



CHAPTER 3.

An Act to make provision with respect to the shares of Thomas Roper, deceased, in the capital and business of the firm of Harrison, Ainslie, and Company. [3d July 1879.] A.D. 1879.

WHEREAS for very many years prior to the date of the will herein-after recited of Thomas Roper, late of Gawwithfield in the parish of Ulverston and county of Lancaster, ironmaster, the trades or businesses of ironmasters, gunpowder manufacturers, and shipowners had been carried on in copartnership by various persons from time to time under the style or firm in England of "Harrison, Ainslie, and Company," and "The Newland Company," and in Scotland of "The Lorn Furnace Company":

And whereas the said copartnership businesses were carried on without any partnership articles or deed of partnership, but in the books of the said copartnership the capital of the firm was treated and dealt with as being divided into certain shares, and such shares were considered to be capable of subdivision, and on the death of a partner his death was not considered to occasion any dissolution of the copartnership, but his shares or parts of shares in the capital and business thereof were considered to devolve upon his personal representative or representatives or legatee or legatees, and such representative or representatives or legatee or legatees (as the case might be) was or were thereupon admitted into partnership with the other partners in respect of the shares or parts of shares of such deceased partner:

And whereas at the date of his will herein-after recited the said Thomas Roper was a partner in the said firm, which is referred to in his said will as "the Newland Iron Company":

And whereas the said Thomas Roper duly made and signed his will dated the seventeenth day of March one thousand eight hundred and seventy, and thereby, after making certain specific

A.D. 1879.

devises and bequests, gave, devised, and bequeathed unto his son Richard Steven Roper, and to his friends John Cowans, of Wood Bank, Carlisle, ironmaster, and Thomas Dodgson, of Ulverston, book-keeper, all his share and interest in the property, business, works, capital, and revenue of the Newland Iron Company, carried on at Ulverston and at various other places in England and Scotland; and also all his money, securities for money, shares in ships, and in railway, waterworks, and other public companies, and all other his personal estate and effects whatsoever and wheresoever not otherwise then already disposed of, or of which he then had or at the time of his decease should have power to dispose by that his will; and also all his real estate whatsoever and wheresoever, with all the rights, hereditaments, and appurtenances thereunto belonging, to hold all and singular his said real and personal estate (except as aforesaid) to the said Richard Steven Roper, John Cowans, and Thomas Dodgson, their heirs, executors, administrators, and assigns, upon the following trusts, namely, upon trust, as soon as conveniently might be after his decease, to sell and convert into money such parts of his personal estate not specifically bequeathed (exclusive of his interest in the said Newland Iron Company) as might not consist of money or securities for money, and then upon trust to invest the produce of such sale and conversion upon Government or real securities, or upon good and approved debenture or preferential stock in railway or other public companies; and as to that portion of his real estate which consisted of building ground at Barrow-in-Furness, upon trust to sell the same as in his said will mentioned; and as to all and singular the moneys to arise from such sales, upon trust to invest the same from time to time upon the like securities as above directed with respect to the produce of such parts of his personal estate as were above directed to be sold and converted; and he directed his said Trustees to stand possessed of all the said stocks, funds, and securities, and of his said share and interest in the Newland Iron Company, and of all other his personal estate and effects whatsoever and wheresoever, and also seized and possessed of all his said real estate upon trust to receive the rents, interest, dividends, and annual produce thereof, and thereout to pay yearly and every year unto his wife Jane the sum of three hundred pounds for and during the term of her natural life, or so long as she continued his widow, by two equal half-yearly payments on the twelfth day of May and the twelfth day of August in each year, the first payment to become due and be made on whichever of the said days should happen next after the expiration of six months after

