

## No. II.

An Act for enabling the Principal Officers of Her Majesty's Ordnance to hold Estates and Property in the Colony of New South Wales for Military purposes and for granting certain other powers to the said Principal Officers and Respective Officers resident in the said Colony.  
[2nd July, 1840.]

MILITARY  
LANDHOLDERS.

**W**HEREAS divers messuages lands tenements estates and other hereditaments belonging to the Crown in the Colony of New South Wales have been long reserved and used for military purposes and are now actually in the custody and under the charge of the Respective Officers of Her Majesty's Ordnance resident in the said Colony and acting under the orders of the Principal Officers of Her Majesty's Ordnance resident in England and whereas it is expedient that the said Principal Officers or the said Resident Officers acting under their authority should have certain powers to acquire hold and alienate lands tenements estates or hereditaments which they do not now possess Be it therefore enacted by His Excellency the Governor of New South Wales with the advice and consent of the Legislative Council thereof That immediately from and after the passing of this Act the said Principal Officers of Her Majesty's Ordnance shall have power to have and to hold all such messuages lands tenements or other hereditaments heretofore used for military purposes as by Her Most Gracious Majesty may be conveyed to them by deed of grant from the Crown and that thereupon the said messuages lands tenements and other hereditaments with all erections and buildings which now are or which shall or may hereafter be erected or built thereon together with the rights members easements and appurtenances to the same respectively belonging shall be and become and remain and continue vested in the Principal Officers of Her Majesty's Ordnance in Great Britain for the time being and their successors in the said office according to the respective nature and quality of the said messuages lands tenements estates and other hereditaments and the several estates and interests of and in the same hereditaments respectively in trust for Her Majesty Her Heirs and Successors for the service of the said Ordnance Department or for such other military service or services as the said Principal Officers or their successors in the said office shall from time to time order and direct.

Preamble.  
Lands already granted or purchased for the service of the Ordnance and used for military purposes and all buildings thereon vested in Principal Officers.

2. And be it enacted That from and after the purchase and conveyance grant or demise thereof all other messuages lands tenements estates and other hereditaments which shall at any time or times hereafter be granted to or purchased by the Principal Officers of Her Majesty's Ordnance for the time being or by any other person or persons by their order for military purposes and all erections and buildings which shall then or which may thereafter be erected and built thereon with the rights members easements and appurtenances to the same respectively belonging by whatever mode of conveyance either unto or in the name of Her Majesty Her Heirs and Successors or otherwise the same shall be granted purchased or taken shall in like manner be and become and remain and continue vested in the said Principal Officers of Her Majesty's Ordnance for the time being and their successors in the said office according to the nature and quality of

Lands hereafter purchased and also the buildings thereon shall be vested in like manner.

*Military Landholders.*

of the said messuages lands tenements estates and other hereditaments and the several and respective estates and interests of and in the same respectively in trust as aforesaid.

In case of death or removal such premises shall vest in the successors of such Principal Officers.

3. And be it enacted That upon the death resignation or removal of the present Principal Officers of the Ordnance in Great Britain or of any of them or of any future Principal Officers or Principal Officer in Great Britain all such messuages lands tenements estates and other hereditaments respectively shall become vested in and be held by the succeeding Principal Officers in Great Britain according to the respective nature and quality of the said messuages lands tenements estates and other hereditaments and the several estates and interests of and in the same respectively in trust as aforesaid.

Lands may be sold exchanged or let.

4. And be it enacted That it shall and may be lawful for the said Principal Officers for the time being or any two or more of them or for the said Respective or other Chief Officers or Officer of the Ordnance resident in the said Colony for the time being for and on behalf of the said Principal Officers to sell exchange or in any manner dispose of or to let or demise as well any of the messuages lands tenements estates and other hereditaments respectively which shall be so granted or conveyed to the said Principal Officers as aforesaid with their respective appurtenances either by public auction or by private contract in due form of law to convey surrender assign or make over or to grant or demise the same respectively (as the case may require) to any person or persons who shall be willing to purchase or take the same in exchange or otherwise respectively and also to do any other act or matter or thing in relation to any such messuages lands tenements estates and other hereditaments which shall by the said Principal Officers or by the said Respective or other Chief Officers or Officer be deemed beneficial to the public service in relation thereto or for the better management thereof which might be done by any person having a like interest in any such like messuages lands tenements estates or other hereditaments.

