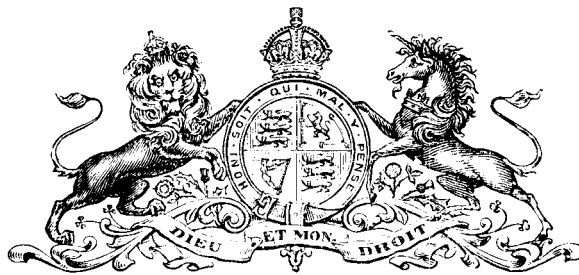


New South Wales.



ANNO PRIMO

GEORGII V REGIS.

An Act to vary the trusts declared in the will of the late Right Reverend William Tyrrell, Lord Bishop of Newcastle, and to extend the powers of managing lands held under such will; to enable the selling, leasing, and exchange of such lands; to provide for the investment and application of the income and proceeds arising from the said lands; and for other purposes therein mentioned.
[20th December, 1910.]

BISHOP TYRRELL
TRUST.
—

WHEREAS the Right Reverend William Tyrrell, Doctor in Divinity, the Bishop of Newcastle, in the State of New South Wales, hereinafter called the said testator, was, at the respective dates of his will and death, entitled to certain real and personal estate, including certain pastoral properties, together with the chattels, livestock, and plant belonging thereto: And whereas the said testator by his will devised and bequeathed the said real and personal property upon

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upon certain trusts connected with the Church of England in the diocese of Newcastle: And whereas the said testator died on the twenty-fourth day of March, one thousand eight hundred and seventy-nine, and his will was duly admitted to probate on the nineteenth day of May, one thousand eight hundred and seventy-nine: And whereas a corporate body of trustees, under the name of "The Trustees of Church Property for the Diocese of Newcastle," has been constituted under the provisions of the Church of England Trust Property Incorporation Act of 1881, which body is hereinafter called "the said corporate trustees": And whereas the whole of the real and personal property subject to the trusts of the said will is now vested in the said corporate trustees upon the trusts of the said will: And whereas it has not been and is not now possible to carry out the said trusts in their entirety, and it is expedient that the said corporate trustees should hold the trust property upon the trusts declared by this Act in lieu of the trusts declared by the said will: And whereas the provisions of this Act have been approved of by the Synod of the said diocese: And whereas the objects of this Act cannot be carried out without the provisions of an Act of Parliament in that behalf: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Trustees to hold real
and personal estate
upon certain trusts.

1. The said corporate trustees shall hold all the real and personal estate which is subject to the trusts of the said will upon the trusts following, that is to say,—upon trust to manage and carry on the pastoral properties forming part of the said real and personal estate, and known as Brenda Station, together with the chattels, live-stock, and plant, and other personal effects belonging thereto, with all the powers conferred upon the trustees of the said will by the said will, together with the additional powers conferred on them by this Act, and to apply the net proceeds of the said pastoral properties now in their hands, or hereafter received by them, after payment of all charges and expenses in respect of management and of carrying on the same, in the first place in providing a reserve fund of twenty thousand pounds as a provision against extraordinary damage or loss from flood, drought, or fire, or any other expenditure which the said corporate trustees may consider of an extraordinary nature; or for the purpose of acquiring additional lands in case the said corporate trustees should deem the acquisition of such lands necessary or beneficial for the trust estate, and for any other capital expenditure they may think fit; and, in the next place, to apply the balance of the said net proceeds and the income arising from the investment of the said reserve fund, in the event of any part of the said reserve fund having been applied by them for the purposes above mentioned, in making

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making up the said reserve to the full amount of twenty thousand pounds from time to time, and, subject thereto, to pay in each and every year, from the balance of the said net proceeds and the income arising from the investment of the said reserve fund, to such council, committee, trustees, persons or person as the said corporate trustees shall see fit, and whether appointed by the Synod of the diocese of Newcastle or not, the following annual sums to be applied to the purposes named, and the receipt of such council, committee, trustees, persons or person, shall be a sufficient discharge to the said corporate trustees, who shall not be bound or concerned to see to the application of the said moneys :—

Towards the income of the Bishop of Newcastle, the sum of one thousand two hundred and eighteen pounds.

Towards the support of clergy in the diocese, the sum of eight hundred pounds.

Towards the support of the aged clergy of the diocese, the sum of one hundred pounds.

Towards the income of the Bishop of Newcastle, the sum of three hundred and eighty-eight pounds.

Towards the support of archdeacons in the diocese, the sum of two hundred pounds.

Towards the support of canons in the diocese, the sum of two hundred and forty pounds.

Towards the support of clergy in the diocese, the sum of one thousand six hundred pounds.

Towards the support of aged clergy in the diocese, the sum of four hundred pounds.

Towards the relief of sick clergy and sick wives of clergy in the diocese, the sum of two hundred pounds.

Such several objects being entitled to priority of payment of the said sums respectively, according to the order in which they are hereinbefore set forth, and to accumulate the ultimate balance of the said net profits until such ultimate balance with the accumulations thereof amount to the sum of one hundred and eight thousand pounds : Provided that, in any year in which the net profits of the said pastoral property and the income of the said reserve fund shall be insufficient to pay the said annual sums, or any part thereof, resort may be had to the said ultimate balance, and the accumulations thereof, to make up the sum required to pay such annual sums in full : And provided also that in each and every year the annual sum firstly hereinbefore declared to be payable towards the income of the Bishop of Newcastle shall be paid in full before any arrears are made up for any of the other annual payments hereinbefore directed to be made, to the intent that the said annual sum shall be considered a first charge upon the said net profits and income, but that any surplus income available for distribution

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distribution in any one year shall be distributed among the other objects, and in the order hereinbefore directed, and so soon as the said ultimate balance with the accumulations thereof shall have reached the sum of one hundred and eight thousand pounds, then upon trust to hold the said sum of one hundred and eight thousand pounds upon trust for the purposes and in the amounts following, that is to say:—

For an endowment fund of the See of Newcastle, the sum of thirty thousand pounds.

