

**An Act to enable John Humphries or other the Trustee or Trustees for the time being of a Settlement bearing date the second day of August one thousand eight hundred and forty-eight and made between Thomas Bird deceased of the first part Trophina Bird his wife also deceased of the second part and Francis Smith and the Reverend John Joseph M'Encroe of the third part to sell certain land and houses in Oatley-street and Park-road in the city of Sydney and to provide for the application of the proceeds thereof. [17th September, 1886.]**

Preamble.

**W**HÈREAS by an indenture of settlement bearing date the second day of August one thousand eight hundred and forty-eight and made between the abovenamed Thomas Bird of the first part the abovenamed Trophina Bird of the second part and the abovenamed Francis Smith and John Joseph M'Encroe of the third part certain property of the said Thomas Bird was conveyed and assured to the said Francis Smith and John Joseph M'Encroe upon certain trusts for the benefit of the said Thomas Bird and Trophina Bird and their children. And whereas by an indenture dated the twenty-third day of July one thousand eight hundred and sixty-eight and made between the said Thomas Bird and Trophina Bird his wife of the one part and Ebenezer Orr and the abovenamed John Humphries of the other part after reciting that by an indenture of settlement bearing date the second day of August one thousand eight hundred and forty-eight and made between the said Thomas Bird the said Trophina Bird the said Francis Smith and John Joseph M'Encroe therein designated Trustees certain property of the said Thomas Bird was conveyed and assured to the said Francis Smith and John Joseph M'Encroe as such Trustees upon

*Bird Estate.*

upon such trusts as the said Thomas Bird and Trophina Bird should jointly appoint and in default of appointment upon trust for the said Thomas Bird and Trophina Bird during their lives and for the survivor of them for his or her life and subject thereto upon trust for their children and after reciting a power in the said settlement contained for the said Thomas Bird and Trophina Bird jointly or the survivor of them to remove any Trustee or Trustees and in his or their place or places to appoint a new Trustee or Trustees. It was by the indenture now in statement witnessed that in exercise of the said power the said Thomas Bird and Trophina Bird removed the two then existing Trustees and in their place appointed the said Ebenezer Orr and John Humphries to act in the execution of the several trusts powers and authorities in the said settlement declared and contained. And whereas by an indenture dated the eleventh day of June one thousand eight hundred and seventy-two made between Thomas Henry Bradbridge of the one part and the said Ebenezer Orr and John Humphries of the other part the said Thomas Henry Bradbridge granted and conveyed unto the said Ebenezer Orr and John Humphries and their heirs the lands and hereditaments specified in the Schedule hereto to hold the same to the use of the said Ebenezer Orr and John Humphries their heirs and assigns for ever. And whereas by writing under their hands dated the same eleventh day of June the said Ebenezer Orr and John Humphries declared that they held the piece of land conveyed to them by the indenture lastly hereinbefore stated upon the trusts declared in and by the said indenture of settlement or such of them as were then subsisting or capable of taking effect. And whereas the said Thomas Bird died in the month of August one thousand eight hundred and seventy-eight and the said Trophina Bird died in the month of October one thousand eight hundred and eighty-three and the joint power of appointment contained in the said settlement was never exercised by them. And whereas there was issue of the marriage between the said Thomas Bird and Trophina Bird six children and no more namely—Margaret Emma Wolfskel Mary Harper Crewe Trophina Orr Charlotte Elizabeth Bird Priscilla Bird and Maria Louisa Bird all of whom have attained the age of twenty-one years. And whereas the said Ebenezer Orr died on or about the sixteenth day of February one thousand eight-hundred and seventy-four. And whereas the said indenture of settlement was never registered and the same has been lost and no copy thereof can be found and the nature and trusts of the said indenture of settlement are only known in so far as they are disclosed by the recitals of the hereinbefore stated indenture of the twenty-third day of July one thousand eight hundred and sixty-eight. And whereas it will be for the benefit of the said children and they are desirous that the lands and hereditaments comprised in the Schedule hereto should be sold and the proceeds of the sale divided among the said children but owing to the loss of the said settlement 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 authority of the same as follows:—

1. It shall be lawful for the said John Humphries or other the Power to sell and convey land. Trustees or Trustee for the time being of the trusts of the aforesaid indenture of settlement to sell and dispose of the piece of land described in the Schedule hereto with the houses and buildings thereon and all appurtenances thereto by public auction or private contract and either together or in parcels as such Trustees or Trustee 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

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for the said John Humphries or other the Trustees or Trustee herein-before mentioned to convey and assure the said land or any part thereof to the purchaser or purchasers and thereupon the same shall vest absolutely in the said purchaser or purchasers his or their heirs and assigns freed and discharged from the said trusts affecting the same and the receipt in writing of such Trustee or Trustees shall absolutely discharge the purchaser or purchasers of the said land or any part thereof from the purchase money paid by him or them and from all liability to see to the application thereof.

**Division of proceeds.**

2. The Trustees or Trustee for the time being of the said indenture of settlement shall after payment thereout of all expenses of and incidental to the said sales and of and to the obtaining of this Act divide and pay over the proceeds of the said sales amongst the said six children of the said Thomas Bird and Trophina Bird share and share alike the shares of the said Margaret Emma Wolfskel and Mary Harper Crewe respectively to belong to them for their separate use and to be paid into their proper hands respectively and their respective receipts to be good discharges for the same.

**Short title.**

3. This Act may be cited as the "Bird Estate Act 1886."

**SCHEDULE.**

All that piece or parcel of land situate in the parish of Alexandria county of Cumberland and Colony of New South Wales being part of allotment eight and part of allotment nine of block W of the subdivision of the Sydney Common land Commencing twenty feet from the south-eastern corner of allotment number seven bounded on the south by the northern building alignment of Park Road being a line bearing east five degrees seventeen minutes north twenty feet on the east by a line bearing north five degrees seventeen minutes west one hundred and twenty-five feet six and a half inches (a portion of this line nearest the Park Road runs through the centre of a nine-inch party-wall) on the north by the southern building alignment of Oatley-street being a line bearing west eight minutes north twenty feet one inch on the west by a line bearing south five degrees seventeen minutes east one hundred and twenty-seven feet five inches to the point of commencement.