Purchase money shall be paid to the Ordnance Treasurer &c.

5. And be it enacted That the monies to arise and be produced by the sale or exchange of any of the said messuages lands tenements estates or other hereditaments which shall be so sold or exchanged under the provisions of this present Act shall be paid by the respective purchaser or purchasers thereof or the person or persons making such exchange unto the said Respective or other Chief Officers or Officer of the Ordnance in the said Colony of New South Wales for the time being or to such other person or persons as the said Principal Officers for the time being or any two or more of them shall direct or appoint to receive the same for the use of Her Majesty Her Heirs and Successors and that the receipt of the said Principal Officers or of any two of them or of the said Respective or other Chief Officers or Officer for such monies (such receipt to be endorsed on every such conveyance surrender or assignment as aforesaid) shall effectually discharge the purchaser or purchasers or person or persons by whom or on whose account the same shall be paid.

After purchase money paid &c. the purchaser to have full right and possession.

6. And be it enacted That immediately from and after the payment of such purchase money and the execution of every such conveyance surrender and assignment as aforesaid the purchaser or purchasers therein named or the person or persons making such exchange as aforesaid shall be deemed and adjudged to stand seized and possessed of the messuages lands tenements estates and other hereditaments which shall be so purchased or taken in exchange by and conveyed surrendered assigned or made over to him her or them respectively freed and absolutely discharged of and from all and all manner of prior estates leases rights titles interests charges

incumbrances

*Military Landholders.*

incumbrances claims and demands whatsoever which can or may be had made set up in to out of or upon or in respect of the same messuages lands tenements estates or other hereditaments by any person or persons whomsoever on any account whatever (save and except such estates leases rights titles interests charges incumbrances claims and demands as in any such conveyance surrender deed of exchange or assignment shall be excepted).

7. And be it enacted That it shall be lawful for the said Principal Officers for the time being and for the said Respective or other Chief Officers or Officer for the time being and they are respectively hereby authorized and empowered to bring prosecute and maintain any action or actions of ejectment or other proceedings at Law or in Equity in the Supreme Court of the said Colony or in any other Court therein of competent jurisdiction for recovering possession of any messuages lands tenements estates or other hereditaments that may be vested in them as aforesaid and to distrain and sue for any arrears of rent which shall have become or shall become due for or in respect thereof under any parole or other demise from the said Principal Officers or Respective or other Chief Officers or Officer for the time being as aforesaid and also to bring prosecute and maintain any other action or suit in respect of or in relation to the said messuages lands tenements estates or other hereditaments or of any trespass or encroachment committed thereon or damage or injury done thereto and that in every such action or suit the said Principal Officers for the time being and the said Respective or other Chief Officers or Officer for the time being shall be called the Officers or Chief Officer (as the case may be) of Her Majesty's Ordnance in New South Wales without naming them or any of them and no such action or suit shall abate by the death resignation or removal of such Principal Officers or Respective or other Chief Officers or Officer or any of them any thing in this Act or in any Act or Acts of Parliament or Law or Laws to the contrary thereof notwithstanding.

Actions of ejectment may be brought.

