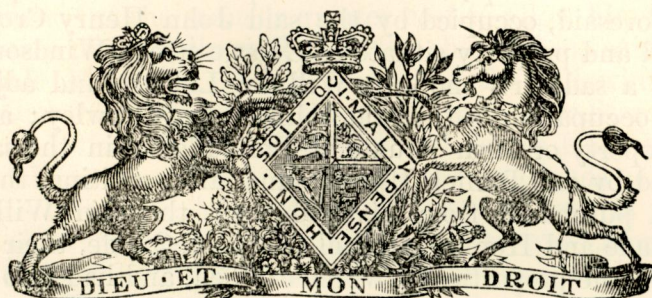


New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will. [Assented to, 29th March, 1894.]

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
A Lysacht,

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

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F Hilly's property ; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet ; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement ; also one equal third share of his residuary real and personal estate ; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection ; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely :—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid ; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings ; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company ; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley ; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street ; and bounded on the south part of the termination of said street bearing easterly six feet six inches ; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson ; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps ; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon ; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet ; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected ; also one equal third share of all other his residuary, real, and personal estate ; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely :—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy ; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond ; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street ; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement, and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale, as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the *New South Wales Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to receive
compensation money
and execute
conveyances, &c.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Trusts of
compensation money.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Investment of com-
pensation money, &c.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

McQuade Estate.

4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate. Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements. Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands. Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise. Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

The Queen's Letters

The said trustees may invest the proceeds of the sale of the said land in any manner they think fit, and may from time to time vary the mode of investment, and may from time to time sell any part of the said land, and may from time to time lease any part of the said land, and may from time to time do all such other things as may be necessary or expedient for the purposes of the said Act.

The said trustees may carry out the following works or any part thereof, and may from time to time vary the mode of carrying out the same, and may from time to time do all such other things as may be necessary or expedient for the purposes of the said Act:

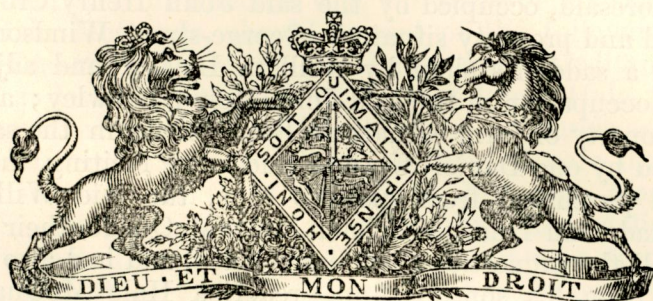
- 1. To erect thereon any buildings, and to repair, alter, enlarge, improve, or demolish any buildings now existing thereon, and to erect, alter, enlarge, improve, or demolish any fences, walls, or other structures thereon.
- 2. To erect thereon any bridges, and to repair, alter, enlarge, improve, or demolish any bridges now existing thereon.
- 3. To erect thereon any drains, and to repair, alter, enlarge, improve, or demolish any drains now existing thereon.
- 4. To erect thereon any roads, and to repair, alter, enlarge, improve, or demolish any roads now existing thereon.
- 5. To erect thereon any other works, and to repair, alter, enlarge, improve, or demolish any other works now existing thereon.

The said trustees may also do all such other things as may be necessary or expedient for the purposes of the said Act, and may from time to time do all such other things as may be necessary or expedient for the purposes of the said Act.

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New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will. [Assented to, 29th March, 1894.]

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble. in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

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Lysacht,

McQuade Estate.

Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

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F Hilly's property ; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet ; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement ; also one equal third share of his residuary real and personal estate ; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection ; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely :—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid ; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings ; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company ; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley ; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street ; and bounded on the south part of the termination of said street bearing easterly six feet six inches ; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson ; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps ; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon ; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet ; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected ; also one equal third share of all other his residuary, real, and personal estate ; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely :—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy ; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond ; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street ; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement, and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale, as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to receive compensation money and execute conveyances, &c.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Trusts of compensation money.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Investment of compensation money, &c.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

McQuade Estate.

4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

4. The said trustees may invest the moneys... of the said fund of forty-two thousand... pounds and all interest thereon... and may also invest the same... in any manner which may be deemed... to be the best interest of the said... fund.

5. The said trustees may carry out... of their own free will and... without being bound by the... of any court of law or equity... in relation to the said fund...

6. To enable them to carry out the... of the said fund... the said trustees may... in any manner which may be deemed... to be the best interest of the said... fund.

7. In addition to the powers of... of the said fund... the said trustees may... in any manner which may be deemed... to be the best interest of the said... fund.

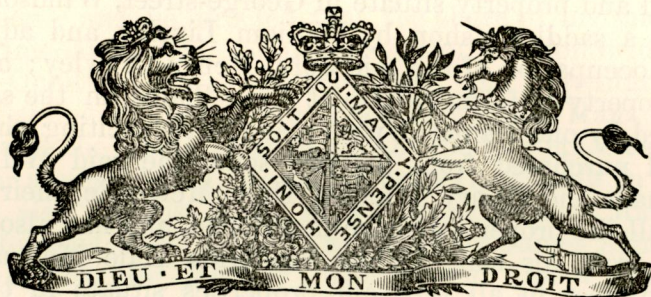
[BY]

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

*Legislative Council Chamber,
Sydney, 14th March, 1894. }*

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will. [Assented to, 29th March, 1894.]

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
Lysacht,

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

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F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement, and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereinafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in that behalf thereinafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale, as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to receive compensation money and execute conveyances, &c.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Trusts of compensation money.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Investment of compensation money, &c.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

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4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

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

Government House,
Sydney, 29th March, 1894.

R. W. DUFF,
Governor.

of the said sum of forty-two thousand nine hundred and twenty-five pounds and all interest thereon due on the said sum until the said sum shall have been paid by the said Minister for Public Works and any moneys which may hereafter arise from the sale of the said South West Island stock under the power in that behalf contained in the said section shall be from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said redemption moneys) in the same manner and subject to the same conditions and provisions as are by the said Act and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

6. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuah and Henry Michael Hale McQuah, that is to say: The erection of houses or buildings or the repairing or rebuilding of any existing houses or buildings; and the building, making, repairing or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said Government security, whether funded stock or otherwise.

8. This Act may be cited as the "McQuah Estates Act of 1894."

In the name and on behalf of Her Majesty I warrant to this Act
E. W. DUFF
Governor
Government House
Sydney, 20th March, 1894

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

*Legislative Council Chamber,
Sydney, 14th March, 1894.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will. [Assented to, 29th March, 1894.]

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
Lysacht,

McQuade Estate.

Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

McQuade Estate.

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement, and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale, as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner hereinafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretional power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

McQuade Estate.

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the *New South Wales Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to receive compensation money and execute conveyances, &c.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Trusts of compensation money.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Investment of compensation money, &c.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

4.

McQuade Estate.

4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

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

Government House,
Sydney, 29th March, 1894.

R. W. DUFF,
Governor.

ST. VICTORIA, B.C., 1907
WESTERN MINING & DEVELOPMENT COMPANY, LTD.
MEMORANDUM

The following is a summary of the facts in regard to the proposed acquisition of the property of the Western Mining & Development Company, Ltd. by the British Columbia Government. The property in question is situated in the Township of ... and is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road. The property is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road. The property is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road.

The property is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road. The property is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road. The property is more or less bounded by the ... and ... roads and is situated on the ... side of the ... road.

