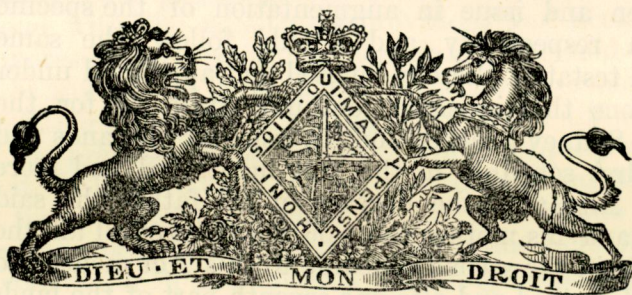


This PRIVATE BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,
Sydney, 23 January, 1879. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to authorize the sale mortgage and leasing of certain lands and hereditaments devised by the Will of Winifred Redmond deceased and for other purposes therein mentioned.

WHEREAS Winifred Redmond late of Sydney in the Colony of New South Wales widow deceased was at the time of her death hereinafter mentioned seized and possessed of (amongst other lands) the lands and hereditaments in the several Schedules to this Act mentioned and described for an estate of inheritance in fee simple free from incumbrances And whereas the said Winifred Redmond duly signed and published her last will and testament dated the twentieth day of September one thousand eight hundred and fifty-nine and thereby after certain bequests and devises not material to be here set forth devised all other her real estate whatsoever and wheresoever unto Sir Daniel Cooper John Larking Scarvell and Sarah Scarvell his wife their heirs and assigns to hold as to each of the respective portions of her real estate thereby appointed unto or for the benefit of her respective grandchildren and their issue in trust until the grandchild respectively entitled thereto or interested therein should attain his or her age of twenty-one years to apply the rents and profits of such

Preamble.

Redmond's Estate.

portion of her estate in or towards his or her maintenance and education respectively and when and so soon as each such grandchild should attain his or her age of twenty-one years then as to the portion of the estate of the said testatrix thereafter appointed to him or her
5 respectively to the use of such grandchild respectively if a male for the term of his natural life or if such grandchild should be a female in trust to pay or apply the rents and profits of the respective property for her respective separate use apart from any husband with whom she might at any time intermarry and so as not to be subject to his
10 engagements or control And after the decease of such grandson or grand-daughter respectively to the use of his or her child or children or issue in such shares or proportions if more than one as he or she should by any deed or will respectively appoint And in default of such appointment to the use of such child or children or issue equally between
15 them if more than one and their his or her respective heirs and assigns *per stirpes* and not *per capita* And in case of the death of any of the said grandchildren without leaving children or issue who should become entitled under the said will or under some appointment made pursuant thereto the share or shares which should lapse by such means should
20 accrue to and be equally divided among the other grand children and their respective children and issue in augmentation of the specific devises made to them respectively and should follow the same destination and the said testatrix thereby devised and appointed under the trusts and provisions thereinbefore contained unto or for the
25 benefit of her grandson Sydney Scarvell and his issue all the lands and hereditaments in the first schedule to this Act mentioned and more particularly described Also after the decease of his father the said John Larking Scarvell and his mother the said Sarah Scarvell all the lands and hereditaments in the second schedule to this Act mentioned
30 and more particularly described and also one-seventh part of the lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grandson George Scarvell and his issue all the lands
35 and hereditaments in the fourth Schedule to this Act mentioned and more particularly described And also one seventh part of the lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for
40 the benefit of her grandson Edward Augustus Scarvell and his issue All the lands and hereditaments in the fifth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix
45 thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Sarah Winifred Isabella Mary Scarvell and her issue all the lands and hereditaments in the sixth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments
50 in the third Schedule to this Act mentioned and more particularly described and the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Elizabeth Mary Scarvell (therein called Elizabeth Scarvell) and her issue all the lands and hereditaments in the seventh Schedule to this
55 Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Clare Rosalie
Scarvell

Redmond's Estate.

Scarvell and her issue All the lands and hereditaments in the eighth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Emily Redmond Scarvell and her issue All the lands and hereditaments in the ninth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby directed that the land in the tenth Schedule to this Act mentioned and more particularly described should be divided into six equal portions and thereby devised one of such portions with and as an appurtenance to each house in Goulburn-street thereinbefore devised (except the corner house) the division to be made by her executrix and executors whose decision should be finally binding And the said testatrix thereby directed that her executrix and executors should as soon as conveniently might be after her decease divide the land and hereditaments in the third Schedule to this Act mentioned and more particularly described into seven parts or portions of as nearly equal value as should be practicable and that each of her six grandchildren to whom one-seventh part or portion of the said last-mentioned lands and hereditaments had been given by the said will should have one of the said parts or portions set apart for him or her or his or her issue the choice of such part or portion being determined by the said grandsons and grand-daughters by lot And the said testatrix thereby directed that as to any real estate of which she might die possessed and whereof no trust or use was thereinbefore specifically declared the same should be held after the decease of the said Sarah Scarvell the daughter of the said testatrix for the benefit of the grandchildren of the said testatrix and their respective issue in equal shares *per stirpes* in augmentation of the respective provisions thereinbefore made for them respectively and subject to the like trusts and the said testatrix thereby appointed her daughter the said Sarah Scarvell Sir Daniel Cooper and the said John Larking Scarvell the trustees and executors and executrix of her said will And whereas the said testatrix died on the seventh day of May one thousand eight hundred and sixty-one without having in any way altered or revoked her said will and leaving her surviving the said Sydney Scarvell George Scarvell Edward Augustus Scarvell Sarah Winifred Isabella Mary Scarvell Elizabeth Mary Scarvell Clare Rosalie Scarvell and Emily Redmond Scarvell And whereas the said will was on the third day of June one thousand eight hundred and sixty-one duly proved in the Supreme Court of New South Wales by the said Sarah Scarvell leave being reserved to the said Sir Daniel Cooper the then only surviving executor to come in and prove And whereas the said John Larking Scarvell and Sarah Scarvell his wife have died and the said Sir Daniel Cooper has renounced the executorship and disclaimed the trusts of the said will and there are not at present any trustees of the said will And whereas the said Sydney Scarvell and Emily Redmond Scarvell have since died unmarried and without issue And whereas the said Edward Augustus Scarvell intermarried with Annette Frances Want on the twentieth day of February one thousand eight hundred and sixty-two and there has been issue of such marriage And whereas by an indenture of settlement made upon the marriage of the said Edward Augustus Scarvell and dated the twentieth day of February one thousand eight hundred and sixty-two the said Edward Augustus Scarvell granted and released his life interest in the lands and hereditaments

Redmond's Estate.

hereditaments in the fifth Schedule to this Act mentioned and described to certain Trustees therein named upon the trusts therein expressed and contained And whereas Houlton Harries Voss and James Gordon are the present Trustees of the said indenture of settlement And whereas
5 the said Elizabeth Mary Scarvell (now Elizabeth Mary Cape) intermarried with William Frederick Cape on the eleventh day of July one thousand eight hundred and sixty-three and there has been issue of such marriage And whereas the said Sarah Winifred Isabella Mary Scarvell (now Sarah Winifred Isabella Mary Cape hereinafter
10 called Sarah Cape) intermarried with Alfred John Cape on the tenth day of June one thousand eight hundred and seventy-one and there has been issue of such marriage And whereas the said George Scarvell intermarried with Mary Amelia Anne Stewart on the
15 eighteenth day of March one thousand eight hundred and seventy-one and there has been issue of such marriage And whereas the said George Scarvell died on the tenth day of May one thousand eight hundred and seventy-seven leaving two children him surviving And
whereas all the children of the said Edward Augustus Scarvell Elizabeth Mary Cape Sarah Cape and George Scarvell are infants under
20 the age of twenty-one years And whereas the said Clare Rosalie Scarvell is still unmarried And whereas the said lands and hereditaments mentioned and particularly described in the said third Schedule to this Act have never yet been divided as directed by the said will
And whereas the said land and hereditaments mentioned and particularly described in the said tenth Schedule to this Act have not yet
25 been divided as directed in and by the said will and it has been agreed between the said Sarah Cape and Elizabeth Mary Cape that the same shall be divided in the manner hereinafter enacted and provided in the second section of this Act And whereas the said will does not
30 contain any power to sell or mortgage or demise the lands and hereditaments thereby devised And whereas it is impossible without the assistance of Parliament to sell or mortgage the said lands and hereditaments devised by the said will or to demise the same for a longer
35 period than the life of the respective persons who are entitled as tenants for life to the respective portions devised by the said will and the said lands and hereditaments in consequence of the absence of powers to sell mortgage or demise remain unimproved and the buildings thereon are becoming dilapidated and almost unproductive and
40 of very small value And whereas it is expedient that powers to sell mortgage and lease the said lands and hereditaments should be conferred on the trustees hereinafter named for the benefit of the persons interested under the said will and that the proceeds of the sale of such
of the said lands and hereditaments as shall from time to time be sold and the rents and profits arising from the leases of such of the said
45 lands and hereditaments as shall from time to time be leased should be held in trust for and the moneys raised by mortgage of such of the said lands and hereditaments as shall from time to time be mortgaged should be applied towards the improvement of the property for the
benefit of the persons respectively entitled under the will to the
50 respective lands and hereditaments so sold demised or mortgaged 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:—
55 1. From and after the passing of this Act all the lands and hereditaments devised by the will of Winifred Redmond deceased and mentioned and described in the several Schedules to this Act as also
all the lands and real estate of the said testatrix not specifically devised and passing under the last devise in the said will contained shall be
and

Lands to be vested in trustees.

Redmond's Estate.

and are hereby vested absolutely in Houlton Harries Voss of Sydney aforesaid Esquire and James Gordon of Young in the Colony aforesaid solicitor their heirs and assigns upon the trusts and to and for the ends intents and purposes and with under and subject to the powers and provisions hereinafter expressed and contained concerning the same.

2. The lands and hereditaments mentioned and particularly described in the tenth Schedule to this Act shall be and the same are hereby divided in the manner following that is to say into the two parts or shares in the eleventh Schedule to this Act mentioned and particularly described. And the parcel of land mentioned and particularly described in the first part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the sixth Schedule to this Act. And the parcel of land mentioned and particularly described in the second part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the seventh Schedule to this Act.

Partition of certain land directed to be divided confirmed.

3. It shall be lawful for the said Houlton Harries Voss and James Gordon or any two trustees whether appointed by this Act or under the provisions for the appointment of new trustees herein contained (such persons being hereinafter designated "the said Trustees") to sell and absolutely dispose of all and singular the said lands and hereditaments mentioned and particularly described in the said several schedules to this Act or any of them or any part of the same lands and hereditaments and also all or any part of the lands or real estate of the said Winifred Redmond deceased not specifically devised by but passing under the last devise in her said will contained either by public auction or private contract either in one or in more lot or lots and in such manner generally and upon and subject to such terms and conditions as the said trustees shall deem expedient with power to buy in the said lands and hereditaments or any of them or any part thereof at any sale by auction and to rescind or vary any contract for sale either on terms or gratuitously and to resell without being responsible for any loss occasioned thereby and upon any sale or sales to convey the land so sold to the purchaser or purchasers thereof his her or their heirs and assigns or as such purchaser or purchasers may direct freed and discharged from all trusts affecting the same and the receipts in writing of the said trustees for the purchase money of any lands and hereditaments so sold shall be full and sufficient discharges to any purchasers from the same and from being bound to see to the application of the same and from any liability for the loss non-application or misapplication of the same or any part thereof.

