CHAPTER xc.

An Act to amend the provisions of the Will of the late Right Honourable Cecil John Rhodes and for other purposes. [10th May 1929.]

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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 (afterwards Sir Lewis Loyd Michell) and Bourchier 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:

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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 Bourchier Francis Hawksley as should be living at his death absolutely and if more than one as joint tenants:

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 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 by the said codicil the Testator revoked clauses 23 24 and 25 of his said will and substituted therefor three clauses set out under those numbers in the schedule to this Act:

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 (afterwards 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 Bourchier 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 three 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 Bourchier 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:

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 by the Rhodes Estate Act 1916 a codicil to the said will whereby the Testator left certain yearly scholarships as therein mentioned was revoked and the trustees for the time being of the said will were directed to establish twelve scholarships as therein mentioned 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 said trustees might from time to time in their discretion determine:

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 the said Earl Grey Alfred Beit Bourchier Francis Hawksley Lord Milner and Leander Starr Jameson have since died and the said Earl of Rosebery and the said Lewis Loyd Michell have resigned the said trusts and other trustees have been appointed in their places:

And whereas the said trustees have not only established the scholarships directed by the said will and have as directed thereby set apart a scholarship fund sufficient for that purpose but have also with a view to the better carrying out of the scholarship trust and the well-known wishes of the Testator on their own initiative created additional scholarships and increased the value of the scholarships and have for that purpose carried to such scholarship fund moneys at their free disposal and intend to create further scholarships as and when they consider it feasible and desirable:

And whereas owing to the changes of circumstances and in the distribution of population and the methods of education which have taken place during the years

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which have elapsed since the death of the testator there is danger of the main purposes of the will being frustrated unless the provisions in the will restricting the discretion of the trustees in the application of the said scholarship fund and in the organisation of scholarships are relaxed to the extent hereinafter mentioned:

And whereas the yearly sum of one thousand pounds mentioned in clause thirty-five of the said will has proved wholly inadequate to defray the administrative cost of the system of scholarships established under the will:

And whereas it is expedient that the trustees should be authorised to establish a capital reserve fund in the manner and for the purposes hereinafter appearing:

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 (that is to say):—

Short title.

1. This Act may be cited as the Rhodes Trust Act 1929.

Interpretation.

2. In this Act—

"the trustees" means—

The Right Honourable Stanley Baldwin M.P.;

The Right Honourable Leopold Charles Maurice Stennett Amery M.P.;

The Right Honourable Douglas McGarel Baron Hailsham;

The Right Honourable Simon Joseph Baron Lovat K.T.;

Sir Otto Beit Baronet K.C.M.G.;

Geoffrey Dawson Esq.;

The Right Honourable Herbert Albert Laurens Fisher; and

Edward Robert Peacock Esq.;

and the survivors of them or other the trustees for the time being of the will of the Testator;

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

"the will" means as the case may require the will of the Testator or that will as altered by the said codicil of the eleventh day of October one thousand nine hundred and one and the said Rhodes Estate Act 1916 or either of them;

"the scholarship fund" means the scholarship fund set apart by the trustees under the will including any augmentation thereof.

Extension of powers of trustees.

3. Notwithstanding anything in the clauses of the will set out in the schedule to this Act the trustees may—

(*a*) make such changes in the number distribution tenure duration and administration of the scholarships provided for by the will as will in their judgment best fulfil the purposes and intention of the Testator Provided always that—

(i) the total number of scholarships allotted by the will respectively to Rhodesia South Africa Australia New Zealand Canada Newfoundland the Colony or Islands of the Bermudas and the Colony or Island of Jamaica and the United States of America shall not be reduced otherwise than as provided for in the will in the event of the income being insufficient for payment in full of all the scholarships for the time being payable;

(ii) the allocation of scholarships by the will to different parts of or to schools and colleges in South Africa Australia and Canada shall not be affected;

(iii) the order of priority in the event of the income of the scholarship fund being insufficient for the payment of all the scholarships shall not be affected;

(iv) the duration of any scholarship shall not be reduced to less than three years except in the case of a scholar who has had a prior university education;

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(*b*) fix the scholarships or any of them at such an amount as the trustees in their discretion may from time to time deem necessary to enable effect to be given to the intentions of the Testator but so that no scholarship shall be of a less value than three hundred pounds per annum.

As to placing scholars elsewhere than in Oxford colleges and as to post-graduate studies.

4.—(1) If at any time there shall in the opinion of the trustees be a larger number of scholars holding scholarships or appointed to scholarships than can be suitably placed by the trustees in colleges in the University of Oxford the trustees may place any such scholars at other universities in the United Kingdom having a residential system in such manner and on such terms as the trustees shall think fit.

(2) The trustees may apply any part of the income of the scholarship fund in enabling or assisting any person who shall have held or be holding a scholarship to engage in or continue post-graduate studies in such manner or place as will in the opinion of the trustees promote the main purposes of the Testator as defined by the will.

Expenses of administration.

5. The trustees may defray out of the scholarship fund all reasonable expenses of and incidental to the administration by them of the scholarship system.

Capital reserve fund.

6.—(1) The trustees may apply any part of the capital or income of the scholarship fund which is in their opinion for the time being not needed to defray the cost of any scholarships created by the will for the improvement or extension of the scholarship system or for establishing or increasing a capital reserve fund.

(2) The capital and income of the capital reserve fund or any part or parts of the same respectively shall be primarily applied in making up in any year any amount by which the income of the scholarship fund may be less than is necessary to defray the cost of the scholarships created by the will and subject thereto shall be applicable in such manner as the trustees may think fit in or towards all or any of the following purposes (that is to say) :—

(*a*) the augmentation of the income or capital of the scholarship fund;

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(*b*) the improvement or extension of the scholarship system established or in force from time to time or for any charitable purposes in connection with the endowment extension or maintenance of the Rhodes House or its Library in the University of Oxford; or

(*c*) in the advancement of the Testator's main purposes of education in any university of the British Empire.