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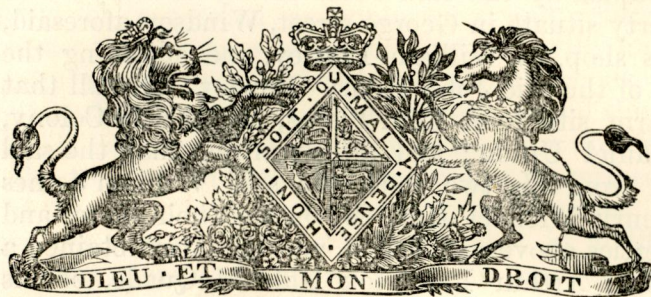
In the presence of me, of the above named parties, on the ... day of ... 1907, at ... B.C.
R. W. B. [Signature]
[Signature]

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

*Legislative Council Chamber,
Sydney, 21st February, 1894.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

WHEREAS William McQuade, late of Potts' Point, near Sydney, in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by
 5 D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also
 10 all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid,
 15 occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James
 20 Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares
 25 of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor,
 30 and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and
 35 administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all
 40 that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected
 45 a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of
 50 John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line
 55 to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

McQuade Estate.

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north 5 by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James 10 Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or 15 alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become 20 bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly 25 thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or 30 any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or 35 apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; 40 and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James 45 Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion 50 of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than 55 one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, 5 or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, 10 and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as 15 the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretional power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of 20 the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and 25 in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking 30 fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, 35 or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any 40 of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the 45 application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any 50 infant should be entitled, or presume to be entitled in or towards his, or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he 55 may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

McQuade Estate.

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron 55 Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been
 5 resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael
 10 Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine
 15 hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock,
 20 and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased
 25 as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same
 30 manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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
 35 authority of the same, as follows:—

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister
 40 for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers,
 45 and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until
 50 payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

3. The said trustees may invest one equal half-part of the said
 55 sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

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4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

W. G. ...

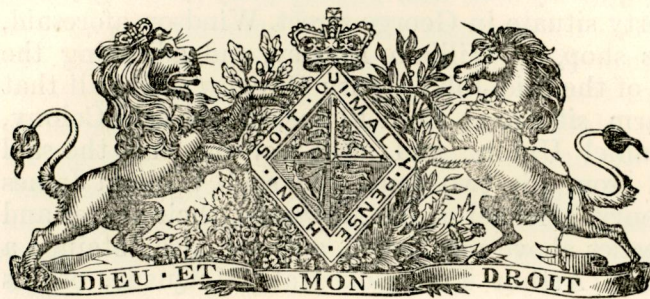
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This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 21st February, 1894.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grand-
father James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis,
then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by
 5 D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also
 10 all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid,
 15 occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James
 20 Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares
 25 of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor,
 30 and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and
 35 administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all
 40 that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected
 45 a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of
 50 John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line
 55 to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of
 F

McQuade Estate.

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north
5 by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James
10 Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or
15 alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become
20 bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly
25 thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or
30 any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or
35 apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead;
40 and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James
45 Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion
50 of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than
55 one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective
wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, 5 or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, 10 and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as 15 the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of 20 the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and 25 in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking 30 fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, 35 or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any 40 of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the 45 application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any 50 infant should be entitled, or presume to be entitled in or towards his, or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he 55 may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein.

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron 55 Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Trusts of compensation money.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

Investment of compensation money, &c.

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4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

The first part of the report is devoted to a general survey of the state of the country, and to a description of the various departments of the public service. It then proceeds to a detailed account of the operations of the different departments, and to a statement of the results of their respective administrations. The report concludes with a summary of the principal events of the year, and a statement of the measures proposed for the improvement of the public service.

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1888

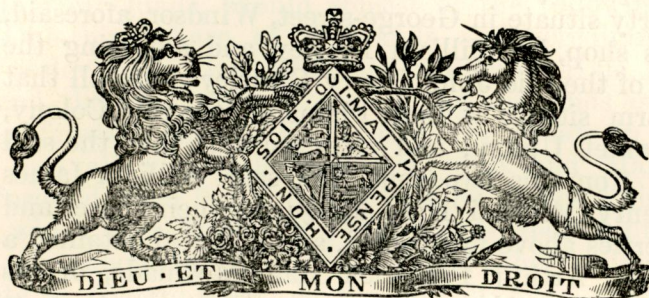
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This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, February, 1894. }*

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by

5 D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also

10 all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid,

15 occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James

20 Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares

25 of his three sons under that his will in manner hereinafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor,

30 and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts hereinafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and

35 administrators, upon the trusts hereinafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all

40 that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected

45 a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the hereinafter mentioned dimensions all more or less, being portion of

50 John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line

55 to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

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F Hilly's property ; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet ; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement ; also one equal third share of his residuary real and personal estate ; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection ; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely :—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid ; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings ; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company ; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley ; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street ; and bounded on the south part of the termination of said street bearing easterly six feet six inches ; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson ; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps ; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon ; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet ; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected ; also one equal third share of all other his residuary, real, and personal estate ; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely :—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy ; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond ; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street ; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north
5 by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James
10 Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or
15 alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become
20 bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly
25 thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or
30 any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or
35 apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead;
40 and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James
45 Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion
50 of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than
55 one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective
wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, 5 or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, 10 and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as 15 the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of 20 the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and 25 in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking 30 fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, 35 or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any 40 of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the 45 application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any 50 infant should be entitled, or presume to be entitled in or towards his, or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he 55 may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New 55 South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington,

as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Trusts of compensation money.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

Investment of compensation money, &c.

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4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and
 5 any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and
 10 subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

Investment of compensation money, &c.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of
 15 which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or
 20 other permanent improvements.

Power to execute permanent improvements, &c., on portions of the trust estate.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided never-
 25 theless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public
 30 Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount
 35 of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said
 40 residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.

Additional powers of investment.

8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

4. The said trustees may invest the remaining equal half part of the said sum of forty-two thousand three hundred and seventy-five pounds and all interest accruing thereon until the said sum and interest be paid by the said Minister for Public Works and any money which may hereafter arise from the sale of the said land in the said estate under the power in the said deed contained in the said deed hereinbefore recited to be retained by the Government of the said Colony (all of which moneys are hereinafter referred to as the said residuary moneys) in the same manner as is provided in the said deed and provisions as to the said residuary moneys and this Act prescribed in reference to the proceeds of the said sale of the said land and personal estate, and as to the said residuary moneys.

5. The said trustees may carry out the following works in any of them upon which the said specifically devised lands in respect of which trusts have been devised by the said will in favour of the said William James Hale McQuade and Henry Michael McQuade, that is to say: the erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the draining, making, repairing or rebuilding of water courses, drains, sewers, or any other permanent improvements, and as to the said residuary moneys referred to in the last preceding section hereof, the said trustees may expend the said residuary moneys on such parts thereof as they think fit: Provided that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in favour of the said William James Hale McQuade more of the said residuary moneys than the amount of compensation paid by the said Minister for Public Works for the amount of compensation of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend out of any of the said specifically devised lands in favour of the said Henry Michael McQuade more of the said residuary moneys than the amount of compensation paid by the said Minister for Public Works for the amount of compensation of the said last-mentioned specifically devised lands.

6. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, and as to the said residuary real and personal estate, whether funded stock or otherwise, this Act may be cited as the "McQuade Estate Act of 1884".

7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, and as to the said residuary real and personal estate, whether funded stock or otherwise, this Act may be cited as the "McQuade Estate Act of 1884".

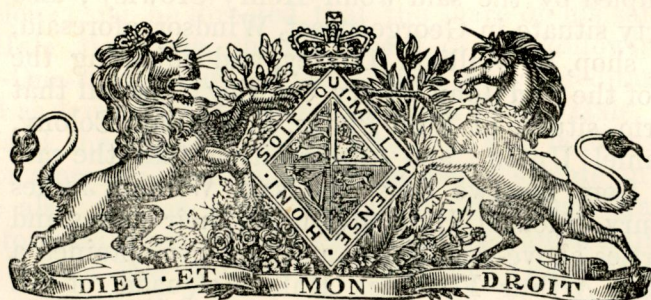
8. This Act may be cited as the "McQuade Estate Act of 1884".

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

*Legislative Council Chamber,
Sydney, February, 1894.* }

Clerk of the Parliaments.

New South Wales.



