

No. 31, 1934.]

## PRIVATE ACT

To amend the will of the late Herbert Ainsworth.

Preamble.

WHEREAS the late Herbert Ainsworth (hereinafter referred to as "the testator") did, by Clause 7 of his last will, dated the twenty-third day of August, 1919, give all his real and personal estate not otherwise disposed of to the trustees mentioned in the said will upon certain trusts:

AND WHEREAS the said Clause 7 is as follows:—

"7. I give all my real and personal estate not hereinbefore otherwise disposed of to my trustees upon trust to sell, call in and convert into money the same with power to postpone such sale and conversion for so long as they shall think fit without being responsible for loss and out of the proceeds thereof to pay my funeral and testamentary expenses and debts and death, legacy and other duties in respect of my real and personal estate and to stand possessed of the residue (if any) upon trust to pay the same unto the said Arthur Mulliner and Walter Edward Hudson and a Trust Company nominated by them who shall apply the capital amount of such sum and the interest to be derived therefrom in assisting such men of British birth as they may think fit to come to the Union of South Africa from the United Kingdom and settle there as farmers or market gardeners, such assistance to be given in the form of an advance towards the cost of the passage money of any such man and/or towards the purchase price of the land which any such man may purchase and/or towards the purchase price of farming implements or otherwise howsoever as the said Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them in their discretion may think fit: Provided, however, that not more than one hundred and fifty pounds shall be advanced to any one such man and provided further that subject as hereinafter provided any advances so made shall be repaid to my said trustees with interest thereon at the rate of four pounds per centum per annum within not more than ten years from the date of the making of such advance. I direct that Arthur Mulliner and Walter Edward Hudson and the said Trust Company nominated by them shall make such advances with or without security and upon such terms for the repayment thereof as they in their absolute and uncontrolled discretion may think fit and my said trustees shall have the right in any case where they think fit of waiving the repayment of such advances or any part thereof. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall invest such portion of the proceeds of the residue of my real and personal estate not immediately required for making advances in any securities authorised by law in South Africa for trustees to invest in. I further direct that Arthur Mulliner and Walter Edward Hudson and the Trust Company nominated by them shall give good and sufficient publicity to this bequest."

AND WHEREAS the testator died on the thirty-first December, 1920, without having altered the terms of Clause 7 of his said will:

AND WHEREAS the said Arthur Mulliner and Walter Edward Hudson have nominated the South African and General Investment and Trust Company, Limited, as the trust company referred to in the said Clause 7, and that company has accepted the appointment:

AND WHEREAS the trustees referred to in the said will have paid over to the said Arthur Mulliner and Walter Edward Hudson and the South African and General Investment and Trust Company, Limited (who are hereinafter referred to as "the South African Trustees") all the moneys due to be paid to them in pursuance of Clause 7 of the said will:

AND WHEREAS it is expedient that the powers of the South African trustees should be extended so that in addition to the powers conferred upon them by Clause 7 of the said will they should have power to increase the amount which may be

advanced to any one person whom the trustees are allowed to assist in accordance with the provisions of the said will and this Act from the sum of one hundred and fifty pounds to the sum of five hundred pounds :

AND WHEREAS the said will makes no provision for the resignation of the South African trustees and the appointment of new trustees and it is expedient to make such provision :

AND WHEREAS it is expedient that the costs incurred in connection with this Act should be paid by the South African trustees out of the funds so held by them :

**BE IT THEREFORE ENACTED** by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows :—

Increased powers of South African trustees.

1. Notwithstanding anything to the contrary contained in the said will, the powers conferred upon the South African trustees by Clause 7 of the said will shall be extended so that in addition to the powers conferred upon them by the said clause it shall be lawful for them to increase the amount which may be advanced to any one person whom the trustees are allowed to assist in accordance with the provisions of the said will and this Act from the sum of one hundred and fifty pounds to the sum of five hundred pounds :

Resignation of trustees and appointment of new trustees.

2. (1) Any of the South African trustees may by writing under his hand resign from his office as trustee.

(2) Whenever a vacancy has occurred through any cause whatsoever, the remaining South African trustees or trustee shall from time to time by writing appoint some fit and proper person to fill any such vacancy : Provided that if the South African and General Investment and Trust Company, Limited, should for any cause cease to be a South African trustee, then the remaining trustees or trustee shall appoint some other trust company to act as a trustee in the place of the South African and General Investment and Trust Company, Limited.

Payment of costs of Act.

3. All costs, charges and expenses of and incident to the preparing, obtaining and passing of this Act, or otherwise in relation thereto, shall be paid by the South African trustees out of the funds in their hands.

Short title.

4. This Act may be cited as the Herbert Ainsworth Settlers Trust Private Act, 1934.