

(No. 95.)



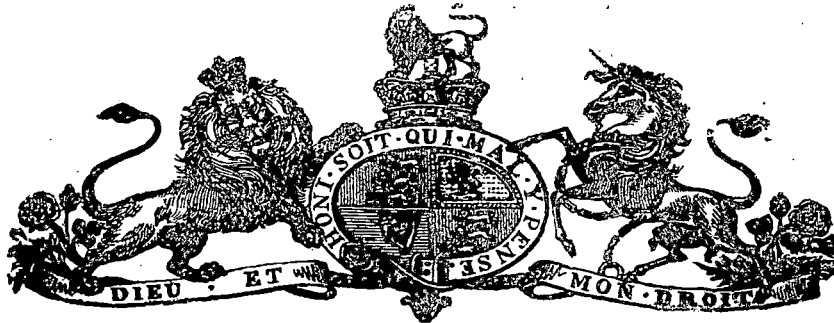
1887.

PARLIAMENT OF TASMANIA.

THE PERPETUAL TRUSTEES COMPANY BILL :

REPORT FROM THE SELECT COMMITTEE, WITH MINUTES
OF PROCEEDINGS, EVIDENCE, AND APPENDICES.

Brought up by Mr. Clark, and ordered by the House of Assembly to be printed,
August 18, 1887.



SELECT COMMITTEE, appointed on the 11th August, to enquire into "A Bill to confer Powers upon the Perpetual Trustees, Executors, and Agency Company of Tasmania, Limited."

MEMBERS OF THE COMMITTEE.

MR. FITZGERALD.
MR. HAMILTON.
MR. CLARK.
MR. DAVIES.

MR. DUMARESQ.
MR. GRAY.
MR. YOUNG.

DAYS OF MEETING.

Friday, 12th August ; Thursday, 18th August.

WITNESSES EXAMINED.

Mr. C. J. Barclay.
Hon. P. O. Fysh.
Mr. G. S. Crouch.

Mr. A. G. Webster.
Mr. C. E. Walch.
Mr. C. H. Grant.

R E P O R T.

Your Committee, having taken evidence in support of the allegations contained in the Preamble of the Bill, have the honor to report that the said Preamble has been proved to their satisfaction.

Your Committee, having agreed that the Preamble should stand part of the Bill, then entered upon the consideration of the various Clauses and the Schedule of the Bill, and have approved of them, with the following amendments, which are now submitted to your Honorable House :—

(1.) That the notice of application by Executors or Administrators for consent of the Court or a Judge to hand over business to the Company be increased to fourteen days.

(2.) That the rate of commission paid to the Company upon income be reduced from Five Pounds to Two Pounds Ten Shillings per cent.

(3.) That the following new Sub-section be inserted after the word “ Association ” in Clause 19 :—

“ No Member shall hold more than Five hundred shares in his own right.”

(4.) That Sub-section 2 in Clause 19 be struck out, and the following new Clause inserted in lieu thereof :—

“ In the event of the said Company being wound up, every then present and past Member of the said Company shall be liable to contribute to the assets of the said Company to the extent of Five Pounds upon each Share of which such Member is or shall have been, within One year, or, in the case of a Director of the said Company, within Two years, next prior to the commencement of such winding up, the holder over and above the amount (if any) unpaid on the Shares in respect of which he may be liable as a present or a past Member.”

(5.) That provision be inserted for publishing the Statement of the Company's affairs in the *Gazette*, and for the audit of the Declaration as to Assets and Liabilities.

(6.) That Clause 25 be struck out, and the following Clause inserted in lieu thereof :—

“ 25. Where by any Will or other testamentary writing, or by any deed or any other instrument in writing, the said Company shall be directed to employ any Solicitor named therein to conduct the legal or professional business of any Trust or other Estate referred to in any such Will, Deed, Writing, or instrument, or whenever the said Company shall, previously to the transfer to the said Company of the trusteeship, business, or management of any Trust or other Estate, agree with any Solicitor that he shall have the conduct of and be employed in and about the legal and professional business of such Trust or other Estate, then the said Company, in the event of their undertaking such trust or business, shall employ such Solicitor accordingly; and such Solicitor shall in such case be deemed and taken to be the Solicitor of the said Company in any such trust or business as aforesaid, and shall not be removed without an Order of the Supreme Court or a Judge thereof, upon the application of the said Company or of any person interested in such Estate, upon such cause being shown as the said Court or Judge shall deem sufficient; and in case any such Order shall be made, the Court or Judge may appoint the Solicitors of the said Company to act as Solicitors to such trust or business.”

(7.) That the following Clause be inserted as Clause 26 of the Bill :—“ Nothing in this Act contained shall be deemed to give to the said Company any *locus standi* to oppose the granting of similar powers to those conferred upon the same Company by this Act to any other Company, or to corporations generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.”