ANNO QUINQUAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

An Act to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by

5 D Hume, as a chemist's shop ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also

10 all that land and property situate in George-street, in the town of Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid,

15 occupied as a saddler's shop, by William Linsley, and adjoining the shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James

20 Hale McQuade and Henry Michael Hale McQuade, their shares and interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares

25 of his three sons under that his will in manner thereafter mentioned, the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor,

30 and the said Henry Michael Hale McQuade and their heirs, to hold the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and

35 administrators, upon the trusts thereafter declared ; and he directed that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all

40 that land and property situate in Goulburn and George Streets, in the city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected

45 a shop or building then leased to and occupied by the Compagnoni Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of

50 John Wylde's eleven acre grant at Potts' Point : Commencing on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line

55 to the centre of said wall, and by a line along the centre of said wall, being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

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F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

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bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north 5 by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James 10 Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or 15 alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become 20 bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly 25 thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or 30 any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or 35 apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; 40 and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James 45 Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion 50 of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than 55 one, to take in equal shares. And the said testator directed his said trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

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wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereinafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereinafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

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and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, 5 or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, 10 and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as 15 the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of 20 the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and 25 in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking 30 fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, 35 or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any 40 of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the 45 application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any 50 infant should be entitled, or presume to be entitled in or towards his, or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he 55 may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

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therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron 55 Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as

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as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid was agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Trusts of compensation money.

3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided.

Investment of compensation money, &c.

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4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and
 5 any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and
 10 subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.
5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of
 15 which trusts have been declared by the said will in favour of the said William James Hale McQuade and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or
 20 other permanent improvements.
6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided never-
 25 theless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public
 30 Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount
 35 of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands.
7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said
 40 residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise.
8. This Act may be cited as the "McQuade Estate Act of 1894." Short title.

Investment of compensation money, &c.

Power to execute permanent improvements, &c., on portions of the trust estate.

Power to employ proportionate amount of compensation money for permanent improvements, &c.

Additional powers of investment.

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1. The first...

2. The second...

3. The third...

4. The fourth...

5. The fifth...

6. The sixth...

7. The seventh...

8. The eighth...

9. The ninth...

10. The tenth...

11. The eleventh...

12. The twelfth...

13. The thirteenth...

14. The fourteenth...

15. The fifteenth...

16. The sixteenth...

17. The seventeenth...

18. The eighteenth...

19. The nineteenth...

20. The twentieth...

21. The twenty-first...

22. The twenty-second...

23. The twenty-third...

24. The twenty-fourth...

25. The twenty-fifth...

26. The twenty-sixth...

27. The twenty-seventh...

28. The twenty-eighth...

29. The twenty-ninth...

30. The thirtieth...

31. The thirty-first...

32. The thirty-second...

33. The thirty-third...

34. The thirty-fourth...

35. The thirty-fifth...

36. The thirty-sixth...

37. The thirty-seventh...

38. The thirty-eighth...

39. The thirty-ninth...

40. The fortieth...

41. The forty-first...

42. The forty-second...

43. The forty-third...

44. The forty-fourth...

45. The forty-fifth...

46. The forty-sixth...

47. The forty-seventh...

48. The forty-eighth...

49. The forty-ninth...

50. The fiftieth...

Legislative Council.

57^o VICTORIÆ, 1894.

A BILL

To authorise the ~~sale or mortgage of lands devised by the will of~~ William McQuade, and to provide for the investment and appropriation of the proceeds, and to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

(As amended and agreed to in Select Committee.)

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
c 11—A Lysacht,

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

Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property 5 situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of 10 Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the 15 shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and 20 interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, 25 the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold 30 the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed 35 that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the 40 city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni 45 Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing 50 on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, 55 being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

bounded on the south by the termination of said street bearing westerly
 forty-two feet; on the west by a line bearing north nineteen degrees
 thirty minutes west, and parallel to the eastern side of the house, and
 six feet distant therefrom to the waters of Port Jackson; on the north
 by Port Jackson easterly to Flood's boundary; and on the east by that 5
 boundary as indicated by walls bearing south twenty-one degrees west
 to the point of commencement, together with a sum of three thousand
 pounds for the erection of a residence upon the same conditions
 and terms as the house to be erected for his son, William James
 Hale McQuade; also one-third share of all his residuary, real, and 10
 personal estate; and he directed that his trustees should stand
 seized and possessed of the share of his son, the said William James
 Hale McQuade, upon trust if the said William James Hale McQuade
 should not by reason of any antecedent bankruptcy or insolvency or
 alienation or charge or attempted alienation or any other event 15
 (whether occurring in the testator's lifetime or after his decease) be
 disentitled personally to receive and enjoy the income to the same
 share or any part thereof, to pay the same income to the said William
 James Hale McQuade during his life, or until he should become
 bankrupt or insolvent or alienate or charge the same income or some 20
 part thereof, or affect so to do, or the happening of any other event
 disentitling him personally to receive and enjoy such income or some
 part thereof, and after the failure or determination in the lifetime of
 the said William James Hale McQuade of the trust in his favour lastly
 thereinbefore declared upon trust from time to time during the 25
 remainder of the life of the said William James Hale McQuade, in the
 absolute and uncontrolled discretion of ~~my~~ his trustees, to either pay or
 apply the whole or any part of the same income as the same should
 accrue for or towards the maintenance and personal support of all or
 any one or more to the exclusion of the others or other of the following 30
 persons, namely, the said William James Hale McQuade and his wife
 and issue (whether children or more remote) for the time being in
 existence, and if more than one in such shares and in such manner as
 his trustees in their absolute discretion should think fit, or to pay or
 apply the whole of the said income or so much thereof as should not 35
 be applied under the discretionary trust or power lastly thereinbefore
 contained to the person or persons or for the purposes to whom and
 for which the said income would for the time being be payable or
 applicable if the said William James Hale McQuade were then dead;
 and from and after the death of the said William James Hale 40
 McQuade upon trust to pay to his widow (if any) one moiety of the
 same income and subject thereto as to as well the inheritance and
 capital of the said share as the income thereof upon trust for all
 or any one or more of the issue of his said son William James
 Hale McQuade, in such proportions, and for such interests to be 45
 absolutely vested within twenty-one years of his decease, as he should
 by deed or will appoint; but no child in whose favour or in favour
 of any of whose issue an appointment should be made should partici-
 pate under the trust thereafter contained in the unappointed portion
 of the said shares without bringing the benefit of such appointment 50
 into hotch-pot, and in default of appointment or subject to any partial
 appointment in trust for children of his said son, who being sons
 should attain the age of twenty-one years, or being daughters attained
 that age or were married under that age, such children, if more than
 one, to take in equal shares. And the said testator directed his said 55
 trustees to stand seized and possessed of the respective shares of his
 said sons, Henry Michael Hale McQuade and Arthur Frederick Hale
 McQuade, upon such trusts, with such powers and such limitations in
 favour of his said last-mentioned sons respectively and their respective
 wives,

wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to 5 grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or 10 neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he 15 declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from author- 20 ised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repair- 25 ing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; 30 and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said 35 Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be 40 entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should 45 not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his, 50 or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share 55 or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale McQuade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: ~~And whereas, save to the limited extent provided by the said will, the said will contains no power of selling or mortgaging the lands specifically devised by the said will:~~ And whereas 55 it is doubtful whether the said will contains any power of mortgaging the residuary real and personal estate devised and bequeathed thereby: And whereas it is expedient and for the interests of all parties entitled under the said will, whether in possession, reversion, or remainder, that the trustees or trustee for the time being
of

of the said will should have power to sell or mortgage the said specifically devised lands, and to mortgage the said residuary real and personal estate, and to apply or invest the proceeds of such sale or mortgage in the manner and for the purposes hereinafter mentioned: And whereas by a notification of resumption dated the first day of 5 February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government* 10 *Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, 15 did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said 20 testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid has been agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as 25 such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be 30 forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or 35 expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, 40 the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative 45 Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Power to sell
specifically devised
lands.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said 50 trustees) may, in all respects, exercise over the whole or any portion or portions of the said specifically devised lands, precisely the same power or powers of sale, and upon the same terms, and subject to the same provisions and conditions as are by the said will given over the residuary real estate of the said testator. 55

Trusts of proceeds
of sale.

