

New Zealand.



ANALYSIS.

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1893, No. 1.—*Private.*

AN ACT to authorise the Trustees of the Will of the Honourable William Robinson, late of Cheviot Hills and Christchurch, Gentleman, to divide all his Real and the Residue of his Personal Estate into Five Equal Shares, and also to create Five Separate Trusts of the said Shares. Title.

[21st August, 1893.]

WHEREAS by his last will and testament and two codicils thereto, bearing date respectively the seventeenth day of July, one thousand eight hundred and eighty, the ninth day of June, one thousand eight hundred and eighty-five, and the twenty-fourth day of July, one thousand eight hundred and eighty-eight, and which taken collectively are hereinafter referred to by the denomination of "the said will," the Honourable William Robinson, of Christchurch and Cheviot Hills, gentleman, after making certain specific bequests of personal property, devised and bequeathed all his real and the residue of his personal estate to Joseph Palmer, Francis Henry Dillon Bell, Charles Ralph Campbell, and his daughters Elizabeth Eliza, Eleanor, and Emily, therein called "his said trustees," and the survivor or survivors of them, and the executors, administrators, and assigns of such survivor, upon and for the trusts, intents, and purposes, and with and under and subject to the powers, provisoes, and declarations therein expressed: And whereas the said Honourable William Robinson died at Christchurch aforesaid on or about the ninth day of September, one thousand eight hundred and eighty-nine, without having altered or revoked his said will further or otherwise than is Preamble.

set forth in the said several codicils: And whereas the said will was duly exhibited, read, and proved before John Edward Denniston, Esquire, a Judge of the Supreme Court of New Zealand; and by order bearing date the twenty-seventh day of September, one thousand eight hundred and eighty-nine, administration of the estate, effects, and credits of the deceased was granted to Joseph Palmer, Francis Henry Dillon Bell, Charles Ralph Campbell, Elizabeth Eliza Robinson, Eleanor Lance, and Emily Robinson, the executors and executrices in the said will named: And whereas the said will is now filed of record in the office of the Supreme Court of New Zealand at Christchurch aforesaid: And whereas the said testator by his said will declared that, subject to certain annuities and other payments thereby directed to be made and the trusts therein declared, the trust premises arising from and constituting his real and residuary personal estate should be divided or considered as divided into as many equal shares as he should have daughters living at the time of his death; and one such share should be appropriated or considered as appropriated to each of his daughters respectively: And whereas the testator by his said will set forth and declared the trusts upon which the share of each of his said daughters respectively should be held and dealt with by the said trustees: And whereas, subsequently to the death of the said testator, his said daughter Emily in his said will mentioned married Patrick Campbell, of Christchurch aforesaid, gentleman: And whereas the five daughters of the testator in his said will mentioned all survived him, and are now living, and are all now of the age of twenty-one years—to wit, Elizabeth Eliza Robinson, of Christchurch, spinster; Sara, the wife of Charles Ralph Campbell, of Cheviot Hills, gentleman; Caroline, wife of Francis Henry Dillon Bell, of Wellington, Esquire, Barrister-at-law; Eleanor Lance, of Okeover, near Christchurch, but now residing in England, widow; and Emily, wife of Patrick Campbell, of Christchurch aforesaid, gentleman: And whereas, during the first triennial period under “The Land and Income Assessment Act, 1891,” the trustees under the said will were dissatisfied with the amount at which the whole of the lands constituting the Cheviot Estate mentioned in the said will were assessed for the purposes of the said Act, and in accordance with the provisions of the said Act they called upon the Commissioner of Taxes either to reduce the said assessment to the sum at which the said lands were valued in the return made by the said trustees, or else to purchase such land at the sum at which the same was so valued by them in such return: And whereas the said Commissioner, in the exercise of the discretion vested in him by the said Act, refused to reduce the said assessment and elected to purchase and acquire the said land at the sum at which the same was valued in such return, namely, the sum of two hundred and sixty thousand two hundred and twenty pounds: And whereas, by order in Council bearing date the twenty-ninth day of December, one thousand eight hundred and ninety-two, and published in the *New Zealand Gazette* number five, bearing date the nineteenth day of January, one thousand eight hundred and ninety-three, His Excellency the Governor gave his consent to such purchase and acquirement: And whereas, by reason of the said purchase and acquirement of the

