



ANNO DECIMO SEPTIMO

GEORGII V REGIS.

A.D. 1926.

Private Act.

An Act to alter vary and amend Trusts contained in the last Will and Testament of James Umpherston deceased and in a Declaration of Trust and Assignment created by the surviving Trustee of the said Will in accordance with directions contained therein and to confer on the Trustees of such Declaration of Trust and Assignment certain powers and for other purposes.

[*Assented to, December 9th, 1926.*]

WHEREAS JAMES UMPHERSTON late of Mount Gambier Preamble. in the State of South Australia Esquire deceased duly executed his last will and testament bearing date the 13th day of October 1891 and four codicils thereto bearing date respectively the 12th day of April 1892 the 7th day of July 1894 the 26th day of September 1898 and the 10th day of September 1900 which said will and codicils were duly proved in the Supreme Court of the said State in its Testamentary Causes Jurisdiction on the 14th day of December 1900 by John Watson Newspaper Proprietor James Umpherston Innes Produce Merchant Margaret Ferguson Umpherston widow of the said deceased and Andrew Loutit Bank Manager all of Mount Gambier the Executors and Trustees therein named and which said will and codicils contained (*inter alia*) the following trusts: FIRST that a fund of £500 should be set aside by his said trustees for the purpose of applying the annual income in support of any Young Ladies' Seminary or School which

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which might be instituted or carried on in the town or neighbourhood of Mount Gambier under the supervision of Trustees of the Protestant religion and having Protestants for the masters and mistresses thereof with power to devote the whole of the said fund for the benefit of the said school either in the purchase of land or buildings or for other purposes connected with such school: AND SECONDLY that funds of £500 and one-half of the ultimate residue of the trust moneys arising from the realisation of the estate of the testator should be appropriated and set apart and that the trustees of the said will appointed by the said will and the first codicil thereto should by Deed or Deeds to be executed by them transfer and assign such funds to such two or more persons as they should appoint and by such Deed declare that the trustees for the time being of the said Deed so appointed should invest such funds for the purpose of providing out of the annual proceeds thereof a scholarship or scholarships as they might think fit for any scholar or scholars of the Protestant religion to whom such scholarship or scholarships might be assigned by the Trustee thereof being a scholar or scholars at such educational institutes or school as might be approved of by the Trustees so appointed and where scholars might obtain a thoroughly good and proper education the said Trusts to provide that such scholar or scholars should have been resident for at least three years in the County of Grey the Trustees of the said Deed being given power if they should consider that no such educational institute existed in Mount Gambier to accumulate the income until such educational institute should be established and to pay the annual interest or proceeds of such accumulations for scholarship purposes as before mentioned: AND WHEREAS the said fund of £500 first hereinbefore mentioned has been expended by the Trustees of the said Will in the erection of a school upon lands of which the Presbyterian Church Mount Gambier is the owner: AND WHEREAS such school has since the erection of the said school building been carried on in accordance with the said Trusts of the said Will: AND WHEREAS in accordance with the directions contained in the said Will by a Declaration of Trust and Assignment dated the 12th day of January 1925 duly executed by John Watson of Mount Gambier Newspaper Proprietor the then sole surviving Trustee of the said Will the said funds secondly hereinbefore mentioned were vested in Arthur Ballinger Minister of Religion David Abraham Collins Farmer Alexander Cameron and William Hay Produce Merchants all of Mount Gambier to be held by them for the purposes and upon the Trusts aforesaid: AND WHEREAS the said school is not self-supporting and there are not sufficient funds or moneys available to pay the salaries of the staff of the said school and other incidental expenses necessary and proper to be incurred and expended in the conduct of the said school: AND WHEREAS it is desirable to authorise and empower the said Trustees the said Arthur Ballinger David Abraham Collins Alexander Cameron and William Hay or any Trustees hereafter lawfully appointed in their place or stead to use the annual income to be derived from the sum of £5,000 now in the hands of the said Trustees and forming portion of the funds and accumulated interest of the said

said

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said scholarship Trust for the purpose of assisting in the carrying on of the said Young Ladies' Seminary or School as directed by the Will of the said Testator and to provide for the constitution of a committee to be appointed by all the Protestant denominations referred to in the school Trust contained in the Will of the Testator such committee to have the supervision and full control of the said school and to declare the powers of such committee and to provide for the payment by the said Trustees to such Committee of the income to be derived from the said sum of £5,000 for the purpose aforesaid as from the 30th day of June 1926 and that the payment of the said annual income to such Committee should terminate upon the said existing school building ceasing from any cause whatsoever to be available for school purposes or the said school ceasing to be carried on in accordance with the Will of the said Testator : AND the authority of an Act of Parliament is required in order to effect the purposes abovementioned and to provide for and regulate the management and affairs of the school by the said Committee : BE it therefore enacted by the Governor of the State of South Australia with the advice and consent of the Parliament thereof as follows :—

1. This Act may be cited as " The James Umpherston Trusts Act, Short title. 1926."

2. In this Act unless the context otherwise requires the following Definition. expressions shall have the meanings ascribed to them :—

" Testator " shall mean the said James Umpherston late of Mount Gambier Esquire deceased :

" Will " shall mean and include the said last will and testament and four codicils thereto of the said James Umpherston late of Mount Gambier Esquire deceased :

" Trustees " shall mean the Trustees for the time being of the said Declaration of Trust and Assignment dated the 12th day of January 1925 :

" Committee " shall mean the committee to be appointed every two years in the manner and for the purposes provided by this Act by the Protestant denominations carrying on their respective activities in the town or neighborhood of Mount Gambier :

" School " shall mean the building and appurtenances thereto at present used for school purposes erected on the lands situated at Mount Gambier of which the Presbyterian Church Mount Gambier is the owner :

3. The School shall be managed and governed by a Committee School managed by Committee. who shall have the sole management control and supervision of the same and the same shall be carried on and conducted in accordance with the directions contained in the Will of the Testator.

