

HAMILTON'S TRUS-
TEES.

An Act to enable the Trustees of the Settlement made on the Marriage of Hugh Hamilton with Margaret Clunes Innes to sell part of the Trust Property and invest the proceeds of sale on real Securities. [13th August, 1858.]

Preamble.

WHEREAS by an indenture bearing date the twenty-second day of August one thousand eight hundred and fifty-three and made between Hugh Hamilton of the district of Lachlan in the Colony of New South Wales Esquire of the first part Margaret Clunes Innes of Parramatta in the county of Cumberland in the same Colony spinster of

Hamilton's Trustees.

of the second part and George Macleay of Brownlow Hill in the county of Camden in the same Colony and John Stirling of Mossman's Bay in the said county of Cumberland Esquires of the third part after reciting among other things that a marriage was intended shortly to be solemnized between the said Hugh Hamilton and Margaret Clunes Innes the said Hugh Hamilton did assign transfer and set over unto the said George Macleay and John Stirling and the survivor of them his executors and administrators among other things five hundred head of cattle and five brood mares then depasturing at Tommanbil Boyde in the district of Lachlan in the said Colony of New South Wales being all then the property of and in the possession of the said Hugh Hamilton together with all the increase progeny produce profits benefits and advantages of and from the said cattle and mares from time to time respectively arising and accruing upon trust from time to time and at any time or times to sell exchange or otherwise dispose of such and so many of the said cattle and of the said brood mares respectively and of the increase progeny and produce thereof respectively as to them should seem most expedient and for the benefit of the persons interested under the trusts therein expressed and declared but so nevertheless as to maintain as nearly as may be during the continuance of all or any of the said trusts the same number of brood mares as aforesaid and a number of cattle equal to the number thereof thereby assigned or a proportionate number according to the trusts from time to time subsisting and from time to time at proper and convenient seasons of the year by public sale or otherwise to convert into money the excess of such cattle and the increase progeny and produce thereof over and above such full and proportionate number as the case may be whether of cattle or brood mares and out of such money and all or any other the proceeds from time to time coming to their hands by way of profits or otherwise of the said cattle or their increase and progeny or the increase and progeny of any such mares to supply any deficiency which may occur by accident or otherwise among such full or proportionate number of cattle or mares as aforesaid and to pay all necessary and proper charges salaries expenses and outgoings of and incident to the management superintendence and due maintenance of all cattle and mares and their respective increase and progeny from time to time in the possession or power of the said Trustees and otherwise incident to the trusts thereby expressed and declared concerning the same and upon trust to carry the clear balance of such moneys proceeds or profits after such deductions as aforesaid to a fund to be called "The Trust Fund" and by the said indenture certain trusts were declared of the said trust fund and the other property in the hands of the said Trustees including the said cattle and mares for the benefit of the said Hugh Hamilton and Margaret Clunes Innes and their children respectively And whereas the said intended marriage between the said Hugh Hamilton and Margaret Clunes Innes was duly had and solemnized shortly after the date of the said indenture And whereas the said Hugh Hamilton and Margaret Clunes Hamilton are still living and there is issue of the said marriage three children (that is to say) Hugh Montgomerie George Innes and an infant daughter unnamed And whereas the trusts for the management superintendence and maintenance of the said cattle and mares have been found inconvenient and burdensome and it would be advantageous to all the parties beneficially interested under the trusts of the said indenture if the Trustees of the said indenture had power at their discretion to sell and absolutely dispose of the said cattle and horse stock and to invest the money to arise from such sale on real securities upon the trusts of the said indenture but the said indenture does not contain any power enabling the said Trustees so to do

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Sydney and Newcastle Diocesan Lands.

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—

Trustees may sell
cattle and horse
stock.

1. It shall be lawful for the said George Macleay and John Stirling or the survivor of them or other the Trustees or Trustee for the time being of the said indenture with the consent in writing of the said Hugh Hamilton and Margaret Clunes Hamilton his wife or of the survivor of them and after the decease of such survivor at the absolute discretion of such Trustees or Trustee to sell and dispose of the whole of the said cattle and horse stock and their respective increase and progeny by public auction or private contract and either in one lot or in several lots and at one or more time or times as they or he shall think most expedient for such price or prices as can reasonably be obtained for the same and to assign and transfer the same to the purchaser or respective purchasers thereof freed and discharged from the trusts created and declared by the said indenture and the receipt or receipts in writing of the said George Macleay and John Stirling or the survivor of them or other the Trustees or Trustee for the time being of the said indenture shall absolutely discharge the purchaser or purchasers of the said cattle and horse stock 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 misapplication or nonapplication thereof.

Trustees may invest
moneys proceeds of
sales upon real secu-
rities.

2. It shall be lawful for the said George Macleay and John Stirling or the survivor of them or other the Trustees or Trustee for the time being of the said indenture with the consent in writing of the said Hugh Hamilton and Margaret Clunes Hamilton his wife or the survivor of them and after the decease of such survivor at the absolute discretion of such Trustees or Trustee to invest the moneys to arise from such sale or sales at interest upon real securities in New South Wales and also from time to time with the like consent or at the like discretion to alter vary and transpose the securities upon which the said money shall be invested for other securities of the same description and the said securities and the interest of the moneys invested thereon shall go and be payable and paid to such person and persons and applied to for and upon such trusts intents and purposes as are in and by the said indenture respectively mentioned and declared in relation to the said trust fund and the said cattle and mares in the said indenture mentioned as if this Act had not been passed.

Title of Act.

3. In citing this Act in any instrument document or proceeding it shall be sufficient to use the expression "Hamilton's Trust Act."