

THOMAS TAYLOR TRUST ESTATE ACT, 1923.

An Act to enable the Trustees of the will and codicil George V. of Thomas Taylor, late of Inverell, in the State of New South Wales, miller, deceased, to make provision out of his estate for the maintenance of his widow, Bertha Taylor, and of his daughter, Thelma Taylor; to discharge the said Trustees from certain breaches of the trusts of the said will and codicil; and for other incidental purposes. [Assented to, 21st December, 1923.]

WHEREAS Thomas Taylor, late of Inverell, in the Preamble. State of New South Wales, miller, deceased, died on the twenty-third day of September, in the year one thousand nine hundred, having duly made his last will and testament, probate whereof was duly granted to the executors therein named: And whereas by his said will, after bequeathing certain legacies not material to be herein mentioned, the said testator devised and bequeathed all his real and personal estate wheresover and whatsoever not otherwise disposed of unto and to the use of his trustees in the said will named, their heirs and assigns, for ever upon the following trusts, that is to say:—As to his mill property and machinery and mill business at Inverell aforesaid to carry on the said business and to pay any profits thereof into the estate account hereinafter mentioned: And whereas as to the rest and residue of his personal estate testator directed that his trustees should get in and convert the same into money with the exception of his household furniture and effects and buggy and horse and library and

George V. and pay the proceeds of such sale getting in or conversion into the Commercial Bank, Inverell, to the credit of an account to be styled "The Estate Account" and from time to time invest such moneys as deposits in such bank: And as to the rest of his real estate to manage and let the same as therein mentioned and to receive the rents issues and profits thereof until his daughter Thelma should attain the age of twenty-five years or die whichever event should first happen and to make such payments thereout in the meantime for repairs insurance rates and taxes as to them should seem meet and to pay the net rents and profits thereof into the credit of the said estate account: And whereas the testator (inter alia) further directed that there should be paid to his wife Bertha Taylor out of the money thereinbefore directed as aforesaid to be paid into the bank to the said estate account until his said daughter attained the age of fourteen years the sum of one hundred and fifty pounds a year payable by equal quarterly instalments from the date of his death: And further directed that in the meantime his said wife should suitably maintain herself and his said daughter out of the said sum of one hundred and fifty pounds a year and that his said daughter should be educated at a public school: And further directed that on his said daughter attaining the age of fourteen his wife should be paid the sum of two hundred and fifty pounds a year by the like instalments as aforesaid and that she should thereout send his said daughter to some public Protestant College to be chosen by her it being his wish that his said daughter should proceed in due course to the Sydney University and ultimately take her Master of Arts degree if possible: And that should she wish it his said wife should pay out of the said increased sum of two hundred and fifty pounds a year the reasonable expenses incurred by his said daughter in connection with her education at the said school and the University but that should his daughter decline or be unable by reason of ill-health or otherwise to proceed to the University on her leaving college the said amount to be paid to his said wife should be reduced to one hundred pounds per annum which should be paid to his said wife until his said daughter attained the age

of

of twenty-five years or died whichever event should **George V.** first happen: And whereas the testator further directed that his trustees should as soon as practicable after his death set aside out of the said moneys so directed to be paid into the bank to the said estate account sufficient money to build on his allotment of land opposite the rear of the Wesleyan Methodist Church, Inverell, a brick cottage or house at a cost of about eight hundred pounds of the dimensions and particulars in the said will mentioned: And further directed that as soon as practicable having regard to the foregoing and other provisions of the said will his trustees should out of the said moneys directed to be paid into the said estate account as aforesaid pay the sum of four thousand pounds to the treasurer of the fund some time theretofore inaugurated in connection with the New South Wales Conference of the Australian Wesleyan Methodist Church and known as "The 20th Century Commemoration Fund" or if such fund should then be closed to the president for the time being of the said conference to be used by the persons and for the purposes therein more particularly mentioned: And further directed that upon his said daughter attaining the age of twenty-five years his said trustees should pay one-half of the said money then standing in the said estate account to the New South Wales Wesleyan Church Sustentation and Extension Society to be used by the said society for the furtherance of its objects and the extension of the gospel of Jesus Christ in New South Wales: And further declared that the receipt of the treasurer or treasurers for the time being of the said society should be a sufficient and effectual discharge for the said moneys and any other money payable to the said society thereunder: And that as to the other half of the said moneys in the said estate account the said trustees should continue the same on deposit in the bank at interest as aforesaid and should also continue to manage and receive the rents and profits of the residue of his real estate which rents and profits should also be paid into and deposited in the said estate account in the bank and should out of the income of the said deposits pay to his wife during her life or until she should marry again the sum of

