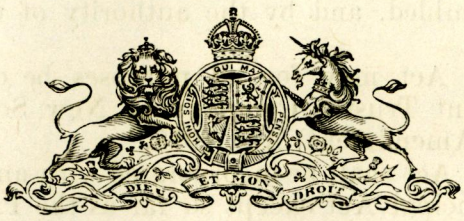
I Certify that this PRIVATE BILL, *which originated in the* LEGISLATIVE COUNCIL, *has finally passed the* LEGISLATIVE COUNCIL *and the* LEGISLATIVE ASSEMBLY *of* NEW SOUTH WALES.

W. L. S. COOPER,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 4th December, 1918.

New South Wales.



ANNO NONO

GEORGII V REGIS.

* *

An Act to amend the Permanent Trustee Company of New South Wales, Limited, Act and to confer additional powers upon the Permanent Trustee Company of New South Wales, Limited; and to validate certain actions of the said company. [Assented to, 12th December, 1918.]

Preamble.

WHEREAS since the passing of the Permanent Trustee Company of New South Wales, Limited, Act, hereinafter called the Principal Act, the said Permanent Trustee Company of New South Wales, Limited, hereinafter called "the company," has been entrusted with the administration and now administers a large number of trust estates: And whereas the company now possesses a paid-up capital of fifty thousand pounds

pounds of which twenty thousand pounds has long since been and now is invested in the manner provided by section six of the Principal Act: And whereas it is desirable to amend the Principal Act so as to confer upon the company additional powers and privileges to enable the company more effectually and usefully to carry out its objects and so as to validate certain actions of the company in the past: 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 for all purposes be cited as the "Permanent Trustee Company of New South Wales, Limited (Amendment) Act, 1918."

Incorporation with Permanent Trustee Company of New South Wales, Limited, Act.

2. This Act shall be incorporated with and form part of the Principal Act except so far as the Principal Act is repealed or amended by this Act.

Persons entitled to probate may authorise the company to obtain administration with will annexed.

3. Any person named expressly or by implication as executor who would be entitled to obtain probate of the will of any testator without leave being reserved to any other person to apply for probate may instead of himself applying for probate authorise the company to apply for administration with the said will annexed, and a grant of such administration may be made to the company upon its own application when so authorised unless the testator has by his will directed or intimated that the office of executor should not be delegated or that the company should not act in the trusts of the will.

Amendment of s. 3 of Principal Act.

4. Section three of the Principal Act is amended by striking out the words "as his or her next of kin" after the word "intestate" where first used in such section.

Amendment of s. 5 of Principal Act.

5. Section five of the Principal Act is amended by striking out the words "managing director, manager, or acting-manager of the company" and by inserting in place thereof the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose."

Repeal of s. 7 of Principal Act.

6. Section seven of the Principal Act is hereby repealed.

7.

7. (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—

Company may be appointed trustee, receiver, committee, or guardian of estate.

(a) trustee; or
(b) receiver; or
(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act of 1898; or
(d) guardian of the estate of an infant,

the company may be so appointed.

(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection one hereof mentioned, all the capital of the company, both paid and unpaid, and all other assets of the company, and the directors, manager, and assistant manager thereof and their respective estates shall be liable for the proper discharge of the duties of such office.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

Validation of prior appointments of company as sole trustee.

8. (1) In all cases where before the passing of this Act the company was appointed new trustee in place of more than one trustee previously filling the office, such appointment shall be deemed to have been and to be as valid and effectual as if this Act had then been passed.

(2) In all cases where before the passing of this Act the company upon the retirement of one or more trustees continued to act as sole trustee the company shall be deemed to have been and to be entitled to act as sole trustee.

(3) The trustees in whose place the company was so appointed, or upon whose retirement the company continued to act as sole trustee, shall be deemed to have been and to be discharged from their trust.

Company may hold property as joint tenant.

9. (1) The company shall be capable of acquiring and holding any property in joint tenancy in the same manner as if it were an individual.

(2) Where the company and an individual or the company and another body corporate become entitled to any property under circumstances or by virtue of any instrument which, if the company or other body corporate had been an individual, would have created a joint tenancy, they shall be entitled to the property as joint tenants.

