

An Act to enable Edward Joseph Rubie and Thomas O'Connor the Trustees of the will of the late Michael Heley and the duly appointed committee of Albina Heley an insane patient and also the Trustees of a certain indenture of settlement dated the twenty-sixth day of April one thousand eight hundred and seventy-five to sell certain lands and hereditaments in the Schedules A and B hereto described and to provide for the application of the proceeds of such sale and for other purposes therein mentioned. [27th April, 1883.]

HELEY'S ESTATE.
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WHEREAS Thomas Heley late of Sydney was at the time of his death seized in fee-simple of the lands and hereditaments in Schedule A hereto described and set forth And whereas the said Thomas Heley died on or about the twenty-ninth day of November one thousand eight hundred and sixty-seven intestate leaving him surviving his widow Mary Heley and five children and no more that is to say Mary Ann Ellen Eliza Albina and Michael Heley And whereas administration of the estate of the said Thomas Heley was duly granted by the Supreme Court of New South Wales in its ecclesiastical jurisdiction to the said Michael Heley on the fifth day of February one thousand eight hundred and sixty-eight And whereas by divers conveyances and assurances in the law the said Mary Ann Ellen and Eliza Heley have duly conveyed granted and released all their right title and interest in the said lands and hereditaments as next of kin of the said Thomas Heley to the said Michael Heley absolutely And whereas the said Michael Heley thereupon became and at the time

Preamble.

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time of his death still was entitled to four-fifths of the fee-simple of the said lands and hereditaments subject only to the right and claim of the said Mary Heley the widow of the said Thomas Heley as dowress as hereinafter mentioned And whereas the said Michael Heley duly made and executed his last will and testament in writing bearing date the third day of May one thousand eight hundred and seventy-nine whereby he devised and bequeathed all his property real and personal unto his children in equal shares and he appointed John Magner and Thomas O'Connor Trustees and executors thereof And whereas the said testator died on the fourth day of May one thousand eight hundred and seventy-nine without having altered or revoked his said will and leaving him surviving two children and no more that is to say Mary Teresa and Ellen Clotilda Heley both infants And whereas probate of the said will was duly granted by the said Supreme Court in its ecclesiastical jurisdiction on the thirtieth day of June one thousand eight hundred and seventy-nine to the said executors therein named And whereas the said Albina Heley for the past eighteen years has been and now is an inmate of the Hospital for the Insane at Gladesville And whereas the said Albina Heley is entitled as one of the next of kin of the said Thomas Heley (subject only to the said right of her mother the said Mary Heley as dowress) to one-fifth of the fee-simple of the said lands and hereditaments And whereas by an order of the Supreme Court of New South Wales in its lunacy jurisdiction made the twentieth day of February one thousand eight hundred and eighty-three the said Albina Heley was duly declared to be a person of unsound mind and incapable of managing her affairs and Edward Joseph Rubie and the said Thomas O'Connor were thereby duly appointed the committee of her estate and leave was given to them as such committee to apply to the Parliament of New South Wales for an Act to enable them to sell the said lands and hereditaments And whereas on the death of the said Thomas Heley his widow the said Mary Heley became entitled during her lifetime to one-third of the rents and profits of the said lands and hereditaments in respect of her dower And whereas she is desirous that the said lands and hereditaments should be sold and that her right to dower should be satisfied and paid as hereinafter provided And whereas at the date of the indenture of settlement next hereinafter mentioned the said Michael Heley was also seized in fee-simple of the lands and hereditaments in Schedule B hereto annexed more particularly described and set forth And whereas by an indenture of settlement made the twenty-sixth day of April one thousand eight hundred and seventy-five between the said Michael Heley of the first part and Mary Heley his wife of the second part and William Ahern and James Sheridan therein described as the said Trustees of the third part in consideration of the sum of ten shillings paid by the said Trustees to the said Michael Heley and also for and in consideration of the natural love and affection which the said Michael Heley had and bore towards his wife the said Mary Heley and for divers other good and valuable causes and considerations him thereunto moving the said Michael Heley appointed granted and released unto the said Trustees the said lands and hereditaments in Schedule B hereto described to hold unto the said Trustees and their heirs to the use of the said Trustees during the natural life of the said Mary Heley upon Trust to pay the rents issues and profits thereof unto such person or persons for such intents and purposes and in such manner as the said Mary Heley by any writing or writings under her hand when and as the same should become due but not by way of assignment charge or anticipation thereof should notwithstanding her then or any future coverture direct and appoint and in default of any such direction or appointment

