

New Zealand.



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1912, No. 7.—Local.

Title.

AN ACT to incorporate the Board of Governors of the Thomas George Macarthy Trust. [26th October, 1912.]

Preamble.

WHEREAS Thomas George Macarthy, of the City of Wellington, brewer, by his last will and testament, bearing date the nineteenth day of May, nineteen hundred and six, devised and bequeathed unto the Public Trustee all his real and personal estate (excepting certain household furniture and certain properties in Boulcott Street), to hold the same (after payment of certain legacies in the said will mentioned, amounting in all to the sum of sixteen thousand pounds, and subject to certain annuities in the said will mentioned; amounting in all to the yearly sum of seventeen hundred pounds) upon, *inter alia*, the following trusts—(a) After payment of the testator's debts and funeral and testamentary expenses and all death duties payable upon the residue of his estate in exoneration of the same, upon trust to pay one moiety of the annual income and profits of the residue of the said estate to his widow during her life, and upon her death it was directed that the capital of the said moiety should form part of the residue and follow the destination thereof; (b) as to the other moiety of the annual income and profits of the residue, upon trust that the Public Trustee should until the death of the widow of the testator, or until the trust in favour of the widow should cease in her lifetime, pay and apply the same to and for such charitable and educational purposes and institutions in the Provincial District of Wellington in such manner, in such shares, and to such extent as the Board of Trustees hereinafter mentioned should from time to time by resolu-

tion direct and appoint; and (c) as to the whole of the residuary estate, subject to the life or other interest of the widow of the testator, the testator declared that the Public Trustee should stand possessed of the same in trust to pay and apply the same to and for such charitable purposes or educational purposes in the Provincial District of Wellington in such manner, and in such shares, or to such extent as the Board of Trustees should by resolution direct and appoint: And whereas the testator by the said will declared that the Board of Trustees should consist of the following four persons—namely, His Excellency the Governor of the Dominion for the time being, the Premier of the Dominion for the time being, the Roman Catholic Archbishop or Bishop for the time being of the Arch-Diocese or Diocese of Wellington, and the Mayor for the time being of the City of Wellington; and the testator by his said will further declared that in case any of the said persons should decline for any reason to act in the trusts aforesaid the other members of the said Board for the time being should appoint some other person or persons to act in the place of the person or persons so declining to act: And whereas by the said will the testator defined the powers of the said Board of Trustees: And whereas the said Thomas George Macarthy died on the nineteenth day of August, nineteen hundred and twelve: And whereas probate of the said will was on the twenty-second day of August, nineteen hundred and twelve, granted to the Public Trustee: And whereas His Excellency the Right Honourable John Poynder Dickson-Poynder, Baron Islington, Governor in and over His Majesty's Dominion of New Zealand; the Honourable William Ferguson Massey, Premier of the Dominion of New Zealand; Francis Redwood, Roman Catholic Archbishop of the Arch-Diocese of Wellington; and David McLaren, Mayor of the City of Wellington, have accepted office as members of the said Board, and have undertaken the duties and trusts which under the provisions of the said will devolve on the said Board: And whereas it is desirable that the said Board of Trustees should be constituted a body corporate with perpetual succession and a common seal, and that certain other powers should be granted for the administration of the said trust, which powers 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. This Act may be cited as the Thomas George Macarthy Trust Act, 1912. Short Title.

2. The Board of Trustees constituted in and by paragraph 9 of the will, and consisting of His Excellency the Right Honourable John Poynder Dickson-Poynder, Baron Islington, Governor of the Dominion of New Zealand; the Honourable William Ferguson Massey, Premier of the Dominion of New Zealand; Francis Redwood, Roman Catholic Archbishop of Wellington; and David McLaren, Mayor of the City of Wellington, with their successors in their respective offices, shall be and the same are hereby incorporated under the name of the Board of Governors of the Thomas George Macarthy Trust (hereinafter referred to as the Board) with perpetual succession and a common seal. Incorporation of Board.

Provision for
successors.

3. A member of the Board ceasing to hold his said office shall be succeeded as a member of the Board by his successor in such office for the time being. In case there is at any time no Roman Catholic Arch-Diocese of Wellington, then the person holding the office of Roman Catholic Bishop of Wellington shall be a member of the Board in the room and stead of the said Archbishop.

During vacancy in
office of Governor
Deputy-Governor to
act.