Your Committee, after a careful consideration of the evidence before them, do not feel justified in recommending that the prayer of the Petitioners that the Bill be made a public measure be acceded to, and are of opinion that had such a course been adopted it would have proved to be impracticable.

Your Committee accordingly recommend the Bill as amended to the favourable consideration of your Honorable House.

A. I. CLARK, *Chairman*.

Committee Room, 18th August, 1887.

MINUTES OF PROCEEDINGS.

FRIDAY, AUGUST 12, 1887.

The Committee met at 11 A.M.

Present—Mr. Hamilton, Mr. Dumaesq, Mr. Young, Mr. Fitzgerald, Hon. A. I. Clark (*Mover*.)

Mr. Clark was voted to the Chair.

The following documents were laid upon the Table:—

1. Petition for leave to introduce the Bill.
2. Petition that provisions of Bill be made general rather than private. 103 signatures.
3. Petition in favour of Bill. 40 signatures.

Mr. C. J. Barclay was introduced.

Resolved, That Counsel be heard in support of the Bill.

Counsel (Hon. Alfred Dobson) addressed the Committee.

A letter from Mr. W. Ritchie, of Launceston, was tabled, read, and accepted as evidence. (*Vide* Appendix D.)

The Hon. P. O. Fysh was called in and examined.

Mr. Fysh withdrew.

Mr. C. J. Barclay was called in and examined.

Mr. C. J. Barclay withdrew.

Mr. A. G. Webster was called in and examined.

Mr. Webster withdrew.

Mr. C. E. Walch was called in and examined.

Mr. Walch withdrew.

Mr. C. H. Grant was called in and examined.

Mr. C. H. Grant withdrew.

The Committee adjourned at 1.15 P.M. until 11 A.M. on Thursday, the 18th instant.

THURSDAY, AUGUST 18, 1887.

The Committee met at 11.5 A.M.

Present—Hon. A. I. Clark (Chairman), Mr. Fitzgerald, Mr. Hamilton, Mr. Dumaesq, Dr. Young.

Minutes of previous meeting read and confirmed.

Letters were received from Messrs. Robert Wilson and N. Lewis, stating that they had signed the Petition against the Bill under misapprehension.

A letter was received from Mr. W. Ritchie, enclosing an additional clause, which was ordered to be inserted in the Bill.

Messrs. Dobson & Mitchell also wrote, forwarding an additional clause, which was ordered to be inserted in the Bill.

Mr. G. S. Crouch was then called and examined.

Mr. Crouch withdrew.

The Draft Bill was then considered.

Preamble agreed to.

Clauses 1 to 11 agreed to.

Clause 12 amended by striking out "Seven" in line 21, and inserting "Fourteen" in lieu thereof.

Clause 12, as amended, agreed to. (Mr. Hamilton.)

Clause 13 agreed to.

Clause 14 amended in line 12 by striking out the words "Five Pounds," and inserting "Two Pounds Ten Shillings" in lieu thereof (Mr. Fitzgerald.)

Clause, as amended, agreed to.

Clauses 15 to 18 agreed to.

Clause 19 amended by inserting the following Sub-section after the word "Association":—"No member shall hold more than Five hundred shares in his own right" (Mr. Clark); by striking out all the words after "In" in line 47, to the end of "Directors," in line 47, and inserting the following words in lieu thereof:—"the event of the said Company being wound up, every then present and past member of the said Company shall be liable to contribute to the assets of the said Company to the extent of Five Pounds upon each share of which such member is or shall have been within One year, or, in the case of a Director of the said Company, within Two years next prior to the commencement of such winding up, the holder over and above the amount (if any) unpaid on the shares in respect of which he may be liable as a present or past member." (Mr. Clark.)

Clause, as amended, agreed to.

Clauses 20 to 23 agreed to.

Clause 24 amended in line 44 by inserting the words "duly audited as to the assets and liabilities of the Company" after the word "Declaration" (Mr. Clark); in line 46 by inserting the words "shall be published in the *Gazette* and" after the word "Declaration."

Clause 24, as amended, agreed to.

Clause 25 struck out, and the following new clause inserted in lieu thereof:—

25 Where by any Will or other testamentary writing, or by any deed or any other instrument in writing, the said Company shall be directed to employ any Solicitor named therein to conduct the legal or professional business of any Trust or other Estate referred to in any such Will, Deed, Writing, or instrument, or whenever the said Company shall, previously to the transfer to the said Company of the trusteeship, business, or management of any Trust or other Estate, agree with any Solicitor that he shall have the conduct of and be employed in and about the legal and professional business of such Trust or other Estate, then the said Company, in the event of their undertaking such trust or business, shall employ such Solicitor accordingly; and such Solicitor shall in such case be deemed and taken to be the Solicitor of the said Company in any such trust or business as aforesaid, and shall not be removed without an Order of the Supreme Court or a Judge thereof, upon the application of the said Company or of any person interested in such Estate, upon such cause being shown as the said Court or Judge shall deem sufficient; and in case any such Order shall be made, the Court or Judge may appoint the Solicitors of the said Company to act as Solicitors to such trust or business. (Mr. Clark.)