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George V. one hundred pounds per annum and should pay the balance of the said income on the money so deposited to his daughter Thelma for her separate use during her life: Provided that should his said daughter become a Roman Catholic or a member of the Anglican Church or marry a Roman Catholic her interest in his said estate should thenceforth cease: And whereas the testator further declared that during his wife's lifetime or until she should marry again whichever should first happen she should be entitled to have the use and occupation free of all charges and outgoings whatsoever including rates and taxes of the said cottage or house directed to be built opposite the Wesleyan Church, Inverell, aforesaid: And that upon the death of his said daughter or in the event of her becoming a Roman Catholic or a member of the Church of England or marrying a Roman Catholic the trustees or the survivor of them or the trustees or trustee for the time being of his said will should then sell the said residue of his real estate but not the house or cottage property thereinbefore referred to so long as his said wife should have the right under that his will to occupy the same as aforesaid either by public auction or private contract and subject to such stipulations as to title or otherwise and either on terms or for cash as to them should seem fit: And that after setting aside sufficient money for investment to realise one hundred pounds a year as thereinbefore provided to be paid to his said wife should the same be then still payable to pay the net proceeds of such sale of the residue of his said real estate and also the moneys so paid into the said estate account or deposited and held by the bank as aforesaid or directed so to be paid or deposited as aforesaid to the said New South Wales Wesleyan Church Sustentation and Extension Society: And that on the death or remarriage of his said wife the said trustees should pay over to the said society the sum so thereinbefore directed to be set aside and invested for the benefit of his wife and also any other undisposed of part of his estate: And whereas by a codicil to his said will the said testator empowered and directed his trustees from and out of the moneys which should from time to time be to the credit of the fund in his said will referred

to

to as the said estate account to pay to the resident ~~George V.~~ minister for the time being of the Wesleyan Methodist Church at Inverell aforesaid the sum of five pounds quarterly in aid of his stipend as minister of such church and that such payment of five pounds quarterly should be made until any of the periods mentioned in his said will should have arrived for the final winding-up and distribution of his estate according to the terms of his said will: And whereas in all other respects the testator confirmed his said will: And whereas the net value of the said residuary real and personal estate of the said testator as valued for the purpose of stamp duty amounted to the sum of eight thousand eight hundred and fifty-three pounds three shillings and tenpence or thereabouts: And whereas the net value of the said estate after payment of all legacies duties debts funeral and testamentary expenses now is estimated at the sum of nine thousand pounds or thereabouts: And whereas the trustees of the said will and codicil are of the opinion that the testator by his said will and codicil failed to make adequate provision for the maintenance of his said widow the said Bertha Taylor and for his said daughter the said Thelma Taylor: And whereas the said widow and daughter of the testator are unable by any proceedings at law or in equity to obtain such maintenance out of the estate of the said testator: And whereas the devises and bequests in the said will contained to the Wesleyan Methodist Church funds and objects connected therewith are under and by virtue of the provisions of the Methodist Union Act, 1902, vested in the persons and placed under the control of the body therein mentioned on behalf of the Methodist Church of Australasia in New South Wales and are to be read and construed and take effect as if the Methodist Church of Australasia had been named and referred to therein in place of the Wesleyan Methodist Church: And whereas the said Sustentation and Extension Society is now by virtue of a resolution of the New South Wales Conference of the Methodist Church of Australasia called the Sustentation and Home Mission Society of the Methodist Church of New South Wales: And whereas the said persons and controlling body mentioned in the said Act are desirous that out of the

