

I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 17th December, 1919.*

New South Wales.



ANNO DECIMO

GEORGI V REGIS.

An Act to make effectual an Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, prepared for the purpose of carrying into effect a Decree of the Supreme Court of New South Wales in its Equitable Jurisdiction dated the twelfth day of December, one thousand eight hundred and fifty, whereby the said court confirmed a partition of certain lands devised by the will of the late Darcy Wentworth, situated in the districts of Illawarra, Appin, and Bankstown, in the State of New South Wales. [Assented to, 29th December, 1919.]

WHEREAS

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Preamble.

WHEREAS Darcy Wentworth, late of Homebush, in the Colony of New South Wales, on the fifth day of July, one thousand eight hundred and twenty-seven, duly made, signed, and published his last will and testament in writing of that date, whereby reciting that he was possessed of extensive real estates which he was desirous of bequeathing to his children in such manner as that the same should be enjoyed by them respectively only for and during the period of their natural lives, in order therefore to limit the same strictly in entail to them his said children, and to the several and respective heirs of their bodies respectively, the said testator gave, devised, and bequeathed the whole of his property, real, personal, and mixed, wheresoever the same might be situate, except as thereafter was excepted, unto his friends John Thomas Campbell, William Lawson, William Redfern, Esquires, and unto his the said testator's son William Charles Wentworth, Esquire, their heirs, executors, administrators, and assigns, according to the respective nature and quality thereof To have and to hold his the said testator's said real personal and mixed estate to them his the said testator's said trustees and the survivor of them, and the heirs, executors, administrators, and assigns of such survivor In trust nevertheless to and for the uses, intents, and purposes following, that was to say (after devising certain legacies and annuities and declaring certain trusts in respect thereof) Upon trust to allow his, the said testator's said son William Charles Wentworth to have, possess, and enjoy certain of his the said testator's estates and property in the said will particularly mentioned and described, the said William Charles Wentworth to possess and enjoy the said estates, hereditaments and premises respectively, and every part and parcel thereof for and during the term of his natural life, and from and after his decease the same to go and descend to his first and other sons and daughters in tail in the order of primogeniture, males to be preferred to females, and to the several and respective heirs of their bodies so as that each possessor should take only a life estate and interest in the same. And in the event of the said

William

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William Charles Wentworth's decease without issue then the said testator gave and devised his said estates to his said trustees and their heirs in trust to allow his the said testator's other children thereafter mentioned to possess and enjoy the same, strictly limited to life interest and entail to each of them respectively in the order of primogeniture, males to be preferred to females, in the order in the said will particularly mentioned, it being distinctly understood that the estate he then devised to his said son William Charles Wentworth was in full compensation for the one thousand acres of land granted to him at Illawarra or the Five Islands. And (after certain devises and declarations of trust in favour of his son Darcy Wentworth) upon further trust to allow his the said testator's children Martha, Sophia, Robert, Mary Anne, and Katherine to possess and enjoy the whole of his the said testator's Illawarra estate (including certain lands at Liverpool and Appin and the said one thousand acres of land so granted to the said William Charles Wentworth as aforesaid), being the lands mentioned and described in the First Schedule to the Indenture of Partition dated the twenty-second day of September, one thousand eight hundred and fifty-one, hereinafter mentioned for and during the periods of the respective natural lives of his the said testator's said five therein last-mentioned children to be held and enjoyed by them respectively and by their respective heirs of their bodies as tenants in common and not as joint tenants, with the like limitations as to remainder to their respective issue and to succession in default of such issue as was thereinbefore in the said will limited and appointed with regard to the other estates thereby by the said will devised and bequeathed to his the said testator's said son William Charles. And the said testator declared that in the event of the death of any of his said nine children (in the said will particularly mentioned) without issue of their bodies as therein aforesaid, he the said testator gave and devised the estate or estates thereinbefore given and devised in trust for such children and their issue as therein aforesaid as should die without issue to the eldest of his the said testator's

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said children who should be then living in the order of succession therein particularly mentioned to be had and held by such succeeding child and the heirs of his or her body, subject to the like limitations and conditions as therein aforesaid: And whereas the said testator was at the times of his so making the said will and of his death seized and possessed of the said lands mentioned and described in the said First Schedule to the said indenture other than the said one thousand acres of land granted to the said William Charles Wentworth: And whereas the said testator died on the seventh day of July, one thousand eight hundred and twenty-seven, without having in any way altered or revoked his said last will and testament, which was, on the twenty-second day of May, one thousand eight hundred and twenty-eight, duly proved in the Supreme Court of New South Wales in its Ecclesiastical Jurisdiction, when administration of the estate of the said Darcy Wentworth was duly granted to the said John Thomas Campbell, William Lawson, and William Charles Wentworth: And whereas the said testator left him surviving his children Martha Wentworth, in the said will called Martha; Sophia Wentworth, therein called Sophia; Robert Charles Wentworth, therein called Robert; Mary Anne Wentworth, therein called Mary Anne; and Katherine Wentworth, therein called Katherine: And whereas by an indenture dated the first day of January, one thousand eight hundred and forty-seven, and made between the said William Charles Wentworth and Sarah Wentworth his wife of the one part, and Robert Towns and Stephen Addison of the other part, which indenture was duly acknowledged by the said Sarah Wentworth, reciting that the said William Charles Wentworth had accepted the said devise to him and was desirous of conveying the said one thousand acres of land so granted to him as aforesaid upon the trusts of the said will in manner thereafter mentioned, the said William Charles Wentworth and the said Sarah Wentworth released the said one thousand acres of land unto the said Robert Towns and Stephen Addison and their heirs, to hold the same unto the said Robert Towns and Stephen Addison and their

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their heirs to such uses and upon the trusts and for the ends intents and purposes expressed and declared in and by the said will of and concerning the said testator's said Illawarra estate: And whereas the said Martha Wentworth on or about the twelfth day of March, one thousand eight hundred and twenty-eight, intermarried with John Reddall: And whereas the said Martha Reddall died in the year one thousand eight hundred and forty-seven, leaving her surviving Thomas Alexander Reddall, her eldest son and heir at law: And whereas the said Sophia Wentworth on or about the twenty-eighth day of December, one thousand eight hundred and thirty-three, intermarried with the said Robert Towns: And whereas by an indenture dated the eighth day of January, one thousand eight hundred and fifty-six, duly acknowledged by the said Sophia Towns, the said Robert Towns and Sophia Towns did grant and release to Randolph John Want and his heirs the undivided equal fifth share of the said Sophia Towns and all other the interests of the said Sophia Towns in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, to hold the same unto the said Randolph John Want and his heirs to such uses as the said Sophia Towns should appoint, and in default of and subject to any such appointment to the use of the said Sophia Towns and her heirs: And whereas in the year one thousand eight hundred and forty a judgment was obtained against the said Robert Charles Wentworth in the Supreme Court of New South Wales, and in pursuance of an alias writ of fieri facias, dated the thirteenth day of June, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff by a deed poll dated the twenty-first day of July, one thousand eight hundred and forty-nine, bargained and sold to John Baker Smithers all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him the said Robert Charles Wentworth in the said lands mentioned

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mentioned and described in the First Schedule to the said Indenture of Partition secondly, thirdly, ninthly, tenthly, eleventhly, and twelfthly described, to hold the same unto the said John Baker Smithers and his heirs : And whereas the said John Baker Smithers made the said purchase as trustee for the said Robert Towns and the said Stephen Addison : And whereas by an indenture dated the twenty-fifth day of July, one thousand eight hundred and forty-nine, the said John Baker Smithers granted and released to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and sold to the said John Baker Smithers by the said deed poll, to hold the same unto the said Robert Towns and Stephen Addison and their heirs, as to one equal moiety thereof, as the said Robert Towns should by deed appoint, and in default of and subject to such appointment to the use of the said Robert Towns and his heirs, and as to the remaining moiety as the said Stephen Addison should by deed appoint, and in default of and subject to such appointment, to the use of the said Stephen Addison and his heirs : And whereas in pursuance of a pluries writ of fieri facias, dated the first day of September, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff, by a deed poll dated the ninth day of October, one thousand eight hundred and forty-nine, bargained and sold to John Gilchrist all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him, the said Robert Charles Wentworth, in the said lands mentioned and described in the First Schedule to the said Indenture of Partition firstly, fourthly, fifthly, sixthly, seventhly, and eighthly described, to hold the same under the same unto the said John Gilchrist and his heirs, to such uses as the said John Gilchrist should appoint, and in default of and subject to any such direction or appointment to the use of the said John Gilchrist and his heirs : And whereas by an indenture the said John Gilchrist did appoint, and did also grant and release to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and

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and sold to the said John Gilchrist by the said deed poll dated the ninth day of October, one thousand eight hundred and forty-nine, to hold the same unto the said Robert Towns and Stephen Addison and their heirs, as to one equal moiety thereof, as the said Robert Towns should by deed appoint, and in default of and subject to such appointment to the use of the said Robert Towns and his heirs, and as to the remaining moiety as the said Stephen Addison should by deed appoint, and in default of and subject to such appointment to the use of the said Stephen Addison and his heirs: And whereas the said Mary Anne Wentworth, on or about the nineteenth day of December, one thousand eight hundred and forty, intermarried with the said Stephen Addison: And whereas by an indenture dated the eighteenth day of December, one thousand eight hundred and forty-nine, and duly acknowledged by the said Mary Anne Addison, the said Stephen Addison and Mary Anne Addison did grant and release to the said Randolph John Want and his heirs the undivided equal fifth share of the said Mary Anne Addison in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition dated the twenty-second day of September, one thousand eight hundred and fifty-one, to hold the same unto the said Randolph John Want and his heirs to such uses as the said Mary Anne Addison should by deed or will appoint, and in default of and subject to any such appointment to the use of the said Mary Anne Addison and her heirs: And whereas by an indenture dated the twenty-seventh day of January, one thousand eight hundred and forty-seven, the said Katherine Wentworth did grant and release unto the said Randolph John Want and his heirs the undivided equal fifth share of the said Katherine Wentworth in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition except the several parcels therein respectively fourthly and ninthly described To hold the same unto the said Randolph John Want and his heirs to such uses as the said Katherine Wentworth should by deed or will appoint, and in default of and subject to such appointment to

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the use of the said Katherine Wentworth and her heirs: And whereas by an indenture dated the thirtieth day of January, one thousand eight hundred and forty-seven, the said Katherine Wentworth did grant and release unto the said Robert Towns and William Currie Botts and their heirs all the lands and hereditaments in and by the said indenture lastly hereinbefore recited comprised and assured to hold the same immediately after the marriage of the said Katherine Wentworth with Benjamin Darley to such uses as the said Benjamin Darley and Katherine Wentworth by deed should jointly appoint: And whereas the said Katherine Wentworth on or about the sixth day of February, one thousand eight hundred and forty-seven, intermarried with the said Benjamin Darley: And whereas by an indenture dated the twenty-seventh day of March, one thousand eight hundred and forty-eight, the said Benjamin Darley and the said Katherine Darley his wife did jointly appoint that the lands thereafter more particularly described should go, remain, and be to the uses thereafter declared of and concerning the same, and the said Katherine Darley and the said Benjamin Darley did grant and release unto the said Robert Towns and Alexander Donaldson Kellie and their heirs all the lands in the said First Schedule to the said Indenture of Partition which were assured by the said indentures of the first day of February, one thousand eight hundred and forty-seven, and the thirtieth day of January, one thousand eight hundred and forty-seven, except the lands in the said schedule fourthly and ninthly described, and also all the land and estate devised to or to which the said Benjamin Darley and Katherine Darley or either of them might be entitled under and by virtue of the said will of the said Darcy Wentworth to hold the same unto the said Robert Towns and Alexander Donaldson Kellie and their heirs to the uses thereafter expressed and declared of and concerning the same: And it was thereby declared that the appointment and release thereinbefore contained should operate and enure to and for such estate and purposes and in such manner as the said Benjamin Darley and Katherine Darley his wife