Trustees empowered to sell and convey.

4. It shall be lawful for the said trustees to allow any purchaser or purchasers credit for the payment of the whole or part of his her or their purchase money upon such terms as to interest or otherwise and generally as the said trustees may deem reasonable and expedient. Provided that the land in respect of which such credit shall be given shall remain unconveyed or shall by a proper mortgage with full powers of entry and sale and other usual and proper provisions be made a security for the payment of the purchase money remaining unpaid. Provided further that in the event of any such security being taken the vendors' lien for the said purchase money and every part thereof shall not be thereby affected or lost.

Power to give credit to purchasers.

5. It shall be lawful for the said trustees from time to time for the purpose of raising any sum or sums of money which in their opinion it may be desirable to borrow for the purpose of erecting any buildings

Power to borrow money for buildings &c.

Redmond's Estate.

buildings or repairing or rebuilding any existing buildings upon or otherwise improving any part or parts of the lands and hereditaments mentioned and described in the several Schedules to this Act or of the land and real estate not specifically devised by the said will but passing
 5 under the last devise therein to execute any mortgage or mortgages in fee or for any term or terms of years of such part or parts of the said lands and hereditaments with power of sale and all other usual powers provisions and covenants. Provided that no person who shall advance money upon the security of any mortgage purporting to be made under
 10 the power hereby given shall be bound to enquire as to the advisability or propriety of the raising of such money or as to the application of such money when raised and advanced and the receipt of the said trustees for the moneys so advanced shall effectually discharge the person advancing the same from any liability in respect of the misap-
 15 plication or non-application thereof.

6. It shall be lawful for the said trustees from time to time by Power to grant leases. deed or writing to demise and lease all or any part of the said lands and hereditaments to any person or persons for any term of years not exceeding twenty-one years to take effect in possession at the best
 20 yearly rent that can be reasonably obtained for the same without any fine premium or foregift. And also from time to time by deed to demise and lease any part of the said lands and hereditaments to any person or persons who shall covenant to improve the same by repairing any building or buildings now standing or which shall hereafter be
 25 standing on any part of the land thereby leased or by erecting and building any house or houses building or buildings on such land or any part thereof or by otherwise expending in improvement such moneys as shall be deemed by the said trustees adequate to the interest to be parted with but so that every lease under this last-mentioned
 30 power shall be for a term not exceeding fifty years to take effect in possession or within one year from the date thereof and shall be at such rent as the said trustees shall having regard to the terms and conditions of such lease think reasonable and proper so however that nothing be taken by way of fine premium or foregift. Provided that
 35 every indenture of lease made under the provisions of this section shall contain a covenant by the lessee to pay the rent thereby reserved and for insurance against fire of any building erected or to be erected on the land thereby demised and also a condition of re-entry on non-payment of rent within a time to be therein specified and so also that
 40 a counterpart of such lease be executed by the lessee. Any lessee paying any rent reserved by any such lease to the said trustees shall not be bound to see to the application thereof and shall be free from any liability for the non-application or misapplication of the same or any part thereof.

45 7. The powers herein contained shall so far as regards the lands and hereditaments mentioned and particularly described in the fifth Schedule to this Act be exercised during the lifetime of the said Edward Augustus Scarvell with the consent of the trustees or trustee for the time being of the said indenture of settlement of the twentieth day of
 50 February one thousand eight hundred and sixty two. And from and after the death of the said Edward Augustus Scarvell at the absolute discretion of the trustees for the time being of this Act.

8. The said trustees shall stand seized and possessed of the said Trusts of unsold land and of purchase money. lands and hereditaments or of such portion thereof as may from time
 55 to time remain unsold subject to any leases granted and to any other estates rights or interests created under the authority of this Act upon the trusts and subject to the provisions in the said will expressed and declared concerning the same respectively. And from and after the sale of any portion of the said lands and hereditaments shall stand possessed

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possessed of the moneys arising from such sale upon trust in the first place to pay all costs and expenses of and incidental to the procuring and passing this Act and also of all deeds instruments acts dealings and proceedings subsequently to the passing of this Act executed
 5 signed done or undertaken for the purpose of enabling the said trustees to carry out advantageously any sale hereby authorized And in the next place to pay and satisfy all costs and expenses incurred in and about the said sale And after such payment as aforesaid Upon trust to invest the net surplus of such moneys in any debentures or Govern-
 10 ment securities of any kind of any of the Colonies of New South Wales Victoria or Queensland or upon freehold securities in the said Colony of New South Wales or upon deposit at interest in any Bank carrying on business in the said last-mentioned Colony with power from time to time and at any time to vary or transpose any such investment or
 15 security into or for any other investment or security of the kind hereby authorized.

9. The said trustees shall stand possessed of such investments Trusts of investments rents &c. and securities and the net dividends income and annual produce arising therefrom and also of the net rents arising from and payable under
 20 any lease made under the authority of this Act Upon such trusts and with and subject to such powers provisions and declarations as shall as nearly correspond with the uses trusts provisions and declarations in the said will expressed and contained concerning the said lands and hereditaments or any part or parts thereof respectively or such of them
 25 as shall be subsisting or capable of taking effect as the different nature and quality of the premises and the rules of law and equity will permit Provided that it shall be lawful for the said trustees at any time or from time to time to apply the whole or any part of the rents and profits of any portion or portions of the said lands and hereditaments in
 30 and towards payment or in and towards providing a sinking fund for the payment of the principal and interest due or owing on the security of any mortgage or mortgages of such portion or portions executed under the power herein contained.

10. It shall be lawful for the said trustees to make and alter Power to make roads &c. and concur in the making and altering of any roads streets or ways on and over any part or parts of the said lands and hereditaments And also to erect make and carry out and concur in the erecting making and carrying out of any walls sewers drains watercourses or other works which may in the discretion of the said trustees conduce to the
 40 better laying out improving or selling of the said lands and hereditaments or the convenience and enjoyment of those persons who shall have purchased or shall purchase any part thereof The costs of any such works on the part of the said trustees or their proportion of any costs for such works and any costs and expenses of and incidental to
 45 the bringing of the said lands and hereditaments or any part thereof under the provisions of the Real Property Act (which they are hereby authorized to incur) may be deducted and retained by the said trustees in the same way as they are hereby authorized to deduct and retain the costs and expenses of and incidental to sales hereunder For any
 50 of the purposes of this section the said trustees may reserve and dedicate either absolutely or upon any conditions any part or parts of the said lands and hereditaments.

11. If either of them the said Houlton Harries Voss and James Appointment of new trustees. Gordon or any trustee appointed as hereinafter provided shall die or
 55 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 the said will and this Act declared before the same shall have been fully discharged and performed it shall be lawful for the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and
 Clare

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- Clare Rosalie Scarvell or the survivors or survivor of them and after the death of such survivor for the surviving or continuing trustees or trustee for the time being (and for this purpose every refusing or retiring trustee shall if willing to act in the execution of this power
- 5 be deemed a continuing trustee) to appoint a new trustee or new trustees in the place of the trustees or trustee so dying or going to reside out of the Colony or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid Provided that if the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and
- 10 Clare Rosalie Scarvell or the survivors of them shall be unable to agree in any such appointment of a new trustee or if after the death of the survivor of them there shall be no trustee capable of making such appointment then it shall be lawful for the Supreme Court in its Equitable Jurisdiction on the petition of any person beneficially
- 15 entitled under the trusts hereinbefore mentioned to appoint any such new trustee Upon every such appointment as aforesaid so much of the said lands and hereditaments as shall be unconveyed shall by virtue of such instrument or order and without any other assurance be vested in the new trustees or trustee either solely or jointly with the surviving
- 20 or continuing trustee as the case may be and every new trustee appointed as aforesaid shall have the same powers authorities and discretions in all respects as if he had been named in this Act in the place of either of them the said Houlton Harries Voss and James Gordon.
- 25 12. This Act may be cited as "Redmond's Estate Act of 1878." Short title.

Redmond's Estate.

SCHEDULES.

THE FIRST SCHEDULE.

All that allotment or parcel of land in the Colony of New South Wales containing by admeasurement fourteen perches situated in the town of Sydney parish of Saint Phillip county of Cumberland allotment number one of section number eighty-two and bounded on the west by Harrington-street bearing south eight degrees fifteen minutes west one hundred and fifty-three links on the south by allotment number two bearing east seven degrees north fifty-seven and a-half links on the east by allotment number eight bearing north eleven degrees east seventy-four links then north eight degrees thirty minutes east seventy-nine links and on the north by a line bearing west eight degrees thirty minutes south sixty-one and three-quarter links.

THE SECOND SCHEDULE.

All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement four hundred and seventy-three acres more or less being 15 portion of John Stogdell's one hundred and forty acres grant and Andrew Thompson's two hundred and sixty acres grant commencing on the road leading from Windsor to Pitt Town at the intersection of the old Hawkesbury Road and bounded on the south-west side by the said last-mentioned road bearing south-easterly one hundred chains ten links thence on the south-east side by a line bearing easterly five hundred links to 20 the western boundary of Nelson Common and by the said boundary bearing north-easterly ninety-nine chains ten links thence on the north-east side by a line bearing north seventy-five degrees west five chains thirteen links and a line westerly thirty-four chains twenty links and a line north fifty-two degrees thirty minutes west twenty-four chains ninety links to the road leading from Windsor to Pitt Town and thence on the 25 north-west side by the said road bearing south fifty-six degrees forty-three minutes west eighteen chains ninety-four links and south forty-one degrees nine minutes west sixteen chains twenty-four links to the point of commencement aforesaid.

THE THIRD SCHEDULE.

All that piece of land in the said Colony of New South Wales situated at 30 Petersham in the parish of Petersham and county of Cumberland containing by admeasurement seven acres three roods and one perch be the same more or less commencing at the intersection of the Glebe Island Road with the Parramatta Road and bounded on the east by the Glebe Island Road bearing northerly two thousand one hundred and thirty links on the north-west by a fenced line bearing south-westerly two 35 hundred and twenty-four links to land belonging to the Roman Catholic Church on the west and north by that land bearing southerly four hundred and forty links and westerly two hundred and fifty links to land of Mr. Burnell again on the west by that land and a continued line bearing southerly one thousand five hundred and eighty-two links to the Parramatta Road aforesaid and on the south by that road bearing easterly 40 three hundred and thirty-eight links to the point of commencement be the said dimensions all a little more or less. And also all that piece of land situated at Petersham aforesaid containing by admeasurement nine acres and sixteen perches be the same more or less commencing on the eastern side of the Glebe Island Road at the north-western corner of Pritchard and Yeoman's subdivision at a point bearing northerly and distant 45 one thousand five hundred and fifty links from its intersection with the Parramatta Road and bounded on the west by the Glebe Island Road bearing northerly six hundred and thirty-two links on the north-west by a fenced line bearing north-easterly one thousand two hundred and forty links to the Annandale Estate on the east by part of that estate being fenced lines bearing southerly about one thousand and fifty links to 50 Pritchard and Yeoman's subdivision aforesaid and on the south by that subdivision bearing westerly one thousand and eighty-five links to the point of commencement be the said dimensions all a little more or less.

