

49° VICTORIA, 1886.

A BILL

To confer powers upon the "Perpetual Trustee Executor and Agency Company, Limited."

WHEREAS in this Colony it is often difficult to procure proper Preamble.
persons to undertake the onerous and responsible duties of
trustee executor or administrator And whereas the deaths resigna-
tions and absence from the Colony of executors trustees and others
5 filling similar offices are often attended with great disadvantage and
loss to the estates with the administration of which they are entrusted
And whereas it is desirable for the purpose of obtaining regularity
and security in the administration of trust estates that permanent
corporations should be empowered to fill the offices of trustee executor
10 administrator receiver committee and other like offices And whereas a
certain Company styled the "Perpetual Trustee Executor and Agency
Company, Limited" has been registered under the "Companies Act"
with a capital of two hundred and fifty thousand pounds divisible
into one hundred thousand shares of two pounds ten shillings each
15 for the purpose of undertaking the duties of such offices as aforesaid
for a commission And whereas it is expedient that the necessary
powers should be conferred upon the said Company hereinafter called
the Company in order to enable it to act as executor administrator
administrator

administrator with the will annexed trustee receiver committee of the estates of persons of unsound mind as agents under power-of-attorney and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the Company all such privileges and powers as are necessary or expedient for the purposes aforesaid Be it therefore enacted by the Queen'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:—

Company may act as executor and obtain probate.

1. Whenever the Company has been or shall be named as executor in the last will and testament or in the codicil to the last will and testament of any testator it shall be lawful for the Company to act as executor and to apply for and to obtain probate of the will of the testator and to perform and to discharge all other the acts and duties of an executor as fully and effectually as any other executor. 15

Person entitled to obtain letters of administration with the will annexed may authorize Company to do so.

2. It shall be lawful for any person entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator instead of himself applying to authorize the Company to apply for and to obtain letters of administration with the will annexed which shall be granted to the Company upon its own application when so authorized. 20

Persons entitled to obtain letters of administration may authorize Company to do so.

3. It shall be lawful for any person or persons entitled to obtain administration to the estate of any intestate as his or her next of kin instead of applying for letters of administration to authorize the Company to apply for administration to such estate and administration to the estate of the intestate may be granted to the Company upon its own application when so authorized. 25

Company on being granted letters of administration may perform all acts which belong to the office of administrator notwithstanding its incorporation.

4. It shall be lawful for the Company where letters of administration of any estate with or without the will annexed has been granted to it to do and perform all acts and duties which belong to the office of administrator or administrators with the will annexed as the case may be notwithstanding its incorporation. 30

Court to act upon affidavit of managing director manager or acting manager in applications for probate or administration.

5. In all cases in which the Company is empowered under this Act to apply for probate or for letters of administration an affidavit made by the managing director manager or acting manager of the Company shall be received instead of any affidavit required by any charter Act of Parliament or rule of court to be made by persons making application for probate or letters of administration. 35

Assets of Company to be liable for proper administration of estates and no bond to administer to be required when paid-up capital is £25,000 of which £10,000 is invested in Government securities.

6. All the capital both paid and unpaid and all other assets of the Company shall be liable for the proper administration of all estates of which the Company shall act as executor or administrator and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the Colony as the directors of the Company may select in the name of the Treasurer of the Colony in trust for the Company but transferable only with the joint consent of the Treasurer of the Colony and the Company or upon the order of the Supreme Court or of a Judge thereof no bond for the due administration of any estate shall be required to be given by or on behalf of the Company and all interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the Treasurer of the Colony to the Company as and when the same shall respectively become payable. 45 50

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

7. It shall be lawful for any Court or Judge person or persons now or hereafter having power to appoint trustees receivers committees of the estates of persons of unsound mind guardians of the estates of infant trustees or assignees of insolvent or bankrupt estates in any case to appoint the Company to be trustee receiver committee guardian or assignee 55

assignee as the case may be and upon any such appointment all the capital of the Company both paid and unpaid and all other assets of the Company shall be liable for the proper discharge of the duties of the office either of trustee receiver committee guardian or assignee as the case may be and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested as aforesaid no bond or recognizance for the proper discharge of such duties shall be required to be given by or on behalf of the Company.

10 8. It shall be lawful for any debtor to execute to the Company as trustee any conveyance or assignment under the provisions of a certain Act passed in the fifth year of the reign of Her present Majesty intituled "*An Act for the further amendment of the Law and for the better advancement of Justice*" and thereupon the Company shall have all such rights powers and authorities as are by the said Act conferred upon trustees of such conveyances or assignments.

9. It shall be lawful for the Company to act as attorney whenever it shall be appointed by deed attorney for any person or any corporation and all the powers conferred upon the Company by any power-of-attorney may be exercised and carried into execution by the managing director manager acting manager or by any two of the directors of the Company but in all cases the capital both paid and unpaid and all other assets of the Company shall be liable for the due execution of the powers so conferred upon the Company Provided always that nothing herein contained shall be deemed to authorize any person Company or corporation to confer any power upon the said Company which cannot by law be delegated or performed by attorney.

Company may act under power of attorney by managing director manager acting manager or two directors.

10. It shall be lawful for any executor administrator or trustee by deed to delegate to the Company all such trusts and powers as may by law be delegated and all acts done by the Company within the scope of such delegation shall in favour of any persons dealing with the Company without notice of the death of or revocation of authority by such executor administrator or trustee be valid and effectual notwithstanding such death or revocation.

Executor administrator or trustee may delegate trusts to Company.

11. It shall be lawful for any executors or executor administrators or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act with the consent of the Primary Judge in Equity of the Supreme Court to appoint the Company to be executor or administrator in their or his place or stead and thereupon the Company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be and in every such case all the capital both paid and unpaid and all other assets of the Company shall be liable for the due administration of the estates of which the Company shall be so appointed executor or administrator and the executors or executor administrators or administrator so appointing the Company shall be released from liability in respect of all acts done by or omitted to be done by the Company acting under such appointment.

Executors or administrators with the consent of the Primary Judge may appoint Company to discharge duties.

12. Every application for such consent shall be by motion and notice of the intended application shall be advertised in a daily newspaper published in Sydney at least seven days before the making thereof and if the application shall be made by the executors or executor or administrators or administrator of any testator or intestate who shall have died in New South Wales a like notice shall also be advertised once in some newspaper if any published in the district in which such testator or intestate shall have resided and the Judge may require any person resident in New South Wales and entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof

Application for consent to be by motion.

thereof and the costs of such application shall be in the discretion of the Judge and may be ordered to be paid out of the estate. Provided that such consent shall not be given when the testator shall have directed that the trusts of his will should not be delegated or that the Company should not act as executor thereof.

Managing director
manager or acting
manager may
attend on behalf
of Company and
directors and shall
be personally
responsible to Court.

13. Whenever an executor administrator trustee receiver committee guardian or assignee is or shall be required by any law now or hereafter to be in force to attend in person in any Court of Justice or elsewhere it shall be lawful for the Company to attend by its managing director manager or acting manager 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 managing director manager or acting manager and whenever probate or letters of administration shall have been granted to the Company and whenever the Company shall be appointed and shall act as trustee receiver committee guardian or assignee the managing director manager or acting manager as the case may be and directors shall be individually and collectively in their own proper persons 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 managing director manager or acting manager or directors had personally obtained probate or letters of administration and had acted as executor administrator trustee receiver committee guardian or assignee and as if the rule order or decree had been made against them personally instead of against the Company but notwithstanding such personal responsibility of the said managing director manager acting manager or directors the capital both paid and unpaid and all the 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 be implied by law or expressly conferred by the instrument under which the Company shall act.

Company to be paid
a commission on
moneys received by
them.

14. The Company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the Company whether as executor administrator trustee receiver committee guardian or assignee a commission at a rate to be fixed from time to time by the board of directors of the Company but not to exceed in any case two pounds ten shillings for every one hundred pounds of the corpus or capital value of any such estate and five pounds for every one hundred pounds of the annual income of any such estate received by the Company and of all moneys (whether capital or income) received by the Company as an attorney acting under power-of-attorney and such commission shall be payable out of the moneys in the possession of the Company representing the estate upon which the same shall be chargeable and shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor administrator trustee receiver committee guardian assignee or attorney and no other charges beyond such commission and moneys properly expended by the Company shall be made or allowed. Provided that if in any estate the Primary Judge in Equity shall be of opinion that the rate of commission charged is excessive such Judge may review and reduce such commission provided also that the commission to be charged by the Company against any estate shall not exceed the amount of the published scale of charges of the Company at the time when the administration of such estate was committed to the Company nor shall this enactment prevent the payment

payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorized.

15. Whenever the Company shall have been appointed executor administrator trustee receiver committee guardian assignee or attorney under power it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Courts in the same manner as any other executor administrator trustee receiver committee guardian assignee or attorney.

Company may be removed from office by Court.

16. It shall be lawful for any trustee *cestui qui* trust executor or legatee administrator or next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the Company after demand in writing made to the managing director manager or acting manager of the Company for sufficient account of the property and assets of which such estate shall consist and of the disposal and expenditure thereof or thereout and if such demand shall not be complied with within a reasonable time to apply to the Primary Judge in Equity of the Supreme Court in a summary manner upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that a sufficient account had been furnished it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or against the applicant or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of trustee *cestui qui* trust &c.

17. It shall be lawful for the said Primary Judge upon the making of any application under the last preceding section to order in addition to or in substitution for any account to be rendered by the Company that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made and in that case the directors and officers of the Company shall deliver to the person named in such order a list of all books kept by the Company and shall produce to such person at all reasonable times when required all books and accounts vouchers papers and other documents of the Company relating to such estate and shall afford to him all necessary information and all other necessary facilities for enabling him to make the said examination and the said Judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Primary Judge may order audit in any estate committed to Company.