New Clause 26 read and agreed to, and inserted:—

26 Nothing in this Act contained shall be deemed to give to the said Company any *locus standi* to oppose the granting of similar powers to those conferred upon the same Company by this Act to any other Company, or to corporations generally, or to claim or to seek compensation in consequence of such powers being conferred upon any other Company or upon corporations generally.

Clauses 27 (26) 28 (27) 29 (28) and Schedule agreed to.

Bill, as amended, agreed to.

Draft Report drawn up and agreed to.

Resolved, That the Chairman be instructed to present the Report to the House this evening.

The Committee adjourned *sine die* at 12:50 P.M.

EVIDENCE.

FRIDAY, 12TH AUGUST, 1887.

Hon. P. O. FYSH called and examined.

1. *By Counsel*.—What position do you now occupy? Premier of Tasmania.
2. How many years' experience have you had in business? About 40 years.
3. Have you acted as trustee in trust estates, or executor? Yes.
4. You are acquainted with the mode of trust business as carried on? Yes.
5. In your opinion, would the passing of a Bill of this nature, to confer the powers indicated on this company, be of public benefit? For many years I have been in conference with solicitors on the subject, and have recommended the formation of a Public Trustees Company.
6. Then, this is not a new idea? No; it came to Tasmania, I think from Victoria, where a similar company was formed some 10 years ago.
7. Were overtures, then, made to Tasmania? Yes; overtures were made to gentlemen in Tasmania to form a local directorate.
8. Are you able to speak with reference to the cost of managing trust estates by such as the proposed company compared with private trustees? I think the cost of management should be a minimum when conducted by a company, whose secretary and officers make a speciality of working estates.
9. I mean, would it be an advantage to the estates to have them worked by a company? I quite believe the company would not only be an advantage in saving trust expenditure, but also in respect to security.
10. Do you think there would be any special benefit with respect to accounts? Yes; I think a very great improvement would result. I fear trust accounts are too frequently kept in an informal manner.
11. Have you any further reasons to give why you think this Bill would be an advantage to the Colony? Yes. It provides many objects much to be desired. It provides a very great improvement in obviating the reappointment of trustees in the event of death, or of trustees refusing to act. This in itself is sufficient improvement to warrant the formation of a company of this kind. Then, the security which a company of this kind offers is so much superior to that which private trustees afford, and another great improvement is that the company can, on application to a Judge, secure the rendering of accounts without an Equity suit.
12. Do you think the rates of commission mentioned in the Bill too high? No; I think $2\frac{1}{2}$ per cent. on capital and 5 per cent. on income as maxima are fair commissions, and compare favourably with ordinary trustee charges.

13. You would regard 5 per cent. as the maximum? Yes. Any company would of course make special charges under that rate when desirable.

14. *By Dr. Young.*—Is not the capital of the company very small, considering the amount of money that may be entrusted to the company? I think not. The amount is £50,000. The £10,000 is the amount that must be immediately deposited.

MR. CHARLES JAS. BARCLAY *called and examined.*

15. *By Counsel.*—What position do you occupy? Managing Director of the Commercial Bank, Hobart.

16. Have you had experience in acting as trustee or executor? Yes.

17. Have you been brought much into contact with trustees and executors in the course of your business? I have.

18. From your general experience, in your opinion would a Bill of this nature be a benefit to the Colony? I certainly think it would.

19. Will you give your reasons for so thinking? I think the reasons set forth by Mr. Ritchie in the letter just read must have been the experience of all business men, and must be agreed to by all reasonable men. In many instances trusteeships are left to men who have not the requisite knowledge or time commensurate with the business left to them, and the trust moneys are not always properly kept separate from private accounts.

20. You mean, that the trust accounts are not kept separate? As Mr. Ritchie says, in many cases no accounts at all are kept.

21. With reference to security, do you think the Bill would be an improvement? I certainly think so—a very great improvement.

22. With reference to simplicity of administration and saving of expenses, do you think the Bill an improvement? Yes: I think in every way a system of management of trusts by a company like this, giving a security such as that provided, must of necessity be an improvement on the management by private trustees.

23. In every way you think it would be an improvement and convenience on the existing system? I certainly think it would be. I think every one who has had to do with trust estates has occasionally found difficulty in getting proper accounts of the estates, which would not be so if this Bill were in existence.

