

1885.

NEW ZEALAND.

SETTLED ESTATES IN ENGLAND AND COLONIAL INVESTMENTS.

(PAPERS RESPECTING SUGGESTED IMPERIAL LEGISLATION.)

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

The PREMIER to the AGENT-GENERAL.

Government Offices, Wellington, December 1, 1884.

SIR,—

As you are aware, many estates in England are exchanged, the Courts allowing this to take place, so long as existing settlements are preserved. There are also many estates in England on which there are charges in favour of younger sons.

2. If the law were altered, so as to allow settled property in England to be sold, on condition that the moneys were expended on freehold in one of the colonies, much capital now comparatively unproductive in England might be directed here. And if, instead of charges on estates, younger sons, &c., were allowed to purchase the equivalent in land here, the estate being mortgaged to enable this to be done, there would also be more profitable investment made in the colony.

3. Of course, this is a matter beset with difficulties; and it may be almost impossible to get the Chancery Division of the High Court to surrender part of its functions in dealing with settled estates, &c. I have not the least doubt, however, if the alteration of the law I hint at could be made, a benefit would be conferred on many landowners in England, and on many persons having charges on estates, as well as upon the colony.

4. You might write to Mr. Mackrell about it, and ascertain his views as to whether it would be of use to represent the matter to the Colonial Office, for submission to the Lord Chancellor.

5. I may add that the matter, though apparently trivial, might be of some service in further fostering that feeling of union with the Mother-country which so many of us desire to see strengthened.

Sir F. Dillon Bell, K.C.M.G., Agent-General.

I have, &c.

ROBERT STOUT.

No. 2.

The AGENT-GENERAL to the PREMIER.

SETTLED ESTATES.—Mr. Mackrell advises introduce Bill this session. Instruct whether shall prepare same. Particulars are being sent by to-day's mail.

F. D. BELL.

London, February 10th.

No. 3.

The PREMIER to the AGENT-GENERAL.

SETTLED ESTATES.—Yes.

ROBERT STOUT.

Wellington, February 12th.

No. 4.

The AGENT-GENERAL to the PREMIER.

SIR,—

7, Westminster Chambers, London, S.W., 12th February, 1885.

I have the honour to acknowledge the receipt of your letter of the 1st December, relating to the investment of trust moneys.

I laid the matter before Messrs. Mackrell and Co. as you desired, and now transmit two letters I have received from them, which you will doubtless read with interest.

1—A. 3.

Although a subject so large involves professional questions on which I am not, of course, competent to speak, Mr. Mackrell and I have frequently consulted upon one branch of it in which I have been somewhat concerned, namely, the investment of trust moneys in the inscribed stocks of the colonies; and I was on the point of addressing you when your letter came.

You are no doubt aware that in the last session of the Imperial Parliament an Act was passed, intitled "The Trusts (Scotland) Amendment Act, 1884," whereby trustees were empowered, unless specially prohibited by the terms of their trust, to invest their trust funds (*inter alia*) in "stocks or other public funds of the Government of any colony of the United Kingdom approved by the Court of Session, or bonds or other documents of debt of any such Government so approved, provided such stocks, bonds, or others were not payable to bearer." I enclose three copies of that Act, for convenience of reference.

Last November, Mr. Westgarth called the attention of the several Agents-General to the Act, and some correspondence took place about it. On writing to my colleagues, they all expressed their willingness to join me in an endeavour to induce the Colonial Office to take an interest in the matter; but we have been waiting for a more favourable moment than the present. I enclose copies of the various letters that passed at that time.

I fear that Mr. Mackrell's second letter will seem to you to contain an impracticable proposal. But, in a long conference with him, he stated very strongly that, without an adequate safeguard for the moneys invested, the Chancellor would certainly not give permission for the investment; and of course the Chancellor's views would have to be taken very seriously into account in considering the prospects of any Bill that might be introduced as Mr. Mackrell proposes. We concurred, however, in thinking that it is very desirable to test the sense of the Imperial Parliament on your proposals, by introducing a Bill: not with much hope of getting any Bill through in the first session, but to begin the ventilation of the subject. Accordingly, I sent you a telegram, asking whether we should prepare a Bill at once, and I was glad to receive your reply this morning authorizing this to be done. No time will be lost in the matter, and it will give me great pleasure to second, as far as I can, the objects you have at heart.

