

No. IV.

NELSON TRUST
FUNDS.

AN ACT to make further provision for the Administration of the Nelson Trust Funds.

[14th September, 1854.]

Preamble.

WHEREAS the New Zealand Company did from time to time issue certain published terms for the disposal of land within the Settlement of Nelson, by which it was among other things provided that the land of the said settlement should be sold for certain prices, and that the fund to be derived from such sale shall be appropriated in certain proportions to the purposes of emigration and the supply of labour, of founding and maintaining the settlement of religious and educational uses, and steam navigation, and of other public objects: And whereas many persons purchased lands under the said terms in the said settlement, and funds have accumulated from the moneys invested in such purchases which have not as yet been applied to the purposes aforesaid: And whereas the New Zealand Company, by its agents and officers, superintended and managed the said funds until the fourth day of July, in the year one thousand eight hundred and fifty: And whereas the lands of the said Company in New Zealand reverted to the Crown, under the provisions contained in an Act of Parliament made and passed in the tenth and eleventh years of the reign of Her present Majesty, upon the condition amongst others, as expressed in the said Act, of satisfying any liabilities to which the said Company might then be liable under their existing engagements with reference to the Settlement of Nelson: And whereas, previous to the said fourth day of July, one thousand eight hundred and fifty, a certain sum of twenty-five thousand pounds had been invested in the names of Henry Aglionby Aglionby, Alexander Currie,

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Currie, James Robert Gowan, George Lyall, and Jeremiah Pilcher, in trust for the said Company, in order to satisfy the amount applicable by the said Company under the said terms to the purposes in question, but the total amount so applicable has not yet been ascertained: And whereas, by an Act of Parliament made and passed in the fourteenth and fifteenth years of the reign of Her present Majesty, intituled "*An Act to regulate the affairs of certain Settlements established by the New Zealand Company in New Zealand*," after reciting amongst other things the facts hereinbefore recited, and reciting that it was expedient that provision should be made to enable Her Majesty to ascertain the amount of the sum so applicable as aforesaid, and to entrust the administration of the fund when so ascertained to the certain persons who had been nominated for that purpose by or on the behalf of the said Company and the said purchasers of land at Nelson, it was thereby enacted that it should be lawful for the said Commissioners of Her Majesty's Treasury and they were thereby directed to ascertain the sum (if any) which remained due and applicable by the said New Zealand Company, and which the said Company were bound to apply to the purposes therein mentioned, on the fourth day of July, one thousand eight hundred and fifty, aforesaid, and that the sum of twenty-five thousand pounds, with the interest which should have accrued on the same, should be vested in the Commissioners of the Treasury as a fund for the public purposes of the Settlement of Nelson, and that the said Henry Aglionby Aglionby, Alexander Currie, James Robert Gowan, George Lyall, and Jeremiah Pilcher, should transfer the said sum and interest into the names of the Commissioners of the Treasury, or such person or persons as the said Commissioners should nominate for that purpose, and that the same should be disposed of by the said Commissioners in the manner thereafter provided, and that if the amount which might be found by the Commissioners of the Treasury to be due and applicable to the purposes aforesaid should exceed the said sum of twenty-five thousand pounds, the surplus necessary to complete such amount should remain a liability attaching to Her Majesty with reference to the said Settlement of Nelson: And it was further enacted that a Board of seven Trustees should be and the same was thereby appointed for the administration of the said fund, including such surplus (if any) as aforesaid, three of whom shall form at any time a quorum for the dispatch of business, and that it should be lawful for the Commissioners of the Treasury in such manner as they should appoint to pay over or cause to be paid over the said sum of twenty-five thousand pounds, with such interest as aforesaid or so much thereof as might be found due and applicable as aforesaid, to the said Trustees, and that when such sum or sums should have been paid over as aforesaid, all further liability of Her Majesty or of the New Zealand Company in respect of such fund and of the amount applicable as aforesaid by the Company should cease: And it was further enacted that the said Trustees should have power to dispose of the said fund, for the benefit of the said Settlement of Nelson, to the purposes of emigration and the supply of labour, of religious and educational uses, of steam navigation, and of the construction and maintenance of public works, in such proportions as to each of the said purposes as to them should seem expedient: And it was further enacted that the first meeting of the said Trustees should be fixed at a time and place to be appointed by Proclamation by the Governor of New Zealand, or by the Lieutenant-Governor of the Province in which Nelson should be situate, being authorized thereto by the Governor, and that such Trustees might from time to time pass resolutions for appointing a time and place for hold-

