

**An Act to enable the Trustees of certain
Land at Rocky Point to lease mortgage
or sell the same and to provide for the
application of the moneys so obtained and
for other purposes. [17th August, 1886.]**

ENNIS ESTATE.

WHEREAS by a certain memorandum of transfer bearing date Preamble.
the twenty-fifth day of June one thousand eight hundred and
eighty certain lands and hereditaments situated at Rocky Point near
Sydney in the Colony of New South Wales and fully described in the
said memorandum and the declaration of trusts hereinafter recited and
the Schedule hereto annexed were vested by John Robert Ennis then
of Rocky Point aforesaid but now of Queensland in Charles Stuart
Cansdell the younger of Sydney civil engineer and Richard Lacy
of Kogarah Esquire And whereas the object of such transfer was
the making of a provision for Jessie Mary Ennis the wife of the said
John Robert Ennis and their children And whereas by a declaration
of the trusts of the said land and hereditaments as witnessed by a certain
instrument bearing date the twenty-fifth day of June one thousand
eight hundred and eighty and made between the said Charles Stuart
Cansdell and Richard Lacy therein styled the said Trustees of the first
part the said John Robert Ennis of the second part the said Jessie
Mary Ennis of the third part and George Frederick John Ennis Helena
Alice Ennis Amy Mary Ennis Ida Roberta Ennis and Robert Joseph
Stanley

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Stanley Ennis children of the said John Robert Ennis and Jessie Mary Ennis of the fourth part They the said Trustees with the privity and consent of the said John Robert Ennis thereby covenanted declared and agreed with and to the said Jessie Mary Ennis and also separately with and to the said children that they the said Trustees should and would stand possessed of the said lands and hereditaments being all that parcel of land containing by admeasurement fifty acres more or less situate at Rocky Point in the parish of Saint George in the county of Cumberland in the said Colony being portion thirty-two delineated in the public map of the said parish deposited in the office of the Surveyor-General with the appurtenances upon trust to permit and suffer the said Jessie Mary Ennis to occupy and reside thereon or at her option to receive the rents issues and profits thereof to and for her sole and separate use for her life free from the debts control or engagements of the said John Robert Ennis or of any her future husband but without power of alienation during coverture And upon the death of the said Jessie Mary Ennis to set apart ten acres of the said land conveniently enjoyable with the dwelling-house thereon erected and thenceforth during the minority of any son of the said John Robert Ennis and Jessie Mary Ennis or while any daughter of theirs shall remain unmarried to permit and suffer the said ten acres of land with the said dwelling-house to be occupied as the home of the said child or children under twenty-one years of age and of the said daughter or daughters unmarried And upon the attaining majority of any son or the marriage of any daughter whichever may first happen to divide the residue of the said land into as many lots or portions as there shall be children of the said John Robert Ennis and Jessie Mary Ennis living Such portions to be as nearly equal in extent as the said Trustees can allot the same and to cause lots to be drawn by for and on behalf of all the said children and to transfer the portions represented by the lot drawn by any son attaining twenty-one years or by any daughter attaining that age or marrying in the following manner that is to say the share of a son to him for his own use and benefit and the share of a daughter to two or more Trustees to be approved of by the said Trustees for the separate use of such daughter with the like provision in favour of each succeeding son attaining majority and of each succeeding daughter attaining majority or marrying And upon trust when and so soon as the youngest son of the said John Robert Ennis and Jessie Mary Ennis shall attain twenty-one years of age and the last remaining daughter shall marry or depart this life to make sale and absolutely dispose of the said ten acres of land and dwelling-house by public auction and to divide and pay the clear proceeds of sale among and to all the children of the said John Robert Ennis and Jessie Mary Ennis then living and the issue of such of them as shall have departed this life leaving lawful issue then living in equal shares and proportions according to the roots but the shares of daughters to be for their separate use And providing always that in case at any time before the trusts thereinbefore declared shall require a sale of the said ten acres of land and dwelling-house it shall be found inconvenient for the said Jessie Mary Ennis to occupy or reside thereon or after her decease it shall be found inconvenient or undesirable for the children to occupy the same as a house the said Trustees shall be at liberty to demise and lease all or any part of the land in respect of which the trusts are by the said declaration of trusts declared and that from time to time as may be convenient for such term or terms not exceeding the time at which the youngest child would attain twenty-one years of age as they shall think fit at the best rent or rents that can be conveniently obtained for the same without taking any premium and so that there be reserved
in

