

New Zealand.



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1912, No. 9.—*Local.*

AN ACT to further expedite the Establishment of the Dilworth Title.
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. [26th October, 1912.]

WHEREAS James Dilworth, late of Remuera, Auckland, settler, deceased, by his last will, dated the fifteenth day of November, eighteen 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, eighteen hundred and ninety-five; gave the residue of his real and personal estate to his trustees upon certain trusts: And whereas the said will contains, *inter alia*, the following directions—"I empower the said trustees with reference to my land situate in the City of Auckland, or in the Borough of Parnell, at their discretion, to repair, enlarge, or renew any house or houses now standing thereon, or to build a new house or houses in lieu thereof; and I direct that in the erection or alteration of such buildings attention be given to the purpose of preserving harmony of architectural appearance between the buildings situate severally on the same side of the street and neighbouring to each other; and I further direct that the premises next to the Waitemata Hotel in Customhouse Street, and lately in the occupation of Mr. Whitley, shall be so altered by the said trustees within a period of five years from my decease in such a manner as shall render them uniform in

architectural appearance with the said Waitemata Hotel, and at the same time they shall erect such buildings as they may consider suitable on the ground adjoining and in the rear of the said premises; and I hereby authorize the said trustees to form a reserve fund of such amount as they shall judge to be requisite for the repairing and building of houses in the City of Auckland and in the Borough of Parnell as hereinbefore authorized; and I direct that it shall be the duty of the said trustees from time to time, at their discretion, but subject to the restrictions hereinafter imposed, to demise or let all or any part of my land which may be available for the purpose in such manner, at such rent, and on such conditions as they shall think advisable, but without taking any fine or premium for any such lease . . . and I direct that the said trustees shall set apart and reserve from lease for the purpose hereinafter mentioned not less than twenty-five acres of my land at Remuera aforesaid, known as Graham's Hill, as per plan or tracing annexed hereto showing the position in which the buildings hereinafter directed to be constructed shall be placed; and I direct that, for the purpose of guarding against the probability of the net income derivable from my estate falling below the sum of five thousand pounds per annum, the said trustees shall, before erecting any of the buildings hereinafter mentioned, accumulate out of the income of the said real and personal estate such sum of money as they may think sufficient, and invest the same at interest either by way of fixed deposit in any bank carrying on business at Auckland, or upon first mortgage of freehold estate in the said City of Auckland, or in the public stock, funds, or securities of the said Colony of New Zealand, with power to vary the investments from time to time for others of the nature aforesaid, but the said trustees shall continue such investments from time to time only as they to the best of their judgment shall think necessary for the purpose aforesaid; and I direct that whenever the net annual income of my said estate shall amount to not less than five thousand pounds and the moneys in the hands of the said trustees shall amount to not less than ten thousand pounds over and above any sums which may have been invested for the purpose of ensuring the net income of five thousand pounds per annum, then the said trustees, for the purpose of obtaining the best design for any of the buildings hereinafter mentioned, shall offer and pay such premiums for the same as they may think advisable; and I direct them, after having selected the best and most suitable of the said designs, with all convenient speed to apply the moneys in their hands as aforesaid, or a sufficient part thereof, to the erection of a substantial building or buildings of cemented either brick, or stone, or concrete, or of all or any of the said materials, and of such design and extent as the said trustees in their discretion shall think fit, on that portion of my land which forms part of Allotment No. 2 of Section No. 11 of the Suburbs of Auckland, known as Graham's Hill, as per plan or tracing annexed hereto, with all the outbuildings, walls, fences, and other appurtenances which in the opinion of the said trustees shall be necessary for the purposes hereinafter expressed; and I direct that whenever the buildings so erected as aforesaid, or to be erected as hereinafter mentioned, shall be considered by the said trustees