24. Difficulty has also been experienced, has it not, because the legatees would not file a bill of equity? Yes: a bill of equity is a thing people do not touch if they can help it.

25. Do you think the commission allowed by Clause 14 a fair amount? Yes, I think so. I have known a higher sum fixed by a will in a very large estate. I know 5 per cent. was fixed on capital and income of an estate of £40,000.

26. Could not a company have a sliding scale with reference to commission? They could do so, of course; that would be a matter for the Directors.

27. Are you one of the directors of the proposed company? I am at present.

28. How long have you heard of the subject of a trustee company here? I cannot fix the time, but it must be five or six years ago since Mr. Templeton called on me. He is one of the directors of a Melbourne company. He left with me a prospectus and rules of association of the company, and asked me to spread the knowledge of the association in Hobart.

29. What is your opinion of Clause 20 with reference to paying over unclaimed amounts to the State Treasury? I think five years rather too short a time. Of course I take it that the Treasurer would always pay the money if the rightful owner turned up. I should think seven years quite short time enough for the company to hold the money, especially in a colony like this.

30. Have you any other reason? I do not know any special reasons beyond those mentioned. I think under proper management the company would be a boon to the community; it would be an unmixed good so far as I can see.

31. You have read the Articles of Association—do you think they will provide to carry out the objects of the company? I do.

32. *By Dr. Young.*—In what way will the company be less expensive than in obtaining trustees or executors who charge nothing? If trustees do their duty and charge nothing, the company will be more expensive; but my experience is that those trustees who charge nothing are sometimes very expensive indeed, especially if they do not do their duty.

33. *By Mr. Fitzgerald.*—Have not these trustee associations proved very remunerative to the shareholders wherever established? I believe so, but I have no knowledge.

34. I see that at the Cape of Good Hope dividends have reached something like 80 or 90 per cent., and a Victorian Company, although only working a short time, is already paying good dividends with 2½ per cent. as the maximum commission on income and capital? That might be done; but the knowledge of remunerative rate of commission can only be gained by experience. The probability is that the Tasmanian Company will work for years without showing any return. Then after that if higher dividends are paid they will go to make up for the first years when no returns are received on the outlay. I do not think the shareholders here will get any return for five years. A company here will have to do very large business to pay 10 per cent.; it will want £20,000 income, and the expenses of management will be considerable.

35. *By Mr. Hamilton.*—Reference has been made to unclaimed moneys—what is the practice in banking experience? We never touch any unclaimed moneys; it remains for ever if not claimed.

36. *By the Chairman.*—Do you not take advantage of the Statute of Limitations? No.

37. Do you consider five years too short before handing unclaimed moneys to the Treasurer. Yes, I do.

38. Have you ever paid money after being unclaimed for many years? We have paid after 30 years.

39. *By Mr. Hamilton.*—Under Clause 11 will it not be quite possible for a doubtful trustee to dispose of his trust to a doubtful solicitor, who might get his premium for handing the estate over to the company? The Company, before taking over a trust, would take care to see that the trust was sound and safe, or they would not touch it. I take it that this Bill does not give any power to trustees that is not now given. Of course, the Company's manager would decline any trust in which the accounts were not straight.

40. Although, of course, the present Directors are beyond suspicion, is there not danger of future Directors being men of less probity? I cannot see any danger of a large number of shareholders selecting for Directors men of doubtful character, and I think the fact of the present Directors being, as you say, beyond suspicion, is the strongest argument in favour of the Bill.

MR. ALEX. GEORGE WEBSTER, *called and examined.*

41. *By Counsel.*—Have you had long business experience in Hobart? Yes, about 40 years.

42. Have you had experience in trust estates? Yes.

43. Have you acted as trustee and executor? Yes, and have had business transactions with trustees and executors.

44. With regard to this Bill, do you think it would be of vast benefit to the Colony? Yes, a very great benefit. It would fill a great want.