Ennis Estate.

in every such lease a proviso for re-entry on non-payment of rent or breach of covenants and providing that the lessees shall execute counterparts and shall thereby covenant for payment of the rents and shall not be punishable for waste And providing further that during such time as the said Jessie Mary Ennis shall occupy the said premises she shall be bound to maintain the buildings and fences in good tenantable repair saving accidents by fire or tempest and to insure the said buildings against fire to their reasonable insurable value in the name of the said Trustees and from time to time to lodge the policy or policies and receipts for renewals with them And providing further that in case the premises shall at any time be demised in pursuance of the provision in that behalf in the said declaration of trusts contained and thereinbefore set forth the rents shall subject to the charges of repairs and insurance be paid during the life of the said Jessie Mary Ennis to her and after her decease be applied by the said Trustees in or towards the maintenance of all the children of the said John Robert Ennis and Jessie Mary Ennis then under age and of such daughters of the said John Robert Ennis and Jessie Mary Ennis as shall be then unmarried And whereas since the vesting of the said land and hereditaments in the said Trustees and the execution of the said declaration of trusts in respect thereof the said John Robert Ennis has been obliged from ill-health to give up his employment as Chief Clerk in the Sheriff's Department of the Supreme Court of New South Wales and has since chiefly resided in Queensland and has there entered into the business of a cattle-grazier And whereas such business is not at present sufficiently productive to enable him to make due provision for the maintenance of his said wife and the maintenance education and advancement in life of their children And whereas no provision was made in the said recited declaration of the trusts of the said land and hereditaments for the maintenance of the said Jessie Mary Ennis nor for the maintenance education and advancement of the said children other than by enabling the said Trustees to demise the said lands and hereditaments for the term of the life of the said Jessie Mary Ennis and for such term or terms thereafter not exceeding the time at which the youngest of the said children shall attain twenty-one years of age And whereas the rental which could be obtained by a demise of the said land and hereditaments at the present time would be insufficient for the support of the said Jessie Mary Ennis and the support education and advancement of the said children And whereas it is desirable that the said Trustees should be authorized to make better provision for the support of the said Jessie Mary Ennis and the support education and advancement of all the children of the said John Robert Ennis and Jessie Mary Ennis whether born before or after the date of the said declaration of trusts than can be effected under the powers for those purposes given by such trusts And whereas it is also desirable that the said Trustees should be authorized to advance moneys to the said John Robert Ennis And whereas it is expedient for these purposes that the said Trustees should be empowered to raise money by a mortgage or mortgages or a sale or sales or partly by a mortgage or mortgages and partly by a sale or sales of the said land and hereditaments at Rocky Point or of some part or parts of the same And whereas the said objects cannot be effected 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. It shall be lawful for the said Charles Stuart Cansdell the younger civil engineer and Richard Lacy or other the Trustees for the time being of the said declaration of the trusts of the said land and

Power to set apart
ten acres with house
and to mortgage
first residue of land.

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then part of the said ten acres and lastly house and remainder of the ten acres.