18. So long as any estate in respect of which the Company is executor administrator trustee committee guardian or assignee shall remain in whole or in part unadministered it shall not be lawful to proceed to wind-up the Company voluntarily unless with the sanction of the said Primary Judge and it shall be lawful for any person interested in such estate or who may have any claim in respect thereof to apply to the said Judge in a summary way by motion to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the Company or to restrain the winding-up voluntarily of the Company and the said Judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said Judge to require.

Voluntary winding-up of Company or disposal of shares may be restrained by the Primary Judge.

19. The following provisions with respect to the liability of shareholders in the Company shall be and remain in force notwithstanding any alteration which may be made in its articles of association—

Provision as to liability of shareholders and directors.

No member shall hold more than two thousand shares in his own right.

No

No more than one pound five shillings per share shall be called up except in the event of and for the purpose of the winding up of the Company and every member shall be liable for this amount per share in such event in addition to the sum of one pound five shillings per share liable to be called up by the directors. 5

In the event of the Company being wound up every person who has been a director of the Company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance of the sum of one pound five shillings per share on every share which he may have held and transferred during such two years in addition to his liability upon any shares held by him at the commencement of the winding up in the event of the holder or holders of such shares being unable to pay the said sum of one pound five shillings per share in full. 10 15

The capital of the Company shall be and remain divided into shares of two pounds ten shillings each and the number of shares in the Company shall not be at any time reduced to less than fifty thousand. 20

Moneys remaining
unclaimed for five
years to be paid into
Colonial Treasurer.

20. All moneys which form part of any estate of which at any time the Company shall be executor administrator or trustee and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person except where payment has been or shall be restrained by the injunction of some Court of competent jurisdiction shall be paid by the Company into the Colonial Treasury to be placed to the credit of a fund to be called the testamentary and trust fund distinguishing the particular estates in respect of which such moneys shall have been paid and the Treasurer of the Colony shall from time to time invest such moneys in the purchase of Government debentures or stock to be placed to the credit of the said testamentary and trust fund distinguishing in the ledger the particular estate in respect of which such moneys have been invested and the interest payable on such debentures or stock shall be placed to the credit of the said fund and the Treasurer's said account in the ledger shall be an official and not a nominal account and in all transfers of the said debentures and stock by the Treasurer he shall be so styled without any name addition or description and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of the Primary Judge in Equity directing such transfer and specifying the amount of moneys debentures or stock and the name description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the Treasurer nor until the purchase money of the debentures or stock to be sold has been received in the Treasury and the Company shall at the end of every six months deliver to the Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands and distinguishing the several estates in respect of which the same have been received and setting out the dates and amounts of the several payments of the same under this section and if the said moneys or any part thereof have not been paid into the Colonial Treasury stating the reason for the delay of such payments and if default is made in compliance with the foregoing provisions of this section the Company shall be liable to a penalty not exceeding *five* pounds for every day while such default continues and every director and managing director manager or acting manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty. 25 30 35 40 45 50 55

21. It shall be lawful for any person who shall be entitled to any stock debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to the said Primary Judge upon petition in a summary way for such order as is in the last preceding section referred to and the said Judge shall deal with such application as nearly as may be in the same manner as is done in the case of applications to the said Court under the "Trustee Relief Act of 1858" And in all cases in which the Treasurer may see fit to appear upon such petition he shall be entitled to such costs against the applicant or out of the fund as the said Judge may direct.

Persons entitled to moneys in testamentary and trust fund may apply to Primary Judge.

22. It shall be lawful for the Colonial Treasurer after demand in writing addressed to the managing director manager or acting manager of the Company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist and of the disposal and expenditure thereof or thereout to apply to the said Primary Judge in a summary way upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that any account furnished by the Company was sufficient it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of Treasurer.

23. The managing director manager or acting manager of the Company shall during the months of January and July in every year during which the Company carries on business make before some Justice of the Peace a declaration in the form contained in the Schedule hereto or as near thereto as circumstances will admit and a copy of such declaration shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be given to any member or creditor of the Company who applies for the same and if default is made in compliance with the provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every managing director manager or acting manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Returns to be made by Company to be filed in registered office of the Company or its branches.

24. Every order made by the Primary Judge in Equity under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the said Judge.

Appeal from Primary Judge.

25. Nothing in this Act contained shall be deemed to give to the Company any right to oppose the granting of similar powers to those conferred upon the Company by this Act to any other Company or to corporations generally or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Act not to preclude other Companies from applying for similar powers to those conferred by this Act.

26. Where by any settlement will codicil or other testamentary writing a settlor or testator shall direct that any practising solicitor or solicitors shall conduct the legal business of his or her estate such solicitor or solicitors shall be entitled to act therein accordingly but in such case the Company shall not be liable for the negligence misfeasance nonfeasance or misconduct of such solicitor or solicitors and such solicitor or solicitors may be removed by order of the Primary Judge in Equity upon the application of the Company or of any person

Settlors or testators may appoint their own solicitors.

Incorporation and powers of Company except so far as specifically altered to remain.

Short title of Act.

person interested in the said estate upon cause shown and then and in such case the said Judge may appoint the solicitor or solicitors of the Company to conduct such legal business.

27. Excepting so far as is herein expressly provided the Company shall remain and be subject to the same restrictions liabilities penalties privileges and powers as it is subject to under its present incorporation and this Act shall not otherwise affect the incorporation of the Company. 5

28. This Act shall be called and may be cited as the “Perpetual Trustee Executor and Agency Company Act.” 10

SCHEDULE REFERRED TO IN SECTION TWENTY-THREE.

“The Perpetual Trustee Executor and Agency Company, Limited.”

I [managing director or as the case may be] do solemnly and sincerely declare :—

That the liability of the members is limited.
That the capital of the Company is divided into shares of each. 15
That the number of shares issued is
That calls to the amount of pounds per share have been made under which the sum of pounds has been received.
That the liabilities of the Company on the last day of June [or December] last were— 20

Debts owing to sundry persons by the Company viz.—

On judgment	...	...	£
On speciality	...	...	£
On notes or bills	...	...	£
On simple contracts	...	...	£	25
On estimated liabilities	...	...	£

That the assets of the Company on that day were—

Government securities	...	...	£
Bills of exchange and promissory notes	£			
Cash at the Banks	...	...	£	30
Other securities	...	...	£

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of New South Wales rendering persons making a false declaration punishable for wilful and corrupt perjury.

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WHEREAS in this Colony it is often difficult to procure proper persons to undertake the onerous and responsible duties of trustee executor or administrator And whereas the deaths resignations and absence from the Colony of executors trustees and others filling similar offices are often attended with great disadvantage and loss to the estates with the administration of which they are entrusted And whereas it is desirable for the purpose of obtaining regularity and security in the administration of trust estates that permanent corporations should be empowered to fill the offices of trustee executor administrator receiver committee and other like offices And whereas a certain Company styled the "Perpetual Trustee Executor and Agency Company, Limited" has been registered under the "Companies Act" with a capital of two hundred and fifty thousand pounds divisible into one hundred thousand shares of two pounds ten shillings each for the purpose of undertaking the duties of such offices as aforesaid for a commission And whereas it is expedient that the necessary powers should be conferred upon the said Company hereinafter called the Company in order to enable it to act as executor administrator

Preamble.

administrator with the will annexed trustee receiver committee of the estates of persons of unsound mind as agents under power-of-attorney and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the Company all such privileges and powers as are necessary or expedient for the purposes aforesaid Be it therefore enacted by the Queen'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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Company on being granted letters of administration may perform all acts which belong to the office of administrator notwithstanding its incorporation.

4. It shall be lawful for the Company where letters of administration of any estate with or without the will annexed has been granted to it to do and perform all acts and duties which belong to the office of administrator or administrators with the will annexed as the case may be notwithstanding its incorporation. 30

Court to act upon affidavit of managing director manager or acting manager in applications for probate or administration.

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20 9. It shall be lawful for the Company to act as attorney whenever it shall be appointed by deed attorney for any person or any corporation and all the powers conferred upon the Company by any power-of-attorney may be exercised and carried into execution by the managing director manager acting manager or by any two of the directors of the Company but in all cases the capital both paid and unpaid and all other assets of the Company shall be liable for the due execution of the powers so conferred upon the Company. Provided always that nothing herein contained shall be deemed to authorize any person Company or corporation to confer any power upon the said Company which cannot by law be delegated or performed by attorney.

Company may act under power of attorney by managing director manager acting manager or two directors.

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Executors or administrators with the consent of the Primary Judge may appoint Company to discharge duties.

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Managing director
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be personally
responsible to Court.

13. Whenever an executor administrator trustee receiver committee guardian or assignee is or shall be required by any law now or hereafter to be in force to attend in person in any Court of Justice or elsewhere it shall be lawful for the Company to attend by its managing director manager or acting manager 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 managing director manager or acting manager and whenever probate or letters of administration shall have been granted to the Company and whenever the Company shall be appointed and shall act as trustee receiver committee guardian or assignee the managing director manager or acting manager as the case may be and directors shall be individually and collectively in their own proper persons 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 managing director manager or acting manager or directors had personally obtained probate or letters of administration and had acted as executor administrator trustee receiver committee guardian or assignee and as if the rule order or decree had been made against them personally instead of against the Company but notwithstanding such personal responsibility of the said managing director manager acting manager or directors the capital both paid and unpaid and all the 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 be implied by law or expressly conferred by the instrument under which the Company shall act.

Company to be paid
a commission on
moneys received by
them.

14. The Company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the Company whether as executor administrator trustee receiver committee guardian or assignee a commission at a rate to be fixed from time to time by the board of directors of the Company but not to exceed in any case two pounds ten shillings for every one hundred pounds of the corpus or capital value of any such estate and five pounds for every one hundred pounds of the annual income of any such estate received by the Company and of all moneys (whether capital or income) received by the Company as an attorney acting under power-of-attorney and such commission shall be payable out of the moneys in the possession of the Company representing the estate upon which the same shall be chargeable and shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor administrator trustee receiver committee guardian assignee or attorney and no other charges beyond such commission and moneys properly expended by the Company shall be made or allowed. Provided that if in any estate the Primary Judge in Equity shall be of opinion that the rate of commission charged is excessive such Judge may review and reduce such commission provided also that the commission to be charged by the Company against any estate shall not exceed the amount of the published scale of charges of the Company at the time when the administration of such estate was committed to the Company nor shall this enactment prevent the payment

payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorized.

