

Brodie's Enabling.

An Act to authorise the sale, mortgage, and BRODIE'S ENABLING.
 leasing of certain lands and hereditaments
 settled by John Brodie and Ellen, his wife;
 and for other purposes. [5th November, 1900.]

WHEREAS at the time of the making of the indenture next here- Preamble.
 inafter mentioned, John Brodie, of Lane Cove, near Sydney,
 was seized and possessed for an estate of inheritance in fee simple of the
 lands and hereditaments in the First Schedule to this Act mentioned
 and described free from encumbrances: And whereas by an indenture
 bearing date the tenth day of February, one thousand eight hundred and
 seventy-five, registered as number seven hundred and nine, book one
 hundred and fifty-three, and made between the said John Brodie of the
 first part, Ellen Brodie, his wife, of the second part, and Richard Porter
 of the third part, for the considerations therein mentioned, the said lands
 and hereditaments with other lands and hereditaments were conveyed
 and assured to the said Richard Porter, his heirs and assigns, to hold the
 same with their appurtenances to the said Richard Porter and his heirs.
 To such uses upon such trusts, and for such ends, intents, and purposes
 as the said Ellen Brodie notwithstanding coverture should by any deed
 or deeds appoint, and in default of, and until such appointment, and so
 far as any such appointment should not extend to the uses therein
 expressed: And whereas by a further indenture bearing date the twenty-
 first day of April, one thousand eight hundred and eighty, and made
 between the said John Brodie and the said Ellen Brodie, his wife, of the
 first part, and Peter Gilroy and Mary Gilroy, daughter of the said John
 Brodie, and wife of the said Peter Gilroy, of the second part, and William
 Foster of the third part, reciting that the said Ellen Brodie, in con-
 sideration of the natural love and affection which she bore to the said
 Mary Gilroy, and for divers other good causes and considerations was
 desirous of conveying and assuring the said lands and hereditaments in
 the said indenture expressed, it was witnessed that for certain considera-
 tions therein expressed the said Ellen Brodie thereby appointed that
 all the said lands and hereditaments with the appurtenances thereof
 should thenceforth go and remain to the uses in the said indenture
 limited, and the said John and Ellen Brodie granted, bargained, sold,
 aliened, released, and confirmed unto the said William Foster, his heirs
 and assigns, all the said lands and hereditaments, together with all
 buildings, privileges, easements, and appurtenances thereto belonging,
 and the reversions, remainders, rents, and profits thereof, and all the
 estate, right, title, interest, property, possession, claim, and demand in
 law and in equity of the said John and Ellen Brodie to and out of the
 same, to hold the same unto the said William Foster and his heirs, to
 the

Brodie's Enabling.

the use of the said Mary Gilroy and her assigns for and during her natural life, without impeachment of waste, for her sole and separate use and benefit, and so that her receipt alone, whether covert or sole, should be a good discharge for the rents, proceeds, and profits of the said land and hereditaments, and without power of anticipation, and after the death of the said Mary Gilroy to the use of any husband of the said Mary Gilroy who should survive her, and his assigns, during his natural life, and after the death of the said Mary Gilroy, if she should leave no husband, her surviving, or after the death of such surviving husband, to the use of all or such one or more of the children of the said Mary Gilroy for such estates or estate, and in such manner as the said Mary Gilroy should by her will, notwithstanding coverture, appoint, and in default of, and until any such appointment, and so far as any such appointment should not extend to the use of all the children of the said Mary Gilroy and the heirs of their respective bodies as tenants in common, and in default of such children or child to the use of Margaret Brodie, now Margaret Downes, wife of Michael Downes, daughter of the said John and Ellen Brodie, her heirs and assigns, for ever for her sole and separate use. And it was by the said indenture declared that the trustee or trustees for the time being should be the guardian or guardians of the children of the said Mary Gilroy during the minority of such children, and that for the purpose of dealing with any real property the said trustee or trustees should be considered as standing in loco parentis to such children: And whereas a certain portion of the said land and hereditaments, comprising about two acres and four perches, and in the Second Schedule hereto mentioned and described, was, on or about the first day of November, one thousand eight hundred and eighty-seven, resumed by the Railway Commissioners, and the compensation money paid therefor was expended in erecting two cottages on another certain portion of the said land and hereditaments in the Third Schedule hereto mentioned and described, which cottages are let to tenants whenever possible, and when let produce a gross annual income of about one hundred and twenty-four pounds: And whereas the remaining unalienated portion of the said land is partly orchard land and partly bush land, and brings in very little return and does not pay expenses, and the said William Foster and Peter and Mary Gilroy are unable to pay the land tax and water rates on the said land: And whereas in the absence in the said indenture of any power of sale of the said land no benefit can be obtained from the same for the said Mary Gilroy or her children: And whereas the said Peter and Mary Gilroy have nine children, namely, Eleanor Theresa, aged twenty; Martin Francis, aged seventeen; John Joseph, aged sixteen; Mary Margaret, aged thirteen; Peter Richard, aged eleven; Lena Bridget, aged ten; Thomas Henry, aged seven; Dorothy Catherine, aged five, and Gladys Elizabeth, aged two, and are unable to provide properly for the education and advancement of the said children, and are therefore desirous to have power to dispose

