

HUTCHINSON
ESTATE.
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An Act to enable William Matthew Hutchinson Gibbons Richard Hutchinson Roberts and Arthur Huffington or other the Trustees for the time being of the Will of William Hutchinson deceased to sell certain land and houses in York-street and Clarence-street in the City of Sydney and to provide for the application of the proceeds thereof. [6th March, 1884.]

Preamble.

WHEREAS William Hutchinson duly made and executed his last will dated the twentieth day of December one thousand eight hundred and forty-five and thereby gave and devised unto his Trustees namely John Rose Holden George Allen and John Henry Black all those three brick-built houses situate in York-street south of the Wesleyan Centenary Chapel and also all those two houses in Clarence-street adjoining Mr. Blaxland's south of the gateway dividing the said two houses from the houses on which an annuity to his daughter Sarah Nichols was charged and made payable with other hereditaments to hold the same unto the said Trustees their heirs and assigns for and during the life of the said testator's daughter Martha Lackey in the will called Martha Roberts upon trust that the said Trustees and the survivors and the survivor of them their and his heirs and assigns should during the life of the said Martha Lackey receive the rents issues and profits of the said hereditaments and premises and should pay the same as and when the same should be received unto such person or persons only and for such intents and purposes only as the said
Martha

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Martha Lackey should from time to time by writing under her hand direct or appoint but not so as to dispose of or affect the same by sale mortgage charge or otherwise in the way of anticipation and in default of such direction or appointment into her own hands for her own sole separate and peculiar use exclusively of her then present or any future husband and without being in anywise subject to his debts control interference or engagements and the receipts in writing of the said Martha Lackey whether she should be single or married should be sufficient discharges for the same and after the decease of the said Martha Lackey the said testator gave and devised the said hereditaments and premises to the use of all the children if more than one then born or thereafter to be born of the said Martha Lackey by her then present husband in equal shares and proportions as tenants in common in tail with cross remainders between them in tail And whereas the said testator made a codicil to his said will dated the sixth day of February one thousand eight hundred and forty-six which did not affect the devise hereinbefore stated And whereas the said testator died on the twenty-sixth day of July one thousand eight hundred and forty-six without having revoked or altered his said will and codicil and the same were shortly after his death duly proved in the Supreme Court in its Ecclesiastical Jurisdiction by the said John Rose Holden one of the executors named in the said will leave being reserved to the other executors named in the said will to come in and prove the same And whereas by an indenture dated the sixteenth day of November one thousand eight hundred and forty-six the said George Allen and John Henry Black the other executors named in the said will absolutely and irrevocably renounced and disclaimed unto the said John Rose Holden his heirs executors administrators and assigns all the real and personal estates given devised and bequeathed and all the trust powers and authorities whatsoever by the said will and codicil given devised or bequeathed to or vested in them the said George Allen and John Henry Black in conjunction with the said John Rose Holden as aforesaid And whereas by virtue of divers mesne assurances and acts in the law and ultimately by an indenture dated the fifth day of April one thousand eight hundred and seventy-one and made between Arthur Huffington at that time the sole surviving or acting Trustee of the said will of the first part Andrew Hardie McCulloch of the second part and the said Arthur Huffington and William Matthew Hutchinson Gibbons and Richard Hutchinson Roberts of the third part of the said William Matthew Hutchinson Gibbons and Richard Hutchinson Roberts were appointed Trustees of the said will and codicil and of all the real and personal estates thereby given devised and bequeathed as aforesaid jointly with the then existing Trustee the said Arthur Huffington upon the trusts and with under and subject to the powers and authorities expressed and declared in the will and codicil of the said William Hutchinson deceased And whereas the said Martha Lackey formerly Martha Roberts had by her first husband Joseph Roberts who died in the year one thousand eight hundred and forty-nine seven children and no more namely Jane Neich wife of Augustus Neich Richard Hutchinson Roberts Fanny Eliza Houston wife of Alexander Houston Mary Elizabeth Love wife of James Graham Love James Joseph Roberts Joseph James Roberts and Martha Roberts wife of John George Roberts And whereas on the marriage of the said Augustus Neich and Jane Neich there was made no settlement or agreement for a settlement of the share of the said Jane Neich in the said hereditaments and premises And whereas the said share of the said Jane Neich is charged with certain sums in favour of Thomas Salter and is also subject to a subsidiary charge of two thousand six hundred pounds in favour of Charles Henry Myles and the said Thomas Salter being a further