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ing further meetings for the dispatch of business, for making rules and regulations for the conduct of such business, and for other necessary purposes, towards enabling them to dispose of and distribute the said fund according to the purposes of the Act now in recital: Provided always that the Legislature of New Zealand should have power to alter such regulations by laws to be made from time to time: And it was further enacted that David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, should be and the same were thereby appointed the first Trustees for the administration of the said fund, and that they should remain in office, subject to the provisions hereinafter contained as to the filling up of vacancies, until the first day of January, one thousand eight hundred and fifty-five: And it was further enacted that it should be lawful for the Legislature of New Zealand, by laws to be made from time to time, to provide for the filling up of vacancies which might have occurred by the death or resignation of either of the Trustees named in the said Act by election to be made by the owners or owners and occupiers of land in the said Settlement of Nelson, with such qualification or restriction as might in such laws be specified, and to provide in like manner for the annual election of two or more auditors to audit the accounts of the said Trustees, and for the due publication from time to time of such accounts, and for the discharge of the Trustees from any personal liability in respect of the said funds, and in case the said fund should not have been wholly disposed of before the first day of January, one thousand eight hundred and fifty-five, to provide in like manner for the election of seven new Trustees, to continue in office for three years, subject to the like power as thereinbefore contained as to the filling up of vacancies, and so on from time to time until the said fund shall be wholly expended for the purpose above mentioned: And whereas, by a Proclamation under the hand of His Excellency Sir George Grey, K.C.B., Governor-in-Chief of the Islands of New Zealand, and bearing date the seventeenth day of January, one thousand eight hundred and fifty-two, made in pursuance of the power in the said last recited Act contained, the said Governor-in-Chief did thereby proclaim and declare that the first meeting of the Trustees named in the said recited Act should be held at Nelson on the second day of February, one thousand eight hundred and fifty-two: And whereas the said David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, as such Trustees as aforesaid, have in pursuance of the said Proclamation proceeded to hold meetings for the despatch of business connected with the aforesaid trust, and have entered into arrangements with the Commissioners of Her Majesty's Treasury whereby a certain sum, being part of the aforesaid sum of twenty-five thousand pounds which had been invested as aforesaid, was placed at the disposal of the said Trustees, and have made certain appropriations of the said fund, and have appointed a Secretary, and have otherwise proceeded to transact the duties of their office: And whereas the said David Monro, Samuel Stephens, William Oldfield Cautley, Francis Dillon Bell, Francis Jollie, Alfred Fell, and John Waring Saxton, as such Trustees as aforesaid, will go out of office on the first day of January, one thousand eight hundred and fifty-five, and it is expedient to make provision for the election of seven new Trustees, and of Auditors, and for the other purposes mentioned in the said recited Act:

NOW BE IT ENACTED by the General Assembly of New Zealand:—

1. From and after the passing of this Act every Trustee to be elected a member of the said Board of Trustees, and every Auditor to be

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be elected as hereinafter mentioned, shall be elected by the votes of the owners and occupiers of land actually residing within the Province of Nelson aforesaid and qualified as hereinafter mentioned, and such owners and occupiers respectively shall be entitled to a vote or votes in the proportions and in the manner hereinafter mentioned in that behalf, that is to say,—

Every owner of land of the value of one hundred pounds sterling, or of the annual rental of fifteen pounds, shall have one vote.

Every owner of land of the value of five hundred pounds sterling, or of the annual rental of fifty pounds, shall have two votes.