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wife by deed should appoint: And whereas Robert Darcy Wentworth Towns was the eldest son of the said Sophia Towns and was born on the twentieth day of November, one thousand eight hundred and forty-one: And whereas Katherine Darley the Younger was on the said twenty-second day of September, one thousand eight hundred and fifty-one, the date of the said indenture of partition, the eldest daughter of the said Katherine Darley, and the said Katherine Darley had not at the said lastmentioned date ever had any son: And whereas Hugh Darcy Addison was the eldest son of the said Mary Anne Addison and was born in the year one thousand eight hundred and forty-two: And whereas a suit was instituted in the Supreme Court of New South Wales in its Equitable Jurisdiction by an amended original Bill and two supplementary Bills wherein the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander Reddall, an infant by his next friend the said Robert Towns, were plaintiffs, and the said Stephen Addison and Mary Anne Addison his wife, and John Reddall, by his guardian George Want, were defendants. And it was by a decree pronounced in the said suit on the fourteenth day of May, one thousand eight hundred and fifty, decreed that it be referred to the Master in Equity to see what shares, estate, and interest the several parties to the said suit were respectively entitled to of and in the lands in the pleadings mentioned to be situate at Illawarra, Liverpool, and Appin, under the will of the said Darcy Wentworth, deceased, or otherwise being the lands mentioned and described in the First Schedule to the said Indenture of Partition, and that the Master should make a separate report thereof, and that after the Master should have made such separate report a partition should be made of the said lands between the said parties according to the shares, estate, and interest the Master should find they were respectively entitled to, and that commissioners should make a division and partition of the said lands into such shares as the said parties should be found to be entitled to by metes and bounds;

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bounds; and it was further decreed that the several plaintiffs and defendants should execute all necessary deeds and assurances for conveying and assuring such several equal parts or shares to the parties who should be found to be entitled thereto; and in case a perfect conveyance could not then be made of any of the said parts or shares by reason of any temporary obstacle, any of the parties to the said partition were to be at liberty to apply to the court for a conveyance when such obstacle should be removed, and in the meantime the several parties thereto should hold and enjoy the allotted shares according to their respective rights and interests therein: And whereas the Master in Equity, in pursuance of the said decree, made a separate report dated the twenty-sixth day of August, one thousand eight hundred and fifty, whereby he found, inter alia, that the said Darcy Wentworth by his said will devised to each of his said children Sophia, Martha, Robert, Mary Anne, and Katherine, one equal undivided fifth share of the said lands, being the lands mentioned and described in the First Schedule to the said Indenture of Partition for life with remainders to their sons and daughters in tail in succession, one after the other according to seniority of age and priority of birth, the sons to take before the daughters, the daughters not to take as coparceners but in succession one after the other: And whereas the said report was confirmed: And whereas by another decree pronounced by the said court on or about the twelfth day of October, one thousand eight hundred and fifty, and made in the said suit, and in another supplemental suit therein, Robert Darcy Wentworth Towns, Hugh Darcy Addison, and Katherine Darley, by John Henry Challis, their next friend, were plaintiffs, and the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander Reddall, by his guardian Robert Towns, and Stephen Addison and Mary Anne his wife, and John Reddall, by his guardian George Want, were defendants, it was decreed that it should be referred to the Master in Equity to enquire whether it would be for the benefit of the unborn issue of

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of Robert Wentworth in the supplemental suit mentioned that the lands and hereditaments in the pleadings mentioned should be apportioned and divided between them and the several parties to the said third supplemental suit and the unborn issue of the said Robert Wentworth, according to their respective estates and interests therein, and whether it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and two first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, and if the Master should find that it would be for the benefit of such unborn issue that the decree made in the said original and two first supplemental suits, dated the fourteenth day of May, one thousand eight hundred and fifty, and the proceedings and partition to be taken and made in pursuance thereof be carried on and prosecuted between and be binding on the parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth, according to their several and respective estates and interests in the said lands as if they had been parties to the said original and two first-mentioned supplemental suits, and that all past and future proceedings in all the said thereinbefore-mentioned suits be binding on all the said parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth: And it was ordered that the commissioners to be appointed under and by virtue of the said decree should make a division and partition of the said lands into such parts or shares as the parties to the said original and three supplemental suits had been found to be entitled to by the Master's report, bearing date the twenty-sixth day of August, one thousand eight hundred and fifty, and the order confirming the same by metes and bounds: And it was ordered that the said decree, so far as the same related to the conveyance of allotted parts of the said estate and to the holding and enjoying the same before conveyance, should be extended and applied to the parties to the said third supplemental suit and to the unborn issue of the said Robert Wentworth and the parts or shares to be
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allotted to them respectively: And it was ordered that what should be allotted to the several parties should be held and enjoyed by them in severalty, and all and every the parties and party under disability when capable, and all other proper parties should join in executing proper conveyances, and, if necessary, duly acknowledge or do such other acts necessary for barring estates tail, and for conveying and vesting the several shares in and to the said premises respectively, according to the several estates, rights and interests of, in and to the several undivided parts and shares of and in the said lands: And whereas the said Master, in pursuance of the said last-mentioned decree, made his report dated the eighteenth day of October, one thousand eight hundred and fifty, whereby he found that it would be for the benefit of the unborn issue of the said Robert Wentworth (being the said Robert Charles Wentworth) that the said lands should be apportioned and divided between them and the several parties to the said third supplemental suit according to their respective estates and interests therein, and that it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, which said report was afterwards confirmed: And whereas in pursuance of the said first in part recited decree a commission was duly issued to the commissioners therein named: And the said commissioners having caused lots to be drawn for the fair allotment of the said lands, duly returned the said commission, accompanied by a certificate dated the twenty-sixth day of November, one thousand eight hundred and fifty, whereby they certified that they found that the lands in question consisted of the lands in the said certificate and in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, mentioned and described. And the said commissioners further certified that they did make a fair partition, division and allotment by metes and bounds of the said lands into five equal shares, and
that

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that a schedule prepared by them and annexed to the said certificate and marked with the letter X contained the said five portions of the said lands, being the portions comprised in the second, third, fourth, fifth and sixth schedules to the said Indenture of Partition. And the said commissioners did thereby make an allotment of the said lands in accordance with the rights and interests of the parties respectively entitled thereto: And whereas the said partition was duly confirmed by an order of the Supreme Court of New South Wales in its Equitable Jurisdiction, dated the twelfth day of December, one thousand eight hundred and fifty: And whereas, for the purpose of effectuating the said partition by a formal conveyance and assurance, the said indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, was prepared, which said indenture of partition was settled and approved by the Master in Equity, whereby it was intended that all persons who were entitled to the said lands, directly or derivatively, under the said will for estates for life or pur autre vie or in fee, and in possession, or in remainder or otherwise, should so convey and assure the said lands that the several parcels thereof should stand limited in accordance with the said partition, and for the said purpose that the parcels of the said lands described in the Second Schedule to the said Indenture of Partition should, after the death of the said Robert Charles Wentworth, be subject to the limitations declared by the said will of the said Darcy Wentworth of and concerning the share of the said Robert Charles Wentworth of and in the said lands so devised to the said testator's five children in and by the said will as aforesaid, and that the parcels of the said lands described in the third schedule thereto should become vested in the said Thomas Alexander Reddall and the heirs of his body for an estate in fee tail, and subject thereto should be subject to the limitations declared by the said will of and concerning the share of the said Martha Wentworth of and in the said land so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described

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in the fourth schedule thereto should, after the death of the said Sophia Towns, be subject to the limitations declared by the said will of and concerning the share of the said Sophia Towns of and in the said lands so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described in the fifth schedule thereto should after the death of the said Katherine Darley be subject to the limitations declared by the said will of and concerning the share of the said Katherine Darley of and in the said lands so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described in the sixth schedule thereto should, after the death of the said Mary Anne Addison, be subject to the limitations declared by the said will of and concerning the share of the said Mary Anne Addison of and in the said lands so devised to the said testator's five children as aforesaid : And whereas the said Thomas Alexander Reddall, the eldest son of the said Martha Reddall, did on or about the twenty-first day of May, one thousand eight hundred and fifty-five, duly execute the said indenture of partition and did also duly acknowledge such execution : And whereas Robert Darcy Wentworth Towns, the eldest son of the said Sophia Towns, did, on or about the twelfth day of October, one thousand eight hundred and sixty-five, duly execute the said indenture of partition, and did also duly acknowledge such execution : And whereas it doth not appear that the said indenture of partition was executed by all the persons entitled under the said will to a share or interest in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition or otherwise interested therein, and the execution by whom of the said indenture of partition was necessary in order that the same should be completely effectual : And whereas the said indenture of partition may thereby be ineffectual or not wholly effectual for the purpose for which the same was prepared : And whereas the said lands described in the said First Schedule to the said Indenture of Partition have since about the date when the said indenture was first executed been held and enjoyed in several parcels in accordance with the partition provided for by
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the said indenture: And whereas it is desirable that the said Indenture of Partition should be effectual in order that the titles of the persons intended to take thereunder should be perfected in the manner contemplated by the said decrees of the Supreme Court of New South Wales in its Equitable Jurisdiction: And whereas by reason of the deaths of parties interested in the said lands and otherwise the said objects cannot be attained without the authority of Parliament: Be it therefore enacted by the King'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. The said indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, shall operate, and shall be deemed to have operated as from the said date, in all respects as though a person had on the twenty-second day of September, one thousand eight hundred and fifty-one, been seized and possessed of the lands mentioned and described in the first schedule to the said indenture, together with all easements, privileges, advantages, rights, members, and appurtenances thereto, or to any part or parts thereof, belonging, or in anywise appertaining, or therewith, or with any part or parts thereof, then or theretofore usually held, used, occupied, or enjoyed for an estate in fee simple in possession, freed and discharged from all estates, interests, encumbrances, and rights whatsoever in any other person or persons save and except only such if any estates, interest, encumbrances, and rights of any person or persons other than the said Darcy Wentworth, deceased, as had existed in the said lands, or in any part or parts thereof, immediately prior to the death of the said Darcy Wentworth, and were still in existence on the said twenty-second day of September, one thousand eight hundred and fifty-one, and such person so seized and possessed as aforesaid had on the said twenty-second day of September, one thousand eight hundred and fifty-one, by the said indenture duly granted, bargained, sold, released, ratified, and confirmed unto Randolph John Want

Indenture of
partition
dated 22nd
September,
1851, to
operate
according to
intention.

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Want in the said indenture mentioned, and his heirs all and singular, the said lands with their and every of their appurtenances to have and to hold the same unto the said Randolph John Want and his heirs to the uses upon the trusts, and for the ends, intents, and purposes hereinafter expressed and declared, that is to say as to, for, and concerning the respective parts of the said lands in the second, third, fourth, fifth, and sixth schedules to the said indenture of partition respectively mentioned and described to the uses, and upon the trusts, and for the ends, intents, and purposes in the said indenture of partition respectively expressed and declared with respect to the said respective parts.

Short title.

2. This Act may be cited as "Wentworth Estate Partition Act, 1919."

In the name and on behalf of His Majesty I assent to this Act.

W. E. DAVIDSON,
Governor.

*Government House,
Sutton Forest, 29th December, 1919.*

This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 18th November, 1919.*

New South Wales.



ANNO DECIMO

GEORGII V REGIS.

An Act to make effectual an Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, prepared for the purpose of carrying into effect a Decree of the Supreme Court of New South Wales in its Equitable Jurisdiction dated the twelfth day of December, one thousand eight hundred and fifty, whereby the said court confirmed a partition of certain lands devised by the will of the late Darcy Wentworth, situated in the districts of Illawarra, Appin, and Bankstown, in the State of New South Wales.

