

1903.  
NEW ZEALAND.

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# “STATUTES COMPILATION ACT, 1902”

(LETTER FROM THE SOLICITOR-GENERAL, RELATIVE TO COMPILATIONS UNDER).

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

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THE CLERK OF PARLIAMENTS,—

Under “The Statutes Compilation Act, 1902,” resolutions were passed last session directing the compilation of the Education Acts, the Licensing Acts, and the Municipal Corporation Acts.

The duty of making the compilations is cast upon me, and by section 3 I am directed to forward them to you, with a certificate of their accuracy.

I regret to say that owing to the limited powers conferred by the Act I have been quite unable to give effect to it. I therefore write you this memorandum in explanation, with the request that you will forward it to the Speaker of each House.

The scheme of the Act contemplates purely mechanical alterations of the text by omitting what has been expressly repealed or altered and substituting the new matter. The powers of alteration are limited accordingly, and, of course, I cannot exceed them. Moreover, the compilation must be such as may be enacted as of the current year without alteration. Indeed, Parliament is forbidden to alter it (subsection 2 of section 4).

There is no power to drop provisions that are obsolete or spent, and either omit them altogether or substitute others, as may be found necessary. For example, section 15 of “The Education Act, 1877,” provides that certain members of the Board shall retire on the 31st March, 1879. Obviously this cannot properly appear in an Act of 1903. Yet there is no power to drop it and substitute what is needed.

Again, when the compilation is enacted the old Acts are, of course, repealed. But there is no power to insert a clause keeping alive the old Boards, &c. Hence the compilation would result in a deadlock.

Then, there is the important question of implied repeals. These are always matters of opinion. Take, for instance, the second poll under the Licensing Acts. Personally I think the provision is impliedly repealed, and therefore could not certify that a compilation containing it was accurate; but I could not think of dropping it.

Other difficulties might be referred to, but I have, I hope, said enough to satisfy Parliament that, whilst anxious to faithfully carry out its directions, I am unable to do so under the Act as it stands.

Crown Law Office, 22nd August, 1903.

FRED FITCHETT,  
Solicitor-General.

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