



CHAPTER lxxv.

An Act to revoke a codicil to the will of the late Right Honourable Cecil John Rhodes and for other purposes. A.D. 1916.
[18th December 1916.]

WHEREAS the Right Honourable Cecil John Rhodes of Cape Town in the colony of the Cape of Good Hope (hereinafter referred to as "the Testator") by his will dated the first day of July one thousand eight hundred and ninety-nine appointed the Right Honourable Archibald Philip Earl of Rosebery K.G. K.T. the Right Honourable Albert Henry George Earl Grey Alfred Beit William Thomas Stead Lewis Loyd Michell (now Sir Lewis Loyd Michell) and Bouchier Francis Hawksley to be the executors and trustees thereof and (inter alia) directed his said trustees to establish for male students certain scholarships (in the said will referred to as "the Colonial scholarships") and certain other scholarships (in the said will referred to as "the American scholarships") such scholarships being of the yearly value of three hundred pounds each and being tenable at any college in the University of Oxford for three consecutive academical years:

And whereas such of the provisions of the said will (as altered by a codicil dated the eleventh day of October one thousand nine hundred and one) as relate to the Colonial scholarships and the American scholarships and as are material to the purposes of this Act are set forth in the schedule to this Act:

And whereas the Testator after certain other gifts bequests and dispositions gave the residue of his real and personal estate unto such of them the said Earl of Rosebery Earl Grey Alfred Beit William Thomas Stead Lewis Loyd Michell and Bouchier Francis Hawksley as should be living at his death absolutely and if more than one as joint tenants:

A.D. 1916.

And whereas the Testator by a codicil executed in the month of January one thousand nine hundred and one to his said will revoked the appointment of the said William Thomas Stead as an executor of his said will:

And whereas by another codicil (hereinafter referred to as "the German codicil") to his said will (which codicil is undated but was in fact also executed in the said month of January one thousand nine hundred and one) the Testator directed as follows:—

"This is a further codicil to my will I note the German Emperor has made instruction in English compulsory in German schools I leave five yearly scholarships at Oxford of two hundred and fifty pounds per annum to students of German birth the scholars to be nominated by the German Emperor for the time being Each scholarship to continue for three years so that each year after the first three there will be fifteen scholars The object is that an understanding between the three great Powers will render war impossible and educational relations make the strongest tie":

And whereas by the said codicil dated the eleventh day of October one thousand nine hundred and one to his said will the Testator (inter alia) appointed the Right Honourable Alfred Lord Milner to be an executor and trustee of the said will jointly with those named in the said will as his executors and trustees and in all respects as though he had been originally appointed one of his executors and trustees by his said will And the Testator associated the said Lord Milner with his residuary legatees and devisees named in his said will desiring and declaring that they and he were his residuary legatees and devisees in joint tenancy:

And whereas by a further codicil dated the twelfth day of March one thousand nine hundred and two to his said will the Testator appointed Doctor Jameson (now the Right Honourable Sir Leander Starr Jameson Baronet) one of the trustees of his will with the same rights as the said Alfred Lord Milner Archibald Philip Earl of Rosebery Sir Lewis Loyd Michell Albert Henry George Earl Grey Alfred Beit and Bouchier Francis Hawksley:

And whereas the Testator died on the twenty-sixth day of March one thousand nine hundred and two and the said will

with six codicils thereto (including the four codicils hereinbefore referred to) was on the twenty-second day of February one thousand nine hundred and four proved and registered in the Principal Probate Registry of His Majesty's High Court of Justice by the said Earl of Rosebery Earl Grey Alfred Beit and Bouchier Francis Hawksley four of the executors named in the said will and codicils power being reserved of making the like grant to the other executors named in the said will and codicils:

A.D. 1916.

And whereas by deed poll dated the ninth day of May one thousand nine hundred and four the said William Thomas Stead renounced and disclaimed all interest under the said will in the residuary real and personal estate of the Testator and also the office of trustee of the said will and codicils and if and so far as he was an executor the office of executor of the said will and codicils:

And whereas all the executors and trustees named in the said will and codicils (other than the said William Thomas Stead) assumed the trusts thereof and acted as trustees but Alfred Beit and Bouchier Francis Hawksley two of the said trustees have since died and the present trustees of the said will and codicils are the said Earl of Rosebery Earl Grey Lord Milner Sir Leander Starr Jameson Baronet and Sir Lewis Loyd Michell:

And whereas the said trustees duly established the Colonial scholarships and the American scholarships pursuant to the directions contained in the said will and have in addition out of funds in their hands forming part of the residue of the real and personal estate of the Testator and available for the purpose established in the exercise of the general discretion vested in them under the provisions of the said will certain other scholarships of the yearly value of three hundred pounds each to be tenable at any college in the said University of Oxford by students of or from certain provinces in the Dominion of Canada in addition to the colonies and dependencies specified in that behalf in the said will:

And whereas the said trustees also established the scholarships directed by the German codicil to be established the first nomination of scholars by the German Emperor being made in or about the month of October one thousand nine hundred and three and further nominations have similarly been made from time

A.D. 1916. to time in accordance with the said codicil the last of such nominations having been made on the seventh day of April one thousand nine hundred and fourteen :

And whereas the sum annually required for the payment of the scholarships lastly hereinbefore referred to is three thousand seven hundred and fifty pounds :

And whereas the said trustees have not at the present time completed the setting apart of a scholarship fund but in so far as the income from the moneys or investments which they have appropriated to that fund is insufficient for the payment of the scholarships established as aforesaid such scholarships are paid out of the income of the residuary real and personal estate of the Testator :

And whereas in the events which have happened the objects and anticipations of the Testator in directing the establishment of the scholarships referred to in the German codicil have failed to be accomplished or realised and it is expedient that the said codicil should be revoked and annulled and that such provisions as are contained in this Act should be made with respect to the establishment of substituted scholarships :

And whereas the purposes of this Act cannot be effected without the authority of Parliament :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows :—

Short title.

1. This Act may be cited as the Rhodes Estate Act 1916.

Interpretation.

2. In this Act—

The expression "the Testator" means the late Right Honourable Cecil John Rhodes ;

The expression "the Trustees" means the Right Honourable Archibald Philip Earl of Rosebery K.G. K.T. the Right Honourable Albert Henry George Earl Grey G.C.B. the Right Honourable Alfred Lord Milner G.C.B. the Right Honourable Sir Leander Starr Jameson Baronet C.B. and Sir Lewis Loyd Michell and the survivors of them or other the Trustees for the time being of the will of the Testator ;

The expression "the German codicil" means the undated codicil to the said will recited or referred to in the preamble to this Act.

A.D. 1916.

3. As from the fourth day of August one thousand nine hundred and fourteen the German codicil shall be and the same is hereby revoked and annulled and the scholarships established by the Trustees pursuant thereto shall be and the same are hereby abolished and all rights (if any) with respect to such scholarships of the persons who on or immediately before the said date held or were entitled to the benefit thereof or to any nomination thereto or to the payment of any moneys or to any other rights or privileges in connection therewith or incidental thereto shall cease and determine.

Revocation of German codicil and abolition of scholarships established thereunder.

4. The Trustees shall as soon as practicable after the passing of this Act establish for male students twelve scholarships of the yearly value of three hundred pounds each to be tenable at any college in the University of Oxford for three consecutive academical years by students of or from such colonies dependencies or places within the British Empire as the Trustees may from time to time in their discretion determine in substitution for the scholarships established pursuant to the German codicil which cease to be payable under the provisions of this Act.

Establishment of substituted scholarships.

5. The provisions of the will of the Testator as altered by the codicil of the eleventh day of October one thousand nine hundred and one and as set forth in the schedule to this Act shall extend and apply to the said substituted scholarships in all respects as if such scholarships—

Substituted scholarships to be subject to provisions of will.

- (A) Were scholarships established pursuant to the directions contained in the said will;
- (B) Ranked for the purposes of clause 22 of the said will next after the American scholarships; and
- (C) Were subject to provisions as to abatement similar to those contained in the said clause 22 with respect to the American scholarships:

Provided always that if the income of any scholarship fund which may be set apart by the Trustees pursuant to the will of the Testator or (until any such fund shall have been set apart) so much of the income of the residue of the real and personal estate of the Testator as is for the time being available for the payment of the scholarships established by the Trustees before the passing of this Act (otherwise than pursuant to the

A.D. 1916. German codicil) and of the said substituted scholarships shall at any time be insufficient for payment in full of all such scholarships it shall be lawful for the Trustees so far as such deficiency may require (if in their discretion they think fit so to do) either permanently or for such time as they may determine to reduce the number of the said substituted scholarships or to discontinue the payment of such substituted scholarships or any of them in lieu of or in addition to reducing the amount of each such substituted scholarship.

Costs of Act.

6. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Trustees out of funds in their hands representing the residue of the real and personal estate of the Testator.

The SCHEDULE referred to in the foregoing Act.

A.D. 1916.

EXTRACTS FROM THE WILL OF THE RIGHT HONOURABLE CECIL JOHN RHODES DATED 1ST DAY OF JULY 1899 (AS ALTERED BY A CODICIL DATED THE 11TH DAY OF OCTOBER 1901).

22. The scholarships shall be paid only out of income and in the event at any time of income being insufficient for payment in full of all the scholarships for the time being payable I direct that (without prejudice to the vested interests of holders for the time being of scholarships) the following order of priority shall regulate the payment of the scholarships:—

- (i) First the scholarships of students of or from Rhodesia shall be paid;
- (ii) Secondly the scholarships of students from the said South African Stellenbosch Rondebosch and Saint Andrew's Schools shall be paid;
- (iii) Thirdly the remainder of the Colonial scholarships shall be paid and if there shall not be sufficient income for the purpose such scholarships shall abate proportionately; and
- (iv) Fourthly the American scholarships shall be paid and if there shall not be sufficient income for the purpose such scholarships shall abate proportionately.