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WHEREAS Darcy Wentworth, late of Homebush, Preamble.
in the Colony of New South Wales, on the fifth
day of July, one thousand eight hundred and twenty-
seven, duly made, signed, and published his last will and
5 testament in writing of that date, whereby reciting that
he was possessed of extensive real estates which he was
desirous of bequeathing to his children in such manner
as that the same should be enjoyed by them respectively
only for and during the period of their natural lives, in
10 order therefore to limit the same strictly in entail to them
his said children, and to the several and respective heirs
of their bodies respectively, the said testator gave,
devised, and bequeathed the whole of his property, real,
personal, and mixed, wheresoever the same might be
15 situate, except as thereafter was excepted, unto his
friends John Thomas Campbell, William Lawson,
William Redfern, Esquires, and unto his the said
testator's son William Charles Wentworth, Esquire,
their heirs, executors, administrators, and assigns,
20 according to the respective nature and quality thereof
To have and to hold his the said testator's said real
personal and mixed estate to them his the said testator's
said trustees and the survivor of them, and the heirs,
executors, administrators, and assigns of such survivor
25 In trust nevertheless to and for the uses, intents, and
purposes following, that was to say (after devising certain
legacies and annuities and declaring certain trusts in
respect thereof) Upon trust to allow his, the said
testator's said son William Charles Wentworth to have,
30 possess, and enjoy certain of his the said testator's estates
and property in the said will particularly mentioned
and described, the said William Charles Wentworth
to possess and enjoy the said estates, hereditaments and
premises respectively, and every part and parcel thereof
35 for and during the term of his natural life, and from and
after his decease the same to go and descend to his first
and other sons and daughters in tail in the order of
primogeniture, males to be preferred to females, and to
the several and respective heirs of their bodies so as
40 that each possessor should take only a life estate and
interest in the same. And in the event of the said
William

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William Charles Wentworth's decease without issue then the said testator gave and devised his said estates to his said trustees and their heirs in trust to allow his the said testator's other children thereafter mentioned to
5 possess and enjoy the same, strictly limited to life interest and entail to each of them respectively in the order of primogeniture, males to be preferred to females, in the order in the said will particularly mentioned, it being distinctly understood that the estate he then devised to
10 his said son William Charles Wentworth was in full compensation for the one thousand acres of land granted to him at Illawarra or the Five Islands. And (after certain devises and declarations of trust in favour of his son Darcy Wentworth) upon further trust to allow his
15 the said testator's children Martha, Sophia, Robert, Mary Anne, and Katherine to possess and enjoy the whole of his the said testator's Illawarra estate (including certain lands at Liverpool and Appin and the said one thousand acres of land so granted to the
20 said William Charles Wentworth as aforesaid), being the lands mentioned and described in the First Schedule to the Indenture of Partition dated the twenty-second day of September, one thousand eight hundred and fifty-one, hereinafter mentioned for and during the periods
25 of the respective natural lives of his the said testator's said five therein last-mentioned children to be held and enjoyed by them respectively and by their respective heirs of their bodies as tenants in common and not as joint tenants, with the like limitations as to remainder to
30 their respective issue and to succession in default of such issue as was thereinbefore in the said will limited and appointed with regard to the other estates thereby by the said will devised and bequeathed to his the said testator's said son William Charles. And the said
35 testator declared that in the event of the death of any of his said nine children (in the said will particularly mentioned) without issue of their bodies as therein aforesaid, he the said testator gave and devised the estate or estates thereinbefore given and devised in trust for such
40 children and their issue as therein aforesaid as should die without issue to the eldest of his the said testator's
said

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said children who should be then living in the order of succession therein particularly mentioned to be had and held by such succeeding child and the heirs of his or her body, subject to the like limitations and conditions as
5 therein aforesaid: And whereas the said testator was at the times of his so making the said will and of his death seized and possessed of the said lands mentioned and described in the said First Schedule to the said indenture other than the said one thousand acres of land granted
10 to the said William Charles Wentworth: And whereas the said testator died on the seventh day of July, one thousand eight hundred and twenty-seven, without having in any way altered or revoked his said last will and testament, which was, on the twenty-second day of
15 May, one thousand eight hundred and twenty-eight, duly proved in the Supreme Court of New South Wales in its Ecclesiastical Jurisdiction, when administration of the estate of the said Darcy Wentworth was duly granted to the said John Thomas Campbell, William Lawson,
20 and William Charles Wentworth: And whereas the said testator left him surviving his children Martha Wentworth, in the said will called Martha; Sophia Wentworth, therein called Sophia; Robert Charles Wentworth, therein called Robert; Mary Anne Went-
25 worth, therein called Mary Anne; and Katherine Wentworth, therein called Katherine: And whereas by an indenture dated the first day of January, one thousand eight hundred and forty-seven, and made between the said William Charles Wentworth and Sarah Wentworth
30 his wife of the one part, and Robert Towns and Stephen Addison of the other part, which indenture was duly acknowledged by the said Sarah Wentworth, reciting that the said William Charles Wentworth had accepted the said devise to him and was desirous of conveying the
35 said one thousand acres of land so granted to him as aforesaid upon the trusts of the said will in manner thereafter mentioned, the said William Charles Wentworth and the said Sarah Wentworth released the said one thousand acres of land unto the said Robert Towns
40 and Stephen Addison and their heirs, to hold the same unto the said Robert Towns and Stephen Addison and
their

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their heirs to such uses and upon the trusts and for the ends intents and purposes expressed and declared in and by the said will of and concerning the said testator's said Illawarra estate: And whereas the said Martha Wentworth on or about the twelfth day of March, one thousand eight hundred and twenty-eight, intermarried with John Reddall: And whereas the said Martha Reddall died in the year one thousand eight hundred and forty-seven, leaving her surviving Thomas Alexander Reddall, her eldest son and heir at law: And whereas the said Sophia Wentworth on or about the twenty-eighth day of December, one thousand eight hundred and thirty-three, intermarried with the said Robert Towns: And whereas by an indenture dated the eighth day of January, one thousand eight hundred and fifty-six, duly acknowledged by the said Sophia Towns, the said Robert Towns and Sophia Towns did grant and release to Randolph John Want and his heirs the undivided equal fifth share of the said Sophia Towns and all other the interests of the said Sophia Towns in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, to hold the same unto the said Randolph John Want and his heirs to such uses as the said Sophia Towns should appoint, and in default of and subject to any such appointment to the use of the said Sophia Towns and her heirs: And whereas in the year one thousand eight hundred and forty a judgment was obtained against the said Robert Charles Wentworth in the Supreme Court of New South Wales, and in pursuance of an alias writ of fieri facias, dated the thirteenth day of June, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff by a deed poll dated the twenty-first day of July, one thousand eight hundred and forty-nine, bargained and sold to John Baker Smithers all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him the said Robert Charles Wentworth in the said lands mentioned

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mentioned and described in the First Schedule to the said Indenture of Partition secondly, thirdly, ninthly, tenthly, eleventhly, and twelfthly described, to hold the same unto the said John Baker Smithers and his heirs :

5 And whereas the said John Baker Smithers made the said purchase as trustee for the said Robert Towns and the said Stephen Addison : And whereas by an indenture dated the twenty-fifth day of July, one thousand eight hundred and forty-nine, the said John Baker

10 Smithers granted and released to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and sold to the said John Baker Smithers by the said deed poll, to hold the same unto the said Robert Towns and Stephen Addison and their

15 heirs, as to one equal moiety thereof, as the said Robert Towns should by deed appoint, and in default of and subject to such appointment to the use of the said Robert Towns and his heirs, and as to the remaining moiety as the said Stephen Addison should by deed appoint, and in

20 default of and subject to such appointment, to the use of the said Stephen Addison and his heirs : And whereas in pursuance of a pluries writ of fieri facias, dated the first day of September, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said

25 judgment, the sheriff, by a deed poll dated the ninth day of October, one thousand eight hundred and forty-nine, bargained and sold to John Gilchrist all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him, the

30 said Robert Charles Wentworth, in the said lands mentioned and described in the First Schedule to the said Indenture of Partition firstly, fourthly, fifthly, sixthly, seventhly, and eighthly described, to hold the same under the same unto the said John Gilchrist and

35 his heirs, to such uses as the said John Gilchrist should appoint, and in default of and subject to any such direction or appointment to the use of the said John Gilchrist and his heirs : And whereas by an indenture the said John Gilchrist did appoint, and did also grant

40 and release to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and

and

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and sold to the said John Gilchrist by the said deed
poll dated the ninth day of October, one thousand
eight hundred and forty-nine, to hold the same unto the
said Robert Towns and Stephen Addison and their heirs,
5 as to one equal moiety thereof, as the said Robert Towns
should by deed appoint, and in default of and subject to
such appointment to the use of the said Robert Towns
and his heirs, and as to the remaining moiety as the said
Stephen Addison should by deed appoint, and in default
10 of and subject to such appointment to the use of the
said Stephen Addison and his heirs : And whereas the
said Mary Anne Wentworth, on or about the nineteenth
day of December, one thousand eight hundred and forty,
intermarried with the said Stephen Addison : And
15 whereas by an indenture dated the eighteenth day of
December, one thousand eight hundred and forty-nine,
and duly acknowledged by the said Mary Anne Addison,
the said Stephen Addison and Mary Anne Addison did
grant and release to the said Randolph John Want and
20 his heirs the undivided equal fifth share of the said
Mary Anne Addison in the said lands mentioned and
described in the said First Schedule to the said
Indenture of Partition dated the twenty-second day of
September, one thousand eight hundred and fifty-one, to
25 hold the same unto the said Randolph John Want and
his heirs to such uses as the said Mary Anne Addison
should by deed or will appoint, and in default of and
subject to any such appointment to the use of the said
Mary Anne Addison and her heirs : And whereas by an
30 indenture dated the twenty-seventh day of January,
one thousand eight hundred and forty-seven, the said
Katherine Wentworth did grant and release unto the
said Randolph John Want and his heirs the undivided
equal fifth share of the said Katherine Wentworth in
35 the said lands mentioned and described in the said First
Schedule to the said Indenture of Partition except the
several parcels therein respectively fourthly and ninthly
described To hold the same unto the said Randolph
John Want and his heirs to such uses as the said
40 Katherine Wentworth should by deed or will appoint,
and in default of and subject to such appointment to
the

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the use of the said Katherine Wentworth and her heirs :
And whereas by an indenture dated the thirtieth day of
January, one thousand eight hundred and forty-seven,
the said Katherine Wentworth did grant and release
5 unto the said Robert Towns and William Currie Botts
and their heirs all the lands and hereditaments in and
by the said indenture lastly hereinbefore recited com-
prised and assured to hold the same immediately after
the marriage of the said Katherine Wentworth with
10 Benjamin Darley to such uses as the said Benjamin
Darley and Katherine Wentworth by deed should
jointly appoint : And whereas the said Katherine Went-
worth on or about the sixth day of February, one thou-
sand eight hundred and forty-seven, intermarried with
15 the said Benjamin Darley : And whereas by an indenture
dated the twenty-seventh day of March, one thousand
eight hundred and forty-eight, the said Benjamin Darley
and the said Katherine Darley his wife did jointly
appoint that the lands thereafter more particularly
20 described should go, remain, and be to the uses therein-
after declared of and concerning the same, and the said
Katherine Darley and the said Benjamin Darley did grant
and release unto the said Robert Towns and Alexander
Donaldson Kellie and their heirs all the lands in the
25 said First Schedule to the said Indenture of Partition
which were assured by the said indentures of the first
day of February, one thousand eight hundred and forty-
seven, and the thirtieth day of January, one thousand
eight hundred and forty-seven, except the lands in the
30 said schedule fourthly and ninthly described, and also
all the land and estate devised to or to which the said
Benjamin Darley and Katherine Darley or either of
them might be entitled under and by virtue of the said
will of the said Darcy Wentworth to hold the same
35 unto the said Robert Towns and Alexander Donaldson
Kellie and their heirs to the uses thereafter expressed
and declared of and concerning the same : And it was
thereby declared that the appointment and release
thereinbefore contained should operate and enure to
40 and for such estate and purposes and in such manner as
the said Benjamin Darley and Katherine Darley his
wife

