

Hon. Sir Francis Bell

THOMAS CAWTHRON TRUST.

[PRIVATE BILL.]

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A BILL INTITULED

AN ACT to incorporate the Trustees under the Will of Thomas Cawthron, deceased; to make Provision for Additional Trustees and the Succession of Trustees; and to confer certain Special Powers on the Trustees. Title.

5 WHEREAS Thomas Cawthron, of the City of Nelson in New Zealand, retired shipping agent, by his last will and testament bearing date the fifteenth day of December, nineteen hundred and two, devised and bequeathed all his real and personal property (excepting certain house- hold furniture and effects and certain properties in the said City of Nelson) unto the Bishop of Nelson, the Mayor of Nelson, the Chairman of the Waimea County Council, the members of the House of Representatives and Legislative Council for the City of Nelson and Waimea Electorate, the Chairman of the Nelson Harbour Board, and William Rout the younger, of the City of Nelson, in trust (after payment of certain legacies in the said will mentioned amounting in all to the sum of eight thousand one hundred pounds, and subject to certain annuities in the said will mentioned amounting in all to the yearly sum of six hundred and thirty-six pounds), for the purchase of land and erection and maintenance of an industrial and technical school institute and museum to be called "The Cawthron Institute": And whereas the said Thomas Cawthron died on the eighth day of October, nineteen hundred and fifteen: And whereas probate of the said will was on the twelfth day of November, nineteen hundred and fifteen, granted to William Charles Sadlier, who was the Bishop of Nelson at the date of the death of the said deceased; Charles John Harley, who was the Preamble.

Mayor of Nelson at the date of the death of the said deceased ; Horatio Everett, who was the Chairman of the Waimea County Council at the date of the death of the said deceased ; Thomas Andrew Hemming Field, who was the member of the House of Representatives for the Nelson Electorate at the date of the death of the said deceased ; and Henry Richard Duncan, who was the Chairman of the Nelson Harbour Board at the date of the death of the said deceased (the executors referred to or indicated in the said will under and by the titles to the respective public offices held by them); and to William Rout (formerly known and in the said will described as "William Rout the younger"), the executor personally named in the said will: And whereas the said Charles John Harley died on the sixteenth day of December, nineteen hundred and twenty-two: And whereas the said will made no special provision for succession in the event of a trustee dying: And whereas the surviving trustees for the time being, in exercise of the powers conferred by the Trustee Act, 1908, did by deed dated the tenth day of May, nineteen hundred and twenty-three, appoint Frederick Giles Gibbs, of Nelson, retired school-teacher, to be a trustee in the place of the said Charles John Harley: And whereas it has been considered desirable that the holders for the time being of the public offices mentioned or clearly indicated in the said will should also be trustees so long as they continue to hold the said offices: And whereas it is desirable that the trustees should be constituted a body corporate with perpetual succession and a common seal, and that certain powers should be granted for the administration of the said trust: And whereas the objects of this Act 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 and commencement.

1. This Act may be cited as the Thomas Cawthron Trust Act, 1924, and shall come into force on the first day of January, nineteen hundred and twenty-five.

Appointment of trustees.

2. (1.) On and after the commencement of this Act the trustees of the estate of the said Thomas Cawthron, deceased, shall be—

(a.) William Charles Sadlier, Bishop of Nelson; Thomas Andrew Hemming Field, ironmonger; Henry Richard Duncan, brewer; Frederick Giles Gibbs, retired school-teacher; William Rout, land agent; all of Nelson; and Horatio Everett, of Riwaka, farmer; and their successors under this Act:

(b.) The persons for the time being holding the respective offices of Mayor of Nelson, Chairman of the Waimea County Council, and member of Parliament for the Electoral District of Nelson, and also the persons for the time being holding the respective offices of Bishop of Nelson and Chairman of the Nelson Harbour Board when the last-named offices cease to be held respectively by the said William Charles Sadlier and Henry Richard Duncan:

(c.) A member of the Legislative Council (if any) permanently resident in the Provincial District of Nelson.

(2.) The appointment of a member of the Legislative Council as a trustee shall be made by the Board, and the first such appointment shall be made within one month after the commencement of this Act.

(3.) If there is only one member of the Legislative Council permanently resident in the Provincial District of Nelson the Board shall, by resolution, appoint such member to be a trustee.

(4.) If there are more such members than one the Board shall, by resolution, appoint one of those members to be a trustee.

(5.) The member of the Legislative Council so appointed to be a trustee shall cease to be a trustee when he ceases to be a member of the Legislative Council or when he ceases to be permanently resident in the Provincial District of Nelson, whichever event first happens.

3. (1.) The trustees referred to in paragraph (a) of subsection *one* of the *last preceding* section are in this Act referred to as the personal trustees, and the trustees referred to in paragraphs (b) and (c) of that subsection are in this Act referred to as the official trustees.

(2.) If any person for the time being holding office as a personal trustee becomes qualified to hold office as an official trustee, or if any official trustee is appointed the successor of a personal trustee, the number of trustees shall not by reason of that fact be increased. A trustee shall not have more than one vote at any meeting of the Board, notwithstanding that he may be qualified to hold office both as a personal trustee and as an official trustee.