George V. the income of the property devised and bequeathed as aforesaid provision should be made for the maintenance of the testator's said widow and daughter the said Bertha Taylor and Thelma Taylor as hereinafter provided and have agreed with the said trustees (inter alia) that they the said trustees in lieu of the provisions made for the testator's widow by way of annuity and otherwise and by the right of use and occupation of the said cottage should pay to such widow by way of better provision for her maintenance the sum of three hundred and fifty pounds per annum as from the twentieth day of September, one thousand nine hundred and twenty, but taking into account any payments already made by the trustees to such widow and provided that the said payment of three hundred and fifty pounds per annum should continue during the life and widowhood of such widow until the testator's said daughter should attain the age of twenty-five years when the said payment of three hundred and fifty pounds should be reduced to the sum of two hundred and fifty pounds per annum: And whereas the said president of the New South Wales Conference of the Methodist Church of Australasia acting as aforesaid has also agreed with the said trustees that they the said trustees should in lieu of the said provision made by the said will and codicil for the said Thelma Taylor pay to her the sum of one hundred pounds per annum as from the said twentieth day of September, one thousand nine hundred and twenty, and continuing until she should attain the age of twenty-five years: And thereafter that the said trustees should pay to the said Thelma Taylor the sum of two hundred pounds per annum until the death or remarriage of the testator's widow, provided however that upon the death or remarriage of the testator's widow whether before or after the said Thelma Taylor has attained the age of twenty-five years the said trustees should pay to the said Thelma Taylor the sum of three hundred pounds per annum during her life: And further provided that the abovementioned payments to the said Thelma Taylor should be conditional upon her observing the provisions of the said will as to her religion and marriage but should not be conditional on her attending the University of Sydney: And whereas the said legacy of four thousand

thousand pounds bequeathed to the treasurer of the 20th Century Commemoration Fund has already been paid: And whereas the said persons and controlling body aforesaid have also agreed with the said trustees that the estate account mentioned in the said will shall consist of the moneys of the estate standing at fixed deposit at the Commercial Banking Company of Sydney, Inverell branch, at the date of the passing of this Act together with any other moneys belonging to the estate with any net income of the estate not applied in payment of the annuities to the testator's widow and daughter and of the legacy of five pounds per quarter mentioned in the said codicil and other payments properly made on account of the said estate: And that upon the said Thelma Taylor attaining the age of twenty-five years and notwithstanding the hereinbefore mentioned provisions for payments to the testator's said widow and daughter the trustees shall pay to the said Sustentation and Home Mission Society of the Methodist Church of New South Wales one-half of the moneys constituting the said estate account at the time of the passing of this Act: Provided that if after payment of the abovementioned moneys to the said Sustentation and Home Mission Society there shall not be sufficient income from the moneys or property in the hands of the said trustees to pay the said annuities above-mentioned to the testator's said widow and daughter and the bequest in the said codicil of five pounds per quarter to the said resident minister for the time being of the Methodist Church at Inverell the said payment of five pounds per quarter shall be paid in priority to the said payments to the said widow and daughter and the payments to the said widow and daughter shall abate proportionately to the deficiency in income: And whereas the testator's said widow and daughter have agreed to accept subject to the said provisos the said abovementioned proposals for their maintenance in lieu of the benefits conferred on them by the said will: And whereas the trustees have since been advised that the said persons and controlling body mentioned in the said Act cannot lawfully consent to such provision being made by the said trustees of the said will and codicil out of the property devised or bequeathed to the said Methodist Church