or

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or so far as the same if incomplete should not extend into her proper hands for her sole and separate use free from and independent of the debts control or engagements of any husband she might have and so that her receipt alone should be a good and sufficient discharge for the same to any person or persons whomsoever and from and immediately after the decease of the said Mary Heley to the use of all and every the children if more than one of the said Michael Heley and Mary Heley their heirs and assigns for ever as tenants in common and not as joint tenants and should there be but one such child then to the use of such one or only child his or her heirs and assigns for ever and should there be no such child then to the use of the said Michael Heley his heirs and assigns for ever And whereas the said Edward Joseph Rubie and Thomas O'Connor are now the duly appointed Trustees of both the said will of the said Michael Heley and also of the said settlement And whereas the buildings erected upon the said parcels of land described in the Schedules A and B hereto which are adjoining allotments have been duly condemned under the provisions of the City Improvement Act forty-second Victoria number twenty-five And whereas the said Trustees have no power under the said will or settlement either to sell the said lands or to expend any trust moneys in rebuilding thereon And whereas the said lands are now wholly unproductive and it would be therefore expedient and greatly for the benefit of the persons beneficially interested in the said lands that they should be sold 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 said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said will to sell and dispose of the lands and hereditaments specified in Schedule A hereto by public auction or private contract and either in one lot or in several as they shall deem most expedient for such price or prices as can be reasonably had or obtained for the same and when sold to convey the same or any part or parts thereof to the purchaser or purchasers thereof in fee simple freed and discharged from all right claim estate and interest whatsoever in or to the same and to receive the purchase money thereof.

Power to sell lands
&c. described in
Schedule A.

2. The proceeds of the sale of the said lands and hereditaments comprised in Schedule A to this Act or of any part or parts thereof shall be held by the said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said will upon trust to invest the same in their joint names in Government or real securities in Great Britain or in any of the Australian Colonies as they shall think fit and the dividends interest and income arising therefrom shall be held by them upon trust to pay one-third thereof to the said Mary Heley widow of the said Thomas Heley during her lifetime in satisfaction and payment of her said right to dower her receipt in writing to be a full discharge to the said Edward Joseph Rubie and Thomas O'Connor in respect thereof And subject to such satisfaction and payment of dower as aforesaid upon trust to apply four-fifths of the said dividends interest and income or such part thereof as the said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said will shall think fit for the maintenance and education or otherwise for the benefit of the said Mary Teresa Heley and Ellen Clotilda Heley and to lay out and invest the surplus thereof (if any) in the aforesaid investments the dividends interest and income thereof to be held and applied by them upon like trusts as are hereinbefore expressed concerning the dividends interest and income of the said four-fifths share in respect of the said Mary Teresa Heley and

Power to invest
proceeds and satisfy
dower.

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Ellen Clotilda Heley And as to the remaining one-fifth share of the said dividends interest and income subject to the satisfaction and payment of dower as aforesaid upon trust to apply the same in such manner as the Master of Lunacy shall direct for the maintenance and otherwise for the benefit of the said Albina Heley.

Power to sell lands
described in Schedule
B.

3. It shall also be lawful for the said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said indenture of settlement with the consent in writing of the said Mary Heley widow of Michael Heley deceased to sell and dispose of the lands and hereditaments specified in Schedule B hereto either by public auction or private contract and either in one lot or in several as they shall deem most expedient for such price or prices as can be reasonably had or obtained for the same and when sold to convey the same or any part or parts thereof to the purchaser or purchasers thereof in fee simple freed and discharged from the trusts created by the said indenture of settlement.

Power to invest
proceeds.

4. It shall be lawful for the said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said indenture of settlement to invest the proceeds of sale of the lands and hereditaments comprised in Schedule B or of any part thereof upon the like investments as are hereinbefore provided in respect of the proceeds of the sale of the lands and hereditaments comprised in Schedule A or in such of them as the said Edward Joseph Rubie and Thomas O'Connor or the Trustees for the time being of the said indenture of settlement shall think fit and the proceeds and the investments thereof shall be subject to the trusts of the said settlement so far as such trusts shall be applicable thereto.

Receipt of Trustees
a discharge to
purchaser.

5. The receipts in writing for the purchase money of the whole or any part of the said lands and hereditaments comprised in both the said Schedules A and B signed by the said Edward Joseph Rubie and Thomas O'Connor or other the Trustees for the time being of the said will or settlement shall absolutely discharge the purchaser or purchasers of the said lands and hereditaments or any part or parts thereof from the purchase money payable by him or them respectively and shall exonerate him or them from seeing to the application of the said purchase money and from all liability as to the misapplication or non-application thereof.

SCHEDULE A.

All that piece or parcel of land situate lying and being in the parish of St. Phillip city of Sydney county of Cumberland and Colony of New South Wales and commencing at a point on the building-line of the eastern side of George-street at its intersection with the southern side of Queen's-place and bounded on the west by George-street along said building-line eighteen feet bearing southerly on the south by a line bearing easterly passing partly through the centre of a wall forty-three feet six inches to a lane eight feet wide on the east by that lane bearing northerly twenty-four feet six inches to Queen's-place and on the north by said Queen's-place bearing westerly forty-four feet to the point of commencement.

SCHEDULE B.

All that piece or parcel of land situate lying and being in the parish of St. Phillip city of Sydney county of Cumberland and Colony of New South Wales and commencing at a point on the eastern side of George-street eighteen feet southerly from Queen's-place and bounded on the west by the building-line of said George-street bearing southerly sixteen feet seven and a quarter inches on the south by a line bearing easterly forty-three feet six inches to a lane eight feet wide on the east by that lane bearing northerly sixteen feet seven and a quarter inches and on the north by lot one and a line passing partly through the centre of a wall forty-three feet six inches to the commencing point.