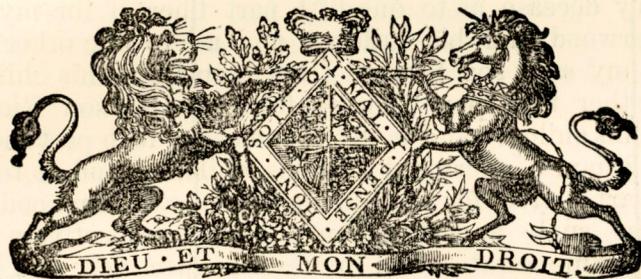


This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Legislative Council Chamber,
Sydney, 4th December, 1872. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO TRICESIMO SEXTO

VICTORIÆ REGINÆ.

.....

(As amended and agreed to in Select Committee.)

An Act to authorize the sale of certain the lands and hereditaments devised by the Will of the late James Underwood and the payment of the proceeds thereof into the Supreme Court.

WHEREAS James Underwood late of Sydney deceased being ^{Preamble.} seized of the lands and hereditaments hereinafter mentioned and described duly made and executed his last will and testament in writing and thereby devised unto John Campbell and Robert Campbell the younger therein mentioned their heirs and assigns all his messuages lands tenements and hereditaments whatsoever and wheresoever and which he had power to dispose of by his will upon the trusts therein declared and after firstly declaring the trusts of certain houses and premises in George-street Sydney to be for his son Joseph Underwood and his assigns during his life and from and after his decease upon trust for all and every such one or more child or children of the said Joseph Underwood in equal shares and proportions as tenants in common in tail with cross remainders between them in tail and if there should be but one such child the whole to be in trust for such only child in tail the said James Underwood among other things declared that the said John Campbell and Robert Campbell or the survivor of them or the Trustees or Trustee for the time-being of his will should stand and be possessed of the following lands and in the manner following that is to say "Three hundred and nine acres of land or thereabouts formerly Powell's property and now occupied by the said Mr. Potts (in Schedule A to this Bill more fully described) and my land at Long Cove containing one hundred and seventy-five acres

c 46—

occupied

NOTE.—The words and clauses to be omitted are ruled through; those to be inserted are printed in black letter.

Underwood's Estate.

"occupied by Mr. William Tavener and the said John Ireland (in
 "Schedule B to this Bill more fully described) as to one-fourth part
 "thereof for my said son Joseph Underwood and his children and as
 "to one other fourth part thereof for my said son Edward Underwood
 5 "and his children and as to one other fourth part thereof for my said
 "son Richard Underwood and his children and as to the remaining
 "fourth part thereof for my said grandson George Grimes and his
 "children and do and shall stand and be possessed of my premises
 "occupied by Mr. William Abercrombie and all other my lands
 10 "situated on or near the South Head Road (in Schedule C to this
 "Bill more fully described) and all the residue of my said real estate
 "whatsoever and wheresoever which I shall be seized of or entitled to
 "at the time of my decease as to one-fifth part thereof for my said
 "son Joseph Underwood and his children and as to one other fifth
 15 "part thereof for my said son Edward Underwood and his children
 "and as to one other fifth part thereof for my said son Richard
 "Underwood and his children and as to the one other fifth part thereof
 "for my said son William Underwood and his children and as to the
 "remaining fifth part thereof for my said son Thomas Underwood and
 20 "his children upon such and the same trusts respectively and
 "for such and the same estates and interests respectively as I have
 "hereinbefore declared of the messuages and premises first herein-
 "before devised to my said son Joseph Underwood and his children and
 "as if I had again declared and repeated those trusts each time I
 25 "devised my remaining property using the names of the party or
 "parties for whom the same are intended and I do hereby declare that
 "in case any or either of my said five sons shall depart this life
 "without leaving any child or children him or them surviving then I
 "devise the share or shares of such son or sons unto and equally
 30 "between the survivors and survivor of them my said sons and their
 "respective heirs as tenants in common in tail" And whereas the
 bearing date the twelfth day of March in the year one thousand eight
 hundred and forty which in so far as the same related to his real
 estate was in the words following that is to say "I give and devise
 35 "unto John Campbell Esquire and Robert Campbell the younger
 "Esquire both of the wharf George-street in Sydney aforesaid all my
 "messuages lands tenements and hereditaments whatsoever and where-
 "soever and which I have power to dispose of by this my will To hold
 "the same unto the said John Campbell and Robert Campbell their
 40 "heirs and assigns for ever upon the trusts hereinafter declared that
 "is to say upon trust that they my said Trustees or the survivor of
 "them or the Trustees or Trustee for the time being of this my will
 "do and shall stand and be possessed of my said real estates in the
 "manner following that is to say As to my house and premises
 45 "situated in George-street in Sydney aforesaid occupied by Mr.
 "Francis Gaunson at the yearly rent of three hundred and thirty
 "pounds also my house and premises in the same street occupied by
 "Mr. Samuel Peek at the yearly rent of two hundred pounds upon
 "trust for my son Joseph Underwood and his assigns during his life
 50 "and from and after his decease upon trust for all and every such one
 "or more child or children of the said Joseph Underwood in equal
 "shares and proportions as tenants in common in tail with cross
 "remainders between them in tail and if there shall be but one such
 "child the whole to be in trust for such only child in tail and do and
 55 "shall stand and be possessed of my house and premises in George-
 "street aforesaid occupied by Messrs. Hebblewhite and Vickery at the
 "yearly rent of two hundred and fifty pounds also my house and
 "premises in the same street occupied by the said Samuel Peek for a
 "term of five years at the yearly rent of two hundred pounds for my son
 "Edward

Underwood's Estate.