15. Whenever the Company shall have been appointed executor administrator trustee receiver committee guardian assignee or attorney under power it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Courts in the same manner as any other executor administrator trustee receiver committee guardian assignee or attorney.

Company may be removed from office by Court.

16. It shall be lawful for any trustee *cestui qui* trust executor or legatee administrator or next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the Company after demand in writing made to the managing director manager or acting manager of the Company for sufficient account of the property and assets of which such estate shall consist and of the disposal and expenditure thereof or thereout and if such demand shall not be complied with within a reasonable time to apply to the Primary Judge in Equity of the Supreme Court in a summary manner upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that a sufficient account had been furnished it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or against the applicant or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of trustee *cestui qui* trust &c.

17. It shall be lawful for the said Primary Judge upon the making of any application under the last preceding section to order in addition to or in substitution for any account to be rendered by the Company that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made and in that case the directors and officers of the Company shall deliver to the person named in such order a list of all books kept by the Company and shall produce to such person at all reasonable times when required all books and accounts vouchers papers and other documents of the Company relating to such estate and shall afford to him all necessary information and all other necessary facilities for enabling him to make the said examination and the said Judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Primary Judge may order audit in any estate committed to Company.

18. So long as any estate in respect of which the Company is executor administrator trustee committee guardian or assignee shall remain in whole or in part unadministered it shall not be lawful to proceed to wind-up the Company voluntarily unless with the sanction of the said Primary Judge and it shall be lawful for any person interested in such estate or who may have any claim in respect thereof to apply to the said Judge in a summary way by motion to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the Company or to restrain the winding-up voluntarily of the Company and the said Judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said Judge to require.

Voluntary winding-up of Company or disposal of shares may be restrained by the Primary Judge.

19. The following provisions with respect to the liability of shareholders in the Company shall be and remain in force notwithstanding any alteration which may be made in its articles of association—

Provision as to liability of shareholders and directors.

No member shall hold more than two thousand shares in his own right.

No

No more than one pound five shillings per share shall be called up except in the event of and for the purpose of the winding up of the Company and every member shall be liable for this amount per share in such event in addition to the sum of one pound five shillings per share liable to be called up by the directors. 5

In the event of the Company being wound up every person who has been a director of the Company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance of the sum of one pound five shillings per share on every share which he may have held and transferred during such two years in addition to his liability upon any shares held by him at the commencement of the winding up in the event of the holder or holders of such shares being unable to pay the said sum of one pound five shillings per share in full. 10 15

The capital of the Company shall be and remain divided into shares of two pounds ten shillings each and the number of shares in the Company shall not be at any time reduced to less than fifty thousand. 20

Moneys remaining
unclaimed for five
years to be paid into
Colonial Treasurer.

20. All moneys which form part of any estate of which at any time the Company shall be executor administrator or trustee and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person except where payment has been or shall be restrained by the injunction of some Court of competent jurisdiction shall be paid by the Company into the Colonial Treasury to be placed to the credit of a fund to be called the testamentary and trust fund distinguishing the particular estates in respect of which such moneys shall have been paid and the Treasurer of the Colony shall from time to time invest such moneys in the purchase of Government debentures or stock to be placed to the credit of the said testamentary and trust fund distinguishing in the ledger the particular estate in respect of which such moneys have been invested and the interest payable on such debentures or stock shall be placed to the credit of the said fund and the Treasurer's said account in the ledger shall be an official and not a nominal account and in all transfers of the said debentures and stock by the Treasurer he shall be so styled without any name addition or description and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of the Primary Judge in Equity directing such transfer and specifying the amount of moneys debentures or stock and the name description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the Treasurer nor until the purchase money of the debentures or stock to be sold has been received in the Treasury and the Company shall at the end of every six months deliver to the Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands and distinguishing the several estates in respect of which the same have been received and setting out the dates and amounts of the several payments of the same under this section and if the said moneys or any part thereof have not been paid into the Colonial Treasury stating the reason for the delay of such payments and if default is made in compliance with the foregoing provisions of this section the Company shall be liable to a penalty not exceeding *five* pounds for every day while such default continues and every director and managing director manager or acting manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty. 25 30 35 40 45 50 55

21. It shall be lawful for any person who shall be entitled to any stock debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to the said Primary Judge upon petition in a summary way for such order as is in the last preceding section referred to and the said Judge shall deal with such application as nearly as may be in the same manner as is done in the case of applications to the said Court under the "Trustee Relief Act of 1858" And in all cases in which the Treasurer may see fit to appear upon such petition he shall be entitled to such costs against the applicant or out of the fund as the said Judge may direct.

Persons entitled to moneys in testamentary and trust fund may apply to Primary Judge.

22. It shall be lawful for the Colonial Treasurer after demand in writing addressed to the managing director manager or acting manager of the Company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist and of the disposal and expenditure thereof or thereout to apply to the said Primary Judge in a summary way upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that any account furnished by the Company was sufficient it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of Treasurer.

23. The managing director manager or acting manager of the Company shall during the months of January and July in every year during which the Company carries on business make before some Justice of the Peace a declaration in the form contained in the Schedule hereto or as near thereto as circumstances will admit and a copy of such declaration shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be given to any member or creditor of the Company who applies for the same and if default is made in compliance with the provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every managing director manager or acting manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Returns to be made by Company to be filed in registered office of the Company or its branches.

24. Every order made by the Primary Judge in Equity under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the said Judge.

Appeal from Primary Judge.

25. Nothing in this Act contained shall be deemed to give to the Company any right to oppose the granting of similar powers to those conferred upon the Company by this Act to any other Company or to corporations generally or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Act not to preclude other Companies from applying for similar powers to those conferred by this Act.

26. Where by any settlement will codicil or other testamentary writing a settlor or testator shall direct that any practising solicitor or solicitors shall conduct the legal business of his or her estate such solicitor or solicitors shall be entitled to act therein accordingly but in such case the Company shall not be liable for the negligence misfeasance nonfeasance or misconduct of such solicitor or solicitors and such solicitor or solicitors may be removed by order of the Primary Judge in Equity upon the application of the Company or of any person

Settlers or testators may appoint their own solicitors.

Incorporation and powers of Company except so far as specifically altered to remain.

Short title of Act.

person interested in the said estate upon cause shown and then and in such case the said Judge may appoint the solicitor or solicitors of the Company to conduct such legal business.

27. Excepting so far as is herein expressly provided the Company shall remain and be subject to the same restrictions liabilities penalties privileges and powers as it is subject to under its present incorporation and this Act shall not otherwise affect the incorporation of the Company. 5

28. This Act shall be called and may be cited as the “Perpetual Trustee Executor and Agency Company Act.” 10

SCHEDULE REFERRED TO IN SECTION TWENTY-THREE.

“The Perpetual Trustee Executor and Agency Company, Limited.”

I [managing director or as the case may be] do solemnly and sincerely declare :—

That the liability of the members is limited.

That the capital of the Company is divided into shares of each. 15

That the number of shares issued is .

That calls to the amount of pounds per share have been made under which the sum of pounds has been received.

That the liabilities of the Company on the last day of June [or December] last were— 20

Debts owing to sundry persons by the Company viz.—

On judgment £

On speciality £

On notes or bills £

On simple contracts £

On estimated liabilities £ 25

That the assets of the Company on that day were—

Government securities £

Bills of exchange and promissory notes £

Cash at the Banks £

Other securities £ 30

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of New South Wales rendering persons making a false declaration punishable for wilful and corrupt perjury.

49° VICTORIÆ, 1886.

A BILL

To confer powers upon the "Perpetual Trustee Executor and Agency Company, Limited."

WHEREAS in this Colony it is often difficult to procure proper persons to undertake the onerous and responsible duties of trustee executor or administrator And whereas the deaths resignations and absence from the Colony of executors trustees and others filling similar offices are often attended with great disadvantage and loss to the estates with the administration of which they are entrusted And whereas it is desirable for the purpose of obtaining regularity and security in the administration of trust estates that permanent corporations should be empowered to fill the offices of trustee executor administrator receiver committee and other like offices And whereas a certain Company styled the "Perpetual Trustee Executor and Agency Company, Limited" has been registered under the "Companies Act" with a capital of two hundred and fifty thousand pounds divisible into one hundred thousand shares of two pounds ten shillings each for the purpose of undertaking the duties of such offices as aforesaid for a commission And whereas it is expedient that the necessary powers should be conferred upon the said Company hereinafter called the Company in order to enable it to act as executor administrator

Preamble.

administrator with the will annexed trustee receiver committee of the estates of persons of unsound mind as agents under power-of-attorney and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the Company all such privileges and powers as are necessary or expedient for the purposes aforesaid Be it therefore enacted by the Queen'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 :—

Company may act as executor and obtain probate.

1. Whenever the Company has been or shall be named as executor in the last will and testament or in the codicil to the last will and testament of any testator it shall be lawful for the Company to act as executor and to apply for and to obtain probate of the will of the testator and to perform and to discharge all other the acts and duties of an executor as fully and effectually as any other executor.

Person entitled to obtain letters of administration with the will annexed may authorize Company to do so.

2. It shall be lawful for any person entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator instead of himself applying to authorize the Company to apply for and to obtain letters of administration with the will annexed which shall be granted to the Company upon its own application when so authorized.

Persons entitled to obtain letters of administration may authorize Company to do so.

3. It shall be lawful for any person or persons entitled to obtain administration to the estate of any intestate as his or her next of kin instead of applying for letters of administration to authorize the Company to apply for administration to such estate and administration to the estate of the intestate may be granted to the Company upon its own application when so authorized.