(3) Where the company or other body corporate is a joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.

Property vested in company and another as trustees, &c., to be held on joint tenancy.

10. Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate to the intent that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Amendment of s. 8 of Principal Act.

11. Section eight of the Principal Act is amended by striking out the words "managing director or the manager jointly with," and by substituting therefor the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose or by."

12.

12. Section ten of the Principal Act is amended— Amendment of s. 10 of Principal Act.

(a) by striking out the word "ecclesiastical" and substituting in place thereof the words "probate or equity"; and

(b) by striking out the words "managing director, manager, or acting manager, as the case may be," and by substituting in place thereof the words "manager or assistant manager."

13. Section eleven of the Principal Act is hereby repealed. Repeal of s. 11 of Principal Act.

14. (1) Every application under this Act to any court or judge shall be by motion. Applications to court or judge.

(2) Subject as hereafter provided notice of the application and of the date on which the same is intended to be made shall be advertised once—

(a) in a daily newspaper circulating in Sydney and published at least seven days before such date; and

(b) where the application is made by the executor or administrator of any person who died at any place in New South Wales situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person residing in New South Wales and entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

15.

Repeal of s. 12 of Principal Act.

15. Section twelve of the Principal Act is hereby repealed.

Manager, acting-manager, or other officer to attend and represent company.

16. (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee, or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

(2) All declarations and all affidavits, statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the manager, assistant manager, acting manager, or secretary.

(3) In every case where the company obtains probate or letters of administration or is appointed and acts as trustee, receiver, committee, or guardian, the manager, assistant manager, and directors in their proper persons and estates shall be individually and collectively responsible for the due administration of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and decrees of such courts made against the company in the same manner and to the same extent as if such manager, assistant manager, and directors had personally obtained probate or letters of administration and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order, or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said manager, assistant manager, and directors the capital, both paid and unpaid, and all other assets of the company shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5)

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Amendment of ss. 15, 20, 22, and 23 of Principal Act.

17. Sections fifteen, twenty, twenty-two, and twenty-three of the Principal Act are hereby amended by striking out the words "managing director, manager, or acting manager" wherever they occur in the said sections, and by substituting in place thereof the words "manager, assistant manager, or acting manager", and section twenty-three is hereby further amended by striking out the words "and the auditors of the company" wherever they occur therein, and by substituting the words "authorises or permits" for the words "authorise or permit".

Amendment of ss. 13, 15, 16, 18, 20, 21, 22, 24, and 26 of the Principal Act.

18. Wherever in the Principal Act the words "Primary Judge in Equity" or "Primary Judge" occur such words shall be struck out and the words "Chief Judge or Judge in Equity" substituted therefor.

Amendment of s. 21 of Principal Act.

19. Section twenty-one of the Principal Act is amended by striking out the words "Trustee Relief Act of 1858" and by substituting in place thereof the words "Trustee Act, 1898."

Amendment of Schedule.

20. The Schedule to the Principal Act is amended by striking out the first paragraph and by inserting in lieu thereof the following words:—"I (manager, assistant manager, or acting manager, as the case may be) do hereby solemnly declare and affirm", and by striking out the word "We" in the last paragraph and inserting the word "I" in lieu thereof.

In the name and on behalf of His Majesty I assent to this Act.

W. E. DAVIDSON,
Governor.

Government House,
Sydney, 12th December, 1918.

This PRIVATE BILL *originated in the* LEGISLATIVE COUNCIL, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE ASSEMBLY *for its concurrence.*

W. L. S. COOPER,
Clerk of the Parliaments.

Legislative Council Chamber,
Sydney, 17*th October,* 1918.

New South Wales.

ANNO NONO

GEORGII V REGIS.

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An Act to amend the Permanent Trustee Company of New South Wales, Limited, Act and to confer additional powers upon the Permanent Trustee Company of New South Wales, Limited; and to validate certain actions of the said company.

Preamble.