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further security which is also charged upon the share of the said Mary Elizabeth Love in the said hereditaments and premises And whereas by an indenture dated the twenty-fifth day of July one thousand eight hundred and seventy-eight and made between the said Alexander Houison of the first part the said Fanny Eliza Houison his wife of the second part and the said Joseph James Roberts and John George Lackey (Trustees) of the third part the said Alexander Houison granted and released and the said Fanny Eliza Houison appointed and assured unto the said Trustees their heirs executors and administrators (*inter alia*) all the interest or share of the said Fanny Eliza Houison or of the said Alexander Houison in her right in and to the said hereditaments and premises so devised as aforesaid together with full and irrevocable power and authority unto the said Trustees their executors and administrators and other the Trustees or Trustee for the time being of the indenture now in statement to use the name and act as the attorney of the said Alexander Houison his executors and administrators in (*inter alia*) making and executing or joining in making and executing all releases and other documents which might be required in any matter connected with the said hereditaments and premises to hold the same unto and to the use of the said Trustees their heirs executors administrators and assigns upon the trusts in the said indenture declared for the benefit of the said Fanny Eliza Houison and her children And whereas on the marriage of the said James Graham Love and Mary Elizabeth Love there was made no settlement or agreement for a settlement of the share of the said Mary Elizabeth Love in the said hereditaments and premises And whereas previously to the year one thousand eight hundred and eighty the said share of the said Mary Elizabeth Love was charged with considerable sums in favour of the said Charles Henry Myles and Thomas Salter And whereas by an indenture dated the ninth day of October one thousand eight hundred and eighty and made between the said James Graham Love and Mary Elizabeth Love of the first part the said Martha Lackey wife of the Honorable John Lackey of the second part the said Augustus Neich and Jane Neich his wife of the third part and Charles Henry Myles and Thomas Salter of the fourth part for the considerations mentioned in the said deed the various sums charged on the said share of the said Mary Elizabeth Love were settled at the sum of two thousand six hundred pounds and the same share was accordingly charged with payment of that sum to the said Charles Henry Myles and Thomas Salter And whereas by divers assurances and acts in the law and ultimately by virtue of an indenture dated the thirtieth day of June one thousand eight hundred and seventy-three and made between Thomas Bately Rolin and Thomas Salter (being then mortgagees) of the one part and Andrew Hardie M'Culloch of the other part the shares of the said James Joseph Roberts and Joseph James Roberts in the said hereditaments and premises were conveyed and assured to the said Andrew Hardie M'Culloch his heirs and assigns And whereas by an indenture of mortgage dated the fourteenth day of September one thousand eight hundred and seventy-six and made between the said Andrew Hardie M'Culloch of the one part and the Australian Mutual Provident Society of the other part the said shares of the said James Joseph Roberts and Joseph James Roberts were with other property mortgaged to the said Australian Mutual Provident Society to secure payment of the sum of five thousand pounds and interest And whereas on the marriage of the said John George Roberts and Martha Roberts there was made no settlement or agreement for a settlement of the share of the said Martha Roberts in the said hereditaments and premises And whereas the said share of the said Martha Roberts is charged with certain sums in favour of the said Charles