said Cheviot Hills property a large sum of money has come or will shortly come into the hands of the trustees under the said will, for which it will be obligatory on them to find investments, and the burden of their duty as such trustees will be largely increased and rendered much more onerous than was anticipated either by the testator or themselves: And whereas it is desirable, both in the interests of the beneficiaries under the said will and of the said trustees, that the funds arising from the sale and realisation of the real and the residue of the personal estate of the testator after satisfying the costs, charges, and expenses attending such sale and realisation, and the debts and liabilities of the testator and of his trust estate, should be divided into as many equal shares as there were daughters of the testator living at his death, and that each such share should be transferred to and held by separate trustees upon the same trusts and to and for the same persons as the trustees of the said will now hold the same: And whereas, having regard to the great change that has taken place in the constitution of the said estate by reason of the aforesaid purchase and acquirement of the said Cheviot Hills Estate, and the large sums of money for which it will be the duty of the trustees of the said will or of such share and shares respectively to find investment, it is desirable that the powers of investment conferred upon the said trustees by the said will should be enlarged within certain reasonable and defined limits: 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. The Short Title of this Act is “The William Robinson Estate Trusts Act, 1893.” Short Title.

2. As soon as conveniently may be after the said trustees shall have received the moneys payable to them on the purchase and acquisition by the said Commissioner of the said Cheviot Hills Estate, and after payment of the cost of management and realisation of the trust estate, and all other costs, charges, and expenses which shall then be properly payable out of or deducted from the said moneys, and compliance with the hotchpot clauses contained in the said will, it shall be lawful for the trustees for the time being of the said will, and they are hereby empowered and directed so to do, to pay and divide all capital moneys which shall come to or be in their hands to answer the trusts in favour of the testator’s said daughters, into five equal parts or shares, and after deduction from and payment out of any and every such daughter’s share of all moneys which by the said will the trustees thereof are directed to deduct from and pay thereout respectively, the said shares shall be set apart and constitute five separate trust estates, and such trust estates shall be paid, appropriated, and dealt with in manner hereinafter declared, that is to say:—

Trustees to divide fund into five equal parts.

3. The first of such shares shall constitute and be called the “Elizabeth Eliza Robinson Trust Estate,” and the first trustees thereof shall be appointed as hereinafter provided. This share shall be paid into the hands of the trustees so to be appointed as aforesaid, or other the trustees or trustee for the time being of the said Elizabeth

Provisions as to the Elizabeth Eliza Robinson Trust Estate.

Eliza Robinson Trust Estate, and their or his receipt shall be a good discharge for the same. This share and all moneys thereto from time to time accruing, and the income thereof, shall be held by the last-mentioned trustees upon trust for the same person or persons, and with, under, and subject to the same powers, provisoes, declarations, and conditions, as the said testator by his said will directed the trustees of the said will to stand seised or possessed of the share in his real and residuary personal estate thereby appropriated to the said Elizabeth Eliza Robinson.

Provisions as to the
Sara Campbell
Trust Estate.

4. The second of such shares shall constitute and be called the "Sara Campbell Trust Estate," and the first trustees thereof shall be appointed as hereinafter provided. This share shall be paid into the hands of the last-mentioned trustees, or other the trustees or trustee for the time being of the said Sara Campbell Trust Estate, and their or his receipt shall be a good discharge for the same. This share, and all moneys thereunto from time to time accruing, and the income thereof, shall be held by the said last-mentioned trustees upon trust for the same person or persons, and with, under, and subject to the same powers, provisoes, declarations, and conditions, as the said testator by his said will directed the trustees of the said will to stand seised and possessed of the share of his real and residuary personal estate thereby appropriated to the said Sara Campbell.

Provisions as to the
Caroline Bell Trust
Estate.