WHEREAS since the passing of the Permanent Trustee Company of New South Wales, Limited, Act, hereinafter called the Principal Act, the said Permanent Trustee Company of New South Wales, Limited, hereinafter called "the company," has been entrusted with the administration and now administers a large number of trust estates: And whereas the company now possesses a paid-up capital of fifty thousand pounds

pounds of which twenty thousand pounds has long since been and now is invested in the manner provided by section six of the Principal Act: And whereas it is desirable to amend the Principal Act so as to confer upon the company additional powers and privileges to enable the company more effectually and usefully to carry out its objects and so as to validate certain actions of the company in the past: 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 for all purposes be cited as the "Permanent Trustee Company of New South Wales, Limited (Amendment) Act, 1918."

Incorporation with Permanent Trustee Company of New South Wales, Limited Act.

2. This Act shall be incorporated with and form part of the Principal Act except so far as the Principal Act is repealed or amended by this Act.

Persons entitled to probate may authorise the company to obtain administration with will annexed.

3. Any person named expressly or by implication as executor who would be entitled to obtain probate of the will of any testator without leave being reserved to any other person to apply for probate may instead of himself applying for probate authorise the company to apply for administration with the said will annexed, and a grant of such administration may be made to the company upon its own application when so authorised unless the testator has by his will directed or intimated that the office of executor should not be delegated or that the company should not act in the trusts of the will.

Amendment of s. 3 of Principal Act.

4. Section three of the Principal Act is amended by striking out the words "as his or her next of kin" after the word "intestate" where first used in such section.

Amendment of s. 5 of Principal Act.

5. Section five of the Principal Act is amended by striking out the words "managing director, manager, or acting-manager of the company" and by inserting in place thereof the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose."

Repeal of s. 7 of Principal Act.

6. Section seven of the Principal Act is hereby repealed.

7.

7. (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—

Company may be appointed trustee, receiver, committee, or guardian of estate.

(a) trustee; or

(b) receiver; or

(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act of 1898; or

(d) guardian of the estate of an infant,

the company may be so appointed.

(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection one hereof mentioned, all the capital of the company, both paid and unpaid, and all other assets of the company, and the directors, manager, and assistant manager thereof and their respective estates shall be liable for the proper discharge of the duties of such office.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

Validation of prior appointments of company as sole trustee.

8. (1) In all cases where before the passing of this Act the company was appointed new trustee in place of more than one trustee previously filling the office, such appointment shall be deemed to have been and to be as valid and effectual as if this Act had then been passed.

(2) In all cases where before the passing of this Act the company upon the retirement of one or more trustees continued to act as sole trustee the company shall be deemed to have been and to be entitled to act as sole trustee.

(3) The trustees in whose place the company was so appointed, or upon whose retirement the company continued to act as sole trustee, shall be deemed to have been and to be discharged from their trust.

Company may hold property as joint tenant.

9. (1) The company shall be capable of acquiring and holding any property in joint tenancy in the same manner as if it were an individual.

(2) Where the company and an individual or the company and another body corporate become entitled to any property under circumstances or by virtue of any instrument which, if the company or other body corporate had been an individual, would have created a joint tenancy, they shall be entitled to the property as joint tenants.

(3) Where the company or other body corporate is a joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.

Property vested in company and another as trustees, &c., to be held on joint tenancy.

10. Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate to the intent that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Amendment of s. 8 of Principal Act.

11. Section eight of the Principal Act is amended by striking out the words "managing director or the manager jointly with," and by substituting therefor the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose or by."

12.

12. Section ten of the Principal Act is amended— Amendment of s. 10 of Principal Act.

(a) by striking out the word "ecclesiastical" and substituting in place thereof the words "probate or equity"; and

5 (b) by striking out the words "managing director, manager, or acting manager, as the case may be," and by substituting in place thereof the words "manager or assistant manager."

13. Section eleven of the Principal Act is hereby Repeal of s. 11 of Principal Act.
10 repealed.

14. (1) Every application under this Act to any court or judge shall be by motion. Applications to court or judge.

(2) Subject as hereafter provided notice of the application and of the date on which the same is
15 intended to be made shall be advertised once—

(a) in a daily newspaper circulating in Sydney and published at least seven days before such date; and

(b) where the application is made by the executor
20 or administrator of any person who died at any place in New South Wales situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death and published
25 within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of the company as a trustee where all persons beneficially interested are before the court or have had notice of the
30 intended application.