"Edward Underwood and his children and do and shall stand and be
 "possessed of my house and premises in George-street aforesaid
 "occupied by Mr. Cohen at the yearly rent of two hundred and twenty
 "pounds also my house and premises in the same street occupied by
 5 "Mr. William Perry at the yearly rent of one hundred and ninety
 "pounds for my son Richard Underwood and his children and do and
 "shall stand and be possessed of my house and premises situated in
 "Queen-street in Sydney aforesaid occupied by the said Messrs.
 "Hebblewhite and Vickery at the annual rent of one hundred pounds
 10 "also one hundred acres of land situated on the Liverpool Road
 "occupied by Mr. John Ireland and his wife at the annual rent of
 "fifty pounds for my son William Underwood and his children
 "and do and shall stand and be possessed of my premises in
 "Underwood-street in Sydney aforesaid occupied by Mr. William
 15 "Underwood at the yearly rent of twenty-six pounds also two
 "hundred acres of land on the Parramatta Road called Fleming's
 "Farm occupied by Mr. Potts with other lands for my son Thomas
 "Underwood and his children and do and shall stand and be possessed
 "of my land situated between George-street aforesaid and New Pitt
 20 "street at present unoccupied as to one-third part thereof for my said
 "son Edward Underwood and his children and as to one other third
 "part thereof for my said son William Underwood and his children
 "and as to the remaining third part thereof for my grandson George
 "Grimes son of my daughter Mary Ann the wife of George Grimes of
 25 "Sydney aforesaid master mariner and his children and do and shall
 "stand and be possessed of three hundred and nine acres of land or
 "thereabouts formerly Powell's property and now occupied by the
 "said Mr. Potts and my land at Long Cove containing one hundred
 "and seventy-five acres occupied by Mr. William Tavener and the said
 30 "John Ireland as to one fourth part thereof for my said son Joseph
 "Underwood and his children and as to one other-fourth part thereof
 "for my said son Edward Underwood and his children and as to one
 "other fourth part thereof for my said son Richard Underwood and
 "his children and as to the remaining fourth part thereof for my said
 35 "grandson George Grimes and his children and do and shall stand and
 "be possessed of my premises occupied by Mr. William Abercrombie
 "and all other my lands situated on or near the South Head Road and
 "all the residue of my said real estate whatsoever and wheresoever
 "which I shall be seized of or entitled to at the time of my decease as
 40 "to one-fifth part thereof for my said son Joseph Underwood and his
 "children as to one other fifth part thereof for my said son Edward
 "Underwood and his children and as to one other fifth part thereof for
 "my said son Richard Underwood and his children and as to one
 "other fifth part thereof for my said son William Underwood and his
 45 "children and as to the remaining fifth part thereof for my said son
 "Thomas Underwood and his children Upon such and the same trust
 "respectively and for such and the same estates and interests res-
 "pectively as I have hereinbefore declared of the messuages and
 "premises first hereinbefore devised to my said son Joseph Underwood
 50 "and his children and as if I had again declared and repeated these
 "trusts each time that I devised my remaining property using the
 "names of the party or parties for whom the same are intended and I
 "do hereby declare that in case any or either of my said five sons shall
 "depart this life without leaving any child or children him or them
 55 "surviving then I devise the share or shares of such son or sons unto
 "and equally between the survivors and survivor of them my said sons
 "and their respective heirs as tenants in common in tail" And whereas
 the said James Underwood died on the nineteenth day of February in
 the year one thousand eight hundred and forty-four without having
 altered

Underwood's Estate.

altered or revoked his said will and leaving the several persons therein named him surviving And whereas on the tenth day of October in the year one thousand eight hundred and fifty the said Joseph Underwood died without leaving issue And whereas the said Edward Underwood died **5** in the year one thousand eight hundred and fifty-six leaving issue that is to say Sydney Edward Underwood Clara Elizabeth Underwood now Clara Elizabeth Spalding Powell Cecil Underwood and Angelina Fenn Underwood And whereas it is alleged that the interests of the said Sydney Edward Underwood and Clara Elizabeth Spalding are subject **10** to certain charges in favor of James Charles Abbott of London And whereas the said Richard Underwood Thomas Underwood and George Grimes are all married and have issue some of whom are under the age of twenty-one years respectively And whereas the said William Underwood has recently married And whereas the said **15** Richard Underwood Thomas Underwood and George Grimes have alienated their respective estates and interests in the lands and hereditaments so devised to them as aforesaid And whereas the said respective estates and interests of the said Richard Underwood and Thomas Underwood are now vested in Kate Rodd the Trustee of the will of **20** the late John Saverly Rodd deceased upon the trusts in the said will declared and the estate and interest of the said George Grimes is now vested in Robert Allen Hunt Thomas Wilton Eady and William Alfred Toogood the Trustees of the will of the late Alfred Toogood deceased upon the trusts in the said will declared And whereas the **25** estates by the will of the said James Underwood originally vested in the said John Campbell and Robert Campbell are now at an end And whereas the said will of the said James Underwood contains no power or authority for the sale of the said lands and hereditaments thereby devised And whereas large portions of the said lands and **30** hereditaments are adapted for subdivision into a large number of allotments for building purposes but in their present state are for the most part unimproved and unproductive and in consequence of the complication of interests therein in the whole of the said lands so devised by the said James Underwood it is impossible to improve or **35** properly manage the same And whereas it is expedient that the said lands should be subdivided and sold and the proceeds of such sales be paid into the Supreme Court in its Equitable Jurisdiction in the matter of the trusts of the said will of the said James Underwood in trust to attend the orders of the said Court Be it therefore enacted **40** by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

45 1. From and after the passing of this Act the legal estate of Legal estate to be vested in W. H. Mackenzie senior and J. P. Mackenzie W. H. Mackenzie junior and R. J. King. and in the lands and hereditaments described in the Schedules A B and C hereto devised by the said will of the said James Underwood shall for the purposes of this Act vest in William Henry Mackenzie senior accountant and John Piper Mackenzie Official Assignee of Insolvent Estates both **50** William Henry Mackenzie junior Insurance Agent and Robert John King merchant all of Sydney aforesaid their heirs and assigns as joint tenants.

55 2. It shall be lawful for the said William Henry Mackenzie senior and John Piper Mackenzie William Henry Mackenzie junior and Robert John King or other the Trustees or Trustee for the time being Lands may be sold and conveyed to purchaser. of this Act or the survivor of them to sell the said lands and hereditaments described in the Schedules A B and C hereto or any part thereof either by public auction or by private contract and in such parcels or allotments and with such rights-of-way in and over such lands or any portion thereof as they or he shall deem expedient subject to such **60** terms and conditions and for such price or prices as can be reasonably obtained

Underwood's Estate.

obtained for the same and when sold to convey to the purchasers their heirs and assigns or to such uses and in such manner as any such purchasers may direct or require and thereupon the said lands and hereditaments so conveyed and the legal estate therein shall vest
 5 absolutely in the persons to whom the same shall be so conveyed their heirs and assigns or go and remain to such uses and in such manner as aforesaid freed and discharged from any trusts created by the said will.

3. It shall be lawful for the said William Henry Mackenzie senior and ~~John Piper Mackenzie or the survivor of them~~ William
 10 Henry Mackenzie junior and Robert John King or other the Trustees or Trustee for the time being of this Act to allow to any purchaser or purchasers of the said lands and hereditaments credit for any number of years not exceeding ten three years for payment of a part of his or her or their purchase money upon such terms as to interest
 15 and otherwise as may by the said William Henry Mackenzie senior and ~~John Piper Mackenzie or the survivor of them~~ William Henry Mackenzie junior and Robert John King or other the Trustees or Trustee be deemed reasonable and proper Provided that the land shall remain
 20 unconveyed or be otherwise rendered a security by mortgage for so much of the purchase money thereof as shall remain unpaid together with the interest thereon until the same shall have been paid.

Credit may be given to purchasers for payment of part of purchase money.

4. It shall be lawful for the said William Henry Mackenzie senior William Henry Mackenzie junior and Robert John King or other
 the Trustees or Trustee of this Act for the time-being on the receipt
 25 of the proceeds of the sale of any property sold under the provisions of this Act to deduct the costs and expenses of and incidental to such sale and also so much of the costs and expenses of all parties of and incidental to the passing of this Act as shall be fairly chargeable to
 30 the several parties interested in the property out of the sale of which such proceeds shall have arisen having regard to the amount of the interest of each of such several parties therein And the said William Henry Mackenzie senior William Henry Mackenzie junior and Robert John King or other the Trustees or Trustee aforesaid shall
 35 after deducting such costs and expenses of sale and costs of passing this Act as aforesaid pay the balance of the said proceeds together with the rents if any received in respect of the same premises into the Supreme Court of New South Wales in its Equitable Jurisdiction in the matter of the said will and to an account to be entitled in the
 40 trusts of the said will as affecting the property out of the sale of which the said proceeds have arisen.