and hereditaments situated at Rocky Point aforesaid bearing date the twenty-fifth day of June one thousand eight hundred and eighty hereinafter called the said Trustees notwithstanding anything to the contrary in the said recited declaration of trusts contained at any time after the passing of this Act to set apart ten acres of the said land conveniently enjoyable with the said dwelling-house thereon erected and from time to time to borrow and raise at interest any sum or sums of money which they in their absolute discretion shall deem expedient upon a mortgage or mortgages of the said residue of the said land which shall remain after setting apart ten acres of the same which said residue is hereinafter described as the said residue of the said land And if the money which can be raised on such said residue of the said land shall in the opinion of the said Trustees be insufficient for the purposes for which it shall be required then with the consent of the said Jessie Mary Ennis to set apart out of the said ten acres two or more acres thereof upon which the said dwelling-house shall be standing and conveniently enjoyable therewith and to borrow and raise at interest such further sum or sums of money as they in their absolute discretion shall deem expedient upon a separate mortgage or separate mortgages of the residue of the said ten acres which shall remain after setting apart two or more acres thereof which said residue is hereinafter described as the said residue of the said ten acres And if the money which can be raised on mortgage of the said residue of the said land and the said residue of the said ten acres shall be in the opinion of the said Trustees insufficient for the purposes for which it shall be required then with the consent of the said Jessie Mary Ennis to borrow and raise at interest such further sum or sums of money as they in their absolute discretion shall deem expedient upon a separate mortgage or separate mortgages of the said dwelling-house and the said two or more acres of the said ten acres which shall have been set aside under the power by this section given as conveniently enjoyable therewith which said dwelling-house and two or more acres of land are hereinafter described as the said dwelling-house with power to pay off any such mortgage or mortgages and to re-borrow any sum or sums thereby secured or any less sum or sums and to execute any such mortgage or mortgages with or without power of sale of the said land and the said dwelling-house or of any part or parts of the said land for securing payment of the sum or sums so borrowed and to give effectual receipts and discharges for the moneys so advanced by any mortgagee and to do all such other acts as may be necessary or expedient for the purpose of effectuating such mortgage or mortgages Provided that no mortgagee advancing money upon the security of any mortgage purporting to be made under the power in this section conferred shall be bound to inquire whether such money is required for the purposes aforesaid or be in any way concerned to see to the application of such money when so advanced or be liable for the loss non-application or mis-application thereof.

Power to sell first residue of land next if necessary part of the ten acres and lastly if necessary house and remainder of ten acres.

2. It shall be lawful for the said Trustees notwithstanding anything to the contrary in the said recited declaration of trusts contained at any time after the mortgage of the said residue of the said land and of the said residue of the said ten acres and of the said dwelling-house or of any part or parts of the said land and hereditaments under any of the powers in such behalf hereinbefore given And in case the invested moneys hereinafter mentioned shall be insufficient to pay off the mortgage moneys and interest thereon which shall be owing in respect of any mortgage of any part of the said lands and hereditaments And in any case if after the death of the said Jessie Mary Ennis they shall be of opinion that a sale would be more advantageous to the interests of the children of the said John

Robert

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Robert Ennis and Jessie Mary Ennis than a mortgage of the said residue of the said land then upon further trust at their absolute discretion to sell and absolutely dispose of the said residue of the said land or of any part or parts thereof and if the net proceeds of the sale of the whole of such residue shall be insufficient for the purpose for which the same shall be sold then with the consent of the said Jessie Mary Ennis if she shall then be living and if she shall then be dead at their absolute discretion to sell and absolutely dispose of the said residue of the said ten acres or of any part or parts thereof And if the proceeds of the sale of the whole of the said residue of the said land together with the proceeds of the sale of the whole of the said residue of the said ten acres shall be insufficient for the purposes for which the same shall have been sold then with the consent of the said Jessie Mary Ennis if she shall then be living and if she shall then be dead at their absolute discretion to sell and absolutely dispose of the said dwelling-house and every such sale may be made either by public auction or private contract and either in one or more lots and in such manner generally and subject to such terms and conditions as the said Trustees shall in their absolute discretion deem expedient with power to buy in the said land or any part or parts of the same at any sale by auction and to rescind or vary any contract for sale either on terms or gratuitously and to resell the same without being responsible for any loss occasioned thereby and upon any sale or sales thereof or of any part or parts thereof to convey the land so sold to the purchaser or purchasers thereof his her or their heirs and assigns or as such purchasers may direct freed and discharged from all trusts affecting the same and the receipts in writing of the said Trustees for the purchase money of the said land or of any part or parts thereof so sold shall be full and sufficient discharges to the purchaser or purchasers of the same from the purchase money payable by him or them respectively and shall exonerate him or them from being bound to see to the application of the said purchase money and from any liability for the loss non-application or mis-application of the same or of any part thereof.

