

ROBERTS' TRUST. An Act to enable the Trustees of the Will of Joseph Roberts deceased to sell certain Trust Real Estate and divide the proceeds of sale.  
[13th November, 1869.]

Preamble.

WHEREAS Joseph Roberts late of Concord near the City of Sydney in the Colony of New South Wales duly made his last Will and Testament bearing date the twenty-sixth day of April one thousand eight hundred and forty-nine by which the said Testator after certain specific devises and bequests gave devised and bequeathed unto his wife Martha Roberts and his brother James Roberts their heirs executors administrators and assigns all the rest residue and remainder of his the said Testator's real and personal estate upon trust to be equally divided between all his the said Testator's children by his wife Martha living at his death or born in due time afterwards share and share alike as tenants in common their heirs and assigns for ever the shares of such as were girls to vest at the age of twenty-one years or marriage with the consent of his the said Testator's Trustees and Executors for the time being and to be settled to their respective use and not to be anticipated or made liable to the debts control or interference of any husband with whom she might intermarry And the shares

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shares of such as were sons to vest at the age of twenty-one years and in case of any one or more of his the said Testator's said children dying under the age of twenty-one years and without issue the shares or share of such child or children was to go to the surviving child or children in the same manner as their her or his original share or shares. And whereas the said Testator died on the seventh day of May one thousand eight hundred and forty-nine without having in any way revoked or altered his said Will which was duly proved in the Supreme Court in its Ecclesiastical Jurisdiction on the thirtieth day of May one thousand eight hundred and forty-nine. And whereas all the said children of the said Testator have attained the said age of twenty-one years and certain of the said Testator's daughters are married. And whereas in consequence of the said daughters of the said Testator being married and for the purpose of the better making the division of the said Testator's residuary real estate it is advisable that such residuary real estate should be sold. And whereas all the parties entitled to and interested in the said Testator's said residuary real estate are desirous that the same should be sold and the proceeds equally divided among the said Testator's said children being so as aforesaid entitled to and interested in the said residuary real estate. And whereas the Trustees of the said Testator's said Will have no power to sell the said residuary real estate and the said parties entitled thereto are desirous that the said Trustees should have such power. And whereas it is advisable and the said Testator's said married daughters and their husbands respectively desire that such said daughters respective shares of and in the moneys to arise from the sale of the said residuary real estate of the said Testator and the stocks funds and securities in or into which the same may respectively be invested or transferred should be held and be upon the trusts hereafter with respect to the same provided and declared. And whereas an Act of the Legislature is necessary for carrying out the said desire and purposes. Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. It shall be lawful for the Trustees or Trustee for the time being of the said Will of the said Joseph Roberts from time to time and at any time to sell either together or in parcels and either by public auction or private contract the real estate which at any time and from time to time shall be or form part of the said residuary real estate of the said Testator Joseph Roberts and upon any such sale or sales to make any stipulations or conditions as to title or evidence or commencement of title or otherwise in any conditions of sale or contract for sale and the said Trustees or Trustee may buy in or rescind or vary any contract for sale and re-sell without being responsible for any loss arising or occasioned thereby and the said Trustees or Trustee for the time being may execute and do any deed instrument or thing for effectuating any such sale and vesting in any purchaser or purchasers the said residuary real estate or part or parts of the same purchased by any such purchaser or purchasers.

Power to sell and convey.

2. The conveyance to any purchaser or purchasers by the said Trustees or Trustee of the said residuary real estate or part or parts of the same upon any such sale or sales shall give to such purchaser or purchasers the same and as good and as valid a title in and to the said residuary real estate or part or parts thereof which shall be purchased by any such purchaser or purchasers as the said Trustees or Trustee have or take under the said Will and as the said Testator had and as if the said Will of the said Testator had contained a power of sale thereof.

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Proceeds of purchase  
moneys.

3. The said Trustees or Trustee for the time being of the said Will shall out of the moneys to arise from any such sale or sales pay all the expenses of and attendant upon such sale or sales and shall divide the balance or surplus thereof into as many parts as there are or shall be children of the said Testator who are or would be entitled to shares of and in the said Testator's said residuary real estate (if not sold) under and according to the provisions of the said Testator's said Will and shall hand over or pay to each of the sons and daughters respectively of the said Testator who shall have attained the said age of twenty-one years and who being daughters or a daughter shall at the time of such division transfer or payment be a *femme sole* or (as the case may be) to the person or persons then entitled to the share or shares of such son or sons daughter or daughters respectively whether absolutely or conditionally but if conditionally subject to the equities or conditions affecting the same one of such parts respectively and shall with the consent of the *cestui que* trust invest in Government Debentures or on mortgage of real property in the Colony of New South Wales the respective amounts of the several shares of the said daughters of the said Testator who at the time of such division shall be married with power from time to time to vary and transfer the same respectively for or into any other investment of a like kind.

Trusts of invested  
shares.

4. The said Trustees or Trustee for the time being of the said Testator's Will shall stand possessed of the securities respectively in or upon which shall for the time being be invested the shares or parts of such of the said Testator's daughters respectively as shall at the said time of division and payment be married upon trust as to such share of each such daughter for such daughter for her life if she shall so long remain and be a *femme covert* for her sole and separate use and free from the control debts or engagements of her present or any future husband and so that she shall not in any way anticipate the dividends interest or annual produce of such her share. And from and after the death of each such daughter if her husband shall be then living upon trust as to the securities in or upon which the shares of any daughters so dying shall for the time being be invested for such person or persons as such daughters shall by any deed duly acknowledged or by her last will or any codicil (notwithstanding coverture) appoint and in default of any such appointment in trust for any surviving husband of any such daughter for his life. And after the death of such surviving husband in trust for the person or persons who would be entitled to such daughter's personal estate under the provisions of the statutes for the distribution of the estates of persons dying intestate. And in the event of any husband of any such daughter dying during the lifetime of any such daughter then the said Trustees or Trustee for the time being shall stand and be possessed of the said share of any and every such daughter of and in the said moneys to arise upon the sale of the said Testator's said residuary real estate upon trust to transfer and pay over to any and every such daughter being then a *femme sole* or widow her said share as and for her absolute property.

Receipt for purchase  
moneys.

5. The receipts of the said Trustees or Trustee for the time being of the said Testator's Will for the purchase moneys of any property hereby authorized to be sold or for any other moneys stocks funds or securities paid or transferred to them under or by virtue of this Act or in execution of any of the powers or trusts hereby created declared or mentioned shall effectually discharge the person or persons paying or transferring the same therefrom and from being bound to see to the application or being answerable for the loss or misapplication thereof.

Short title.

6. This Act shall be styled and be cited as the "Roberts' Trust Act of 1869."