

No. 9, 1910.]

ACT

TO PROVIDE FOR THE SURRENDER OF THE GROOTE SCHUUR ESTATES TO THE GOVERNMENT OF THE UNION OF SOUTH AFRICA IN ACCORDANCE WITH THE WILL OF THE LATE CECIL JOHN RHODES AND FOR THE RELEASE OF THE TRUSTEES THEREUNDER FROM ALL RESPONSIBILITY IN CONNECTION WITH THE SAID ESTATES AND FOR OTHER PURPOSES.

(Assented to 26th December, 1910.)

WHEREAS the late Right Honourable Cecil John Rhodes (hereinafter referred to as the testator) did by Clause 13 of his last Will dated the first day of July, 1899, devise to trustees upon and subject to certain conditions his residence known as Groote Schuur and all other land belonging to him situated under Table Mountain in the Cape Division of the Colony of the Cape of Good Hope, the said Clause 13 being as follows:—

“13. I give my property following, that is to say, my residence known as De Groote Schuur situate near Mowbray in the Cape Division in the said Colony together with all furniture, plate, and other articles contained therein at the time of my death, and all other land belonging to me situated under Table Mountain, including my property known as Mosterts to my trustees hereinbefore named upon and subject to the conditions following, that is to say:—

“(1) The said property (excepting any furniture or like articles which have become useless) shall not nor shall any portion thereof at any time be sold, let or otherwise alienated.

"(2) No buildings for suburban residences shall at any time be erected on the said property and any buildings which may be erected thereon shall be used exclusively for public purposes and shall be in a style of architecture similar to or in harmony with my said residence.

"(3) The said residence and its gardens and grounds shall be retained for a residence for the Prime Minister for the time being of the said Federal Government of the States of South Africa to which I have referred in Clause 6 hereof, my intention being to provide a suitable official residence for the First Minister in that Government befitting the dignity of his position and until there shall be such a Federal Government may be used as a park for the people.

"(4) The grave of the late Jan Hendrik Hofmeyr upon the said property shall be protected and access be permitted thereto at all reasonable times by any member of the Hofmeyr family for the purpose of inspection or maintenance."

And whereas by Clause 14 of his said Will the testator gave to his said trustees the legacy therein mentioned to be applied as therein mentioned the said Clause 14 being as follows:—

"14. I give to my trustees hereinbefore named such a sum of money as they shall carefully ascertain and in their uncontrolled discretion consider to be ample and sufficient to yield income amounting to the sum of one thousand pounds sterling per annum and not less upon trust that such income shall be applied and expended for the purposes following, that is to say:—

"(1) On and for keeping and maintaining for the use of the Prime Minister for the time being of the said Federal Government of at least two carriage horses one or more carriages and sufficient stable servants.

"(2) On and for keeping and maintaining in good order the flower and kitchen gardens appertaining to the said residence.

"(3) On and for the payment of the wages or earnings including board and lodging of two competent men servants to be housed kept and employed in domestic service in the said residence.

"(4) On and for the improvement repair renewal and insurance of the said residence furniture plate and other articles."

And whereas by Clause 15 of his said Will the testator directed as follows:—

"Subject to the conditions and trusts hereinbefore contained the said Federal Government shall from the time it shall be constituted have the management administration and control of the said devise and legacy and that my trustee shall as soon as may be thereafter vest and pay the devise and legacy given by the two last preceding clauses hereof in and to such Government if a corporate body capable of accepting and holding the same or if not then in some suitable corporate body so capable named by such Government and that in the meantime my trustees shall in their uncontrolled discretion manage administer and control the said devise and legacy."

And whereas by Clause 6 of the said Will it appears that by the expression "Federal Government" the testator referred to a federation of the various States of South Africa or any of them:

And whereas the testator died on the twenty-sixth day of March, 1902:

And whereas the Right Honourable Archibald Philip Earl of Rosebery, K.G., K.T., the Right Honourable Albert Henry George Earl Grey, the Right Honourable Alfred Viscount Milner, G.C.B., G.C.M.G., the Right Honourable Leander Starr Jameson, the Honourable Sir Lewis Loyd Michell, C.V.O., and Bouchier Francis Hawksley, the present trustees of the said Will (in this Act called the trustees) are prepared on the passing of this Act to surrender and transfer to the Government of the Union of South Africa (in this Act called the Union Government) as representing the Federal Government referred to by the testator the lands and property referred to in Clause 13 of the said Will (in this Act hereinafter

called the Groote Schuur Estates) upon being released from their trust in that behalf under the said Will and on being indemnified in manner hereinafter appearing:

