

1900.

NEW ZEALAND.

## PORIRUA, WAIRARAPA, AND OTHER SCHOOL GRANTS

(INTERIM AND FINAL ORDERS OF THE COURT IN THE ACTION WALLIS AND OTHERS  
VERSUS THE SOLICITOR-GENERAL IN CONNECTION WITH THEM.)

*Laid upon the Table of the House of Representatives by Leave.*

### 1. JUDGMENT DELIVERED BY HIS HONOUR THE CHIEF JUSTICE.

WALLIS AND OTHERS *v.* THE SOLICITOR-GENERAL.—Hearing, 16th August; judgment, 7th September, 1900. Mr. Quick for the plaintiffs, Mr. Gully for the Solicitor-General.

IN this case the plaintiffs have, since the matter was before the Court on the 19th May, 1899, submitted a fresh scheme to the Court differing in some respects from the scheme that was filed on the 25th November, 1898.

In the amended scheme they ask that the trustees be empowered to expend the net rent and profits arising from the land, and the net income of the fund representing accumulated rentals and interest, in the assisting in the maintenance of an institute about to be erected in the Wairarapa Valley. This new institution is to be for the religious education and industrial training and instruction in the English language of youths being subjects of Her Majesty, youths of the Maori race being preferred. The General Synod of the Church of the Province of New Zealand, commonly called "the Church of England," or, by its consent, the Diocesan Synod of the Diocese of Wellington or its standing committee, is to have power to make rules and regulations to carry out the scheme.

The objections that were urged by the counsel for the Solicitor-General were the same as those urged before the Court last year, and on which a decision was given on the 19th May, 1899.

This Court is bound by its previous decision, and what has now to be considered is: (1) Whether it has been shown that the trust can be carried out in its entirety; and (2) if not, whether the scheme submitted should be approved.

The evidence is conclusive that it would be a waste of the trust-moneys to erect a school on the reserve, and if such a school were started there it would fail to fulfil the purposes of the trust.

The scheme proposed seems to us to go beyond what is necessary in utilising the trust. It practically proposes to absorb the trust-moneys for the support of a similar institution in the Wairarapa. The trust may be carried out without allowing the absorption.

If the scheme were amended so as to provide—(a.) For the maintenance of such a number of scholars in the Wairarapa institution as the rentals and income would permit, a fair sum being charged for maintenance and education; (b.) That preference should be given to the children belonging to the Ngatittoa Tribe; failing them, preference to the children of the West Coast tribes; (c.) That the proposed system of education be approved as appears in the original trust; (d.) That no youth be refused a scholarship on the ground of religious belief, no religious test whatever being applied to the applicants—the Court would be prepared to approve of it.

It was urged by counsel for the Solicitor-General that the Government intended to introduce into Parliament a measure dealing with this and similar trusts. The Court is aware that there are several trusts similar to this one, and held by various Church organizations. The approval of such a scheme as is here suggested cannot in any way hamper either the Government or the Parliament in dealing with this trust or the trusts referred to.

The costs of these proceedings, if a scheme such as has been suggested is carried out, will be paid out of the income of the trust.

### 2. ORDER AND SCHEME APPROVED BY HIS HONOUR THE CHIEF JUSTICE.

In the Supreme Court of New Zealand, Wellington District.—Between FREDERIC WALLIS, Bishop of Wellington, THOMAS FANOURT, Archdeacon of Wellington, EDWARD WILLIAM LOWE, JOHN ELISHA SMITH, WILLIAM HENRY QUICK, and GEORGE EDMENADES TOLHURST, plaintiffs, and WALTER SCOTT REID, Esq., Solicitor-General of our Lady the Queen for the Colony of New Zealand, defendant. On this 7th day of September, 1900.

THIS case having been argued on the 18th and 19th April, 1899, by Mr. Quick and Mr. Tolhurst, of counsel for the plaintiffs, and Sir Robert Stout and Mr. Gully, of counsel for the Solicitor-General, this Court did, on the 19th day of May, 1899 (amongst other things more particularly herein-after set out), declare that neither of the schemes filed on behalf of the plaintiffs and defendant