2. Save as in and by this Act provided the said trustees shall stand possessed of all moneys arising from any such sale or sales as aforesaid, upon trust, after payment thereof of all costs, charges, and expenses

expenses of and incidental to the said sale or sales, to hold the net balance thereof upon and subject to the same trusts and limitations as are in the said will declared in respect of the lands so sold: Provided that save as is otherwise provided in the third section hereof the said trustees shall invest the said net balance in some one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary, real, and personal estate.

3. The said trustees may apply the said net proceeds of such sale or sales as aforesaid, or any part thereof, in carrying out the following works, or any of them, upon any of the lands which are specifically devised by the said will, and which are subject to the same trusts, limitations, and provisions as are declared by the said will concerning the lands so sold, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c.

4. The said trustees may from time to time, for the purpose of raising any sum or sums of money which in their opinion may be deemed desirable to borrow for the purpose of carrying out any of the works referred to in the third section hereof, create a mortgage or mortgages, either legal or equitable, over the whole or any part of the said specifically devised lands for any term or terms of years: Provided that any moneys so raised by mortgage as aforesaid must be applied by the said trustees in carrying out the said works, or some of them, upon such of the specifically devised lands as are subject to the same trusts, limitations, and provisions as are by the said will declared with reference to the said lands so mortgaged: Provided also that no person who shall advance money upon the security of any mortgage or mortgages made under the power hereby given shall be bound to inquire as to the advisability or propriety of the raising of such moneys when raised or 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 non-application or misapplication thereof.

Power to raise money by mortgage of specifically devised lands.

5. The said trustees may, from time to time, raise such sums or sum of money as they shall deem expedient by creating a mortgage or mortgages, either legal or equitable, over the whole or any part of the said residuary real and personal estate, and may apply or invest the sum or sums of money so raised by mortgage in any one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary real and personal estate.

Power to mortgage residuary, real, and personal estate.

7. 1. The said trustees From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

8. 2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Trusts of compensation money.

Investment of compensation money, &c.

9. 3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided. 5

Investment of compensation money, &c.

10. 4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the ~~ninth~~ third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate. 10

Power to execute permanent improvements, &c., on portions of the trust estate.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements. 20

Power to employ proportionate amount of compensation money for permanent improvements, &c.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands. 30

Additional powers of investment.

6. 7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, or in the purchase of shares in any company carrying on business in the said Colony other than mining companies. 45

Short title.

11. This Act may be cited as the "McQuade Estate Act of 1893." 50

Short title.

8. This Act may be cited as the "McQuade Estate Act of 1894."

Legislative Council.

57^o VICTORIÆ, 1894.

A BILL

To authorise the sale or mortgage of lands devised by the will of William McQuade, and to provide for the investment and appropriation of the proceeds, and to authorise the receipt and investment by the Trustees of the will of William McQuade of certain compensation moneys payable by the Government of the Colony of New South Wales, and to add to the powers of investment under the said will.

(As amended and agreed to in Select Committee.)

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
c 11—A Lysacht,

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

Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property 5 situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of 10 Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the 15 shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and 20 interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner thereafter mentioned, 25 the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold 30 the same upon the trusts thereafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts thereafter declared ; and he directed 35 that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the 40 city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni 45 Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing 50 on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, 55 being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of ~~my~~ his trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: ~~And whereas, save to the limited extent provided by the said will, the said will contains no power of selling or mortgaging the lands specifically devised by the said will:~~ And whereas it is doubtful whether the said will contains any power of mortgaging the residuary real and personal estate devised and bequeathed thereby: And whereas it is expedient and for the interests of all parties entitled under the said will, whether in possession, reversion, or remainder, that the trustees or trustee for the time being

of

of the said will should have power to sell or mortgage the said specifically devised lands, and to mortgage the said residuary real and personal estate, and to apply or invest the proceeds of such sale or mortgage in the manner and for the purposes hereinafter mentioned: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael Hale McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid has been agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to sell
specifically devised
lands.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) may, in all respects, exercise over the whole or any portion or portions of the said specifically devised lands, precisely the same power or powers of sale, and upon the same terms, and subject to the same provisions and conditions as are by the said will given over the residuary real estate of the said testator.

Trusts of proceeds
of sale.

2. Save as in and by this Act provided the said trustees shall stand possessed of all moneys arising from any such sale or sales as aforesaid, upon trust, after payment thereof of all costs, charges, and expenses

expenses of and incidental to the said sale or sales, to hold the net balance thereof upon and subject to the same trusts and limitations as are in the said will declared in respect of the lands so sold: Provided that save as is otherwise provided in the third section hereof the said trustees shall invest the said net balance in some one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary, real, and personal estate.

3. The said trustees may apply the said net proceeds of such sale or sales as aforesaid, or any part thereof, in carrying out the following works, or any of them, upon any of the lands which are specifically devised by the said will, and which are subject to the same trusts, limitations, and provisions as are declared by the said will concerning the lands so sold, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c.

4. The said trustees may from time to time, for the purpose of raising any sum or sums of money which in their opinion may be deemed desirable to borrow for the purpose of carrying out any of the works referred to in the third section hereof, create a mortgage or mortgages, either legal or equitable, over the whole or any part of the said specifically devised lands for any term or terms of years: Provided that any moneys so raised by mortgage as aforesaid must be applied by the said trustees in carrying out the said works, or some of them, upon such of the specifically devised lands as are subject to the same trusts, limitations, and provisions as are by the said will declared with reference to the said lands so mortgaged: Provided also that no person who shall advance money upon the security of any mortgage or mortgages made under the power hereby given shall be bound to inquire as to the advisability or propriety of the raising of such moneys when raised or 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 non-application or misapplication thereof.

Power to raise money by mortgage of specifically devised lands.

5. The said trustees may, from time to time, raise such sums or sum of money as they shall deem expedient by creating a mortgage or mortgages, either legal or equitable, over the whole or any part of the said residuary real and personal estate, and may apply or invest the sum or sums of money so raised by mortgage in any one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary real and personal estate.

Power to mortgage residuary, real, and personal estate.

7. 1. The said trustees From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

8. 2. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

Trusts of compensation money.

Investment of compensation money, &c.

9. 3. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid and reinvest the same in the manner in the said will or in this Act provided. 5

Investment of compensation money, &c.

10. 4. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the ~~ninth~~ third section hereof, or from the redemption thereof by the Government of the said Colony (all of which moneys are hereinafter referred to as the said resumption moneys), in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate. 10 15

Power to execute permanent improvements, &c., on portions of the trust estate.

5. The said trustees may carry out the following works or any of them upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, and Henry Michael Hale McQuade, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements. 20 25

Power to employ proportionate amount of compensation money for permanent improvements, &c.

6. To enable them to carry out the said works, or any of them referred to in the last preceding section hereof, the said trustees may expend the said resumption moneys or such part thereof as the said trustees may in their absolute discretion think fit: Provided nevertheless that the said trustees shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said William James Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands, and shall not for the purposes aforesaid expend upon any of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said Henry Michael Hale McQuade, more of the said resumption moneys than the amount of compensation paid by the said Minister for Public Works for the resumed portion of the said last-mentioned specifically devised lands. 30 35 40

Additional powers of investment.

6. 7. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, or in the purchase of shares in any company carrying on business in the said Colony other than mining companies. 45

Short title.

11. This Act may be cited as the "~~McQuade Estate Act of 1893.~~" 50

Short title.

8. This Act may be cited as the "**McQuade Estate Act of 1894.**"

57° VICTORIA, 1893.