8. And be it enacted That it shall be lawful for all bodies politic or corporate ecclesiastical or civil and all feoffees or trustees for charitable or other public purposes and for all tenants for life and tenants in tail and for the husbands guardians trustees committees curators or attornies of such of the owners or proprietors of or persons interested in any messuages lands tenements estates and other hereditaments in the said Colony which have been or may be hereafter agreed to be purchased or taken for the use of the said Ordnance Department as shall be females covert infants lunatics idiots or persons beyond the seas or otherwise incapable of acting for themselves to contract or agree with the said Principal Officers for the time being or with the said Respective or other Chief Officers or Officer for the time being either for the absolute sale or exchange of any messuages lands tenements estates or other hereditaments or sale of any reversion after any estate or estates for lives or years or for the grant of any lease either for life or lives or any term of years certain therein or for such period as the exigency of the public service shall require and to convey surrender demise or grant the same accordingly and all contracts sales conveyances surrenders leases and agreements which shall be made in pursuance hereof shall be valid and effectual in Law to all intents and purposes whatsoever and shall be a complete bar to all dower and claims of dower estates tail and other estates rights titles trusts and interests whatsoever.

Powers given to bodies politic or others to treat.

9. And be it enacted That in every such case of purchase or exchange of any lands or hereditaments or of any such reversion as aforesaid or purchase of any other interest belonging to any such body or other person or persons under any disability or incapacity or not having

Investment of purchase money.

*Military Landholders.*

having the absolute interest therein the purchase money if the same shall amount to or exceed the sum of one hundred pounds shall be paid into the hands of the Registrar or other proper officer of Her Majesty's Supreme Court of New South Wales at Sydney in the said Colony respectively for the time being for the use and benefit of the owners and proprietors of such lands and hereditaments and such Registrar or other proper officer respectively is hereby authorized and required to receive or accept and to give a discharge for the same and upon the acceptance or receipt thereof to sign a certificate to the Judges of the said Supreme Court under his hand purporting and signifying that such money or other consideration was received or accepted by and paid to him in pursuance of this Act for the use and benefit of such owners or proprietors as shall be named in such certificate and the said certificate shall be filed or deposited in the registry of the said Supreme Court at Sydney aforesaid and a true copy thereof signed by the said Registrar or other proper officer respectively of such Court shall and may be read and allowed as evidence for the purposes hereinafter mentioned and the said Registrar or other proper officer respectively is hereby required upon receipt of any such sum or sums of money as aforesaid to pay the same under the direction of the Judges of the said Court into some one or other of the banks in Sydney as to the Judges of the said Court may seem meet and immediately upon the filing or depositing of such certificate the said lands or hereditaments shall be and become vested in the said Principal Officers of the Ordnance for the time being for the public service in trust for Her Majesty Her Heirs and Successors.

Judges of Supreme Court to make order for the investment of such purchase money.

10. And be it enacted That the Judges of Her Majesty's said Supreme Court of New South Wales at Sydney aforesaid for the time being or any one or more of them shall be and they or he are or is hereby authorized and empowered in a summary way upon motion or petition for and on behalf of any person or persons interested in or entitled to the benefit of the money so paid to and received by the said Registrar or other proper officer respectively or the interest or produce thereof and upon reading the certificate directed to be signed by the said Registrar or other proper officer respectively concerning the same as aforesaid and receiving such further satisfaction as they or he shall think necessary to make and pronounce such orders and directions for paying the said money or any part of the same or for placing out such part thereof as shall be principal in or upon bank shares or public or government or real securities in New South Wales and for payment of the dividends or interest thereof or any part thereof to the respective persons entitled to receive the same or for laying out the principal or any part thereof in the purchase of other lands estates or hereditaments to be conveyed and settled to for and upon the same uses trusts intents or purposes as the said lands estates and hereditaments so purchased or taken stood settled at the time of the payment of such money as aforesaid or as near thereto as the same can be done or otherwise concerning the disposition of the said money or any part thereof and the interest of the same or any part thereof for the benefit of the person and persons entitled to and interested in the same respectively or for appointing any person or persons to be a trustee or trustees for all or any of such purposes as the said Court shall think just and reasonable.

Investment of purchase money when less than £100.