George V. Church funds and objects or to sanction such payments as aforesaid and that the Supreme Court of New South Wales has no jurisdiction to authorise such consent or sanction: And whereas it is expedient that such proper provision should be made as aforesaid out of the income of the estate of the said testator for the maintenance of his said widow and daughter and that for such purpose the residuary real and personal estate of the testator including the residence devised to or for the use of the said testator's widow should be sold and realised and the proceeds of such sale and realisation invested at interest at fixed deposit or in trustees' securities and held upon the trusts hereinafter mentioned in addition to the trusts of the said will: And whereas the said cottage was in error erected for the testator's said widow upon the wrong parcel of land: And whereas it is deemed to be expedient to appoint an additional trustee of the trusts of the said will and codicil who and whose successor shall be nominated by the president for the time being of the Methodist Church Conference: 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:—

Short title.

1. This Act may be cited as the "Thomas Taylor Trust Estate Act, 1923."

Proceeds from sale of residuary personal estate and real estate may be invested on fixed deposit in bank or securities and investments.

2. The trustee or trustees for the time being of the will and codicil of the said Thomas Taylor, deceased, may realise the residuary personal estate and sell the real estate of the said testator (including the residence devised to or for the use of the said testator's widow) either by public auction or private contract and in one or more parcels or in subdivision or otherwise at such price or prices and on such terms (including terms as to payment of purchase moneys) as he or they may deem expedient and may invest the proceeds of such realisation sale or sales together with any other moneys in their hands upon fixed deposit in the Commercial Banking Company of Sydney, Limited, Inverell branch, or any other bank in the State of New South Wales, or in such securities and investments as trustees are by law authorised

authorised to invest trust funds and shall apply the same and the income thereof as in this Act hereafter provided ; and the receipt of the said trustees or trustee for the time being of the said will for any money paid to them on account of such sales or sale or realisation shall be a sufficient discharge therefor and the purchaser or purchasers shall not be bound or concerned to see to the application of the purchase moneys or any part thereof.

3. The trustees or trustee for the time being of the said will of the said Thomas Taylor, deceased, in lieu of the moneys directed by the said will to be paid to the said Bertha Taylor and of any other benefits devised, bequeathed, or accruing to her thereunder, but subject to the proviso hereto, shall pay to the said Bertha Taylor during her life or widowhood out of the income of the said estate until realised and thereafter out of the income of the proceeds of such realisation and of the income of the estate account so far as the amount of such income will permit the sum of three hundred and fifty pounds per annum commencing from the twentieth day of September, one thousand nine hundred and twenty, but taking into account any payment already made by the trustees to the said widow since the said twentieth day of September, one thousand nine hundred and twenty: Provided, however, that upon the said Thelma Taylor attaining the age of twenty-five years the said sum of three hundred and fifty pounds per annum shall be reduced to the sum of two hundred and fifty pounds per annum.

4. The said trustees or trustee for the time being of the said will of the said Thomas Taylor, deceased, in lieu of the moneys directed by the said will to be paid to the said Thelma Taylor, shall pay to the said Thelma Taylor until she shall attain the age of twenty-five years, out of the income of the said estate until sold and realised and thereafter out of the income of the proceeds of such sale and realisation and of the income of the estate account so far as the amount of such income will permit, an annuity in the following amounts, namely, the sum of one hundred pounds per annum from the twentieth day of September, one thousand nine hundred and twenty, until the said Thelma Taylor shall attain the

George V. the age of twenty-five years, when such sum shall be increased to two hundred pounds per annum until the death or remarriage of the testator's widow: Provided, however, that upon the death or remarriage of the testator's widow whether before or after the said Thelma Taylor has attained the age of twenty-five years the said trustees shall increase the amount of the said annuity to the sum of three hundred pounds per annum during her life.

Payments
made to
Thelma
Taylor to be
conditional.

5. The said payments authorised by this Act to be made by the said trustees or trustee to the said Thelma Taylor shall be conditional upon her observing the provisions of the said will as to her religion and marriage but shall not be conditional upon her attending the University of Sydney.

Estate
account.

