

An Act to enable the Trustees and Executors under the Will of the late Robert Campbell Esquire of Bligh-street in the City of Sydney and of Hopewell near the said City to purchase the title and interest of Mrs. Margaret Campbell widow of the said deceased to and in certain Lands and Premises in Bligh-street and to pay the price thereof out of the Testator's residuary assets or to grant an Annuity for the same and to sell or lease the same and to lease certain other Lands and for other purposes. [21st December, 1852.]

CAMPBELL'S WILL
TRUSTEES.

WHEREAS the late Robert Campbell senior of Bligh-street in the city of Sydney and of Hopewell near the said city Esquire by his last Will and Testament bearing date on the fourteenth day of November in the year of our Lord one thousand eight hundred and forty-six gave and devised all his real and personal estate not therein specifically devised or bequeathed by him which should belong to him at his decease unto and to the use of William Charles Wentworth James Milsom and Piddocke Arthur Tompson all of Sydney Esquires their heirs executors administrators and assigns upon trust to dispose thereof according to the directions hereinafter contained

Campbell's Will Trustees.

contained and the Testator thereby amongst other things directed that the Trustees of his Will should at such time or times as they should judge expedient sell his real estate by public auction or by private contract together or in lots and do all acts requisite for facilitating any such sale and invest the produce thereof in Government stock or securities or upon mortgages of freehold estate in New South Wales and that the said Trustees should in the mean time let for any term of years not exceeding five years at rack rents upon husbandry building repairing or improving leases or occupy and use his said real estate and manage the affairs thereof generally in their discretion and the Testator thereby also directed his Trustees to permit and suffer his wife Margaret Campbell to occupy and enjoy during the term of her natural life his dwelling-house with the servants' rooms and stables attached thereto situate in Bligh-street aforesaid and then in her occupation and to permit and suffer Elizabeth Donel then residing with him at Hopewell and her children Edward Campbell Mary Anne Campbell and Charles Campbell (all of whom are still alive and under age) and the survivors and survivor of them to occupy and enjoy his estate of Hopewell aforesaid until the youngest of them should attain the full age of twenty-one years (which will not happen for many years) upon the happening of which event the Trustees were directed to sell or convey as by the said Will is mentioned for the benefit of the said Edward Campbell Mary Anne Campbell and Charles Campbell or to the survivors or survivor of them but in case neither of them should attain the age of twenty-one years then it was directed that the said estate should go into and form part of Testator's residuary estate and be distributed accordingly and by the said Will after the bequest of certain legacies and annuities it was further directed that the Trustees should stand possessed of the residue of the Testator's said trust property including the Bligh-street house servants' rooms and stables after the termination of the Testator's said wife's interest therein as to one equal fourth part thereof upon trust for the child or children of the Testator's son Robert Campbell who should be living at the time of the Testator's death in equal proportions share and share alike with benefit of survivorship such shares to be paid to them on their respectively attaining the age of twenty-one years and as to one other fourth part upon similar trusts for the children of the Testator's daughter Margaret Jane Boyd the wife of John Christian Curwen Boyd Esquire who should be living at the time of the Testator's death and as to one other fourth part upon similar trusts for the children of the Testator's son Thomas Winder Campbell who should be living at the Testator's death and as to the remaining fourth part upon similar trusts for the said Edward Campbell Mary Anne Campbell and Charles Campbell or such of them as should be living at the Testator's death with a proviso to the effect that if the whole of the individuals composing either or any of such four classes of residuary legatees should die under the age of twenty-one years then the said residuary estate should be divided into so many equal portions as the circumstances should require so that the portion or portions of the class or classes so dying should accrue to the survivors and by the said Will provision is made for the separate investment of the respective portions of the said four classes of residuary legatees during the minorities of the parties presumptively entitled thereto And whereas the said Testator departed this life on the fifth day of October one thousand eight hundred and fifty-one leaving very considerable real and personal estate to be divided amongst the said residuary legatees And whereas it has been ascertained since the Testator's death that several portions (being originally separate allotments) of the land on which the Testator's said house servants' rooms and stables with the appurtenances and

Campbell's Will Trustees.

and other buildings of the Testator in and near to Bligh-street aforesaid have been erected and now stand and which the Testator during his lifetime and by his said Will treated as exclusively his own belong to the said Margaret Campbell in fee in her own right And whereas it will be beneficial to the residuary estate of the said Testator that the Trustees should be at liberty to purchase from the said Margaret Campbell the portions of land so belonging to her with the moneys of the said trust in cash or by way of annuity so as to unite the whole of the said Bligh-street property under one title and that the said property or some parts of it should with the consent of the said Margaret Campbell be open for immediate sale or lease for building purposes but the said Trustees have no authority by the said Will to employ any portion of the said trust funds in such purchase and it is doubted whether they can sell the said Bligh-street property or any part thereof until after the decease of the said Margaret Campbell notwithstanding her consent or whether they can grant building or improving leases for terms of sufficient duration for that purpose And whereas it is expedient to confer such power and to remove such doubts And whereas the said estate called Hopewell consists of seven acres two roods and twenty-five perches of land on which one house only of small value and at present in a dilapidated condition has been erected and is so situated that the said land is valuable almost exclusively for building purposes And whereas it would be highly beneficial to the said Edward Campbell Mary Anne Campbell and Charles Campbell or such other person or persons as may ultimately become entitled to the said Hopewell estate that the Trustees of the said Will should be empowered to lease portions of the said estate but no power to lease the same is given by the said Will Be it therefore enacted by His Excellency the Governor of New South Wales by and with the advice and consent of the Legislative Council thereof as follows—