Brodie's Enabling.

dispose of the said lands, and that the said Mary Gilroy should be free to dispose of the proceeds thereof in what manner she may think best for the benefit of herself and the said children: And whereas the said John Brodie and Ellen Brodie and William Foster and Margaret Downes, wife of Michael Downes, are satisfied that such course would be for the best interests of all persons concerned, and desire that it should be carried out, and consent thereto: And whereas by reason of the absence of any power of sale as aforesaid, the said objects cannot be obtained without an Act of the Legislature: 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. After the passing of this Act it shall be lawful for the said Mary Gilroy, notwithstanding the provisions of the said indentures, in her own name, to sell and dispose of such portions of the land and hereditaments described in the First Schedule hereto as is not included in the portions described in the Second and Third Schedules hereto, or any portion thereof, by public auction or private contract, and either in one lot or several lots, as she shall deem most expedient, for such price or prices as can be had or obtained for the same, and upon such terms and conditions, as to credit and otherwise, as she shall think proper, and when sold, to convey the same or any part or parts thereof to the purchaser or purchasers in fee simple, freed and discharged from any trusts affecting the same, and the receipt in writing of the said Mary Gilroy, her heirs, or assigns shall absolutely discharge the purchaser or purchasers of the said land and hereditaments, or any part or parts thereof, from the purchase money payable by him or them respectively, and shall exonerate him or them from seeing to the application of the said purchase money, and from all liability as to the mis-application or non-application thereof.

Power to sell and
dispose of land, &c.

2. The said Mary Gilroy, her executors and administrators, shall stand possessed of all moneys arising from any such sale or sales as aforesaid upon trust, to apply the same in whatever manner she shall think best for the maintenance of herself and family, and for the education and advancement in life of her said children.

Application of
proceeds.

3. This Act may be cited as "Brodie's Enabling Act, 1900."

Short title.

Brodie's Enabling.

SCHEDULES.

FIRST SCHEDULE.

All that parcel of land situated at Lane Cove, and forming portion of a grant of two thousand acres made to John Terry Hughes, in the parishes of South Colah and Gordon, of the eighteenth day of August, one thousand eight hundred and forty-two: Commencing at the intersection of the north side of the Lane Cove Road with a reserved road one chain wide; and bounded on the west by a road one chain wide, being a line bearing northerly thirty-five chains sixty-five links; on the north by a line easterly five chains thirty-six and a half links; on the east by a line southerly thirty-four chains seventy-four links; and on the south by the Lane Cove Road, being a line bearing south sixty-seven degrees forty-four minutes west five chains eighty links, to the point of commencement.

SECOND SCHEDULE.

All that piece or parcel of land situate in the parish of Gordon, county of Cumberland, and Colony of New South Wales, being part of a grant of two thousand acres to John Terry Hughes: Commencing at the junction of the northern boundary of the Lane Cove Road with the eastern boundary of the Great Eastern Road; and bounded thence by the said boundary of Lane Cove Road bearing north-easterly five chains eighty links; thence by a fenced line bearing northerly thirty links; thence by the north-eastern boundary of the railway from Pearce's Corner to Saint Leonards, bearing north-westerly seven chains ten links; thence by the eastern boundary of the Great Eastern Road bearing southerly seven chains thirty links, to the point of commencement,—containing two acres and four perches, numbered twenty-eight and twenty-nine on plan and book of reference.

THIRD SCHEDULE.

All that piece or parcel of land, containing by admeasurement three roods and seventeen and a half perches, more or less, situate lying and being in the parish of Gordon, county of Cumberland, and Colony of New South Wales, being part of John Terry Hughes' grant of two thousand acres: Commencing on the eastern side of the Great Eastern Road, at a point bearing northerly and distant one thousand and forty-six links from an angle formed by the intersection of a northern side of said Great Eastern Road, opposite Turramurra Railway Station; and bounded thence on the west by part of the eastern side of the Great Eastern Road aforesaid, being a fenced line bearing north three hundred and nine links; thence on the north by a fenced line bearing north eighty-eight degrees fifty-seven minutes east two hundred and seventy-eight and seven-tenths links; thence on the east by a fenced line bearing south five minutes east three hundred and nine and one-fifth links; and on the south by a fenced line bearing south eighty-eight degrees fifty-nine minutes west two hundred and seventy-nine and one-fifth links, to the point of commencement,—be the said several bearings and dimensions a little more or less.