I have, &c.

The Hon. the Premier, Wellington.

F. D. BELL.

Enclosure 1.

Messrs. MACKRELL and Co. to the AGENT-GENERAL.

DEAR SIR FRANCIS,—

21, Cannon Street, London, E.C., 4th February, 1885.

We have given full consideration to the suggestions of the Premier, contained in his letter to you of the 1st December, of which you have sent us a copy, and beg to report thereon as follows:—

A recent Act of the Imperial Parliament has enabled settled estates of all kinds to be sold, and has determined the securities on which the proceeds of sales shall be invested.

The preliminary difficulty of obtaining Parliamentary powers to sell settled estates is therefore removed, and, to carry out the suggestion of the Premier, it would only be necessary to give trustees power to invest in lands in the colonies.

By the Act above referred to, Parliament has sanctioned investments on Government securities; or on other securities on which the trustees of the settlement were, by the settlement or by law, authorized to invest the trust funds; or on security of the bonds, mortgages, or debentures, or in the purchase of debenture stock, of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for ten years next before the date of investment paid a dividend on its ordinary stock or shares.

You will observe that, besides the investments specially mentioned, power is given to invest in other securities authorized by law.

By the 23rd and 24th Vict., cap. 38, the Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices, and the Vice-Chancellors, or any three of them, was empowered to make general orders from time to time as to the investment of cash under the control of the Court of Chancery, either in Consols, Reduced, or any such other stocks, funds, or securities as he (with such advice or assistance) should see fit; and it was declared that, when any such general order should be made, trustees having power to invest their trust funds upon Government securities, or upon Parliamentary stocks or securities, might invest the same, or any part thereof, in any of the stocks, funds, or securities in or upon which, by such general order, cash under the control of the Court might be invested.

It would therefore be necessary either to apply to Parliament for an Act to authorize the investment of the proceeds of the sales of settled estates in lands in the colonies, or to obtain an order of the Lord Chancellor (with the advice above mentioned) giving such authority.

Some time since, the question of allowing Chancery funds to be invested in the securities of Colonial Governments was considered by the authorities, and it was then deemed inexpedient to sanction such investments: (1) because the Colonial Governments are not under the control of the Imperial Parliament as to the extent of their issues, such as is the case with India stock and other securities in which trustees are authorized to invest; (2) because Colonial Governments cannot be brought under the jurisdiction of the English Courts; and (3) because the colonial loans were then almost entirely represented by bonds payable to bearer.

The passing of the Colonial Stock Act, under which so many of the Colonial Government loans have become inscribed, has led to the sanction by Parliament of the investment of trust moneys under the control of the Courts in Scotland, in any of the colonial inscribed stocks which may be sanctioned by such Courts.

No order has yet been made by the Courts, but the subject has been lately brought under their consideration, and we hope before long to hear that an order has been made.

It is of great importance to the colonies to get this power extended to trust funds in England ; which can be done either by obtaining the authority of Parliament, or an order of the Lord Chancellor under the Act above referred to.

We think that, as two of the above-mentioned objections originally raised to investments in colonial securities have not been removed, there is little hope that the Lord Chancellor, and the Judges who are to advise him, would take upon themselves the responsibility of making such an order ; and that, having regard to the Act passed last session relating to Scotland, and to the strong feeling which exists in Parliament in favour of drawing the Mother-country and the colonies more closely together, it would be better to apply at once to Parliament to extend to English trust funds the Act relating to Scotch trust funds ; and not to risk a refusal of an order by the Lord Chancellor, which might prejudice the application to Parliament.

The Bill submitted to Parliament might embody the Premier's suggestion, and authorize the investment of the proceeds of the sales of settled estates in lands in the colonies.

It would, however, be necessary to propose such safeguards as would be likely to make such a proposal acceptable to Parliament, and this would require very careful consideration.

The Bill might contain a clause for carrying out the other suggestion of the Premier, as to the shares of younger sons, by allowing their portions to be advanced on the security of lands in the colony.

We are afraid that there might be a difficulty in allowing moneys to be borrowed on the English properties, to be lent on such securities ; but of course a clause could be inserted which should authorize this.

