

King's School Council Act (Private Act) of 1893

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New South Wales

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New South Wales

An Act to incorporate the Council of the King's School, and to vest certain lands and other property in such Council, and to confer certain powers thereon, and upon the Bishop of Sydney, and for other incidental purposes.

Preamble

WHEREAS by letters patent, dated the ninth day of March, one thousand eight hundred and twenty-six, His late Majesty King George the Fourth was pleased to create a corporation by the name of "The Trustees of the Clergy and School Lands in the Colony of New South Wales": And whereas the said trustees did in or about the year one thousand eight hundred and thirty suggest and recommend to His Excellency Lieutenant-General Ralph Darling, then Governor-in-Chief of the said Colony, that a school should be founded in the town of Parramatta, in the said Colony, in connection with the United Church of England and Ireland as by law established, for the reception of boarders and day scholars, and that such school should be called the King's School: And whereas by a minute dated the eighth day of November, one thousand eight hundred and thirty-one, under the hand of His Excellency Colonel Patrick Lindesay, then Acting Governor-in-Chief of the said Colony, it was reported to the Legislative Council of the said Colony that the Right Honorable to the Secretary of State for the Colonies had signified the approval of His late Majesty King William the Fourth of the establishment of a school at Parramatta aforesaid, in accordance with the suggestion and recommendation aforesaid: And whereas for the site and purposes of such school a parcel of land containing by admeasurement six acres two roods and twenty perches, and more particularly described in Schedule A hereto, was, in or about the year one thousand eight hundred and thirty-two, duly vested in the said corporation by Major-General Sir Richard Bourke, then Governor-in-Chief of the said Colony: And whereas in the year one thousand eight hundred and thirty-two a school called the "King's School" was erected and opened upon the said land, and has been carried on in pursuance of the premises: And whereas by Order in Council, dated the fourth day of February, one thousand eight hundred and thirty-three, the said corporation of the trustees of the clergy and school lands was dissolved, and thereupon the said parcel of land reverted to and became vested in the Crown to be disposed of by his Majesty, then the King, His heirs and successors, in such manner as should appear most conducive to the maintenance and promotion of religion and the education of youth in the said Colony: And whereas by letters patent or grant under the hand of His Excellency, Sir Charles Augustus Fitzroy, then Governor-in-Chief of the said Colony, dated the twenty-eighth day of January,

one thousand eight hundred and fifty, the said parcel of land, being the land described in Schedule A hereto, was granted unto the Right Reverend William Grant Broughton, then Lord Bishop of Sydney, and his successors Bishops of Sydney, subject to the trusts, reservations, conditions, and provisions therein contained, upon trust for a school-house, to be called and known by the name of the King's School, in connection with the United Church of England and Ireland, as by law established, and for no other purpose whatsoever: And whereas the several parcels of land described in Schedule B hereto are now vested in the present Bishop of Sydney and Metropolitan for the purposes of the said King's School: And whereas by virtue of three several indentures; that is to say, an indenture made the fifth day of April, one thousand eight hundred and sixty-six, between Stella Kemp and others of the one part and the Right Reverend Frederic Barker, then Bishop of Sydney, of the other part; an indenture made twenty-fourth day of November, one thousand eight hundred and eighty-six, between Robert Campbell Close and others of the one part and the Most Reverend Alfred Barry, then Bishop of Sydney, of the other part; and an indenture made fifteenth day of February, one thousand eight hundred and eight-seven, between Sir William Westbrook Burton and another of the first and second parts respectively and the Most Reverend Alfred Barry, then Bishop of Sydney, of the third part; the three several sums of money in and by the said indentures respectively mentioned and assigned are vested in and held by the Bishop of Sydney and his successors upon trust respectively for the endowment and maintenance of three scholarships in connection with the said school, known respectively as the "Broughton Scholarship," the "Broughton and Forrest Scholarships," and the "Burton Scholarships:" And whereas by an indenture made the twenty-fourth day of June, one thousand eight hundred and ninety-one, between James Arthur Dowling and another of the one part and the Church of England Property Trust, Diocese of Sydney, of the other part, the sum of money therein mentioned was assigned unto and is now held by the said Church of England Property Trust, Diocese of Sydney, upon trust for the endowment and maintenance of a scholarship in connection with the said school, to be known as the "Macarthur Scholarship," which said sums of money in this and the preceding recital mentioned are hereinafter referred to as "the scholarship endowment funds:" And whereas the Reverend Robert Forrest, a clerk in holy orders, was in the year one thousand eight hundred and thirty-two appointed by His late Majesty's then Secretary of State for the Colonies to be the first headmaster of the said school: And whereas the said Robert Forrest died in the year one thousand eight hundred and fifty-four, and the several persons who since successively held the appointment of head master of the said school have all been appointed thereto by the Bishop of Sydney for the time being: And whereas by deed-poll under the episcopal seal, dated the thirty-first day of December, one thousand eight hundred and seventy, the Right Reverend Frederic Barker, then Bishop of Sydney and Metropolitan, did, for himself and his successors, among other things, declare, direct, and appoint that the general government and management of the said King's School and all the matters relating thereto, and the nomination and appointment of the head master thereof should thenceforth be vested in a body of persons to be called the Council of the King's School, and that the said Council should consist of eleven members called Governors, of whom the Bishop of Sydney for the time being should be one, and should by virtue of his office be President of the said Council, and also visitor of the said school, and the other