A BILL

To authorise the sale or mortgage of lands devised by the will of William McQuade, and to provide for the investment and appropriation of the proceeds, and to authorise the receipt and investment of certain compensation moneys payable by the Government of the Colony of New South Wales.

WHEREAS William McQuade, late of Potts' Point, near Sydney, Preamble.
in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and
5 executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one
10 thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five
15 acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by
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Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property 5 situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of 10 Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the 15 shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and 20 interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner hereinafter mentioned, 25 the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold 30 the same upon the trusts hereinafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts hereinafter declared ; and he directed 35 that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the 40 city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni 45 Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the hereinafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing 50 on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, 55 being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of F

F Hilly's property ; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet ; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement ; also one equal third share of his residuary real and personal estate ; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection ; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely :—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid ; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings ; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company ; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley ; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street ; and bounded on the south part of the termination of said street bearing easterly six feet six inches ; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson ; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps ; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon ; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet ; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected ; also one equal third share of all other his residuary, real, and personal estate ; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely :—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy ; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond ; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street ; and bounded

bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of my trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas, save to the limited extent provided by the said will, the said will contains no power of selling or mortgaging the lands specifically devised by the said will: And whereas 55 it is doubtful whether the said will contains any power of mortgaging the residuary real and personal estate devised and bequeathed thereby: And whereas it is expedient and for the interests of all parties entitled under the said will, whether in possession, reversion, or remainder, that the trustees or trustee for the time being
of

of the said will should have power to sell or mortgage the said specifically devised lands, and to mortgage the said residuary real and personal estate, and to apply or invest the proceeds of such sale or mortgage in the manner and for the purposes hereinafter mentioned :
 And whereas by a notification of resumption dated the first day of 5
 February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government* 10
Gazette, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, 15
 did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay : And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said 20
 testator's said sons William James Hale McQuade and Henry Michael McQuade : And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid has been agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such 25
 trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds : And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be 30
 forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate : And whereas it may hereafter be necessary or 35
 expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock : And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, 40
 the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative 45
 Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Power to sell
 specifically devised
 lands.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said 50
 trustees) may, in all respects, exercise over the whole or any portion or portions of the said specifically devised lands, precisely the same power or powers of sale, and upon the same terms, and subject to the same provisions and conditions as are by the said will given over the residuary real estate of the said testator. 55

Trusts of proceeds of
 sale.

2. Save as in and by this Act provided the said trustees shall stand possessed of all moneys arising from any such sale or sales as aforesaid, upon trust, after payment thereof of all costs, charges, and expenses

expenses of and incidental to the said sale or sales, to hold the net balance thereof upon and subject to the same trusts and limitations as are in the said will declared in respect of the lands so sold: Provided that save as is otherwise provided in the third section hereof the said
 5 trustees shall invest the said net balance in some one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary, real, and personal estate.

3. The said trustees may apply the said net proceeds of such sale or sales as aforesaid, or any part thereof, in carrying out the
 10 following works, or any of them, upon any of the lands which are specifically devised by the said will, and which are subject to the same trusts, limitations, and provisions as are declared by the said will concerning the lands so sold, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or
 15 buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

Power to execute permanent improvements, &c.

4. The said trustees may from time to time, for the purpose of raising any sum or sums of money which in their opinion may be deemed desirable to borrow for the purpose of carrying out any of the
 20 works referred to in the third section hereof, create a mortgage or mortgages, either legal or equitable, over the whole or any part of the said specifically devised lands for any term or terms of years: Provided that any moneys so raised by mortgage as aforesaid must be applied by the said trustees in carrying out the said works, or some of them,
 25 upon such of the specifically devised lands as are subject to the same trusts, limitations, and provisions as are by the said will declared with reference to the said lands so mortgaged: Provided also that no person who shall advance money upon the security of any mortgage or mortgages made under the power hereby given shall be bound to
 30 inquire as to the advisability or propriety of the raising of such moneys when raised or 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 non-application or misapplication thereof.

Power to raise money by mortgage of specifically devised lands.

5. The said trustees may, from time to time, raise such sums or sum of money as they shall deem expedient by creating a mortgage
 35 or mortgages, either legal or equitable; over the whole or any part of the said residuary real and personal estate, and may apply or invest the sum or sums of money so raised by mortgage in any one or more
 40 of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary real and personal estate.

Power to mortgage residuary, real, and personal estate.

6. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said
 45 residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, or in the purchase of shares in any company carrying on business in the said Colony other than mining companies.

Additional powers of investment.

7. The said trustees are hereby authorised to receive from the
 50 Minister for Public Works and to give him a valid receipt for the said sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers,
 55 and assurances of the lands so resumed as aforesaid which the said Minister for Public Works may require.

Power to receive compensation money and execute conveyances, &c.

8. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until
 270—B payment

Trusts of compensation money.

payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid. 5

Investment of compensation money, &c. 9. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid. 10

Investment of compensation money, &c. 10. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the ninth section hereof, or from the redemption thereof by the Government of the said Colony, in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate. 15 20

Short title. 11. This Act may be cited as the "McQuade Estate Act of 1893."

57° VICTORIÆ, 1893.

A BILL

To authorise the sale or mortgage of lands devised by the will of William McQuade, and to provide for the investment and appropriation of the proceeds, and to authorise the receipt and investment of certain compensation moneys payable by the Government of the Colony of New South Wales.

WHEREAS William McQuade, late of Potts' Point, near Sydney, in the Colony of New South Wales, deceased, being at the date of his death seized, possessed of, or otherwise well entitled to certain real and personal estates in the said Colony, duly made and executed his last will and testament, bearing date the sixth day of February, one thousand eight hundred and eighty-five, whereby after making certain bequests which are not material to be herein set forth, and after reciting (as the facts were) that under the will of their grandfather James Hale, who died on the twenty-first day of June, one thousand eight hundred and fifty-seven, the testator's three sons William James Hale McQuade, Henry Michael Hale McQuade, and Arthur Frederick Hale McQuade were entitled to the following properties, namely:—The farm and homestead situate at Cornwallis, then occupied and under lease to Thomas Cupitt, about twenty-five acres; also the farm situate at Cornwallis aforesaid, then occupied by John Wood; also all that land and property situate in George-street, in the city of Sydney, then occupied by J. S. Abrahams, as a chemist shop; also all that land or property situate in George-street, Sydney, aforesaid, and adjoining the last-mentioned shop, then occupied by