3. The said Trustees shall stand possessed of all moneys obtained from time to time by mortgage or sale of the said land and dwelling-house under the powers in such behalf by this Act given and of all accumulations thereof all which mortgage moneys and accumulations thereof are hereinafter described as the said mortgage moneys and all which moneys so obtained by any such sale and all accumulations thereof are hereinafter described as the said sale moneys upon trust in the first place to pay thereout all costs and expenses of and incidental to the procuring and passing of this Act and all costs and expenses of and incidental to every such mortgage and sale and to every investment from time to time of such said mortgage and sale moneys and of every part thereof respectively And also all costs and expenses of and incidental to all deeds instruments acts dealings sales and proceedings subsequently to the passing of this Act executed signed done made or undertaken for the purposes or any of them of the said declaration of trusts and of this Act And further upon trust if they in their absolute discretion shall think it to be advisable to do so to lend so much of the said mortgage or sale moneys to the said John Robert Ennis not exceeding one thousand pounds as they in their absolute discretion may determine such loan to be made to the said John Robert Ennis upon such security by his own bond or otherwise as they the said Trustees shall in their absolute discretion determine and require And further upon trust to invest or employ so much of the residue of the said mortgage and sale moneys and of all accumulations thereof as they shall in their absolute discretion deem expedient in the purchase or rental in their names or otherwise of the goodwill of the business which

Trusts of the mortgage or sale moneys of the land and house.

Ennis Estate.

which the said Jessie Mary Ennis with the consent of her husband the said John Robert Ennis is now carrying on under the inspection and control of the said Trustees for the maintenance of herself and her said husband and their children and of the trade fittings furniture stock-in-trade and other household and business effects thereunto belonging or in the purchase or rental in their names or otherwise of the goodwill of such other business or such other house and premises and of such other trade fittings furniture stock-in-trade and other household and business effects as they shall approve and deem necessary to enable the said Jessie Mary Ennis to enter into and carry on some trade business or occupation she undertaking to carry on the same under their inspection and control and also out of the profits thereof and the rents issues and profits of the said land and hereditaments secured to her sole use by the said declaration of trusts the same not having been sold under the powers in that behalf by this Act given to maintain herself and her said husband and to clothe maintain and educate and bring up all the sons of her marriage with the said John Robert Ennis for the time being under the age of twenty-one years and all the daughters of the said marriage for the time being unmarried And to pay the residue of such profits to the said Trustees and the said Trustees shall stand possessed of such profits and of the residue of such said mortgage and sale moneys upon trust to invest the same and all accumulations thereof hereinafter described as the said invested moneys in debentures issued by the Government of the Colony of New South Wales or upon freehold securities in the said Colony or upon deposit at interest in any bank carrying on business in the said Colony with power from time to time to vary or transpose any such investment or security into or for any other investment or security of the kind hereby authorized And upon further trust in case the said trust premises shall have been mortgaged to apply the residue of such invested moneys to the repayment firstly of the mortgage moneys and interest owing in respect of any mortgage of the said dwelling-house and secondly to the repayment of the mortgage moneys and interest for the time being owing in respect of any mortgage of the remainder of the said trust premises or of any part of such remainder And upon further trust as to the residue of such invested moneys to pay the income arising therefrom to the said Jessie Mary Ennis for her sole and separate use for her life free from the debts control or engagements of the said John Robert Ennis or of any her future husband And upon further trust with the consent of the said Jessie Mary Ennis to sell the goodwill of any business which she may for the time being be carrying on and all the stock-in-trade furniture and other household and business effects thereunto belonging And to invest the proceeds thereof in the purchase of the goodwill of some other business and the purchase of other stock-in-trade furniture and other household and business effects and the same to sell again and deal with the proceeds in like manner as often as any change of business or substitution of household or business effects shall by the said Trustees be deemed expedient And upon further trust in case the said Jessie Mary Ennis shall elect to discontinue any such business altogether to sell the same and the stock-in-trade furniture and household and business effects thereunto belonging and to invest the proceeds in any of the aforesaid securities and to pay the income thereof to the said Jessie Mary Ennis for her sole and separate use for her life free from the debts control or engagements of the said John Robert Ennis or any her future husband and upon further trust after the death of the said Jessie Mary Ennis to finally close up and sell the goodwill of any business then carried on by the said Jessie Mary Ennis under the power in that behalf hereinbefore given and the stock-in-trade furniture and