5. The third of such shares shall constitute and be called the "Caroline Bell Trust Estate," and the first trustees thereof shall be appointed as hereinafter provided. This share shall be paid into the hands of the last-mentioned trustees, or other the trustees or trustee for the time being of the said Caroline Bell Trust Estate, and their or his receipt shall be a good discharge for the same. This share, and all moneys thereto from time to time accruing, and the income thereof, shall be held by the said last-mentioned trustees upon trust for the same person or persons, and subject to the same powers, provisoes, declarations, and conditions, as the said testator by his said will directed the trustees of the said will to stand seised and possessed of the share in his real and residuary personal estate thereby appropriated to the said Caroline Bell.

Provisions as to the
Eleanor Lance
Trust Estate.

6. The fourth of such shares shall constitute and be called the "Eleanor Lance Trust Estate," and the first trustees thereof shall be appointed as hereinafter provided. This share shall be paid into the hands of the last-mentioned trustees or other the trustees or trustee for the time being of the said Eleanor Lance Trust Estate, and their or his receipt shall be a good discharge for the same. This share, and all moneys thereto from time to time accruing, and the income thereof, shall be held by the said last-mentioned trustees upon trust for the same person or persons, and with, under, and subject to the same powers, provisoes, declarations, and conditions, as the said testator by his said will directed the trustees of the said will to stand seised or possessed of the share in his real and residuary personal estate thereby appropriated to the said Eleanor Lance.

Provisions as to the
Emily Campbell
Trust Estate.

7. The fifth of such shares shall constitute and be called the "Emily Campbell Trust Estate," and the first trustees thereof shall be appointed as hereinafter provided. This share shall be paid

into the hands of the last-mentioned trustees or other the trustees or trustee for the time being of the said Emily Campbell Trust Estate, and their or his receipt shall be a good discharge for the same. This share and all moneys thereto from time to time accruing, and the income thereof, shall be held by the last-mentioned trustees upon trust for the same person or persons, and with, under, and subject to the same powers, provisoes, declarations, and conditions, as the said testator by his said will directed the trustees of the said will to stand seised or possessed of the share in his real and residuary personal estate thereby appropriated to the said Emily Campbell, therein called Emily Robinson.

8. The first trustees of each of the said five several trusts shall be two in number, and shall be appointed by deed by such of the present trustees of the said will as shall then be in the colony, and by the delegates, whether heretofore appointed or hereafter to be appointed, of such of them as shall then be absent from the colony. Any of the present trustees of the will may be appointed trustees of the several trusts, but no such first appointment shall be made unless and until the same shall have been approved by a Judge of the Supreme Court of New Zealand upon a petition to be presented to the Court.

9. The annuity of two thousand five hundred pounds which by the said will is given to the said Elizabeth Eliza Robinson during her life shall be a first charge upon the income to be derived from each and all of the said five shares or trust estates: Provided, nevertheless, that no contribution towards such annuity shall be made or paid out of the income to be derived from the said Sara Campbell Trust Estate, or the said Caroline Bell Trust Estate, or the said Eleanor Lance Trust Estate, or the said Emily Campbell Trust Estate unless or until the net income from the said Elizabeth Eliza Robinson Trust Estate for or during any year shall prove to be less than two thousand five hundred pounds, and then only to the extent of such deficiency: Provided also that if and when any such deficiency do or shall from time to time exist, the same shall be contributed and made good out of the income from the said Sara Campbell Trust Estate, Caroline Bell Trust Estate, Eleanor Lance Trust Estate, and Emily Campbell Trust Estate in equal proportions; and if and whenever any of the five last-mentioned trust estates shall pay or contribute more than its or their share or shares towards making up any such deficiency, it or they shall be entitled to claim and recover contribution from any or either of such trust estates as shall not have paid or contributed its or their share.

10. If at any time hereafter, during the life of the said Elizabeth Eliza Robinson, the income from the said Elizabeth Eliza Robinson Trust Estate for any year shall be either wholly or partially insufficient to pay her a clear annuity or sum of two thousand five hundred pounds per annum during her life, then and in such case, and as often as the same shall happen, it shall be the duty of the trustees or trustee for the time being of the said Elizabeth Eliza Robinson Trust Estate to give notice of such deficiency and the amount thereof to the respective trustees for the time being of the Sara Campbell Trust Estate, the Caroline Bell Trust Estate, the Eleanor Lance Trust

First appointment of trustees of several trusts.

