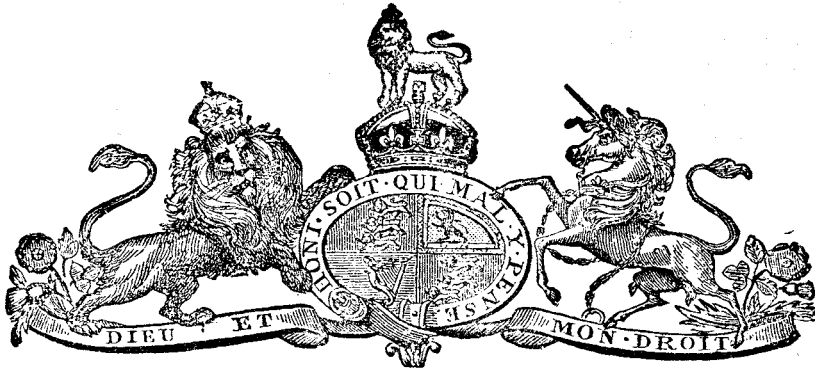


T A S M A N I A.

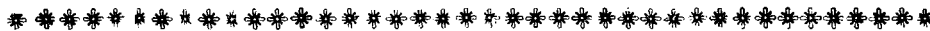


1926.

ANNO SEPTIMO DECIMO
GEORGII V. REGIS.
 No. 42.

ANALYSIS.

1. Short title.
2. Power to sell.
3. Power to lease.
4. Appropriation of proceeds of sale.
5. Powers to be in addition to the powers vested in the trustees by the will of *Catherine Agnes Watt*.



AN ACT to confer upon the Trustees of the Property of the Church of England in Tasmania, as Trustees of a Settlement of a certain House and Grounds situate at New Town, in Tasmania, and known as "Hildern," created by the Will of *Catherine Agnes Watt*, Powers of Sale and Leasing in respect thereof. A.D. 1926.
 [8 December, 1926]

WHEREAS *Catherine Agnes Watt*, late of "Hildern," Augusta Road, New Town, in Tasmania, widow, by her last will and testament, dated the twenty-sixth day of November, one thousand nine hundred and fifteen, appointed *Walter Cumming Watt*, of Sydney, in the State PREAMBLE.

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of New South Wales, merchant, and *William Joshua Tilley Stops*, of Hobart, in Tasmania, solicitor, to be trustees and executors thereof, and, *inter alia*, devised her house and grounds known as "Hildern" to her said trustees, upon trust, to permit the same to be used as a rectory in connection with a church then contemplated to be built in Augusta Road by members of the Church of England in Tasmania for the residence of the priest for the time being attached to the said church, and the said testatrix declared that no part of the said house and grounds should ever be sold, but should be used for all time as a rectory in connection with the said church :

And whereas by her said will the testatrix also gave and bequeathed to her said trustees all the furniture and effects in and about the said property known as "Hildern," not otherwise disposed of by her said will upon trust, to permit the same to be used in and about the said rectory, it being her desire to provide a furnished house for the use and occupation of the priest in charge of the said church :

And whereas by her said will the testatrix also gave and bequeathed to her said trustees the sum of Five hundred Pounds, upon trust, to invest the same in securities authorised by law for the investment of trust funds, and to apply the net income arising from such investment in and towards payment of the rates and taxes and premiums of fire insurance on "Hildern," so that its occupation by the priest in charge of the said church might be free of expense as far as might be :

And whereas by her said will the testatrix further declared that when a priest should have been duly appointed to the said church and entered upon his charge thereof it should be lawful for her trustees to transfer "Hildern" and its appurtenances to the trustees of the property of the Church of England in Tasmania, to be held by them upon the trusts declared by her said will respecting the same: And also to transfer, assign, and set over to the trustees of the property of the Church of England in Tasmania the said furniture and effects, and the said sum of Five hundred Pounds, and the investments, representing the same to be held by them upon the trusts and to and for the ends, intents, and purposes declared by her said will of and concerning the same, and thereupon her trustees should be discharged from the trusts pertaining thereto :

And whereas the testatrix died on the ninth day of January, one thousand nine hundred and nineteen, and her said will was proved in the Supreme Court of Tasmania by the executors therein named on the twenty-seventh day of February, one thousand nine hundred and nineteen :