1. It shall be lawful for the Trustees or Trustee for the time being of the said Will to purchase from the said Margaret Campbell such parts of the said real estate in and near Bligh-street aforesaid as shall appear to them upon due inquiry or as shall have been determined by a Court of competent jurisdiction to be vested in her the said Margaret Campbell in her own right independently of the said Will and also to purchase from and for her to sell and convey her life interest under the said Will in the said dwelling-house servants' rooms and stables and all the right title interest claim or demand whatsoever which she may have in the said real estate in Bligh-street or any part thereof and to pay for the same such price or prices as they shall deem reasonably sufficient and proper for the same either wholly or in part by one or more payments of money out of the residuary estate of the said Testator or wholly or in part by granting to the said Margaret Campbell for her life an annuity chargeable on the said real estate in and near Bligh-street aforesaid or any part thereof or on the proceeds of the sale thereof in case the same shall be thereafter sold or partly upon such land as may remain unsold and partly upon the proceeds of such portions thereof as may be so sold.

2. It shall be lawful for the said Trustees or Trustee notwithstanding the granting of any such annuity as aforesaid as soon as and when they or he shall deem most advantageous to sell and dispose of the said real estate in and near Bligh-street aforesaid including such parts thereof and such right title claim or interest thereto or therein as they shall have acquired from the said Margaret Campbell by public auction or by private contract in such lots as they or he may think best and thereupon the proceeds of such sale shall be charged with such annuity if any as shall have been granted as aforesaid and the land so sold shall be discharged therefrom and subject to such charge

Power to purchase Mrs. Campbell's interest in Bligh-street property

and to pay for same out of Testator's residuary estate or by annuity charged on the land or on proceeds of sale.

Power to sell Bligh-street property immediately in lots.

Proceeds instead of land to be subject to annuity if any.

Investment and application of proceeds.

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Campbell's Will Trustees.

Power to give credit to purchasers.

the said proceeds shall be invested by the said Trustees or Trustee as part and parcel of the said residuary estate of the said Testator and shall be paid applied and distributed accordingly Provided always that it shall be lawful for the said Trustees or Trustee to allow to any purchaser of any of the said lots credit upon the security of the lot or lots so sold for any number of years not exceeding fourteen years from the passing of this Act for such part of his purchase money as they or he shall think fit and upon such terms as to interest or otherwise as may by the said Trustees or Trustee be deemed proper.

Power to lease Bligh-street property if thought preferable to sales.

3. In case the said Trustees or Trustee shall deem it more advisable to lease than to sell the said land in and near Bligh-street or any part thereof it shall be lawful for them or him as soon as and when they or he shall think best to grant leases of the same in allotments for building purposes or other purposes of improvement for terms not exceeding twenty years from the passing of this Act and with under and subject to such agreements stipulations and conditions as they or he may think fit and thereupon the rents received for or under any such leases shall subject to any such annuity as aforesaid be used and applied by the said Trustees or Trustee as a part of the said residuary estate of the said Testator.

Power to lease Hopewell in lots.

4. It shall be lawful for the said Trustees or Trustee to lease the said Hopewell estate or any part thereof when and as soon as they or he shall think best in allotments for building purposes or other purposes of improvement for terms not exceeding thirteen years from the passing of this Act and with under and subject to such agreements stipulations and conditions as they or he may think fit and the rents received on or under such leases shall be by the said Trustees or Trustee distributed in equal shares and proportions amongst or for the benefit of the said Elizabeth Donel and the said Edward Campbell Mary Anne Campbell and Charles Campbell or the survivors of them as follows that is to say the distributive share of the said Elizabeth Donel shall be paid into her hands or to her order for her own use and the shares of the said Edward Campbell Mary Anne Campbell and Charles Campbell shall during their respective minorities be by the said Trustees or Trustee applied so far as they or he shall think proper in or towards their maintenance and education and the surplus thereof if any shall be accumulated and invested for their use and after the majority of either of them his or her share in such surplus shall be paid to or to the order of him or her for his or her own use.

Application of rents during minorities.

Power to convey and execute leases.

5. Upon any such sale or lease as aforesaid of any portion or portions of the said Bligh-street or Hopewell estates as the case may be it shall be competent to the said Trustees or Trustee to convey and assure the land so sold to the purchasers thereof their heirs and assigns or to such uses as they may lawfully direct or to execute leases of the land so leased and the conveyances and leases respectively of the said Trustees or Trustee shall operate according to the tenor and effect thereof and the receipts of such Trustees or Trustee for the purchase money of the said lands or any part thereof or for the rent payable upon any such lease as aforesaid shall be valid and effectual discharges to the persons paying such purchase money or rent and shall relieve such persons from all responsibility in respect of misapplication thereof or the non-application thereof according to the trusts affecting the same.

Receipts of Trustees a valid discharge.