Proceeds how dealt with.

4. 5. The said William Henry Mackenzie and John Piper Mackenzie or the survivor of them shall immediately upon receipt of the
 moneys from each and every such sale after deducting the costs and
 expenses thereof and connected therewith pay the same into the
 45 Supreme Court in its equitable jurisdiction in the matter of the said will in trust to attend the orders of the Court and The certificate of the Master in Equity of the fact of the money being so paid shall be a sufficient discharge for the money so paid and the Court shall have the same power to apply and deal with such moneys in every respect
 50 as if the same had been paid into Court under the Act passed in the twenty-first year of Her present Majesty's reign intituled "*An Act for the better securing Trust Funds and for relief of Trustees.*"

Proceeds to be paid into the Supreme Court to be dealt with as under the Trustee Act 21 Victoria No. 7.

5. 6. It shall be lawful for the Supreme Court in Equity from
 time to time to allow to the said William Henry Mackenzie senior and
 55 John Piper Mackenzie or the survivor of them William Henry Mackenzie junior and Robert John King or other the Trustees or Trustee for the time-being of this Act such commission or per-centage as shall be just and reasonable for their or his pains or trouble in effectuating such sale or sales or otherwise in exercising the powers and performing
 60 the duties hereby conferred and imposed.

Remuneration.

Underwood's Estate.

7. Whenever any of the Trustees herein named shall die or go to reside out of the Colony of New South Wales or shall desire to be discharged from or refuse or become unfit or incapable to act in the trusts in him reposed before the same shall have been fully discharged and performed he shall be held to have vacated the said trusts and it shall be lawful for the surviving or continuing Trustees or Trustee for the time being or the acting executors or administrators of a last surviving or continuing Trustee or for the last retiring Trustees or Trustee by instrument in writing to appoint any new Trustee or Trustees in the place of the Trustee or Trustees so vacating as aforesaid and as often as any new Trustee or Trustees shall be so appointed as aforesaid all the trust property then remaining unconveyed shall by virtue of such instrument and without other assurance in the law be divested out of the surviving or continuing Trustee or Trustees and the Trustee or Trustees so vacating as aforesaid and shall become and be vested in the new Trustee or Trustees either solely or jointly with the surviving or continuing Trustees or Trustee and every new Trustee to be appointed as aforesaid shall have the same powers authorities and discretions as if he had been originally named a Trustee in this Act.
8. This Act may be cited as "Underwood's Estate Act of Short title. 1873."

Provision for appointment of new Trustees.

Underwood's Estate.

SCHEDULES.

SCHEDULE A.

All that piece or parcel of land situate in the parish of Concord in the county of Cumberland in the Colony of New South Wales and containing by estimation three hundred and nine acres Commencing on Powell's Creek at the northern corner of Thomas Rose's seventy acres grant being bounded on the north-west by a line bearing west twenty-five degrees south twenty-four chains fifty links thence on the south-west by a line bearing south forty degrees east thirty-seven chains to the Parramatta Road thence by a line bearing west thirty-three degrees south to the south side of the Parramatta Road thence on the north-east by that road bearing north-westerly to the north-west corner of Powell's nineteen acres grant thence again on the north-west by Pott's land being a line bearing south twenty degrees west twenty-three chains to the north-west corner of Simeon Lord's one hundred and sixty acres grant thence again on the south-west by Pott's land being a line bearing south thirty-three degrees east fifty-two chains to the north-west corner of Thomas Rose's sixty acres grant thence on the south-east by the north-west boundary of Rose's said grant being a line bearing east thirty-three degrees north fifty chains thence again on the north-east by a line bearing north thirty-three degrees west fifty-two chains to the north-west boundary-line of Simeon Lord's one hundred and sixty acres grant thence by that boundary-line bearing east thirty-three degrees north to Powell's Creek and thence again on the north-east by that creek bearing north-westerly to the point of commencement be the said several bearings and dimensions all more or less such parcel of land comprising Thomas Rose's seventy acres grant E. Powell's nineteen acres grant Simeon Lord's one hundred and sixty acres grant and F. Meredith's sixty acres grant Save and except so much of the said land as is used or inclosed for the railway line running from Sydney to Parramatta and in connection with the said railway.

SCHEDULE B.

All that piece or parcel of land containing by estimation one hundred and seventy-five acres more or less situate in the parish of Petersham county of Cumberland in the Colony of New South Wales on the south side of the road leading from Parramatta to Sydney Commencing at that point where the said road crosses Long Cove Creek being bounded on the north by the south side of the Parramatta Road bearing north-westerly to its intersection with the south-eastern side of the Liverpool Road bearing south-westerly till it meets the northern side of the railway line thence on the south-west by a line bearing south-easterly to the Government Road which divides Kable's grant from Foveaux's grant thence on the south by the north side of the said grant bearing easterly to the northern corner of Foveaux's grant thence on the south-west by the north-east boundary of Foveaux's grant being a line bearing south thirty degrees east twenty-six chains to Long Cove Creek and thence on the east by that creek bearing northerly to the point of commencement be the said several bearings and dimensions all more or less Save and except so much of the said land as is used or inclosed for the railway line running from Sydney to Parramatta and in connection with the said railway.

SCHEDULE C.