Every owner of land of the value of one thousand pounds or upwards, or of the annual rent of one hundred pounds or upwards, shall have three votes, which shall be the maximum.

Every occupier of land paying a rent not less than fifteen pounds per annum shall have one vote.

Every occupier of land paying a rent of fifty pounds and upwards shall have two votes, which shall be the maximum; but no person shall be entitled to record his vote or votes in any such election in the double capacity of owner and occupier.

2. The Superintendent of the Province of Nelson shall, as soon as conveniently may be after the passing of this Act, by Proclamation to be published in the *Government Gazette* of the said Province, make all necessary provisions for the registration and revision of lists of all persons qualified to vote at the elections to be holden as aforesaid, and for the appointing of returning officers, and the conducting such elections, and for determining the validity of such elections, and otherwise for insuring the orderly effective and impartial conduct of such elections.

Superintendent to make provisions for registration &c. conduct of elections generally.

3. Every person within the said Province who shall be duly qualified and registered as an elector as aforesaid shall be qualified to be elected a Trustee or Auditor.

Qualification for Trustees.

4. On the first day of January, one thousand eight hundred and fifty-five, seven of the electors, duly qualified and registered as aforesaid, shall be elected Trustees, to continue in office for the period of three years next ensuing such election, and the present or any other retiring Trustees or Trustee who shall be duly qualified and registered as aforesaid shall be eligible for re-election.

Election to take place on 1st January.

5. Every Trustee elected under the provisions of this Act may, by writing under his hand addressed to the Secretary for the time being, resign his seat, which shall thereupon become vacant.

Trustees may resign.

6. If any Trustee shall for six months fail to give his attendance at the Board without leave of absence, or shall cease to be qualified as an elector, or shall become a bankrupt or an insolvent debtor within the meaning of any law which may hereafter be in force within the Colony of New Zealand relating to bankrupts, or shall become a public defaulter, or be attainted of treason or convicted of felony or any infamous crime, his seat at the Board shall thereby become vacant: Provided always that it shall not be lawful for any such leave of absence to be granted for more than two years, nor to more than two Trustees at the same time, so that under no circumstances shall there be less than five Trustees resident in the Province of Nelson.

Seats how to be vacated.

7. When and so often as any vacancy shall occur in the Board of Trustees, the remaining or continuing Trustees shall signify the same to the Superintendent, and the Superintendent shall, by Proclamation in the *Government Gazette* of the said Province of Nelson, appoint some

Superintendent to notify vacancy in the Board.

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some day (not being less than thirty nor more than sixty days after the date of such notice) on which day some person or persons duly qualified and registered as aforesaid shall be elected to fill up such vacancy.

Trustees to make rules and regulations for the conduct of business.

8. For the purpose of managing and conducting the affairs and business of the said trust, it shall be lawful for the said Board of Trustees, at any time and from time to time after the passing of this Act, to make rules and regulations for such of the purposes set forth in the Schedule marked A to this Act annexed as the nature and business of the said Trust may require, and either with or without provision for such other purposes (not inconsistent with law or with the provisions of this Act) as the said Board of Trustees shall think proper, and such rules and regulations from time to time to revoke alter vary and amend as the said Board of Trustees shall think fit, and such rules and regulations, and every revocation variation alteration and amendment thereof, shall be signed by at least three of the said Trustees, and shall be certified by them in writing in the form set forth in the Schedule marked B to this Act annexed, and shall immediately after the making thereof be published in the *Government Gazette* of the Province of Nelson.

To administer the funds for the benefit of the Province of Nelson.

9. Subject to the provisions of this Act the Trustees, to be elected as aforesaid shall and may dispose of the said trust funds for the benefit of the said Province of Nelson to the purposes mentioned and set forth in the hereinbefore recited Act, and in such proportions as to any of the said purposes as to them shall seem meet, and shall and may in all things conduct and manage the affairs and business of the said trust, and enter into make do and execute all such contracts engagements acts deeds matters and things as may be necessary or expedient for the disposal and appropriation of the said trust fund, and for the conduct and management of the affairs and business of the said trust.