If any Bill is to be introduced into the next session of Parliament, there is of course no time to be lost, and, if it is wished to do this, we would advise that (as we did in the case of the Bill for the Colonial Stock Act) a Bill should be prepared on behalf of the colonies and submitted to the Colonial Office, with a request to the Secretary of State to get the Bill introduced and carried through as a Government measure.

Our conveyancing counsel, Mr. Wolstenholme, drew the Bill for the Settled Estates Act for the Government, and we should advise his being asked to settle the Bill to be submitted to the Colonial Office.

Mr. Mackrell could come and talk this matter over with you on Saturday or Monday afternoon if you like.

We have, &c.

The Agent-General for New Zealand.

MACKRELL, MATON, AND GODLEE.

Enclosure 2.

Messrs. MACKRELL and Co. to the AGENT-GENERAL.

Settled Estate : Investment of Trust Funds.

DEAR SIR FRANCIS,—

21, Cannon Street, London, E.C., 10th February, 1885.

As arranged at the interview Mr. Mackrell had with you yesterday, we now put in writing our suggestions as to some of the details of the proposed Bill.

Assuming that Parliament will sanction the investment in lands in the colonies of the proceeds of the sales of settled estates, it will be necessary, in order to overcome the difficulties which would otherwise lie in the way of the Court of Chancery or trustees availing themselves of the Act, to provide (1) against any loss of income, or by way of exchange on the transmission of the funds to the colony, and until the moneys shall be invested ; and (2) a plan of operations under which investments may be made with advantage, with safety to the trustees, and without risk of loss to the *cestui-que* trusts.

We assume that the investments of the funds in colonial lands will be of very substantial benefit to the colonies ; and we therefore suggest that the Colonial Governments shall undertake to relieve trustees of all loss, responsibility, and difficulty with reference to such investments. We propose that the trust funds shall be deposited for investment with the London banks of the Governments ; that the Government shall undertake to pay the interest thereon half-yearly, at the rate of 4 per cent. per annum from the date of such deposit, until income shall commence to accrue upon the investment, as also during the time occupied in transmitting the first investment to England ; that the Government (by one of its departments) undertake the selection of suitable investments, the collection of the rents, and the transmission thereof to England, guaranteeing a minimum return at the rate of 4 per cent. per annum, payable half-yearly in England, until the estate shall become absolutely vested or the proceeds thereof shall become divisible amongst the *cestui-que* trusts ; and then guaranteeing that the estate shall be of the full value of, or shall produce, the amount invested, as the case may require. This guarantee will manifestly be limited in point of time.

We do not propose to make the Act obligatory upon any of the colonies, but (as in the case of the Colonial Stock Act) to make it apply only to those colonies which shall pass an Act adopting it.

We do not doubt that Parliament would require the insertion in the Bill of powers enabling the guarantee of the Colonial Government to be enforced, which could not now be done, for the remedy against the Crown by petition of right is not available in England in respect of colonial Crown debts, nor is it available in the colonial Courts except under Acts passed by some of the colonies : which are, however, limited to debts contracted in the colonies respectively, and would not therefore apply to this case. Parliament would no doubt, moreover, require that the Colonial Legislature should provide a fund to answer a judgment or order obtained against the Crown under the Act. We think, therefore, that it would be wise to anticipate such requirements, and to introduce clauses into the Bill to meet these points.

The simplest plan to be adopted seems to be, to give power to the Courts in England to make an order for payment of any moneys to which trustees might become entitled, after hearing a

petition to be presented against the Colonial Government, and served upon its Agent-General or other representative here; and to enable such order to be enforced by an execution against the funds of the colony in England, or against funds to be provided in the colony for the purpose.

We think that the providing of some such simple process for obtaining payment of interest and capital, when due, in respect of trust moneys invested in colonial stocks, would facilitate the obtaining Parliamentary sanction for such investments; and we suggest that it be carefully considered whether to frame the Bill accordingly: Of course the doing so might open up the whole question of how Colonial Governments should sue and be sued in England; but any objection to this might be trifling, compared with the advantage which would result to the colonies from the obtaining the sanction of Parliament to the investment of trust funds in colonial stocks.

We have, &c.

The Agent-General for New Zealand.

MACKRELL, MATON, AND GODLEE.

Enclosure 3.

Messrs. WESTGARTH and Co. to the AGENT-GENERAL.