The annuity of £2,500 to Elizabeth Eliza Robinson to be always provided.

Trustees of the Elizabeth Eliza Robinson Trust Estate to require other trust estates to contribute to provide annuity.

Estate, and the Emily Campbell Trust Estate ; and thereupon it shall be the duty of the trustees of such last-mentioned trust estates respectively to make up and pay the amount of such deficiency in equal proportions to the trustees of the said Elizabeth Eliza Robinson Trust Estate.

Moneys contributed to provide annuity to be charge upon the Elizabeth Eliza Robinson Trust Estate.

11. All moneys received by the trustees of the Elizabeth Eliza Robinson Trust Estate under the two last-preceding sections, or either of them, shall be repayable by the trustees of the said Elizabeth Eliza Robinson Trust Estate to the trustees of the said Sara Campbell Trust Estate, the said Caroline Bell Trust Estate, the said Eleanor Lance Trust Estate, and the said Emily Campbell Trust Estate, respectively, or as the case may be, out of any and all income from the said Elizabeth Eliza Robinson Trust Estate from time to time remaining in their hands, after paying and satisfying the said annuity of two thousand five hundred pounds, and in default of such repayments shall be a charge upon the capital of the said Elizabeth Eliza Robinson Trust Estate, and be repaid thereout after the death of the said Elizabeth Eliza Robinson.

Property until conversion to remain vested in trustees of will.

12. All lands and other property belonging to the residuary estate of the said testator which does now or shall or may from time to time hereafter remain unsold or unconverted into money, or otherwise undistributed, shall, until the same is sold and converted into money, be held by the trustees of the said will upon the trusts of the said will applicable thereto. And upon the same being sold and converted into money, such money shall be apportioned and divided between and among the five daughters of the testator living at the time of his decease in the proportions in which by the said will the real estate and residuary personal estate of the testator are directed to be apportioned and divided ; and the share of each such daughter respectively shall be paid to the trustees or trustee for the time being of the trust estate hereby constituted and called by her name.

Powers of investment.

13. It shall be lawful for the trustees or trustee for the time being respectively of the aforesaid five several trust estates, at their or his discretion, to invest any moneys coming to their or his hands as such trustees or trustee upon any of the securities authorised by the testator in the said will, or by "The Trustees Act, 1883," or any amendment thereof, or upon any securities which the Public Trustee is or may for the time being be authorised to invest moneys in the Public Trust Account.

Appointment of new trustees.

14. In case any trustee appointed by this Act, or under or by virtue of any power or authority herein contained, shall die or refuse or become unable or unfit to act, or be desirous of being discharged from his office, or have gone or be about to go to reside out of the colony, then and in any of such cases, and as often as the same shall arise, it shall be lawful for the surviving or continuing trustee of the same trust estate, or if there shall be none such then for the retiring or refusing trustee or trustees, or the trustee who has gone or is about to go to reside out of the colony, as the case may be, if willing to act in the execution of this power, or, if none such, then the proving executors or executor for the time being, or the administrators or administrator for the time being, of the deceased trustee, or if there

shall be more than one such trustee, then the proving executors or executor for the time being of the last surviving of such deceased trustees, by any deed or writing, but in every case with the consent in writing of the person entitled for life to the income of the particular trust estate, or if there shall be no person so entitled, then with the consent in writing of the Public Trustee, and in every case also with the approval of a Judge of the Supreme Court of New Zealand, to appoint a person or persons in the room of such deceased, refusing, retiring, incompetent, or unfit trustee or trustees, or of such trustee or trustees who has gone or is going to reside out of the colony.

15. Every trustee appointed as aforesaid, or by any Court of competent jurisdiction, shall have all the powers authorities and discretions, and shall have and enjoy all the immunities and privileges, which are hereby reposed in the first trustees of the same trust estate, or which are conferred by law upon trustees appointed by deed or will.

Immunities of trustees.

16. The property included in any of the said respective trust estates shall vest in the trustees or trustee thereof for the time being, and as the case may be, by virtue of their or his appointment, and without the necessity of any conveyance, transfer, or assignment of the trust property.

Trust estate to vest on appointment of trustees.