270—A

Lysacht,

Lysacht, as an hotel ; also all that land and property situate in George-street, Sydney, aforesaid, and occupied by C. Hafer, as a jeweller's shop ; also all that land and property used as a shop, situate at the corner of Hunter and George Streets, Sydney, aforesaid, then occupied by D Hume, as a chemist's shop ; also all that land and property 5 situate in George-street, Sydney, aforesaid, and occupied as a shop by, or leased to, C and A Huenerbein, as a music warehouse ; also all that land and property situate in Hunter-street, Sydney, aforesaid, and then leased to George John Wells, as two shops ; also all that land and property situate in George-street, in the town of 10 Windsor aforesaid, and occupied by John Henry Crowley, as a dwelling-house and shop ; also all that paddock in Macquarie-street, Windsor, aforesaid, occupied by the said John Henry Crowley ; also all that land and property situate in George-street, Windsor, aforesaid, occupied as a saddler's shop, by William Linsley, and adjoining the 15 shop in the occupation of the said John Henry Crowley ; also all that land and property or farm situate at Emu Plains, in the said Colony, and occupied by one Daniel Upton ; and after reciting that the said testator had purchased from his two sons, the said William James Hale McQuade and Henry Michael Hale McQuade, their shares and 20 interest in all the properties above-mentioned, and had also obtained a conveyance from his son, Arthur Frederick Hale McQuade, of his share and interest in all the said properties situate in the town or district of Windsor, and that it was his intention to settle the shares of his three sons under that his will in manner hereinafter mentioned, 25 the said testator thereby gave and devised all the real estate to which he should be entitled at the time of his death, or which he should have power to dispose of unto the said Henry Michael Hale McQuade and his heirs, to the use of John McLaughlin, of Sydney, solicitor, and the said Henry Michael Hale McQuade and their heirs, to hold 30 the same upon the trusts hereinafter declared, and he bequeathed all his personal estates (including personal estate which he should have power to appoint) not therein otherwise disposed of to the said John McLaughlin and Henry Michael Hale McQuade, their executors and administrators, upon the trusts hereinafter declared ; and he directed 35 that the share of his son, William James Hale McQuade, should consist of the following properties, namely :—One-third of the lands and hereditaments mentioned above as devised by the will of the said James Hale, except the properties situated in Windsor ; and also all that land and property situate in Goulburn and George Streets, in the 40 city of Sydney aforesaid, on which is erected a hotel and four houses, then occupied by or leased to one Thompson ; and also all that land situate in George-street, Sydney, aforesaid, occupied by Parry and McRae ; also the land in Pitt-street, in the said city, on which is erected a shop or building then leased to and occupied by the Compagnoni 45 Catering Company (Limited) ; also all that piece or parcel of land situate and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereinafter mentioned dimensions all more or less, being portion of John Wylde's eleven acre grant at Potts' Point : Commencing 50 on the western side of Wylde-street, at the north-east corner of F Hilly's property ; and bounded on the east by a private entrance opening on Wylde-street, by a line along a stone wall bearing northerly sixty-six feet ; and thence on the north-east by a line to the centre of said wall, and by a line along the centre of said wall, 55 being a curve bearing south-easterly one hundred and fifteen feet ; on the north by a line bearing west ten degrees north to a point on Woolloomooloo Bay fifty-seven feet southerly from the top of the boat steps ; on the west by that bay southerly to the north-west corner of F

F Hilly's property; on the south-east and again on the south by lines bearing east thirty-one degrees north thirty-two feet six inches, east twenty degrees north one hundred and four feet, east ten degrees north forty-nine feet, north fifty degrees thirty minutes east forty-two feet; and thence northerly along a stone wall one hundred and twenty feet, and again by a stone wall bearing easterly one hundred and twenty feet to the point of commencement; also one equal third share of his residuary real and personal estate; and the said testator thereby empowered his said trustees out of the said residuary estate to erect a house on the said lands at Potts' Point aforesaid, at a cost of not more than three thousand pounds, if he should not build such house in his lifetime, or if the said William James Hale McQuade should himself erect a residence at the same or greater cost to allow him that sum for such erection; and he directed that the share of his said son, Henry Michael Hale McQuade, should consist of the following properties, namely:—One-third share of the lands and hereditaments above-mentioned as devised by the will of the said James Hale, not situate in Windsor, and the whole of such part of the said lands as were situate in Windsor aforesaid, and also all his property situate in Emu Plains aforesaid; also all his lands situate in Pitt and Market Streets, Sydney, aforesaid, then leased to and held by James Allison, Esquire, and upon which Her Majesty's Theatre and Opera House Company (Limited), were about to erect a theatre and other buildings; also his land situate at George-street, in the city of Sydney, then or lately occupied by or known as the City Catering Company, and leased to Messieurs Allt and Company; and also all other lands belonging to him in the district of Windsor aforesaid, except the property occupied by Crowley and Linsley; also all that portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acres grant at Potts' Point, commencing at the termination of the western side of Wylde-street; and bounded on the south part of the termination of said street bearing easterly six feet six inches; on the east by a line bearing north nineteen degrees thirty minutes west and parallel to the eastern side of the house and six feet distant therefrom to the waters of Port Jackson; on the north-west and west by Port Jackson and Woolloomooloo Bay south-westerly and southerly to a point fifty-seven feet southerly from the top of the boat steps; on the south by a line bearing east ten degrees south to the end of a stone wall with an iron railing thereon; on the north-east by the centre of said wall, being a curved line bearing south-easterly one hundred and fifteen feet; on the south by a private entrance bearing easterly thirty-four feet six inches to Wilde-street, and on the east by that street bearing north nineteen degrees thirty minutes west ninety-two feet to the point of commencement, upon part of which his residence, Bomera, was then erected; also one equal third share of all other his residuary, real, and personal estate; and the said testator directed that the share of his son, the said Arthur Frederick Hale McQuade, should consist of the following properties, namely:—All his land in Goulburn and Sussex Streets, Sydney, known as the Friendship Inn, then leased and occupied by William Hennessy; also all his land in George-street, Sydney, aforesaid, on which were erected two shops, then leased by Mr. Bond; and also the remaining portion of his land at Potts' Point, and lying in the parish of Alexandria, city of Sydney, in the county of Cumberland, Colony of New South Wales, and be the thereafter mentioned dimensions all more or less, and being portion of John Wylde's eleven acre grant at Potts' Point, commencing at the termination of the eastern side of Wylde-street; and bounded

bounded on the south by the termination of said street bearing westerly forty-two feet; on the west by a line bearing north nineteen degrees thirty minutes west, and parallel to the eastern side of the house, and six feet distant therefrom to the waters of Port Jackson; on the north by Port Jackson easterly to Flood's boundary; and on the east by that boundary as indicated by walls bearing south twenty-one degrees west to the point of commencement, together with a sum of three thousand pounds for the erection of a residence upon the same conditions and terms as the house to be erected for his son, William James Hale McQuade; also one-third share of all his residuary, real, and personal estate; and he directed that his trustees should stand seized and possessed of the share of his son, the said William James Hale McQuade, upon trust if the said William James Hale McQuade should not by reason of any antecedent bankruptcy or insolvency or alienation or charge or attempted alienation or any other event (whether occurring in the testator's lifetime or after his decease) be disentitled personally to receive and enjoy the income to the same share or any part thereof, to pay the same income to the said William James Hale McQuade during his life, or until he should become bankrupt or insolvent or alienate or charge the same income or some part thereof, or affect so to do, or the happening of any other event disentitling him personally to receive and enjoy such income or some part thereof, and after the failure or determination in the lifetime of the said William James Hale McQuade of the trust in his favour lastly thereinbefore declared upon trust from time to time during the remainder of the life of the said William James Hale McQuade, in the absolute and uncontrolled discretion of my trustees, to either pay or apply the whole or any part of the same income as the same should accrue for or towards the maintenance and personal support of all or any one or more to the exclusion of the others or other of the following persons, namely, the said William James Hale McQuade and his wife and issue (whether children or more remote) for the time being in existence, and if more than one in such shares and in such manner as his trustees in their absolute discretion should think fit, or to pay or apply the whole of the said income or so much thereof as should not be applied under the discretionary trust or power lastly thereinbefore contained to the person or persons or for the purposes to whom and for which the said income would for the time being be payable or applicable if the said William James Hale McQuade were then dead; and from and after the death of the said William James Hale McQuade upon trust to pay to his widow (if any) one moiety of the same income and subject thereto as to as well the inheritance and capital of the said share as the income thereof upon trust for all or any one or more of the issue of his said son William James Hale McQuade, in such proportions, and for such interests to be absolutely vested within twenty-one years of his decease, as he should by deed or will appoint; but no child in whose favour or in favour of any of whose issue an appointment should be made should participate under the trust thereafter contained in the unappointed portion of the said shares without bringing the benefit of such appointment into hotch-pot, and in default of appointment or subject to any partial appointment in trust for children of his said son, who being sons should attain the age of twenty-one years, or being daughters attained that age or were married under that age, such children, if more than one, to take in equal shares. And the said testator directed his trustees to stand seized and possessed of the respective shares of his said sons, Henry Michael Hale McQuade and Arthur Frederick Hale McQuade, upon such trusts, with such powers and such limitations in favour of his said last-mentioned sons respectively and their respective wives,