45. Will you briefly explain in what particulars the Bill would be desirable? The reasons have been so well set forth by Mr. Ritchie's letter and the previous witnesses that it is hardly necessary for me to indicate them. I fully agree with those reasons given. I do not know any other special boon, except in the case of administrations. We all know that at times it is necessary to administer to a will, when it is necessary for the administrator to find securities, and that makes difficulty. That would be remedied by the Bill, and that difficulty removed. I thoroughly agree with what Messrs. Ritchie, Fysh, and Barclay have said, especially regarding accounts. Cases have come within my knowledge in which trust accounts have not been kept at all. It would be a very great advantage to have the accounts kept properly and in one system. With regard to the question of security, there is very little doubt that any two members of the directorate of the proposed Company would be entrusted in their private capacities by most persons in the Colony making a will, and they would have no responsibility. In the Company there will be the other five Directors backed up by the shareholders. Under the Bill security will be given where now there is none. With reference to commission, I think the maximum rates allowed by the Bill— $2\frac{1}{2}$ per cent. on capital, and 5 per cent. on income—very fair. I do not think it is too high. If it was reduced to a maximum of $2\frac{1}{2}$ per cent. on income it would not be worth while to undertake the management of many small estates, and it would be those small estates that would obtain the greatest benefit from a company of this kind, for it is much easier for wealthy people to get trustees than poorer people with small estates. It might not be worth while for a company to undertake an estate of £200 or £300 a year at less rate than 5 per cent. There might be twenty times as much difficulty with a small estate as with a large one.

46. *By Mr. Fitzgerald.*—Would you not make more out of small estates than out of large estates on the aggregate? I do not think so. I assume the company would not charge the maximum in every case. Nothing has yet been done by the Directors, who are not in a position yet to commence operations. There is a considerable amount of outlay and risk to the shareholders, and that is an additional reason why the commission should not be fixed too small. I think it will be years before the shareholders get any profit on their outlay. You cannot compare this Colony with Victoria, where the population, number of trust estates, &c. is much larger than here. If too much is charged there is power given in the Bill for the Judge to cut it down: that is a great safeguard. The commission allowed by the Bill does not exceed the amount allowed by law to private trustees.

47. Does not the necessity appear for fixing the maximum rate of commission at the price at which you would take a large estate? Certainly not. The company could not carry on business at such rates. One estate would give £1000 and another £100, and there might be more trouble and clerical labour to manage the smaller estate than the larger. If the company saw that they would not get a profit they would hesitate to undertake small estates.

48. *By Dr. Young.*—Would it be fair to charge full commission on an estate that would give very little trouble? There would be, I suppose, a sliding scale, the same as in many other businesses. With reference to Clause 20, I think 5 years is too short to allow the company to hold unclaimed moneys; I think it should be extended to 7 years.

49. *By Counsel.*—Do you think the Bill would create a monopoly? I do not see how it can create a monopoly, for it is quite open to any one to approach Parliament and introduce a Bill to start another company.

50. Is this company a new idea? I have known of the existence of these companies from the time of the formation of the first company in Victoria, about 8 years ago. There was talk in Tasmania of having a local directorate here.

51. *By Mr. Hamilton.*—If the commission were reduced below 5 per cent. on income, and $2\frac{1}{2}$ per cent. on capital, would it not be possible for the company to refuse to undertake small troublesome estates? Yes, certainly; and I fear that would be so.

MR. CHARLES EDWARD WALCH, *called and examined.*

52. *By Counsel.*—Have you had long business experience? I have been in business for 30 years in Hobart.

53. Have you had experience in trust estates? Yes. I speak from personal experience, for I have been trustee for two or three estates, and I would be only too glad to have been relieved of them. If I was going out of the Colony I would not know what to do with those I hold. It would be a very great benefit to the Colony to have such an institution as this to take charge of the trust estates. Clause 20 I consider to be one of the most useful clauses in the Bill, and would justify the passing of the Act. There is no finality to some of the estates now. For the purpose of keeping trust accounts the Bill would be most useful, and I cordially agree with what Mr. Ritchie's letter and the previous witnesses have said on the matter.

54. *By Mr. Hamilton.*—Would you think five years a sufficient period to hold a legacy in suspense awaiting a claimant? The Treasurer would then hold it until claimed; but the time for the Company to keep it could be easily extended to seven years.

55. *By Counsel.*—You think the Bill would be productive of good to the Colony generally? I certainly do.

MR. CHARLES HENRY GRANT, *called and examined.*

56. *By Counsel.*—Are you acquainted with the provisions of the Bill now under consideration? I am.