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THE FOURTH SCHEDULE.

All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement sixty-two acres three roods more or less being a grant of thirty acres to Giles Mower and part of John Stogdell's one hundred and forty acres grant
 5 commencing on the South Creek at the north corner of the said Giles Mower's grant as fenced and bounded on the north-east side by a line bearing south-easterly thirty-five chains sixteen links to the road leading from Pitt Town to Windsor thence on the south-east side by the said road bearing south fifty-seven degrees west seven chains eighty-nine links and south forty-one degrees thirty minutes west thirteen chains eighty-one
 10 links thence on the south-west side by a line bearing north-westerly thirty-one chains fifty links to the South Creek and thence on the north-west side by the said creek northerly to the point of commencement aforesaid.

THE FIFTH SCHEDULE.

All that piece of land situated in the said Colony of New South Wales city of
 15 Sydney parish of St. Lawrence and county of Cumberland commencing at the intersection of George and Goulburn streets and bounded on the east by George-street bearing northerly seventy-nine feet to the property of the late Sydney Scarvell on the north by that property and the property of Elizabeth Mary Cape bearing westerly one hundred and sixteen feet on the west by a line bearing southerly forty-six feet on the
 20 south by a line bearing easterly thirteen feet four inches again on the west by a line bearing southerly thirty-three feet to Goulburn-street aforesaid and again on the south by that street bearing easterly ninety-six feet nine inches to the point of commencement.

THE SIXTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney
 25 parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Elizabeth Mary Cape's property and bounded on the east by that property bearing northerly twenty-nine feet six inches on the north by a line bearing westerly sixty-five feet to the property of Clare Rosalie
 30 Scarvell on the west by that property bearing southerly twenty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing easterly sixty-six feet to the point of commencement.

THE SEVENTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney
 35 parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Edward Augustus Scarvell's property and bounded on the east by that property bearing northerly twenty-four feet nine inches on the north by a line bearing westerly twenty-nine feet on the east by a line bearing northerly three feet again on the north by a line bearing westerly twenty-six
 40 feet to the property of Sarah Cape on the west by that property bearing southerly twenty-seven feet six inches to Goulburn-street aforesaid on the south by that street bearing easterly twenty-six feet six inches again on the east by a line bearing northerly nine inches and on the south again by Goulburn-street bearing easterly twenty-eight feet to the point of commencement.

THE EIGHTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney
 45 parish of Saint Lawrence and county of Cumberland commencing at the intersection of Sussex and Goulburn-streets and bounded on the south-west by a line bearing north-westerly forty-one feet four inches to the property of the late Emily Redmond Scarvell
 50 on the north-west by part of that property bearing north-easterly twenty-four feet six inches again on the south-west by a line bearing north-westerly one foot six inches on the north by lines bearing easterly seventeen feet six inches on the east by a line bearing southerly forty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing westerly thirty-one feet three inches to the point of commencement.

THE

Redmond's Estate.

THE NINTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing on the north-eastern side of Sussex-street at a point bearing south-easterly and distant forty-six feet from its intersection with Walton-lane and bounded on the south-west by Sussex-street bearing south-easterly thirty-eight feet on the south-east by the property of Clare Rosalie Scarvell bearing north-easterly twenty-eight feet six inches on the north-east by a line bearing north-westerly one foot six inches on the south by lines bearing easterly seventeen feet six inches on the east by a line bearing northerly thirty-two feet six inches on the north by lines bearing westerly twenty-nine feet ten inches and on the north-west by a line bearing south-westerly twenty-six feet two inches to the point of commencement And also all that piece of land situated in the said Colony of New South Wales containing by admeasurement two acres three roods and eight perches more or less being part of John Stogdell's one hundred and forty acres grant commencing at the north corner of the grant as fenced and bounded on the north-west side by a line bearing south twenty degrees thirty minutes west nine hundred and seventy-nine links to the road leading from Windsor to Pitt Town thence on the south-east side by the said road bearing north fifty-five degrees fifty-seven minutes east nine hundred and ninety-eight links and thence on the north-east side by a line bearing north-westerly six hundred and two links to the point of commencement aforesaid.

THE TENTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Emily Redmond Scarvell's property of six and a quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to the property of Sarah Cape on the south by that property bearing easterly sixty-five feet again on the west by a line bearing southerly two feet to the property of Elizabeth Mary Cape again on the south by part of that property bearing easterly twenty-six feet again on the west by a line bearing southerly three feet again on the south by a line bearing easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east by that property bearing northerly eight feet three inches on the north by that property bearing westerly thirteen feet four inches again on the east by that property bearing northerly forty-four feet nine inches to other property of Elizabeth Mary Cape again on the north by that property and other property of Sarah Cape bearing westerly sixteen feet again on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly ninety feet to the point of commencement.

THE ELEVENTH SCHEDULE.

First Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of the late Emily Redmond Scarvell's property of six and one quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to Sarah Cape's property on the south by part of that property bearing easterly fifty-five feet on the east by a line bearing northerly fifty-one feet eight inches to other property of Clare Rosalie Scarvell and on the north by that property and a continued line bearing westerly fifty-five feet to the point of commencement.

Second Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Sarah Cape's property of ten and one-half perches and bounded on the west by that property bearing southerly fifty-one feet eight inches to Sarah Cape's property of six and three quarter perches on the south by that property bearing easterly ten feet again on the west by a line bearing southerly two feet to property of Elizabeth Mary Cape on the south-west and again on the south by that property being lines bearing easterly twenty-six feet southerly three feet and again easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east north and again on the east by that property being lines bearing northerly eight feet three inches westerly thirteen feet four inches and northerly forty-four feet nine inches to the property of Elizabeth Mary Cape on the north by that property and other property of Sarah Cape bearing westerly sixteen feet on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly thirty-five feet to the point of commencement be the said dimensions all a little more or less.

The Private Bill of the House of Commons, and having the day
passed, it was ready for presentation in the House of Commons for its consideration.

Richardson's Bill, 1881.

THE PRIVATE BILL OF THE HOUSE OF COMMONS.

THE HOUSE OF COMMONS.

THE HOUSE OF COMMONS.

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THE HOUSE OF COMMONS.

REDMOND'S ESTATE BILL.

SCHEDULE of the Amendment referred to in Message of 12th February, 1879.

Page 8, clause 12, line 25. *After "7" omit "8" insert "9"*

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

*Legislative Assembly Chamber,
Sydney, 23 January, 1879. }*

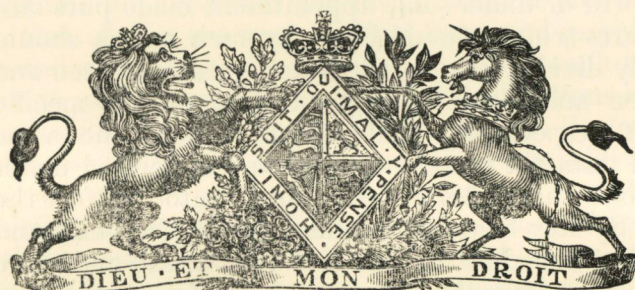
STEPHEN W. JONES,
Clerk of Legislative Assembly.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.

*Legislative Council Chamber,
Sydney, 12th February, 1879. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to authorize the sale mortgage and leasing of certain lands and hereditaments devised by the Will of Winifred Redmond deceased and for other purposes therein mentioned.

WHEREAS Winifred Redmond late of Sydney in the Colony of Preamble.
New South Wales widow deceased was at the time of her death hereinafter mentioned seized and possessed of (amongst other lands) the lands and hereditaments in the several Schedules to this Act mentioned and described for an estate of inheritance in fee simple free from incumbrances And whereas the said Winifred Redmond duly signed and published her last will and testament dated the twentieth day of September one thousand eight hundred and fifty-nine and thereby after certain bequests and devises not material to be here set
10 forth devised all other her real estate whatsoever and wheresoever unto Sir Daniel Cooper John Larking Scarvell and Sarah Scarvell his wife their heirs and assigns to hold as to each of the respective portions of her real estate thereby appointed unto or for the benefit of her respective grandchildren and their issue in trust until the grandchild
15 respectively entitled thereto or interested therein should attain his or her age of twenty-one years to apply the rents and profits of such
97—A portion

NOTE.—The figure to be omitted is ruled through; that to be inserted is printed in black letter.

Redmond's Estate.

portion of her estate in or towards his or her maintenance and
 education respectively and when and so soon as each such grandchild
 should attain his or her age of twenty-one years then as to the portion
 of the estate of the said testatrix thereafter appointed to him or her
 5 respectively to the use of such grandchild respectively if a male for
 the term of his natural life or if such grandchild should be a female
 in trust to pay or apply the rents and profits of the respective property
 for her respective separate use apart from any husband with whom she
 might at any time intermarry and so as not to be subject to his
 10 engagements or control And after the decease of such grandson or
 grand-daughter respectively to the use of his or her child or children or
 issue in such shares or proportions if more than one as he or she should
 by any deed or will respectively appoint And in default of such appoint-
 ment to the use of such child or children or issue equally between
 15 them if more than one and their his or her respective heirs and assigns
per stirpes and not *per capita* And in case of the death of any of the
 said grandchildren without leaving children or issue who should become
 entitled under the said will or under some appointment made pursuant
 thereto the share or shares which should lapse by such means should
 20 accrue to and be equally divided among the other grand children and
 their respective children and issue in augmentation of the specific
 devises made to them respectively and should follow the same
 destination and the said testatrix thereby devised and appointed under
 the trusts and provisions thereinbefore contained unto or for the
 25 benefit of her grandson Sydney Scarvell and his issue all the lands and
 hereditaments in the first schedule to this Act mentioned and more
 particularly described Also after the decease of his father the said
 John Larking Scarvell and his mother the said Sarah Scarvell all the
 lands and hereditaments in the second schedule to this Act mentioned
 30 and more particularly described and also one-seventh part of the lands
 and hereditaments in the third Schedule to this Act mentioned and
 more particularly described And the said testatrix thereby devised
 and appointed under the trusts and provisions aforesaid unto or for
 the benefit of her grandson George Scarvell and his issue all the lands
 35 and hereditaments in the fourth Schedule to this Act mentioned and
 more particularly described And also one seventh part of the lands
 and hereditaments in the third Schedule to this Act mentioned and
 more particularly described And the said testatrix thereby devised
 and appointed under the trusts and provisions aforesaid unto or for
 40 the benefit of her grandson Edward Augustus Scarvell and his issue
 All the lands and hereditaments in the fifth Schedule to this Act
 mentioned and more particularly described and also one-seventh part
 of the said lands and hereditaments in the third Schedule to this Act
 mentioned and more particularly described And the said testatrix
 45 thereby devised and appointed under the trusts and provisions afore-
 said unto or for the benefit of her grand-daughter Sarah Winifred
 Isabella Mary Scarvell and her issue all the lands and hereditaments
 in the sixth Schedule to this Act mentioned and more particularly
 described and also one-seventh part of the said lands and hereditaments
 50 in the third Schedule to this Act mentioned and more particularly
 described and the said testatrix thereby devised and appointed under the
 trusts and provisions aforesaid unto or for the benefit of her grand-
 daughter Elizabeth Mary Scarvell (therein called Elizabeth Scarvell) and
 her issue all the lands and hereditaments in the seventh Schedule to this
 55 Act mentioned and more particularly described and also one-seventh part
 of the said lands and hereditaments in the third Schedule to this Act
 mentioned and more particularly described And the said testatrix
 thereby devised and appointed under the trusts and provisions afore-
 said unto or for the benefit of her grand-daughter Clare Rosalie
 Scarvell

Redmond's Estate.