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wife by deed should appoint: And whereas Robert Darcy Wentworth Towns was the eldest son of the said Sophia Towns and was born on the twentieth day of November, one thousand eight hundred and forty-one:
5 And whereas Katherine Darley the Younger was on the said twenty-second day of September, one thousand eight hundred and fifty-one, the date of the said indenture of partition, the eldest daughter of the said Katherine Darley, and the said Katherine Darley had
10 not at the said lastmentioned date ever had any son: And whereas Hugh Darcy Addison was the eldest son of the said Mary Anne Addison and was born in the year one thousand eight hundred and forty-two: And whereas a suit was instituted in the Supreme Court of
15 New South Wales in its Equitable Jurisdiction by an amended original Bill and two supplementary Bills wherein the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander
20 Reddall, an infant by his next friend the said Robert Towns, were plaintiffs, and the said Stephen Addison and Mary Anne Addison his wife, and John Reddall, by his guardian George Want, were defendants. And it was by a decree pronounced in the said suit on the
25 fourteenth day of May, one thousand eight hundred and fifty, decreed that it be referred to the Master in Equity to see what shares, estate, and interest the several parties to the said suit were respectively entitled to of and in the lands in the pleadings mentioned to be situate
30 at Illawarra, Liverpool, and Appin, under the will of the said Darcy Wentworth, deceased, or otherwise being the lands mentioned and described in the First Schedule to the said Indenture of Partition, and that the Master should make a separate report thereof, and that after the
35 Master should have made such separate report a partition should be made of the said lands between the said parties according to the shares, estate, and interest the Master should find they were respectively entitled to, and that commissioners should make a division and
40 partition of the said lands into such shares as the said parties should be found to be entitled to by metes and
bounds;

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bounds; and it was further decreed that the several plaintiffs and defendants should execute all necessary deeds and assurances for conveying and assuring such several equal parts or shares to the parties who should
5 be found to be entitled thereto; and in case a perfect conveyance could not then be made of any of the said parts or shares by reason of any temporary obstacle, any of the parties to the said partition were to be at liberty to apply to the court for a conveyance when such obstacle
10 should be removed, and in the meantime the several parties thereto should hold and enjoy the allotted shares according to their respective rights and interests therein: And whereas the Master in Equity, in pursuance of the said decree, made a separate report dated the twenty-
15 sixth day of August, one thousand eight hundred and fifty, whereby he found, inter alia, that the said Darcy Wentworth by his said will devised to each of his said children Sophia, Martha, Robert, Mary Anne, and Katherine, one equal undivided fifth share of the said
20 lands, being the lands mentioned and described in the First Schedule to the said Indenture of Partition for life with remainders to their sons and daughters in tail in succession, one after the other according to seniority of age and priority of birth, the sons to take before the
25 daughters, the daughters not to take as coparceners but in succession one after the other: And whereas the said report was confirmed: And whereas by another decree pronounced by the said court on or about the twelfth day of October, one thousand eight hundred and fifty,
30 and made in the said suit, and in another supplemental suit therein, Robert Darcy Wentworth Towns, Hugh Darcy Addison, and Katherine Darley, by John Henry Challis, their next friend, were plaintiffs, and the said Robert Towns and Sophia Towns his wife, Alexander
35 Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander Reddall, by his guardian Robert Towns, and Stephen Addison and Mary Anne his wife, and John Reddall, by his guardian George Want, were defendants, it was decreed that it
40 should be referred to the Master in Equity to enquire whether it would be for the benefit of the unborn issue

of

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of Robert Wentworth in the supplemental suit mentioned that the lands and hereditaments in the pleadings mentioned should be apportioned and divided between them and the several parties to the said third supplemental suit and the unborn issue of the said Robert Wentworth, according to their respective estates and interests therein, and whether it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and two first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, and if the Master should find that it would be for the benefit of such unborn issue that the decree made in the said original and two first supplemental suits, dated the fourteenth day of May, one thousand eight hundred and fifty, and the proceedings and partition to be taken and made in pursuance thereof be carried on and prosecuted between and be binding on the parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth, according to their several and respective estates and interests in the said lands as if they had been parties to the said original and two first-mentioned supplemental suits, and that all past and future proceedings in all the said thereinbefore-mentioned suits be binding on all the said parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth: And it was ordered that the commissioners to be appointed under and by virtue of the said decree should make a division and partition of the said lands into such parts or shares as the parties to the said original and three supplemental suits had been found to be entitled to by the Master's report, bearing date the twenty-sixth day of August, one thousand eight hundred and fifty, and the order confirming the same by metes and bounds: And it was ordered that the said decree, so far as the same related to the conveyance of allotted parts of the said estate and to the holding and enjoying the same before conveyance, should be extended and applied to the parties to the said third supplemental suit and to the unborn issue of the said Robert Wentworth and the parts or shares to be allotted

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allotted to them respectively: And it was ordered that what should be allotted to the several parties should be held and enjoyed by them in severalty, and all and every the parties and party under disability when capable, and all other proper parties should join in executing proper conveyances, and, if necessary, duly acknowledge or do such other acts necessary for barring estates tail, and for conveying and vesting the several shares in and to the said premises respectively, according to the several estates, rights and interests of, in and to the several undivided parts and shares of and in the said lands: And whereas the said Master, in pursuance of the said last-mentioned decree, made his report dated the eighteenth day of October, one thousand eight hundred and fifty, whereby he found that it would be for the benefit of the unborn issue of the said Robert Wentworth (being the said Robert Charles Wentworth) that the said lands should be apportioned and divided between them and the several parties to the said third supplemental suit according to their respective estates and interests therein, and that it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, which said report was afterwards confirmed: And whereas in pursuance of the said first in part recited decree a commission was duly issued to the commissioners therein named: And the said commissioners having caused lots to be drawn for the fair allotment of the said lands, duly returned the said commission, accompanied by a certificate dated the twenty-sixth day of November, one thousand eight hundred and fifty, whereby they certified that they found that the lands in question consisted of the lands in the said certificate and in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, mentioned and described. And the said commissioners further certified that they did make a fair partition, division and allotment by metes and bounds of the said lands into five equal shares, and that

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that a schedule prepared by them and annexed to the said certificate and marked with the letter X contained the said five portions of the said lands, being the portions comprised in the second, third, fourth, fifth and
5 sixth schedules to the said Indenture of Partition. And the said commissioners did thereby make an allotment of the said lands in accordance with the rights and interests of the parties respectively entitled thereto: And whereas the said partition was duly confirmed by
10 an order of the Supreme Court of New South Wales in its Equitable Jurisdiction, dated the twelfth day of December, one thousand eight hundred and fifty: And whereas, for the purpose of effectuating the said partition by a formal conveyance and assurance, the said
15 indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, was prepared, which said indenture of partition was settled and approved by the Master in Equity, whereby it was intended that all persons who were entitled to
20 the said lands, directly or derivatively, under the said will for estates for life or pur auter vie or in fee, and in possession, or in remainder or otherwise, should so convey and assure the said lands that the several parcels thereof should stand limited in accordance with the
25 said partition, and for the said purpose that the parcels of the said lands described in the Second Schedule to the said Indenture of Partition should, after the death of the said Robert Charles Wentworth, be subject to the limitations declared by the said will of the
30 said Darcy Wentworth of and concerning the share of the said Robert Charles Wentworth of and in the said lands so devised to the said testator's five children in and by the said will as aforesaid, and that the parcels of the said lands described in the third
3 schedule thereto should become vested in the said Thomas Alexander Reddall and the heirs of his body for an estate in fee tail, and subject thereto should be subject to the limitations declared by the said will of and concerning the share of the said Martha Wentworth of and in the
40 said land so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described
in

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in the fourth schedule thereto should, after the death of the said Sophia Towns, be subject to the limitations declared by the said will of and concerning the share of the said Sophia Towns of and in the said lands so devised
5 to the said testator's five children as aforesaid, and that the parcels of the said lands described in the fifth schedule thereto should after the death of the said Katherine Darley be subject to the limitations declared by the said will of and concerning the share of the said
10 Katherine Darley of and in the said lands so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described in the sixth schedule thereto should, after the death of the said Mary Anne Addison, be subject to the limitations declared by
15 the said will of and concerning the share of the said Mary Anne Addison of and in the said lands so devised to the said testator's five children as aforesaid : And whereas the said Thomas Alexander Reddall, the eldest son of the said Martha Reddall, did on or about the twenty-first
20 day of May, one thousand eight hundred and fifty-five, duly execute the said indenture of partition and did also duly acknowledge such execution : And whereas Robert Darcy Wentworth Towns, the eldest son of the said Sophia Towns, did, on or about the twelfth day of
25 October, one thousand eight hundred and sixty-five, duly execute the said indenture of partition, and did also duly acknowledge such execution : And whereas it doth not appear that the said indenture of partition was executed by all the persons entitled under the said will to a share
30 or interest in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition or otherwise interested therein, and the execution by whom of the said indenture of partition was necessary in order that the same should be completely effectual :
35 And whereas the said indenture of partition may thereby be ineffectual or not wholly effectual for the purpose for which the same was prepared : And whereas the said lands described in the said First Schedule to the said Indenture of Partition have since about the date when the said inden-
40 ture was first executed been held and enjoyed in several parcels in accordance with the partition provided for by
the

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- the said indenture: And whereas it is desirable that the said Indenture of Partition should be effectual in order that the titles of the persons intended to take thereunder should be perfected in the manner contemplated by the
- 5 said decrees of the Supreme Court of New South Wales in its Equitable Jurisdiction: And whereas by reason of the deaths of parties interested in the said lands and otherwise the said objects cannot be attained without the authority of Parliament: Be it therefore enacted
- 10 by the King'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:—
- 15 **1.** The said indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, shall operate, and shall be deemed to have operated as from the said date, in all respects as though
- 20 a person had on the twenty-second day of September, one thousand eight hundred and fifty-one, been seized and possessed of the lands mentioned and described in the first schedule to the said indenture, together with all easements, privileges, advantages, rights, members, and appurtenances thereto, or to any part or parts thereof,
- 25 belonging, or in anywise appertaining, or therewith, or with any part or parts thereof, then or theretofore usually held, used, occupied, or enjoyed for an estate in fee simple in possession, freed and discharged from all estates, interests, encumbrances, and rights whatsoever in any
- 30 other person or persons save and except only such if any estates, interest, encumbrances, and rights of any person or persons other than the said Darcy Wentworth, deceased, as had existed in the said lands, or in any part or parts thereof, immediately prior to the death of the
- 35 said Darcy Wentworth, and were still in existence on the said twenty-second day of September, one thousand eight hundred and fifty-one, and such person so seized and possessed as aforesaid had on the said twenty-second day of September, one thousand eight hundred and fifty-
- 40 one, by the said indenture duly granted, bargained, sold, released, ratified, and confirmed unto Randolph John Want

Indenture of
partition
dated 22nd
September,
1851, to
operate
according to
intention.

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Want in the said indenture mentioned, and his heirs all and singular, the said lands with their and every of their appurtenances to have and to hold the same unto the said Randolph John Want and his heirs to the uses upon the
5 trusts, and for the ends, intents, and purposes hereinafter expressed and declared, that is to say as to, for, and concerning the respective parts of the said lands in the second, third, fourth, fifth, and sixth schedules to the said indenture of partition respectively mentioned and
10 described to the uses, and upon the trusts, and for the ends, intents, and purposes in the said indenture of partition respectively expressed and declared with respect to the said respective parts.

2. This Act may be cited as "Wentworth Estate
15 Partition Act, 1919."

Legislative Council.

1919.

A BILL

To make effectual an Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, prepared for the purpose of carrying into effect a Decree of the Supreme Court of New South Wales in its Equitable Jurisdiction dated the twelfth day of December, one thousand eight hundred and fifty, whereby the said court confirmed a partition of certain lands devised by the will of the late Darcy Wentworth, situated in the districts of Illawarra, Appin, and Bankstown, in the State of New South Wales.

(As amended and agreed to in Select Committee.)

7, 73

c 119—

WHEREAS

NOTE.—The words to be omitted are ruled through.

Preamble.