57. What is your opinion of it? I think the legislation proposed would be extremely beneficial to the Colony, and supply a want very greatly felt at the present time, and do away with a great inconvenience. There can be no question that a well managed Company would be a decided improvement on private individuals acting as trustees, many of whom are incompetent, for various reasons. In the keeping of private individuals' accounts especially great benefits would result, and very valuable assistance would accrue in the way of agency. Anyone now wanting to go away from the Colony to, say, England, must find great difficulty when leaving the Colony in obtaining a competent person to take charge of his business, and, speaking personally, I should have been very glad for years past to go to England, but I could not find a person to take charge of my affairs. I do not know anyone now to whom I could give my business over. In that respect alone a company such as that proposed is much required, and is sufficient warrant for its being formed. The company being able to authoritatively work under a power of attorney supplies a great want, and I have no doubt there are many absentees holding property in the Colony who would be glad to hand over their agencies to the company. I think the guarantee provided would give sufficient confidence in the company to warrant any business being entrusted to it. I believe the company would do its best with my business in my absence, and that would afford great convenience, for I would have no fear but that the very best man obtainable would be appointed manager. There would also be first-class men as directors to assist him, and give him the benefit of their business experience and advice. I do not think the commission named is too high,—in fact it is very low for small estates,—but in any large estates of course there would be an agreement made. I have heard of an instance within the last nine months, in which an estate of £450,000 was entrusted to a similar (Victorian) Company in which I am interested. I do not think it at all likely that $2\frac{1}{2}$ per cent. commission was given in that case. The Tasmanian Company would publish a list of charges, and it is not at all likely that the maximum rate would necessarily be adhered to. It must be remembered that the field to work in Tasmania is smaller than the other Colonies, and I think five per cent. maximum commission on small properties would be very low—indeed it would not be worth undertaking under that.

58. *By Mr. Fitzgerald.*—Are there not three such companies in Victoria, and all doing good business? I believe so, but the field of operations there cannot be compared with that of Tasmania. They deal with tens of thousands where we deal with hundreds.

GEORGE STANTON CROUCH, *called and examined.*

59. *By the Chairman.*—You are an Auctioneer, and Secretary of the Hobart Mutual Permanent Benefit Investment and Building Society? Yes.

60. Are you one of the signatories of the Petition presented against this Bill? I am.

61. I suppose you are aware that this Bill is similar to several Bills passed in neighbouring Colonies? Very similar.

62. Do you found your objections to this Bill on any difference from it to those of other Colonies? Yes, on two items: one is that in the proposed Bill there is no restriction to the number of shares held by shareholders; the other is that the legislation in other Colonies reserves the right of giving similar powers to any corporation or company. It is specially provided that nothing in the Act shall be deemed to give

to the company any *locus standi* to oppose the granting of similar powers to any other company, or to seek compensation in consequence of such powers being conferred upon any other company. Sub-section 18 of the Victorian Act also provides that no shareholder shall hold more than 500 shares.

63. If similar clauses were introduced into this Bill would it, in your opinion, remove the objections to the Bill? In a great measure.

64. Have you any other objections to urge? I would like to see the Bill made to apply to all companies. I wish to save the various companies the expense of moving for a new Bill, and also save the time of the Legislature. In 1879, when a similar Bill was before the Victorian Parliament, many members suggested that it be made a public Bill; and it has been regretted ever since that it was not made so.

65. Supposing a public Bill was passed, would not the practical effect be the same for this company? Exactly.

66. Then, if a public Bill is passed at any future day, you cannot say that any injury would occur to the public on account of this Bill being in existence? No.

67. *By Mr. Hamilton.*—If the Attorney-General tells you that the same facilities will be offered to you or to your proposed company in the passage of your Bill through the House, when you are prepared to present a petition for it, would that remove all your objections? Not altogether, but it would in the main. My idea is it would save time to lay down a broad principle on which such companies should be formed in the same manner as life assurances, thus saving Parliament and the companies the expenses of formalities.

68. If the Attorney-General assures you that no obstacle will be thrown in your way to introduce a similar Bill for the formation of another company, would your objections be removed? I want to disabuse your minds of the belief that the opposition to this Bill being a private one is from a company. There is also a company being formed in Launceston, which I am anxious to assist. I do not object to the fees of commission provided for by the Bill. I think they are not excessive, especially as there will be more than one company willing to take charge of the estates. My company was intended to be a mutual one, and therefore the profits would not have been so very large to the shareholders, as, after a certain profit was obtained, the estate would receive a portion.

69. *By Counsel.*—With reference to your objections to there being no clause in the Bill giving similar right to other companies, would it not have been the same in Victoria? Yes.

70. In 1885 were there not three companies formed in Victoria? Yes.

71. Was there a general bill passed then? No.

72. Do you know of a general Bill of this nature in any part of the world? No.

73. Do you not think there may be good cause for this? Not at all. We are too apt here to follow precedent. We should strike out a course for ourselves if we have a good case, without minding what others have done.

74. Do you know that the Bill in Victoria was brought in by the Government? I was not aware of it.

75. And that it was a special Bill for a special company, and that other Bills have been brought in for other companies? I believe so.

76. Was not your chief objection to the Bill based on the fear that it would create a monopoly? Yes.

77. Did you think it might give the company a *locus standi* to prevent a Bill being brought in for the formation of another company? I feared so.

78. If that provision is included preventing such interest being given, would not your objections be removed? To a great extent they would be.