(4) The court or judge may in any case require notice to be served on any person residing in New South Wales and entitled to the immediate receipt of the whole or part of the income or corpus of the estate in
35 respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be
40 borne and paid in such manner and by such persons as to the court or judge may seem just.

15.

15. Section twelve of the Principal Act is hereby repealed. Repeal of s. 12 of Principal Act

16. (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee, or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose. Manager, acting-manager, or other officer to attend and represent company.

(2) All declarations and all affidavits, statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the manager, assistant manager, acting manager, or secretary.

(3) In every case where the company obtains probate or letters of administration or is appointed and acts as trustee, receiver, committee, or guardian, the manager, assistant manager, and directors in their proper persons and estates shall be individually and collectively responsible for the due administration of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and decrees of such courts made against the company in the same manner and to the same extent as if such manager, assistant manager, and directors had personally obtained probate or letters of administration and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order, or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said manager, assistant manager, and directors the capital, both paid and unpaid, and all other assets of the company shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5)

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

17. Sections fifteen, twenty, twenty-two, and twenty-three of the Principal Act are hereby amended by striking out the words "managing director, manager, or acting manager" wherever they occur in the said sections, and by substituting in place thereof the words "manager, assistant manager, or acting manager", and section twenty-three is hereby further amended by striking out the words "and the auditors of the company" wherever they occur therein, and by substituting the words "authorises or permits" for the words "authorise or permit". Amendment of ss. 15, 20, 22, and 23 of Principal Act.

18. Wherever in the Principal Act the words "Primary Judge in Equity" or "Primary Judge" occur such words shall be struck out and the words "Chief Judge or Judge in Equity" substituted therefor. Amendment of ss. 13, 15, 16, 18, 20, 21, 22, 24, and 26 of the Principal Act.

19. Section twenty-one of the Principal Act is amended by striking out the words "Trustee Relief Act of 1858" and by substituting in place thereof the words "Trustee Act, 1898." Amendment of s. 21 of Principal Act.

20. The Schedule to the Principal Act is amended by striking out the first paragraph and by inserting in lieu thereof the following words:—"I (manager, assistant manager, or acting manager, as the case may be) do hereby solemnly declare and affirm", and by striking out the word "We" in the last paragraph and inserting the word "I" in lieu thereof. Amendment of Schedule.

Sydney: William Applegate Gullick, Government Printer.—1918.

[7*d*.]

Legislative Council.

1918.

A BILL

To amend the Permanent Trustee Company of New South Wales, Limited, Act and to confer additional powers upon the Permanent Trustee Company of New South Wales, Limited; and to validate certain actions of the said company.

(*As amended and agreed to in Select Committee.*)

WHEREAS since the passing of the Permanent Trustee Company of New South Wales, Limited, Act, hereinafter called the Principal Act, the said Permanent Trustee Company of New South Wales, Limited, hereinafter called "the company," has been entrusted with the administration and now administers a large number of trust estates: And whereas the company now possesses a paid-up capital of fifty thousand pounds **Preamble.**

NOTE.—The words to be *inserted* are printed in **black letter**.

pounds of which twenty thousand pounds has long since been and now is invested in the manner provided by section six of the Principal Act: And whereas it is desirable to amend the Principal Act so as to confer upon the company additional powers and privileges to enable the company more effectually and usefully to carry out its objects and so as to validate certain actions of the company in the past: 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:—

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Persons entitled to probate may authorise the company to obtain administration with will annexed.

3. Any person named expressly or by implication as executor who would be entitled to obtain probate of the will of any testator without leave being reserved to any other person to apply for probate may instead of himself applying for probate authorise the company to apply for administration with the said will annexed, and a grant of such administration may be made to the company upon its own application when so authorised unless the testator has by his will directed or intimated that the office of executor should not be delegated or that the company should not act in the trusts of the will.

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(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act, 1898; or

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(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

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14. (1) Every application under this Act to any court or judge shall be by motion. Applications to court or judge.

(2) Subject as hereafter provided notice of the application and of the date on which the same is intended to be made shall be advertised once—

(a) in a daily newspaper circulating in Sydney and published at least seven days before such date; and

(b) where the application is made by the executor or administrator of any person who died at any place in New South Wales situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person residing in New South Wales and entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

15.