8, Finch Lane, Threadneedle Street, London, E.C.,
13th November, 1884.

DEAR SIR FRANCIS,—

It appears that last year an Act was passed for Scotland, allowing trust money to be invested in Colonial Government securities, provided, in any particular case, the Scotch Courts approved.

My informant, Mr. H. Robson, of the Stock Exchange, says that this conditional permission is in most or all cases useless, because so much expense is incurred in each application. He therefore suggests that the different Agents-General address these Courts on behalf of their respective colonies, and claim once for all the privilege in question. He added that his brother's firm of solicitors (Scot. W.S.), Messrs. Miller, Robson, and Innes, W.S., 8, George Street, Edinburgh, who have had occasion to look into the matter lately, might act for the Agents-General, failing any solicitors of their own in Scotland.

This seems worth the attention of the first-class colonies. I suppose that any expenses would be of the most nominal kind.

Faithfully yours,

W. WESTGARTH AND Co.

Sir Francis Dillon Bell, K.C.M.G., Agent-General for New Zealand.

Enclosure 4.

Messrs. WESTGARTH and Co. to the AGENT-GENERAL.

DEAR SIR,— 8, Finch Lane, Threadneedle Street, London, E.C., 22nd November, 1884.

The enclosed copy of a letter just received from Mr. W. Robson, W.S., of Edinburgh, on the subject we lately brought to your notice, may further interest you and the other Agents-General, and no doubt you will be able to afford Mr. Robson the particular information he asks for as to the colonial registrable stocks.

Faithfully yours,

W. WESTGARTH AND Co.

Sir Francis Dillon Bell, K.C.M.G., Agent-General for New Zealand.

Sub-Enclosure.

DEAR SIR,— Chambers, 8, George Street, Edinburgh, 21st November, 1884.

My brother, Mr. Henry Robson, writes me that he sent you a copy of the Act authorizing the investment of Scottish trust funds in Colonial Government securities which may be approved of by the Scottish Supreme Court, and sent me your answer to him of the 14th November current. The solicitors here are taking steps to bring the matter before the Court, with a view of getting their sanction to a list of colonial stocks in which trust funds may be invested, and I am one of the committee of the Society of Solicitors to whom the matter has been intrusted; and I hope you will accept this as my apology for writing you on this subject.

The Act applies only to inscribed stocks, and in "Burdett's Official Intelligencer" for the current year, issued by the London Stock Exchange, I find, at pp. 990 and 991, a list of Colonial Government inscribed stocks; but, from the note prefixed to the list, it would appear that by this time there may be some additions to the list.

On behalf of my Committee, I should be glad to have as complete a list as possible of the inscribed stocks to which the Act may apply, and all such information as may be useful to enable the Court here to come to a decision as to approving of the stocks.

It would be desirable also to have information as to whether any notice of the trustees holding the stock as trustees would be allowed on the registers; and also as to whether the holders of the stocks would, by holding them, become subject to the jurisdiction of the colonial Courts, and, if so, to what extent.

As you mention in your letter to my brother that you have written the several Agents-General on the subject, may I ask the favour of your communicating with them on the above points, and favouring me with replies at your early convenience?

I must apologize for giving you this trouble, but, not having the names and addresses of the several Agents-General, I cannot write them direct, as I shall be glad to do in future if you will kindly send me a list of them with their addresses; and as the matter is assuming a practical shape here, and is one of some interest to the colonies, this must be my excuse for troubling you about it.

I am, &c.

WILLIAM ROBSON.

W. Westgarth, Esq., 8, Finch Lane, Threadneedle Street, London, E.C.

Enclosure 5.

Messrs. MACKRELL and Co. to the AGENT-GENERAL.

DEAR SIR FRANCIS,—

21, Cannon Street, London, E.C., 10th December, 1884.

We send enclosed, as promised by Mr. Mackrell yesterday, a copy of his memorandum as to the investment of trust funds; from which you will see that, if the Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices, and the Vice-Chancellors, or any three of them, will make an order authorizing investments in colonial stocks, an Act of Parliament will not be necessary.

We have, &c.

MACKRELL, MATON, AND GODLEE.

The Agent-General for New Zealand.

Sub-Enclosure.

Re Investments of Trust Funds.

