



FOX AND DEXTER TRUSTS ACT 1987

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 No. 16 of 1987
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SCHEDULE 1 TRUST PROPERTY

AN ACT to revoke certain trusts arising from bequests by John Fox and George Dexter for the benefit of the children of the Queen's Asylum at New Town and to make other provision in place of those trusts.

[Royal Assent 29 April 1987]

WHEREAS—

I—John Fox, late of Old Beach, Boatman, who died on 9th February 1859, bequeathed the sum of £500 to the Queen's Asylum (otherwise known as the Orphan School) at New Town to be invested as the Government of Tas- Preamble.

mania deemed most beneficial to that institution and to apply the interest arising from that investment in such manner as the Government deemed most advantageous for that institution.

- II—For a period of 16 years the interest arising from the Fox bequest was, in accordance with the known wishes of the testator, applied in providing the children of the Queen's Asylum with an annual feast.
- III—George Dexter, late of Hobart Town, Yeoman, who died on 15th July 1873, bequeathed his residuary estate for certain charitable purposes and directed that a moiety of the interest accruing from the investment of that residuary estate be applied for the educational benefit and advantage of the children of the Church of England who were from time to time inmates of the Queen's Asylum.
- IV—During the year 1875 the Queen's Asylum ceased to exist and neither John Fox nor George Dexter had provided for any substitutionary gift or given any directions as to the disposal of their bequests in that event.
- V—Section 34 of the *Charitable Institutions Act* 1888, as originally in force, provided that, where an institution existing in Tasmania for charitable or benevolent purposes had been abolished or otherwise ceased to exist before the passing of that Act, all unexpended sums of money at any time bequeathed or otherwise given to that institution, or for the benefit of its inmates, and respecting which no directions had been given as to the disposal of that money in the event of the abolition or cessation of the institution, were vested, together with all interest that may have accrued on any such sum, in the Chief Secretary, to be applied by him in and towards other charitable purposes as directed from time to time by the Governor-in-Council under the authority of the Parliament.
- VI—On 1st October 1889 pursuant to a resolution of both Houses of Parliament made under section 34 of the *Charitable Institutions Act* 1888, as in force at that time, the interest arising from the Fox bequest and the Dexter bequest was, under the direction of the Governor-in-

Council, appropriated for the benefit of the boarded-out children and the inmates of the St Joseph's Orphanage, the Boys' Home, and the Girls' Industrial Schools in Hobart and Launceston.

VII—By virtue of a proclamation dated 27th May 1976 made pursuant to the *Ministers of the Crown Act 1923*, the duties of the Chief Secretary provided by law were transferred to the Minister for Industrial Relations, Planning and the Environment.

VIII—The office of Chief Secretary has ceased to exist and doubts have arisen as to the devolution of any property formerly vested in the Chief Secretary and also as to which Minister of the Crown is now responsible for the administration of the Fox bequest and of the Dexter bequest.

IX—On 28th February 1987—

- (a) the assets of the Fox bequest were the property specified in Part I of Schedule 1; and
- (b) the assets of the Dexter bequest were the property specified in Part II of Schedule 1.

X—The purposes of the original bequests having failed, it is expedient that the trusts arising from the Fox bequest and from the Dexter bequest be terminated and that the assets of each bequest be vested in the Minister having the administration of the *Child Welfare Act 1960* to be applied for charitable purposes in accordance with this Act.

BE it therefore enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Fox and Dexter Trusts Act* Short title.
1987.

2—This Act shall commence on the day on which it receives the Commence-
Royal assent. ment.

Interpretation.

3—(1) In this Act, unless the contrary intention appears—

“ the commencement day ” means the day on which this Act receives the Royal assent;

“ the Dexter bequest ” means the bequest made by George Dexter referred to in paragraph III of the Preamble to this Act;

“ the Fox bequest ” means the bequest made by John Fox referred to in paragraph I of the Preamble to this Act;

“ the Minister ” means the Minister having the administration of the *Child Welfare Act* 1960.

(2) In this Act, a reference to property, in relation to the Fox bequest or to the Dexter bequest, shall be read as including a reference to a legal or equitable estate or interest in any other property, whether present or future and whether vested or contingent, and any entitlement, power, or privilege, if that estate, interest, entitlement, power, or privilege arises from the administration of the trusts arising from either of those bequests.

Revocation of trusts and vesting of trust property.

4—(1) On the commencement day—

(a) the trusts arising from the Fox bequest and from the Dexter bequest are revoked and the property specified in Schedule 1, including, where appropriate, a right of redemption of any property so specified, is freed and discharged from those trusts; and

(b) all property that, immediately before that day, was subject to the trusts arising from the Fox bequest or from the Dexter bequest is, by force of this section, vested in the Minister to be applied by him for charitable purposes in accordance with this section.

(2) Without limiting the generality of section 3 (2), all the right, title, and interest in the money standing to the credit of a bank account specified in Schedule 1 shall, for the purposes of this Act, vest in the Minister as if he were the depositor in respect of that bank account.

(3) The Minister shall hold one-fifth part of the property that, immediately before the commencement day, was subject to the trusts arising from the Fox bequest on each of the following trusts:—

- (a) for the benefit of the children residing in any home established under the *Kennerley Children's Homes Act 1969*;
- (b) for the benefit of the girls residing at Maylands Young Women's Hostel at New Town;
- (c) for the benefit of the children residing at the St Joseph's Child and Family Support Centre at Taroona;
- (d) for the benefit of the girls residing at Launceston Girls' Home;
- (e) for the benefit of the children residing in the Southern Region who are under the guardianship of the Director for Community Welfare.

(4) The Minister shall hold one-third part of the property that, immediately before the commencement day, was subject to the trusts arising from the Dexter bequest on each of the trusts specified in subsection (3) (a), (b), and (d).

(5) In the application of any property vested under subsection (1), the Minister shall have regard to any request made by the person or persons responsible for the control or management of the institution, if any, in which the children concerned reside.

5—(1) On and from the commencement day, no action or legal proceeding may be instituted or continued against any person in respect of the administration, or intended administration, before that day of the trusts arising from the Fox bequest or from the Dexter bequest. Indemnity for trustees, &c.

(2) Nothing in subsection (1) prevents an action to compel a person to perform a duty imposed by this Act or, where appropriate, an action to enforce a right of redemption of any property that, immediately before that day, was subject to any such trust.

SCHEDULE 1 Preamble, paragraph IX
Section 4 (1) (a) and (2)

TRUST PROPERTY

PART I

The Fox Bequest

	\$
Account No. 0101/130906 at the Savings Bank of Tasmania	958·28
The proceeds on redemption of Commonwealth Inscribed Stock matured on 15th February 1987	1 600·00
Total	<u>\$2 558·28</u>

PART II

The Dexter Bequest

	\$
Account No. 1/130905 at the Savings Bank of Tasmania	541·52
The proceeds on redemption of Commonwealth Inscribed Stock matured on 15th February 1987	800·00
Commonwealth Inscribed Stock maturing on 1st April 1988	80·00
Total	<u>\$1 421·52</u>