Scarvell and her issue All the lands and hereditaments in the eighth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Emily Redmond Scarvell and her issue All the lands and hereditaments in the ninth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby directed that the land in the tenth Schedule to this Act mentioned and more particularly described should be divided into six equal portions and thereby devised one of such portions with and as an appurtenance to each house in Goulburn-street thereinbefore devised (except the corner house) the division to be made by her executrix and executors whose decision should be finally binding And the said testatrix thereby directed that her executrix and executors should as soon as conveniently might be after her decease divide the land and hereditaments in the third Schedule to this Act mentioned and more particularly described into seven parts or portions of as nearly equal value as should be practicable and that each of her six grandchildren to whom one-seventh part or portion of the said last-mentioned lands and hereditaments had been given by the said will should have one of the said parts or portions set apart for him or her or his or her issue the choice of such part or portion being determined by the said grandsons and grand-daughters by lot And the said testatrix thereby directed that as to any real estate of which she might die possessed and whereof no trust or use was thereinbefore specifically declared the same should be held after the decease of the said Sarah Scarvell the daughter of the said testatrix for the benefit of the grandchildren of the said testatrix and their respective issue in equal shares *per stirpes* in augmentation of the respective provisions thereinbefore made for them respectively and subject to the like trusts and the said testatrix thereby appointed her daughter the said Sarah Scarvell Sir Daniel Cooper and the said John Larking Scarvell the trustees and executors and executrix of her said will And whereas the said testatrix died on the seventh day of May one thousand eight hundred and sixty-one without having in any way altered or revoked her said will and leaving her surviving the said Sydney Scarvell George Scarvell Edward Augustus Scarvell Sarah Winifred Isabella Mary Scarvell Elizabeth Mary Scarvell Clare Rosalie Scarvell and Emily Redmond Scarvell And whereas the said will was on the third day of June one thousand eight hundred and sixty-one duly proved in the Supreme Court of New South Wales by the said Sarah Scarvell leave being reserved to the said Sir Daniel Cooper the then only surviving executor to come in and prove And whereas the said John Larking Scarvell and Sarah Scarvell his wife have died and the said Sir Daniel Cooper has renounced the executorship and disclaimed the trusts of the said will and there are not at present any trustees of the said will And whereas the said Sydney Scarvell and Emily Redmond Scarvell have since died unmarried and without issue And whereas the said Edward Augustus Scarvell intermarried with Annette Frances Want on the twentieth day of February one thousand eight hundred and sixty-two and there has been issue of such marriage And whereas by an indenture of settlement made upon the marriage of the said Edward Augustus Scarvell and dated the twentieth day of February one thousand eight hundred and sixty-two the said Edward Augustus Scarvell granted and released his life interest in the lands and hereditaments

Redmond's Estate.

hereditaments in the fifth Schedule to this Act mentioned and described to certain Trustees therein named upon the trusts therein expressed and contained And whereas Houlton Harries Voss and James Gordon are the present Trustees of the said indenture of settlement And whereas
5 the said Elizabeth Mary Scarvell (now Elizabeth Mary Cape) intermarried with William Frederick Cape on the eleventh day of July one thousand eight hundred and sixty-three and there has been issue of such marriage And whereas the said Sarah Winifred Isabella Mary Scarvell (now Sarah Winifred Isabella Mary Cape hereinafter
10 called Sarah Cape) intermarried with Alfred John Cape on the tenth day of June one thousand eight hundred and seventy-one and there has been issue of such marriage And whereas the said George Scarvell intermarried with Mary Amelia Anne Stewart on the eighteenth day of March one thousand eight hundred and seventy-one
15 and there has been issue of such marriage And whereas the said George Scarvell died on the tenth day of May one thousand eight hundred and seventy-seven leaving two children him surviving And whereas all the children of the said Edward Augustus Scarvell Elizabeth Mary Cape Sarah Cape and George Scarvell are infants under
20 the age of twenty-one years And whereas the said Clare Rosalie Scarvell is still unmarried And whereas the said lands and hereditaments mentioned and particularly described in the said third Schedule to this Act have never yet been divided as directed by the said will And whereas the said land and hereditaments mentioned and particu-
25 larly described in the said tenth Schedule to this Act have not yet been divided as directed in and by the said will and it has been agreed between the said Sarah Cape and Elizabeth Mary Cape that the same shall be divided in the manner hereinafter enacted and provided in the second section of this Act And whereas the said will does not
30 contain any power to sell or mortgage or demise the lands and hereditaments thereby devised And whereas it is impossible without the assistance of Parliament to sell or mortgage the said lands and hereditaments devised by the said will or to demise the same for a longer period than the life of the respective persons who are entitled as
35 tenants for life to the respective portions devised by the said will and the said lands and hereditaments in consequence of the absence of powers to sell mortgage or demise remain unimproved and the buildings thereon are becoming dilapidated and almost unproductive and of very small value And whereas it is expedient that powers to sell
40 mortgage and lease the said lands and hereditaments should be conferred on the trustees hereinafter named for the benefit of the persons interested under the said will and that the proceeds of the sale of such of the said lands and hereditaments as shall from time to time be sold and the rents and profits arising from the leases of such of the said
45 lands and hereditaments as shall from time to time be leased should be held in trust for and the moneys raised by mortgage of such of the said lands and hereditaments as shall from time to time be mortgaged should be applied towards the improvement of the property for the benefit of the persons respectively entitled under the will to the
50 respective lands and hereditaments so sold demised or mortgaged 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 :—

- 55 1. From and after the passing of this Act all the lands and hereditaments devised by the will of Winifred Redmond deceased and mentioned and described in the several Schedules to this Act as also all the lands and real estate of the said testatrix not specifically devised and passing under the last devise in the said will contained shall be
and

Lands to be vested in trustees.

Redmond's Estate.

and are hereby vested absolutely in Houlton Harries Voss of Sydney aforesaid Esquire and James Gordon of Young in the Colony aforesaid solicitor their heirs and assigns upon the trusts and to and for the ends intents and purposes and with under and subject to the powers and provisions hereinafter expressed and contained concerning the same.

2. The lands and hereditaments mentioned and particularly described in the tenth Schedule to this Act shall be and the same are hereby divided in the manner following that is to say into the two parts or shares in the eleventh Schedule to this Act mentioned and particularly described. And the parcel of land mentioned and particularly described in the first part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the sixth Schedule to this Act. And the parcel of land mentioned and particularly described in the second part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the seventh Schedule to this Act.

Partition of certain land directed to be divided confirmed.

3. It shall be lawful for the said Houlton Harries Voss and James Gordon or any two trustees whether appointed by this Act or under the provisions for the appointment of new trustees herein contained (such persons being hereinafter designated "the said Trustees") to sell and absolutely dispose of all and singular the said lands and hereditaments mentioned and particularly described in the said several schedules to this Act or any of them or any part of the same lands and hereditaments and also all or any part of the lands or real estate of the said Winifred Redmond deceased not specifically devised by but passing under the last devise in her said will contained either by public auction or private contract either in one or in more lot or lots and in such manner generally and upon and subject to such terms and conditions as the said trustees shall deem expedient with power to buy in the said lands and hereditaments or any of them or any part thereof at any sale by auction and to rescind or vary any contract for sale either on terms or gratuitously and to resell without being responsible for any loss occasioned thereby and upon any sale or sales to convey the land so sold to the purchaser or purchasers thereof his her or their heirs and assigns or as such purchaser or purchasers may direct freed and discharged from all trusts affecting the same and the receipts in writing of the said trustees for the purchase money of any lands and hereditaments so sold shall be full and sufficient discharges to any purchasers from the same and from being bound to see to the application of the same and from any liability for the loss non-application or misapplication of the same or any part thereof.

Trustees empowered to sell and convey.

4. It shall be lawful for the said trustees to allow any purchaser or purchasers credit for the payment of the whole or part of his her or their purchase money upon such terms as to interest or otherwise and generally as the said trustees may deem reasonable and expedient. Provided that the land in respect of which such credit shall be given shall remain unconveyed or shall by a proper mortgage with full powers of entry and sale and other usual and proper provisions be made a security for the payment of the purchase money remaining unpaid. Provided further that in the event of any such security being taken the vendors' lien for the said purchase money and every part thereof shall not be thereby affected or lost.

Power to give credit to purchasers.

5. It shall be lawful for the said trustees from time to time for the purpose of raising any sum or sums of money which in their opinion it may be desirable to borrow for the purpose of erecting any buildings

Power to borrow money for buildings &c.

Redmond's Estate.

buildings or repairing or rebuilding any existing buildings upon or otherwise improving any part or parts of the lands and hereditaments mentioned and described in the several Schedules to this Act or of the land and real estate not specifically devised by the said will but passing
 5 under the last devise therein to execute any mortgage or mortgages in fee or for any term or terms of years of such part or parts of the said lands and hereditaments with power of sale and all other usual powers provisions and covenants Provided that no person who shall advance money upon the security of any mortgage purporting to be made under
 10 the power hereby given shall be bound to enquire as to the advisability or propriety of the raising of such money or as to the application of such money when raised and advanced and the receipt of the said trustees for the moneys so advanced shall effectually discharge the person advancing the same from any liability in respect of the misap-
 15 plication or non-application thereof.