WHEREAS Darcy Wentworth, late of Homebush,
in the Colony of New South Wales, on the fifth
day of July, one thousand eight hundred and twenty-
seven, duly made, signed, and published his last will and
testament in writing of that date, whereby reciting that 5
he was possessed of extensive real estates which he was
desirous of bequeathing to his children in such manner
as that the same should be enjoyed by them respectively
only for and during the period of their natural lives, in
order therefore to limit the same strictly in entail to them 10
his said children, and to the several and respective heirs
of their bodies respectively, the said testator gave,
devised, and bequeathed the whole of his property, real,
personal, and mixed, wheresoever the same might be
situate, except as thereafter was excepted, unto his 15
friends John Thomas Campbell, William Lawson,
William Redfern, Esquires, and unto his the said
testator's son William Charles Wentworth, Esquire,
their heirs, executors, administrators, and assigns,
according to the respective nature and quality thereof 20
To have and to hold his the said testator's said real
personal and mixed estate to them his the said testator's
said trustees and the survivor of them, and the heirs,
executors, administrators, and assigns of such survivor
In trust nevertheless to and for the uses, intents, and 25
purposes following, that was to say (after devising certain
legacies and annuities and declaring certain trusts in
respect thereof) Upon trust to allow his, the said
testator's said son William Charles Wentworth to have,
possess, and enjoy certain of his the said testator's estates 30
and property in the said will particularly mentioned
and described, the said William Charles Wentworth
to possess and enjoy the said estates, hereditaments and
premises respectively, and every part and parcel thereof
for and during the term of his natural life, and from and 35
after his decease the same to go and descend to his first
and other sons and daughters in tail in the order of
primogeniture, males to be preferred to females, and to
the several and respective heirs of their bodies so as
that each possessor should take only a life estate and 40
interest in the same. And in the event of the said
William

William Charles Wentworth's decease without issue then the said testator gave and devised his said estates to his said trustees and their heirs in trust to allow his the said testator's other children thereafter mentioned to
5 possess and enjoy the same, strictly limited to life interest and entail to each of them respectively in the order of primogeniture, males to be preferred to females, in the order in the said will particularly mentioned, it being distinctly understood that the estate he then devised to
10 his said son William Charles Wentworth was in full compensation for the one thousand acres of land granted to him at Illawarra or the Five Islands. And (after certain devises and declarations of trust in favour of his son Darcy Wentworth) upon further trust to allow his
15 the said testator's children Martha, Sophia, Robert, Mary Anne, and Katherine to possess and enjoy the whole of his the said testator's Illawarra estate (including certain lands at Liverpool and Appin and the said one thousand acres of land so granted to the
20 said William Charles Wentworth as aforesaid), being the lands mentioned and described in the First Schedule to the Indenture of Partition dated the twenty-second day of September, one thousand eight hundred and fifty-one, hereinafter mentioned for and during the periods
25 of the respective natural lives of his the said testator's said five therein last-mentioned children to be held and enjoyed by them respectively and by their respective heirs of their bodies as tenants in common and not as joint tenants, with the like limitations as to remainder to
30 their respective issue and to succession in default of such issue as was thereinbefore in the said will limited and appointed with regard to the other estates thereby by the said will devised and bequeathed to his the said testator's said son William Charles. And the said
35 testator declared that in the event of the death of any of his said nine children (in the said will particularly mentioned) without issue of their bodies as therein aforesaid, he the said testator gave and devised the estate or estates thereinbefore given and devised in trust for such
40 children and their issue as therein aforesaid as should die without issue to the eldest of his the said testator's
said

said children who should be then living in the order of succession therein particularly mentioned to be had and held by such succeeding child and the heirs of his or her body, subject to the like limitations and conditions as therein aforesaid: And whereas the said testator was at the times of his so making the said will and of his death seized and possessed of the said lands mentioned and described in the said First Schedule to the said indenture other than the said one thousand acres of land granted to the said William Charles Wentworth: And whereas the said testator died on the seventh day of July, one thousand eight hundred and twenty-seven, without having in any way altered or revoked his said last will and testament, which was, on the twenty-second day of May, one thousand eight hundred and twenty-eight, duly proved in the Supreme Court of New South Wales in its Ecclesiastical Jurisdiction, when administration of the estate of the said Darcy Wentworth was duly granted to the said John Thomas Campbell, William Lawson, and William Charles Wentworth: And whereas the said testator left him surviving his children Martha Wentworth, in the said will called Martha; Sophia Wentworth, therein called Sophia; Robert Charles Wentworth, therein called Robert; Mary Anne Wentworth, therein called Mary Anne; and Katherine Wentworth, therein called Katherine: And whereas by an indenture dated the first day of January, one thousand eight hundred and forty-seven, and made between the said William Charles Wentworth and Sarah Wentworth his wife of the one part, and Robert Towns and Stephen Addison of the other part, which indenture was duly acknowledged by the said Sarah Wentworth, reciting that the said William Charles Wentworth had accepted the said devise to him and was desirous of conveying the said one thousand acres of land so granted to him as aforesaid upon the trusts of the said will in manner thereafter mentioned, the said William Charles Wentworth and the said Sarah Wentworth released the said one thousand acres of land unto the said Robert Towns and Stephen Addison and their heirs, to hold the same unto the said Robert Towns and Stephen Addison and their

their heirs to such uses and upon the trusts and for the ends intents and purposes expressed and declared in and by the said will of and concerning the said testator's said Illawarra estate: And whereas the said Martha Wentworth on or about the twelfth day of March, one thousand eight hundred and twenty-eight, intermarried with John Reddall: And whereas the said Martha Reddall died in the year one thousand eight hundred and forty-seven, leaving her surviving Thomas Alexander Reddall, her eldest son and heir at law: And whereas the said Sophia Wentworth on or about the twenty-eighth day of December, one thousand eight hundred and thirty-three, intermarried with the said Robert Towns: And whereas by an indenture dated the eighth day of January, one thousand eight hundred and fifty-six, duly acknowledged by the said Sophia Towns, the said Robert Towns and Sophia Towns did grant and release to Randolph John Want and his heirs the undivided equal fifth share of the said Sophia Towns and all other the interests of the said Sophia Towns in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, to hold the same unto the said Randolph John Want and his heirs to such uses as the said Sophia Towns should appoint, and in default of and subject to any such appointment to the use of the said Sophia Towns and her heirs: And whereas in the year one thousand eight hundred and forty a judgment was obtained against the said Robert Charles Wentworth in the Supreme Court of New South Wales, and in pursuance of an alias writ of fieri facias, dated the thirteenth day of June, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff by a deed poll dated the twenty-first day of July, one thousand eight hundred and forty-nine, bargained and sold to John Baker Smithers all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him the said Robert Charles Wentworth in the said lands mentioned

mentioned and described in the First Schedule to the said Indenture of Partition secondly, thirdly, ninthly, tenthly, eleventhly, and twelfthly described, to hold the same unto the said John Baker Smithers and his heirs : And whereas the said John Baker Smithers made the said purchase as trustee for the said Robert Towns and the said Stephen Addison : And whereas by an indenture dated the twenty-fifth day of July, one thousand eight hundred and forty-nine, the said John Baker Smithers granted and released to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and sold to the said John Baker Smithers by the said deed poll, to hold the same unto the said Robert Towns and Stephen Addison and their heirs, as to one equal moiety thereof, as the said Robert Towns should by deed appoint, and in default of and subject to such appointment to the use of the said Robert Towns and his heirs, and as to the remaining moiety as the said Stephen Addison should by deed appoint, and in default of and subject to such appointment, to the use of the said Stephen Addison and his heirs : And whereas in pursuance of a pluries writ of fieri facias, dated the first day of September, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff, by a deed poll dated the ninth day of October, one thousand eight hundred and forty-nine, bargained and sold to John Gilchrist all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him, the said Robert Charles Wentworth, in the said lands mentioned and described in the First Schedule to the said Indenture of Partition firstly, fourthly, fifthly, sixthly, seventhly, and eighthly described, to hold the same under the same unto the said John Gilchrist and his heirs, to such uses as the said John Gilchrist should appoint, and in default of and subject to any such direction or appointment to the use of the said John Gilchrist and his heirs : And whereas by an indenture the said John Gilchrist did appoint, and did also grant and release to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and

and sold to the said John Gilchrist by the said deed
poll dated the ninth day of October, one thousand
eight hundred and forty-nine, to hold the same unto the
said Robert Towns and Stephen Addison and their heirs,
5 as to one equal moiety thereof, as the said Robert Towns
should by deed appoint, and in default of and subject to
such appointment to the use of the said Robert Towns
and his heirs, and as to the remaining moiety as the said
Stephen Addison should by deed appoint, and in default
10 of and subject to such appointment to the use of the
said Stephen Addison and his heirs : And whereas the
said Mary Anne Wentworth, on or about the nineteenth
day of December, one thousand eight hundred and forty,
intermarried with the said Stephen Addison : And
15 whereas by an indenture dated the eighteenth day of
December, one thousand eight hundred and forty-nine,
and duly acknowledged by the said Mary Anne Addison,
the said Stephen Addison and Mary Anne Addison did
grant and release to the said Randolph John Want and
20 his heirs the undivided equal fifth share of the said
Mary Anne Addison in the said lands mentioned and
described in the said First Schedule to the said
Indenture of Partition dated the twenty-second day of
September, one thousand eight hundred and fifty-one, to
25 hold the same unto the said Randolph John Want and
his heirs to such uses as the said Mary Anne Addison
should by deed or will appoint, and in default of and
subject to any such appointment to the use of the said
Mary Anne Addison and her heirs : And whereas by an
30 indenture dated the twenty-seventh day of January,
one thousand eight hundred and forty-seven, the said
Katherine Wentworth did grant and release unto the
said Randolph John Want and his heirs the undivided
equal fifth share of the said Katherine Wentworth in
35 the said lands mentioned and described in the said First
Schedule to the said Indenture of Partition except the
several parcels therein respectively fourthly and ninthly
described To hold the same unto the said Randolph
John Want and his heirs to such uses as the said
40 Katherine Wentworth should by deed or will appoint,
and in default of and subject to such appointment to
the

the use of the said Katherine Wentworth and her heirs :
And whereas by an indenture dated the thirtieth day of
January, one thousand eight hundred and forty-seven,
the said Katherine Wentworth did grant and release
unto the said Robert Towns and William Currie Botts 5
and their heirs all the lands and hereditaments in and
by the said indenture lastly hereinbefore recited com-
prised and assured to hold the same immediately after
the marriage of the said Katherine Wentworth with
Benjamin Darley to such uses as the said Benjamin 10
Darley and Katherine Wentworth by deed should
jointly appoint : And whereas the said Katherine Went-
worth on or about the sixth day of February, one thou-
sand eight hundred and forty-seven, intermarried with
the said Benjamin Darley : And whereas by an indenture 15
dated the twenty-seventh day of March, one thousand
eight hundred and forty-eight, the said Benjamin Darley
and the said Katherine Darley his wife did jointly
appoint that the lands thereafter more particularly
described should go, remain, and be to the uses therein- 20
after declared of and concerning the same, and the said
Katherine Darley and the said Benjamin Darley did grant
and release unto the said Robert Towns and Alexander
Donaldson Kellie and their heirs all the lands in the
said First Schedule to the said Indenture of Partition 25
which were assured by the said indentures of the first
day of February, one thousand eight hundred and forty-
seven, and the thirtieth day of January, one thousand
eight hundred and forty-seven, except the lands in the
said schedule fourthly and ninthly described, and also 30
all the land and estate devised to or to which the said
Benjamin Darley and Katherine Darley or either of
them might be entitled under and by virtue of the said
will of the said Darcy Wentworth to hold the same
unto the said Robert Towns and Alexander Donaldson 35
Kellie and their heirs to the uses thereafter expressed
and declared of and concerning the same : And it was
thereby declared that the appointment and release
thereinbefore contained should operate and enure to
and for such estate and purposes and in such manner as 40
the said Benjamin Darley and Katherine Darley his
wife

wife by deed should appoint: And whereas Robert Darcy Wentworth Towns was the eldest son of the said Sophia Towns and was born on the twentieth day of November, one thousand eight hundred and forty-one:

5 And whereas Katherine Darley the Younger was on the said twenty-second day of September, one thousand eight hundred and fifty-one, the date of the said indenture of partition, the eldest daughter of the said Katherine Darley, and the said Katherine Darley had

10 not at the said lastmentioned date ever had any son: And whereas Hugh Darcy Addison was the eldest son of the said Mary Anne Addison and was born in the year one thousand eight hundred and forty-two: And whereas a suit was instituted in the Supreme Court of

15 New South Wales in its Equitable Jurisdiction by an amended original Bill and two supplementary Bills wherein the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander

20 Reddall, an infant by his next friend the said Robert Towns, were plaintiffs, and the said Stephen Addison and Mary Anne Addison his wife, and John Reddall, a lunatic, by his guardian George Want, were defendants. And it was by a decree pronounced in the said suit on

25 the fourteenth day of May, one thousand eight hundred and fifty, decreed that it be referred to the Master in Equity to see what shares, estate, and interest the several parties to the said suit were respectively entitled to of and in the lands in the pleadings mentioned to be situate

30 at Illawarra, Liverpool, and Appin, under the will of the said Darcy Wentworth, deceased, or otherwise being the lands mentioned and described in the First Schedule to the said Indenture of Partition, and that the Master should make a separate report thereof, and that after the

35 Master should have made such separate report a partition should be made of the said lands between the said parties according to the shares, estate, and interest the Master should find they were respectively entitled to, and that commissioners should make a division and

40 partition of the said lands into such shares as the said parties should be found to be entitled to by metes and bounds;

bounds; and it was further decreed that the several plaintiffs and defendants should execute all necessary deeds and assurances for conveying and assuring such several equal parts or shares to the parties who should be found to be entitled thereto; and in case a perfect conveyance could not then be made of any of the said parts or shares by reason of any temporary obstacle, any of the parties to the said partition were to be at liberty to apply to the court for a conveyance when such obstacle should be removed, and in the meantime the several parties thereto should hold and enjoy the allotted shares according to their respective rights and interests therein: And whereas the Master in Equity, in pursuance of the said decree, made a separate report dated the twenty-sixth day of August, one thousand eight hundred and fifty, whereby he found, inter alia, that the said Darcy Wentworth by his said will devised to each of his said children Sophia, Martha, Robert, Mary Anne, and Katherine, one equal undivided fifth share of the said lands, being the lands mentioned and described in the First Schedule to the said Indenture of Partition for life with remainders to their sons and daughters in tail in succession, one after the other according to seniority of age and priority of birth, the sons to take before the daughters, the daughters not to take as coparceners but in succession one after the other: And whereas the said report was confirmed: And whereas by another decree pronounced by the said court on or about the twelfth day of October, one thousand eight hundred and fifty, and made in the said suit, and in another supplemental suit therein, Robert Darcy Wentworth Towns, Hugh Darcy Addison, and Katherine Darley, by John Henry Challis, their next friend, were plaintiffs, and the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander Reddall, by his guardian Robert Towns, and Stephen Addison and Mary Anne his wife, and John Reddall, by his guardian George Want, were defendants, it was decreed that it should be referred to the Master in Equity to enquire whether it would be for the benefit of the unborn issue of

of Robert Wentworth in the supplemental suit mentioned that the lands and hereditaments in the pleadings mentioned should be apportioned and divided between them and the several parties to the said third supplemental suit and the unborn issue of the said Robert Wentworth, according to their respective estates and interests therein, and whether it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and two first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, and if the Master should find that it would be for the benefit of such unborn issue that the decree made in the said original and two first supplemental suits, dated the fourteenth day of May, one thousand eight hundred and fifty, and the proceedings and partition to be taken and made in pursuance thereof be carried on and prosecuted between and be binding on the parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth, according to their several and respective estates and interests in the said lands as if they had been parties to the said original and two first-mentioned supplemental suits, and that all past and future proceedings in all the said thereinbefore-mentioned suits be binding on all the said parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth: And it was ordered that the commissioners to be appointed under and by virtue of the said decree should make a division and partition of the said lands into such parts or shares as the parties to the said original and three supplemental suits had been found to be entitled to by the Master's report, bearing date the twenty-sixth day of August, one thousand eight hundred and fifty, and the order confirming the same by metes and bounds: And it was ordered that the said decree, so far as the same related to the conveyance of allotted parts of the said estate and to the holding and enjoying the same before conveyance, should be extended and applied to the parties to the said third supplemental suit and to the unborn issue of the said Robert Wentworth and the parts or shares to be allotted

allotted to them respectively: And it was ordered that what should be allotted to the several parties should be held and enjoyed by them in severalty, and all and every the parties and party under disability when capable, and all other proper parties should join in executing 5 proper conveyances, and, if necessary, duly acknowledge or do such other acts necessary for barring estates tail, and for conveying and vesting the several shares in and to the said premises respectively, according to the several estates, rights and interests of, in and to the 10 several undivided parts and shares of and in the said lands: And whereas the said Master, in pursuance of the said last-mentioned decree, made his report dated the eighteenth day of October, one thousand eight hundred and fifty, whereby he found that it would be 15 for the benefit of the unborn issue of the said Robert Wentworth (being the said Robert Charles Wentworth) that the said lands should be apportioned and divided between them and the several parties to the said third supplemental suit according to their respective estates 20 and interests therein, and that it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, which said report 25 was afterwards confirmed: And whereas in pursuance of the said first in part recited decree a commission was duly issued to the commissioners therein named: And the said commissioners having caused lots to be drawn for the fair allotment of the said lands, duly returned 30 the said commission, accompanied by a certificate dated the twenty-sixth day of November, one thousand eight hundred and fifty, whereby they certified that they found that the lands in question consisted of the lands in the said certificate and in the said First Schedule to 35 the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, mentioned and described. And the said commissioners further certified that they did make a fair partition, division and allotment by metes and 40 bounds of the said lands into five equal shares, and
that

that a schedule prepared by them and annexed to the said certificate and marked with the letter X contained the said five portions of the said lands, being the portions comprised in the second, third, fourth, fifth and
5 sixth schedules to the said Indenture of Partition. And the said commissioners did thereby make an allotment of the said lands in accordance with the rights and interests of the parties respectively entitled thereto: And whereas the said partition was duly confirmed by
10 an order of the Supreme Court of New South Wales in its Equitable Jurisdiction, dated the twelfth day of December, one thousand eight hundred and fifty: And whereas, for the purpose of effectuating the said partition by a formal conveyance and assurance, the said
15 indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, was prepared, which said indenture of partition was settled and approved by the Master in Equity, whereby it was intended that all persons who were entitled to
20 the said lands, directly or derivatively, under the said will for estates for life or pur autre vie or in fee, and in possession, or in remainder or otherwise, should so convey and assure the said lands that the several parcels thereof should stand limited in accordance with the
25 said partition, and for the said purpose that the parcels of the said lands described in the Second Schedule to the said Indenture of Partition should, after the death of the said Robert Charles Wentworth, be subject to the limitations declared by the said will of the
30 said Darcy Wentworth of and concerning the share of the said Robert Charles Wentworth of and in the said lands so devised to the said testator's five children in and by the said will as aforesaid, and that the parcels of the said lands described in the third
35 schedule thereto should become vested in the said Thomas Alexander Reddall and the heirs of his body for an estate in fee tail, and subject thereto should be subject to the limitations declared by the said will of and concerning the share of the said Martha Wentworth of and in the
40 said land so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described
in

in the fourth schedule thereto should, after the death of the said Sophia Towns, be subject to the limitations declared by the said will of and concerning the share of the said Sophia Towns of and in the said lands so devised to the said testator's five children as aforesaid, and that 5 the parcels of the said lands described in the fifth schedule thereto should after the death of the said Katherine Darley be subject to the limitations declared by the said will of and concerning the share of the said Katherine Darley of and in the said lands so devised to 10 the said testator's five children as aforesaid, and that the parcels of the said lands described in the sixth schedule thereto should, after the death of the said Mary Anne Addison, be subject to the limitations declared by the said will of and concerning the share of the said 15 Mary Anne Addison of and in the said lands so devised to the said testator's five children as aforesaid : And whereas the said Thomas Alexander Reddall, the eldest son of the said Martha Reddall, did on or about the twenty-first day of May, one thousand eight hundred and fifty-five, 20 duly execute the said indenture of partition and did also duly acknowledge such execution : And whereas Robert Darcy Wentworth Towns, the eldest son of the said Sophia Towns, did, on or about the twelfth day of October, one thousand eight hundred and sixty-five, 25 duly execute the said indenture of partition, and did also duly acknowledge such execution : And whereas it doth not appear that the said indenture of partition was executed by all the persons entitled under the said will to a share or interest in the said lands mentioned and described in 30 the said First Schedule to the said Indenture of Partition or otherwise interested therein, and the execution by whom of the said indenture of partition was necessary in order that the same should be completely effectual : And whereas the said indenture of partition may thereby 35 be ineffectual or not wholly effectual for the purpose for which the same was prepared : And whereas the said lands described in the said First Schedule to the said Indenture of Partition have since about the date when the said indenture was first executed been held and enjoyed in several 40 parcels in accordance with the partition provided for by the

the said indenture: And whereas it is desirable that the said Indenture of Partition should be effectual in order that the titles of the persons intended to take thereunder should be perfected in the manner contemplated by the
5 said decrees of the Supreme Court of New South Wales in its Equitable Jurisdiction: And whereas by reason of the deaths of parties interested in the said lands and otherwise the said objects cannot be attained without the authority of Parliament: Be it therefore enacted
10 by the King'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:—

- 15 **1.** The said indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, shall operate, and shall be deemed to have
20 operated as from the said date, in all respects as though a person had on the twenty-second day of September, one thousand eight hundred and fifty-one, been seized and possessed of the lands mentioned and described in the first schedule to the said indenture, together with all easements, privileges, advantages, rights, members, and appurtenances thereto, or to any part or parts thereof,
25 belonging, or in anywise appertaining, or therewith, or with any part or parts thereof, then or theretofore usually held, used, occupied, or enjoyed for an estate in fee simple in possession, freed and discharged from all estates, interests, encumbrances, and rights whatsoever in any
30 other person or persons save and except only such if any estates, interest, encumbrances, and rights of any person or persons other than the said Darcy Wentworth, deceased, as had existed in the said lands, or in any part or parts thereof, immediately prior to the death of the
35 said Darcy Wentworth, and were still in existence on the said twenty-second day of September, one thousand eight hundred and fifty-one, and such person so seized and possessed as aforesaid had on the said twenty-second day of September, one thousand eight hundred and fifty-
40 one, by the said indenture duly granted, bargained, sold, released, ratified, and confirmed unto Randolph John
Want

Indenture of
partition
dated 22nd
September,
1851, to
operate
according to
intention.

Want in the said indenture mentioned, and his heirs all and singular, the said lands with their and every of their appurtenances to have and to hold the same unto the said Randolph John Want and his heirs to the uses upon the trusts, and for the ends, intents, and purposes hereinafter 5 expressed and declared, that is to say as to, for, and concerning the respective parts of the said lands in the second, third, fourth, fifth, and sixth schedules to the said indenture of partition respectively mentioned and described to the uses, and upon the trusts, and for the 10 ends, intents, and purposes in the said indenture of partition respectively expressed and declared with respect to the said respective parts.

Short title.

2. This Act may be cited as "Wentworth Estate Partition Act, 1919." 15

Legislative Council.

1919.

A BILL

To make effectual an Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, prepared for the purpose of carrying into effect a Decree of the Supreme Court of New South Wales in its Equitable Jurisdiction dated the twelfth day of December, one thousand eight hundred and fifty, whereby the said court confirmed a partition of certain lands devised by the will of the late Darcy Wentworth, situated in the districts of Illawarra, Appin, and Bankstown, in the State of New South Wales.

Preamble.