4. Such

*The James Umpherston Trusts Act.—1926.***Constitution of
Committee.**

4. Such Committee shall consist of two members of each and every Protestant denomination carrying on their respective activities in the town or neighborhood of Mount Gambier which desires and chooses to appoint members thereto and shall be appointed every two years. Until a new Committee shall be appointed the first Committee shall consist of Mr. E. J. Price and Mrs. F. Davison representing the Anglican denomination Dr. R. G. Burnard and Mr. L. A. DeGaris representing the Methodist denomination Rev. A. H. Ballinger and Mrs. H. J. Clezy representing the Presbyterian denomination Rev. E. Sprengel and Mr. P. Niquet representing the Lutheran denomination and the representatives of such other Protestant denomination carrying on its activities in the town or neighborhood of Mount Gambier as may be appointed during the term of office of such first Committee in the manner hereinafter mentioned.

**Manner of
appointment.**

5. The representatives on the Committee of the respective denominations shall be appointed in the manner following:—

Anglican representatives by the Vestry committee of the church of such denomination.

Methodist representatives by the Quarterly committee of the church of such denomination.

Presbyterian representatives by the Board of Management of the church of such denomination.

Lutheran representatives by the Church committee of the church of such denomination.

The representatives of any other denomination by the governing Board or committee of the church of such denomination duly appointed in accordance with its constitution.

**Vacancies in
Committee.**

6. Any member of the Committee may resign and in case of any vacancy occurring in the Committee by the death or resignation of any member or from other cause the denomination which such member represented may fill the vacancy by the appointment of a person in the manner hereinbefore prescribed but the person so appointed shall only hold office for the unexpired portion of the term of office of the person in whose place he or she may be appointed but the Committee shall not suffer any disability by reason of such vacancy not being supplied.

**Quorum of
Committee.**

7. At every meeting of the Committee five shall form a quorum.

Chairman.

8. The Chairman of the Committee shall be appointed by the Committee and at all its meetings he shall have a deliberative as well as a casting vote and every question shall be decided by a majority of the votes of persons voting thereon and the decision shall be deemed the decision of the Committee.

9. All

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9. All acts done at any meeting of the Committee notwithstanding that it be afterwards discovered that there was some defect in the appointment of the Committee or of some person acting thereon or that such appointment was improper or illegal shall be as valid as if the appointment in question had been duly properly and legally made.

Validity of acts done.

10. The Committee shall cause minutes to be kept of the proceedings at all meetings of the Committee and such minutes if confirmed at a subsequent meeting and signed by any person purporting to be the Chairman of the confirming meeting shall be conclusive evidence of all matters therein stated and that the meeting was duly convened and held and the validity of the proceedings shall not be impeached on any ground not appearing on the face of the minutes.

Minutes.

11. Notwithstanding anything contained in the said Will it shall be lawful for the Trustees to pay to the Committee in the manner and subject to the conditions contained in this Act the annual income to be derived from the said sum of £5,000 as from the 30th day of June 1926 or so much thereof as they shall deem necessary and sufficient for the purpose of assisting in the carrying on and conducting of the said School in the manner aforesaid. The said income shall be paid into an account in the name of the Committee at some recognised Bank and the Trustees shall not be liable to see to the due application thereof.

Trustees authorised to pay income to Committee.

12. The Trustees shall not pay the said income to the Committee and the payment thereof shall cease and terminate upon :—

Payment of income to cease in certain events.

(a) The Board of Management of the Presbyterian Church or other body in which the lands on which the School is built are or shall be or become vested not permitting such lands the buildings erected thereon and the lands adjacent and contiguous thereto and the buildings thereon to be used and occupied for the purposes of the School and in connection therewith and so far as the Committee may deem reasonably necessary for the benefit of the masters mistresses teachers officers and other staff of the School and the students thereof.

(b) The said School ceasing to be carried on or the said school building ceasing from any cause whatsoever to be available for school purposes in accordance with the Will of the Testator.

Provided however that such payments may be recommenced upon all the foregoing conditions being fulfilled and observed.

13. The Committee may make repeal and alter any rules and regulations not inconsistent with this Act for the regulation of their proceedings and the management of the business and affairs

Rules and regulations.

B. of

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of the School and for carrying this Act into effect and in particular but without limiting the effect of the foregoing power the Committee may make regulations with respect to—

- (a) the curriculum of study by the students :
- (b) the religious training of the students :
- (c) the examination of the students :
- (d) the inspection of the School whether by the parents of the students or otherwise :
- (e) the School hours recreation of students, the terms of tuition, board, and other school charges and fees, and the manner of their payment, lodging, and the season and length of the holidays :
- (f) the duties of the staff.

Exercise of power.

14. All powers hereby conferred expressly or by implication and whether on the Trustees the Committee or otherwise may be exercised from time to time and shall not be exhausted by the first exercise thereof.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.