6. It shall be lawful for the said trustees from time to time by deed or writing to demise and lease all or any part of the said lands and hereditaments to any person or persons for any term of years not exceeding twenty-one years to take effect in possession at the best
 20 yearly rent that can be reasonably obtained for the same without any fine premium or foregift And also from time to time by deed to demise and lease any part of the said lands and hereditaments to any person or persons who shall covenant to improve the same by repairing any building or buildings now standing or which shall hereafter be
 25 standing on any part of the land thereby leased or by erecting and building any house or houses building or buildings on such land or any part thereof or by otherwise expending in improvement such moneys as shall be deemed by the said trustees adequate to the interest to be parted with but so that every lease under this last-mentioned
 30 power shall be for a term not exceeding fifty years to take effect in possession or within one year from the date thereof and shall be at such rent as the said trustees shall having regard to the terms and conditions of such lease think reasonable and proper so however that nothing be taken by way of fine premium or foregift Provided that
 35 every indenture of lease made under the provisions of this section shall contain a covenant by the lessee to pay the rent thereby reserved and for insurance against fire of any building erected or to be erected on the land thereby demised and also a condition of re-entry on non-payment of rent within a time to be therein specified and so also that
 40 a counterpart of such lease be executed by the lessee Any lessee paying any rent reserved by any such lease to the said trustees shall not be bound to see to the application thereof and shall be free from any liability for the non-application or misapplication of the same or any part thereof.

45 7. The powers herein contained shall so far as regards the lands and hereditaments mentioned and particularly described in the fifth Schedule to this Act be exercised during the lifetime of the said Edward Augustus Scarvell with the consent of the trustees or trustee for the time being of the said indenture of settlement of the twentieth day of
 50 February one thousand eight hundred and sixty two And from and after the death of the said Edward Augustus Scarvell at the absolute discretion of the trustees for the time being of this Act.

8. The said trustees shall stand seized and possessed of the said lands and hereditaments or of such portion thereof as may from time
 55 to time remain unsold subject to any leases granted and to any other estates rights or interests created under the authority of this Act upon the trusts and subject to the provisions in the said will expressed and declared concerning the same respectively And from and after the sale of any portion of the said lands and hereditaments shall stand
 possessed

Power to grant leases.

Consent necessary in certain cases.

Trusts of unsold land and of purchase money.

Redmond's Estate.

possessed of the moneys arising from such sale upon trust in the first place to pay all costs and expenses of and incidental to the procuring and passing this Act and also of all deeds instruments acts dealings and proceedings subsequently to the passing of this Act executed
 5 signed done or undertaken for the purpose of enabling the said trustees to carry out advantageously any sale hereby authorized And in the next place to pay and satisfy all costs and expenses incurred in and about the said sale And after such payment as aforesaid Upon trust to invest the net surplus of such moneys in any debentures or Govern-
 10 ment securities of any kind of any of the Colonies of New South Wales Victoria or Queensland or upon freehold securities in the said Colony of New South Wales or upon deposit at interest in any Bank carrying on business in the said last-mentioned Colony with power from time to time and at any time to vary or transpose any such investment or
 15 security into or for any other investment or security of the kind hereby authorized.

9. The said trustees shall stand possessed of such investments ^{Trusts of investments} and securities and the net dividends income and annual produce arising ^{rents &c.} therefrom and also of the net rents arising from and payable under
 20 any lease made under the authority of this Act Upon such trusts and with and subject to such powers provisions and declarations as shall as nearly correspond with the uses trusts provisions and declarations in the said will expressed and contained concerning the said lands and hereditaments or any part or parts thereof respectively or such of them
 25 as shall be subsisting or capable of taking effect as the different nature and quality of the premises and the rules of law and equity will permit Provided that it shall be lawful for the said trustees at any time or from time to time to apply the whole or any part of the rents and profits of any portion or portions of the said lands and hereditaments in
 30 and towards payment or in and towards providing a sinking fund for the payment of the principal and interest due or owing on the security of any mortgage or mortgages of such portion or portions executed under the power herein contained.

10. It shall be lawful for the said trustees to make and alter ^{Power to make roads} and concur in the making and altering of any roads streets or ways on ^{&c.} and over any part or parts of the said lands and hereditaments And also to erect make and carry out and concur in the erecting making and carrying out of any walls sewers drains watercourses or other works which may in the discretion of the said trustees conduce to the
 40 better laying out improving or selling of the said lands and hereditaments or the convenience and enjoyment of those persons who shall have purchased or shall purchase any part thereof The costs of any such works on the part of the said trustees or their proportion of any costs for such works and any costs and expenses of and incidental to
 45 the bringing of the said lands and hereditaments or any part thereof under the provisions of the Real Property Act (which they are hereby authorized to incur) may be deducted and retained by the said trustees in the same way as they are hereby authorized to deduct and retain the costs and expenses of and incidental to sales hereunder For any
 50 of the purposes of this section the said trustees may reserve and dedicate either absolutely or upon any conditions any part or parts of the said lands and hereditaments.

11. If either of them the said Houlton Harries Voss and James ^{Appointment of new} Gordon or any trustee appointed as hereinafter provided shall die or ^{trustees.}
 55 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 the said will and this Act declared before the same shall have been fully discharged and performed it shall be lawful for the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and
 Clare

Redmond's Estate.

Clare Rosalie Scarvell or the survivors or survivor of them and after the death of such survivor for the surviving or continuing trustees or trustee for the time being (and for this purpose every refusing or retiring trustee shall if willing to act in the execution of this power
5 be deemed a continuing trustee) to appoint a new trustee or new trustees in the place of the trustees or trustee so dying or going to reside out of the Colony or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid Provided that if the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and
10 Clare Rosalie Scarvell or the survivors of them shall be unable to agree in any such appointment of a new trustee or if after the death of the survivor of them there shall be no trustee capable of making such appointment then it shall be lawful for the Supreme Court in its Equitable Jurisdiction on the petition of any person beneficially
15 entitled under the trusts hereinbefore mentioned to appoint any such new trustee Upon every such appointment as aforesaid so much of the said lands and hereditaments as shall be unconveyed shall by virtue of such instrument or order and without any other assurance be vested in the new trustees or trustee either solely or jointly with the surviving
20 or continuing trustee as the case may be and every new trustee appointed as aforesaid shall have the same powers authorities and discretions in all respects as if he had been named in this Act in the place of either of them the said Houlton Harries Voss and James Gordon.

25 12. This Act may be cited as "Redmond's Estate Act of 18789." Short title

Redmond's Estate.

SCHEDULES.

THE FIRST SCHEDULE.

All that allotment or parcel of land in the Colony of New South Wales containing by admeasurement fourteen perches situated in the town of Sydney parish of
 5 Saint Phillip county of Cumberland allotment number one of section number eighty-two and bounded on the west by Harrington-street bearing south eight degrees fifteen minutes west one hundred and fifty-three links on the south by allotment number two bearing east seven degrees north fifty-seven and a-half links on the east by allotment number eight bearing north eleven degrees east seventy-four links then north eight
 10 degrees thirty minutes east seventy-nine links and on the north by a line bearing west eight degrees thirty minutes south sixty-one and three-quarter links.

THE SECOND SCHEDULE.

All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement four hundred and seventy-three acres more or less being
 15 portion of John Stogdell's one hundred and forty acres grant and Andrew Thompson's two hundred and sixty acres grant commencing on the road leading from Windsor to Pitt Town at the intersection of the old Hawkesbury Road and bounded on the south-west side by the said last-mentioned road bearing south-easterly one hundred chains ten links thence on the south-east side by a line bearing easterly five hundred links to
 20 the western boundary of Nelson Common and by the said boundary bearing north-easterly ninety-nine chains ten links thence on the north-east side by a line bearing north seventy-five degrees west five chains thirteen links and a line westerly thirty-four chains twenty links and a line north fifty-two degrees thirty minutes west twenty-four chains ninety links to the road leading from Windsor to Pitt Town and thence on the
 25 north-west side by the said road bearing south fifty-six degrees forty-three minutes west eighteen chains ninety-four links and south forty-one degrees nine minutes west sixteen chains twenty-four links to the point of commencement aforesaid.

THE THIRD SCHEDULE.

All that piece of land in the said Colony of New South Wales situated at
 30 Petersham in the parish of Petersham and county of Cumberland containing by admeasurement seven acres three roods and one perch be the same more or less commencing at the intersection of the Glebe Island Road with the Parramatta Road and bounded on the east by the Glebe Island Road bearing northerly two thousand one hundred and thirty links on the north-west by a fenced line bearing south-westerly two
 35 hundred and twenty-four links to land belonging to the Roman Catholic Church on the west and north by that land bearing southerly four hundred and forty links and westerly two hundred and fifty links to land of Mr. Burnell again on the west by that land and a continued line bearing southerly one thousand five hundred and eighty-two links to the Parramatta Road aforesaid and on the south by that road bearing easterly
 40 three hundred and thirty-eight links to the point of commencement be the said dimensions all a little more or less. And also all that piece of land situated at Petersham aforesaid containing by admeasurement nine acres and sixteen perches be the same more or less commencing on the eastern side of the Glebe Island Road at the north-western corner of Pritchard and Yeoman's subdivision at a point bearing northerly and distant
 45 one thousand five hundred and fifty links from its intersection with the Parramatta Road and bounded on the west by the Glebe Island Road bearing northerly six hundred and thirty-two links on the north-west by a fenced line bearing north-easterly one thousand two hundred and forty links to the Annandale Estate on the east by part of that estate being fenced lines bearing southerly about one thousand and fifty links to
 50 Pritchard and Yeoman's subdivision aforesaid and on the south by that subdivision bearing westerly one thousand and eighty-five links to the point of commencement be the said dimensions all a little more or less.

Redmond's Estate.

THE FOURTH SCHEDULE.

- All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement sixty-two acres three roods more or less being a grant of thirty acres to Giles Mower and part of John Stogdell's one hundred and forty acres grant commencing on the South Creek at the north corner of the said Giles Mower's grant as fenced and bounded on the north-east side by a line bearing south-easterly thirty-five chains sixteen links to the road leading from Pitt Town to Windsor thence on the south-east side by the said road bearing south fifty-seven degrees west seven chains eighty-nine links and south forty-one degrees thirty minutes west thirteen chains eighty-one links thence on the south-west side by a line bearing north-westerly thirty-one chains fifty links to the South Creek and thence on the north-west side by the said creek northerly to the point of commencement aforesaid.

THE FIFTH SCHEDULE.

- All that piece of land situated in the said Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing at the intersection of George and Goulburn streets and bounded on the east by George-street bearing northerly seventy-nine feet to the property of the late Sydney Scarvell on the north by that property and the property of Elizabeth Mary Cape bearing westerly one hundred and sixteen feet on the west by a line bearing southerly forty-six feet on the south by a line bearing easterly thirteen feet four inches again on the west by a line bearing southerly thirty-three feet to Goulburn-street aforesaid and again on the south by that street bearing easterly ninety-six feet nine inches to the point of commencement.

THE SIXTH SCHEDULE.

- All that piece of land situated in the Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Elizabeth Mary Cape's property and bounded on the east by that property bearing northerly twenty-nine feet six inches on the north by a line bearing westerly sixty-five feet to the property of Clare Rosalie Scarvell on the west by that property bearing southerly twenty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing easterly sixty-six feet to the point of commencement.