wives, children, and issue as should correspond with the therein preceding trusts, powers, and limitations in favour of his son, the said William James Hale McQuade, and his wife, children, and issue: Provided always that in case all the trusts thereinbefore declared
5 concerning any of the said shares into which his estate was thereinbefore divided, should determine or fail to take effect, then and in every such case the share as to which there should be such determination or failure (including any additions which might have been made thereto by way of accruer under the clause now in statement,
10 and any accumulation which might have been added thereto, or the income thereof, or so much thereof respectively as should not have become vested, or been applied or disposed of under or by virtue of the trusts or powers of that his will) should (subject and without prejudice to the trusts, powers, and provisions thereinbefore declared
15 concerning such share and the income thereof) go and accrue by way of addition in equal proportions to the other shares in his said estate, and so that every such accruing share should thenceforth be held upon and for the same trusts and purposes (so far as subsisting and capable of taking effect) as were thereinbefore declared of and
20 concerning the original share to which the same should be added and be considered as forming part thereof for all purposes: Provided always that if there should be no child of any of his sons who, being a son attained the age of twenty-one years, or being a daughter should attain that age or be married, then subject to the trusts, powers, and provisions
25 thereinbefore contained, his trustees should stand seized and possessed of his said estates upon trust, as to one-half moiety for his brother John McQuade, of Windsor aforesaid, and as to the other half moiety upon trust for the half brothers and sisters of his late wife, Amelia Ann McQuade, in equal shares as tenants in common, the issue of his
30 deceased brother or sister taking the share that would have belonged to their parent or ancestor per *stirpes* and not per *capita*; and if at his death there should be living neither the said John McQuade, nor his issue, nor any other brother or sister, or issue of any deceased brother or sister, or half brother or sister of his said wife, upon trust for such
35 persons as under the statutes for the distribution of the effects of intestates would have been entitled thereto if he had died intestate without leaving a widow, child, or other issue, such persons to take in the proportions prescribed by the said statutes. And he directed his said trustees to sell and convert into money all his residuary personal
40 estate, or such part thereof as should be of a saleable or convertible nature, and to get in the other parts thereof. And he directed his trustees to hold the moneys to arise from such sale, conversion, and getting in, upon trust thereout in the first place to pay the expenses incidental to the execution of the preceding trust, and his debts and
45 funeral and testamentary expenses, and in the next place to pay the pecuniary legacies thereinbefore bequeathed, and to invest the surplus of the moneys as thereafter mentioned. And he empowered his said trustees to sell all such parts of his real estate as were not specifically mentioned in his will, and his real estate, purchased under the power in
50 that behalf thereafter contained, by public auction or private contract, together or in parcels, subject to such terms and conditions as to title or evidence, or commencement of title, or the time or mode of payment of the purchase money, or indemnity against, or apportionment of encumbrances, or as to any other matters relating to the sale,
55 as they should judge expedient. And to fix reserved biddings, and to buy in property for sale, and vacate or vary contracts for sale, and to resell as aforesaid without liability to answer for consequential loss, and generally to effect the sale and conversion of such parts of his estate as were directed or authorised to be sold
and

and converted, on such terms and in such manner as they should deem most advantageous; and, in particular, as to any of his said estates under which there are or are supposed to be minerals, the said testator empowered his said trustees to sell the surface apart from the minerals, or to sell the minerals together with or apart from the surface; and to grant or reserve such rights of way, air, and water of in-stroke and out-stroke and other easements in, upon, over, or under any of the said estates as might be necessary or desirable for the most effectual and advantageous mining and working, storing, manufacturing, selling, and carrying away of such minerals or any minerals under adjacent or neighbouring lands; and he directed that his trustees should invest the moneys to arise from the sale of any part of his real estate in the manner thereafter authorised, and should hold the funds and securities whereon such investments should be made upon the same trusts as the real estate from the sale of which such moneys arose; and he declared that his trustees should have a discretionary power to postpone for such period as they should deem expedient the conversion or getting in of any part of his residuary personal estate, but the yearly proceeds thereof should be deemed annual income for the purposes of the trusts of his will as if the same were income arising from authorised investments; and he empowered his trustees to manage and order all affairs connected with his estate, or any part thereof, as regards letting, occupation, cultivation, repairs, insurance against fire, receipt of rents, indulgences and allowances to tenants, and all other matters, and in the execution of the power of letting to grant building and repairing, improving or mining leases for any term not exceeding fourteen years, and other leases for any term not exceeding twenty-one years, for such terms, at such rents, and generally on such conditions as his trustees should deem advantageous, after taking or not taking fines or premiums, which, if taken, should be considered as capital; and he directed that all investments of moneys to be made by his trustees should be made in their names in Government debentures or in the purchase of shares in any banking or insurance company, carrying on business in the Colony of New South Wales, or on mortgage or purchase of real or leasehold estate in the said Colony, or on fixed deposit in a banking company therein; and he empowered his trustees to vary such investments from time to time for others of a like value; and he empowered his trustees to apply all or any part of the yearly income to which, under any of the dispositions thereinbefore contained, any infant should be entitled or presume to be entitled in possession towards the maintenance and education, or otherwise for the benefit of such infant, or at the option of his trustees to pay the same into the hands of the parent or guardian of such infant to be so applied, but for the application thereof by such parent, or guardian, his trustees should not be responsible; and empowered his trustees with the consent of the respective prior life owners if any, and if none at the discretion of his trustees to advance and apply any part not exceeding one half of the capital to which, under any of the said dispositions, each or any infant should be entitled, or presume to be entitled in or towards his or her advancement or preferment in the world; and he thereby declared that notwithstanding the restriction thereinbefore mentioned as to alienation of any real estate by his said sons, it should be lawful for any of his said sons to convey and transfer any lands of which he may have devised to him by that his will, a one-third undivided share or interest into his trustees for the time being of that his will, such son conveying as aforesaid to receive from his said trustees in exchange, such other lands by way of equality of exchange as should be agreed between such son and his said trustees, such lands or the interest therein

therein to be held by his trustees upon the same trusts and limitations as those given in exchange therefor were previously held by his said trustees; and he empowered and directed his said trustees for the time being with the consent of his said son, Henry Michael Hale M'Quade, 5 if they should see fit at any time to sell all or any land situate in the district of Windsor, except his estate called "Fairfield," which his said trustees held in trust for the use of his said son Henry Michael Hale McQuade, his said trustees having similar and full powers vested in them as regards the sale of the said lands as they had in respect of 10 his residuary real estate, and the moneys and proceeds of such sale or sales should be held by his said trustees upon the same trusts and limitations as the lands so sold as aforesaid were held by them; and he declared that the expression "my trustees" used by him in that his will should be construed as comprising and referring to the 15 trustees or trustee for the time being of that his will, and that the power of appointing new trustees of his will should be exercisable by said three sons or the survivors or survivor of them and the continuing trustee during the lifetime of his said sons, and after the death of the survivor by the persons and in manner by law prescribed, and that 20 the number of trustees might from time to time be varied, but so that it be not less than two; and he declared that in addition to the ordinary indemnity given to trustees by law, his trustees should not be answerable for any loss which might arise from purchasing land or lending money on mortgage with less than a marketable title. As to 25 estates held by him in trust or by way of mortgage, he devised the same to his trustees, their heirs, executors, administrators, and assigns, subject to the trusts and equities affecting the same. And he thereby revoked all other wills and codicils at any time previously made by him. And he appointed the said John McLaughlin and Henry 30 Michael Hale McQuade executors and trustees of that his will, and he directed that the said John McLaughlin, so long as he should act as trustee of his will, should be paid an annual commission of three pounds per centum upon the gross amounts of rents and profits or income which should reach the hands or be collected by his said 35 trustees and executors, and that any trustee, not being one of his said sons, that should be appointed according to law, should receive an annual commission of one pound and ten shillings per centum, and that the said John McLaughlin should be allowed all professional and other charges for his time and trouble in addition to the said commission; 40 And whereas the said testator died on the third day of April, one thousand eight hundred and eighty-five, without having revoked or altered his said will: And whereas probate thereof was duly granted to the said John McLaughlin and Henry Michael Hale McQuade, the executors therein named, on the fourteenth day of May, one thousand 45 eight hundred and eighty-five: And whereas the said Henry Michael Hale McQuade died on the twentieth day of November, one thousand eight hundred and ninety-three, and Cecily McQuade, of Sydney aforesaid, widow, has since been duly appointed trustee of the said will in his place, and all real and personal property, subject to the 50 trusts of the said will, are now duly vested in the said Cecily McQuade as such trustee jointly with the said John McLaughlin: And whereas, save to the limited extent provided by the said will, the said will contains no power of selling or mortgaging the lands specifically devised by the said will: And whereas 55 it is doubtful whether the said will contains any power of mortgaging the residuary real and personal estate devised and bequeathed thereby: And whereas it is expedient and for the interests of all parties entitled under the said will, whether in possession, reversion, or remainder, that the trustees or trustee for the time being of