By the 22nd and 23rd Vict., cap. 35, trustees, unless expressly forbidden so to invest, were authorized to invest trust funds on real securities in any part of the United Kingdom, or on stock of the Bank of England or Ireland, or on East India stock.

East India stock was, by the 30th and 31st Vict., cap. 132, declared to mean East India stock which existed previously to the 13th August, 1859, and also East India stock charged on the revenues of India, and created under and by virtue of any Act passed subsequent to that date, and the subsequent loans issued by the Indian Government under various Acts; which loans are entitled "India stock," and are declared to be within the provisions as to East India stock.

By the same Act, trustees were authorized to invest in any securities the interest of which was, or should be, guaranteed by Parliament, in the same manner as if the same were East India stocks.

By the 23rd and 24th Vict., cap. 38, the Lord Chancellor, with the advice and assistance of the Master of the Rolls, the Lords Justices, and the Vice-Chancellors, or any three of them, was empowered to make general orders from time to time as to the investment of cash under the control of the Court of Chancery, either in Consols, Reduced, or any such other stocks, funds, or securities as he (with such advice or assistance) should see fit; and it was declared that, when any such general order should be made, trustees having power to invest their trust funds upon Government securities, or upon Parliamentary stocks or securities, might invest the same, or any part thereof, in any of the stocks, funds, or securities in or upon which, by such general order, cash under the control of the Court might be invested.

Under this Act, a general order was made on the 1st February, 1861, declaring that cash under the control of the Court might be invested in bank stock, East India Stock, Exchequer bills, and $2\frac{1}{2}$ per cent. annuities, and upon mortgage of freehold and copyhold estates in England or Wales, as well as in Consols, Reduced, and New Three per Cents.

Various statutes have been passed from time to time, by which the investment of trust funds in the stocks of Municipal Corporations and other public bodies has been authorized; the first of these having been an Act passed in 1871, authorizing trustees to invest in the stock issued by the Metropolitan Board of Works; and the Court of Chancery has sanctioned a fund in Court being invested in Metropolitan Board of Works stock.

The Court has, however, refused to allow funds under its control to be invested in the shares of railways guaranteed by the Indian Government, although the instrument of trust authorized such an investment.

By the Act passed in 1882, authorizing the sale of settled estates, Parliament sanctioned the investment of the proceeds of any sale on Government securities, or on other securities in which the trustees of the settlement were, by the settlement or by law, authorized to invest the trust funds; or on security of the bonds, mortgages, or debentures, or in the purchase of debenture stock, of any railway company in Great Britain or Ireland incorporated by special Act of Parliament, and having for ten years next before the date of investment paid a dividend on its ordinary stock or shares.

21, Cannon Street, 19th April, 1884.

Enclosure 6.

AN ACT to amend "The Trusts (Scotland) Act, 1867." [14th August, 1884.]

WHEREAS by an Act passed in the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, intituled "An Act to amend the Law in Scotland relative to the Resignation, Powers, and Liabilities of Gratuitous Trustees," and by an Act passed in the twenty-sixth and twenty-seventh years of the reign of Her present Majesty, intituled "An Act to explain the Act for the Amendment of the Law relative to Gratuitous Trustees in Scotland," and by "The Trusts (Scotland) Act, 1867," certain powers are conferred on gratuitous trustees in Scotland:

And it is expedient to amend the said Acts, and to extend the powers thereby conferred:

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Trusts (Scotland) Amendment Act, 1884," and the said Acts and this Act may be cited as The Trusts (Scotland) Acts, 1861 to 1884, and shall be read and construed together.

2. In the construction of the said recited Acts and of this Act,—

"Trust" shall mean and include any trust constituted by any deed or other writing, or by private or local Act of Parliament, or by resolution of any corporation or public or ecclesiastical body, and the appointment of any tutor, curator, or judicial factor by deed, decree, or otherwise:

“Trustee” shall include tutor, curator, and judicial factor :

“Judicial factor” shall mean any person judicially appointed factor upon a trust estate or upon the estate of a person incapable of managing his own affairs, *factor loco tutoris*, *factor loco absentis*, and *curator bonis* :

The words “East India stock” shall have the meaning assigned to them by an Act passed in the session holden in the thirtieth and thirty-first years of Her present Majesty, chapter one hundred and thirty-two.