Governors should be elected for life by the synod of the diocese of Sydney in manner therein set forth: And whereas the said Council is at the present time composed of the following members, that is to say: The Most Reverend William Saumarez Smith, D.D., The Lord Bishop of Sydney, President; The Very Reverend William Macquarie Cowper, M.A., Dean of Sydney; The Venerable Archdeacon Gunther, M.A.; The Reverend H. Wallace-Mort, M.A.; The Reverend James Christian Corlette, D.D.; The Reverend Francis Rowling Elder, B.A.; The Honorable George Henry Cox; His Honor Judge Docker, M.A.; The Honorable Sir Joseph Palmer Abbott; James Sheen Dowling, LL.B.; and the Honorable Phillip Gidley King: And whereas it is expedient that the said Council should be incorporated and invested with the powers and authorities hereinafter contained:

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 Council of the King's School incorporated

From and after the passing of this Act the said members of the Council of the King's School shall be and they are hereby constituted a body politic and corporate by the name of the Council of the King's School, and by that name shall have perpetual succession and a common seal, and may enter into contracts, and sue and be sued or otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise, in perpetuity or for any life or term of years, as well lands, hereditaments, and chattels real as chattels personal, and may, subject to the provisions hereinafter contained, grant, demise, mortgage, charge, alien, or otherwise dispose of all or any lands, hereditaments, or chattels, real or personal, which may at any time be vested in the said body corporate, and may issue debentures, and also shall or may do all other things incident or appertaining to a body corporate.

2 Property vested in the Council

From and after the passing and by virtue of this Act there shall vest in the said Council and its successors all and singular the lands and hereditaments described in Schedule A and Schedule B hereto, and also all other property, whether real or personal, which immediately before the passing of this Act was vested in any person or persons or corporation upon trust for or for the purposes of the said King's School: Provided that this section shall not operate to vest any of the said scholarship endowment funds in the said Council; but it shall be lawful for the Bishop of Sydney for the time being, by deed under the episcopal seal, to assign and transfer the said "Broughton," "Broughton and Forrest," and "Burton" scholarship endowment funds, and any accumulations and investments thereof unto the said Council; and thereupon the said scholarship endowment funds, accumulations and investments so assigned and transferred shall become vested in the said Council and its successors as to each of such funds, accumulations and investments upon the trusts and for the purposes declared by the instrument whereby the same was assigned to the said Bishop as hereinbefore recited: And it shall also be lawful for the said

Church of England Property Trust, Diocese of Sydney, by deed under its corporate seal, to assign and transfer the said "Macarthur" scholarship endowment fund, and any accumulations and investments thereof unto the said Council, and upon such assignment the said "Macarthur" scholarship endowment fund, accumulations, and investments shall become vested in the said Council, upon the trusts and for the purposes declared by the said indenture of the twenty-fourth day of June, one thousand eight hundred and ninety-one.