For a clergy stipend endowment fund in the diocese of Newcastle, the sum of fifty thousand pounds.

For a clergy superannuation fund in the diocese of Newcastle, the sum of twelve thousand pounds.

For an endowment fund for archdeaconries in the diocese of Newcastle, the sum of five thousand pounds.

For an endowment fund for canonries in the diocese of Newcastle, the sum of six thousand pounds.

For an endowment fund for the relief of sick clergy and sick wives of clergy in the diocese of Newcastle, the sum of five thousand pounds.

And thereafter apply the net proceeds of the said pastoral properties and the said reserve fund for such purposes and objects, and in such manner in connection with the Church of England in the diocese of Newcastle, as the Synod of the said diocese on the proposal of the Bishop of Newcastle for the time being or on that of the said corporate trustees shall direct, limit, or appoint with power at any time on the like proposal to make, void, alter, or vary such direction, limitation, or appointment, and direct, limit, or appoint other purposes or objects in lieu thereof.

Powers of management of pastoral properties.

2. For the purpose of carrying on the said pastoral properties, the said corporate trustees shall, in addition to all powers of management conferred on them by the said will or by any other instrument, have the powers following, that is to say:—

- (1) The power to acquire any land under any terms under any Acts relating to Crown lands which the said corporate trustees may think advisable.
- (2) The power to buy any lands which the said corporate trustees may consider it expedient to buy for the purpose of carrying on the said pastoral properties.
- (3) The power to exchange any lands, subject to the said trusts for any other lands whether of the same tenure or not.
- (4) The power to sell any lands which it may appear expedient to sell, subject to the approval of the Synod of the said diocese.
- (5) The power to surrender any lands held upon a leasehold tenure which the said corporate trustees may consider it expedient to surrender.

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- (6) The power to make such improvements on the trust property whether of a permanent, substantial, or wasting nature as the said corporate trustees may think fit, and for that purpose to extend the said reserve fund or any other capital moneys they may think fit, or raise the amount required by mortgage or charge of the trust property or any portion thereof.

3. The said corporate trustees shall hold the real estate vested in them as trustees of the said will, and not forming part of the said station property, upon trust so soon as they shall in their discretion think fit, to sell the same and apply the purchase money for any purposes connected with the carrying on of the said station property they may think fit, and in the meantime and until sale shall have power to manage the said real estate, to erect any buildings upon or otherwise improve the same, and for the purpose of building on or improving the said real estate to raise the amount required by mortgage, or charge on the said real estate or any part thereof, or to let the same from time to time on building or other leases for any period not exceeding ninety-nine years.

Powers of management of residuary properties.

4. The said corporate trustees may pay out of the income of the said estate the sum of one hundred pounds per annum to each of the individual persons forming the said corporate body of trustees for their services in and about the carrying out of the trusts hereby declared in lieu of all sums payable under the said will to the trustees of the said will, by way of remuneration for their services as such trustees.

Remuneration of trustees.

5. No purchaser or mortgagee paying or advancing money upon any sale or mortgage to the said corporate trustees shall be required to see to the application of the purchase money or mortgage money.

Protection of purchasers.

6. The said corporate trustees may invest any moneys in their hands requiring investment in any of the public stocks, funds, or Government securities of the Commonwealth of Australia, or of any of the States of the said Commonwealth, or any securities the interest on which is or shall be guaranteed by Parliament or upon fixed deposit with any bank or banks doing business in New South Wales, or upon mortgage of freehold or leasehold lands, or in any other investment in which trust funds or cash under the control of the Supreme Court of New South Wales in Equity may for the time being be authorised to be invested, and may vary or transpose such investments into or for others of any nature hereinbefore authorised.

Investment.

7. The said corporate trustees shall act in the execution of the said trusts as the majority of the individual persons forming the said corporate body of trustees shall determine, and no such individual person shall incur any liability in respect of any act or default of the said corporate trustees.

Protection of trustees.

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Power to employ
agents.

8. The said corporate trustees may in their absolute and uncontrolled discretion, instead of acting personally, employ and pay a solicitor or agent to transact any business or do any act of whatever nature required to be done in the premises, including the receipt and payment of money.

Solicitor trustee.

9. Any of the individual persons constituting the said corporate body of trustees being a solicitor or other persons engaged in any profession or business who may be employed by the said corporate trustees to act for them in such profession or business, shall be entitled to charge and be paid all professional or other charges for any business or act done by him or his firm in connection with the trust, including acts which a trustee could have done personally.

Investigation of
titles.

10. The said corporate trustees and the individual persons constituting the said corporate body of trustees shall incur no liability for dispensing, either wholly or partially, with the investigation or production of the lessor's title on the purchase or on lending money on the security of leaseholds, nor for purchasing or lending on the security of hereditaments with less than a marketable title or deficiency in value of any investments, nor for any other loss, unless the same shall happen through their own wilful default respectively.

Liability of trustees.

11. The individual persons constituting the said corporate body of trustees shall, so far as concerns the trusts relating to the said real and personal estate, be liable only for such moneys and securities as they shall individually and actually receive, notwithstanding their respectively signing any receipt for the sake of conformity and responsible only for their own respective acts, receipts, omissions, neglects, and defaults, and not for those of each other, nor for any banker, broker, auctioneer, or other person with whom or into whose hands any trust moneys or securities shall be deposited or come.

Short title.

12. This Act may be cited as the "Bishop Tyrrell Trust Act."