Costs of Act.

7. 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.

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The SCHEDULE referred to in the foregoing Act.

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).

16. Whereas I consider that the education of young Colonists at one of the Universities in the United Kingdom is of great advantage to them for giving breadth to their views for their instruction in life and manners and for instilling into their minds the advantage to the Colonies as well as to the United Kingdom of the retention of the unity of the Empire And whereas in the case of young Colonists studying at a University in the United Kingdom I attach very great importance to the University having a residential system such as is in force at the Universities of Oxford and Cambridge for without it those students are at the most critical period of their lives left without any supervision And whereas there are at the present time 50 or more students from South Africa studying at the University of Edinburgh many of whom are attracted there by its excellent medical school and I should like to establish some of the scholarships hereinafter mentioned in that University but owing to its not having such a residential system as aforesaid I feel obliged to refrain from doing so And whereas my own University the University of Oxford has such a system and I suggest that it should try and extend its scope so as if possible to make its medical school at least as good as that at the University of Edinburgh And whereas I also desire to encourage and foster an appreciation of the advantages which I implicitly believe will result from the union of the English-speaking peoples throughout the world and to encourage in the students from the United States of North America who will benefit from the American scholarships to be established for the reason above given at the University of Oxford under this my Will and an attachment to the country from which they have sprung but without I hope withdrawing them or their sympathies from the land of their adoption or birth Now therefore I direct my Trustees as soon as may be after my death and either simultaneously or gradually as they shall find convenient and if gradually then in such order as they shall think fit to establish for male students the scholarships hereinafter directed to be established each of which shall be of the yearly value of £300 and be tenable at any College in the University of Oxford for three consecutive academical years.

17. I direct my Trustees to establish certain scholarships and these scholarships I sometimes hereinafter refer to as "the Colonial scholarships."

18. The appropriation of the Colonial scholarships and the numbers to be annually filled up shall be in accordance with the following table :—

Total number appropriated.	To be tenable by students of or from	Number of scholarships to be filled up in each year.
9	Rhodesia - - - - - - -	3 and no more.
3	The South African College School in the Colony of the Cape of Good Hope	1 and no more.
3	The Stellenbosch College School in the same Colony - - - - -	1 and no more.
3	The Diocesan College School of Rondebosch in the same Colony - - -	1 and no more.
3	St. Andrews College School Grahamstown in the same Colony - - -	1 and no more.
3	The Colony of Natal - - - -	1 and no more.
3	The Colony of New South Wales -	1 and no more.
3	The Colony of Victoria - - -	1 and no more.
3	The Colony of South Australia - -	1 and no more.
3	The Colony of Queensland - - -	1 and no more.
3	The Colony of Western Australia -	1 and no more.
3	The Colony of Tasmania - - -	1 and no more.
3	The Colony of New Zealand - -	1 and no more.
3	The Province of Ontario in the Dominion of Canada - - - -	1 and no more.
3	The Province of Quebec in the Dominion of Canada - - - -	1 and no more.
3	The Colony or Island of Newfoundland and its Dependencies - - -	1 and no more.
3	The Colony or Islands of the Bermudas	1 and no more.
3	The Colony or Island of Jamaica -	1 and no more.

19. I further direct my Trustees to establish additional scholarships sufficient in number for the appropriation in the next following clause hereof directed and those scholarships I sometimes hereinafter refer to as "the American scholarships."

20. I appropriate two of the American scholarships to each of the present States and Territories of the United States of North America Provided that if any of the said Territories shall in my lifetime be admitted as a State the scholarships appropriated to such Territory shall be appropriated to such State and that my Trustees may in their uncontrolled discretion withhold for such time as they shall think fit the appropriation of scholarships to any Territory.

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21. I direct that of the two scholarships appropriated to a State or Territory not more than one shall be filled up in any year so that at no time shall more than two scholarships be held by the same State or Territory.

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 kindliness 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;

(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 by 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 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;

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(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.

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.

38. My Trustees shall after the death of the survivor of my said brothers and sisters hold my said interest in the said Dalston estate as an accretion to the capital of the scholarship

fund and the net rents and profits thereof as an accretion to the income of the scholarship fund and shall by means of the increase of income of the scholarship fund so arising establish such number of further scholarships of the yearly value of £300 each as such increase shall be sufficient to establish Such further scholarships shall be for students of such British Colony or Colonies or Dependency or Dependencies whether hereinbefore mentioned or not as my Trustees shall in their uncontrolled discretion think fit And I direct that every such further scholarship shall correspond in all respects with the scholarships hereinbefore directed to be established and that the preceding provisions of this my Will which apply to the scholarships hereinbefore directed to be established or any of them shall where applicable apply to such further scholarships.

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.

40. I give the residue of my real and personal estate unto such of them the said Earl of Rosebery Earl Grey Alfred Beit William Thomas Stead Lewis Loyd Michell and Bourchier Francis Hawksley as shall be living at my death absolutely and if more than one as joint tenants.

41. My Trustees in the administration of the trust business may instead of acting personally employ and pay a Secretary or Agent to transact all business and do all acts required to be done in the trust including the receipt and payment of money.

42. My intention is that there shall be always at least three Trustees of my Will so far as it relates to the scholarship trusts and therefore I direct that whenever there shall be less than three Trustees a new Trustee or new Trustees shall be forthwith appointed.

Printed by Eyre and Spottiswoode, Ltd.,
for
William Richard Codling, Esq., C.B., C.V.O., C.B.E., the King's Printer of Acts of Parliament.

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