3 Restraint of alienation of certain lands without consent of Governor and Executive Council

Notwithstanding the powers vested in the said Council by this Act, it shall not be lawful for the said Council to alienate, mortgage, charge, or demise the lands described in Schedule A hereto, or any part thereof, or any lands or hereditaments hereafter to be granted unto the said Council and its successors by Her Majesty or Her successors as a free grant or grants for the purposes of the said King's School, without the consent in writing of the Governor, with the advice of the Executive Council, of the said Colony for the time being, save by way of lease, for any term not exceeding forty years, during the whole currency whereof there shall be reserved and made payable the best rent that can be reasonably gotten for the same without any fine or premium.

4 Proceeds of sale or mortgage how to be applied or invested

In case the said Council shall at any time sell and dispose of any lands or hereditaments which are or shall be vested in them, or shall raise any moneys by mortgage of or charge upon any such lands, or by the issue of debentures, the proceeds of such sale or sales and all such moneys so raised by mortgage, charge, or debentures shall be applied or invested exclusively in one or all or any of the ways following, that is to say:

- (a) In the purchase for an estate in fee simple of other lands and hereditaments in the said Colony and within the Police District of Parramatta for the purposes of the said school.
- (b) In the erection of houses, buildings, and other improvements of a permanent nature upon lands vested in the said Council.

5 Council how composed

The said Council shall consist of eleven members called governors, of whom the Bishop of the diocese of Sydney for the time being shall always be one, and of the remaining ten governors five shall be licensed clergymen of the Church of England, in the said Colony in priest's orders, and the remaining five shall be lay members of the Church of England in the said Colony.

6 Vacancies in the Council to be filled up by election by the Synod

All vacancies occurring in the said Council by reason of death, resignation, removal,

incapacity, absence, or other cause shall be filled up as soon as conveniently may be by election by a majority of the Synod of the diocese of Sydney, present at any duly convened meeting thereof, and pending such meeting the said Council may fill up any such vacancy temporarily.

7 Council to frame regulations

As soon as conveniently may be after the passing of this Act the said Council shall formulate and adopt a code of regulations touching the conduct of the said school, and the course of education and religious instruction to be followed therein, and declaring what causes other than death or resignation shall render vacant the office of Governor of the said Council, and shall have full power from time to time to vary, modify, and revoke such regulations and substitute others in their place in such manner as shall seem best calculated to promote the purposes for which the said school has been established.

8 Council to hold property subject to the regulations of the Synod

The said Council shall hold all the property at any time vested in them by virtue of this Act upon trust, to carry or cause to be carried into effect the regulations hereinbefore referred to; and in the meantime shall hold the same, subject to the rules and regulations at the present time in force or use for the government and conduct of the said school.

9 Council to have general management, and may make by-laws

Subject to the code of regulations so to be formulated and adopted by the said Council, the said Council shall have the general management and superintendence of the affairs, concerns, and property of the said school, and shall have full power to appoint and dismiss the head master of the said school, and also to make such rules and by-laws as to the said Council shall seem expedient for conducting the business of the Council and carrying into effect the provisions and objects of this Act, and such rules and by-laws or any of them to alter or revoke from time to time, and substitute others in their place.

10 Proceedings at meetings of the Council

At every meeting of the said Council the Bishop of Sydney shall preside if present, and in his absence a chairman of the meeting shall be chosen by a majority of the governors present; and all questions which shall come before the said Council shall be decided by a majority of the governors present, and the president or chairman shall not have a vote, except in the case of an equality of votes when he shall have a casting vote only; and no question shall be decided at any meeting unless five governors at the least shall be present at the time of any such decision.

11 Annual reports to be sent to the Synod

The said Council shall, at least once in every year, and also whenever a resolution shall be passed and communicated to them by the Synod of the diocese of Sydney, in that behalf, report their proceedings, and the progress and condition of the said school to the said

Synod; and at the same time present a balance sheet showing the financial position of the said Council.

12 Visitor

The Bishop of Sydney for the time being shall be the visitor of the said school, with all such powers as by law appertain to the office of visitor of a school.