Repeal of s. 12 of Principal Act.

15. Section twelve of the Principal Act is hereby repealed.

Manager, acting-manager, or other officer to attend and represent company.

16. (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee, or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

(2) All declarations and all affidavits, statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the manager, assistant manager, acting manager, or secretary.

(3) In every case where the company obtains probate or letters of administration or is appointed and acts as trustee, receiver, committee, or guardian, the manager, assistant manager, and directors in their proper persons and estates shall be individually and collectively responsible for the due administration of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and decrees of such courts made against the company in the same manner and to the same extent as if such manager, assistant manager, and directors had personally obtained probate or letters of administration and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order, or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said manager, assistant manager, and directors the capital, both paid and unpaid, and all other assets of the company shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5)

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Amendment of ss. 15, 20, 22, and 23 of Principal Act.

17. Sections fifteen, twenty, twenty-two, and twenty-three of the Principal Act are hereby amended by striking out the words "managing director, manager, or acting manager" wherever they occur in the said sections, and by substituting in place thereof the words "manager, assistant manager, or acting manager", and section twenty-three is hereby further amended by striking out the words "and the auditors of the company" wherever they occur therein, and by substituting the words "authorises or permits" for the words "authorise or permit".

Amendment of ss. 13, 15, 16, 18, 20, 21, 22, 24, and 26 of the Principal Act.

18. Wherever in the Principal Act the words "Primary Judge in Equity" or "Primary Judge" occur such words shall be struck out and the words "Chief Judge or Judge in Equity" substituted therefor.

Amendment of s. 21 of Principal Act.

19. Section twenty-one of the Principal Act is amended by striking out the words "Trustee Relief Act of 1858" and by substituting in place thereof the words "Trustee Act, 1898."

Amendment of Schedule.

20. The Schedule to the Principal Act is amended by striking out the first paragraph and by inserting in lieu thereof the following words:—"I (manager, assistant manager, or acting manager, as the case may be) do hereby solemnly declare and affirm", and by striking out the word "We" in the last paragraph and inserting the word "I" in lieu thereof.

Sydney: William Applegate Gullick, Government Printer.—1918.

Legislative Council.

1918.

A BILL

To amend the Permanent Trustee Company of New South Wales, Limited, Act and to confer additional powers upon the Permanent Trustee Company of New South Wales, Limited; and to validate certain actions of the said company.

(*As amended and agreed to in Select Committee.*)

WHEREAS since the passing of the Permanent Trustee Company of New South Wales, Limited, Act, hereinafter called the Principal Act, the said Permanent Trustee Company of New South Wales, Limited, hereinafter called "the company," has been entrusted with the administration and now administers a large number of trust estates: And whereas the company now possesses a paid-up capital of fifty thousand pounds **Preamble.**

NOTE.—The words to be *inserted* are printed in **black letter**.

pounds of which twenty thousand pounds has long since been and now is invested in the manner provided by section six of the Principal Act: And whereas it is desirable to amend the Principal Act so as to confer upon the company additional powers and privileges to enable the company more effectually and usefully to carry out its objects and so as to validate certain actions of the company in the past: 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 for all purposes be cited as the "Permanent Trustee Company of New South Wales, Limited (Amendment) Act, 1918."

Incorporation with Permanent Trustee Company of New South Wales, Limited, Act.

2. This Act shall be incorporated with and form part of the Principal Act except so far as the Principal Act is repealed or amended by this Act.

Persons entitled to probate may authorise the company to obtain administration with will annexed.

3. Any person named expressly or by implication as executor who would be entitled to obtain probate of the will of any testator without leave being reserved to any other person to apply for probate may instead of himself applying for probate authorise the company to apply for administration with the said will annexed, and a grant of such administration may be made to the company upon its own application when so authorised unless the testator has by his will directed or intimated that the office of executor should not be delegated or that the company should not act in the trusts of the will.

Amendment of s. 3 of Principal Act.

4. Section three of the Principal Act is amended by striking out the words "as his or her next of kin" after the word "intestate" where first used in such section.

Amendment of s. 5 of Principal Act.