his decease, and in case his said wife should marry again then upon trust to pay to her thenceforward during the remainder of her life (in lieu of the said sum of three hundred pounds) the annuity or sum of one hundred and fifty pounds at such times and in such manner as above directed, her receipts alone, notwithstanding coverture, to be sufficient discharges to his said trustees for all payments made by them to her; and as to the residue and remainder of the rents, interest, dividends, and annual produce of his said real and personal estate as aforesaid, upon trust to pay the same unto his said son Richard Steven Roper during the life of the testator's said wife for his own use and benefit, and from and after the decease of the testator's said wife, if his said son should be then living, then he gave, devised, and bequeathed all his real and personal estate whatsoever and wheresoever unto his said son, his heirs, executors, administrators, and assigns for ever, for his own absolute use and benefit, and thenceforth the trusts of that his will should cease and determine; but if his said son should die in the lifetime of the testator's said wife, leaving his (the son's) wife Mary him surviving, then upon trust to pay the said residue and remainder of the said rents, interest, dividends, and annual produce of the testator's said real and personal estate unto his son's widow, the said Mary, until the death of the testator's said wife, or until the coming of age of Mary Agnes Isabel Roper, the daughter of his said son and his said son's wife; and from and after the death of the testator's said wife, then upon trust to pay the whole income arising from his said real and personal estate unto the said Mary the widow of his said son, until her daughter, the said Mary Agnes Isabel Roper, should attain the age of twenty-one years, and upon and after the happening of that event then upon trust to pay one moiety of the said rents, interest, and dividends unto the said Mary, the widow of his said son, and the other moiety to the said Mary Agnes Isabel Roper, for their respective absolute uses, the receipts alone of the said Mary Agnes Isabel Roper to be sufficient discharges to his said Trustees for all payments made by them to her; but in case the said Mary, his son's widow, should marry again, then, in lieu of the provisions above made for her, he directed his Trustees to pay to her the annuity or sum of one hundred pounds by two equal half-yearly payments at the times and in manner before directed with respect to the provision made for the testator's said wife; and then upon trust to pay the residue and remainder of the said rents, interest, and annual produce unto his said grand-daughter for her own absolute use as aforesaid, and from and after the death of the survivor of his said wife, his said son, and his said son's wife, then

A.D. 1879.

A. D. 1879. he gave, devised, and bequeathed the whole of his real and personal estate, whatsoever and wheresoever, unto his said grand-daughter the said Mary Agnes Isabel Roper, if then living, her heirs, executors, administrators, and assigns, absolutely; but in case his said grand-daughter should be then dead without leaving lawful issue her surviving, then, after payment of the annuities or annual provisions therein-before made for the testator's said wife and his said son and his son's wife, he directed his said trustees to pay the residue of the income of his said real and personal estate unto and amongst his next-of-kin in such manner and proportions as is directed by the statutes for the distribution of intestates' estates and effects, and from and after the death of the last survivor of his said wife, his son, and his son's wife, then he directed his said Trustees to sell and convert into money the whole of his real and personal estate, and pay and divide the produce thereof unto and amongst his next-of-kin in the proportion and in manner directed by the said statutes of distribution; and the said will contained the usual declarations enabling the Trustees or Trustee to give valid receipts and for the indemnity and reimbursement of the Trustees, and empowered the Trustees or Trustee to appoint any person or persons to be a Trustee or Trustees in the place of a Trustee or Trustees dying, desiring to be discharged, or refusing, declining, or becoming incapable to act, and directed that upon every such appointment the said trust property should be so transferred that the same might become vested in the new Trustee or Trustees, together with the former Trustees or Trustee, or solely, as the case might require; and the said testator thereby appointed the said Richard Steven Roper, John Cowans, and Thomas Dodgson executors and trustees of that his will:

And whereas the said John Cowans died in the lifetime of the said testator:

And whereas the said testator died on the second day of November one thousand eight hundred and seventy-four without having revoked or altered his said will, and the same was on the eighteenth day of December of the same year duly proved by the said Richard Steven Roper and Thomas Dodgson in the Principal Registry of Her Majesty's Court of Probate:

And whereas the said Thomas Roper, at the date of his death, was entitled to one-third part of one-fifteenth share, and also to three-nineteenth parts of one-third part of one-fifteenth share in the capital and business of the said partnership (such parts being together equivalent to forty-four one thousand seven hundred and tenth shares in the said capital and business), but the business of

manufacturing gunpowder, formerly carried on by the said firm, had been abandoned, and the business of ironmasters had been further developed and extended so as to embrace various branches of business connected with the manufacture and sale of iron and steel, and the said copartnership had discontinued the use of the firm or style of "The Newland Company" and "The Lorn Furnace Company," and had since used only the style or firm of "Harrison, Ainslie, and Company":

A.D. 1879.