And whereas the church contemplated by the testatrix was duly erected and consecrated as the Church of the Parish of St. James the Apostle, and the Reverend *Charles William Wilson* was duly appointed rector of the said parish in the year one thousand nine hundred and twenty, and in pursuance of the trusts of the said will the said *Charles William Wilson* took up his residence at "Hildern," and has since used or occupied the same and its appurtenances and the furniture therein as the rectory in connection with the said parish :

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And whereas the said property known as "Hildern" was, on the second day of February, one thousand nine hundred and twenty-one, transferred by the trustees of the will of the said testatrix to, and the same became vested in, the trustees of the property of the Church of England in Tasmania, and the said furniture therein and the said sum of Five hundred Pounds were at the same time transferred and set over to the said trustees of the property of the Church of England in Tasmania, to be held by them upon the trusts of the will of the said testatrix :

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And whereas the title to the said property known as "Hildern" is now comprised and described in Certificate of Title, Registered Volume CCXXI., Folio 27, in the name of the trustees of the property of the Church of England in Tasmania :

And whereas, upon application duly made to the Supreme Court of Tasmania, it has been proved to the satisfaction of a judge of the said court that it is impracticable under the present altered conditions to give effect to the intentions of the testatrix and to maintain the said property of "Hildern" as the residence of the priest for the time being attached to the said church, and that unless a further endowment is provided for the improvement and maintenance of the said property, the same must fall into dilapidation and become uninhabitable, and by the order of His Honor, Mr. Justice *Crisp*, dated the first day of October, one thousand nine hundred and twenty-six, the trustees of the property of the Church of England in Tasmania were authorised to apply to the Parliament of Tasmania for a Private Act, to confer upon them the powers and authorities conferred upon them by this Act :

Be it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as "The Church of England (Rectory of St. James the Apostle) Act, 1926." Short title.

2—(1) It shall be lawful for the trustees of the property of the Church of England in Tasmania, with the consent of the rector and churchwardens for the time being of the Parish of St. James the Apostle, New Town, in the City of Hobart, to sell such portion or portions of the said property known as "Hildern" as they may in their discretion consider advantageous, provided that the present rectory building and at least half an acre of land shall be retained by the said trustees as the site and appurtenances of the said rectory. Power to sell

(2) The said trustees may in addition to all other powers vested in them by law in that behalf exercise all powers conferred upon trustees for sale by the Trustee Act, 1898.

3 It shall be lawful for the trustees of the property of the Church of England in Tasmania, with the consent of the rector and churchwardens for the time being of the Parish of St. James the Apostle, New Town, Power to lease.

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in the City of Hobart, to lease such portion or portions of the said property known as "Hildern" as shall for the time being remain unsold, other than the rectory building and half an acre of land in the preceding section mentioned, for any term of years not exceeding five years, to take effect in possession or within six calendar months from the date of the lease, with power in such lease to grant an option of purchase, and otherwise to grant any such lease upon such terms and conditions in all respects as they shall think fit.

Appropriation of
proceeds of sale.

4 The said trustees are hereby empowered to apply the net proceeds of sale of such lands—

- i. Firstly, in paying the costs and expenses authorised by the said Order of the Supreme Court of Tasmania dated the first day of October, one thousand nine hundred and twenty-six:
- ii. Secondly, in defraying the cost of sewerage the said rectory, and of remodelling, improving, and repairing the same as may be found expedient or desirable from time to time: and
- iii. Thirdly, to invest the balance of such net proceeds of sale in manner prescribed by the Church of England Constitution Amendment Act, 1892, Section Five, and to pay and apply the net annual income arising from such investment or investments, firstly, in keeping in repair and replacing the furniture bequeathed by the testatrix and held by them upon trust as aforesaid, and secondly, in augmentation of the income received by the trustees from the said sum of Five hundred Pounds set aside by direction of the said testatrix for the purposes in her said will declared, and for such other purposes ancillary and complimentary thereto as the said trustees may in their discretion deem expedient or necessary to give effect to the desire of the testatrix to provide a furnished house for the use and occupation of the priest in charge of the said church free of expense as far as may be.

Powers to be in
addition to the
powers vested in
the trustees by
the will of *Catherine Agnes Watt*.

5 Nothing herein contained shall be deemed to derogate from or affect the powers conferred upon the trustees by the said will of the said testatrix, but the powers and authorities hereby conferred shall be in addition to the powers vested in them by the said will.