Company on being granted letters of administration may perform all acts which belong to the office of administrator notwithstanding its incorporation.

4. It shall be lawful for the Company where letters of administration of any estate with or without the will annexed has been granted to it to do and perform all acts and duties which belong to the office of administrator or administrators with the will annexed as the case may be notwithstanding its incorporation.

Court to act upon affidavit of managing director manager or acting manager in applications for probate or administration.

5. In all cases in which the Company is empowered under this Act to apply for probate or for letters of administration an affidavit made by the managing director manager or acting manager of the Company shall be received instead of any affidavit required by any charter Act of Parliament or rule of court to be made by persons making application for probate or letters of administration.

Assets of Company to be liable for proper administration of estates and no bond to administer to be required when paid-up capital is £25,000 of which £10,000 is invested in Government securities.

6. All the capital both paid and unpaid and all other assets of the Company shall be liable for the proper administration of all estates of which the Company shall act as executor or administrator and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the Colony as the directors of the Company may select in the name of the Treasurer of the Colony in trust for the Company but transferable only with the joint consent of the Treasurer of the Colony and the Company or upon the order of the Supreme Court or of a Judge thereof no bond for the due administration of any estate shall be required to be given by or on behalf of the Company and all interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the Treasurer of the Colony to the Company as and when the same shall respectively become payable.

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

7. It shall be lawful for any Court or Judge person or persons now or hereafter having power to appoint trustees receivers committees of the estates of persons of unsound mind guardians of the estates of infant trustees or assignees of insolvent or bankrupt estates in any case to appoint the Company to be trustee receiver committee guardian or assignee

assignee as the case may be and upon any such appointment all the capital of the Company both paid and unpaid and all other assets of the Company shall be liable for the proper discharge of the duties of the office either of trustee receiver committee guardian or assignee as the case may be and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested as aforesaid no bond or recognizance for the proper discharge of such duties shall be required to be given by or on behalf of the Company.

10 8. It shall be lawful for any debtor to execute to the Company as trustee any conveyance or assignment under the provisions of a certain Act passed in the fifth year of the reign of Her present Majesty intituled "*An Act for the further amendment of the Law and for the better advancement of Justice*" and thereupon the Company shall have all such rights powers and authorities as are by the said Act conferred upon trustees of such conveyances or assignments.

9. It shall be lawful for the Company to act as attorney whenever it shall be appointed by deed attorney for any person or any corporation and all the powers conferred upon the Company by any power-of-attorney may be exercised and carried into execution by the managing director manager acting manager or by any two of the directors of the Company but in all cases the capital both paid and unpaid and all other assets of the Company shall be liable for the due execution of the powers so conferred upon the Company Provided always that nothing herein contained shall be deemed to authorize any person Company or corporation to confer any power upon the said Company which cannot by law be delegated or performed by attorney.

Company may act under power of attorney by managing director manager acting manager or two directors.

10. It shall be lawful for any executor administrator or trustee by deed to delegate to the Company all such trusts and powers as may by law be delegated and all acts done by the Company within the scope of such delegation shall in favour of any persons dealing with the Company without notice of the death of or revocation of authority by such executor administrator or trustee be valid and effectual notwithstanding such death or revocation.

Executor administrator or trustee may delegate trusts to Company.

11. It shall be lawful for any executors or executor administrators or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act with the consent of the Primary Judge in Equity of the Supreme Court to appoint the Company to be executor or administrator in their or his place or stead and thereupon the Company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be and in every such case all the capital both paid and unpaid and all other assets of the Company shall be liable for the due administration of the estates of which the Company shall be so appointed executor or administrator and the executors or executor administrators or administrator so appointing the Company shall be released from liability in respect of all acts done by or omitted to be done by the Company acting under such appointment.

Executors or administrators with the consent of the Primary Judge may appoint Company to discharge duties.

12. Every application for such consent shall be by motion and notice of the intended application shall be advertised in a daily newspaper published in Sydney at least seven days before the making thereof and if the application shall be made by the executors or executor or administrators or administrator of any testator or intestate who shall have died in New South Wales a like notice shall also be advertised once in some newspaper if any published in the district in which such testator or intestate shall have resided and the Judge may require any person resident in New South Wales and entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof

Application for consent to be by motion.

thereof and the costs of such application shall be in the discretion of the Judge and may be ordered to be paid out of the estate. Provided that such consent shall not be given when the testator shall have directed that the trusts of his will should not be delegated or that the Company should not act as executor thereof.

Managing director
manager or acting
manager may
attend on behalf
of Company and
directors and shall
be personally
responsible to Court.

13. Whenever an executor administrator trustee receiver committee guardian or assignee is or shall be required by any law now or hereafter to be in force to attend in person in any Court of Justice or elsewhere it shall be lawful for the Company to attend by its managing director manager or acting manager 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 managing director manager or acting manager and whenever probate or letters of administration shall have been granted to the Company and whenever the Company shall be appointed and shall act as trustee receiver committee guardian or assignee the managing director manager or acting manager as the case may be and directors shall be individually and collectively in their own proper persons 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 managing director manager or acting manager or directors had personally obtained probate or letters of administration and had acted as executor administrator trustee receiver committee guardian or assignee and as if the rule order or decree had been made against them personally instead of against the Company but notwithstanding such personal responsibility of the said managing director manager acting manager or directors the capital both paid and unpaid and all the 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 be implied by law or expressly conferred by the instrument under which the Company shall act.

Company to be paid
a commission on
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them.

14. The Company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the Company whether as executor administrator trustee receiver committee guardian or assignee a commission at a rate to be fixed from time to time by the board of directors of the Company but not to exceed in any case two pounds ten shillings for every one hundred pounds of the corpus or capital value of any such estate and five pounds for every one hundred pounds of the annual income of any such estate received by the Company and of all moneys (whether capital or income) received by the Company as an attorney acting under power-of-attorney and such commission shall be payable out of the moneys in the possession of the Company representing the estate upon which the same shall be chargeable and shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor administrator trustee receiver committee guardian assignee or attorney and no other charges beyond such commission and moneys properly expended by the Company shall be made or allowed. Provided that if in any estate the Primary Judge in Equity shall be of opinion that the rate of commission charged is excessive such Judge may review and reduce such commission provided also that the commission to be charged by the Company against any estate shall not exceed the amount of the published scale of charges of the Company at the time when the administration of such estate was committed to the Company nor shall this enactment prevent the payment

payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorized.

15. Whenever the Company shall have been appointed executor administrator trustee receiver committee guardian assignee or attorney under power it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Courts in the same manner as any other executor administrator trustee receiver committee guardian assignee or attorney.

Company may be removed from office by Court.

16. It shall be lawful for any trustee *cestui qui* trust executor or legatee administrator or next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the Company after demand in writing made to the managing director manager or acting manager of the Company for sufficient account of the property and assets of which such estate shall consist and of the disposal and expenditure thereof or thereout and if such demand shall not be complied with within a reasonable time to apply to the Primary Judge in Equity of the Supreme Court in a summary manner upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that a sufficient account had been furnished it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or against the applicant or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of trustee *cestui qui* trust &c.

17. It shall be lawful for the said Primary Judge upon the making of any application under the last preceding section to order in addition to or in substitution for any account to be rendered by the Company that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made and in that case the directors and officers of the Company shall deliver to the person named in such order a list of all books kept by the Company and shall produce to such person at all reasonable times when required all books and accounts vouchers papers and other documents of the Company relating to such estate and shall afford to him all necessary information and all other necessary facilities for enabling him to make the said examination and the said Judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Primary Judge may order audit in any estate committed to Company.

18. So long as any estate in respect of which the Company is executor administrator trustee committee guardian or assignee shall remain in whole or in part unadministered it shall not be lawful to proceed to wind-up the Company voluntarily unless with the sanction of the said Primary Judge and it shall be lawful for any person interested in such estate or who may have any claim in respect thereof to apply to the said Judge in a summary way by motion to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the Company or to restrain the winding-up voluntarily of the Company and the said Judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said Judge to require.

Voluntary winding-up of Company or disposal of shares may be restrained by the Primary Judge.

19. The following provisions with respect to the liability of shareholders in the Company shall be and remain in force notwithstanding any alteration which may be made in its articles of association—

Provision as to liability of shareholders and directors.

No member shall hold more than two thousand shares in his own right.

No

No more than one pound five shillings per share shall be called up except in the event of and for the purpose of the winding up of the Company and every member shall be liable for this amount per share in such event in addition to the sum of one pound five shillings per share liable to be called up by the directors. 5

In the event of the Company being wound up every person who has been a director of the Company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance of the sum of one pound five shillings per share on every share which he may have held and transferred during such two years in addition to his liability upon any shares held by him at the commencement of the winding up in the event of the holder or holders of such shares being unable to pay the said sum of one pound five shillings per share in full. 10 15

The capital of the Company shall be and remain divided into shares of two pounds ten shillings each and the number of shares in the Company shall not be at any time reduced to less than fifty thousand. 20

Moneys remaining
unclaimed for five
years to be paid into
Colonial Treasurer.

20. All moneys which form part of any estate of which at any time the Company shall be executor administrator or trustee and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person except where payment has been or shall be restrained by the injunction of some Court of competent jurisdiction shall be paid by the Company into the Colonial Treasury to be placed to the credit of a fund to be called the testamentary and trust fund distinguishing the particular estates in respect of which such moneys shall have been paid and the Treasurer of the Colony shall from time to time invest such moneys in the purchase of Government debentures or stock to be placed to the credit of the said testamentary and trust fund distinguishing in the ledger the particular estate in respect of which such moneys have been invested and the interest payable on such debentures or stock shall be placed to the credit of the said fund and the Treasurer's said account in the ledger shall be an official and not a nominal account and in all transfers of the said debentures and stock by the Treasurer he shall be so styled without any name addition or description and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of the Primary Judge in Equity directing such transfer and specifying the amount of moneys debentures or stock and the name description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the Treasurer nor until the purchase money of the debentures or stock to be sold has been received in the Treasury and the Company shall at the end of every six months deliver to the Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands and distinguishing the several estates in respect of which the same have been received and setting out the dates and amounts of the several payments of the same under this section and if the said moneys or any part thereof have not been paid into the Colonial Treasury stating the reason for the delay of such payments and if default is made in compliance with the foregoing provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every director and managing director manager or acting manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty. 25 30 35 40 45 50 55

21. It shall be lawful for any person who shall be entitled to any stock debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to the said Primary Judge upon petition in a summary way for such order as is in the last preceding section referred to and the said Judge shall deal with such application as nearly as may be in the same manner as is done in the case of applications to the said Court under the "Trustee Relief Act of 1858" And in all cases in which the Treasurer may see fit to appear upon such petition he shall be entitled to such costs against the applicant or out of the fund as the said Judge may direct.