WHEREAS Darcy Wentworth, late of Homebush,
in the Colony of New South Wales, on the fifth
day of July, one thousand eight hundred and twenty-
seven, duly made, signed, and published his last will and
testament in writing of that date, whereby reciting that 5
he was possessed of extensive real estates which he was
desirous of bequeathing to his children in such manner
as that the same should be enjoyed by them respectively
only for and during the period of their natural lives, in
order therefore to limit the same strictly in entail to them 10
his said children, and to the several and respective heirs
of their bodies respectively, the said testator gave,
devised, and bequeathed the whole of his property, real,
personal, and mixed, wheresoever the same might be
situate, except as thereafter was excepted, unto his 15
friends John Thomas Campbell, William Lawson,
William Redfern, Esquires, and unto his the said
testator's son William Charles Wentworth, Esquire,
their heirs, executors, administrators, and assigns,
according to the respective nature and quality thereof 20
To have and to hold his the said testator's said real
personal and mixed estate to them his the said testator's
said trustees and the survivor of them, and the heirs,
executors, administrators, and assigns of such survivor
In trust nevertheless to and for the uses, intents, and 25
purposes following, that was to say (after devising certain
legacies and annuities and declaring certain trusts in
respect thereof) Upon trust to allow his, the said
testator's said son William Charles Wentworth to have,
possess, and enjoy certain of his the said testator's estates 30
and property in the said will particularly mentioned
and described, the said William Charles Wentworth
to possess and enjoy the said estates, hereditaments and
premises respectively, and every part and parcel thereof
for and during the term of his natural life, and from and 35
after his decease the same to go and descend to his first
and other sons and daughters in tail in the order of
primogeniture, males to be preferred to females, and to
the several and respective heirs of their bodies so as
that each possessor should take only a life estate and 40
interest in the same. And in the event of the said
William

William Charles Wentworth's decease without issue then the said testator gave and devised his said estates to his said trustees and their heirs in trust to allow his the said testator's other children thereafter mentioned to
5 possess and enjoy the same, strictly limited to life interest and entail to each of them respectively in the order of primogeniture, males to be preferred to females, in the order in the said will particularly mentioned, it being distinctly understood that the estate he then devised to
10 his said son William Charles Wentworth was in full compensation for the one thousand acres of land granted to him at Illawarra or the Five Islands. And (after certain devises and declarations of trust in favour of his son Darcy Wentworth) upon further trust to allow his
15 the said testator's children Martha, Sophia, Robert, Mary Anne, and Katherine to possess and enjoy the whole of his the said testator's Illawarra estate (including certain lands at Liverpool and Appin and the said one thousand acres of land so granted to the
20 said William Charles Wentworth as aforesaid), being the lands mentioned and described in the First Schedule to the Indenture of Partition dated the twenty-second day of September, one thousand eight hundred and fifty-one, hereinafter mentioned for and during the periods
25 of the respective natural lives of his the said testator's said five therein last-mentioned children to be held and enjoyed by them respectively and by their respective heirs of their bodies as tenants in common and not as joint tenants, with the like limitations as to remainder to
30 their respective issue and to succession in default of such issue as was thereinbefore in the said will limited and appointed with regard to the other estates thereby by the said will devised and bequeathed to his the said testator's said son William Charles. And the said
35 testator declared that in the event of the death of any of his said nine children (in the said will particularly mentioned) without issue of their bodies as therein aforesaid, he the said testator gave and devised the estate or estates thereinbefore given and devised in trust for such
40 children and their issue as therein aforesaid as should die without issue to the eldest of his the said testator's
said

said children who should be then living in the order of succession therein particularly mentioned to be had and held by such succeeding child and the heirs of his or her body, subject to the like limitations and conditions as therein aforesaid : And whereas the said testator was at the times of his so making the said will and of his death seized and possessed of the said lands mentioned and described in the said First Schedule to the said indenture other than the said one thousand acres of land granted to the said William Charles Wentworth : And whereas the said testator died on the seventh day of July, one thousand eight hundred and twenty-seven, without having in any way altered or revoked his said last will and testament, which was, on the twenty-second day of May, one thousand eight hundred and twenty-eight, duly proved in the Supreme Court of New South Wales in its Ecclesiastical Jurisdiction, when administration of the estate of the said Darcy Wentworth was duly granted to the said John Thomas Campbell, William Lawson, and William Charles Wentworth : And whereas the said testator left him surviving his children Martha Wentworth, in the said will called Martha ; Sophia Wentworth, therein called Sophia ; Robert Charles Wentworth, therein called Robert ; Mary Anne Wentworth, therein called Mary Anne ; and Katherine Wentworth, therein called Katherine : And whereas by an indenture dated the first day of January, one thousand eight hundred and forty-seven, and made between the said William Charles Wentworth and Sarah Wentworth his wife of the one part, and Robert Towns and Stephen Addison of the other part, which indenture was duly acknowledged by the said Sarah Wentworth, reciting that the said William Charles Wentworth had accepted the said devise to him and was desirous of conveying the said one thousand acres of land so granted to him as aforesaid upon the trusts of the said will in manner thereafter mentioned, the said William Charles Wentworth and the said Sarah Wentworth released the said one thousand acres of land unto the said Robert Towns and Stephen Addison and their heirs, to hold the same unto the said Robert Towns and Stephen Addison and their

their heirs to such uses and upon the trusts and for the ends intents and purposes expressed and declared in and by the said will of and concerning the said testator's said Illawarra estate: And whereas the said Martha Wentworth on or about the twelfth day of March, one thousand eight hundred and twenty-eight, intermarried with John Reddall: And whereas the said Martha Reddall died in the year one thousand eight hundred and forty-seven, leaving her surviving Thomas Alexander Reddall, her eldest son and heir at law: And whereas the said Sophia Wentworth on or about the twenty-eighth day of December, one thousand eight hundred and thirty-three, intermarried with the said Robert Towns: And whereas by an indenture dated the eighth day of January, one thousand eight hundred and fifty-six, duly acknowledged by the said Sophia Towns, the said Robert Towns and Sophia Towns did grant and release to Randolph John Want and his heirs the undivided equal fifth share of the said Sophia Towns and all other the interests of the said Sophia Towns in the said lands mentioned and described in the said First Schedule to the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, to hold the same unto the said Randolph John Want and his heirs to such uses as the said Sophia Towns should appoint, and in default of and subject to any such appointment to the use of the said Sophia Towns and her heirs: And whereas in the year one thousand eight hundred and forty a judgment was obtained against the said Robert Charles Wentworth in the Supreme Court of New South Wales, and in pursuance of an alias writ of fieri facias, dated the thirteenth day of June, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff by a deed poll dated the twenty-first day of July, one thousand eight hundred and forty-nine, bargained and sold to John Baker Smithers all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him the said Robert Charles Wentworth in the said lands mentioned

mentioned and described in the First Schedule to the said Indenture of Partition secondly, thirdly, ninthly, tenthly, eleventhly, and twelfthly described, to hold the same unto the said John Baker Smithers and his heirs : And whereas the said John Baker Smithers made the said purchase as trustee for the said Robert Towns and the said Stephen Addison : And whereas by an indenture dated the twenty-fifth day of July, one thousand eight hundred and forty-nine, the said John Baker Smithers granted and released to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and sold to the said John Baker Smithers by the said deed poll, to hold the same unto the said Robert Towns and Stephen Addison and their heirs, as to one equal moiety thereof, as the said Robert Towns should by deed appoint, and in default of and subject to such appointment to the use of the said Robert Towns and his heirs, and as to the remaining moiety as the said Stephen Addison should by deed appoint, and in default of and subject to such appointment, to the use of the said Stephen Addison and his heirs : And whereas in pursuance of a pluries writ of fieri facias, dated the first day of September, one thousand eight hundred and forty-nine, and issued for the satisfaction of the said judgment, the sheriff, by a deed poll dated the ninth day of October, one thousand eight hundred and forty-nine, bargained and sold to John Gilchrist all the interest of the said Robert Charles Wentworth in the undivided fifth share or other the interest of him, the said Robert Charles Wentworth, in the said lands mentioned and described in the First Schedule to the said Indenture of Partition firstly, fourthly, fifthly, sixthly, seventhly, and eighthly described, to hold the same under the same unto the said John Gilchrist and his heirs, to such uses as the said John Gilchrist should appoint, and in default of and subject to any such direction or appointment to the use of the said John Gilchrist and his heirs : And whereas by an indenture the said John Gilchrist did appoint, and did also grant and release to the said Robert Towns and Stephen Addison and their heirs the said interest so bargained and

and sold to the said John Gilchrist by the said deed
poll dated the ninth day of October, one thousand
eight hundred and forty-nine, to hold the same unto the
said Robert Towns and Stephen Addison and their heirs,
5 as to one equal moiety thereof, as the said Robert Towns
should by deed appoint, and in default of and subject to
such appointment to the use of the said Robert Towns
and his heirs, and as to the remaining moiety as the said
Stephen Addison should by deed appoint, and in default
10 of and subject to such appointment to the use of the
said Stephen Addison and his heirs : And whereas the
said Mary Anne Wentworth, on or about the nineteenth
day of December, one thousand eight hundred and forty,
intermarried with the said Stephen Addison : And
15 whereas by an indenture dated the eighteenth day of
December, one thousand eight hundred and forty-nine,
and duly acknowledged by the said Mary Anne Addison,
the said Stephen Addison and Mary Anne Addison did
grant and release to the said Randolph John Want and
20 his heirs the undivided equal fifth share of the said
Mary Anne Addison in the said lands mentioned and
described in the said First Schedule to the said
Indenture of Partition dated the twenty-second day of
September, one thousand eight hundred and fifty-one, to
25 hold the same unto the said Randolph John Want and
his heirs to such uses as the said Mary Anne Addison
should by deed or will appoint, and in default of and
subject to any such appointment to the use of the said
Mary Anne Addison and her heirs : And whereas by an
30 indenture dated the twenty-seventh day of January,
one thousand eight hundred and forty-seven, the said
Katherine Wentworth did grant and release unto the
said Randolph John Want and his heirs the undivided
equal fifth share of the said Katherine Wentworth in
35 the said lands mentioned and described in the said First
Schedule to the said Indenture of Partition except the
several parcels therein respectively fourthly and ninthly
described To hold the same unto the said Randolph
John Want and his heirs to such uses as the said
40 Katherine Wentworth should by deed or will appoint,
and in default of and subject to such appointment to
the

the use of the said Katherine Wentworth and her heirs :
And whereas by an indenture dated the thirtieth day of
January, one thousand eight hundred and forty-seven,
the said Katherine Wentworth did grant and release
unto the said Robert Towns and William Currie Botts 5
and their heirs all the lands and hereditaments in and
by the said indenture lastly hereinbefore recited com-
prised and assured to hold the same immediately after
the marriage of the said Katherine Wentworth with
Benjamin Darley to such uses as the said Benjamin 10
Darley and Katherine Wentworth by deed should
jointly appoint : And whereas the said Katherine Went-
worth on or about the sixth day of February, one thou-
sand eight hundred and forty-seven, intermarried with
the said Benjamin Darley : And whereas by an indenture 15
dated the twenty-seventh day of March, one thousand
eight hundred and forty-eight, the said Benjamin Darley
and the said Katherine Darley his wife did jointly
appoint that the lands thereafter more particularly
described should go, remain, and be to the uses therein- 20
after declared of and concerning the same, and the said
Katherine Darley and the said Benjamin Darley did grant
and release unto the said Robert Towns and Alexander
Donaldson Kellie and their heirs all the lands in the
said First Schedule to the said Indenture of Partition 25
which were assured by the said indentures of the first
day of February, one thousand eight hundred and forty-
seven, and the thirtieth day of January, one thousand
eight hundred and forty-seven, except the lands in the
said schedule fourthly and ninthly described, and also 30
all the land and estate devised to or to which the said
Benjamin Darley and Katherine Darley or either of
them might be entitled under and by virtue of the said
will of the said Darcy Wentworth to hold the same
unto the said Robert Towns and Alexander Donaldson 35
Kellie and their heirs to the uses thereafter expressed
and declared of and concerning the same : And it was
thereby declared that the appointment and release
thereinbefore contained should operate and enure to
and for such estate and purposes and in such manner as 40
the said Benjamin Darley and Katherine Darley his
wife

wife by deed should appoint: And whereas Robert Darcy Wentworth Towns was the eldest son of the said Sophia Towns and was born on the twentieth day of November, one thousand eight hundred and forty-one:

5 And whereas Katherine Darley the Younger was on the said twenty-second day of September, one thousand eight hundred and fifty-one, the date of the said indenture of partition, the eldest daughter of the said Katherine Darley, and the said Katherine Darley had

10 not at the said lastmentioned date ever had any son: And whereas Hugh Darcy Addison was the eldest son of the said Mary Anne Addison and was born in the year one thousand eight hundred and forty-two: And whereas a suit was instituted in the Supreme Court of

15 New South Wales in its Equitable Jurisdiction by an amended original Bill and two supplementary Bills wherein the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander

20 Reddall, an infant by his next friend the said Robert Towns, were plaintiffs, and the said Stephen Addison and Mary Anne Addison his wife, and John Reddall, a lunatic, by his guardian George Want, were defendants. And it was by a decree pronounced in the said suit on

25 the fourteenth day of May, one thousand eight hundred and fifty, decreed that it be referred to the Master in Equity to see what shares, estate, and interest the several parties to the said suit were respectively entitled to of and in the lands in the pleadings mentioned to be situate

30 at Illawarra, Liverpool, and Appin, under the will of the said Darcy Wentworth, deceased, or otherwise being the lands mentioned and described in the First Schedule to the said Indenture of Partition, and that the Master should make a separate report thereof, and that after the

35 Master should have made such separate report a partition should be made of the said lands between the said parties according to the shares, estate, and interest the Master should find they were respectively entitled to, and that commissioners should make a division and

40 partition of the said lands into such shares as the said parties should be found to be entitled to by metes and bounds;

bounds; and it was further decreed that the several plaintiffs and defendants should execute all necessary deeds and assurances for conveying and assuring such several equal parts or shares to the parties who should be found to be entitled thereto; and in case a perfect conveyance could not then be made of any of the said parts or shares by reason of any temporary obstacle, any of the parties to the said partition were to be at liberty to apply to the court for a conveyance when such obstacle should be removed, and in the meantime the several parties thereto should hold and enjoy the allotted shares according to their respective rights and interests therein: And whereas the Master in Equity, in pursuance of the said decree, made a separate report dated the twenty-sixth day of August, one thousand eight hundred and fifty, whereby he found, inter alia, that the said Darcy Wentworth by his said will devised to each of his said children Sophia, Martha, Robert, Mary Anne, and Katherine, one equal undivided fifth share of the said lands, being the lands mentioned and described in the First Schedule to the said Indenture of Partition for life with remainders to their sons and daughters in tail in succession, one after the other according to seniority of age and priority of birth, the sons to take before the daughters, the daughters not to take as coparceners but in succession one after the other: And whereas the said report was confirmed: And whereas by another decree pronounced by the said court on or about the twelfth day of October, one thousand eight hundred and fifty, and made in the said suit, and in another supplemental suit therein, Robert Darcy Wentworth Towns, Hugh Darcy Addison, and Katherine Darley, by John Henry Challis, their next friend, were plaintiffs, and the said Robert Towns and Sophia Towns his wife, Alexander Donaldson Kellie, Benjamin Darley and Katherine Darley his wife, and Thomas Alexander Reddall, by his guardian Robert Towns, and Stephen Addison and Mary Anne his wife, and John Reddall, by his guardian George Want, were defendants, it was decreed that it should be referred to the Master in Equity to enquire whether it would be for the benefit of the unborn issue of

of Robert Wentworth in the supplemental suit mentioned that the lands and hereditaments in the pleadings mentioned should be apportioned and divided between them and the several parties to the said third supplemental suit and the unborn issue of the said Robert Wentworth, according to their respective estates and interests therein, and whether it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and two first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, and if the Master should find that it would be for the benefit of such unborn issue that the decree made in the said original and two first supplemental suits, dated the fourteenth day of May, one thousand eight hundred and fifty, and the proceedings and partition to be taken and made in pursuance thereof be carried on and prosecuted between and be binding on the parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth, according to their several and respective estates and interests in the said lands as if they had been parties to the said original and two first-mentioned supplemental suits, and that all past and future proceedings in all the said thereinbefore-mentioned suits be binding on all the said parties to the said third supplemental suit and the said unborn issue of the said Robert Wentworth: And it was ordered that the commissioners to be appointed under and by virtue of the said decree should make a division and partition of the said lands into such parts or shares as the parties to the said original and three supplemental suits had been found to be entitled to by the Master's report, bearing date the twenty-sixth day of August, one thousand eight hundred and fifty, and the order confirming the same by metes and bounds: And it was ordered that the said decree, so far as the same related to the conveyance of allotted parts of the said estate and to the holding and enjoying the same before conveyance, should be extended and applied to the parties to the said third supplemental suit and to the unborn issue of the said Robert Wentworth and the parts or shares to be allotted

allotted to them respectively: And it was ordered that what should be allotted to the several parties should be held and enjoyed by them in severalty, and all and every the parties and party under disability when capable, and all other proper parties should join in executing 5 proper conveyances, and, if necessary, duly acknowledge or do such other acts necessary for barring estates tail, and for conveying and vesting the several shares in and to the said premises respectively, according to the several estates, rights and interests of, in and to the 10 several undivided parts and shares of and in the said lands: And whereas the said Master, in pursuance of the said last-mentioned decree, made his report dated the eighteenth day of October, one thousand eight hundred and fifty, whereby he found that it would be 15 for the benefit of the unborn issue of the said Robert Wentworth (being the said Robert Charles Wentworth) that the said lands should be apportioned and divided between them and the several parties to the said third supplemental suit according to their respective estates 20 and interests therein, and that it would be for the benefit of such unborn issue that the decree and proceedings had in the said original and first-mentioned supplemental suits should be carried on and prosecuted in the said third supplemental suit, which said report 25 was afterwards confirmed: And whereas in pursuance of the said first in part recited decree a commission was duly issued to the commissioners therein named: And the said commissioners having caused lots to be drawn for the fair allotment of the said lands, duly returned 30 the said commission, accompanied by a certificate dated the twenty-sixth day of November, one thousand eight hundred and fifty, whereby they certified that they found that the lands in question consisted of the lands in the said certificate and in the said First Schedule to 35 the said Indenture of Partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, mentioned and described. And the said commissioners further certified that they did make a fair partition, division and allotment by metes and 40 bounds of the said lands into five equal shares, and that

that a schedule prepared by them and annexed to the said certificate and marked with the letter X contained the said five portions of the said lands, being the portions comprised in the second, third, fourth, fifth and
5 sixth schedules to the said Indenture of Partition. And the said commissioners did thereby make an allotment of the said lands in accordance with the rights and interests of the parties respectively entitled thereto: And whereas the said partition was duly confirmed by
10 an order of the Supreme Court of New South Wales in its Equitable Jurisdiction, dated the twelfth day of December, one thousand eight hundred and fifty: And whereas, for the purpose of effectuating the said partition by a formal conveyance and assurance, the said
15 indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, was prepared, which said indenture of partition was settled and approved by the Master in Equity, whereby it was intended that all persons who were entitled to
20 the said lands, directly or derivatively, under the said will for estates for life or pur autre vie or in fee, and in possession, or in remainder or otherwise, should so convey and assure the said lands that the several parcels thereof should stand limited in accordance with the
25 said partition, and for the said purpose that the parcels of the said lands described in the Second Schedule to the said Indenture of Partition should, after the death of the said Robert Charles Wentworth, be subject to the limitations declared by the said will of the
30 said Darcy Wentworth of and concerning the share of the said Robert Charles Wentworth of and in the said lands so devised to the said testator's five children in and by the said will as aforesaid, and that the parcels of the said lands described in the third
35 schedule thereto should become vested in the said Thomas Alexander Reddall and the heirs of his body for an estate in fee tail, and subject thereto should be subject to the limitations declared by the said will of and concerning the share of the said Martha Wentworth of and in the
40 said land so devised to the said testator's five children as aforesaid, and that the parcels of the said lands described
in

in the fourth schedule thereto should, after the death of the said Sophia Towns, be subject to the limitations declared by the said will of and concerning the share of the said Sophia Towns of and in the said lands so devised to the said testator's five children as aforesaid, and that 5 the parcels of the said lands described in the fifth schedule thereto should after the death of the said Katherine Darley be subject to the limitations declared by the said will of and concerning the share of the said Katherine Darley of and in the said lands so devised to 10 the said testator's five children as aforesaid, and that the parcels of the said lands described in the sixth schedule thereto should, after the death of the said Mary Anne Addison, be subject to the limitations declared by the said will of and concerning the share of the said 15 Mary Anne Addison of and in the said lands so devised to the said testator's five children as aforesaid : And whereas the said Thomas Alexander Reddall, the eldest son of the said Martha Reddall, did on or about the twenty-first day of May, one thousand eight hundred and fifty-five, 20 duly execute the said indenture of partition and did also duly acknowledge such execution : And whereas Robert Darcy Wentworth Towns, the eldest son of the said Sophia Towns, did, on or about the twelfth day of October, one thousand eight hundred and sixty-five, 25 duly execute the said indenture of partition, and did also duly acknowledge such execution : And whereas it doth not appear that the said indenture of partition was executed by all the persons entitled under the said will to a share or interest in the said lands mentioned and described in 30 the said First Schedule to the said Indenture of Partition or otherwise interested therein, and the execution by whom of the said indenture of partition was necessary in order that the same should be completely effectual : And whereas the said indenture of partition may thereby 35 be ineffectual or not wholly effectual for the purpose for which the same was prepared : And whereas the said lands described in the said First Schedule to the said Indenture of Partition have since about the date when the said indenture was first executed been held and enjoyed in several 40 parcels in accordance with the partition provided for by the

the said indenture: And whereas it is desirable that the said Indenture of Partition should be effectual in order that the titles of the persons intended to take thereunder should be perfected in the manner contemplated by the 5 said decrees of the Supreme Court of New South Wales in its Equitable Jurisdiction: And whereas by reason of the deaths of parties interested in the said lands and otherwise the said objects cannot be attained without the authority of Parliament: Be it therefore enacted 10 by the King'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:—

15 1. The said indenture of partition, dated the twenty-second day of September, one thousand eight hundred and fifty-one, shall operate, and shall be deemed to have operated as from the said date, in all respects as though a person had on the twenty-second day of September, 20 one thousand eight hundred and fifty-one, been seized and possessed of the lands mentioned and described in the first schedule to the said indenture, together with all easements, privileges, advantages, rights, members, and appurtenances thereto, or to any part or parts thereof, 25 belonging, or in anywise appertaining, or therewith, or with any part or parts thereof, then or theretofore usually held, used, occupied, or enjoyed for an estate in fee simple in possession, freed and discharged from all estates, interests, encumbrances, and rights whatsoever in any 30 other person or persons save and except only such if any estates, interest, encumbrances, and rights of any person or persons other than the said Darcy Wentworth, deceased, as had existed in the said lands, or in any part or parts thereof, immediately prior to the death of the 35 said Darcy Wentworth, and were still in existence on the said twenty-second day of September, one thousand eight hundred and fifty-one, and such person so seized and possessed as aforesaid had on the said twenty-second day of September, one thousand eight hundred and fifty- 40 one, by the said indenture duly granted, bargained, sold, released, ratified, and confirmed unto Randolph John

Indenture of
partition
dated 22nd
September,
1851, to
operate
according to
intention.

Want

Want in the said indenture mentioned, and his heirs all and singular, the said lands with their and every of their appurtenances to have and to hold the same unto the said Randolph John Want and his heirs to the uses upon the trusts, and for the ends, intents, and purposes hereinafter expressed and declared, that is to say as to, for, and concerning the respective parts of the said lands in the second, third, fourth, fifth, and sixth schedules to the said indenture of partition respectively mentioned and described to the uses, and upon the trusts, and for the ends, intents, and purposes in the said indenture of partition respectively expressed and declared with respect to the said respective parts. 5 10

Short title,

2. This Act may be cited as "Wentworth Estate Partition Act, 1919." 15