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RHODES ESTATE DUTY.

ANALYSIS.

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| Title.
Preamble.
1. Short Title.
2. W. B. Rhodes' executors empowered to pay duty as assessed, notwithstanding judgment of Court of Appeal. | | 3. Her Majesty shall have same rights and remedies for recovery of duty as she might have but for said judgment.
4. Commissioner of Stamp Duties and executors may agree upon present payment of future duty. |
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A BILL INTITULED

AN ACT to empower the Executors of the late William Barnard Rhodes to pay certain additional Duties under Part III. of "The Stamp Act, 1875." Title.

5 WHEREAS on the ninth day of February, one thousand eight hundred and seventy-eight, William Barnard Rhodes, of Wellington, merchant, made his last will and testament, whereby, after making certain dispositions in favour of his wife, Sarah Ann Rhodes, and also of other persons, he directed that, from and after the decease of his said wife Preamble.

10 without leaving issue of his said marriage, his trustees should stand possessed of all the undisposed of residue of his real and personal estate in trust for his natural daughter, Mary Ann Rhodes, for and during the term of her natural life, with further provision in case of her death or marriage: And whereas the said William Barnard

15 Rhodes died on the eleventh day of February, one thousand eight hundred and seventy-eight, without having revoked the said will: And whereas the same was duly proved in the Supreme Court at Wellington, on the eighth day of March, one thousand eight hundred and seventy-eight: And whereas there was no issue of the marriage of the said William Barnard Rhodes with the said

20 Sarah Ann Rhodes: And whereas the said Sarah Ann Rhodes survived the said William Barnard Rhodes: And whereas the said Mary Ann Rhodes also survived the said William Barnard Rhodes, and was unmarried, and of the age of twenty-six years or

thereabouts at the time of the death of the said William Barnard Rhodes: And whereas the executors of the said William Barnard Rhodes, early in the year one thousand eight hundred and seventy-nine, filed with the Commissioner of Stamp Duties at Wellington a statement of properties required under Part III. of the said Act, and by such statement it appears that the value of the residuary estate alleged to be the subject of the above-recited trust was assessed at two hundred and seventy-two thousand seven hundred and ninety-six pounds and fivepence: And whereas the dutiable value of such sum on a life of twenty-six years of age, at ten per centum, in accordance with the Third Schedule of "The Stamp Act, 1875," is one hundred and eighty-four thousand and fifty-two pounds fourteen shillings and fivepence: And whereas the Commissioner of Stamp Duties assessed the duty payable by the said executors in respect of the life-interest of the said Mary Ann Rhodes at such last-mentioned sum of eighteen thousand four hundred and five pounds five shillings and fivepence: And whereas by the terms of the said will, the alleged life-interest of the said Mary Ann Rhodes was not in possession, but was contingent upon her surviving the said Sarah Ann Rhodes, and that, pending the determination of that contingency, the income should be accumulated for the benefit of the person or persons who would then be entitled thereto: And whereas "The Stamp Act, 1875," made no provision for the immediate payment of duty in respect of unascertainable and contingent future interests: And whereas on appeal to the Supreme Court of New Zealand under the provisions of section forty-one of "The Stamp Act, 1875," which appeal was removed into the Court of Appeal, the contention of the said executors was upheld by the Court of Appeal by the judgment of three Judges against two: And whereas on an appeal to the Lords of the Judicial Committee of the Privy Council in the suit of the said Mary Ann Rhodes *versus* Rhodes and others, in which it was sought to obtain a decree, *inter alia*, declaring that the plaintiff, the said Mary Ann Rhodes, was entitled under the trusts of the said will to the immediate possession and enjoyment of the residuary estate of the said William Barnard Rhodes, judgment was, on the eighth day of March, one thousand eight hundred and eighty-two, delivered to the effect that the said Mary Ann Rhodes was so entitled to such immediate possession and enjoyment: And whereas if such judgment of the Privy Council had been delivered prior to the hearing of the said appeal to the Supreme Court under "The Stamp Act, 1875," it would have been considered binding on the said Supreme Court, and the assessment of the Commissioner of Stamp Duties as aforesaid would have been upheld: And whereas also "The Stamp Act, 1875," provided for no appeal from a judgment given on an appeal under the said section forty-one: And whereas it is fair and equitable, under all the circumstances of the case, that the said executors of the said will should be, by Act of the General Assembly, empowered to pay the said duty according to such assessment, as if there had been no such judgment of the Court of Appeal as aforesaid:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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Rhodes Estate Duty.

1. The Short Title of this Act is "The Rhodes Estate Duty Act, 1882." Short Title.

2. The executors of the will of the late William Barnard Rhodes, of Wellington, merchant, are hereby authorized and empowered to pay, and shall, immediately upon the passing of this Act, pay, out of the said estate of the said William Barnard Rhodes, the amount of duty as assessed under the above-recited assessment and now remaining unpaid, notwithstanding the above-recited judgment of the Court of Appeal. W. B. Rhodes' executors empowered to pay duty as assessed, notwithstanding judgment of Court of Appeal.

3. Her Majesty shall have and may exercise the same rights and remedies and may take the same proceedings for the recovery of the said duty from the said executors or out of the estate of the said William Barnard Rhodes as she might now take but for the said judgment of the Court of Appeal. Her Majesty shall have same rights and remedies for recovery of duty as she might have but for said judgment.

4. The Commissioner of Stamp Duties and the above-mentioned executors may agree as to what shall be the present payment of duty on the said residuary estate in respect of the interests of those persons who may, under the said will or otherwise, become entitled to the said residuary estate on the death of the said Mary Ann Rhodes, and in making such agreement the said Commissioner of Stamp Duties may, in consideration of such present payment, accept a smaller sum by way of such duty than might otherwise, in all probability, be payable at the death of the said Mary Ann Rhodes; and, for the purpose of carrying into effect such agreement, the said executors may lawfully pay, and they are hereby authorized to pay, out of the said residuary estate the sum so agreed upon between themselves and the Commissioner as aforesaid. Commissioner of Stamp Duties and executors may agree upon present payment of future duty.

Provided that no such arrangement or payment shall be made without the consent of the said Mary Ann Rhodes, though the Commissioner of Stamp Duties shall not be in any way compelled or concerned to inquire whether such consent has been given as aforesaid.