

Hon. Mr. Atmore.

KIRKPATRICK MASONIC INSTITUTE EMPOWERING.

[PRIVATE BILL.]

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Authorizing extensions of Institute. 4. Extensions may be paid for out of residuary estate of Samuel Kirkpatrick. 5. Board authorized to accept donations, &c., and to apply same for purposes of Institute. 6. Board may acquire property. 7. Board may lease or sublease or accept surrender of lease.</p>	<p>8. Powers of Public Trustee in respect of property. 9. All property and income therefrom to be vested in Public Trustee. 10. Use of funds for pocket-money and prizes for inmates. 11. Removing restriction as to residential qualification of a member of Board. 12. Powers and authorities to be enlarging and not restrictive. 13. Payment of costs and expenses out of residuary estate.</p>
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A BILL INTITULED

AN ACT to extend and vary the Powers of the Trustees and the Objects of certain Trusts created by the Will of the late Samuel Kirkpatrick, of the City of Nelson, Manufacturer, for the Foundation and Maintenance at Nelson of a Masonic Institution, primarily for the Boarding, and Maintenance, and Education of the Orphan Daughters of Deceased Freemasons. Title.

WHEREAS Samuel Kirkpatrick, of the City of Nelson, in the Dominion of New Zealand, manufacturer, by his last will and testament, bearing date the twenty-ninth day of October, nineteen hundred and twenty-three, devised and bequeathed certain real and personal estate to the Public Trustee of the Dominion aforesaid for the foundation and maintenance of a Masonic institution for the boarding, maintenance, and in certain circumstances the education of the orphan daughters of deceased Freemasons as therein defined: And whereas the said Samuel Kirkpatrick died on the twenty-first day of May, nineteen hundred and twenty-five: And whereas probate of the said will was on the sixth day of June, nineteen hundred and twenty-five, granted to the Public Trustee aforesaid by the Supreme Court at Wellington: And whereas the said institution has been duly founded and maintained in accordance with the provisions of the said will under the management of a Board of Governors elected in accordance with the provisions of the said will, and has become known as the Kirkpatrick Preamble.

Masonic Institute :

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And whereas the buildings on the land devised by the said Samuel Kirkpatrick in which to carry on the said Institute and the income provided under his will for its upkeep and maintenance are so limited as to size and amount that the Board of Governors has been able to receive into the Institute only a limited number of orphans : And whereas there are a number of orphans qualified for and awaiting admission to the said Institute : And whereas it is desirable that the said Institute should be enlarged, and provision should be made for the boarding, maintenance, and/or education of an increased number of orphans : And whereas the will of the said Samuel Kirkpatrick does not authorize the enlargement of the said Institute or the payment by the Public Trustee to the Board of Governors of any of the estate-moneys for this purpose :

And whereas the will of the said Samuel Kirkpatrick does not authorize the Board of Governors to receive and apply moneys ~~either for the enlargement or~~ for the upkeep and maintenance of the Institute from any source other than the estate of the said Samuel Kirkpatrick : And whereas the said Board has from time to time been offered contributions and donations to be applied for these purposes, which said contributions and donations the said Board had no power to accept : And whereas under the will of the said Samuel Kirkpatrick the testator directed the annual payment by the Public Trustee to the Board of Governors of certain definite sums of money to be distributed by the Board of Governors among the orphans of the Institute as athletic prizes, pocket-money, and scholastic prizes, and the said Board of Governors has found that the sums of money so directed to be distributed are excessive having regard to the number of orphans in the Institute : And whereas it is desirable that the said Board of Governors should be given a discretion as to the respective amounts to be distributed annually among the orphans of the Institute by way of athletic prizes, pocket-money, and scholastic prizes : And whereas the said will directs that there shall always be upon the said Board of Governors one member of the District Grand Lodge of Westland and Nelson (English Constitution) living and domiciled at Greymouth, West Coast, South Island : And whereas it is inexpedient that the residence and domicile of such member should be limited to Greymouth aforesaid : And whereas the objects of this Act are not attainable otherwise than by legislation :

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 Kirkpatrick Masonic Institute Empowering Act, 1930, and is hereby declared to be a private Act.

2. In this Act, if not inconsistent with the context,—

“ Institute ” means the Kirkpatrick Masonic Institute ~~or boarding establishment~~ at Nelson for female orphans founded under the provisions of the will of Samuel Kirkpatrick, late of the City of Nelson, manufacturer :

“ Board ” means the Board of Governors elected under the provisions of the will of the said Samuel Kirkpatrick for the management of the Institute :

Short Title.

Interpretation.

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“ Testator ” means the said Samuel Kirkpatrick :

“ Public Trustee ” means the Public Trustee constituted under the Public Trust Office Act, 1908.

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5 3. It shall be lawful for the Board to enlarge or extend the existing buildings of the Institute to such extent as may from time to time in its opinion be found necessary, and to erect new buildings in lieu of or in addition to any of the existing buildings, subject only to the limitation hereinafter provided, and generally to provide for the 10 accommodation and maintenance in the Institute and/or for the education of any increased number of orphans as defined in the said will :

Authorizing extensions of Institute.

15 Provided, however, that the Institute shall not, nor shall any part thereof, be erected and maintained on any land other than land situate within the Provincial District of Nelson.

4. It shall be lawful for the Public Trustee to pay to the Board, for the purposes set out in the *last preceding* section, such sums of money either out of the capital or income of the residuary estate of the testator as the Public Trustee in his discretion shall think fit.

