the case may be.

4. All vesting of property in accordance with this Act shall in every case be subject and without prejudice to any mortgage, charge, lien, lease, or other encumbrance or liability and any trusts, powers, contracts, and equities affecting the same respectively at the time of vesting and shall be subject to such further trusts, powers, and conditions not being inconsistent with the then existing trusts, powers, contracts, and equities affecting the same as may from time to time be prescribed by the Loyal Orange Institution or the Grand Executive thereof.

Vesting subject to existing charges and trusts.

5. Upon the passing of any resolution of the Grand Executive of the Loyal Orange Institution as provided by section three of this Act, notice thereof shall be given by or on behalf of the Grand Executive within a period of twenty-eight days thereafter to all persons by whom the property affected by the resolution has theretofore been held, and upon the expiration of ninety clear days after service of notice as aforesaid the said property shall without any transfer, conveyance, or assignment vest in the Loyal Orange Institution:

Notice of vesting.

Provided that if, by notice in writing given to the Grand Secretary of the Loyal Orange Institution or left at his office before the expiration of the said period of ninety days, the person or any of the persons by whom

the property has theretofore been held as aforesaid shall apply to have the vesting resolution rescinded, varied, or modified the following provisions shall apply:

- (a) Every such application shall be considered at the first meeting of the Grand Lodge of the Loyal Orange Institution to be held after the expiration of thirty clear days from the making of the application, and notice of that meeting shall be given to the applicant or applicants at least seven clear days before the meeting:
- (b) The applicant or applicants shall be entitled to be heard on the application at that meeting either personally or by counsel, solicitor, or agent:
- (c) In its consideration of any such application the Grand Lodge of the Loyal Orange Institution shall satisfy itself that the provisions of section three of this Act have been complied with and shall approve the resolution of the Grand Executive only if in its opinion the objects for which any such property is held by any person or persons are likely to be more efficiently attained by vesting that property in the Loyal Orange Institution:
- (d) The vesting resolution shall have no effect until the Grand Lodge of the Loyal Orange Institution passes a resolution thereon at that meeting and then only according and subject to the terms of that resolution of the Grand Lodge of the Loyal Orange Institution, and a written copy of that resolution of the Grand Lodge of the Loyal Orange Institution shall forthwith be served on the applicant or applicants:

Provided further that any person or persons by whom the property has theretofore been held as aforesaid who may be aggrieved by any resolution of the Grand Lodge of the Loyal Orange Institution passed as provided by this section may within ninety days after the service of a copy of any such resolution on the applicant or applicants appeal to the Court against the decision of the Loyal Orange Institution contained in that resolution. The Court shall after satisfying itself that the resolution of the

Grand Executive was authorized by section three of this Act and after consideration of all other relevant circumstances make such order as in the circumstances it considers just and equitable.

6. Written notice of any such appeal to the Court as aforesaid shall be given by the appellant to the Loyal Orange Institution within twenty-eight days after the service of a copy of any such resolution by the Grand Lodge of the Loyal Orange Institution on the applicant or applicants and the Court, for the purposes of hearing and determining the appeal, shall have all the powers vested in it in its ordinary civil jurisdiction including the power to award such costs as it deems just in favour of or against the appellant. The decision of the Court shall be final.

Notice of  
appeal.

7. In respect of any freehold or leasehold property from time to time or at any time vested in the Loyal Orange Institution in trust for any lodge or the members thereof in accordance with and for the purposes of this Act the Grand Lodge of the Loyal Orange Institution shall upon such terms and conditions as it or the Grand Executive of the Loyal Orange Institution may think fit delegate to any persons, who shall include a member or members of the lodge concerned, the powers possessed by the Loyal Orange Institution of management or control of the said real or leasehold property including the power from time to time to let or lease the same but excluding any power of selling, mortgaging, charging, or otherwise encumbering the same; and the Loyal Orange Institution and its officers shall not be liable at the suit of any lodge or person for any loss or damage arising from any act or omission on the part of the person or persons to whom management or control of any real or leasehold property is delegated as aforesaid.

Delegation  
of powers.

8. In respect of any freehold or leasehold property from time to time or at any time vested in the Loyal Orange Institution for any purpose other than in trust for any lodge in accordance with and for the purposes of this Act the Loyal Orange Institution may from time to time or at any time upon such terms and conditions and for such period or periods as it or the Grand Executive of the Loyal Orange Institution may think fit delegate to any

Further  
delegation  
of powers.

person or persons all or any of the powers possessed by the Loyal Orange Institution of management or control of the said real or leasehold property including the power from time to time to let or lease the same for any period not exceeding one year at any one time but excluding any power of selling, mortgaging, charging, or otherwise encumbering the same; and the Loyal Orange Institution and its officers shall not be liable at the suit of any lodge or person for any loss or damage arising from any act or omission on the part of the person or persons to whom management or control of any real or leasehold property is delegated as aforesaid.

Evidence of vesting.

9. A statutory declaration made by not less than two members of the Grand Executive of the Loyal Orange Institution to the effect that any resolution of the Grand Executive or the Loyal Orange Institution has been passed in accordance with this Act shall be taken as sufficient evidence for all purposes of the passing and validity of the resolution and the right of the Loyal Orange Institution to be registered as proprietor or owner of the real and personal property affected thereby.

Powers of sale, etc., of Loyal Orange Institution.