79. Are you interested in forming another company? Very slightly.

80. Have you not been using all your efforts to form a company? For a short time only.

81. And you failed? Yes, partly owing to the plan adopted by the directors of this company, especially one of them.

82. You placed Messrs. Syme and Burgess on your directorate, did you not? No; they were placed there by the secretary, Mr. Atkins. I was chairman of the meeting, and offered no objection.

83. Did not Mr. Atkins remove from your company? He was to be our secretary, but he took the secretaryship of the other company.

84. Have you not used all your efforts to prevent this Bill passing? Only to prevent a monopoly being granted to the company.

85. If a section is inserted in the Bill preventing a monopoly being created, would you withdraw your objections? Yes, personally.

86. Do you not think it would be unfair, even if it were possible, to make this a public Bill after the company have been put to considerable expense in connection with it? I would not desire to take any advantage of the company. Let them stipulate that £120 has been expended, and every other company formed should pay its fair share of that expense, I would be quite willing to do so.

87. Your great object is that your company shall be formed without any cost to the shareholders? Not necessarily. If I float a company I will be quite willing to bear my share of the expense. In fact, we paid down 1s. per share for preliminary expenses, in order that the capital might remain intact.

88. How many companies do you think there is room for in Tasmania? Two, or perhaps three.

89. You would not oppose this Bill if provision were made that it cannot prevent in any way the formation of another company? That would materially remove my objection.

90. Is not the Bill now proposed very similar to that in operation in Victoria? Generally speaking it is; but in the Tasmanian Bill there are two important omissions as before stated, one limiting the number of shares for any shareholder to 500; and another, providing that the company shall have no *locus standi* in opposing the formation of a second company. There are other alterations of a minor nature. I do not think the rates of commission fixed by the Bill are too high.

91. If the two provisions named by you as being omitted were inserted in the Bill, would you withdraw your objections? Yes, I think so.

APPENDIX A.

*To the Honorable the Speaker and Members of the House of Assembly of Tasmania,
in Parliament assembled.*

The humble Petition of "The Perpetual Trustees, Executors, and Agency Company of
Tasmania, Limited."

SHOWETH :

1. THAT within three months previously to the presentation hereof, notice of the intention of your Petitioners to apply for a Private Bill was published, as is by the Standing Rules and Orders of your Honorable House prescribed, as follows; that is to say:—

1. In the *Hobart Gazette*, on the seventh day of June now last past, the fourteenth day of June now last past, the twenty-first day of June now last past, and the twenty-eighth day of June now last past.
2. In the *Mercury*, being a public newspaper published in Hobart, on the fourth day of June now last past, the eleventh day of June now last past, the eighteenth day of June now last past, and the twenty-fifth day of June now last past.
3. In the *Tasmanian News*, being a public newspaper published in Hobart, on the sixth day of June now last past, the thirteenth day of June now last past, the twentieth day of June now last past, and the twenty-seventh day of June last past.
4. In the *Launceston Examiner*, being a public newspaper published in Launceston, on the eighth day of June now last past, the fifteenth day of June now last past, the twenty-third day of June now last past, and the twenty-ninth day of June now last past.

Which said notice contained a true statement of the general objects of the Bill, as hereinafter set forth.

2. That the general objects of the said Bill are—

1. To undertake, as agent or trustee, for a commission, the collection and receipt of rents, dividends, interest, or other income, the investment of money, the purchase and sale of all kinds of real and personal property, including choses in action and of all kinds of securities, and the general or partial management of any estates or property, and whenever allowed by law to act either directly or through its officers as assignee or trustee of any insolvent or bankrupt estate, or as receiver, executor, or administrator either alone or jointly with any other company, corporation, association, or person.
2. To negotiate loans of all descriptions upon any terms as to profit or remuneration, and to lend money on the security of any description of property, real or personal, including stock and shares and other choses in action, or on bonds or other obligations, or on any other kind of personal security, or without taking security.
3. To transact any other agency or financial business of any description.
4. To give any guarantee or any security of the Company, or any security upon any property of the Company, that may be required or agreed upon for the faithful performance of any business or duty undertaken by the Company or its officers.
5. To give or enter into any bond or guarantee for the purpose of enabling any person or persons to obtain administration of the estate of any deceased person or persons.
6. To do all or any of the above-mentioned things in any part of the world where the same may lawfully be done respectively, and either singly or in connection with any other corporation, company, firm, or person.
7. To do all such other things as are or may be incidental or conducive to the attainment of the above objects.

Your Petitioners therefore humbly pray for leave to introduce the said Bill.

And your Petitioners will ever pray, &c.

Dated this fourteenth day of July, 1887.

C. J. BARCLAY,
Chairman of the Directors of the said Company.

APPENDIX B.

To the Honorable the Speaker of the House of Assembly of Tasmania, and Members of Parliament, in Parliament assembled.