And whereas during his lifetime the testator granted certain tenancies, servitudes, rights, privileges, and concessions, in respect of certain portions of the Groote Schuur Estates, more particularly specified in the Second Schedule to this Act:

And whereas the trustees acting in accordance with the known wishes of the testator have preserved and, in certain cases, have extended such servitudes and privileges;

And whereas the trustees are prepared (subject to the deductions hereinafter mentioned), to pay to the Union Government the sum of twenty-five thousand pounds (being ample and sufficient to yield the clear annual income of one thousand pounds) to be applied and expended by the Union Government in manner provided by the Clause 14 of the said Will and by this Act;

And whereas it is expedient that the said surrender and transfer should be effected, the said payments made, and the said release granted, and that all the said existing tenancies, servitudes, rights, privileges, and concessions, shall remain unimpaired and of full force and effect notwithstanding the transfer of the Groote Schuur Estates to the Union Government;

Be it enacted by the King's Most Excellent Majesty, the Senate, and the House of Assembly of the Union of South Africa as follows:—

1. (1) From the commencement of this Act the Groote Schuur Estates (comprising the properties specified in the First Schedule thereto; together with all furniture, plate, and other articles belonging to the said Estate shall be transferred to the Union Government and shall vest in the Governor-General, subject to the conditions and directions contained in Clauses 13 and 15 of the Will of the testator, hereinbefore recited, and as if the Union Government were the Federal Government mentioned or referred to in those clauses.

(2) The trustees shall hand over to the Union Government all documents of title in their possession or control of or relating to the Groote Schuur Estates or any part thereof, and the Registrar of Deeds of the Province of the Cape of Good Hope shall endorse thereon, and on the counterparts thereof in his office, memoranda denoting the transfer of the property specified therein to the said Union Government.

(3) If at any time hereafter it be discovered that any property described in Clause 13 of the Will of the testator has been omitted from the First Schedule to this Act, such property shall, notwithstanding the omission, be transferred to and shall vest in the Governor-General as if it had been included in the said Schedule.

(4) No transfer duty, stamp duty, or any registration fees or charges shall be payable in respect of any transfer or vesting under this section.

2. The Groote Schuur Estates shall be held and enjoyed by the Union Government subject to and under reservation of the tenancies, servitudes, rights, privileges, and concessions (whether created by parole grant or otherwise) affecting those estates and more particularly specified in the Second Schedule to this Act, and to no others.

3. At the commencement of this Act the trustees shall pay to the Union Government the sum of twenty-five thousand pounds sterling in lieu of the annual sum of one thousand pounds sterling, provided for in Clause 14 of the Will of the testator, and thereupon the Union Government shall provide for, in the Estimates of Expenditure annually submitted to Parliament, and shall expend annually a sum of not less than one thousand pounds sterling upon the services specified in the said Clause 14; provided that the trustees may deduct from the said sum of twenty-five thousand pounds the sum of two thousand three hundred pounds, nine shillings and twopence being the amount expended by them since the thirty-first day of May 1910 upon the upkeep of the said Estates.

4. The trustees shall be absolutely released and discharged from the obligation to perform, or to see to the performance of, the conditions and trusts contained in Clauses 13, 14, and 15 of the Will of the testator, and shall be indemnified against all claims, demands, actions, and proceedings on the part of any person or persons in respect of or concerning anything done or suffered by the trustees in or in connection with the performance or execution of the conditions and trusts aforesaid or any of them.

5. Subject to the tenancies, servitudes, rights, privileges, and concessions contained in the Second Schedule to this Act, and to the conditions contained in Clause 13 of the Will of the testator, the Union Government may, if it think fit, dedicate a site on the Groote Schuur Estates for the purpose of University Buildings.

6. This Act may be cited for all purposes as the "Rhodes' Will (Groote Schuur Devolution) Act, 1910".

#### FIRST SCHEDULE.

No. 1.—(1) Certain piece of ground situate in the Division of the Cape at Mowbray, being the remaining extent of part of the place Welgelegen, measuring as per remaining extent 186 morgen 584 square roods and 54 square feet.

(2) The remaining extent of certain piece of ground with the buildings thereon marked No. 1 to 33 inclusive on the general plan of the divided remaining portion of the farm Welgelegen, situate as above, measuring as per remaining extent 10 morgen 301 square roods 3 square feet.