Persons entitled to moneys in testamentary and trust fund may apply to Primary Judge.

22. It shall be lawful for the Colonial Treasurer after demand in writing addressed to the managing director manager or acting manager of the Company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist and of the disposal and expenditure thereof or thereout to apply to the said Primary Judge in a summary way upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that any account furnished by the Company was sufficient it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of Treasurer.

23. The managing director manager or acting manager of the Company shall during the months of January and July in every year during which the Company carries on business make before some Justice of the Peace a declaration in the form contained in the Schedule hereto or as near thereto as circumstances will admit and a copy of such declaration shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be given to any member or creditor of the Company who applies for the same and if default is made in compliance with the provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every managing director manager or acting manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Returns to be made by Company to be filed in registered office of the Company or its branches.

24. Every order made by the Primary Judge in Equity under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the said Judge.

Appeal from Primary Judge.

25. Nothing in this Act contained shall be deemed to give to the Company any right to oppose the granting of similar powers to those conferred upon the Company by this Act to any other Company or to corporations generally or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Act not to preclude other Companies from applying for similar powers to those conferred by this Act.

26. Where by any settlement will codicil or other testamentary writing a settlor or testator shall direct that any practising solicitor or solicitors shall conduct the legal business of his or her estate such solicitor or solicitors shall be entitled to act therein accordingly but in such case the Company shall not be liable for the negligence misfeasance nonfeasance or misconduct of such solicitor or solicitors and such solicitor or solicitors may be removed by order of the Primary Judge in Equity upon the application of the Company or of any person

Settlors or testators may appoint their own solicitors.

Incorporation and powers of Company except so far as specifically altered to remain.

Short title of Act.

person interested in the said estate upon cause shown and then and in such case the said Judge may appoint the solicitor or solicitors of the Company to conduct such legal business.

27. Excepting so far as is herein expressly provided the Company shall remain and be subject to the same restrictions liabilities penalties privileges and powers as it is subject to under its present incorporation and this Act shall not otherwise affect the incorporation of the Company. 5

28. This Act shall be called and may be cited as the “Perpetual Trustee Executor and Agency Company Act.” 10

SCHEDULE REFERRED TO IN SECTION TWENTY-THREE.

“The Perpetual Trustee Executor and Agency Company, Limited.”

I [managing director or as the case may be] do solemnly and sincerely declare :—

That the liability of the members is limited.
That the capital of the Company is divided into shares of each. 15
That the number of shares issued is .
That calls to the amount of pounds per share have been made under which the sum of pounds has been received.
That the liabilities of the Company on the last day of June [or December] last were— 20

Debts owing to sundry persons by the Company viz.—

On judgment	... ..	£
On speciality	... ..	£
On notes or bills	... ..	£
On simple contracts	... ..	£	25
On estimated liabilities	... ..	£

That the assets of the Company on that day were—

Government securities	... ..	£
Bills of exchange and promissory notes	£		
Cash at the Banks	... ..	£	30
Other securities	... ..	£

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of New South Wales rendering persons making a false declaration punishable for wilful and corrupt perjury.

Legislative Council.

49th VICTORIÆ, 1886.

A BILL

To confer powers upon the “Perpetual Trustee Executor and Agency Company (Limited).”

(As amended and agreed to in Select Committee.)

WHEREAS in this Colony it is often difficult to procure proper persons to undertake the onerous and responsible duties of trustee executor or administrator And whereas the deaths resignations and absence from the Colony of executors trustees and others filling similar offices are often attended with great disadvantage and loss to the estates with the administration of which they are entrusted And whereas it is desirable for the purpose of obtaining regularity and security in the administration of trust estates that permanent corporations should be empowered to fill the offices of trustee executor administrator receiver committee and other like offices And whereas a certain Company styled the “Perpetual Trustee Executor and Agency Company (Limited)” has been registered under the “Companies Act” with a capital of two hundred and fifty thousand pounds divisible into one hundred thousand shares of two pounds ten shillings each for the purpose of undertaking the duties of such offices as aforesaid for a commission And whereas it is expedient that the necessary powers should be conferred upon the said Company hereinafter called the Company in order to enable it to act as executor administrator administrator with the will annexed trustee receiver committee of the estates of persons of unsound mind guardians of the estates of infant

Preamble.

c 33— trustees

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

trustees or married women assignees of insolvent or assigned estates as agents under power-of-attorney and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the Company all such privileges and powers as are necessary or expedient for the purposes aforesaid Be it therefore enacted by the Queen'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—

Company may act as executor and obtain probate.

1. Whenever the Company has been or shall be named as executor in the last will and testament or in the codicil to the last will and testament of any testator it shall be lawful for the Company to act as executor and to apply for and to obtain probate of the will of the testator and to perform and to discharge all other the acts and duties of an executor as fully and effectually as any other executor.

Person entitled to obtain letters of administration with the will annexed may authorize Company to do so.

2. It shall be lawful for any person entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator instead of himself applying to authorize the Company to apply for and to obtain letters of administration with the will annexed which shall be granted to the Company upon its own application when so authorized.

Persons entitled to obtain letters of administration may authorize Company to do so.

3. It shall be lawful for any person or persons entitled to obtain administration to the estate of any intestate as his or her next of kin instead of applying for letters of administration to authorize the Company to apply for administration to such estate and administration to the estate of the intestate may be granted to the Company upon its own application when so authorized.

Company on being granted letters of administration may perform all acts which belong to the office of administrator notwithstanding its incorporation.

4. It shall be lawful for the Company where letters of administration of any estate with or without the will annexed has been granted to it to do and perform all acts and duties which belong to the office of administrator or administrators with the will annexed as the case may be notwithstanding its incorporation.

Court to act upon affidavit of managing director manager or acting manager in applications for probate or administration.

5. In all cases in which the Company is empowered under this Act to apply for probate or for letters of administration an affidavit made by the managing director manager or acting manager of the Company shall be received instead of any affidavit required by any charter Act of Parliament or rule of court to be made by persons making application for probate or letters of administration.

Assets of Company to be liable for proper administration of estates and no bond to administer to be required when paid-up capital is £25,000 of which £10,000 is invested in Government securities.

6. All the capital both paid and unpaid and all other assets of the Company shall be liable for the proper administration of all estates of which the Company shall act as executor or administrator and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the Colony as the directors of the Company may select in the name of the Treasurer of the Colony in trust for the Company but transferable only with the joint consent of the Treasurer of the Colony and the Company or upon the order of the Supreme Court or of a Judge thereof no bond for the due administration of any estate shall be required to be given by or on behalf of the Company and all interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the Treasurer of the Colony to the Company as and when the same shall respectively become payable.

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

7. It shall be lawful for any Court or Judge person or persons now or hereafter having power to appoint trustees receivers committees of the estates of persons of unsound mind guardians of the estates of infant trustees or assignees of insolvent or bankrupt estates in any case to appoint the Company to be trustee receiver committee guardian or assignee

assignee as the case may be and upon any such appointment all the capital of the Company both paid and unpaid and all other assets of the Company shall be liable for the proper discharge of the duties of the office either of trustee receiver committee guardian or assignee as the case may be and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested as aforesaid no bond or recognizance for the proper discharge of such duties shall be required to be given by or on behalf of the Company.

10 8. It shall be lawful for any debtor to execute to the Company as trustee any conveyance or assignment under the provisions of a certain Act passed in the fifth year of the reign of Her present Majesty intituled "*An Act for the further amendment of the Law and for the better advancement of Justice*" and thereupon the Company shall have all such rights powers and authorities as are by the said Act conferred upon trustees of such conveyances or assignments.

20 9. It shall be lawful for the Company to act as attorney whenever it shall be appointed by deed attorney for any person or any corporation and all the powers conferred upon the Company by any power-of-attorney may be exercised and carried into execution by the managing director manager acting manager or by any two of the directors of the Company but in all cases the capital both paid and unpaid and all other assets of the Company shall be liable for the due execution of the powers so conferred upon the Company Provided always that nothing herein contained shall be deemed to authorize any person Company or corporation to confer any power upon the said Company which cannot by law be delegated or performed by attorney.

Company may act under power of attorney by managing director manager acting manager or two directors.

30 10. It shall be lawful for any executor administrator or trustee by deed to delegate to the Company all such trusts and powers as may by law be delegated and all acts done by the Company within the scope of such delegation shall in favour of any persons dealing with the Company without notice of the death of or revocation of authority by such executor administrator or trustee be valid and effectual notwithstanding such death or revocation.

Executor administrator or trustee may delegate trusts to Company.

35 11. It shall be lawful for any executors or executor administrators or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act with the consent of the Primary Judge in Equity of the Supreme Court to appoint the Company to be executor or administrator in their or his place or stead and thereupon the Company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be and in every such case all the capital both paid and unpaid and all other assets of the Company shall be liable for the due administration of the estates of which the Company shall be so appointed executor or administrator and the executors or executor administrators or administrator so appointing the Company shall be released from liability in respect of all acts done by or omitted to be done by the Company acting under such appointment.

Executors or administrators with the consent of the Primary Judge may appoint Company to discharge duties.