3. Trustees under any trust may, unless specially prohibited by the constitution or terms of the trust, invest the trust funds—

(a.) In the purchase of—

- (1.) Any of the Government stocks, public funds, or securities of the United Kingdom :
- (2.) Stock of the Bank of England :
- (3.) Any securities the interest of which is or shall be guaranteed by Parliament :
- (4.) Debenture stock of railway companies in Great Britain incorporated by Act of Parliament :
- (5.) Preference, guaranteed, lien, annuity, or rent-charge stock, the dividend on which is not contingent on the profits of the year, of such railway companies in Great Britain as have paid a dividend on their ordinary stock for ten years immediately preceding the date of investment :
- (6.) Stocks or annuities issued by any Municipal Corporation in Great Britain, which annuities, or the interest or dividend upon which stock, are secured upon rates or taxes levied by such Municipal Corporation under the authority of any Act of Parliament :
- (7.) East India stock, stocks or other public funds of the Government of any colony of the United Kingdom approved by the Court of Session, and also bonds and documents of debt of any such Government approved as aforesaid, provided such stocks, bonds, or others are not payable to the bearer :
- (8.) Feu-duties or ground-annuals.

(b.) In loans—

- (9.) On the security of any of the stocks, funds, or other property aforesaid :
- (10.) On real or heritable security in Great Britain :
- (11.) On debentures or mortgages of railway companies in Great Britain incorporated by Act of Parliament :
- (12.) On bonds, debentures, or mortgages secured on rates or taxes levied under the authority of any Act of Parliament by Municipal Corporations in Great Britain authorized to borrow money on such security :
- (13.) On Indian railway stock, debentures, bonds, or mortgages on which the interest is permanently guaranteed by the Indian Government and payable in sterling money in Great Britain :

Provided that the trustees shall not be held to be subject as defendants or respondents to the jurisdiction of any of Her Majesty’s Courts of Law or Equity in England or Ireland, either as trustees or personally, in any suit for administration of the trust by reason of their having invested or lent trust funds as aforesaid.

And section five of “The Trusts (Scotland) Act, 1867,” is hereby repealed.

No. 5.

The AGENT-GENERAL to the PREMIER.

SIR,— 7, Westminster Chambers, London S.W., 12th March, 1885.

In continuation of my letter of the 12th February, No. 159, on the subject of the proposed Bill for investing money belonging to settled estates, I now transmit herewith the first draft of the Bill prepared by Mr. Mackrell.

As you will have seen from Mr. Mackrell’s letter transmitted to you in my letter of the 12th February last, he was strongly of opinion that there would be no chance of obtaining authority for the investment of trust money in either New Zealand land or inscribed stock, unless the colony would consent to clothing such investments with a Government guarantee to a moderate amount. It is accordingly upon this principle that the Bill has been drafted. I am in frequent consultation with Mr. Mackrell on the subject, and, when the draft has been submitted to counsel and finally settled, I shall be able to describe the scheme more fully. In the meantime I transmit a copy of a letter from Mr. Mackrell giving a technical description of it.

The Bill is drafted for New Zealand only ; but I propose, as soon as it has been finally revised, to send copies of it to the High Commissioner for Canada and the Agents-General for the Australian Colonies, inviting them to consider whether the scheme would not be one of such advantage to all the colonies as to make it expedient for their Governments to support it. In that case it might perhaps be advisable to convert the Bill into one not limited to New Zealand, but extending to the colonies generally. It will be in your recollection that when Sir Julius Vogel took the first steps for passing the Colonial Stock Act the measure was only proposed for New Zealand, and that it was afterwards made a general Act. Probably it would facilitate the passing of the present measure if a similar course were taken with regard to it.

You will notice that the Bill contemplates the Public Trustee being appointed to manage the investments in New Zealand, and also an “Investment Agent in London” being appointed to manage the investments on this side. I am now endeavouring to induce the Bank of England to take a part in the business ; and it is needless for me to say how much, if I can succeed in this, the success of your proposal would be insured.

I have, &c.,

The Hon. the Premier, Wellington.

F. D. BELL.

Enclosure No. 1.

Messrs. MACKRELL, MATON, and GODLEE to the AGENT-GENERAL for New Zealand.

New Zealand Investments.

DEAR SIR FRANCIS,—

21, Cannon Street, London, E.C., 11th March, 1885.