THE SEVENTH SCHEDULE.

- All that piece of land situated in the Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Edward Augustus Scarvell's property and bounded on the east by that property bearing northerly twenty-four feet nine inches on the north by a line bearing westerly twenty-nine feet on the east by a line bearing northerly three feet again on the north by a line bearing westerly twenty-six feet to the property of Sarah Cape on the west by that property bearing southerly twenty-seven feet six inches to Goulburn-street aforesaid on the south by that street bearing easterly twenty-six feet six inches again on the east by a line bearing northerly nine inches and on the south again by Goulburn-street bearing easterly twenty-eight feet to the point of commencement.

THE EIGHTH SCHEDULE.

- All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the intersection of Sussex and Goulburn-streets and bounded on the south-west by a line bearing north-westerly forty-one feet four inches to the property of the late Emily Redmond Scarvell on the north-west by part of that property bearing north-easterly twenty-four feet six inches again on the south-west by a line bearing north-westerly one foot six inches on the north by lines bearing easterly seventeen feet six inches on the east by a line bearing southerly forty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing westerly thirty-one feet three inches to the point of commencement.

Redmond's Estate.

THE NINTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing on the north-eastern side of Sussex-street at a point bearing south-easterly and distant forty-six feet from its intersection with Walton-lane and bounded on the south-west by Sussex-street bearing south-easterly thirty-eight feet on the south-east by the property of Clare Rosalie Scarvell bearing north-easterly twenty-eight feet six inches on the north-east by a line bearing north-westerly one foot six inches on the south by lines bearing easterly seventeen feet six inches on the east by a line bearing northerly thirty-two feet six inches on the north by lines bearing westerly twenty-nine feet ten inches and on the north-west by a line bearing south-westerly twenty-six feet two inches to the point of commencement And also all that piece of land situated in the said Colony of New South Wales containing by admeasurement two acres three roods and eight perches more or less being part of John Stoddell's one hundred and forty acres grant commencing at the north corner of the grant as fenced and bounded on the north-west side by a line bearing south twenty degrees thirty minutes west nine hundred and seventy-nine links to the road leading from Windsor to Pitt Town thence on the south-east side by the said road bearing north fifty-five degrees fifty-seven minutes east nine hundred and ninety-eight links and thence on the north-east side by a line bearing north-westerly six hundred and two links to the point of commencement aforesaid.

THE TENTH SCHEDULE.

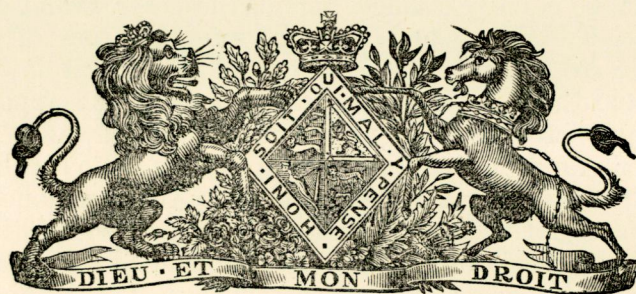
All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Emily Redmond Scarvell's property of six and a quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to the property of Sarah Cape on the south by that property bearing easterly sixty-five feet again on the west by a line bearing southerly two feet to the property of Elizabeth Mary Cape again on the south by part of that property bearing easterly twenty-six feet again on the west by a line bearing southerly three feet again on the south by a line bearing easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east by that property bearing northerly eight feet three inches on the north by that property bearing westerly thirteen feet four inches again on the east by that property bearing northerly forty-four feet nine inches to other property of Elizabeth Mary Cape again on the north by that property and other property of Sarah Cape bearing westerly sixteen feet again on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly ninety feet to the point of commencement.

THE ELEVENTH SCHEDULE.

First Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of the late Emily Redmond Scarvell's property of six and one quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to Sarah Cape's property on the south by part of that property bearing easterly fifty-five feet on the east by a line bearing northerly fifty-one feet eight inches to other property of Clare Rosalie Scarvell and on the north by that property and a continued line bearing westerly fifty-five feet to the point of commencement.

Second Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Sarah Cape's property of ten and one-half perches and bounded on the west by that property bearing southerly fifty-one feet eight inches to Sarah Cape's property of six and three quarter perches on the south by that property bearing easterly ten feet again on the west by a line bearing southerly two feet to property of Elizabeth Mary Cape on the south-west and again on the south by that property being lines bearing easterly twenty-six feet southerly three feet and again easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east north and again on the east by that property being lines bearing northerly eight feet three inches westerly thirteen feet four inches and northerly forty-four feet nine inches to the property of Elizabeth Mary Cape on the north by that property and other property of Sarah Cape bearing westerly sixteen feet on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly thirty-five feet to the point of commencement be the said dimensions all a little more or less.

New South Wales.



ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

An Act to authorize the sale mortgage and leasing of certain lands and hereditaments devised by the Will of Winifred Redmond deceased and for other purposes therein mentioned. [Assented to, 27th February, 1879.]

WHEREAS Winifred Redmond late of Sydney in the Colony of Preamble.
New South Wales widow deceased was at the time of her death hereinafter mentioned seized and possessed of (amongst other lands) the lands and hereditaments in the several Schedules to this Act mentioned and described for an estate of inheritance in fee simple free from incumbrances And whereas the said Winifred Redmond duly signed and published her last will and testament dated the twentieth day of September one thousand eight hundred and fifty-nine and thereby after certain bequests and devises not material to be here set forth devised all other her real estate whatsoever and wheresoever unto Sir Daniel Cooper John Larking Scarvell and Sarah Scarvell his wife their heirs and assigns to hold as to each of the respective portions of her real estate thereby appointed unto or for the benefit of her respective grandchildren and their issue in trust until the grandchild respectively entitled thereto or interested therein should attain his or her age of twenty-one years to apply the rents and profits of such
A portion

Redmond's Estate.

portion of her estate in or towards his or her maintenance and education respectively and when and so soon as each such grandchild should attain his or her age of twenty-one years then as to the portion of the estate of the said testatrix thereafter appointed to him or her respectively to the use of such grandchild respectively if a male for the term of his natural life or if such grandchild should be a female in trust to pay or apply the rents and profits of the respective property for her respective separate use apart from any husband with whom she might at any time intermarry and so as not to be subject to his engagements or control And after the decease of such grandson or grand-daughter respectively to the use of his or her child or children or issue in such shares or proportions if more than one as he or she should by any deed or will respectively appoint And in default of such appointment to the use of such child or children or issue equally between them if more than one and their his or her respective heirs and assigns *per stirpes* and not *per capita* And in case of the death of any of the said grandchildren without leaving children or issue who should become entitled under the said will or under some appointment made pursuant thereto the share or shares which should lapse by such means should accrue to and be equally divided among the other grand children and their respective children and issue in augmentation of the specific devises made to them respectively and should follow the same destination and the said testatrix thereby devised and appointed under the trusts and provisions thereinbefore contained unto or for the benefit of her grandson Sydney Scarvell and his issue all the lands and hereditaments in the first schedule to this Act mentioned and more particularly described Also after the decease of his father the said John Larking Scarvell and his mother the said Sarah Scarvell all the lands and hereditaments in the second schedule to this Act mentioned and more particularly described and also one-seventh part of the lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grandson George Scarvell and his issue all the lands and hereditaments in the fourth Schedule to this Act mentioned and more particularly described And also one seventh part of the lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grandson Edward Augustus Scarvell and his issue All the lands and hereditaments in the fifth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Sarah Winifred Isabella Mary Scarvell and her issue all the lands and hereditaments in the sixth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described and the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Elizabeth Mary Scarvell (therein called Elizabeth Scarvell) and her issue all the lands and hereditaments in the seventh Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Clare Rosalie Scarvell

Redmond's Estate.

Scarvell and her issue All the lands and hereditaments in the eighth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby devised and appointed under the trusts and provisions aforesaid unto or for the benefit of her grand-daughter Emily Redmond Scarvell and her issue All the lands and hereditaments in the ninth Schedule to this Act mentioned and more particularly described and also one-seventh part of the said lands and hereditaments in the third Schedule to this Act mentioned and more particularly described And the said testatrix thereby directed that the land in the tenth Schedule to this Act mentioned and more particularly described should be divided into six equal portions and thereby devised one of such portions with and as an appurtenance to each house in Goulburn-street thereinbefore devised (except the corner house) the division to be made by her executrix and executors whose decision should be finally binding And the said testatrix thereby directed that her executrix and executors should as soon as conveniently might be after her decease divide the land and hereditaments in the third Schedule to this Act mentioned and more particularly described into seven parts or portions of as nearly equal value as should be practicable and that each of her six grandchildren to whom one-seventh part or portion of the said last-mentioned lands and hereditaments had been given by the said will should have one of the said parts or portions set apart for him or her or his or her issue the choice of such part or portion being determined by the said grandsons and grand-daughters by lot And the said testatrix thereby directed that as to any real estate of which she might die possessed and whereof no trust or use was thereinbefore specifically declared the same should be held after the decease of the said Sarah Scarvell the daughter of the said testatrix for the benefit of the grandchildren of the said testatrix and their respective issue in equal shares *per stirpes* in augmentation of the respective provisions thereinbefore made for them respectively and subject to the like trusts and the said testatrix thereby appointed her daughter the said Sarah Scarvell Sir Daniel Cooper and the said John Larking Scarvell the trustees and executors and executrix of her said will And whereas the said testatrix died on the seventh day of May one thousand eight hundred and sixty-one without having in any way altered or revoked her said will and leaving her surviving the said Sydney Scarvell George Scarvell Edward Augustus Scarvell Sarah Winifred Isabella Mary Scarvell Elizabeth Mary Scarvell Clare Rosalie Scarvell and Emily Redmond Scarvell And whereas the said will was on the third day of June one thousand eight hundred and sixty-one duly proved in the Supreme Court of New South Wales by the said Sarah Scarvell leave being reserved to the said Sir Daniel Cooper the then only surviving executor to come in and prove And whereas the said John Larking Scarvell and Sarah Scarvell his wife have died and the said Sir Daniel Cooper has renounced the executorship and disclaimed the trusts of the said will and there are not at present any trustees of the said will And whereas the said Sydney Scarvell and Emily Redmond Scarvell have since died unmarried and without issue And whereas the said Edward Augustus Scarvell intermarried with Annette Frances Want on the twentieth day of February one thousand eight hundred and sixty-two and there has been issue of such marriage And whereas by an indenture of settlement made upon the marriage of the said Edward Augustus Scarvell and dated the twentieth day of February one thousand eight hundred and sixty-two the said Edward Augustus Scarvell granted and released his life interest in the lands and hereditaments

Redmond's Estate.