10. So far as persons dealing with the Loyal Orange Institution in respect of any of the real and personal property vested in it in accordance with any of the provisions of this Act are concerned, the Loyal Orange Institution shall have the same powers of sale, lease, mortgage, and disposition over that property as if it were the absolute owner thereof, and it shall not be encumbent upon any person to inquire whether any proposed dealing constitutes a breach of trust, nor shall any person be concerned to see to the application of any real or personal property or the proceeds of sale thereof vested in the Loyal Orange Institution as aforesaid.

Registration of title to property vested in Loyal Orange Institution.

11. All District Land Registrars and all other persons having charge of any register showing the ownership of any real or personal property shall, on written application under the seal of the Loyal Orange Institution supported by a statutory declaration or statutory declarations made by any two members of the Grand Executive of the Loyal Orange Institution of compliance with the provisions of this Act, and accompanied by the relevant documents of title or a statutory declaration or statutory declarations

as aforesaid accounting to the satisfaction of the District Land Registrar or other persons as aforesaid for the absence of the said documents of title, register the Loyal Orange Institution as proprietor or owner of all real or personal property vested in the Loyal Orange Institution in accordance with the provisions of this Act.

12. All persons in whom any property vested in the Loyal Orange Institution in accordance with this Act may theretofore in any manner have been vested, whether before or after the passing of this Act, shall be and they are hereby required and empowered upon a request in writing signed by the secretary of the Loyal Orange Institution to deliver all such property as may be personal property and the deeds, documents, and instruments of title of all such property as may be real property to the Grand Executive of the Loyal Orange Institution.

Delivery of  
property and  
instruments  
of title.

13. Upon the production to any District Land Registrar appointed for and acting in any district situated under the Land Transfer Act 1952 or any other Act for the time being in force in New Zealand relating to the transfer and registration of title to land, or to all other persons having charge of any register showing the ownership of any property of any certificate of title, memorandum of mortgage, or other instrument of title under the said Acts or any of them or any other instrument or document of title, as the case may be, together with a statutory declaration or statutory declarations made by any two members of the Grand Executive of the Loyal Orange Institution to the effect that the land or other property mentioned and described in the said certificate of title, memorandum of mortgage, or other instrument or document or title, as the case may be, is held by the person or persons mentioned in such certificate of title, memorandum of mortgage, or other instrument or document of title for or on behalf of the Loyal Orange Institution or lodge, such Registrar or other person, as the case may be, shall cause the name of the Loyal Orange Institution to be entered upon such certificate of title, memorandum of mortgage, or other instrument or document of title as the registered proprietor of the estate or interest claimed therein.

Entry upon  
registers.

Deposit in  
Deeds Registry  
Office.

14. Upon the presentation for registration in any Deeds Registry Office constituted under the Deeds Registration Act 1908 or any other Act for the time being in force in New Zealand relating to the registration of deeds of a statutory declaration or statutory declarations made by any two members of the Grand Executive of the Loyal Orange Institution that the land or any interest in the land mentioned in the said declaration is held by the person or persons in whom the same may be vested for and on behalf of the Loyal Orange Institution or lodge and describing the land or the interest in land to which the same relates, together with a plan or plans of the land or any interest in the land as provided by the said Act, the Registrar or Deputy Registrar, as the case may be, appointed for and acting in the registration district or districts to which the same relates shall thereupon cause the entries of such declaration or declarations to be made in the books of the said Deeds Registry Office, and shall number the said declaration or declarations and make a note thereon as required by the said Act.

Crown not  
liable for loss.

15. The Crown shall not under any circumstances be liable for compensation for any loss, damage, or deprivation caused or occasioned by the registration under the Land Transfer Act 1952, or any Act passed in amendment thereof or substitution therefor, of any application provided for by section eleven of this Act.

Receipts by  
secretary, etc.,  
sufficient  
discharge.

16. The receipt of any secretary, treasurer, or agent of the Loyal Orange Institution or the Grand Executive thereof duly authorized in that behalf shall be a good and effectual discharge for all moneys paid to him on behalf of the Loyal Orange Institution or the Grand Executive thereof and shall exonerate the person or persons paying the same from seeing to the application thereof.

Service of  
notices.

17. (1) Any notice required or authorized by this Act to be served on any person shall be delivered to that person, and may be delivered to him either personally or by posting it by registered letter addressed to that person at his last known place of abode or business in New Zealand. A notice so posted shall be deemed to have been served at the time when the registered letter would in the ordinary course of post be delivered.

(2) If the person is absent from New Zealand, the notice may be delivered as aforesaid to his agent in New Zealand. If he is deceased, the notice may be delivered as aforesaid to his personal representative.

(3) If the person is not known, or is absent from New Zealand and has no known agent in New Zealand, or is deceased and has no personal representative, the notice shall be delivered in such manner as may be directed by an order of the Court.

(4) Notwithstanding anything in the foregoing provisions of this section, the Court may in any case make an order directing the manner in which any notice is to be delivered or dispensing with the delivery thereof.

(5) This section does not apply to notices served in proceedings in the Court.

(6) In this section the expression "the Court" means a Magistrate's Court.

18. All contracts made by any person in whom any real or personal property shall have been vested before the vesting of the same in the Loyal Orange Institution in accordance with the provisions of this Act in the exercise of the powers of such person in respect of the said real or personal property shall upon the vesting of same as aforesaid be deemed to have been made by the Loyal Orange Institution. Existing contracts.

19. All debts and liabilities incurred by any person in whom any real or personal property shall have been vested before the vesting of the same in the Loyal Orange Institution in accordance with the provisions of this Act in the exercise of the powers of such person in respect of the said real or personal property shall upon the vesting of the same as aforesaid become the debts and liabilities of the Loyal Orange Institution. Existing liabilities.

20. This Act is hereby declared to be a private Act. Private Act.