inadequate for the accommodation of the number of pupils which the income of my estate available for such purpose will be sufficient to maintain, the said trustees shall apply such portion of the moneys then in their hands, not exceeding ten thousand pounds, as will be sufficient for the erection of adjoining buildings of the character aforesaid on Graham's Hill aforesaid; and I authorize the said trustees to erect a gymnasium and to form cricket and play grounds on the said twenty-five acres of land so directed to be reserved from leases as aforesaid for the use of the pupils of the said institute, and they may form plantations of trees, shrubs, and flowers thereon, and otherwise improve and ornament the same, and do all such other things as they may think necessary for the health, recreation, and education of the said pupils; and I direct the said trustees to keep in good repair all buildings which shall be under their control, and to keep all such buildings insured against loss by fire, and to pay all rates, taxes, and assessments which may become chargeable on the trust property and which shall not be payable by any tenant or other person; and I direct that the said trustees, out of the moneys which shall remain in their hands after the payment of all expenses incident to the collection and realization of my personal estate, shall pay all my just debts and funeral and testamentary expenses, and the several legacies and annuities hereinbefore bequeathed, also all expenses which they shall incur in the erection of such buildings as I have directed to be erected for the purpose of carrying on the business of the said institute, also such repairs and rebuildings and insurances as are hereinbefore authorized, also all expenses connected with the selection, maintenance, education, and apprenticeship of pupils of the said institute, and the subsequent maintenance of any of them at a university as hereinbefore authorized, also all other expenses which may be incurred in the management of the trust property and of the said institute, or in the performance of any of the duties hereby created, or in the exercise of any of the powers hereby granted; 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, and 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 I direct that in the selection of boys resident in Ulster a preference shall be given, *ceteris paribus*, to boys resident in or near the Town of Dungannon, in the County of Tyrone, in the said Province of Ulster; and I direct that the boys to be so selected in the said Provincial District of Auckland shall not be under the age of three years nor over the age of five years, and that the boys to be so selected in the said Province of Ulster shall not be under the age of four years nor over

eight years; and I direct that as soon as the selection of boys to be pupils of the said institute shall commence to be made, then and thereafter the trustees of the said will and institute shall set apart the sum of two hundred pounds annually to be expended in defraying the cost of outfits of boys to be so selected in the said Province of Ulster and of conveying them to the said institute, and for the expending of such money for such purpose the said trustees shall appoint such agent or agents as they shall consider suitable; and I direct that when the net annual income of my said estate shall exceed the sum of five thousand pounds, then, in proportion to such excess, an addition shall be made to the before-mentioned two hundred pounds to be set apart for the aforesaid purpose": And whereas by subsections one, two, three, four, and five of section three of the Dilworth Trustees Act, 1902, the said directions were amended as therein set forth: And whereas it may be necessary to rebuild all or some of the premises situate in Queen Street, in the City of Auckland, before the reserve fund by the said will directed to be formed is large enough to provide for such rebuilding, and it is desirable that the trustees in such event should have power to borrow money for such rebuilding purposes: And whereas the land hereinbefore referred to and known as Graham's Hill is not sufficient or suitable for the purposes in the said will expressed—viz., for the accommodation and work of the said Dilworth Ulster Institute—and it is desirable that the said land should be released from any trust, either express or implied, with reference to the erection of such buildings for carrying on the work of the said Dilworth Ulster Institute there, and that the said lands should be leasable by the said trustees as are any other of the lands of the said estate: And whereas the said trustees are possessed of the land described in the Schedule hereto, and it is desirable that the said trustees should have power, at their discretion, at any time hereafter to erect the said buildings for the accommodation and work of the said Dilworth Ulster Institute there, instead of on the land hereinbefore referred to and known as Graham's Hill, and also to establish thereon a branch of the said institute for the purpose of giving industrial education to such pupils of the said institute as the said trustees shall consider suitable for the purpose: And whereas the said trustees have on a plan of a subdivision of part of the said estate, comprising part of Allotments 2, 3, 7, 8, 9, and 10 of Section No. 11 of the Suburbs of Auckland, lodged in the Deeds Register Office, at Auckland, under the name of Remuera Township, marked as "Recreation reserve," an area of land, containing one acre and five decimal three perches, adjoining the said land at Graham's Hill, and it is desirable that such area of land should be released from any trust or obligation (if any), either express or implied, by reason of its being so marked on the plan aforesaid, and should be leasable by the said trustees as are any other of the lands of the estate: And whereas the cost of the material and labour necessary for the erection of buildings has largely increased since the said will was made, and the sums therein directed to be set apart for the erection of such buildings and of