13 Temporary vacancies not to affect status of Council

No temporary vacancy or vacancies in the office of president or governor of the said Council shall be deemed in any way to affect the constitution of the Council or its privileges or status as an incorporated body.

14 This Act may be cited the *King's School Council Act*.

Schedule A

All that piece or parcel of land containing by admeasurement six acres two roods and twenty perches, be the same more or less, situated in the county of Cumberland, parish of the Field of Mars and town of Parramatta: Commencing on the north-east intersection of O'Connell-street with the Parramatta River; and bounded on the west by that street bearing north four degrees thirty minutes east nine chains and fifty-five links to Booth's allotment; on the north by a line bearing easterly eight chains and seventy links to the south-east corner of the Roman Catholic Church and school allotment in Villiers-street; on the east by Villiers-street bearing south five degrees west four chains and eleven links; on the south-east by a line bearing south sixty-three degrees forty-five minutes west two chains and twenty-two links, and by a line bearing south seventeen degrees west three chains and thirty-five links to the Parramatta River; and on the south by that river, to the point of commencement.

Schedule B

All that allotment or parcel of land containing by admeasurement one rood four perches and one quarter of a perch, be the same more or less, situated in the town of Parramatta, parish of the field of Mars, county of Cumberland, being allotment number nine of section number one; bounded on the north by allotment number four one chain eight links; on the east by allotment number ten two chains fifty-nine links; on the south by the King's School land one chain eight links; and on the west by allotment number eight two chains sixty-one links,—being the allotment sold as lot fifty in pursuance of the proclamation of the twenty-ninth of August, one thousand eight hundred and forty-five, and granted by deed-poll or grant, dated the eleventh day of December, one thousand eight hundred and forty-five, under the hand of His Excellency Sir George Gipps, then Governor-in-Chief of the Colony of New South Wales, to the Right Reverend William Grant Broughton, then Bishop of Australia.

All that allotment or parcel of land containing by admeasurement one rood and four perches, be the same more or less, situated in the town of Parramatta, parish of the Field of Mars, county of Cumberland, being allotment number ten of section number one; bounded on the north by allotment number three one chain eight links; on the east by allotment number eleven two chains fifty-seven links; on the south by the King's School allotment one chain eight links; and on the west by allotment number nine two chains fifty-nine links,—being the allotment sold as lot fifty-one, in pursuance of the proclamation of the twenty-ninth of August, one thousand eight hundred and forty-five, and granted by

deed-poll or grant, dated the eleventh day of December, one thousand eight hundred and forth-five, under the hand of His Excellency Sir George Gipps, then Governor-in-Chief of the Colony of New South Wales, to the Right Reverend William Grant Broughton, then Bishop of Australia.

All that allotment or parcel of land containing by admeasurement one rood and four perches, be the same more or less, situated in the town of Parramatta, parish of the Field of Mars, and county of Cumberland, vested in the Bishop of Sydney by endorsement and certificate of title, volume two hundred and seventy-six, folio two hundred and nineteen.

All that piece or parcel of land situate in the town of Parramatta, parish of Field of Mars, county of Cumberland, and Colony of New South Wales, containing by admeasurement two roods eight perches more or less, and comprising allotment number three and part of allotment four of section number one; bounded on the west by other part of said allotment four, being a fenced line bearing southerly one hundred and seventy-two feet one inch more or less to the back fence; thence on the south by the back fence bearing easterly one hundred and forty-two feet four inches more or less to the south-eastern corner of allotment number three aforesaid; thence on the east by the eastern boundary line of allotment number three aforesaid, being a fenced line bearing northerly one hundred and seventy-three feet seven inches more or less to Pennant-street; and thence on the north by that street bearing westerly one hundred and thirty-nine feet more or less to the commencing point, being the whole of the land on the south-side of Pennant-street originally granted to George Thornton, by Crown grant, dated second October, one thousand eight hundred and fifty-eight, and also the eastern portion of the land originally granted to Matthew Anderson, by Crown grant, dated nineteenth April, one thousand eight hundred and thirty-nine.