(3) Certain piece of perpetual quitrent land situate as above adjoining the said farm, measuring 18 morgen and 150 square roods.

(4) Certain piece of perpetual quitrent land situate as above, being part of Welgelegen, measuring 17 morgen and 92 square roods.

(5) Certain piece of land situate as above, being part of the place "Groote Schuur", measuring 8 morgen 395 square roods and 108 square feet.

(6) Certain piece of land situate as above adjoining the Estate "Welgelegen", measuring 165 square roods and 108 square feet.

(7) The remaining extent of a certain piece of perpetual quitrent land situate beneath the Windberg, in the Cape Division, measuring as per remaining extent 3 morgen 223 square roods and 106 square feet.

(8) The remaining extent of certain piece of freehold land, being portion of the place called "Zorgvliet", situate at Rondebosch, in the Cape Division, measuring as per remaining extent 238 square roods and 52 square feet.

(9) Certain four lots of ground marked Nos. 34, 35, 36, and 37 on the general plan of the divided remaining portion of the farm "Welgelegen" situate as above, measuring together 1 morgen 43 square roods and 143 square feet.

(10) The remaining extent of certain lots of ground marked on the same general plan, and being Nos. 38, 40, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 67, 80 to 91, 104, 105, 107, 108, 110, 111, 113, 114, 116, 117, 119, 120, 122, 123, 129, to 151 inclusive, measuring as per remaining extent 9 morgen 224 square roods and 104 square feet.

(Transfer No. 1607, dated 24th April, 1891.)

No. 2.—Certain piece of land being portion of the Estate called "Zorgvliet", situate at Rondebosch, in the Cape Division, measuring 14 morgen 72 square roods 10 square feet.

(Transfer No. 3308, dated 21st June, 1894.)

No. 3.—Certain piece of ground situate at Rondebosch, in the Cape Division, being portion of the Estate "Zorgvliet", originally granted to Jan Willem Eksteen on 10th October, 1834, and transferred to Henry William Mann on 27th October, 1892, measuring 1 morgen 152 square roods and 16 square feet.

(Transfer No. 4821, dated 28th August, 1894.)

No. 4.—Certain piece of freehold land situate at Rondebosch, in the Cape Division, being portion of the Estate "Rustenburg", measuring 17 morgen 538 square roods 23 square feet.

(Transfer No. 4180, dated 28th July, 1894.)

No. 4a.—Certain piece of land situate as above, being portion of the Estate "Rustenburg", measuring 4 morgen 402 square roods 90 square feet.

(Transfer No. 6131, dated 27th October, 1894.)

No. 5.—Certain piece of ground situate as above, being part of the property transferred to M. S. van der Byl on 22nd March, 1861, measuring 205 square roods 8 square feet.

(Transfer No. 5651, dated 30th September, 1895.)

No. 6.—The remainder of certain piece of ground situate as above, being the place called "Highstead", measuring as per remainder 16 morgen 43 square roods 35.5 square feet.

(Transfer No. 3120, dated 13th June, 1894.)

No. 7.—Certain piece of ground marked Lots 34 and 35 situate as above, being a subdivided portion of the remaining extent of the Estate called "De Groote Schuur", measuring 20 morgen 216 square roods and 24 square feet.

(Transfer No. 3172, dated 15th June, 1894.)

No. 8.—(1) Certain piece of ground marked Block O situate as above, being a subdivided portion of the remaining extent of the Estate called "De Groote Schuur", measuring 3 morgen 222 square roods 121 square feet.

(2) Certain piece of ground situate as above, marked Block N, being likewise a subdivided portion of the remaining extent of the Estate called "De Groote Schuur", measuring 6 morgen 46 square roods 10 square feet.

(Transfer No. 4358, dated 9th August, 1893.)

No. 9.—The undermentioned land in the Cape Division at Rondebosch, parts of the remaining extent of the Estate "De Groote Schuur", to wit:—

- (1) Lots 8, 9, 10, Block M, measuring 1 morgen 305 square roods 125 square feet.
- (2) Lot 7, Block M, measuring 207 square roods 79 square feet.
- (3) Lots 1 to 6, Block M, measuring 2 morgen 420 square roods 71 square feet.
- (4) Lot 28, measuring 1 morgen 468 square roods 18 square feet.
- (5) Lot 29, measuring 2 morgen 322 square roods 101 square feet.
- (6) Block L, measuring 572 square roods 36 square feet.