The Petition of the undersigned,

HUMBLY SHOWETH :

WHEREAS there is at present before your Honorable House a Bill intituled, "A Bill to confer powers upon the Perpetual Trustees, Executors, and Agency Company of Tasmania, Limited."

Your Petitioners, while concurring in the general policy of the law thereby contemplated, and recognising the expediency thereof, are desirous of placing before your Honorable House their opinion that in the passing of any such measure it should take the shape of General instead of Special Legislation.

Your Petitioners being impressed with the belief that the requirements of the Colony point to the necessity of more than one such Company being established, would humbly suggest to your Honorable House that the powers sought to be conferred upon the Company now seeking the present Legislation should be extended in their operation to any Company formed in Tasmania seeking to carry on similar business. In fact, that the provisions of the Bill should have general application.

Your Petitioners would point out that similar Legislation in connection with Life Assurance exists in this Colony, giving power to any Company desirous of being registered for Life Assurance purposes to do so upon complying with certain stipulations and provisions therein set forth, such Act being 38 Vict. No. 6.

Your Petitioners would strongly urge upon your Honorable House the impolicy of any such enactment confirming such special advantages to one particular Company, thus virtually creating a monopoly, or at least rendering it more difficult in the future of similar Legislation being obtained in favour of other such Companies.

Your Petitioners would therefore humbly pray your Honorable House in dealing with the said Bill now before it to so amend the same as to make it a Public instead of a Private Act, so that any Company to be formed in Tasmania and complying with the provisions of the said Act may register under it.

And your Petitioners, as in duty bound, will ever pray.

[Here follow 103 Signatures.]

APPENDIX C.

To the Honorable the Speaker and Members of the House of Assembly, in Parliament assembled.

The humble Petition of the undersigned,

SHOWETH :

1. THAT a Company has been lately formed and registered in Tasmania under "The Companies Act, 1869," intituled "The Perpetual Trustees, Executors, and Agency Company of Tasmania, Limited."

2. That the said Company has lately presented to your Honorable House a Bill to confer upon it certain powers, and to enable it to carry on business in Tasmania, and that such Bill has been read a first time.

3. That the Shareholders in the said Company have expended a large amount of money in registering the said Company and in preparing the Articles of Association thereof, and also in preparing the said Bill, and in having the same printed, and in divers other ways.

4. That in the opinion of Your Petitioners the said Company will supply a want which has long been felt, and prove of great and lasting benefit to the Public of Tasmania.

Your Petitioners therefore humbly pray that your Honorable House will cause the said Bill to be passed into Law with as little delay as possible.

[Here follow 40 Signatures.]

APPENDIX D.

St. John-street, Launceston, 11th August, 1887.

DEAR SIRS,

I HAVE to thank you for the Perpetual Trustees Company's Bill which you have been good enough to send me.

The necessity for the establishment of such a Company has long been apparent to me, and I am glad to find that one is likely to be started on a sound basis, and with a directory and management that will command the confidence of the public. I do not think that there is room at present in this Colony for the successful operations of more than one such Company, for in order to have any fair prospect of success it is evident that a considerable amount of business must be done.

The principle underlying the Bill appears to me to be a thoroughly sound one—viz., that of treating trusteeships, executorships, &c. as business in the true sense of the term, and of fairly remunerating those who have to do the work for their services, while they are practically made responsible if they neglect their duties. You must be aware, as fully as myself, of the very great inconveniences which flow from the difficulties which constantly arise in obtaining the consent of persons to act, even when the first difficulty of finding persons who are suitable has been overcome. Then, the persons so chosen frequently disclaim the trusteeship when the time arises for them to act, or desire to be relieved, either because they become keenly alive to their responsibilities and the troubles in store for them, or because they cannot afford the time which they would have to give, or do not care to lose it without receiving any remuneration. In this way estates often suffer great losses because there is no one to look after them efficiently. Sometimes the same individual, who may be considered particularly eligible to fill the office of a trustee, is so overwhelmed with the trusteeships thrust upon him that he must necessarily either neglect his own affairs or those of the beneficiaries.

Sometimes trustees are most desirous of being relieved, but no one can be found to take their places. Many trustees never keep any trust accounts, or, at the best, rely upon the trust bank pass-books, the butts of cheques and receipts, to enable them to make up, or get accounts made up for them, if they are called upon to furnish them. There can be no doubt, too, but that the establishment of a Trustees and Agency Company is a pressing want at the present time, and that the commencement of its operations will be hailed with satisfaction by a large number of persons. I understand that the Bill is almost a transcript of some of the Bills under which such Companies have been enabled to act in some of the other Colonies.

Very truly yours,

WILLIAM RITCHIE.

Messrs. DOBSON, MITCHELL, & ALLPORT, Solicitors, Hobart.