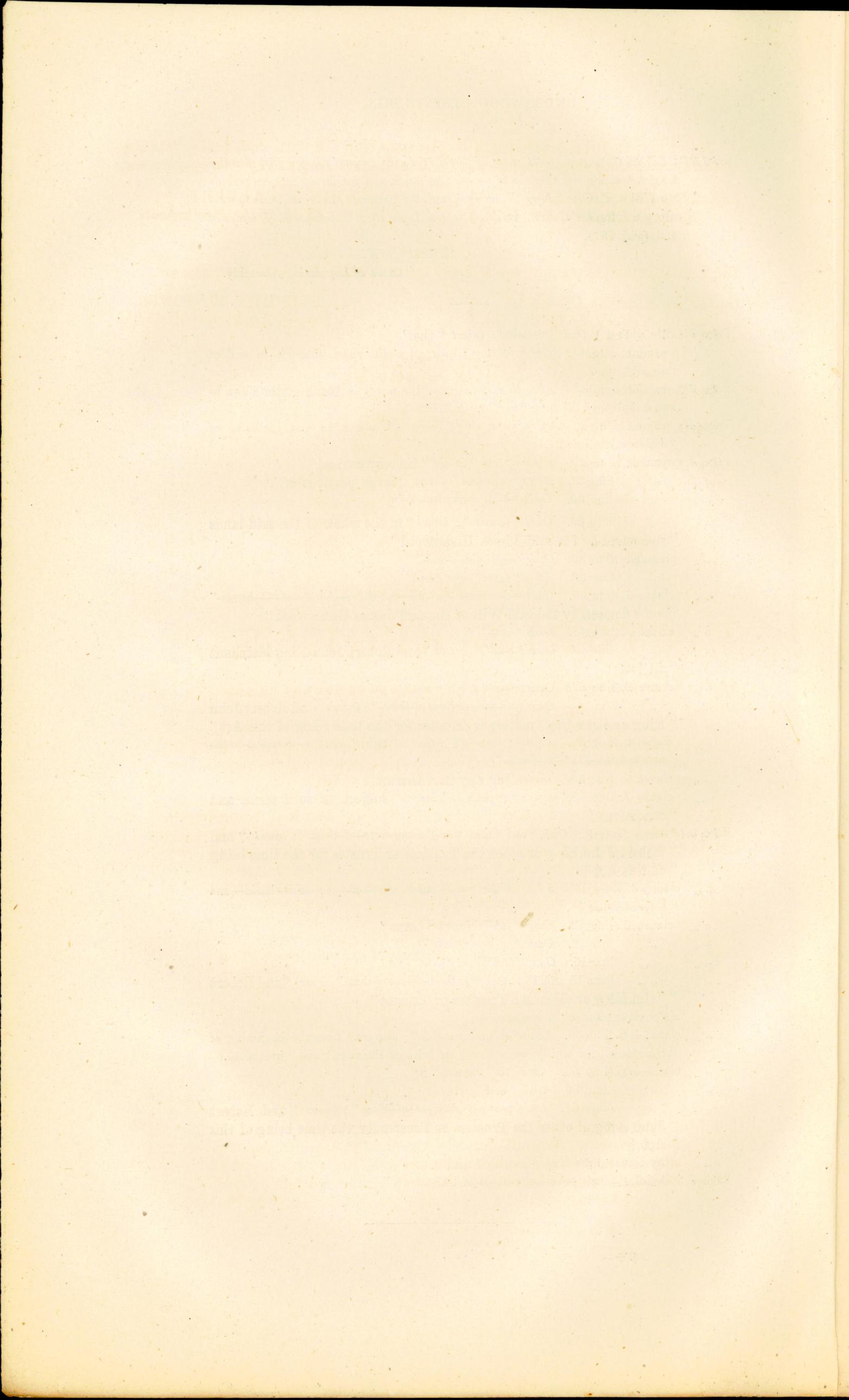
All that piece or parcel of land situate in the parish of Alexandria in the county of Cumberland in the Colony of New South Wales comprising one hundred acres more or less being bounded on the south by the South Head Road forty chains fifty links Commencing at the junction of the South Head Road with the road to Point Piper on the west by lines bearing north forty-four degrees thirty minutes east eight chains fifty links east twenty-four chains fifty links and north twenty-one chains thirty links on the north by lines bearing east eight chains and south forty-five degrees east twenty-five chains to the Point Piper Road and on the east by that road thirty-five chains to the point of commencement be the said several bearings and dimensions all more or less saving and excepting from the said one hundred acres three acres fronting the South Head Road and enclosed by a stone wall upon which the dwelling-house called Juniper Hall is built and also such other pieces or parcels of land as may have been at various times duly sold and conveyed to various persons.

UNDERWOOD'S ESTATE BILL.

SCHEDULE of the Amendments made by the Legislative Assembly in the Bill intituled
 "An Act to authorize the sale of ~~certain~~ **the** lands and hereditaments devised by
 "the Will of the late James Underwood, and the payment of the proceeds thereof
 "into the Supreme Court," returned to the Legislative Council, with Message of
 8th April, 1873.

STEPHEN W. JONES,
 Clerk of Legislative Assembly.

- Page 1, Title, line 1. Omit "~~certain~~"; insert "**the**"
 " preamble, line 4. After "writing" omit all words ruled through to end of
 line 31, page 2.
- Page 2, preamble, line 32. After line 31 insert all the words in **black letter** down to
 and inclusive of the first "the" page 3, line 58.
- Page 4, preamble, line 2. After "surviving" omit all words to and inclusive of
 "declared" in line 24.
- Page 4, preamble, line 29. Before "and" insert "**thereby devised**"
 " " line 29. After "whereas" insert "**large portions of**"
 " " line 30. Omit "~~a large number of~~"
 " " line 33. Omit "~~therein~~"; insert "**in the whole of the said lands**
"so devised by the said James Underwood"
 " preamble, line 36. Omit "~~subdivided and~~"
 " " line 36. After "sales" omit "~~be~~"
 " clause 1, line 45. Omit "~~described in the Schedules A B and C hereto~~"
 insert "**devised by the said Will of the said James Underwood**"
 " clause 1, line 48. Omit "~~and~~"
 " " line 49. Omit "~~both~~"; insert "**and Robert John King Merchant**
"all"
 " clause 2, line 52. Omit "~~and~~"
 " " " Omit "~~or the survivor of them~~"; insert "**and Robert John**
"King or other the Trustees or Trustee for the time being of this Act"
 " clause 2, line 54. Before "lands" insert "**said**" omit "~~described in the~~
~~"Schedules A B and C hereto"~~"
 " clause 2, line 55. Insert "**or any part thereof**"
 " clause 2, line 58. After "expedient" insert "**subject to such terms and**
"conditions"
- Page 5, clause 3, line 9. Omit "~~and~~" also "~~or the survivor of them~~"; insert "**and**
"Robert John King or other the Trustees or Trustee for the time being
"of this Act"
 " clause 3, lines 11 and 12. Omit "~~or purchasers of the said lands and~~
~~"hereditaments"~~"
 " clause 3, line 12. Omit "~~ten~~"; insert "**three**"
 " " line 13. Omit "~~or her or their~~"
 " " line 15. Omit "~~and~~"
 " " lines 15 and 16. Omit "~~or the survivor of them~~"; insert "**and Robert**
"John King or other the Trustees or Trustee"
 " After clause 3 insert new clause 4.
 " clause 4. 5. line 40. Omit "~~4~~"; insert "**5**"; also omit from the beginning of
 the clause all the words down to and inclusive of the word "~~and~~" in line 45.
 " clause 5. 6. line 52. Omit "~~5~~"; insert "**6**"
 " " line 53. Omit "~~and~~"
 " " line 54. Omit "~~or the survivor of them~~"; insert "**and Robert**
"John King or other the Trustees or Trustee for the time being of this
"Act"
 " After clause 6 insert new clauses 7 and 8.
- Page 7, Schedules Omit "~~Schedules A B and C~~"



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.

Legislative Council Chamber,
Sydney, 4th December, 1872. }

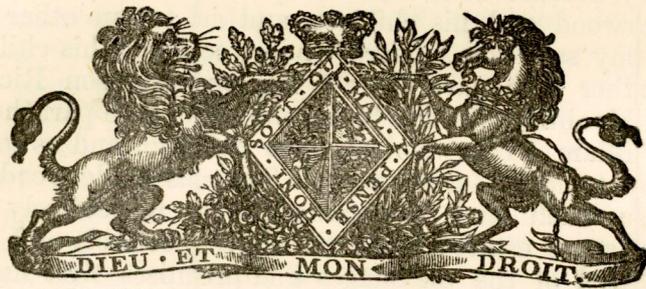
JOHN J. CALVERT,
Clerk of the Parliaments.

The LEGISLATIVE ASSEMBLY has this day agreed to this Bill with Amendments.