23. My desire being that the students who shall be elected to the scholarships shall not be merely bookworms I direct that in the election of a student to a scholarship regard shall be had to (i) his literary and scholastic attainments (ii) his fondness of and success in manly outdoor sports such as cricket football and the like (iii) his qualities of manhood truth courage devotion to duty sympathy for the protection of the weak kindness unselfishness and fellowship and (iv) his exhibition during school days of moral force of character and of instincts to lead and to take an interest in his schoolmates for those latter attributes will be likely in after-life to guide him to esteem the performance of public duties as his highest aim As mere suggestions for the guidance of those who will have the choice of students for the scholarships I record that—

- (i) My ideal qualified student would combine these four qualifications in the proportions of three-tenths for the first two-tenths for the second three-tenths for the third and two-tenths for the fourth qualification so that according to my ideas if the maximum number of marks for any scholarship were two hundred they would be apportioned as follows Sixty to each of the first and third qualifications and forty to each of the second and fourth qualifications;

A.D. 1916.

- (ii) The marks for the several qualifications would be awarded independently as follows (that is to say) the marks for the first qualification by examination for the second and third qualifications respectively by ballot by the fellow-students of the candidates and for the fourth qualification by the head master of the candidates school; and
- (iii) The results of the awards (that is to say the marks obtained by each candidate for each qualification) would be sent as soon as possible for consideration to the Trustees or to some person or persons appointed to receive the same and the person or persons so appointed would ascertain by averaging the marks in blocks of twenty marks each of all candidates the best ideal qualified students.

24. No student shall be qualified or disqualified for election to a scholarship on account of his race or religious opinions.

25. Except in the cases of the four schools hereinbefore mentioned the election to scholarships shall be by the Trustees after such (if any) consultation as they shall think fit with the minister having the control of education in such colony province state or territory.

26. A qualified student who has been elected as aforesaid shall within six calendar months after his election or as soon thereafter as he can be admitted into residence or within such extended time as my Trustees shall allow commence residence as an undergraduate at some college in the University of Oxford.

27. The scholarship shall be payable to him from the time when he shall commence such residence.

28. I desire that the scholars holding the scholarships shall be distributed amongst the colleges of the University of Oxford and not resort in undue numbers to one or more colleges only.

29. Notwithstanding anything hereinbefore contained my Trustees may in their uncontrolled discretion suspend for such time as they shall think fit or remove any scholar from his scholarship.

30. My Trustees may from time to time make vary and repeal regulations either general or affecting specified scholarships only with regard to all or any of the following matters (that is to say):—

- (i) The election whether after examination or otherwise of qualified students to the scholarships or any of them and the method whether by examination or otherwise in which their qualifications are to be ascertained;
- (ii) The tenure of the scholarships by scholars;
- (iii) The suspension and removal of scholars from their scholarships;
- (iv) The method and times of payment of the scholarships;
- (v) The method of giving effect to my wish expressed in clause 28 hereof; and

(vi) Any and every other matter with regard to the scholarships or any of them with regard to which they shall consider regulations necessary or desirable. A.D. 1916.

31. My Trustees may from time to time authorise regulations with regard to the election whether after examination or otherwise of qualified students for scholarships and to the method whether by examination or otherwise in which their qualifications are to be ascertained to be made—

- (i) By a school in respect of the scholarships tenable by its students; and
- (ii) By the minister aforesaid of a colony province state or territory in respect of the scholarships tenable by students from such colony province state or territory.

32. Regulations made under the last preceding clause hereof if and when approved of and not before by my Trustees shall be equivalent in all respects to regulations made by my Trustees.

33. No regulations made under clause 30 or made and approved of under clauses 31 and 32 hereof shall be inconsistent with any of the provisions herein contained.

* * * * *

35. My Trustees hereinbefore named shall free of all duty whatsoever at such time as they shall think fit set apart out of my estate such a scholarship fund (either by appropriation of existing investments or by making other investments or partly in one way and partly in the other) as they shall consider sufficient by its income to pay the scholarships and in addition a yearly sum of £1,000.

36. My Trustees shall invest the scholarship fund and the other funds hereinbefore established or any part thereof respectively in such investments in any part of the world as they shall in their uncontrolled discretion think fit and that without regard to any rules of equity governing investments by trustees and without any responsibility or liability should they commit any breach of any such rule with power to vary any such investments for others of a like nature.

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39. Until the scholarship fund shall have been set apart as aforesaid I charge the same and the scholarships upon the residue of my real and personal estate.

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