hereditaments in the fifth Schedule to this Act mentioned and described to certain Trustees therein named upon the trusts therein expressed and contained And whereas Houlton Harries Voss and James Gordon are the present Trustees of the said indenture of settlement And whereas the said Elizabeth Mary Scarvell (now Elizabeth Mary Cape) intermarried with William Frederick Cape on the eleventh day of July one thousand eight hundred and sixty-three and there has been issue of such marriage And whereas the said Sarah Winifred Isabella Mary Scarvell (now Sarah Winifred Isabella Mary Cape hereinafter called Sarah Cape) intermarried with Alfred John Cape on the tenth day of June one thousand eight hundred and seventy-one and there has been issue of such marriage And whereas the said George Scarvell intermarried with Mary Amelia Anne Stewart on the eighteenth day of March one thousand eight hundred and seventy-one and there has been issue of such marriage And whereas the said George Scarvell died on the tenth day of May one thousand eight hundred and seventy-seven leaving two children him surviving And whereas all the children of the said Edward Augustus Scarvell Elizabeth Mary Cape Sarah Cape and George Scarvell are infants under the age of twenty-one years And whereas the said Clare Rosalie Scarvell is still unmarried And whereas the said lands and hereditaments mentioned and particularly described in the said third Schedule to this Act have never yet been divided as directed by the said will And whereas the said land and hereditaments mentioned and particularly described in the said tenth Schedule to this Act have not yet been divided as directed in and by the said will and it has been agreed between the said Sarah Cape and Elizabeth Mary Cape that the same shall be divided in the manner hereinafter enacted and provided in the second section of this Act And whereas the said will does not contain any power to sell or mortgage or demise the lands and hereditaments thereby devised And whereas it is impossible without the assistance of Parliament to sell or mortgage the said lands and hereditaments devised by the said will or to demise the same for a longer period than the life of the respective persons who are entitled as tenants for life to the respective portions devised by the said will and the said lands and hereditaments in consequence of the absence of powers to sell mortgage or demise remain unimproved and the buildings thereon are becoming dilapidated and almost unproductive and of very small value And whereas it is expedient that powers to sell mortgage and lease the said lands and hereditaments should be conferred on the trustees hereinafter named for the benefit of the persons interested under the said will and that the proceeds of the sale of such of the said lands and hereditaments as shall from time to time be sold and the rents and profits arising from the leases of such of the said lands and hereditaments as shall from time to time be leased should be held in trust for and the moneys raised by mortgage of such of the said lands and hereditaments as shall from time to time be mortgaged should be applied towards the improvement of the property for the benefit of the persons respectively entitled under the will to the respective lands and hereditaments so sold demised or mortgaged 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 :—

Lands to be vested in trustees.

1. From and after the passing of this Act all the lands and hereditaments devised by the will of Winifred Redmond deceased and mentioned and described in the several Schedules to this Act as also all the lands and real estate of the said testatrix not specifically devised and passing under the last devise in the said will contained shall be and

Redmond's Estate.

and are hereby vested absolutely in Houlton Harries Voss of Sydney aforesaid Esquire and James Gordon of Young in the Colony aforesaid solicitor their heirs and assigns upon the trusts and to and for the ends intents and purposes and with under and subject to the powers and provisions hereinafter expressed and contained concerning the same.

2. The lands and hereditaments mentioned and particularly described in the tenth Schedule to this Act shall be and the same are hereby divided in the manner following that is to say into the two parts or shares in the eleventh Schedule to this Act mentioned and particularly described. And the parcel of land mentioned and particularly described in the first part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the sixth Schedule to this Act. And the parcel of land mentioned and particularly described in the second part of the eleventh Schedule to this Act shall be an appurtenance to and follow the same destination and be subject to the same trusts powers and provisions as the land and hereditaments mentioned and particularly described in the seventh Schedule to this Act.

Partition of certain land directed to be divided confirmed.

3. It shall be lawful for the said Houlton Harries Voss and James Gordon or any two trustees whether appointed by this Act or under the provisions for the appointment of new trustees herein contained (such persons being hereinafter designated "the said Trustees") to sell and absolutely dispose of all and singular the said lands and hereditaments mentioned and particularly described in the said several schedules to this Act or any of them or any part of the same lands and hereditaments and also all or any part of the lands or real estate of the said Winifred Redmond deceased not specifically devised by but passing under the last devise in her said will contained either by public auction or private contract either in one or in more lot or lots and in such manner generally and upon and subject to such terms and conditions as the said trustees shall deem expedient with power to buy in the said lands and hereditaments or any of them or any part thereof at any sale by auction and to rescind or vary any contract for sale either on terms or gratuitously and to resell without being responsible for any loss occasioned thereby and upon any sale or sales to convey the land so sold to the purchaser or purchasers thereof his her or their heirs and assigns or as such purchaser or purchasers may direct freed and discharged from all trusts affecting the same and the receipts in writing of the said trustees for the purchase money of any lands and hereditaments so sold shall be full and sufficient discharges to any purchasers from the same and from being bound to see to the application of the same and from any liability for the loss non-application or misapplication of the same or any part thereof.

Trustees empowered to sell and convey.

4. It shall be lawful for the said trustees to allow any purchaser or purchasers credit for the payment of the whole or part of his her or their purchase money upon such terms as to interest or otherwise and generally as the said trustees may deem reasonable and expedient. Provided that the land in respect of which such credit shall be given shall remain unconveyed or shall by a proper mortgage with full powers of entry and sale and other usual and proper provisions be made a security for the payment of the purchase money remaining unpaid. Provided further that in the event of any such security being taken the vendors' lien for the said purchase money and every part thereof shall not be thereby affected or lost.

Power to give credit to purchasers.

5. It shall be lawful for the said trustees from time to time for the purpose of raising any sum or sums of money which in their opinion it may be desirable to borrow for the purpose of erecting any buildings

Power to borrow money for buildings &c.

Redmond's Estate.

buildings or repairing or rebuilding any existing buildings upon or otherwise improving any part or parts of the lands and hereditaments mentioned and described in the several Schedules to this Act or of the land and real estate not specifically devised by the said will but passing under the last devise therein to execute any mortgage or mortgages in fee or for any term or terms of years of such part or parts of the said lands and hereditaments with power of sale and all other usual powers provisions and covenants. Provided that no person who shall advance money upon the security of any mortgage purporting to be made under the power hereby given shall be bound to enquire as to the advisability or propriety of the raising of such money or as to the application of such money when raised and advanced and the receipt of the said trustees for the moneys so advanced shall effectually discharge the person advancing the same from any liability in respect of the misapplication or non-application thereof.

Power to grant leases.

6. It shall be lawful for the said trustees from time to time by deed or writing to demise and lease all or any part of the said lands and hereditaments to any person or persons for any term of years not exceeding twenty-one years to take effect in possession at the best yearly rent that can be reasonably obtained for the same without any fine premium or foregift. And also from time to time by deed to demise and lease any part of the said lands and hereditaments to any person or persons who shall covenant to improve the same by repairing any building or buildings now standing or which shall hereafter be standing on any part of the land thereby leased or by erecting and building any house or houses building or buildings on such land or any part thereof or by otherwise expending in improvement such moneys as shall be deemed by the said trustees adequate to the interest to be parted with but so that every lease under this last-mentioned power shall be for a term not exceeding fifty years to take effect in possession or within one year from the date thereof and shall be at such rent as the said trustees shall having regard to the terms and conditions of such lease think reasonable and proper so however that nothing be taken by way of fine premium or foregift. Provided that every indenture of lease made under the provisions of this section shall contain a covenant by the lessee to pay the rent thereby reserved and for insurance against fire of any building erected or to be erected on the land thereby demised and also a condition of re-entry on non-payment of rent within a time to be therein specified and so also that a counterpart of such lease be executed by the lessee. Any lessee paying any rent reserved by any such lease to the said trustees shall not be bound to see to the application thereof and shall be free from any liability for the non-application or misapplication of the same or any part thereof.

Consent necessary
in certain cases.

7. The powers herein contained shall so far as regards the lands and hereditaments mentioned and particularly described in the fifth Schedule to this Act be exercised during the lifetime of the said Edward Augustus Scarvell with the consent of the trustees or trustee for the time being of the said indenture of settlement of the twentieth day of February one thousand eight hundred and sixty two. And from and after the death of the said Edward Augustus Scarvell at the absolute discretion of the trustees for the time being of this Act.

Trusts of unsold
land and of purchase
money.

8. The said trustees shall stand seized and possessed of the said lands and hereditaments or of such portion thereof as may from time to time remain unsold subject to any leases granted and to any other estates rights or interests created under the authority of this Act upon the trusts and subject to the provisions in the said will expressed and declared concerning the same respectively. And from and after the sale of any portion of the said lands and hereditaments shall stand possessed

Redmond's Estate.

possessed of the moneys arising from such sale upon trust in the first place to pay all costs and expenses of and incidental to the procuring and passing this Act and also of all deeds instruments acts dealings and proceedings subsequently to the passing of this Act executed signed done or undertaken for the purpose of enabling the said trustees to carry out advantageously any sale hereby authorized And in the next place to pay and satisfy all costs and expenses incurred in and about the said sale And after such payment as aforesaid Upon trust to invest the net surplus of such moneys in any debentures or Government securities of any kind of any of the Colonies of New South Wales Victoria or Queensland or upon freehold securities in the said Colony of New South Wales or upon deposit at interest in any Bank carrying on business in the said last-mentioned Colony with power from time to time and at any time to vary or transpose any such investment or security into or for any other investment or security of the kind hereby authorized.

9. The said trustees shall stand possessed of such investments and securities and the net dividends income and annual produce arising therefrom and also of the net rents arising from and payable under any lease made under the authority of this Act Upon such trusts and with and subject to such powers provisions and declarations as shall as nearly correspond with the uses trusts provisions and declarations in the said will expressed and contained concerning the said lands and hereditaments or any part or parts thereof respectively or such of them as shall be subsisting or capable of taking effect as the different nature and quality of the premises and the rules of law and equity will permit Provided that it shall be lawful for the said trustees at any time or from time to time to apply the whole or any part of the rents and profits of any portion or portions of the said lands and hereditaments in and towards payment or in and towards providing a sinking fund for the payment of the principal and interest due or owing on the security of any mortgage or mortgages of such portion or portions executed under the power herein contained.

Trusts of investments
rents &c.

10. It shall be lawful for the said trustees to make and alter and concur in the making and altering of any roads streets or ways on and over any part or parts of the said lands and hereditaments And also to erect make and carry out and concur in the erecting making and carrying out of any walls sewers drains watercourses or other works which may in the discretion of the said trustees conduce to the better laying out improving or selling of the said lands and hereditaments or the convenience and enjoyment of those persons who shall have purchased or shall purchase any part thereof The costs of any such works on the part of the said trustees or their proportion of any costs for such works and any costs and expenses of and incidental to the bringing of the said lands and hereditaments or any part thereof under the provisions of the Real Property Act (which they are hereby authorized to incur) may be deducted and retained by the said trustees in the same way as they are hereby authorized to deduct and retain the costs and expenses of and incidental to sales hereunder For any of the purposes of this section the said trustees may reserve and dedicate either absolutely or upon any conditions any part or parts of the said lands and hereditaments.