And whereas the said Thomas Roper left his son the said Richard Steven Roper his sole next-of-kin him surviving, and, together with the said Jane Roper, the only persons who in case of his intestacy would have been entitled to his personal estate under the statutes of distribution:

And whereas the said Richard Steven Roper died on the seventh day of April one thousand eight hundred and seventy-six intestate, and letters of administration of his personal estate were, on the thirtieth day of May one thousand eight hundred and seventy-six, granted to the said Mary Roper, his widow, by Her Majesty's High Court of Justice, in the District Registry attached to the Probate Division thereof at Llandaff:

And whereas by indenture dated the twenty-fifth day of April one thousand eight hundred and seventy-seven, and expressed to be made between the said Thomas Dodgson of the one part, and Aymer Ainslie, of Ulverston aforesaid, of the other part, in pursuance of the power in that behalf contained in the said recited will of the said Thomas Roper, the said Aymer Ainslie was duly appointed a Trustee of the said will in the place of the said Richard Steven Roper, deceased, and by virtue of the same indenture the trust premises were duly vested in the said Thomas Dodgson and Aymer Ainslie, upon the trusts of the said will:

And whereas the said Mary Roper, on the fifth day of February one thousand eight hundred and seventy-eight, intermarried with Robert John Cotterill Simpkins, of Melrose Villa, Stow Park, Newport, in the county of Monmouth, bank manager:

And whereas an action of *Roper v. Dodgson*, 1878. R. No. 143, in which the said Mary Agnes Isabel Roper, by the said Robert John Cotterill Simpkins, her next friend, is plaintiff, and the said Thomas Dodgson and Aymer Ainslie are defendants, is now pending in the Chancery Division of Her Majesty's High Court of Justice, for the administration of the estate of the said Thomas Roper, and by the judgment in the said action, dated the twelfth day of July one thousand eight hundred and seventy-eight, it was (inter alia) ordered that the trusts of the will of the said Thomas Roper should

A.D. 1879. be performed and carried into execution under the directions of the Court:

And whereas by an order in the said action dated the twentieth day of November one thousand eight hundred and seventy-eight it was ordered that, in addition to the inquiries directed by the said judgment, dated the twelfth day of July one thousand eight hundred and seventy-eight, the following inquiries should be made, namely, an inquiry whether there was then any deed of partnership between the members of the firms of Harrison, Ainslie, and Company, and the Newland and Lorn Furnace Company; also an inquiry whether the Trustees of the will of the said testator, Thomas Roper, had any and what power under the said will to enter into a deed of partnership or to carry on the trades or businesses of the said firms in conjunction with the other partners therein; also an inquiry whether the said Trustees had any and what power under the said will to sell the share of the said testator in the said firms; and if it should appear that there was not any deed of partnership, and that the said Trustees had not any power under the said will to carry on the said trades or businesses, and had not under the said will any present power to sell the said share of the said testator in the said firms, an inquiry whether it would be for the benefit of the parties interested in the estate of the said testator, who were not sui juris, that application should be made to Parliament for an Act conferring on the said Trustees of the said testator's estate the necessary power to enter into such a partnership deed, in conjunction with the other members of the said firms, for the purposes of carrying on the said trades or businesses, and also conferring on the said Trustees the necessary power to sell the said share of the said testator in the said firms as if they had been empowered so to do at any time after the death of the said testator by the terms of his said will; and it was further ordered that if it should be certified that it would be for the benefit of such parties, then that a proper Bill in Parliament should be settled by the judge for such purpose:

And whereas the business of the said firm of Harrison, Ainslie, and Company has been and is carried on at a very considerable profit, and if the concern were now wound up and the capital thereof (after paying or providing for debts and liabilities) were divided among the several partners, including the personal representatives of the said Thomas Roper, the result would be very prejudicial to the persons now or hereafter to become beneficially interested under the said will of the said Thomas Roper:

And whereas it has been proposed and provisionally arranged that the business of the said firm shall be carried on under a deed of

settlement to be approved of by the Chancery Division of the said High Court of Justice in the said action of Roper v. Dodgson: A.D. 1879.

And whereas it is considered that the said Trustees of the will of the said Thomas Roper have no power to concur in the said proposed arrangement for the carrying on of the said business, nor (except on the happening of certain events, which at present appear to be remote) to effect any sale of the shares late of the said Thomas Roper in the said firm and the capital thereof:

And whereas by the certificate of the chief clerk of his Lordship the Vice-Chancellor Sir Richard Malins, in the said action of Roper v. Dodgson, made in pursuance of the said judgment of the twelfth day of July one thousand eight hundred and seventy-eight, and of the said order of the twentieth day of November one thousand eight hundred and seventy-eight, and dated the twenty-fifth day of March one thousand eight hundred and seventy-nine, it was certified (inter alia) that there was not any deed of partnership between the members of the said firms of Harrison, Ainslie, and Company, and the Newland and Lorn Furnace Company, and that the defendants the Trustees of the will of the said testator, Thomas Roper, had not any power under the will of the said testator to enter into a deed of partnership, or to carry on the trades or businesses of the said firms in conjunction with the other partners therein, and that the said defendants had no power under the said testator's will to sell the share of the said testator in the said firms, except on the happening of certain events, which had not then happened and appeared to be remote, and that it would be for the benefit of the parties interested in the estate of the said testator, who were not sui juris, that application should be made to Parliament for an Act conferring on the said defendants, as Trustees of the said testator's estate, the necessary power to enter into such a partnership deed in conjunction with the other members of the said firms for the purposes of carrying on the said trades or businesses, and also conferring on the said defendants the necessary power to sell the said share of the said testator in the said firms as if they had been empowered so to do at any time after the death of the said testator by the terms of the said will, and that the draft of a proper Bill to Parliament had been settled by the judge for such purposes (being the present Bill), and was identified by the signature of the said chief clerk in the margin thereof, and that the several instruments, facts, and events recited in the preamble of the said Bill before the recital therein of the said certificate had been proved in the said action of Roper v. Dodgson:

And whereas such certificate has been duly approved by Mr. Justice Fry, and filed in the Report Office of the Chancery Division of the High Court of Justice:

A.D. 1879.

And whereas the objects of this Act cannot be obtained without the authority of Parliament :

Wherefore Your Majesty's most dutiful and loyal subjects, Thomas Dodgson and Aymer Ainslie, do most humbly beseech Your Majesty that it may be enacted; and be it enacted by the Queen'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 for all purposes be cited as *Roper's Estate Act, 1879.*

Trustees may carry out arrangements approved by Court of Chancery.

2. Notwithstanding the trusts of the will of the said Thomas Roper, it shall be lawful for the Trustees or Trustee for the time being of such will to concur, in respect to the said forty-four one thousand seven hundred and tenth shares or other the shares of the said Thomas Roper in the capital and business of the said firm of Harrison, Ainslie, and Company, in the said proposed arrangement for the carrying on of the business of the said firm under a deed of settlement to be approved of by the Chancery Division of the High Court of Justice in the said action of *Roper v. Dodgson*, or in any modification of the said arrangement to be approved of in like manner, and for the purposes aforesaid to enter into, make, execute, and do all such deeds, instruments, assurances, and things as the said Court, by any order or orders to be made in the said action of *Roper v. Dodgson*, shall from time to time direct.

Trustees may sell shares by direction of Court of Chancery.

3. Notwithstanding the trusts of the said will of the said Thomas Roper, it shall be lawful for the Trustees or Trustee for the time being of such will, (but subject and without prejudice to the said arrangement or any modification thereof as aforesaid in case the same shall be entered into by the said Trustees or Trustee,) and by the direction of the said Court in the said action of *Roper v. Dodgson*, to sell all or any of the said shares late of the said Thomas Roper of and in the capital and business of the said firm of Harrison, Ainslie, and Company, either to any person or persons entitled to any other of the shares therein, or to any other person or persons whomsoever.

Moneys arising from sale to be paid into Court.

4. The moneys to arise from every or any such sale as last aforesaid shall be paid into Court in the said action of *Roper v. Dodgson*, to the account of "Proceeds of sale of shares in Harrison, Ainslie, and Company," and shall be dealt with in such manner as the Court in the said action shall direct, in conformity with the trusts of the will of the said Thomas Roper in relation to his residuary personal estate, or as near thereto as circumstances will admit of.

5. Saving to the Queen's most Excellent Majesty, her heirs and successors, and to all and every other persons and person, bodies politic and corporate, and their respective heirs and successors, executors, and administrators, (other than and except Thomas Dodgson, Aymer Ainslie, Jane Roper, Mary Simpkins, Mary Agnes Isabel Roper, and the next-of-kin of the said Thomas Roper,) all such estate, right, title, interest, claim, and demand whatsoever of, in, to, or out of the said shares, or any of them, as they, every or any of them, would have had, held, or enjoyed, or been entitled to if this Act had not been passed.

A.D. 1879.

General
saving.

6. This Act shall not be a Public Act, but shall be printed by the several printers to the Queen's most Excellent Majesty duly authorised to print the Statutes of the United Kingdom, and a copy thereof so printed by any of them shall be admitted as evidence thereof by all judges, justices, and others.

Act as
printed by
Queen's
printers to
be evidence.

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Printers to the Queen's most Excellent Majesty. 1879.