5. Section five of the Principal Act is amended by striking out the words "managing director, manager, or acting-manager of the company" and by inserting in place thereof the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose."

Repeal of s. 7 of Principal Act.

6. Section seven of the Principal Act is hereby repealed.

7.

7. (1) In all cases where any court of justice or judge thereof or person has power to appoint any person as—

Company may be appointed trustee, receiver, committee, or guardian of estate.

(a) trustee; or

(b) receiver; or

(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act, 1898; or

(d) guardian of the estate of an infant,

the company may be so appointed.

(2) (a) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(b) Where the company and one or more individuals are co-trustees, any one or more of such individuals may retire, and the company shall for the purposes of any Act now or hereafter in force relating to the retirement of trustees and the vesting of the trust property be deemed to be equivalent to two trustees.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection one hereof mentioned, all the capital of the company, both paid and unpaid, and all other assets of the company, and the directors, manager, and assistant manager thereof and their respective estates shall be liable for the proper discharge of the duties of such office.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

8.

Validation of prior appointments of company as sole trustee.

8. (1) In all cases where before the passing of this Act the company was appointed new trustee in place of more than one trustee previously filling the office, such appointment shall be deemed to have been and to be as valid and effectual as if this Act had then been passed. 5

(2) In all cases where before the passing of this Act the company upon the retirement of one or more trustees continued to act as sole trustee the company shall be deemed to have been and to be entitled to act as sole trustee. 10

(3) The trustees in whose place the company was so appointed, or upon whose retirement the company continued to act as sole trustee, shall be deemed to have been and to be discharged from their trust.

Company may hold property as joint tenant.

9. (1) The company shall be capable of acquiring 15 and holding any property in joint tenancy in the same manner as if it were an individual.

(2) Where the company and an individual or the company and another body corporate become entitled to any property under circumstances or by virtue of any 20 instrument which, if the company or other body corporate had been an individual, would have created a joint tenancy, they shall be entitled to the property as joint tenants.

(3) Where the company or other body corporate 25 is a joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.

Property vested in company and another as trustees, &c, to be held on joint tenancy.

10. Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate to the intent 30 that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Amendment of s. 8 of Principal Act.

11. Section eight of the Principal Act is amended 35 by striking out the words "managing director or the manager jointly with," and by substituting therefor the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of 40 directors for that purpose or by."

12.

12. Section ten of the Principal Act is amended— Amendment of s. 10 of Principal Act.

(a) by striking out the word "ecclesiastical" and substituting in place thereof the words "probate or equity"; and

(b) by striking out the words "managing director, manager, or acting manager, as the case may be," and by substituting in place thereof the words "manager or assistant manager."

13. Section eleven of the Principal Act is hereby repealed. Repeal of s. 11 of Principal Act.

14. (1) Every application under this Act to any court or judge shall be by motion. Applications to court or judge.

(2) Subject as hereafter provided notice of the application and of the date on which the same is intended to be made shall be advertised once—

(a) in a daily newspaper circulating in Sydney and published at least seven days before such date; and

(b) where the application is made by the executor or administrator of any person who died at any place in New South Wales situated more than thirty miles from Sydney, also in a newspaper circulating in the district in which the deceased resided at the date of his death and published within the time aforesaid.

(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person residing in New South Wales and entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

15.

Repeal of s. 12 of Principal Act.

15. Section twelve of the Principal Act is hereby repealed.

Manager, acting-manager, or other officer to attend and represent company.

16. (1) In all cases in which the personal attendance of an executor, administrator, trustee, receiver, committee, or guardian is required in any court of justice or elsewhere, the company shall be entitled to make such attendance in the person of the manager, assistant manager, acting manager, or secretary, or such other officer of the company as may from time to time be appointed by the board of directors for that purpose.

(2) All declarations and all affidavits, statements of defence, or other statements required by law to be made on oath may be made and sworn on behalf of the company by the manager, assistant manager, acting manager, or secretary.