(Transfer No. 3853, dated 18th July, 1893.)

No. 10.—Certain Estate now called "De Groote Schuur", situate as above, made up of portions of the remaining extent of what originally was "De Groote Schuur":—

- (1) The portion measuring 5 morgen 181 square roods 86 square feet.
- (2) Another portion in extent 1 morgen 412 square roods 79 square feet.
- (3) Another portion in extent 532 square roods 131 square feet.
- (4) Certain three pieces of land known as "The Glen", marked on the general plan of subdivision Lots 4 to 17, in extent together 7 morgen 504 square roods 80 square feet, or
  - (a) land in extent 6 morgen 51 square roods 80 square feet;
  - (b) freehold part of Lot 4, in extent 1 morgen 88 square roods;
  - (c) land, part of freehold land between De Groote Schuur and Rustenburg, in extent 365 square roods.

(Transfer No. 4917, dated 8th September, 1893.)

No. 11.—The remainder of certain piece of land situate as above, being a portion of Block E (Groote Schuur Estate), measuring as per remainder 341 square roods 100 square feet.

(Transfer No. 8028, dated 27th November, 1896.)

No. 12.—(1) Certain piece of ground situate as above, being part of a sub-division (Block G) of the remaining extent of the Estate "De Groote Schuur", measuring 125 square roods and 64 square feet.

(2) Certain piece of ground situate as above, being part of a subdivided portion of the remaining extent of the Estate "De Groote Schuur", measuring 200 square roods 82 square feet.

(3) The remaining extent of a piece of ground situate as above, being a portion of the subdivided portion of the remaining extent of the Estate "De Groote Schuur", measuring 193 square roods 27 square feet.

(Transfer No. 1262, dated 16th March, 1895.)

No. 13.—Certain piece of freehold land situate as above, being the remainder of a portion of the divided Estate "De Groote Schuur", measuring as per remainder 503 square roods 134 square feet.

(Transfer No. 5509, dated 23rd September, 1895.)

No. 14.—Certain piece of ground with the building thereon, marked Lots Nos. 1 and 2, Block A, on the general plan of the subdivided Estate "De Groote Schuur", situate as above, measuring 63 square roods and 66 square feet.

(Transfer No. 5431, dated 19th September, 1895.)

No. 15.—Certain piece of ground with the buildings thereon situate as above, being the remaining extent of a subdivided portion of the remaining extent of the Estate called "De Groote Schuur", measuring as such remainder 71 square roods and 115 square feet.

(Transfer No. 5353, dated 16th September, 1895.)

No. 16.—Certain land situate as above, being part of Lots Nos. 3, 9, 11, and 12, Block A, of Groote Schuur, measuring 58 square roods 79 square feet.

(Transfer No. 5672, dated 30th September, 1895.)

No. 17.—(1) Certain piece of ground situate as above, being a portion (Lots Nos. 7 and 8) of the Ground Block A (Lots Nos. 1, 2, 4, 5, 6, 7, and 8) on the general plan of the subdivided Estate "De Groote Schuur", filed in the Deeds Office, measuring 68 square roods and 94 square feet.

(2) Certain piece of freehold land situate as above, being the remaining extent of the subdivided portion of certain piece of freehold land situate between the Estate "De Groote Schuur" and "Rustenburg", and of Lot No. 4 of the said divided Estate "De Groote Schuur", measuring as per remaining extent 132 square roods and 27 square feet.

(Transfer No. 3271, dated 26th April, 1897.)

No. 18.—Certain portion of a piece of land being part of the Estate "Mount Pleasant", situate in the Cape Division near Rondebosch, at Newlands, on the south-east side of the Devil's Peak, measuring 4 morgen 550 square roods.

(Transfer No. 1824, dated 16th April, 1894.)

No. 18 (a) (I).—Certain piece of ground situate in the Cape Division, near Rondebosch, at Newlands, on the south-east side of the Devil's Peak, being part of the Estate "Mount Pleasant", measuring 78 morgen and 254 square roods.

(II) Certain piece of ground, situate at Rondebosch, in the Cape Division, being part of the divided Estate "Groote Schuur", and marked Lots Nos. 27, 31, and 32 on the general plan of the said Estate, measuring 18 morgen 578 square roods and 40 square feet.

(III) Certain piece of land, situate at Rondebosch, in the Cape Division, being part of the divided Estate "Groote Schuur", and marked Lots Nos. 30 and 33 on the general plan of the said Estate, measuring 5 morgen 480 square roods and 85 square feet.