4. If at any time the office of Governor of the Dominion of New Zealand is vacant, or the Governor for the time being is absent from the Dominion of New Zealand or is unable to act in his said office, then during such vacancy, absence, or incapacity the Deputy-Governor or the Administrator of the Government shall be entitled to act as and to exercise all the powers of a member of the Board in the room and stead of the Governor.

During vacancy in
office of Premier
or Mayor
Acting-Premier or
Acting-Mayor to
act.

5. If at any time the office of Premier of the Dominion of New Zealand or of Mayor of the City of Wellington is vacant, or if the said Premier or the said Mayor is absent from the Dominion of New Zealand or unable to act in his office, then and in such case during such vacancy, absence, or incapacity the person for the time being acting as Premier or Mayor shall be entitled to act as and to exercise all the powers of a member of the Board in the room and stead of the Premier or the Mayor, as the case may be.

Provision for
vacancy in office of
Archbishop of
Wellington or in
case of his absence
or inability to act.

6. If at any time the office of Roman Catholic Archbishop or Bishop of the Arch-Diocese or Diocese of Wellington is vacant, then and in such case the person for the time being in charge of or administering such Arch-Diocese or Diocese shall during such vacancy be entitled to act as and to exercise all the power of a member of the Board in the room and stead of such Archbishop or Bishop:

Provided, however, that if the said Archbishop or Bishop for the time being is absent from the Dominion of New Zealand or for any reason unable to act, then he may by writing appoint some person (to be approved of by the Board) to act as a member of the Board in his room and stead during such absence or inability.

Resolution of Board
to be conclusive as
to persons entitled
to act.

7. A resolution passed at a meeting of the Board of Governors declaring that the person for the time being holding the office of Governor of the Dominion of New Zealand, Premier of the Dominion of New Zealand, Archbishop or Bishop of the Roman Catholic Arch-Diocese or Diocese of Wellington, or Mayor of the City of Wellington is entitled by virtue of his office to act as a member of the Board, or that any person is for the time being entitled to act in the room and stead of any such member, shall be conclusive evidence in all Courts that such person is so entitled to act.

Power in will to
appoint in case of
member declining
to act not derogated
from.

8. Nothing in this Act contained shall derogate from or affect the power given by the said will to the Board of appointing from time to time some person in the place of any person entitled to act as a member of the Board of Governors, and who may decline so to act.

Validity of acts
of Board
notwithstanding
vacancies or
defective
appointments.

9. The Board may act notwithstanding any vacancy in its membership, and the validity of any act of the Board shall not be affected or called in question by reason of any defect or informality in the appointment of a member of the Board to an office which qualifies him for a seat on the Board, nor by reason of any defect

or informality in the appointment of a substitute during the absence or incapacity of a member of the Board.

10. The Board may accept and receive any gift, bequest, or devise of any money or property in trust for charitable or educational purposes generally, or for any specified charitable or educational purpose; and may execute and administer any trust of such money or property in accordance with the provisions of the instrument constituting such trust; and may exercise with reference to such trust all the powers and authorities given to or vested in the Board by this Act, so far as the same are or can be made applicable to the administration of such trust.

Board may accept and administer other charitable or educational bequests, &c.

11. The Board shall have and may exercise all and singular the powers and authorities given to or exercisable by the Board of Trustees by or under the will of the said Thomas George Macarthy; and, in addition to and without derogating from such powers and authorities, shall have and may exercise the following powers and authorities, namely:—

Additional powers of Board.

- (a.) To regulate its own procedure :
- (b.) From time to time to appoint one or more advisory committees, consisting of such persons as the Board thinks fit; or from time to time to regulate and determine the manner of the appointment of every such committee, whether by appointment by the Board itself or by some other method to be determined from time to time by the Board :
- (c.) To define the powers and functions of every such committee, and to regulate its procedure :
- (d.) To provide any such committee with such clerical and other professional assistance as may be reasonably required, and to pay out of the trust-moneys coming to the Board any proper expenditure in connection with such committee or the meetings thereof :
- (e.) To regulate and determine all or any of the matters aforesaid by by-laws to be made by the Board, in manner to be from time to time determined by the Board :
- (f.) To promote any private or local Act of Parliament in connection with the said trusts which the Board may deem desirable, and to pay the costs of the promotion and passing of any such Act (including the costs of promoting and passing this Act) out of the moneys coming to the Board under the trusts of the said will :
- (g.) For the purposes of any trust under its control, the Board may hold land of any tenure, and exercise with respect to the same all and singular the powers and authorities given to it under such trust or according to law.