buildings adjoining thereto are insufficient for such purposes, and it is desirable that the trustees should have power to expend upon the erection of buildings for the accommodation and work of the said institute such sum or sums as they may find to be necessary for such purpose and for the purpose from time to time of altering or making such additions to the said buildings as the trustees may consider necessary or expedient: And whereas it is not expedient that large numbers of boys of varying ages should be gathered together in one place, and it is desirable that the trustees should have power in the future to use any surplus revenue in establishing similar institutes and branch institutes for the purpose of carrying on on similar lines the whole or any part of the work of the said institute and branch institutes, or for the separate accommodation, maintenance, and education of boys of any special classification or age: And whereas the said trustees have experienced great difficulty in obtaining the nomination of boys resident in the Province of Ulster, in Ireland, for the purpose of being brought out to Auckland as pupils of the said institute, and it is desirable that the said trustees should be authorized to expend the money directed to be set aside for the purpose of defraying the cost of outfit of boys to be so selected in the said Province of Ulster and of conveying them to the said institute, or so much of the said money as shall not in any year be required for such purpose, and including any money which has already been accumulated for such purpose and remains unexpended, in and for the supporting, training, and educating of boys resident in the Provincial District of Auckland: And whereas it is also desirable that the said trustees should have extended powers of leasing the said lands, and that the age at which boys may be admitted to any industrial branch of the said institute should be extended:

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 Dilworth Trustees Acts Amendment Act, 1912. Short Title.
2. In this Act the expression "the trustees" means the trustees for the time being of the said will. Interpretation.
3. In the event of the trustees finding it necessary or expedient to rebuild all or any of the premises situate in Queen Street, in the City of Auckland, before the reserve fund by the said will directed to be formed for the repairing and building of houses in the City of Auckland is large enough for such purposes it shall be lawful for the trustees to obtain money for such rebuilding upon overdraft from the bankers of the said trustees, or otherwise to borrow such money upon such terms and conditions and at such rate of interest as the trustees may approve, and to pledge as security for such advances such part of the property of the said estate situate in Queen Street aforesaid as may be sufficient for such purposes. Power to borrow.
4. The trustees shall be discharged from the obligation or duty of erecting the said buildings and carrying on the work of the said Dilworth Ulster Institute on the said land known as Graham's Hill as directed by the said will, and the said land shall be released from any trust, express or implied, with reference to the erection of such Trustees freed from carrying out certain trusts.

buildings or carrying on the work of the said institute there, and the said lands may be subdivided and leased by the trustees as are any other of the lands of the said estate, and the trustees may exercise in regard thereto all or any of the powers exercisable by the trustees in regard to any other of the lands of the said estate in the same locality; and it shall be lawful for the trustees at any time hereafter to erect upon any part of the land described in the Schedule hereto the said buildings, and carry on the work of the said institute there; and the trustees may, whenever they deem it advisable so to do, establish and maintain the said institute thereon in the same manner in all respects as if the same were the land at Graham's Hill on which by the said will the trustees were directed to erect the said buildings and carry on the work of the said institute; and all the powers and provisions of the said will as amended by any statute relating to the said institute shall, *mutatis mutandis*, have effect and apply as fully and effectually to all intents and purposes as if that part of the land described in the Schedule upon which the said buildings shall be erected and the work of the said institute carried on were the land upon which the trustees were by the said will directed to erect such buildings and carry on the works of the said institute; and it shall also be lawful for the trustees at any time hereafter to establish and maintain upon any part of the land described in the Schedule hereto, and not required as aforesaid for the purpose of the said institute, a branch of the said institute for the purpose of giving industrial education to such pupils of the institute as the trustees shall consider suitable for that purpose:

Provided always that the said trustees may sell any part or parts of the land described in the Schedule which is not, in the judgment of the trustees, required for the purposes of the said institute or branch institute:

Provided that the proceeds of any such sale or sales shall be expended in the purchase of other lands, which shall be held on the same trusts as affect the lands so dealt with, or otherwise invested on the like trusts; and may also from time to time let all or any part or parts of such land which is not required for the purposes aforesaid under any of the powers of letting by the said will or any amending Act conferred upon the trustees.

5. Notwithstanding anything to the contrary in the said will or Acts contained, it shall be lawful for the trustees to expend upon the erection of buildings for the accommodation and work of the said institute and branch institute such sum or sums of money as they shall from time to time find to be necessary for such purpose or for the purpose of rebuilding, altering, or making such additions to the said buildings as the trustees may consider necessary or expedient, and to form and accumulate a reserve fund for any of such purposes of such amount as the trustees shall think proper.

6. It shall be lawful for the trustees, after the said institute and branch institute shall have been established in accordance with the terms of the said will and the Acts amending the same, to use any surplus of the revenues accruing from the said estate, after making provision for all the requirements of the said will as amended, in establishing and maintaining similar institutes and branch institutes

Trustees empowered to spend money on maintaining upkeep of buildings.

Power to trustees to establish similar institutes.

for the purpose of carrying on on similar lines the whole or any part of the work of the said institute and branch institute, or for the separate accommodation, maintenance, and education of boys of any special classification or age; and the trustees may purchase such lands in the Provincial District of Auckland as in their opinion may be required for the purpose of establishing any such institute or branch institute, and may from time to time sell any of such lands, or may let the same under any of the powers of letting by the said will or any amending Act conferred upon the trustees.

7. It shall be lawful for the trustees to apply such part of the moneys by the said will and Act directed to be set apart for the purpose of defraying the cost of outfit of boys to be selected in the Province of Ulster as aforesaid and of conveying them to the said institute as shall not in any year be required for such purpose in and for the supporting, training, and educating of boys resident in the Provincial District of Auckland, in the same manner to all intents and purposes as if the money had been part of the income of the said estate available for this purpose. The power hereby conferred shall extend to and include all sums of money heretofore set apart for the purpose aforesaid and which at the date of coming into operation of this Act shall remain unexpended.

Disposal of certain surplus moneys.

8. Notwithstanding anything to the contrary in the said will or Acts contained, the trustees are hereby declared to be a leasing authority within the meaning of the Public Bodies' Leases Act, 1908.

Trustees declared to be a leasing authority.

9. Notwithstanding anything to the contrary in the said will or amending Acts contained, the trustees shall have power when and so soon as they shall have established a branch of the said institute, for the purpose of giving industrial education, to select any boy to be a pupil of the said industrial branch who shall not be over the age of fourteen years.

Selecting pupils for similar institutes that may be formed.

SCHEDULE.

Schedule.

ALL that area in the Auckland Land District, containing by admeasurement 272 acres 1 rood 27·9 perches, more or less, being part of the land shown on a plan deposited in the Land Registry Office at Auckland, under No. 6831, which said piece of land comprises Allotments Nos. 1, 5, and 6, and portions of Allotments Nos. 4 and 7, of the Parish of Manurewa, and is the whole of the land described in certificate of title registered in Volume clxxx, folio 152, of the Register-book in the Land Registry Office, at Auckland aforesaid.

And also all that area in the said land district, containing by admeasurement 31 acres 2 roods 8·1 perches, more or less, being part of the land shown on said deposited plan No. 6831, which said piece of land is portion of Allotment No. 7 of the Parish of Manurewa aforesaid, and is the whole of the land described in certificate of title registered in Volume clxxx, folio 153, of the Register-book aforesaid.