4. The trustees shall be a body corporate under the name of the Cawthron Institute Trust Board (hereinafter referred to as the Board), and shall have perpetual succession and a common seal, and shall be capable of holding real and personal property and of doing and suffering all that bodies corporate may do and suffer.

5. Upon the death or retirement from the Board of a personal trustee the Board shall, by resolution, appoint another person to be a trustee in the place of such first-mentioned trustee.

6. If an official trustee ceases to hold the office by virtue of which he became a trustee he shall be succeeded as a member of the Board by his successor in such office for the time being.

7. At any meeting of the Board *five* members thereof shall constitute a quorum, and the decision of a majority of the members present at any meeting of the Board shall be the decision of the Board. The chairman at any meeting of the Board shall have a deliberative vote, and in the case of an equality of votes shall have a casting vote also.

8. Meetings of the Board may be held at any time or place appointed by the Board or by any three members thereof.

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.

10. (1.) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board.

(2.) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

Personal trustees and official trustees.

Number of trustees not to be increased if personal trustee becomes qualified to hold office as official trustee, or vice versa.

Incorporation of trustees.

Successors of personal trustees.

Successors of official trustees.

Quorum.

Time and place of meetings.

Validity of acts of Board not to be impaired by vacancies or defective appointments.

Contracts of Board.

(3.) Any contract which if made between private persons may be made verbally without writing may be similarly made by or on behalf of the Board, but no verbal contract shall be made of a value exceeding *twenty* pounds.

Board may accept and administer other bequests, &c.

11. The Board may accept and receive any gift, bequest, or devise of money or property in trust for the purposes of the Cawthron Institute, 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. 5 10

Additional powers of Board.

12. The Board shall have and may exercise all and singular the powers and authorities given to or exercisable by the trustees by or under the will of the said Thomas Cawthron, and in addition to and without derogating from such powers and authorities shall have power : 15

(a.) To regulate its own procedure :

(b.) To promote any Act of Parliament having special application to the said trusts, 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 : 20

(c.) For the purposes of any trust under its control, to hold land of any tenure, and to exercise with respect to the same all and singular the powers and authorities given to it under such trust or according to law : 25

(d.) For the purposes of the trusts under the said will, to sell, lease, mortgage, or otherwise dispose of all property vested in the said Board.

Provision for a Capital Conservation Account.

13. (1.) Notwithstanding the express or implied provisions and trusts in the will of the testator, but subject to the provisions of this section, the Board shall in each year set aside *four* per centum of the gross income of the estate to be credited to a Capital Conservation Account. 30

(2.) The moneys credited to such account shall be separately invested by the Board, and the interest thereon shall be accumulated in such account until the amount of such account is twenty thousand pounds, after which no further moneys shall be credited to the said Capital Conservation Account. 35

(3.) The interest-bearing capital of the said estate (other than the said Capital Conservation Account) shall not (except by unavoidable losses of capital) be permitted to fall below the sum of two hundred thousand pounds. In the event of such capital falling below the sum of two hundred thousand pounds the deficiency shall be made good from the said Capital Conservation Account, and any deficiency in such last-mentioned account below the sum of twenty thousand pounds shall be made good by an annual appropriation of income as mentioned in subsection *one* hereof. 40 45

Annual balance-sheet and accounts.

14. (1.) The Board shall, within three months after the close of each year ending on the thirty-first day of December, cause a balance-sheet to be prepared, together with a statement of accounts (including a receipts and payments account) showing fully the financial position of the said estate. 50

(2.) Such balance-sheet and statement of accounts shall be audited and certified by an auditor appointed for the purpose by the Board.

(3.) The Board shall publish the balance-sheet and statement of accounts, as certified, in the *Gazette* and in the principal newspaper circulating in the Provincial District of Nelson.

15 15. (1.) All real and personal property which immediately prior to the commencement of this Act is vested in the trustees as such, or in any of them, shall by force of this Act, and without conveyance, transfer, or assignment, be vested in the Board for the estate and
10 interest of the trustees therein, subject to all liabilities, charges, obligations, and trusts affecting the same.

Property of trustees
vested in Board.

(2.) On the commencement of this Act all the contracts, debts, and liabilities of the trustees as such, or of any of them, shall become the contracts, debts, and liabilities of the Board.

15 16. (1.) A memorandum referring to this Act may be registered in any Deeds Registry Office against any instrument of title registered under the Deeds Registration Act, 1908, and affecting any land which by virtue of this Act is vested in the Board, and such registration shall have the same effect as if this Act were actually registered in full.

Registration of
title.

20 (2.) The District Land Registrar shall, on written application under the seal of the Board, register the Board as proprietor of all lands registered under the Land Transfer Act, 1915, and vested in the Board by virtue of this Act.

25 17. The members of the Board shall from time to time be entitled to receive by way of remuneration for their services such amount, not exceeding in the aggregate in any year the sum of five hundred pounds, as may be agreed upon between the Attorney-General and the Board, and in the event of disagreement the amount of such remuneration shall be determined in the same manner as the
30 remuneration of trustees is determined under the Administration Act, 1908. All moneys payable under this section shall be paid out of moneys coming to the Board under the trusts of the said will.

Remuneration of
Board.