(3) In every case where the company obtains probate or letters of administration or is appointed and acts as trustee, receiver, committee, or guardian, the manager, assistant manager, and directors in their proper persons and estates shall be individually and collectively responsible for the due administration of the estates entrusted to the company, and shall in their own proper persons be liable by process of attachment, commitment for contempt, or by other process, to all courts having jurisdiction in that behalf in the event of disobedience to the rules, orders, and decrees of such courts made against the company in the same manner and to the same extent as if such manager, assistant manager, and directors had personally obtained probate or letters of administration and had acted as executor or administrator, trustee, receiver, committee or guardian, and as if the rule, order, or decree had been made against them personally instead of against the company.

(4) Notwithstanding such personal responsibility of the said manager, assistant manager, and directors the capital, both paid and unpaid, and all other assets of the company shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

(5)

(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Amendment of ss. 15, 20, 22, and 23 of Principal Act.

17. Sections fifteen, twenty, twenty-two, and twenty-three of the Principal Act are hereby amended by striking out the words "managing director, manager, or acting manager" wherever they occur in the said sections, and by substituting in place thereof the words "manager, assistant manager, or acting manager", and section twenty-three is hereby further amended by striking out the words "and the auditors of the company" wherever they occur therein, and by substituting the words "authorises or permits" for the words "authorise or permit".

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18. Wherever in the Principal Act the words "Primary Judge in Equity" or "Primary Judge" occur such words shall be struck out and the words "Chief Judge or Judge in Equity" substituted therefor.

Amendment of s. 21 of Principal Act.

19. Section twenty-one of the Principal Act is amended by striking out the words "Trustee Relief Act of 1858" and by substituting in place thereof the words "Trustee Act, 1898."

Amendment of Schedule.

20. The Schedule to the Principal Act is amended by striking out the first paragraph and by inserting in lieu thereof the following words:—"I (manager, assistant manager, or acting manager, as the case may be) do hereby solemnly declare and affirm", and by striking out the word "We" in the last paragraph and inserting the word "I" in lieu thereof.

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Legislative Council.

1918.

A BILL

To amend the Permanent Trustee Company of New South Wales, Limited, Act and to confer additional powers upon the Permanent Trustee Company of New South Wales, Limited; and to validate certain actions of the said company.

WHEREAS since the passing of the Permanent Trustee Company of New South Wales, Limited, Act, hereinafter called the Principal Act, the said Permanent Trustee Company of New South Wales, Limited, hereinafter called "the company," has been entrusted with the administration and now administers

Preamble.

a large number of trust estates: And whereas the company now possesses a paid-up capital of fifty thousand pounds of which twenty thousand pounds has long since been and now is invested in the manner provided by section six of the Principal Act: And whereas it is desirable to amend the Principal Act so as to confer upon the company additional powers and privileges to enable the company more effectually and usefully to carry out its objects and so as to validate certain actions of the company in the past: 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 for all purposes be cited as the "Permanent Trustee Company of New South Wales, Limited (Amendment) Act, 1918."

Incorporation with Permanent Trustee Company of New South Wales, Limited, Act.

2. This Act shall be incorporated with and form part of the Principal Act except so far as the Principal Act is repealed or amended by this Act.

Persons entitled to probate may authorise the company to obtain administration with will annexed.

3. Any person named expressly or by implication as executor who would be entitled to obtain probate of the will of any testator without leave being reserved to any other person to apply for probate may instead of himself applying for probate authorise the company to apply for administration with the said will annexed, and a grant of such administration may be made to the company upon its own application when so authorised unless the testator has by his will directed or intimated that the office of executor should not be delegated or that the company should not act in the trusts of the will.

Amendment of s. 3 of Principal Act.

4. Section three of the Principal Act is amended by striking out the words "as his or her next of kin" after the word "intestate" where first used in such section.

Amendment of s. 5 of Principal Act.

5. Section five of the Principal Act is amended by striking out the words "managing director, manager, or acting-manager of the company" and by inserting in place thereof the words "manager, assistant manager, acting manager, or secretary, or by such other officer of the company as may from time to time be appointed by the board of directors for that purpose."

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6. Section seven of the Principal Act is hereby repealed.

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(a) trustee; or

(b) receiver; or

(c) committee or manager of the estate of an insane person, insane patient, or incapable person, within the meaning of the Lunacy Act, 1898; or

(d) guardian of the estate of an infant,

the company may be so appointed.