Power to make roads
&c.

11. If either of them the said Houlton Harries Voss and James Gordon or any trustee appointed as hereinafter provided 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 the said will and this Act declared before the same shall have been fully discharged and performed it shall be lawful for the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and Clare

Appointment of new
trustees.

Redmond's Estate.

Clare Rosalie Scarvell or the survivors or survivor of them and after the death of such survivor for the surviving or continuing trustees or trustee for the time being (and for this purpose every refusing or retiring trustee shall if willing to act in the execution of this power be deemed a continuing trustee) to appoint a new trustee or new trustees in the place of the trustees or trustee so dying or going to reside out of the Colony or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid. Provided that if the said Edward Augustus Scarvell Sarah Cape Elizabeth Mary Cape and Clare Rosalie Scarvell or the survivors of them shall be unable to agree in any such appointment of a new trustee or if after the death of the survivor of them there shall be no trustee capable of making such appointment then it shall be lawful for the Supreme Court in its Equitable Jurisdiction on the petition of any person beneficially entitled under the trusts hereinbefore mentioned to appoint any such new trustee. Upon every such appointment as aforesaid so much of the said lands and hereditaments as shall be unconveyed shall by virtue of such instrument or order and without any other assurance be vested in the new trustees or trustee either solely or jointly with the surviving or continuing trustee as the case may be and every new trustee appointed as aforesaid shall have the same powers authorities and discretions in all respects as if he had been named in this Act in the place of either of them the said Houlton Harries Voss and James Gordon.

Short title

12. This Act may be cited as "Redmond's Estate Act of 1879."

SCHEDULES.

Redmond's Estate.

SCHEDULES.

THE FIRST SCHEDULE.

All that allotment or parcel of land in the Colony of New South Wales containing by admeasurement fourteen perches situated in the town of Sydney parish of Saint Phillip county of Cumberland allotment number one of section number eighty-two and bounded on the west by Harrington-street bearing south eight degrees fifteen minutes west one hundred and fifty-three links on the south by allotment number two bearing east seven degrees north fifty-seven and a-half links on the east by allotment number eight bearing north eleven degrees east seventy-four links then north eight degrees thirty minutes east seventy-nine links and on the north by a line bearing west eight degrees thirty minutes south sixty-one and three-quarter links.

THE SECOND SCHEDULE.

All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement four hundred and seventy-three acres more or less being portion of John Stogdell's one hundred and forty acres grant and Andrew Thompson's two hundred and sixty acres grant commencing on the road leading from Windsor to Pitt Town at the intersection of the old Hawkesbury Road and bounded on the south-west side by the said last-mentioned road bearing south-easterly one hundred chains ten links thence on the south-east side by a line bearing easterly five hundred links to the western boundary of Nelson Common and by the said boundary bearing north-easterly ninety-nine chains ten links thence on the north-east side by a line bearing north seventy-five degrees west five chains thirteen links and a line westerly thirty-four chains twenty links and a line north fifty-two degrees thirty minutes west twenty-four chains ninety links to the road leading from Windsor to Pitt Town and thence on the north-west side by the said road bearing south fifty-six degrees forty-three minutes west eighteen chains ninety-four links and south forty-one degrees nine minutes west sixteen chains twenty-four links to the point of commencement aforesaid.

THE THIRD SCHEDULE.

All that piece of land in the said Colony of New South Wales situated at Petersham in the parish of Petersham and county of Cumberland containing by admeasurement seven acres three roods and one perch be the same more or less commencing at the intersection of the Glebe Island Road with the Parramatta Road and bounded on the east by the Glebe Island Road bearing northerly two thousand one hundred and thirty links on the north-west by a fenced line bearing south-westerly two hundred and twenty-four links to land belonging to the Roman Catholic Church on the west and north by that land bearing southerly four hundred and forty links and westerly two hundred and fifty links to land of Mr. Burnell again on the west by that land and a continued line bearing southerly one thousand five hundred and eighty-two links to the Parramatta Road aforesaid and on the south by that road bearing easterly three hundred and thirty-eight links to the point of commencement be the said dimensions all a little more or less. And also all that piece of land situated at Petersham aforesaid containing by admeasurement nine acres and sixteen perches be the same more or less commencing on the eastern side of the Glebe Island Road at the north-western corner of Pritchard and Yeoman's subdivision at a point bearing northerly and distant one thousand five hundred and fifty links from its intersection with the Parramatta Road and bounded on the west by the Glebe Island Road bearing northerly six hundred and thirty-two links on the north-west by a fenced line bearing north-easterly one thousand two hundred and forty links to the Annandale Estate on the east by part of that estate being fenced lines bearing southerly about one thousand and fifty links to Pritchard and Yeoman's subdivision aforesaid and on the south by that subdivision bearing westerly one thousand and eighty-five links to the point of commencement be the said dimensions all a little more or less.

Redmond's Estate.

THE FOURTH SCHEDULE.

All that piece or parcel of land in the said Colony of New South Wales containing by admeasurement sixty-two acres three roods more or less being a grant of thirty acres to Giles Mower and part of John Stogdell's one hundred and forty acres grant commencing on the South Creek at the north corner of the said Giles Mower's grant as fenced and bounded on the north-east side by a line bearing south-easterly thirty-five chains sixteen links to the road leading from Pitt Town to Windsor thence on the south-east side by the said road bearing south fifty-seven degrees west seven chains eighty-nine links and south forty-one degrees thirty minutes west thirteen chains eighty-one links thence on the south-west side by a line bearing north-westerly thirty-one chains fifty links to the South Creek and thence on the north-west side by the said creek northerly to the point of commencement aforesaid.

THE FIFTH SCHEDULE.

All that piece of land situated in the said Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing at the intersection of George and Goulburn streets and bounded on the east by George-street bearing northerly seventy-nine feet to the property of the late Sydney Scarvell on the north by that property and the property of Elizabeth Mary Cape bearing westerly one hundred and sixteen feet on the west by a line bearing southerly forty-six feet on the south by a line bearing easterly thirteen feet four inches again on the west by a line bearing southerly thirty-three feet to Goulburn-street aforesaid and again on the south by that street bearing easterly ninety-six feet nine inches to the point of commencement.

THE SIXTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Elizabeth Mary Cape's property and bounded on the east by that property bearing northerly twenty-nine feet six inches on the north by a line bearing westerly sixty-five feet to the property of Clare Rosalie Scarvell on the west by that property bearing southerly twenty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing easterly sixty-six feet to the point of commencement.

THE SEVENTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of St. Lawrence and county of Cumberland commencing on the northern side of Goulburn-street at the south-western corner of Edward Augustus Scarvell's property and bounded on the east by that property bearing northerly twenty-four feet nine inches on the north by a line bearing westerly twenty-nine feet on the east by a line bearing northerly three feet again on the north by a line bearing westerly twenty-six feet to the property of Sarah Cape on the west by that property bearing southerly twenty-seven feet six inches to Goulburn-street aforesaid on the south by that street bearing easterly twenty-six feet six inches again on the east by a line bearing northerly nine inches and on the south again by Goulburn-street bearing easterly twenty-eight feet to the point of commencement.

THE EIGHTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the intersection of Sussex and Goulburn-streets and bounded on the south-west by a line bearing north-westerly forty-one feet four inches to the property of the late Emily Redmond Scarvell on the north-west by part of that property bearing north-easterly twenty-four feet six inches again on the south-west by a line bearing north-westerly one foot six inches on the north by lines bearing easterly seventeen feet six inches on the east by a line bearing southerly forty-eight feet six inches to Goulburn-street aforesaid and on the south by that street bearing westerly thirty-one feet three inches to the point of commencement.

Redmond's Estate.

THE NINTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing on the north-eastern side of Sussex-street at a point bearing south-easterly and distant forty-six feet from its intersection with Walton-lane and bounded on the south-west by Sussex-street bearing south-easterly thirty-eight feet on the south-east by the property of Clare Rosalie Scarvell bearing north-easterly twenty-eight feet six inches on the north-east by a line bearing north-westerly one foot six inches on the south by lines bearing easterly seventeen feet six inches on the east by a line bearing northerly thirty-two feet six inches on the north by lines bearing westerly twenty-nine feet ten inches and on the north-west by a line bearing south-westerly twenty-six feet two inches to the point of commencement And also all that piece of land situated in the said Colony of New South Wales containing by admeasurement two acres three roods and eight perches more or less being part of John Stogdell's one hundred and forty acres grant commencing at the north corner of the grant as fenced and bounded on the north-west side by a line bearing south twenty degrees thirty minutes west nine hundred and seventy-nine links to the road leading from Windsor to Pitt Town thence on the south-east side by the said road bearing north fifty-five degrees fifty-seven minutes east nine hundred and ninety-eight links and thence on the north-east side by a line bearing north-westerly six hundred and two links to the point of commencement aforesaid.

THE TENTH SCHEDULE.

All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Emily Redmond Scarvell's property of six and a quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to the property of Sarah Cape on the south by that property bearing easterly sixty-five feet again on the west by a line bearing southerly two feet to the property of Elizabeth Mary Cape again on the south by part of that property bearing easterly twenty-six feet again on the west by a line bearing southerly three feet again on the south by a line bearing easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east by that property bearing northerly eight feet three inches on the north by that property bearing westerly thirteen feet four inches again on the east by that property bearing northerly forty-four feet nine inches to other property of Elizabeth Mary Cape again on the north by that property and other property of Sarah Cape bearing westerly sixteen feet again on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly ninety feet to the point of commencement.

THE ELEVENTH SCHEDULE.

First Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of the late Emily Redmond Scarvell's property of six and one quarter perches and bounded on the west by that property and part of Clare Rosalie Scarvell's property bearing southerly fifty-two feet six inches to Sarah Cape's property on the south by part of that property bearing easterly fifty-five feet on the east by a line bearing northerly fifty-one feet eight inches to other property of Clare Rosalie Scarvell and on the north by that property and a continued line bearing westerly fifty-five feet to the point of commencement.

Second Part.—All that piece of land situated in the Colony of New South Wales city of Sydney parish of Saint Lawrence and county of Cumberland commencing at the north-eastern corner of Sarah Cape's property of ten and one-half perches and bounded on the west by that property bearing southerly fifty-one feet eight inches to Sarah Cape's property of six and three quarter perches on the south by that property bearing easterly ten feet again on the west by a line bearing southerly two feet to property of Elizabeth Mary Cape on the south-west and again on the south by that property being lines bearing easterly twenty-six feet southerly three feet and again easterly twenty-nine feet to the property of Edward Augustus Scarvell on the east north and again on the east by that property being lines bearing northerly eight feet three inches westerly thirteen feet four inches and northerly forty-four feet nine inches to the property of Elizabeth Mary Cape on the north by that property and other property of Sarah Cape bearing westerly sixteen feet on the east by a line bearing northerly one foot six inches and again on the north by a line bearing westerly thirty-five feet to the point of commencement be the said dimensions all a little more or less.