50 12. Every application for such consent shall be by motion and notice of the intended application shall be advertised in a daily newspaper published in Sydney at least seven days before the making thereof and if the application shall be made by the executors or executor or administrators or administrator of any testator or intestate who shall have died in New South Wales a like notice shall also be advertised once in some newspaper if any published in the district in which such testator or intestate shall have resided and the Judge may require any person resident in New South Wales and entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof

Application for consent to be by motion.

thereof and the costs of such application shall be in the discretion of the Judge and may be ordered to be paid out of the estate Provided that such consent shall not be given when the testator shall have directed that the trusts of his will should not be delegated or that the Company should not act as executor thereof.

5

Managing director
manager or acting
manager may
attend on behalf
of Company and
directors and shall
be personally
responsible to Court.

13. Whenever an executor administrator trustee receiver committee guardian or assignee is or shall be required by any law now or hereafter to be in force to attend in person in any Court of Justice or elsewhere it shall be lawful for the Company to attend by its managing director manager or acting manager and all affidavits statements of 10 defence or other statements required by law to be made on oath may be made and sworn on behalf of the Company by the managing director manager or acting manager and whenever probate or letters of administration shall have been granted to the Company and whenever the Company shall be appointed and shall act as trustee receiver committee 15 guardian or assignee the managing director manager or acting manager as the case may be and directors shall be individually and collectively in their own proper persons 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 20 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 managing director manager or acting manager or directors had personally obtained probate or letters of administration and had 25 acted as executor administrator trustee receiver committee guardian or assignee and as if the rule order or decree had been made against them personally instead of against the Company but notwithstanding such personal responsibility of the said managing director manager acting manager or directors the capital both paid and unpaid and all the assets 30 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 be implied by law or expressly conferred by the instrument under which the Company shall act.

35

Company to be paid
a commission on
moneys received by
them.

14. The Company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the Company whether as executor administrator trustee receiver committee guardian or assignee a commission at a rate to be fixed from time to time by the board of 40 directors of the Company but not to exceed in any case two pounds ten shillings for every one hundred pounds of the corpus or capital value of any such estate and five pounds for every one hundred pounds of the annual income of any such estate received by the Company and of all moneys (whether capital or income) received by the Company as an 45 attorney acting under power-of-attorney and such commission shall be payable out of the moneys in the possession of the Company representing the estate upon which the same shall be chargeable and shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor administrator trustee receiver committee 50 guardian assignee or attorney and no other charges beyond such commission and moneys properly expended by the Company shall be made or allowed Provided that if in any estate the Primary Judge in Equity shall be of opinion that the rate of commission charged is excessive such Judge may review and reduce such commission provided also 55 that the commission to be charged by the Company against any estate shall not exceed the amount of the published scale of charges of the Company at the time when the administration of such estate was committed to the Company nor shall this enactment prevent the payment

payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorized.

15. Whenever the Company shall have been appointed executor administrator trustee receiver committee guardian assignee or attorney under power it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Courts in the same manner as any other executor administrator trustee receiver committee guardian assignee or attorney.

Company may be removed from office by Court.

16. It shall be lawful for any trustee *cestui qui* trust executor or legatee administrator or next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the Company after demand in writing made to the managing director manager or acting manager of the Company for sufficient account of the property and assets of which such estate shall consist and of the disposal and expenditure thereof or thereout and if such demand shall not be complied with within a reasonable time to apply to the Primary Judge in Equity of the Supreme Court in a summary manner upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that a sufficient account had been furnished it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or against the applicant or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of trustee *cestui qui* trust &c.

17. It shall be lawful for the said Primary Judge upon the making of any application under the last preceding section to order in addition to or in substitution for any account to be rendered by the Company that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made and in that case the directors and officers of the Company shall deliver to the person named in such order a list of all books kept by the Company and shall produce to such person at all reasonable times when required all books and accounts vouchers papers and other documents of the Company relating to such estate and shall afford to him all necessary information and all other necessary facilities for enabling him to make the said examination and the said Judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

Primary Judge may order audit in any estate committed to Company.

18. So long as any estate in respect of which the Company is executor administrator trustee committee guardian or assignee shall remain in whole or in part unadministered it shall not be lawful to proceed to wind-up the Company voluntarily unless with the sanction of the said Primary Judge and it shall be lawful for any person interested in such estate or who may have any claim in respect thereof to apply to the said Judge in a summary way by motion to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the Company or to restrain the winding-up voluntarily of the Company and the said Judge shall have power to make such order upon such application as the circumstances of the case shall appear to the said Judge to require.

Voluntary winding-up of Company or disposal of shares may be restrained by the Primary Judge.

19. The following provisions with respect to the liability of shareholders in the Company shall be and remain in force notwithstanding any alteration which may be made in its articles of association—

Provision as to liability of shareholders and directors.

No member shall hold more than two thousand shares in his own right.

No

No more than one pound five shillings per share shall be called up except in the event of and for the purpose of the winding up of the Company and every member shall be liable for this amount per share in such event in addition to the sum of one pound five shillings per share liable to be called up by the directors. 5

In the event of the Company being wound up every person who has been a director of the Company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance of the sum of one pound five shillings per share on every share which he may have held and transferred during such two years in addition to his liability upon any shares held by him at the commencement of the winding up in the event of the holder or holders of such shares being unable to pay the said sum of one pound five shillings per share in full. 10 15

The capital of the Company shall be and remain divided into shares of two pounds ten shillings each and the number of shares in the Company shall not be at any time reduced to less than fifty thousand. 20

Moneys remaining
unclaimed for five
years to be paid into
Colonial Treasurer.

20. All moneys which form part of any estate of which at any time the Company shall be executor administrator or trustee and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person except where payment has been or shall be restrained by the injunction of some Court of competent jurisdiction shall be paid by the Company into the Colonial Treasury to be placed to the credit of a fund to be called the testamentary and trust fund distinguishing the particular estates in respect of which such moneys shall have been paid and the Treasurer of the Colony shall from time to time invest such moneys in the purchase of Government debentures or stock to be placed to the credit of the said testamentary and trust fund distinguishing in the ledger the particular estate in respect of which such moneys have been invested and the interest payable on such debentures or stock shall be placed to the credit of the said fund and the Treasurer's said account in the ledger shall be an official and not a nominal account and in all transfers of the said debentures and stock by the Treasurer he shall be so styled without any name addition or description and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of the Primary Judge in Equity directing such transfer and specifying the amount of moneys debentures or stock and the name description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the Treasurer nor until the purchase money of the debentures or stock to be sold has been received in the Treasury and the Company shall at the end of every six months deliver to the Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands and distinguishing the several estates in respect of which the same have been received and setting out the dates and amounts of the several payments of the same under this section and if the said moneys or any part thereof have not been paid into the Colonial Treasury stating the reason for the delay of such payments and if default is made in compliance with the foregoing provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every director and managing director manager or acting manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty. 25 30 35 40 45 50 55

21. It shall be lawful for any person who shall be entitled to any stock debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to the said Primary Judge upon petition in a summary way for such order as is in the last preceding section referred to and the said Judge shall deal with such application as nearly as may be in the same manner as is done in the case of applications to the said Court under the "Trustee Relief Act of 1858" And in all cases in which the Treasurer may see fit to appear upon such petition he shall be entitled to such costs against the applicant or out of the fund as the said Judge may direct.

Persons entitled to moneys in testamentary and trust fund may apply to Primary Judge.

22. It shall be lawful for the Colonial Treasurer after demand in writing addressed to the managing director manager or acting manager of the Company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist and of the disposal and expenditure thereof or thereout to apply to the said Primary Judge in a summary way upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that any account furnished by the Company was sufficient it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of Treasurer.

23. The managing director manager or acting manager of the Company shall during the months of January and July in every year during which the Company carries on business make before some Justice of the Peace a declaration in the form contained in the Schedule hereto or as near thereto as circumstances will admit and a copy of such declaration shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be given to any member or creditor of the Company who applies for the same and if default is made in compliance with the provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every managing director manager or acting manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Returns to be made by Company to be filed in registered office of the Company or its branches.

24. Every order made by the Primary Judge in Equity under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the said Judge.

Appeal from Primary Judge.

25. Nothing in this Act contained shall be deemed to give to the Company any right to oppose the granting of similar powers to those conferred upon the Company by this Act to any other Company or to corporations generally or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Act not to preclude other Companies from applying for similar powers to those conferred by this Act.

26. Where by any settlement will codicil or other testamentary writing a settlor or testator shall direct that any practising solicitor or solicitors shall conduct the legal business of his or her estate such solicitor or solicitors shall be entitled to act therein accordingly but in such case the Company shall not be liable for the negligence misfeasance nonfeasance or misconduct of such solicitor or solicitors and such solicitor or solicitors may be removed by order of the Primary Judge in Equity upon the application of the Company or of any person

Settlors or testators may appoint their own solicitors.

Incorporation and powers of Company except so far as specifically altered to remain.

Short title of Act.

person interested in the said estate upon cause shown and then and in such case the said Judge may appoint the solicitor or solicitors of the Company to conduct such legal business.

27. Excepting so far as is herein expressly provided the Company shall remain and be subject to the same restrictions liabilities 5 penalties privileges and powers as it is subject to under its present incorporation and this Act shall not otherwise affect the incorporation of the Company.

28. This Act shall be called and may be cited as the "Perpetual Trustee Executor and Agency Company Act." 10

SCHEDULE REFERRED TO IN SECTION TWENTY-THREE.

The Perpetual Trustee Executor and Agency Company (Limited).

I [managing director or as the case may be] do solemnly and sincerely declare :—

That the liability of the members is limited.

That the capital of the Company is divided into shares of each. 15

That the number of shares issued is

That calls to the amount of pounds per share have been made under which the sum of pounds has been received.