11. Provided always and be it enacted That in case such purchase money as is lastly hereinbefore mentioned shall be less than the said sum of one hundred pounds then and in all such cases the same shall be at the option of the person or persons for the time being entitled to the rents and profits of the lands and hereditaments so purchased or of his her or their guardian or guardians committee or committees

*Military Landholders.*

committees in case of infancy or lunacy to be signified in writing under their respective hands be paid into the hands of the said Registrar or other proper officer respectively of the said Supreme Court in order to be applied in manner hereinbefore directed or otherwise the same shall be paid at the like option to three trustees to be nominated by the person or persons making such option and approved of by the said Principal Officers or any two or more of them or by the said Respective or other Chief Officers or Officer of the Ordnance for the time being as aforesaid such nomination or approbation to be signified in writing under the hands of the nominating and approving parties in order that such principal money may be invested in the purchase of bank shares or of public or government or real securities in New South Wales and that such shares or stock when purchased and the dividends arising therefrom may be applied in manner hereinbefore directed so far as the case may be applicable without obtaining or being required to obtain the order direction or approbation of the said Supreme Court.

12. Provided always and be it enacted That in case such purchase money shall be less than twenty pounds then and in all such cases the same shall be applied to the use of the person or persons who would for the time being be entitled to the rents and profits of the lands and hereditaments so purchased in such manner as the said Principal Officers or any two or more of them or as the said Respective or other Chief Officers or Officer for the time being as aforesaid shall think fit or in case of infancy or lunacy then to his her or their guardian or guardians committee or committees for the use and benefit of such person or persons entitled respectively.

Investment of purchase money less than £20.

13. And be it enacted That upon the death or removal of any such Registrar or other proper officer respectively all bank shares or public or government or real securities vested in him by virtue of this Act shall vest in the succeeding Registrar or other proper officer respectively for the purpose hereinbefore mentioned without any assignment or transfer and all monies paid into the said banks respectively in pursuance of this Act or remaining in the hands of any Registrar or other proper officer respectively at his death or removal and not vested in or placed out in the purchase of bank shares or on public or government or real securities as aforesaid shall be paid over to the succeeding Registrar or other proper officer respectively for the time being.

Stock and securities vested in Registrar &c. shall in case of death or removal vest in the successors.

14. And be it enacted That in all grants contracts conveyances surrenders leases and other deeds and instruments whatsoever relating to the public service which shall hereafter be made or entered into by to or with the Principal Officers of the Ordnance for the time being or by to or with the Respective or other Chief Officers or Officer of the Ordnance for the time being in New South Wales or whereunto they or any of them shall be parties or a party it shall be sufficient to call or describe the said Principal or other Officers or Officer by the style or title of "The Principal Officers of Her Majesty's Ordnance" or "The Respective or other Chief Officers or Officer in the Colony of New South Wales of Her Majesty's Ordnance" (*as the case may be*) without naming them or any or either of them and that all such contracts conveyances surrenders leases and other deeds and instruments wherein the said Principal Officers or the said Respective or other Chief Officers or Officer as aforesaid shall be called or described by their style or title as aforesaid and the execution thereof respectively by the said Principal Officers or any two or more of them or by the said Respective or other Chief Officers or Officer as aforesaid and be as valid and effectual and have the like force and operation to all intents and purposes whatsoever as if the said Principal Officers or any two or more of them or

Contracts with Principal Officer or Officers of Ordnance to be valid without their being named.

the

---

*Hawkesbury Benevolent Society.*

---

the said Respective or other Chief Officers or Officer as aforesaid had been respectively named therein.

Respective Officers to make to the Governor annual returns of all messuages lands and buildings and of all monies received and paid in respect thereof such return to be laid before the Legislature of the Colony within six weeks after the meeting thereof.

15. And be it enacted That the said Respective Officers of Her Majesty's Ordnance for the time being resident in the Colony of New South Wales aforesaid shall make annually to His Excellency the Governor of the said Colony a just and true return of all messuages lands tenements and buildings vested in pursuance of the provisions of this Act and of all monies which shall from time to time be received by or payable to the said Respective Officers in respect of any such lands tenements or other buildings and that the same shall be laid before the Legislature of the Colony within six weeks after the meeting of the same.

---