

Mr. Lawry.

DILWORTH TRUSTEES ACT 1902 AMENDMENT.

[LOCAL BILL.]

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A BILL INTITULED

AN ACT to further expedite the Establishment of the Dilworth Ulster Institute, and to confer upon the Trustees of the Will of the late James Dilworth Additional Powers for the Purpose of enabling them to carry out more effectually the Trusts of the said Will.

WHEREAS James Dilworth, late of Remuera, Auckland, settler, deceased, by his last will, dated the fifteenth day of November, one thousand eight hundred and ninety-four, probate whereof was granted to the executors and Trustees therein named by the Supreme Court of New Zealand at Auckland on the first day of February, one thousand eight hundred and ninety-five, gave the residue of his real and personal estate to his Trustees on certain trusts: And whereas the said will contains, *inter alia*, the following directions—that is to say, “And I direct that as soon as the first of the buildings hereinbefore directed to be built shall have been completed, and all liabilities incurred in the erection thereof shall have been discharged, the said Trustees shall, as soon as conveniently may be, select so many boys of sound bodily and mental health, being orphans or sons of persons of good character and of any race, as in the opinion of the said Trustees that portion of the income available for the purpose will be sufficient from time to time to support, train, and educate; the boys to be so selected shall be either destitute orphans or children of parents in straitened circumstances resident in the Provincial District of Auckland or in the Province of Ulster in Ireland: And whereas by the said will the testator declared that no pupil except as hereinafter mentioned should be allowed to remain in the institute after he shall have attained the age of fifteen years: And whereas by the said will the Trustees were authorised, whenever any pupil of the said Institute should have attained the age of fifteen years, to apprentice him to any

trade, business, calling, or profession : And whereas by section five of "The Dilworth Trustees Act, 1902," the Trustees were empowered to sell any part or parts of the lands belonging to the estate of the said James Dilworth situate more than fifteen miles from the City of Auckland : And whereas by the said will the Trustees were authorised at their discretion to establish and maintain on testator's land in Waitakerei a branch of the said Institute for the purpose of giving industrial education to such pupils of the Institute as the said Trustees should consider suitable for that purpose : And whereas it is desirable that the Trustees should have the power to select and admit the boys to the said Institute and to carry on the curriculum of the said Institute temporarily, notwithstanding that the first of the buildings directed to be erected has not yet been erected, in a building suitable for the purpose, with sufficient land adjoining, being the residence of Isabella Dilworth, the testator's widow, and being a portion of the said estate and of which she is life-tenant, and for that purpose to have power to acquire the same by giving in exchange for the same a suitable residence and buildings already erected at the cost of the trust estate on other part of the trust estate, of which she is also life-tenant, free from any payment in respect of such residence and buildings ; and also that the said Trustees should have the necessary powers to expend so much of the trust funds as the Trustees may think fit in maintaining the said Institute, and in making and keeping the said residence and any buildings connected therewith fit and convenient for the purposes of the said Institute, and for effecting any other necessary improvements in and about the said land adjoining the said residence : And whereas it is desirable that the Trustees, in addition to the power conferred by the said will to apprentice any pupil as aforesaid, should have the power on any pupil attaining the age of fifteen years to obtain suitable employment for such pupil in any occupation or pursuit without apprenticing him : And whereas it is desirable that the Trustees should have the power, in the case of any pupil who may be so apprenticed or for whom employment may be found as aforesaid, to provide for or contribute towards the maintenance of such pupil during the term of his apprenticeship or employment, as the case may be, and if deemed desirable permit such pupil to be a resident of the said Institute until he shall attain the age of twenty-one years upon such terms and conditions as the Trustees may deem fit, and also to permit any pupil admitted to the said Institute to remain a pupil or inmate of the said Institute until he shall have attained the age of twenty-one years : And whereas it is desirable that the age at which boys may be admitted to the said Institute should be extended : And whereas it is desirable that the Trustees should have the power, so far as regards any boy who is an inmate or pupil of the said Institute, if they deem it advisable so to do in the interests of the boy or of the said Institute, to return him to his parents or guardians or the place from whence he came, and to pay out of the trust funds all expenses necessarily incurred in so returning him : And whereas it is desirable that the power conferred upon the said Trustees by the said Act to sell any part or parts of the lands belonging to the estate situated more than fifteen miles from the City of Auckland should extend and apply to lands situate more than ten miles from the General Post Office in the said City of Auckland : And whereas the testator's land at Waitakerei is not suitable for the purpose of establishing and maintaining

thereon a branch of the said Institute for the purpose of giving industrial education to such pupils of the Institute as the said Trustees shall consider suitable for that purpose; and it is desirable that the said land should be released from any trust, either express or implied, with  
 5 reference to the establishment and maintaining any such branch Institute there, and that the said lands should be saleable by the said Trustees as are any other of the lands of the said estate situate more than ten miles from the said General Post Office; and it is desirable that the said Trustees should have power, at their discretion at any time hereafter, to  
 10 purchase an area of country lands in the opinion of the said Trustees sufficient and suitable for the purposes of the said branch Institute, and to carry on the said branch Institute there instead of at Waitakerei, and with power to pay the purchase-money for the said lands out of the funds of the said trust estate.

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

1. The Short Title of this Act is “The Dilworth Trustee Act 1902 Amendment Act, 1905.” Short Title

20 2. In this Act the expression “the Trustees” means the Trustees for the time being of the said will. Interpretation.