Legislative Assembly Chamber,
Sydney, 8 April, 1873. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO TRICESIMO SEXTO

VICTORIÆ REGINÆ.



An Act to authorize the sale of certain the lands and hereditaments devised by the Will of the late James Underwood and the payment of the proceeds thereof into the Supreme Court.

WHEREAS James Underwood late of Sydney deceased being ^{Preamble.} seized of the lands and hereditaments hereinafter mentioned and described duly made and executed his last will and testament in writing and thereby devised unto John Campbell and Robert Campbell the younger therein mentioned their heirs and assigns all his messuages lands tenements and hereditaments whatsoever and wheresoever and which he had power to dispose of by his will upon the trusts therein declared and after firstly declaring the trusts of certain houses and premises in George-street Sydney to be for his son Joseph Underwood and his assigns during his life and from and after his decease upon trust for all and every such one or more child or children of the said Joseph Underwood in equal shares and proportions as tenants in common in tail with cross remainders between them in tail and if there should be but one such child the whole to be in trust for such only child in tail the said James Underwood among other things declared that the said John Campbell and Robert Campbell or the survivor of them or the Trustees or Trustee for the time-being of his will should stand and be possessed of the following lands and in the manner following that is to say "Three hundred and nine acres of land or thereabouts formerly Powell's property and now occupied by the said Mr. Potts (in Schedule A to this Bill more fully described) and my land at Long Cove containing one hundred and seventy-five acres

c 46—

"occupied

NOTE.—The words and clauses to be omitted are ruled through; those to be inserted are printed in black letter.

Underwood's Estate.

“occupied by Mr. William Tavener and the said John Ireland (in
 “Schedule B to this Bill more fully described) as to one-fourth part
 “thereof for my said son Joseph Underwood and his children and as
 “to one other fourth part thereof for my said son Edward Underwood
 5 “and his children and as to one other fourth part thereof for my said
 “son Richard Underwood and his children and as to the remaining
 “fourth part thereof for my said grandson George Grimes and his
 “children and do and shall stand and be possessed of my premises
 “occupied by Mr. William Abercrombie and all other my lands
 10 “situated on or near the South Head Road (in Schedule C to this
 “Bill more fully described) and all the residue of my said real estate
 “whatsoever and wheresoever which I shall be seized of or entitled to
 “at the time of my decease as to one-fifth part thereof for my said
 “son Joseph Underwood and his children and as to one other fifth
 15 “part thereof for my said son Edward Underwood and his children
 “and as to one other fifth part thereof for my said son Richard
 “Underwood and his children and as to the one other fifth part thereof
 “for my said son William Underwood and his children and as to the
 “remaining fifth part thereof for my said son Thomas Underwood and
 20 “his children upon such and the same trusts respectively and
 “for such and the same estates and interests respectively as I have
 “hereinbefore declared of the messuages and premises first herein-
 “before devised to my said son Joseph Underwood and his children and
 “as if I had again declared and repeated those trusts each time I
 25 “devised my remaining property using the names of the party or
 “parties for whom the same are intended and I do hereby declare that
 “in case any or either of my said five sons shall depart this life
 “without leaving any child or children him or them surviving then I
 “devise the share or shares of such son or sons unto and equally
 30 “between the survivors and survivor of them my said sons and their
 “respective heirs as tenants in common in tail” And whereas the
 bearing date the twelfth day of March in the year one thousand eight
 hundred and forty which in so far as the same related to his real
 estate was in the words following that is to say “I give and devise
 35 “unto John Campbell Esquire and Robert Campbell the younger
 “Esquire both of the wharf George-street in Sydney aforesaid all my
 “messuages lands tenements and hereditaments whatsoever and where-
 “soever and which I have power to dispose of by this my will To hold
 “the same unto the said John Campbell and Robert Campbell their
 40 “heirs and assigns for ever upon the trusts hereinafter declared that
 “is to say upon trust that they my said Trustees or the survivor of
 “them or the Trustees or Trustee for the time being of this my will
 “do and shall stand and be possessed of my said real estates in the
 “manner following that is to say As to my house and premises
 45 “situated in George-street in Sydney aforesaid occupied by Mr.
 “Francis Gaunson at the yearly rent of three hundred and thirty
 “pounds also my house and premises in the same street occupied by
 “Mr. Samuel Peek at the yearly rent of two hundred pounds upon
 “trust for my son Joseph Underwood and his assigns during his life
 50 “and from and after his decease upon trust for all and every such one
 “or more child or children of the said Joseph Underwood in equal
 “shares and proportions as tenants in common in tail with cross
 “remainders between them in tail and if there shall be but one such
 “child the whole to be in trust for such only child in tail and do and
 55 “shall stand and be possessed of my house and premises in George-
 “street aforesaid occupied by Messrs. Hebblewhite and Vickery at the
 “yearly rent of two hundred and fifty pounds also my house and
 “premises in the same street occupied by the said Samuel Peek for a
 “term of five years at the yearly rent of two hundred pounds for my son
 “Edward

Underwood's Estate.

“Edward Underwood and his children and do and shall stand and be
 “possessed of my house and premises in George-street aforesaid
 “occupied by Mr. Cohen at the yearly rent of two hundred and twenty
 “pounds also my house and premises in the same street occupied by
 5 “Mr. William Perry at the yearly rent of one hundred and ninety
 “pounds for my son Richard Underwood and his children and do and
 “shall stand and be possessed of my house and premises situated in
 “Queen-street in Sydney aforesaid occupied by the said Messrs.
 “Hebblewhite and Vickery at the annual rent of one hundred pounds
 10 “also one hundred acres of land situated on the Liverpool Road
 “occupied by Mr. John Ireland and his wife at the annual rent of
 “fifty pounds for my son William Underwood and his children
 “and do and shall stand and be possessed of my premises in
 “Underwood-street in Sydney aforesaid occupied by Mr. William
 15 “Underwood at the yearly rent of twenty-six pounds also two
 “hundred acres of land on the Parramatta Road called Fleming’s
 “Farm occupied by Mr. Potts with other lands for my son Thomas
 “Underwood and his children and do and shall stand and be possessed
 “of my land situated between George-street aforesaid and New Pitt
 20 “street at present unoccupied as to one-third part thereof for my said
 “son Edward Underwood and his children and as to one other third
 “part thereof for my said son William Underwood and his children
 “and as to the remaining third part thereof for my grandson George
 “Grimes son of my daughter Mary Ann the wife of George Grimes of
 25 “Sydney aforesaid master mariner and his children and do and shall
 “stand and be possessed of three hundred and nine acres of land or
 “thereabouts formerly Powell’s property and now occupied by the
 “said Mr. Potts and my land at Long Cove containing one hundred
 “and seventy-five acres occupied by Mr. William Tavener and the said
 30 “John Ireland as to one fourth part thereof for my said son Joseph
 “Underwood and his children and as to one other-fourth part thereof
 “for my said son Edward Underwood and his children and as to one
 “other fourth part thereof for my said son Richard Underwood and
 “his children and as to the remaining fourth part thereof for my said
 35 “grandson George Grimes and his children and do and shall stand and
 “be possessed of my premises occupied by Mr. William Abercrombie
 “and all other my lands situated on or near the South Head Road and
 “all the residue of my said real estate whatsoever and wheresoever
 “which I shall be seized of or entitled to at the time of my decease as
 40 “to one-fifth part thereof for my said son Joseph Underwood and his
 “children as to one other fifth part thereof for my said son Edward
 “Underwood and his children and as to one other fifth part thereof for
 “my said son Richard Underwood and his children and as to one
 “other fifth part thereof for my said son William Underwood and his
 45 “children and as to the remaining fifth part thereof for my said son
 “Thomas Underwood and his children Upon such and the same trust
 “respectively and for such and the same estates and interests res-
 “pectively as I have hereinbefore declared of the messuages and
 “premises first hereinbefore devised to my said son Joseph Underwood
 50 “and his children and as if I had again declared and repeated these
 “trusts each time that I devised my remaining property using the
 “names of the party or parties for whom the same are intended and I
 “do hereby declare that in case any or either of my said five sons shall
 “depart this life without leaving any child or children him or them
 55 “surviving then I devise the share or shares of such son or sons unto
 “and equally between the survivors and survivor of them my said sons
 “and their respective heirs as tenants in common in tail” And whereas
 the said James Underwood died on the nineteenth day of February in
 the year one thousand eight hundred and forty-four without having
 altered