Henry

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Henry Myles And whereas the said gateway mentioned in the said will is in fact part of the said two houses in Clarence-street aforesaid being the entrance to a passage leading from Clarence-street aforesaid to the back of the said houses which passage has always been used and enjoyed by the owners and occupiers of the said houses and by no other persons except that the owners and occupiers of the house in Clarence-street on the north side of the said passage have opened a door into and have been permitted to use the same And whereas the said piece of land on which the said houses in Clarence-street and York-street aforesaid devised by the said will stand including the said passage is described in the Schedule hereto And whereas all the houses and buildings on the said piece of land are in a ruinous condition and there is no fund provided by the said will for the repair of the same and there is no power in the said will to sell the said premises or to let the same on a building or repairing lease or otherwise than for a term not exceeding twenty-one years at the best rent that can reasonably be gotten and it is in consequence impossible to sell or let the said premises and the same will become vacant and unproductive And whereas it will be for the benefit of all parties interested therein and they are desirous that the said premises should be sold And whereas the said Martha Lackey is desirous of releasing her life interest in the proceeds of sale of the said premises to the intent that the same may be divided among her said children according to their respective interests And whereas the said premises cannot be sold without the authority of the Legislature 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 William Matthew Hutchinson Gibbons Richard Hutchinson Roberts and Arthur Huffington or other the Trustees or Trustee for the time being of the will of the said William Hutchinson deceased with the consent of all mortgagees and incumbrancers of the land described in the Schedule hereto or of any part or share thereof to sell and dispose of the said land with the houses and buildings thereon and all appurtenances thereto by public auction or private contract and either together or in parcels as the Trustees or Trustee for the time being of the said will shall think most expedient for such price or prices as can be reasonably had or obtained for the same and upon every such sale it shall be lawful for the Trustees or Trustee for the time being of the said will to convey and assure the said land or any part thereof to the purchaser or purchasers thereof and thereupon the same shall vest absolutely in the said purchaser or purchasers his or their heirs and assigns freed and discharged from all mortgages charges and incumbrances and from the said trusts affecting the same and from all estates tail of all and every of the said children of the said Martha Lackey in the same premises and all remainders reversions estates rights interests and powers to take effect after the determination or in defeasance of such estates tail or any of them And the receipt in writing of the Trustees or Trustee for the time being of the said will shall absolutely discharge the purchaser or purchasers of the said land or any part thereof from the purchase money payable by him or them and from all liability to see to the application thereof.

Power to Trustees to sell and convey land.

2. The Trustees or Trustee for the time being of the said will shall stand possessed of all moneys arising from any such sale as aforesaid upon trust after payment thereof of all expenses of and incidental to the said sales and of and to the obtaining of this Act to apply the same in manner hereinafter mentioned.

Sale moneys to be applied in paying expenses.

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And subject thereto
and to payment of
incumbrances to be
divided between
children of Mrs.
Lackey.

3. The Trustees or Trustee for the time being of the said will shall pay to or apply for the benefit of each of the said seven children of the said Martha Lackey or their respective assigns a sum equal to one-seventh part of the amount of such purchase money after deducting and paying to incumbrancers upon the share in question according to their priorities the amounts due in respect of their respective incumbrances or if the said sum shall not be sufficient to discharge the amounts due to such incumbrancers then the said sum shall be applied in paying such amounts so far as the same sum will extend.

Receipts of married
women to be suffi-
cient discharges.

4. The amounts payable under this Act by the Trustees or Trustee for the time being of the said will to or for the benefit of the said Jane Neich Mary Elizabeth Love and Martha Roberts shall be paid into their proper hands respectively and their respective receipts shall notwithstanding coverture be sufficient discharge for the same.

Share of Mrs.
Houison to be paid
to the Trustees of
her settlement.

5. The amount payable under this Act by the Trustees or Trustee for the time being of the said will to or for the benefit of the said Fanny Eliza Houison shall be paid to the said Joseph James Roberts and John George Lackey or other the Trustees of the said settlement to hold the same upon the trusts and subject to the powers provisoes agreements and declarations contained in the said indenture of settlement of the twenty-fifth day of July one thousand eight hundred and seventy-eight or such of the same trusts powers provisoes agreements and declarations as are now subsisting or capable of taking effect and the receipt of the said Joseph James Roberts and John George Lackey or other the Trustees of the said settlement shall be a sufficient discharge for the same.

Short title.

6. This Act may be cited as the "Hutchinson Estate Act of 1884."

SCHEDULE.

All that piece or parcel of land containing by admeasurement one rood twelve perches or thereabouts situated in the parish of St. Andrew county of Cumberland and Colony of New South Wales being part of allotment number eleven of section number twenty-seven in the City of Sydney originally granted to William Hutchinson Commencing at a point on the building-line on the south-west side of York-street bearing south-easterly and distant two hundred and seventy-four feet two inches from the intersection of the building-line on the south-west side of York-street with the building-line on the south-east side of King-street and bounded thence on the north-east by the building-line of York-street aforesaid bearing south-easterly eighty-three feet six inches to the north-east corner of a brick wall thence on the south-east by the northern side of said brick wall and by the southern side of a stone wall to its south-west corner being in all a line bearing south-westerly one hundred and seventeen feet eight inches thence again on the south-east by a line bearing south-westerly fifty-two feet four inches to the building-line on the north-east side of Clarence-street thence on the south-west by the building-line of Clarence-street aforesaid bearing north-westerly eighty-two feet and thence on the north-west by a line passing along the southern side of a brick wall and the southern side of a stone wall bearing in all north-easterly one hundred and seventy feet four inches to the point of commencement.