3. Notwithstanding anything to the contrary in the said will contained or implied, it shall be lawful for the Trustees, as soon hereafter as they shall deem fit, to select and admit boys to the said Institute  
 25 and to carry on the curriculum of the said Institute in the said residence of the said Isabella Dilworth and the buildings and land thereto appurtenant, and for that purpose to acquire from the said Isabella Dilworth a surrender of her life-estate in all that piece or parcel of land part of Allotment seven of Section eleven of the Suburbs of Auckland, and  
 30 bounded commencing at a point 553·7 links from the corner of Erin Street and the Great South Road; towards the north-east by the Great South Road, 533·2 links; towards the south-east by part of said Allotment seven, 504·2 links and 122·3 links; again towards the north-east by part of said Allotment seven, 23·3 links; again towards the  
 35 south-east by part of said Allotment seven, 178·1 links; towards the south-west by Allotment twelve of said Section eleven, 277·6 links; towards the north-west by part of said Allotment seven, 225 links; towards the north-east by part of said Allotment seven, 21 links; towards the west by  
 40 part of said Allotment seven, 80·1 links; again towards the north-west by part of said Allotment seven, 71·8 links and 639·4 links *respectively*, to the commencing-point: being the land on which the said residence and buildings are erected. And it shall be lawful for the Trustees to acquire the said land, residence, and buildings by giving by way of exchange to the said Isabella Dilworth for her life, free of rent or other payment,  
 45 the residence and buildings erected by the Trustees on land of which the said Isabella Dilworth is by the said will constituted a tenant for her life, and being all that piece or parcel of land part of said Allotment seven and bounded commencing at a point 355·2 links from the corner of Erin Street and the Great South Road; towards the north-east by  
 50 the Great South Road, 198·5 links; towards the south-east by part of said Allotment seven, 320 links; towards the south-west by part of said Allotment seven, 355·8 links; and towards the north-west by part of said Allotment seven, 289 links, to the starting-point:

Power to commence and carry on Institute temporarily in residence of Mrs. Dilworth, and to acquire same.

Provided that so soon as the first of the said buildings by the said will directed to be erected has been erected and ready for occupation as directed by the said will and Act, then the management of the said Institute shall be transferred to the said buildings, and the pupils and educational staff removed there, and the Trustees shall cease longer 5 to occupy the said residence, buildings, and land for the purposes of the said Institute as though this Act had not passed, and the same shall thereafter be held by the Trustees upon the same trusts as are the other lands of the trust estate.

To permit pupil to remain in Institute until twenty-one.

4. The Trustees may permit any pupil admitted to the said Institute 10 to remain a pupil or inmate of the said Institute until he shall be able to maintain himself by his earnings or have attained the age of twenty-one years, whichever happens first.

Boy not over age of ten may be elected as a pupil.

5. Notwithstanding anything to the contrary in the said will or Act contained, the Trustees shall have power to select any boy to be a 15 pupil of the said Institute who shall not be over the age of ten years, but no boy so selected in the Provincial District of Auckland shall be under the age of three years, or if selected in the Province of Ulster in Ireland shall be under the age of four years.

Obtaining employment for pupils.

6. The Trustees may obtain for any pupil suitable employment 20 in any occupation or pursuit without apprenticing him.

Maintenance of pupils apprenticed or for whom employment found, and permission to reside in Institute.

7. The Trustees may pay such sum of money as they may deem necessary for or towards the maintenance of any pupil who may be 25 apprenticed in terms of the said will or for whom employment may be obtained as aforesaid, and may permit any such pupil to be a resident of the said Institute until he shall attain the age of twenty-one years upon such terms and conditions as they may think fit.

Power to return pupils.

8. The Trustees are hereby authorised, so far as regards any boy who is a pupil or inmate of the said Institute, to return him to his parents or guardians or the place from whence he came if in their opinion 30 it is advisable in the interests of the boy or of the said Institute so to do, and to pay out of the trust funds all costs and expenses necessarily expended in so returning him.

Amended power of sale.

9. The Trustees may sell any part of the lands belonging to the said estate situate more than ten miles from the said General Post Office, 35 in the said City of Auckland, in the same manner as they are authorised by the said Act to sell such lands distant more than fifteen miles from the said City of Auckland.

Releasing Trustees from obligation to establish a branch Institute at Waitakerei, and power to purchase land elsewhere for same purpose.

10. The Trustees shall be discharged from the obligation or duty, 40 if any, of establishing and maintaining on the said land at Waitakerei a branch of the said Institute as authorised by the said will; and the said land shall be released from any trust, express or implied, with reference to the said branch Institute and its establishment and maintenance on the said land, and the said land shall be saleable by the Trustees as are 45 any other of the lands of the said estate situate more than ten miles from the said General Post Office. And it shall be lawful for the Trustees to purchase in any part of the Provincial District of Auckland an area of land which, in the opinion of the Trustees, shall be of sufficient size and suitable for the purpose of establishing and maintaining thereon the said branch Institute; and may, whenever they may deem it advisable 50 so to do, establish and maintain the said branch Institute thereon in the same manner in all respects as if the same were the land at Waitakerei on which by the said will the Trustees were authorised to establish and maintain the said branch Institute, and to pay the purchase-money for the said land out of the funds of the said trust estate. 55