(2) Subject as hereinafter provided the company may be appointed or may continue to act as sole trustee in all cases notwithstanding that it is provided by the terms of the instrument (if any) creating the trust or of any power or otherwise that there shall be more than one trustee to perform the trust.

(3) The company shall not be appointed in any case in which the instrument creating the trust or power forbids the appointment of the company.

(4) The company shall not be appointed or be entitled to act as sole trustee in any case in which the instrument creating the trust or power expressly provides that there shall be another trustee in addition to the company or that the company shall not be appointed or act as sole trustee.

(5) In every case in which the company is appointed or acts in any of the offices in subsection one hereof mentioned, all the capital of the company, both paid and unpaid, and all other assets of the company, and the directors, manager, and assistant manager thereof and their respective estates shall be liable for the proper discharge of the duties of such office.

(6) No bond, recognizance, or other security for the proper discharge of such duties shall be required to be given by or on behalf of the company.

8.

Validation of prior appointments of company as sole trustee.

8. (1) In all cases where before the passing of this Act the company was appointed new trustee in place of more than one trustee previously filling the office, such appointment shall be deemed to have been and to be as valid and effectual as if this Act had then been passed.

(2) In all cases where before the passing of this Act the company upon the retirement of one or more trustees continued to act as sole trustee the company shall be deemed to have been and to be entitled to act as sole trustee.

(3) The trustees in whose place the company was so appointed, or upon whose retirement the company continued to act as sole trustee, shall be deemed to have been and to be discharged from their trust.

Company may hold property as joint tenant.

9. (1) The company shall be capable of acquiring and holding any property in joint tenancy in the same manner as if it were an individual.

(2) Where the company and an individual or the company and another body corporate become entitled to any property under circumstances or by virtue of any instrument which, if the company or other body corporate had been an individual, would have created a joint tenancy, they shall be entitled to the property as joint tenants.

(3) Where the company or other body corporate is a joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.

Property vested in company and another as trustees, &c., to be held on joint tenancy.

10. Where any property is now or hereafter becomes vested in the company and an individual, or in the company and another body corporate to the intent that they should hold the same jointly in any fiduciary capacity, or as mortgagees, they shall be deemed to be joint tenants thereof and not tenants in common unless otherwise expressly provided.

Amendment of s. 8 of Principal Act.

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(a) by striking out the word "ecclesiastical" and substituting in place thereof the words "probate or equity"; and

(b) by striking out the words "managing director, manager, or acting manager, as the case may be," and by substituting in place thereof the words "manager or assistant manager."

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(3) It shall not be necessary to advertise in any newspaper notice of any application for the appointment of the company as a trustee where all persons beneficially interested are before the court or have had notice of the intended application.

(4) The court or judge may in any case require notice to be served on any person residing in New South Wales and entitled to the immediate receipt of the whole or part of the income or corpus of the estate in respect of which the application is made.

(5) The court or judge may order the costs and expenses of and incident to any such application to be paid or raised out of the estate in respect whereof the same is made, or out of the income thereof, or to be borne and paid in such manner and by such persons as to the court or judge may seem just.

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(4) Notwithstanding such personal responsibility of the said manager, assistant manager, and directors the capital, both paid and unpaid, and all other assets of the company shall remain liable for any loss which may be occasioned by or which may happen through any breach of trust or duty committed by the company or any of its officers, whether such trust or duty is implied by law or expressly conferred or imposed by the instrument under which the company acts.

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(5) No person shall be appointed a director or manager of the company unless he is a bona fide resident of New South Wales, and any person being a director or manager of the company who ceases to reside in New South Wales shall, upon so ceasing to reside, vacate his office, and such vacancy shall be filled up in the manner provided by the articles of association for filling casual vacancies.

Amendment of ss. 15, 20, 22, and 23 of Principal Act.

17. Sections fifteen, twenty, twenty-two, and twenty-three of the Principal Act are hereby amended by striking out the words "managing director, manager, or acting manager" wherever they occur in the said sections, and by substituting in place thereof the words "manager, assistant manager, or acting manager", and section twenty-three is hereby further amended by striking out the words "and the auditors of the company" wherever they occur therein, and by substituting the words "authorises or permits" for the words "authorise or permit".

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