That the liabilities of the Company on the last day of June [or December] last were— 20

Debts owing to sundry persons by the Company viz.—

On judgment	...	...	£
On speciality	...	...	£
On notes or bills	...	...	£
On simple contracts	...	...	£	25
On estimated liabilities	...	...	£

That the assets of the Company on that day were—

Government securities	...	...	£
Bills of exchange and promissory-notes	£			
Cash at the Banks	...	...	£	30
Other securities	...	...	£

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of New South Wales rendering persons making a false declaration punishable for wilful and corrupt perjury.

Legislative Council.

49^o VICTORIÆ, 1886.

A BILL

To confer powers upon the “Perpetual Trustee Executor and Agency Company (Limited).”

(As amended and agreed to in Select Committee.)

WHEREAS in this Colony it is often difficult to procure proper Preamble.
persons to undertake the onerous and responsible duties of
trustee executor or administrator And whereas the deaths resigna-
tions and absence from the Colony of executors trustees and others
5 filling similar offices are often attended with great disadvantage and
loss to the estates with the administration of which they are entrusted
And whereas it is desirable for the purpose of obtaining regularity
and security in the administration of trust estates that permanent
corporations should be empowered to fill the offices of trustee executor
10 administrator receiver committee and other like offices And whereas a
certain Company styled the “Perpetual Trustee Executor and Agency
Company (Limited)” has been registered under the “Companies Act”
with a capital of two hundred and fifty thousand pounds divisible
into one hundred thousand shares of two pounds ten shillings each
15 for the purpose of undertaking the duties of such offices as aforesaid
for a commission And whereas it is expedient that the necessary
powers should be conferred upon the said Company hereinafter called
the Company in order to enable it to act as executor administrator
administrator with the will annexed trustee receiver committee of the
20 estates of persons of unsound mind **guardians of the estates of infant**
c 33— **trustees**

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

trustees or married women assignees of insolvent or assigned estates as agents under power-of-attorney and to perform and discharge all the duties of such offices and to receive remuneration therefor and to confer upon the Company all such privileges and powers as are necessary or expedient for the purposes aforesaid Be it therefore 5 enacted by the Queen'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—

Company may act as executor and obtain probate.

1. Whenever the Company has been or shall be named as 10 executor in the last will and testament or in the codicil to the last will and testament of any testator it shall be lawful for the Company to act as executor and to apply for and to obtain probate of the will of the testator and to perform and to discharge all other the acts and duties of an executor as fully and effectually as any other executor. 15

Person entitled to obtain letters of administration with the will annexed may authorize Company to do so.

2. It shall be lawful for any person entitled to obtain letters of administration with the will of any testator annexed of the estate of such testator instead of himself applying to authorize the Company to apply for and to obtain letters of administration with the will annexed which shall be granted to the Company upon its own applica- 20 tion when so authorized.

Persons entitled to obtain letters of administration may authorize Company to do so.

3. It shall be lawful for any person or persons entitled to obtain administration to the estate of any intestate as his or her next of kin instead of applying for letters of administration to authorize the Company to apply for administration to such estate and administra- 25 tion to the estate of the intestate may be granted to the Company upon its own application when so authorized.

Company on being granted letters of administration may perform all acts which belong to the office of administrator notwithstanding its incorporation.

4. It shall be lawful for the Company where letters of administration of any estate with or without the will annexed has been granted to it to do and perform all acts and duties which belong 30 to the office of administrator or administrators with the will annexed as the case may be notwithstanding its incorporation.

Court to act upon affidavit of managing director manager or acting manager in applications for probate or administration.

5. In all cases in which the Company is empowered under this Act to apply for probate or for letters of administration an affidavit made by the managing director manager or acting manager of the 35 Company shall be received instead of any affidavit required by any charter Act of Parliament or rule of court to be made by persons making application for probate or letters of administration.

Assets of Company to be liable for proper administration of estates and no bond to administer to be required when paid-up capital is £25,000 of which £10,000 is invested in Government securities.

6. All the capital both paid and unpaid and all other assets of the Company shall be liable for the proper administration of all 40 estates of which the Company shall act as executor or administrator and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested in the purchase of debentures or inscribed stock in such of the public funds of the Colony as the 45 directors of the Company may select in the name of the Treasurer of the Colony in trust for the Company but transferable only with the joint consent of the Treasurer of the Colony and the Company or upon the order of the Supreme Court or of a Judge thereof no bond for the due administration of any estate shall be required to be given by or on 50 behalf of the Company and all interest and income to accrue from time to time from or in respect of all such debentures and inscribed stock shall be paid by the Treasurer of the Colony to the Company as and when the same shall respectively become payable.

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

7. It shall be lawful for any Court or Judge person or persons 55 now or hereafter having power to appoint trustees receivers committees of the estates of persons of unsound mind guardians of the estates of infant trustees or assignees of insolvent or bankrupt estates in any case to appoint the Company to be trustee receiver committee guardian or assignee

assignee as the case may be and upon any such appointment all the capital of the Company both paid and unpaid and all other assets of the Company shall be liable for the proper discharge of the duties of the office either of trustee receiver committee guardian or assignee as the case may be and so soon as the Company shall possess a paid-up capital of not less than twenty-five thousand pounds of which paid-up capital ten thousand pounds shall be invested as aforesaid no bond or recognizance for the proper discharge of such duties shall be required to be given by or on behalf of the Company.

10 8. It shall be lawful for any debtor to execute to the Company as trustee any conveyance or assignment under the provisions of a certain Act passed in the fifth year of the reign of Her present Majesty intituled "*An Act for the further amendment of the Law and for the better advancement of Justice*" and thereupon the Company shall have all such rights powers and authorities as are by the said Act conferred upon trustees of such conveyances or assignments.

20 9. It shall be lawful for the Company to act as attorney whenever it shall be appointed by deed attorney for any person or any corporation and all the powers conferred upon the Company by any power-of-attorney may be exercised and carried into execution by the managing director manager acting manager or by any two of the directors of the Company but in all cases the capital both paid and unpaid and all other assets of the Company shall be liable for the due execution of the powers so conferred upon the Company Provided always that nothing herein contained shall be deemed to authorize any person Company or corporation to confer any power upon the said Company which cannot by law be delegated or performed by attorney.

Company may act under power of attorney by managing director manager acting manager or two directors.

30 10. It shall be lawful for any executor administrator or trustee by deed to delegate to the Company all such trusts and powers as may by law be delegated and all acts done by the Company within the scope of such delegation shall in favour of any persons dealing with the Company without notice of the death of or revocation of authority by such executor administrator or trustee be valid and effectual notwithstanding such death or revocation.

Executor administrator or trustee may delegate trusts to Company.

35 11. It shall be lawful for any executors or executor administrators or administrator acting under any probate or letters of administration granted either before or after the coming into operation of this Act with the consent of the Primary Judge in Equity of the Supreme Court to appoint the Company to be executor or administrator in their or his place or stead and thereupon the Company shall have the same powers and authorities as if it had been the original executor or administrator as the case may be and in every such case all the capital both paid and unpaid and all other assets of the Company shall be liable for the due administration of the estates of which the Company shall be so appointed executor or administrator and the executors or executor administrators or administrator so appointing the Company shall be released from liability in respect of all acts done by or omitted to be done by the Company acting under such appointment.

Executors or administrators with the consent of the Primary Judge may appoint Company to discharge duties.

50 12. Every application for such consent shall be by motion and notice of the intended application shall be advertised in a daily newspaper published in Sydney at least seven days before the making thereof and if the application shall be made by the executors or executor or administrators or administrator of any testator or intestate who shall have died in New South Wales a like notice shall also be advertised once in some newspaper if any published in the district in which such testator or intestate shall have resided and the Judge may require any person resident in New South Wales and entitled to the immediate receipt of any of the income or corpus of the estate in respect of which the application is made to be served with notice thereof

Application for consent to be by motion.

thereof and the costs of such application shall be in the discretion of the Judge and may be ordered to be paid out of the estate. Provided that such consent shall not be given when the testator shall have directed that the trusts of his will should not be delegated or that the Company should not act as executor thereof. 5

Managing director manager or acting manager may attend on behalf of Company and directors and shall be personally responsible to Court.

13. Whenever an executor administrator trustee receiver committee guardian or assignee is or shall be required by any law now or hereafter to be in force to attend in person in any Court of Justice or elsewhere it shall be lawful for the Company to attend by its managing director manager or acting manager and all affidavits statements of 10 defence or other statements required by law to be made on oath may be made and sworn on behalf of the Company by the managing director manager or acting manager and whenever probate or letters of administration shall have been granted to the Company and whenever the Company shall be appointed and shall act as trustee receiver committee 15 guardian or assignee the managing director manager or acting manager as the case may be and directors shall be individually and collectively in their own proper persons 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 20 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 managing director manager or acting manager or directors had personally obtained probate or letters of administration and had 25 acted as executor administrator trustee receiver committee guardian or assignee and as if the rule order or decree had been made against them personally instead of against the Company but notwithstanding such personal responsibility of the said managing director manager acting manager or directors the capital both paid and unpaid and all the assets 30 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 be implied by law or expressly conferred by the instrument under which the Company shall act. 35

Company to be paid a commission on moneys received by them.

14. The Company shall be entitled to receive in addition to all moneys properly expended by it and chargeable against any estate of which the administration shall be committed to the Company whether as executor administrator trustee receiver committee guardian or assignee a commission at a rate to be fixed from time to time by the board of 40 directors of the Company but not to exceed in any case two pounds ten shillings for every one hundred pounds of the corpus or capital value of any such estate and five pounds for every one hundred pounds of the annual income of any such estate received by the Company and of all moneys (whether capital or income) received by the Company as an 45 attorney acting under power-of-attorney and such commission shall be payable out of the moneys in the possession of the Company representing the estate upon which the same shall be chargeable and shall be accepted by the Company in full satisfaction of any claim to remuneration for acting as such executor administrator trustee receiver committee 50 guardian assignee or attorney and no other charges beyond such commission and moneys properly expended by the Company shall be made or allowed. Provided that if in any estate the Primary Judge in Equity shall be of opinion that the rate of commission charged is excessive such Judge may review and reduce such commission provided also 55 that the commission to be charged by the Company against any estate shall not exceed the amount of the published scale of charges of the Company at the time when the administration of such estate was committed to the Company nor shall this enactment prevent the payment

payment of any commission directed by a testator in his will either in addition to or in lieu of the commission hereinbefore authorized.