(Transfer No. 1823, dated 16th April, 1894.)

No. 19.—Certain piece of land, situate in the Cape District, at the source of the Liesbeek River, being the remaining extent of the Estate called "Kirstenbosch", measuring in its remaining extent 152 morgen 96 square roods.

(Transfer No. 7039, dated 2nd December, 1895.)

No. 20.—Certain piece of land, situate at Constantia, in the Cape Division, being a portion Lot B of the remaining extent of the farm "Klaassenbosch", measuring 36 morgen 35 square roods.

(Transfer No. 396, dated 27th January, 1896.)

No. 21.—Certain piece of land situate as above being a portion of Lot A of Klassenbosch being partly quitrent and partly freehold, the quitrent part measuring 3 morgen 150 square roods and the freehold part measuring 2 morgen 55 square roods, measuring in the whole 5 morgen 205 square roods.

(Transfer No. 395, dated 27th January, 1896.)

No. 22.—Certain piece of land in extent 61 morgen 102 square roods consisting of 23 morgen 460 square roods of quitrent land and 37 morgen 242 square roods of freehold land situate as above being portion A of the Estate "Bel Ombre".

(Transfer No. 3437, dated 30th April, 1897.)

No. 23.—Certain piece of perpetual quitrent land situate in Hout Bay Nek in the Cape Division being portion A of the land granted to J. F. van Helsdingen on 22nd November, 1832, measuring 332 square roods and 103 square feet.

(Transfer No. 3532, dated 4th May, 1898.)

No. 24.—(I) Certain piece of freehold land situate at Rosebank in the Cape Division being the remaining extent of the place called "Zorgvliet", measuring as per remaining extent 4 morgen 461 square roods and 56 square feet exclusive of roads.

(II) Certain piece of ground situate as above at Rondebosch being portion A of the Lots 1 to 33 of the divided Estate "Welgelegen", measuring 195 square roods 18 square feet.

(III) Certain piece of ground situate as last above being portion B of the Lots 1 to 33 of the divided Estate "Welgelegen", measuring 398 square roods and 128 square feet.

(Transfer No. 7074, dated 30th August, 1899.)

## SECOND SCHEDULE.

1. The preservation of continued public access to the park on the Groote Schuur Estate (other than the gardens and grounds immediately surrounding the residence for the Prime Minister referred to in Clause 13 of the Will of the testator) subject to such regulations as the Union Government may from time to time make and publish.

2. The use by the Western Province Agricultural Society for the purposes of a show ground, at a nominal rental of one pound per annum and during the pleasure of the Governor-General, of the land at Rosebank now used for that purpose in excess of land transferred to the said Society by the testator.

3. The rights of Rudyard Kipling acquired by virtue of a parole grant free of rent made by the testator of the life tenancy of the house, premises and grounds known as "The Woolsack" with reasonable access thereto and on conditions corresponding with the conditions customarily existing between landlord and tenant except a condition permitting any lease or sub-lease.

4. The rights of Mary Margaret Currey, widow of the late John Blades Currey, and of Mary Helen Currey, Winifred Maud Currey, Dorothy Christian Currey, Mona Marjorie Currey, and Cecil Maude Agnes Currey, daughters of the said late John Blades Currey, to the tenancy during the lifetime of the survivor of any of them of the house, premises and grounds known as "Welgelegen" acquired by virtue of a parole grant free of rent made by the testator in the manners and on the conditions, and subject to the exception, set forth in the last preceding paragraph of this Schedule.

5. The rights of Alida Andriena Mostert, Johanna Petronella Mostert and Wilhelmina Elizabeth Mostert to the tenancy during the lifetime of the survivor of any of them of the house, premises and ground known as "Welgelegen", acquired by virtue of a parole grant free of rent made by the testator in the manner and on the conditions and subject to the exception set forth in the third paragraph of this Schedule.

6. The concessions made respectively to the Princess Christian Homes and the Mowbray Hostel, whereunder buildings have been erected, equipped and established for the objects of the said institutions, so that each institution may continue to carry on its establishment in the buildings so erected and equipped so long as the institution is devoted to public purposes and is governed by a responsible committee in South Africa or in England.

7. The proper and efficient maintenance and preservation of the Rhodes Memorial on the Groote Schuur Estates by the proprietors of the Estates, and the right at all times of public access to the said Memorial, subject to such regulations as are referred to in the first paragraph of this Schedule.

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