Underwood's Estate.

altered or revoked his said will and leaving the several persons therein named him surviving ~~And whereas on the tenth day of October in the year one thousand eight hundred and fifty the said Joseph Underwood died without leaving issue And whereas the said Edward Underwood died~~
 5 in the year one thousand eight hundred and fifty-six leaving issue that is to say Sydney Edward Underwood Clara Elizabeth Underwood now Clara Elizabeth Spalding Powell Cecil Underwood and Angelina Fenn Underwood And whereas it is alleged that the interests of the said Sydney Edward Underwood and Clara Elizabeth Spalding are subject
 10 to certain charges in favor of James Charles Abbott of London And whereas the said Richard Underwood Thomas Underwood and George Grimes are all married and have issue some of whom are under the age of twenty-one years respectively And whereas the said William Underwood has recently married And whereas the said
 15 Richard Underwood Thomas Underwood and George Grimes have alienated their respective estates and interests in the lands and hereditaments so devised to them as aforesaid And whereas the said respective estates and interests of the said Richard Underwood and Thomas Underwood are now vested in Kate Rodd the Trustee of the will of
 20 the late John Saverly Rodd deceased upon the trusts in the said will declared and the estate and interest of the said George Grimes is now vested in Robert Allen Hunt Thomas Wilton Eady and William Alfred Toogood the Trustees of the will of the late Alfred Toogood ~~deceased upon the trusts in the said will declared~~ And whereas the
 25 estates by the will of the said James Underwood originally vested in the said John Campbell and Robert Campbell are now at an end And whereas the said will of the said James Underwood contains no power or authority for the sale of the said lands and hereditaments **thereby devised** And whereas **large portions** of the said lands and
 30 hereditaments are adapted for subdivision into a large number of allotments for building purposes but in their present state are for the most part unimproved and unproductive and in consequence of the complication of interests ~~therein~~ **in the whole of the said lands so devised by the said James Underwood** it is impossible to improve or
 35 properly manage the same And whereas it is expedient that the said lands should be ~~subdivided and~~ sold and the proceeds of such sales be paid into the Supreme Court in its Equitable Jurisdiction in the matter of the trusts of the said will of the said James Underwood in trust to attend the orders of the said Court Be it therefore enacted
 40 by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. From and after the passing of this Act the legal estate of Legal estate to be vested in W. H. Mackenzie senior and J. P. Mackenzie and R. J. King.
 45 ~~and in the lands and hereditaments described in the Schedules A B and C hereto~~ **devised by the said will of the said James Underwood shall for** the purposes of this Act. vest in William Henry Mackenzie senior and R. J. King. accountant and John Piper Mackenzie Official Assignee of Insolvent Estates ~~both~~ **and Robert John King merchant** all of Sydney aforesaid
 50 their heirs and assigns as joint tenants.

2. It shall be lawful for the said William Henry Mackenzie Lands may be sold and conveyed to purchaser.
 senior and John Piper Mackenzie ~~or the survivor of them~~ **and Robert John King or other the Trustees or Trustee for the time being of this Act** to sell the said lands and hereditaments ~~described in the Schedules~~
 55 ~~A B and C hereto~~ **or any part thereof** either by public auction or by private contract and in such parcels or allotments and with such rights-of-way in and over such lands or any portion thereof as they or he shall deem expedient **subject to such terms and conditions** and for such price or prices as can be reasonably obtained for the same and
 when

Underwood's Estate.

when sold to convey to the purchasers their heirs and assigns or to such uses and in such manner as any such purchasers may direct or require and thereupon the said lands and hereditaments so conveyed and the legal estate therein shall vest absolutely in the persons
5 to whom the same shall be so conveyed their heirs and assigns or go and remain to such uses and in such manner as aforesaid freed and discharged from any trusts created by the said will.

3. It shall be lawful for the said William Henry Mackenzie senior and John Piper Mackenzie ~~or the survivor of them~~ and Robert
10 John King or other the Trustees or Trustee for the time being of this Act to allow to any purchaser ~~or purchasers of the said lands and hereditaments~~ credit for any number of years not exceeding ~~ten~~ three years for payment of a part of his ~~or her or their~~ purchase money upon such terms as to interest and otherwise as may by the said
15 William Henry Mackenzie senior and John Piper Mackenzie ~~or the survivor of them~~ and Robert John King or other the Trustees or Trustee be deemed reasonable and proper Provided that the land shall remain unconveyed or be otherwise rendered a security by mortgage for so much of the purchase money thereof as shall remain unpaid together
20 with the interest thereon until the same shall have been paid.

Credit may be given to purchasers for payment of part of purchase money.

4. It shall be lawful for the said William Henry Mackenzie senior John Piper Mackenzie and Robert John King or other the Trustees or Trustee of this Act for the time-being on the receipt of the proceeds of the sale of any property sold under the provisions
25 of this Act to deduct the costs and expenses of and incidental to such sale and also so much of the costs and expenses of all parties of and incidental to the passing of this Act as shall be fairly chargeable to the several parties interested in the property out of the sale of which such proceeds shall have arisen having regard to the amount of
30 the interest of each of such several parties therein And the said William Henry Mackenzie senior John Piper Mackenzie and Robert John King or other the Trustees or Trustee aforesaid shall after deducting such costs and expenses of sale and costs of passing this Act as aforesaid pay the balance of the said proceeds together
35 with the rents if any received in respect of the same premises into the Supreme Court of New South Wales in its Equitable Jurisdiction in the matter of the said will and to an account to be entitled in the trusts of the said will as affecting the property out of the sale of which the said proceeds have arisen.

Proceeds how dealt with.

