

New Zealand.

ANALYSIS.

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1936, No. 4.—*Private.*

- Title.** AN ACT to constitute the Trust created by the Will of Thomas George Macarthy, Deceased, in Favour of Charitable and Educational Purposes and Institutions a Perpetual Trust, and conferring certain Powers for the Administration and Preservation of the said Trust. [8th June, 1936.]
- 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 one thousand seven 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 resolution 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 for the time being of the Archdiocese 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 the Board of Trustees appointed by the said will duly accepted office: And whereas by the Thomas George Macarthy Trust Act, 1912, the said Board of Trustees was incorporated under the name of the Board of Governors of the Thomas George Macarthy Trust with perpetual succession and a common seal: And whereas the widow of the said Thomas George Macarthy died on the first day of July, nineteen hundred and thirty-four: And whereas doubt exists as to whether consequent upon the death of the widow of Thomas George Macarthy, deceased, the Public Trustee may not by the terms of the said will be called upon to distribute the capital of the residuary estate and complete the trust: And whereas the Board of Governors has instructed the Public Trustee to take steps to preserve the capital of the trust as a perpetual trust: And whereas it is desirable that the capital of the trust created in favour of charitable and educational purposes and institutions should be preserved as a perpetual trust and that only the annual income arising therefrom should continue to be distributed to 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 Governors should direct and appoint, and that certain other powers should be granted for the administration of the said trust and the preservation of the capital thereof, 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:—

Short Title.

1. This Act may be cited as the Thomas George Macarthy Trust Act, 1936.

2. Nothing contained or implied in the will of Thomas George Macarthy or in the Thomas George Macarthy Trust Act, 1912, shall authorize or permit the Public Trustee or the Board of Governors to distribute or to appoint any part of the capital of the said estate of Thomas George Macarthy, which said capital shall continue to be held upon trust to pay and apply the annual rents and income arising therefrom and profits of the same for such charitable and educational purposes or institutions in the Provincial District of Wellington, and in such manner and in such shares or to such extent as the Board of Governors shall from time to time by resolution direct and appoint.

Prohibiting distribution of capital of estate and application of income and profits arising therefrom.

3. The Board of Governors may from time to time by resolution direct and appoint that such part of the aforesaid annual rents, income, and profits as the Board thinks fit shall be set aside and held by the Public Trustee as a special Buildings Replacement Fund in connection with the said estate.

Authorizing Board of Governors to direct and appoint that part of annual rents, income, and profits be set aside as special Buildings Replacement Fund.

4. The Public Trustee may from time to time apply the whole or any part of the said special Buildings Replacement Fund to the replacement of any building or buildings owned by the estate which, in the opinion of the Public Trustee, should be so replaced, or in effecting such improvements to buildings owned by the estate as cannot properly be charged to income.

Authorizing Public Trustee from time to time to apply part or whole of special Buildings Replacement Fund.

5. This Act is hereby declared to be a private Act.

Private Act.