of the said will should have power to sell or mortgage the said specifically devised lands, and to mortgage the said residuary real and personal estate, and to apply or invest the proceeds of such sale or mortgage in the manner and for the purposes hereinafter mentioned: And whereas by a notification of resumption dated the first day of February, one thousand eight hundred and ninety, and under the hand of His Excellency the Right Honorable Charles Robert, Baron Carrington, Governor and Commander-in-chief of the Colony of New South Wales and its Dependencies, and under the great seal of the said Colony, and duly published in the New South Wales *Government Gazette*, on the fourth day of February, one thousand eight hundred and ninety, His Excellency the said Charles Robert, Baron Carrington, as such Governor as aforesaid, with the advice of the Executive Council of the said Colony, in pursuance of the powers in that behalf given to or vested in him by the Lands for Public Purposes Acquisition Act, did by that notification declare that the lands therein described had been resumed for the purpose of providing additional wharf accommodation at Woolloomooloo Bay: And whereas the said lands so resumed as aforesaid form portion of the said specifically devised lands in respect of which trusts have been declared by the said will in favour of the said testator's said sons William James Hale McQuade and Henry Michael McQuade: And whereas the amount of compensation money payable in respect of the said lands so resumed as aforesaid has been agreed upon between the Minister for Public Works of the said Colony and the said John McLaughlin and Henry Michael Hale McQuade, as such trustees as aforesaid, at the sum of forty-two thousand nine hundred and twenty-five pounds: And whereas it is expedient, and for the interest of all parties entitled under the said will to the said compensation money, whether in possession, reversion, or remainder, that one equal half part of the said compensation money should be forthwith invested in the purchase of New South Wales Funded Stock, and that the remaining equal half part of the said compensation money should be invested in the same manner as is by the said will, and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: And whereas it may hereafter be necessary or expedient to sell the said New South Wales Funded Stock so purchased as aforesaid, or the Government of the said Colony may redeem the said stock: And whereas it will be expedient, and for the interest of all parties entitled thereto, whether in possession, reversion, or remainder, that in the event of such sale or redemption as lastly abovementioned, the proceeds of such sale or redemption should be invested in the same manner as is by the said will and this Act prescribed with reference to the proceeds of the said residuary, real, and personal estate: 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:—

Power to sell specifically devised lands.

1. From and after the passing of this Act, the said John McLaughlin and Cecily McQuade, or other the trustees or trustee for the time being of the said will (hereinafter in this Act called the said trustees) may, in all respects, exercise over the whole or any portion or portions of the said specifically devised lands, precisely the same power or powers of sale, and upon the same terms, and subject to the same provisions and conditions as are by the said will given over the residuary real estate of the said testator.

Trusts of proceeds of sale.

2. Save as in and by this Act provided the said trustees shall stand possessed of all moneys arising from any such sale or sales as aforesaid, upon trust, after payment thereof of all costs, charges, and expenses

expenses of and incidental to the said sale or sales, to hold the net balance thereof upon and subject to the same trusts and limitations as are in the said will declared in respect of the lands so sold: Provided that save as is otherwise provided in the third section hereof the said
 5 trustees shall invest the said net balance in some one or more of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary, real, and personal estate.

3. The said trustees may apply the said net proceeds of such sale or sales as aforesaid, or any part thereof, in carrying out the
 10 following works, or any of them, upon any of the lands which are specifically devised by the said will, and which are subject to the same trusts, limitations, and provisions as are declared by the said will concerning the lands so sold, that is to say: The erection of houses or buildings, or the repairing or rebuilding of any existing houses or
 15 buildings, and the building, making, repairing, or rebuilding of walls, fences, drains, sewers, or other permanent improvements.

4. The said trustees may from time to time, for the purpose of raising any sum or sums of money which in their opinion may be deemed desirable to borrow for the purpose of carrying out any of the
 20 works referred to in the third section hereof, create a mortgage or mortgages, either legal or equitable, over the whole or any part of the said specifically devised lands for any term or terms of years: Provided that any moneys so raised by mortgage as aforesaid must be applied by the said trustees in carrying out the said works, or some of them,
 25 upon such of the specifically devised lands as are subject to the same trusts, limitations, and provisions as are by the said will declared with reference to the said lands so mortgaged: Provided also that no person who shall advance money upon the security of any mortgage or mortgages made under the power hereby given shall be bound to
 30 inquire as to the advisability or propriety of the raising of such moneys when raised or 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 non-application or misapplication thereof.

5. The said trustees may, from time to time, raise such sums or sum of money as they shall deem expedient by creating a mortgage or mortgages, either legal or equitable, over the whole or any part of the said residuary real and personal estate, and may apply or invest the sum or sums of money so raised by mortgage in any one or more
 40 of the modes prescribed by the said will and this Act with reference to the proceeds of the said residuary real and personal estate.

6. In addition to the powers of investment given by the said will with reference to the proceeds of the said residuary real and personal estate, the said trustees may invest the proceeds of the said
 45 residuary real and personal estate in their names in any form of Government security, whether funded stock or otherwise, or in the purchase of shares in any company carrying on business in the said Colony other than mining companies.

7. The said trustees are hereby authorised to receive from the Minister for Public Works and to give him a valid receipt for the said
 50 sum of forty-two thousand nine hundred and twenty-five pounds, together with interest thereon, at the rate of four per centum from the twenty-fifth day of October one thousand eight hundred and ninety-three, and to execute all proper and necessary conveyances, transfers, and assurances of the lands so resumed as aforesaid which the said
 55 Minister for Public Works may require.

8. Save as is otherwise provided in this Act the said trustees shall hold the said sum of forty-two thousand nine hundred and twenty-five pounds, together with all interest accrued due thereon until
 270—B payment

Power to execute permanent improvements, &c.

Power to raise money by mortgage of specifically devised lands.

Power to mortgage residuary, real, and personal estate.

Additional powers of investment.

Power to receive compensation money and execute conveyances, &c.

Trusts of compensation money.

payment of the said sum and interest by the Minister for Public Works, and all investments for the time being representing the same, upon and subject to the same trusts, limitations, and provisions as are declared by the said will concerning the said lands so resumed as aforesaid.

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Investment of compensation money, &c.

9. The said trustees may invest one equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds in the purchase of New South Wales Funded Stock, and may hereafter, if they think fit, sell the whole or any part of the said New South Wales Funded Stock so purchased as aforesaid.

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Investment of compensation money, &c.

10. The said trustees may invest the remaining equal half-part of the said sum of forty-two thousand nine hundred and twenty-five pounds, and all interest accruing due on the said sum until the said sum and interest be paid by the said Minister for Public Works, and any moneys which may hereinafter arise from the sale of the said New South Wales Funded Stock under the power in that behalf contained in the ninth section hereof, or from the redemption thereof by the Government of the said Colony, in the same manner, and subject to the same conditions and provisions as are by the said will and this Act prescribed in reference to the proceeds of the said residuary real and personal estate.

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Short title.

11. This Act may be cited as the "McQuade Estate Act of 1893."