15. Whenever the Company shall have been appointed executor administrator trustee receiver committee guardian assignee or attorney Company may be removed from office by Court.
 5 under power it shall be subject in all respects to the same control and to removal or restraint from acting and generally to the jurisdiction of the Courts in the same manner as any other executor administrator trustee receiver committee guardian assignee or attorney.

16. It shall be lawful for any trustee *cestui qui* trust executor or Order for account on application of trustee *cestui qui* trust &c.
 10 legatee administrator or next of kin or creditor entitled to or interested in any estate which shall for the time being be under the management or control of the Company after demand in writing made to the managing director manager or acting manager of the Company for sufficient account of the property and assets of which such estate shall consist
 15 and of the disposal and expenditure thereof or thereout and if such demand shall not be complied with within a reasonable time to apply to the Primary Judge in Equity of the Supreme Court in a summary manner upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been
 20 rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that a sufficient account had been furnished it shall be lawful for the said Judge to dismiss the
 25 application and the said Judge shall have power in all cases to make such order as to costs either against the Company or against the applicant or as to payment of costs out of the estate as to the said Judge shall seem right.

17. It shall be lawful for the said Primary Judge upon the Primary Judge may order audit in any estate committed to Company.
 30 making of any application under the last preceding section to order in addition to or in substitution for any account to be rendered by the Company that a person to be named in such order shall examine the books and accounts of the Company in reference to the estate as to which the order is made and in that case the directors and officers
 35 of the Company shall deliver to the person named in such order a list of all books kept by the Company and shall produce to such person at all reasonable times when required all books and accounts vouchers papers and other documents of the Company relating to such estate and shall afford to him all necessary information and all
 40 other necessary facilities for enabling him to make the said examination and the said Judge shall have the same power over the costs of such examination as is given by the last preceding section over the costs of an application under that section.

18. So long as any estate in respect of which the Company is Voluntary winding-up of Company or disposal of shares may be restrained by the Primary Judge.
 45 executor administrator trustee committee guardian or assignee shall remain in whole or in part unadministered it shall not be lawful to proceed to wind-up the Company voluntarily unless with the sanction of the said Primary Judge and it shall be lawful for any person interested in such estate or who may have any claim in respect thereof
 50 to apply to the said Judge in a summary way by motion to restrain any director or any shareholder from disposing of any shares which such director or shareholder may hold in the Company or to restrain the winding-up voluntarily of the Company and the said Judge shall have power to make such order upon such application as the circum-
 55 stances of the case shall appear to the said Judge to require.

19. The following provisions with respect to the liability of shareholders in the Company shall be and remain in force notwithstanding any alteration which may be made in its articles of association— Provision as to liability of shareholders and directors.

60 No member shall hold more than two thousand shares in his own right. No

No more than one pound five shillings per share shall be called up except in the event of and for the purpose of the winding up of the Company and every member shall be liable for this amount per share in such event in addition to the sum of one pound five shillings per share liable to be called up by the directors. 5

In the event of the Company being wound up every person who has been a director of the Company at any time within the period of two years preceding the commencement of the winding up shall be liable for the balance of the sum of one pound five shillings per share on every share which he may have held and transferred during such two years in addition to his liability upon any shares held by him at the commencement of the winding up in the event of the holder or holders of such shares being unable to pay the said sum of one pound five shillings per share in full. 10 15

The capital of the Company shall be and remain divided into shares of two pounds ten shillings each and the number of shares in the Company shall not be at any time reduced to less than fifty thousand. 20

Moneys remaining
unclaimed for five
years to be paid into
Colonial Treasurer.

20. All moneys which form part of any estate of which at any time the Company shall be executor administrator or trustee and which moneys shall remain unclaimed by the person entitled to the same for a period of five years after the time when the same shall have become payable to such person except where payment has been or shall be restrained by the injunction of some Court of competent jurisdiction shall be paid by the Company into the Colonial Treasury to be placed to the credit of a fund to be called the testamentary and trust fund distinguishing the particular estates in respect of which such moneys shall have been paid and the Treasurer of the Colony shall from time to time invest such moneys in the purchase of Government debentures or stock to be placed to the credit of the said testamentary and trust fund distinguishing in the ledger the particular estate in respect of which such moneys have been invested and the interest payable on such debentures or stock shall be placed to the credit of the said fund and the Treasurer's said account in the ledger shall be an official and not a nominal account and in all transfers of the said debentures and stock by the Treasurer he shall be so styled without any name addition or description and he shall not sign any such transfers or pay over any of the moneys standing to the credit of the said fund unless an order of the Primary Judge in Equity directing such transfer and specifying the amount of moneys debentures or stock and the name description and addition of the person to whom the proceeds of such sale are to be paid shall be left at the office of the Treasurer nor until the purchase money of the debentures or stock to be sold has been received in the Treasury and the Company shall at the end of every six months deliver to the Treasurer a statement of all such unclaimed moneys which during the preceding six months shall have been in its hands and distinguishing the several estates in respect of which the same have been received and setting out the dates and amounts of the several payments of the same under this section and if the said moneys or any part thereof have not been paid into the Colonial Treasury stating the reason for the delay of such payments and if default is made in compliance with the foregoing provisions of this section the Company shall be liable to a penalty not exceeding *five* pounds for every day while such default continues and every director and managing director manager or acting manager of the Company who knowingly and wilfully authorizes or permits such default shall incur the like penalty. 25 30 35 40 45 50 55

21. It shall be lawful for any person who shall be entitled to any stock debentures or moneys which shall at any time form part of the said testamentary and trust fund to apply to the said Primary Judge upon petition in a summary way for such order as is in the last preceding section referred to and the said Judge shall deal with such application as nearly as may be in the same manner as is done in the case of applications to the said Court under the "Trustee Relief Act of 1858" And in all cases in which the Treasurer may see fit to appear upon such petition he shall be entitled to such costs against the applicant or out of the fund as the said Judge may direct.

Persons entitled to moneys in testamentary and trust fund may apply to Primary Judge.

22. It shall be lawful for the Colonial Treasurer after demand in writing addressed to the managing director manager or acting manager of the Company for a sufficient account of the property and assets of which any or every estate included in or which ought to be or to have been included in the hereinbefore mentioned statement of unclaimed moneys shall consist and of the disposal and expenditure thereof or thereout to apply to the said Primary Judge in a summary way upon motion after notice to the Company for an account and if the said Judge shall be of opinion that no sufficient account has been rendered by the Company the said Judge shall order such account to be rendered by the Company as to the said Judge shall seem just or if the said Judge shall think that under the circumstances the Company was not bound to furnish any account or that any account furnished by the Company was sufficient it shall be lawful for the said Judge to dismiss the application and the said Judge shall have power in all cases to make such order as to costs either against the Company or as to payment of costs out of the estate as to the said Judge shall seem right.

Order for account on application of Treasurer.

23. The managing director manager or acting manager of the Company shall during the months of January and July in every year during which the Company carries on business make before some Justice of the Peace a declaration in the form contained in the Schedule hereto or as near thereto as circumstances will admit and a copy of such declaration shall be put up in a conspicuous place in the registered office of the Company and in every branch office or place where the business of the Company is carried on and shall be given to any member or creditor of the Company who applies for the same and if default is made in compliance with the provisions of this section the Company shall be liable to a penalty not exceeding five pounds for every day while such default continues and every managing director manager or acting manager of the Company who knowingly and wilfully authorises or permits such default shall incur the like penalty.

Returns to be made by Company to be filed in registered office of the Company or its branches.

24. Every order made by the Primary Judge in Equity under this Act shall be subject to appeal in the same manner and under the same conditions as other orders of the said Judge.

Appeal from Primary Judge.

25. Nothing in this Act contained shall be deemed to give to the Company any right to oppose the granting of similar powers to those conferred upon the Company by this Act to any other Company or to corporations generally or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Act not to preclude other Companies from applying for similar powers to those conferred by this Act.

26. Where by any settlement will codicil or other testamentary writing a settlor or testator shall direct that any practising solicitor or solicitors shall conduct the legal business of his or her estate such solicitor or solicitors shall be entitled to act therein accordingly but in such case the Company shall not be liable for the negligence misfeasance nonfeasance or misconduct of such solicitor or solicitors and such solicitor or solicitors may be removed by order of the Primary Judge in Equity upon the application of the Company or of any person

Settlors or testators may appoint their own solicitors.

Incorporation and powers of Company except so far as specifically altered to remain.

Short title of Act.

person interested in the said estate upon cause shown and then and in such case the said Judge may appoint the solicitor or solicitors of the Company to conduct such legal business.

27. Excepting so far as is herein expressly provided the Company shall remain and be subject to the same restrictions liabilities penalties privileges and powers as it is subject to under its present incorporation and this Act shall not otherwise affect the incorporation of the Company. 5

28. This Act shall be called and may be cited as the "Perpetual Trustee Executor and Agency Company Act." 10

SCHEDULE REFERRED TO IN SECTION TWENTY-THREE.

The Perpetual Trustee Executor and Agency Company (Limited).

I [managing director or as the case may be] do solemnly and sincerely declare :—

That the liability of the members is limited.

That the capital of the Company is divided into shares of each. 15

That the number of shares issued is .

That calls to the amount of pounds per share have been made under which the sum of pounds has been received.

That the liabilities of the Company on the last day of June [or December] last were— 20

Debts owing to sundry persons by the Company viz.—

On judgment £

On speciality £

On notes or bills £

On simple contracts £

On estimated liabilities £

25

That the assets of the Company on that day were—

Government securities £

Bills of exchange and promissory-notes £

Cash at the Banks £

Other securities £

30

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of New South Wales rendering persons making a false declaration punishable for wilful and corrupt perjury.