We now send you a revised print of the Bill for authorizing the investment of trust funds in New Zealand securities.

It may facilitate the consideration of this draft Bill if we explain shortly the objects to be attained, and the mode of carrying out the proposed scheme.

It seems more convenient to refer firstly to the last section of the Bill.

In the last session of Parliament an Act was passed sanctioning the investment of Scotch trust funds in such of the inscribed stocks of the Colonial Governments as the Courts in Scotland should approve. It is proposed now that Parliament shall itself declare that any of the trust funds held in the United Kingdom may be invested in New Zealand Inscribed Stocks. If this be assented to there should be no question raised to the other portions of the Bill which sanctions the investment of trust funds in lands in the colony under a guarantee by the New Zealand Government, both as regards the capital and of 4 per cent. interest thereon. In this respect, however, the Bill will not be operative until the Legislature of New Zealand shall pass an Act making the Act binding on the Government of the colony, and otherwise as mentioned in section 4, which includes the providing the necessary funds to meet the Government guarantee.

Should the Government adopt the Bill, trustees will then be duly authorized, either with or without the sanction of the Chancery Division of the High Court of Justice, to invest trust funds in the purchase of lands in New Zealand, whether such trust funds shall have arisen from the sale of settled estates or shall be held under any trust for an infant, immediate or future, subject to the consent of those of full age entitled beneficially to any intermediate interest.

The machinery proposed for the purpose of the Bill is as follows:—

The Government are to appoint an Investment Agent in London, who is to be empowered to enter into arrangements and engagements on behalf of the Government with trustees. When an arrangement has been come to, the trust moneys are to be deposited with the Investment Agent in London, to be transmitted to "the Public Trustee," who is constituted the Agent in the colony for the purposes of the Act.

Upon the money being so deposited the Government are to become liable for interest thereon at the rate of 4 per cent. per annum until the money be invested, and thenceforth to make up a yearly return of not less than 4 per cent. per annum until the expiration of three* years from the date when a person becomes of full age and entitled in possession to dispose absolutely for his own use of the land purchased, unless, in the meantime, the purchase-money shall have been paid off. Upon receipt of the money the Investment Agent in London is to give to the trustees a debenture with warrants for payment of interest, in a form to be prescribed.

The Public Trustee, on receipt of the moneys from the Investment Agent in London, is to invest the same in the purchase of the land which may have been previously selected, or otherwise at his discretion, and the same is to be vested in the trustees for whom the investment shall be made, who are to hold the same on the same trusts as if the land had been situated in England, but it may be arranged for the land being vested in some person in the colony for the purpose of facilitating the management of the same.

Upon the completion of the purchase, and the delivery to the trustees of a proper certificate to that effect, the debenture issued by the Investment Agent in London, with all warrants for interest not accrued due, is to be delivered up. In case the whole of the moneys deposited shall not have been invested, a new debenture is to be issued for the balance.

The expenses attending the investment are to be borne by the Government, they being entitled to deduct a commission.

The land purchased is not to be subject in the colony to succession duty, legacy duty, probate duty, or other imposition in respect of devolution by death or otherwise.

The management of the property purchased is to be either by the trustees or by the Public Trustee, as may be arranged; but, if the Government are called upon to make good any deficiency of income to make up 4 per cent., the Public Trustee may obtain the appointment of a receiver or manager.

The necessary powers are conferred upon trustees to appoint agents in the colony for management of the property purchased.

In case any person beneficially entitled in possession to the income of the trust funds should desire to have the trust funds returned to England, the Government are to be bound to repay the same, but not after the time when their guarantee of income ceases; and, if the land purchased shall be insufficient to yield an income of 4 per cent. for three consecutive years, the Government are to be at liberty to repay the trustees the purchase-money, with interest. On repayment of the trust funds the lands are to become the absolute property of the Government.

The Bill will thus afford to parties interested in trust funds in the United Kingdom the opportunity of investing the same in lands in New Zealand, with a guarantee of the New Zealand Government of an income of not less than 4 per cent. per annum until three years after the time when the parties interested in the funds shall become absolutely entitled, and a right to repayment of the amount of the trust funds themselves, should the parties so desire at any time, whilst the guarantee of income is current.