Trustees to have a common Seal.

10. The said Board of Trustees shall have and use a common Seal, and all deeds and other legal instruments shall be sealed therewith in the presence of not less than three of the said Trustees, who shall also affix their signatures thereto, and every deed or other legal instrument so signed and sealed shall be valid and effectual in the law to all intents and purposes, and the party producing such act or instrument shall not be bound to offer or produce any evidence that such common Seal was affixed thereto in such presence as aforesaid.

Not to be personally liable.

11. The Trustees and their Secretary respectively shall in no case be personally liable, nor shall the private estates and effects of any of them be liable, for the payment of any moneys costs or otherwise in respect of any contract which shall be made by them or any of them, or for any act deed or matter lawfully done or executed by them or any of them, in their or his official capacity as Trustees or Trustee or Secretary respectively.

Remuneration of Trustees.

12. The Trustees for the time being shall receive amongst them for their attendance to the duties of Trustees a sum not exceeding in the whole the sum of one hundred pounds, but no one Trustee shall receive any fee for any meeting at which he was not present, nor more than one guinea for any one meeting at which he shall attend.

Election of Auditors.

13. On the first of January next, and on the first of January in every succeeding year (except such day shall happen to be Sunday, in which case the election shall take place on the next day), the electors duly qualified and registered as aforesaid shall elect two persons, who shall be called "Auditors of the Trust Accounts."

In case of no election, Superintendent to appoint Auditors.

14. If no Auditors be elected as aforesaid, or if only one such Auditor be elected, or if any Auditors or Auditor shall die or become incapable

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incapable of acting or shall decline to act at the prescribed period, it shall be lawful for the Superintendent of the Province of Nelson to appoint an Auditor or Auditors to act as aforesaid, and such Auditor or Auditors shall continue to act until the next election of Auditors.

15. On the tenth day of December in every year the said Trustees shall cause the accounts of the said trust to be balanced, and a full and fair balance sheet to be made up, and previously to such balance sheet being delivered to the Auditors, the same shall be examined by and signed by three of the said Trustees, and thereupon the same shall be recorded in the books of account of the said Trustees.

Trustees to prepare a balance sheet.

16. Within seven days after the making of such balance sheet, the said Trustees shall deliver the same, together with the accounts of the said Trust from the last previous audit, to the Auditors, and the Auditors shall examine the same, and shall, within ten days after the receipt of such balance sheet and accounts, either confirm such accounts and report generally thereon, or shall, if they do not see fit to confirm such accounts, report specially thereon, and deliver such accounts balance sheet and report respectively to the said Trustees.

Accounts to be audited.

17. The said Trustees shall, on the twenty-first day of December in each year, prepare a general report made up to that day of the business and affairs of the said trust, showing the then existing property effects debts contracts and liabilities of the trust, together with such further information as may be necessary to show the working of the said trust, and such report, together with the balance sheet of the said Trustees and the report of the Auditors, shall forthwith be published in the Government *Gazette* of the Province of Nelson.

Annual report to be published.

18. This Act shall be entitled and may be cited as "*The Nelson Trust Funds Act, 1854.*"

How this Act may be cited.

SCHEDULES.

SCHEDULE A.

1. For regulating the meetings of Trustees, the proceedings thereat, and the adjournment thereof.
2. For recording the attendances of Trustees at meetings.
3. For the determination of questions upon which the votes of the Trustees may be equally divided.
4. For the appointment of a Chairman, and for supplying any vacancy in the office of Chairman.
5. For the appointment of a Secretary and other officers and servants.
6. For providing for the remuneration of the Secretary and other officers and servants.
7. For providing for the remuneration of the Auditors.
8. For providing for the receipt custody and issue of moneys belonging to the trust.
9. For keeping the books records and papers of the trust.
10. For determining what books of account and other documents may be inspected by the electors, and regulating such inspection.

SCHEDULE B.

WE do hereby certify that the within written rules and regulations have been made by the Trustees of the Nelson Trust Funds, and that the particulars therein contained are correctly set forth.