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and other household and business effects thereunto belonging and to divide and pay one-third of the proceeds thereof together with one-third of the residue of the said invested money to the said John Robert Ennis and to divide and pay the residue and if the said John Robert Ennis shall have predeceased his said wife then the whole of all such proceeds and invested moneys and of all accumulations thereof among and to all the children of the said John Robert Ennis and Jessie Mary Ennis then living and the issue of such of them as shall have departed this life leaving lawful issue then living in equal shares and proportions according to the roots the shares of females to be for their separate use and the shares of males to vest at majority and of females at majority or previous marriage.

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

Power to allow credit to purchasers.

5. In case the said Jessie Mary Ennis shall die before the repayment of the mortgage moneys owing in respect of any mortgage of the said dwelling-house and the said ten acres or other portion of the said land which under the power in that behalf by this Act given shall have been set apart as conveniently enjoyable with the said dwelling-house and be mortgaged therewith and before sale thereof it shall be lawful for the said Trustees to postpone the occupation of the said dwelling-house and land therewith mortgaged as the home of the children of the said John Robert Ennis and Jessie Mary Ennis and the sale thereof until the whole of the said mortgage moneys shall have been paid off and meanwhile and notwithstanding any trusts so declared in respect of such occupation division and sale it shall be lawful for the said Trustees from time to time to demise and let the said dwelling-house and the land therewith mortgaged and that from time to time and for such term or terms of years as they shall think expedient every such lease to take effect from the date thereof and to be made for the best yearly rent payable quarterly or for the highest gross rent or premium that can be obtained for such term of years. Provided that every such lease shall contain covenants by the lessor for payment of the rent or premiums thereby reserved and of taxes and for repairing and keeping in repair the premises so demised and for insuring the same against loss by fire to the full value thereof and with such other covenants as they shall think reasonable. And also a proviso for re-entry on non-payment of the rent or premium for a period not exceeding forty days after the same shall become due or on breach of any of the covenants and so as the lessee shall not be bound to see to the application of any such rent or premium nor liable for the non-application or mis-application of the same nor be made punishable for waste but shall execute a counterpart of such lease. And the net rent or premium so obtained for the said dwelling-house and land shall be applied to the payment of such mortgage moneys while such dwelling-house and land shall be so demised.

Power to lease the house and ten or a less number of acres.

6. It shall be lawful for the said Trustees to make or concur in the making of any roads streets or ways on and over any part or parts of

Power to make roads,

of

Randwick Cemetery Unused Lands Sale.

of the said land And also to erect make and carry out and concur in the erecting making and carrying out of any wells sewers drains water-courses or other works which they in their absolute discretion may consider will conduce to the better division laying out improving or selling of the said land or to the convenience or enjoyment of those persons who shall be about to purchase or shall have purchased any part thereof And the cost of such works or the proportions of any such costs which shall be undertaken by any purchaser or other person for the improvement of such land or of any part thereof with the concurrence of the said Trustees may be deducted and retained by them in the same way as they are hereinbefore authorized to deduct and retain the costs and expenses of and incidental to sales hereunder And for any of the purposes of this section the said Trustees may reserve and dedicate either absolutely or upon any conditions any part or parts of the said land.

Short title.

7. This Act may be cited as the "Ennis Estate Act of 1886."

THE SCHEDULE ABOVE REFERRED TO.

All that parcel of land containing by admeasurement fifty acres more or less situated at Rocky Point in the parish of Saint George in the county of Cumberland in the Colony of New South Wales portion thirty-two delineated in the public map of the said parish deposited in the office of the Surveyor-General of the said Colony as originally granted to George Alfred Lloyd of Crown grant dated the twenty-third day of February one thousand eight hundred and fifty-four.