Extensions may be paid for out of residuary estate of Samuel Kirkpatrick.

20 5. (1) It shall be lawful for and the Board is hereby authorized to accept any devise, of land, and any bequest of personalty, and any donations of land, chattels, or moneys, from any source whatsoever, *bequest, or gift of real or personal property*, and to apply and use the same, together with moneys provided from the estate of the testator, 25 for any purposes in connection with the Institute authorized by the will of the testator, and for any further purposes authorized by this Act, and for any purposes directed by the donor for the benefit of the Institute and the inmates thereof that shall not conflict with the purposes in connection with the Institute authorized by the said will: 30 or by this Act:

Board authorized to accept donations, &c., and to apply same for purposes of Institute.

35 Provided that any such devise, bequest, or donation shall in the first instance *land devised or given shall* be vested in the Public Trustee (who is hereby authorized to give a good and sufficient receipt or discharge therefor), and the Public Trustee who shall hold the same and any income therefrom upon trust for the purposes of the Institute in such manner as the Board may from time to time think fit, and subject also to any special conditions which may be attached thereto by the donor thereof.

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40 (2) The receipt of the secretary or treasurer of the Board, or other person appearing to the Public Trustee to be entitled to give receipts on behalf of the Board, shall be sufficient discharge to the Public Trustee for the delivery or payment to the Board of any chattels or moneys referred to in section *five*, subsection *one*, hereof, and the Public Trustee shall not be bound to see to the use or application of any such 45 chattels or moneys after delivery or payment thereof to the Board.

6. It shall be lawful for the Board to purchase, take on lease or in exchange, hire, or otherwise acquire any real or personal property, and any rights and privileges which the Board may think necessary or convenient for the purposes of the Institute :

Board may acquire property.

50 Provided that in the case of the purchase of land such land shall be situate in the Provincial District of Nelson, and shall be vested in

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the Public Trustee upon the trusts declared by the will of the testator or by this Act with reference to the Institute.

Board may lease or sublease or accept surrender of lease.

7. It shall be lawful for the Board to lease or sublease any land, tenements, or hereditaments, for such term, reserving such rental, and containing such covenants and provisions as the Board may deem reasonable, but so that no fine, foregift, or premium shall be payable in respect of any such lease or sublease; or to accept the surrender of any lease upon such terms and conditions as it may think fit.

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Powers of Public Trustee in respect of property.

8. It shall be lawful for the Public Trustee, on the direction of the Board,—

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(a) To sell and dispose of any land, tenements, or hereditaments now vested or hereafter to be vested in him for the purpose of the said Institute, by public auction, public tender, or private contract; and any such sale may be for cash or on credit, or partly for cash and partly on credit:

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(b) To exchange any such land, tenements, or hereditaments for other freehold hereditaments in the Provincial District of Nelson, with power to pay out of any moneys applicable for that purpose, or to receive any money for equality of exchange:

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Provided always that in the case of the land situate at Mount Street, Nelson, devised by the testator for a Masonic Institute, such power of sale or exchange shall be exercised only if in the opinion of the Board it becomes necessary or expedient to remove the said Institute from its present situation and the Public Trustee consents thereto:

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(c) To rescind or vary any contract of sale or any contract to effect an exchange:

(d) To lease, sublease, or to accept the surrender of any lease of any land, tenements, or hereditaments now or hereafter to be vested in him for the purposes of the Institute.

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All property and income therefrom to be vested in Public Trustee.

9. All land, tenements, and hereditaments purchased or received in exchange, and all income arising from such investments or received by way of rent or profit, shall be held by the Public Trustee upon the trusts set out in the will of the testator and in this Act with reference to the Institute or the inmates thereof.

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Use of funds for pocket-money and prizes for inmates.

10. It shall be ~~and be deemed at all times heretofore to have been~~ lawful for ~~and~~ the Board is ~~hereby authorized~~ to distribute among the orphans of the Institute such annual sums of money by way of athletic prizes, pocket-money, and scholastic prizes, at such times and in such manner as the Board in its discretion may deem fit, in lieu of the annual sums provided under the will of the testator for these purposes:

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~~whether such annual sums be less or greater than those provided under the said will; and this section shall be deemed to have been in force since the date of the death of the testator.~~

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New.

Provided always that the total amount to be so distributed each year shall not be less than fifty pounds, and that special distributions in prizes, gifts, or cash be made (a) on the fifth day of October in each

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New.

year, being the anniversary of the testator's birthday, when some special mention shall be made of the testator and his foundation of the institute, and (b) on Christmas Day.

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11. The will of the testator shall be read as if the words "living and domiciled in Greymouth, West Coast, South Island," in clause eight (g) thereof had not been inserted therein.

Removing restriction as to residential qualification of a member of Board.

New.

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11A. It shall not be necessary for the member of the District Grand Lodge of Westland and Nelson (English Constitution), who is or shall be a member of the Board, to be either living or domiciled at Greymouth, West Coast, South Island.

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12. The powers and authorities hereby conferred on the Public Trustee and on the Board shall be in addition to and not in restriction or limitation of the powers and authorities conferred on them by the will of the testator.

Powers and authorities to be enlarging and not restrictive.

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13. All costs, charges, and expenses of and incidental to the preparing, settling, obtaining, and passing of this Act shall, after such costs, charges, and expenses shall have been taxed and allowed as between solicitor and client by the Registrar at Nelson of the Supreme Court, be paid out of the residuary estate of the testator.

Payment of costs and expenses out of residuary estate.