The Government will have the advantage of the investment of the trust funds in lands in the colony, which no doubt will induce a large number of settlers, at the risk of a guarantee which they can practically render perfectly safe, as the guarantee will only be in respect of investments made through their own officer, who can of course take care that the land shall yield the guaranteed

* This may be varied, if desired.—M., M., and G.

income, and shall realize the trust funds themselves, should the Government be called upon to refund the amount.

The Bill provides for an inexpensive mode for trustees obtaining direction by the Court as to investments, and the Court is to consider the investment a proper one, and that the fact that any of the parties intend to reside in the colony renders the investment desirable.

The jurisdiction of the English Courts over the trust property is to be retained.

Questions between the Government and the trustees are to be settled by the High Court of Justice in England, in which the Government is to be represented by the Investment Agent in London.

The Bill contains the necessary provisions as to the evidence and adoption of the Act by the Government, and of the appointment from time to time of the Investment Agent in London, for delivery to the trustees of the necessary documents of title, and particulars of the investment; for the consolidation of several purchases on account of the same trust; for the orders of the High Court of Justice being enforced by the Courts in the colony; for the regulation by the Government of proceedings under the Act, and the adoption of such rules and forms as may be thought to be expedient; and for protecting the Government Agents from personal liability.

We have, &c.,

The Agent-General for New Zealand.

MACKRELL, MATON, AND GODLEE.

Enclosure 2.

A BILL intituled "An Act to authorize and facilitate Investments in the Land and Inscribed Stock of the Colony of New Zealand."

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited as "The New Zealand Investments Act, 1885."

Interpretation.

2. (1.) In this Act the word "colony" means the Colony of New Zealand: the words "land" and "settlement" have the same meaning respectively as the same words in "The Settled Land Act, 1882;" the word "trustees," where not inconsistent with the context, means the trustees of a settlement for the purposes of that Act: the expression "Colonial Government" means the Government of the Colony of New Zealand: the expression "Public Trustee" means the Public Trustee for the time being under an Act of the New Zealand Legislature, the Short Title of which is "The Public Trust Office Act, 1872," and any Acts of such Legislature amending the same.

Colony to adopt by passing an Act of the Legislature.

3. (1.) The colony shall be deemed to have adopted this Act when the Legislature thereof has^s passed an Act having the following effect, namely:—

- (i.) Making this Act binding on the Colonial Government;
- (ii.) Making proper provision for the appointment and continuance of an Investment Agent in London to act on behalf of the colony for all the purposes of this Act;
- (iii.) Making proper provision for the appointment and continuance of the Public Trustee to act on behalf of the colony for all the purposes of this Act;
- (iv.) Expressly making the Colonial Government responsible for and bound by the acts and receipts of and the agreements entered into by the Investment Agent and Public Trustee respectively;
- (v.) Declaring that all moneys which may become due and payable under this Act by the Government or by the Investment Agent or Public Trustee shall be charged upon and paid out of the Consolidated Fund of the colony; and that the Investment Agent in London shall, out of moneys to be appropriated for that purpose by the General Assembly of the colony, pay any sum or costs ordered to be paid by him under this Act by the High Court of Justice in England.

Investment Agent may be appointed.

4. (1.) Any person, corporation, or company may be appointed by the Colonial Government to be the Investment Agent in London for the purposes of this Act.

Evidence of adoption of Act and appointment of Investment Agent.

5. (1.) Publication in the London *Gazette* of a notice by order of one of Her Majesty's Principal Secretaries of State, to the effect that the colony has duly adopted this Act, shall be conclusive evidence of the due adoption thereof by the colony.

(2.) Publication from time to time in the London *Gazette* of a notice, by order of one of Her Majesty's Principal Secretaries of State, giving the name of the Investment Agent in London, shall be conclusive evidence of the due appointment of the Agent therein named.

Capital money arising under "The Settled Land Act, 1882," may be invested in land in a colony.

6. (1.) Notwithstanding any enactment to the contrary contained in "The Settled Land Act, 1882," capital money arising under that Act from land in England or Ireland may be invested in the purchase of land in the colony, unless the settlement expressly directs the contrary.

(2.) The whole fee-simple, estate, or other equivalent estate, according to the law of the colony, in land purchased under this Act, shall be conveyed or otherwise transferred, according to the law