6. The estate account mentioned in the said will shall consist of the moneys of the estate at current account and of the moneys standing at fixed deposit at the Commercial Banking Company of Sydney, Inverell branch, at the date of the passing of this Act, together with any other moneys belonging to the estate.

Surplus
income after
certain pay-
ments to be
paid to
Sustentation
and Home
Mission
Society of
Methodist
Church of
N.S.W.

7. All annual surplus income of the estate account and arising from the investments of the proceeds of sale of the said real estate or from such real estate pending realisation after payment of the annuities aforesaid and the legacy of five pounds per quarter to the resident minister of the Methodist Church at Inverell and other payments properly made on account of the estate shall be paid to the treasurer or treasurers for the time being of the said Sustentation and Home Mission Society of the Methodist Church of New South Wales for the purposes of the said society.

Trustees to
pay moneys
bequeathed,
and if not
sufficient to
pay annuities
and legacy,
payment of
legacy
receives
priority.

8. Upon the said Thelma Taylor attaining the age of twenty-five years and notwithstanding the provisions of sections three and four hereof, the trustees or trustee shall pay to the treasurer or treasurers for the time being of the said Sustentation and Home Mission Society of the Methodist Church of New South Wales the moneys bequeathed by the said will to the New South Wales Wesleyan Church Sustentation and Extension Society. If either before or after payment of the said moneys there shall not be sufficient income from the trust funds, investments, or property to pay the said annuities

annuities

annuities to the testator's said widow and daughter as George V. provided by sections three and four hereof and the legacy of five pounds per quarter bequeathed by the said codicil to the said resident minister for the time being of the Methodist Church at Inverell, the said payment of five pounds so payable as aforesaid shall be paid in priority to the said payments to the said widow and daughter and the payments to the said widow and daughter shall abate proportionately to the deficiency in income.

9. The present and all prior trustees of the will of the said testator are hereby discharged and released from all liability for any breach of trust in respect of the following matters, namely :—

- (a) The erection of the said cottage for the testator's widow upon the wrong parcel of land.
- (b) Payments prior to the commencement of this Act made to the testator's widow in excess of the moneys payable to her under the provisions of the said will or authorised by this Act, to such an extent as may be certified in writing under the hand of the president for the time being of the New South Wales Conference of the Methodist Church of Australasia.

After providing for the legacy of five pounds quarterly mentioned in the said codicil to the said will and the annual payments to the said widow and daughter of the said testator in accordance with the provisions of this Act to the extent to which the income of the said trust funds, investments, and property will permit after payment of the said moneys payable as aforesaid to the New South Wales Methodist Church Sustentation and Home Mission Society as mentioned in section eight hereof, the trustees or trustee for the time being of the will of the said testator shall hold the said moneys constituting the said estate account and the proceeds of sale aforesaid and all other realisation and the investments thereof and all the said trust property for the New South Wales Methodist Church Sustentation and Home Mission Society, and shall pay and hand over the same to the person or persons entitled in that behalf under the said Methodist Union Act, 1902, to be applied in accordance with the trust of the said will and codicil.

10.

George V. **10.** There shall be appointed an additional trustee of the trusts of the said will and codicil. Such trustee shall be nominated in writing under the hand of the president for the time being of the New South Wales Conference of the Methodist Church of Australasia, and should such trustee or any new trustee appointed in his stead under the provisions of this Act die, leave and remain out of New South Wales for the space of six months, or become incapable for any reason of acting in the said trusts or desire to retire from the same, a new trustee may be nominated in his place in writing under the hand of the president for the time being of the said Methodist Church Conference.

Except as stated
trusts will not
be affected by
this Act.

11. Save as hereinbefore mentioned, the trusts of the said will of the said Thomas Taylor, deceased, shall not be affected by the provisions of this Act.

Trustees to
pay costs,
&c., of Act.

12. The said trustees for the time being of the said will of the said Thomas Taylor, deceased, may pay out of the said trust estate the costs, charges, and expenses of all persons and bodies party hereto of and incidental to the drafting, preparation, and passing of this Act.