40 4. 5. The said William Henry Mackenzie and John Piper Mackenzie or the survivor of them shall immediately upon receipt of the moneys from each and every such sale after deducting the costs and expenses thereof and connected therewith pay the same into the Supreme Court in its equitable jurisdiction in the matter of the said
45 will in trust to attend the orders of the Court and The certificate of the Master in Equity of the fact of the money being so paid shall be a sufficient discharge for the money so paid and the Court shall have the same power to apply and deal with such moneys in every respect as if the same had been paid into Court under the Act passed in the
50 twenty-first year of Her present Majesty's reign intituled "*An Act for the better securing Trust Funds and for relief of Trustees.*"

Proceeds to be paid into the Supreme Court to be dealt with as under the Trustee Act 21 Victoria No. 7.

5. 6. It shall be lawful for the Supreme Court in Equity from
time to time to allow to the said William Henry Mackenzie senior and John Piper Mackenzie ~~or the survivor of them~~ and Robert John King
55 or other the Trustees or Trustee for the time-being of this Act such commission or per-centage as shall be just and reasonable for their or his pains or trouble in effectuating such sale or sales or otherwise in exercising the powers and performing the duties hereby conferred and imposed.

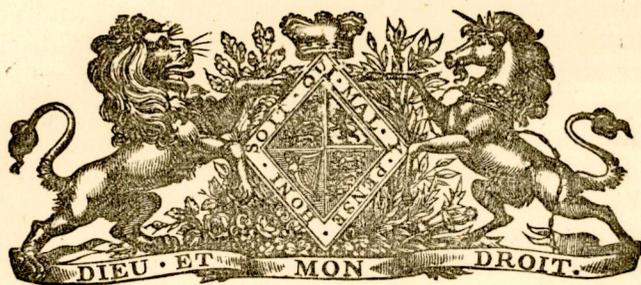
Remuneration.

Underwood's Estate.

7. Whenever any of the Trustees herein named shall die or go to reside out of the Colony of New South Wales or shall desire to be discharged from or refuse or become unfit or incapable to act in the trusts in him reposed before the same shall have been fully discharged and performed he shall be held to have vacated the said trusts and it shall be lawful for the surviving or continuing Trustees or Trustee for the time being or the acting executors or administrators of a last surviving or continuing Trustee or for the last retiring Trustees or Trustee by instrument in writing to appoint any new Trustee or Trustees in the place of the Trustee or Trustees so vacating as aforesaid and as often as any new Trustee or Trustees shall be so appointed as aforesaid all the trust property then remaining unconveyed shall by virtue of such instrument and without other assurance in the law be divested out of the surviving or continuing Trustee or Trustees and the Trustee or Trustees so vacating as aforesaid and shall become and be vested in the new Trustee or Trustees either solely or jointly with the surviving or continuing Trustees or Trustee and every new Trustee to be appointed as aforesaid shall have the same powers authorities and discretions as if he had been originally named a Trustee in this Act.
8. This Act may be cited as "Underwood's Estate Act of Short title. 1873."

Provision for appointment of new Trustees.

New South Wales.



ANNO TRICESIMO SEXTO

VICTORIÆ REGINÆ.

An Act to authorize the sale of the lands and hereditaments devised by the Will of the late James Underwood and the payment of the proceeds thereof into the Supreme Court. [Assented to, 23rd April, 1873.]

WHEREAS James Underwood late of Sydney deceased being ^{Preamble.} seized of the lands and hereditaments hereinafter mentioned and described duly made and executed his last will and testament in writing bearing date the twelfth day of March in the year one thousand eight hundred and forty which in so far as the same related to his real estate was in the words following that is to say " I give " and devise unto John Campbell Esquire and Robert Campbell the " younger Esquire both of the wharf George-street in Sydney afore- " said all my messuages lands tenements and hereditaments whatsoever " and wheresoever and which I have power to dispose of by this my " will To hold the same unto the said John Campbell and Robert " Campbell their heirs and assigns for ever upon the trusts hereinafter " declared that is to say upon trust that they my said Trustees or the " survivor of them or the Trustees or Trustee for the time being of " this my will do and shall stand and be possessed of my said real " estates in the manner following that is to say As to my house and " premises situated in George-street in Sydney aforesaid occupied by " Mr. Francis Gaunson at the yearly rent of three hundred and thirty " pounds also my house and premises in the same street occupied by " Mr. Samuel Peek at the yearly rent of two hundred pounds upon " trust for my son Joseph Underwood and his assigns during his life " and from and after his decease upon trust for all and every such one " or

Underwood's Estate.

“ or more child or children of the said Joseph Underwood in equal
 “ shares and proportions as tenants in common in tail with cross
 “ remainders between them in tail and if there shall be but one such
 “ child the whole to be in trust for such only child in tail and do and
 “ shall stand and be possessed of my house and premises in George-
 “ street aforesaid occupied by Messrs. Hebblewhite and Vickery at the
 “ yearly rent of two hundred and fifty pounds also my house and
 “ premises in the same street occupied by the said Samuel Peek for a
 “ term of five years at the yearly rent of two hundred pounds for my son
 “ Edward Underwood and his children and do and shall stand and be
 “ possessed of my house and premises in George-street aforesaid
 “ occupied by Mr. Cohen at the yearly rent of two hundred and twenty
 “ pounds also my house and premises in the same street occupied by
 “ Mr. William Perry at the yearly rent of one hundred and ninety
 “ pounds for my son Richard Underwood and his children and do and
 “ shall stand and be possessed of my house and premises situated in
 “ Queen-street in Sydney aforesaid occupied by the said Messrs.
 “ Hebblewhite and Vickery at the annual rent of one hundred pounds
 “ also one hundred acres of land situated on the Liverpool Road
 “ occupied by Mr. John Ireland and his wife at the annual rent of
 “ fifty pounds for my son William Underwood and his children and
 “ do and shall stand and be possessed of my premises in Underwood-
 “ street in Sydney aforesaid occupied by Mr. William Underwood at
 “ the yearly rent of twenty-six pounds also two hundred acres of land
 “ on the Parramatta Road called Fleming’s Farm occupied by Mr.
 “ Potts with other lands for my son Thomas Underwood and his
 “ children and do and shall stand and be possessed of my land situated
 “ between George-street aforesaid and New Pitt-street at present
 “ unoccupied as to one-third part thereof for my said son Edward
 “ Underwood and his children and as to one other third part thereof
 “ for my said son William Underwood and his children and as to the
 “ remaining third part thereof for my grandson George Grimes son of
 “ my daughter Mary Ann the wife of George Grimes of Sydney
 “ aforesaid master mariner and his children and do and shall stand
 “ and be possessed of three hundred and nine acres of land or
 “ thereabouts formerly Powell’s property and now occupied by the
 “ said Mr. Potts and my land at Long Cove containing one hundred
 “ and seventy-five acres occupied by Mr. William Tavener and the said
 “ John Ireland as to one-fourth part thereof for my said son Joseph
 “ Underwood and his children and as to one other fourth part thereof
 “ for my said son Edward Underwood and his children and as to one
 “ other fourth part thereof for my said son Richard Underwood and
 “ his children and as to the remaining fourth part thereof for my said
 “ grandson George Grimes and his children and do and shall stand and
 “ be possessed of my premises occupied by Mr. William Abercrombie
 “ and all other my lands situated on or near the South Head Road and
 “ all the residue of my said real estate whatsoever and wheresoever
 “ which I shall be seized of or entitled to at the time of my decease
 “ as to one-fifth part thereof for my said son Joseph Underwood and
 “ his children as to one other fifth part thereof for my said son
 “ Edward Underwood and his children and as to one other fifth part
 “ thereof for my said son Richard Underwood and his children and as
 “ to one other fifth part thereof for my said son William Underwood
 “ and his children and as to the remaining fifth part thereof for my
 “ said son Thomas Underwood and his children Upon such and the
 “ same trust respectively and for such and the same estates and
 “ interests respectively as I have hereinbefore declared of the mes-
 “ suages and premises first hereinbefore devised to my said son Joseph
 “ Underwood and his children and as if I had again declared and
 “ repeated these trusts each time that I devised my remaining property
 “ using

Underwood's Estate.

“ using the names of the party or parties for whom the same are
 “ intended and I do hereby declare that in case any or either of my
 “ said five sons shall depart this life without leaving any child or
 “ children him or them surviving then I devise the share or shares of
 “ such son or sons unto and equally between the survivors and
 “ survivor of them my said sons and their respective heirs as
 “ tenants in common in tail” And whereas the said James
 Underwood died on the nineteenth day of February in the
 year one thousand eight hundred and forty-four without having
 altered or revoked his said will and leaving the several persons therein
 named him surviving And whereas the estates by the will of the
 said James Underwood originally vested in the said John Campbell
 and Robert Campbell are now at an end And whereas the said will
 of the said James Underwood contains no power or authority for the
 sale of the said lands and hereditaments thereby devised And
 whereas large portions of the said lands and hereditaments are adapted
 for subdivision into allotments for building purposes but in their
 present state are for the most part unimproved and unproductive and
 in consequence of the complication of interests in the whole of the
 said lands so devised by the said James Underwood it is impossible to
 improve or properly manage the same And whereas it is expedient
 that the said lands should be sold and the proceeds of such sales
 paid into the Supreme Court in its Equitable Jurisdiction in the
 matter of the trusts of the said will of the said James Underwood
 in trust to attend the orders of the said Court Be it therefore enacted
 by the Queen's Most Excellent Majesty by and with the advice and
 consent of the Legislative Council and Legislative Assembly of New
 South Wales in Parliament assembled and by the authority of the
 same as follows :—

1. From and after the passing of this Act the legal estate of
 and in the lands and hereditaments devised by the said will of the said
 James Underwood shall for the purposes of this Act vest in William
 Henry Mackenzie senior accountant John Piper Mackenzie Official
 Assignee of Insolvent Estates and Robert John King merchant all
 of Sydney aforesaid their heirs and assigns as joint tenants.

Legal estate to be
 vested in W. H.
 Mackenzie senior
 J. P. Mackenzie and
 R. J. King.

2. It shall be lawful for the said William Henry Mackenzie
 senior John Piper Mackenzie and Robert John King or other the
 Trustees or Trustee for the time being of this Act to sell the said lands
 and hereditaments or any part thereof either by public auction or by
 private contract and in such parcels or allotments and with such
 rights-of-way in and over such lands or any portion thereof as they
 or he shall deem expedient subject to such terms and conditions and
 for such price or prices as can be reasonably obtained for the same and
 when sold to convey to the purchasers their heirs and assigns or to
 such uses and in such manner as any such purchasers may direct
 or require and thereupon the said lands and hereditaments so con-
 veyed and the legal estate therein shall vest absolutely in the persons
 to whom the same shall be so conveyed their heirs and assigns or go
 and remain to such uses and in such manner as aforesaid freed and
 discharged from any trusts created by the said will.

Lands may be sold
 and conveyed to
 purchaser.

3. It shall be lawful for the said William Henry Mackenzie
 senior John Piper Mackenzie and Robert John King or other the
 Trustees or Trustee for the time being of this Act to allow to any
 purchaser credit for any number of years not exceeding three years
 for payment of a part of his purchase money upon such terms as to
 interest and otherwise as may by the said William Henry Mackenzie
 senior John Piper Mackenzie and Robert John King or other the
 Trustees or Trustee be deemed reasonable and proper Provided that
 the land shall remain unconveyed or be otherwise rendered a security
 by

Credit may be given
 to purchasers for
 payment of part of
 purchase money.

Underwood's Estate.

by mortgage for so much of the purchase money thereof as shall remain unpaid together with the interest thereon until the same shall have been paid.

Proceeds how dealt with.

4. It shall be lawful for the said William Henry Mackenzie senior John Piper Mackenzie and Robert John King or other the Trustees or Trustee of this Act for the time being on the receipt of the proceeds of the sale of any property sold under the provisions of this Act to deduct the costs and expenses of and incidental to such sale and also so much of the costs and expenses of all parties of and incidental to the passing of this Act as shall be fairly chargeable to the several parties interested in the property out of the sale of which such proceeds shall have arisen having regard to the amount of the interest of each of such several parties therein And the said William Henry Mackenzie senior John Piper Mackenzie and Robert John King or other the Trustees or Trustee aforesaid shall after deducting such costs and expenses of sale and costs of passing this Act as aforesaid pay the balance of the said proceeds together with the rents if any received in respect of the same premises into the Supreme Court of New South Wales in its Equitable Jurisdiction in the matter of the said will and to an account to be entitled in the trusts of the said will as affecting the property out of the sale of which the said proceeds have arisen.

Proceeds to be dealt with as under 21 Victoria No. 7.

5. The certificate of the Master in Equity of the fact of the money being so paid shall be a sufficient discharge for the money so paid and the Court shall have the same power to apply and deal with such moneys in every respect as if the same had been paid into Court under the Act passed in the twenty-first year of Her present Majesty's reign intituled "*An Act for the better securing Trust Funds and for relief of Trustees.*"

Remuneration.

6. It shall be lawful for the Supreme Court in Equity from time to time to allow to the said William Henry Mackenzie senior John Piper Mackenzie and Robert John King or other the Trustees or Trustee for the time being of this Act such commission or percentage as shall be just and reasonable for their or his pains or trouble in effectuating such sale or sales or otherwise in exercising the powers and performing the duties hereby conferred and imposed.

Provision for appointment of new Trustees.

7. Whenever any of the Trustees herein named shall die or go to reside out of the Colony of New South Wales or shall desire to be discharged from or refuse or become unfit or incapable to act in the trusts in him reposed before the same shall have been fully discharged and performed he shall be held to have vacated the said trusts and it shall be lawful for the surviving or continuing Trustees or Trustee for the time being or the acting executors or administrators of a last surviving or continuing Trustee or for the last retiring Trustees or Trustee by instrument in writing to appoint any new Trustee or Trustees in the place of the Trustee or Trustees so vacating as aforesaid and as often as any new Trustee or Trustees shall be so appointed as aforesaid all the trust property then remaining unconveyed shall by virtue of such instrument and without other assurance in the law be divested out of the surviving or continuing Trustee or Trustees and the Trustee or Trustees so vacating as aforesaid and shall become and be vested in the new Trustee or Trustees either solely or jointly with the surviving or continuing Trustees or Trustee and every new Trustee to be appointed as aforesaid shall have the same powers authorities and discretions as if he had been originally named a Trustee in this Act.

Short title.

8. This Act may be cited as "*Underwood's Estate Act of 1873.*"