

THE KING'S SCHOOL
COUNCIL
ACT AMENDMENT.

An Act to amend The King's School Council Act, 56 Victoria, and to declare the trusts of a Scholarship of the said School known as "The Burton Scholarship"; and for other purposes in connection with the Scholarships held for the benefit of the School. [20th December, 1894.]

Preamble.

WHEREAS in the year one thousand eight hundred and thirty-nine, certain members of the Church of England, friends of Sir William Westbrook Burton, in the Colony of New South Wales, designing to evince the kindly sense they entertained of his then transpired services in this Colony on his projected departure from it, subscribed divers sums of money (in the whole amounting to one thousand pounds), and presenting it to the said Sir William Westbrook Burton desired him to accept thereof as a testimony of their respect and esteem; but the said Sir William Westbrook Burton, for reasons him moving, declined accepting the same for his personal advantage, but appointed that it should be vested in trustees who should lay
out

The King's School Council Act Amendment.

out the money upon some good and sufficient security of real property in New South Wales, and apply the interest thereof towards affording a sound religious education to one or more youths in the Colony in the principles of the Church of England, and named "The King's School at Parramatta," as that in which he desired to found one or more Scholarships, as the interest of the fund would allow: And whereas the said Sir William Westbrook Burton nominated his two friends, the Honorable Robert Campbell, junior, and the Honorable James Mitchell, and delivered to them a memorandum, in writing, stating, as abovementioned, the trusts upon which he desired them to hold the said sum of one thousand pounds and to apply the interest thereof: And whereas the said Robert Campbell and James Mitchell, in or about the year one thousand eight hundred and forty, lent the said sum of one thousand pounds to one Ward Stephens, upon the security of a piece or parcel of land near Seone, in the said Colony: And whereas the estate of the said Ward Stephens was subsequently placed under sequestration, and the Official Assignee of his estate released the said piece or parcel of land to certain trustees, of whom Sir Charles Nicholson was, on the twenty-first day of October, one thousand eight hundred and sixty-nine, the sole survivor: And whereas by a deed poll under the hands and seals of the said Sir Charles Nicholson and Sir William Westbrook Burton, bearing date the twenty-first day of October, one thousand eight hundred and sixty-nine, after reciting the matters hereinbefore stated, the said Sir Charles Nicholson and Sir William Westbrook Burton appointed Charles Campbell, Esquire, of New South Wales, Barrister-at-Law, to be their true and lawful attorney on behalf of the said Sir Charles Nicholson, to call in and reinvest, if necessary, the said sum of one thousand pounds, with power to sell and dispose of the said land for the best price that could be obtained for the same, and to invest the proceeds upon good security of real property, within the City of Sydney, and with further powers in respect to such investment, and to apply the income arising from such money according to the true intent and meaning of the said Sir William Westbrook Burton respecting the same. And the said Sir William Westbrook Burton declared by the said deed poll that the rents and proceeds of the said trust property should be from time to time applied towards the maintenance and education of one or more youths, between the ages of fourteen and eighteen years, as scholars in the school at Parramatta, called The King's School, and being the son or sons of a clergyman or clergymen of the Church of England, resident in the Colony of New South Wales, and officiating, or deceased having officiated therein as such, so far as the yearly proceeds of the said fund would allow in sums of not less than thirty pounds to each of such youths and for a term not exceeding four years. And he further declared that the nomination of youths as scholars should be vested in the Protestant Bishop of Sydney for the time-being after such examination as the said Bishop should direct: And whereas by an indenture bearing date the fifteenth day of February, one thousand eight hundred and eighty-seven, made between the said Sir William Westbrook Burton of the first part, the said Sir Charles Nicholson of the second part, and the Most Reverend Alfred Barry, Doctor of Divinity, D.C.L., Bishop of Sydney, of the third part. After reciting the matters hereinbefore stated, and reciting that the said Charles Campbell had then in his hands the sum of one thousand nine hundred pounds, representing the said sum of one thousand pounds and accumulations thereon, and that the said Charles Campbell was desirous of retiring from the trusts of the said sum and of handing the same over to a trustee or trustees to be held upon the trusts therein-

after

The King's School Council Act Amendment.

after declared concerning the same; and that by a deed poll, dated the thirty-first day of December, one thousand eight hundred and seventy, under the hand and corporate seal of Frederic Barker, the then Bishop of Sydney, it was amongst other things thereby declared that the general government and management of The King's School aforesaid, and all matters relating thereto, should thenceforth be vested in a body of persons to be called the Council of The King's School; and that the Bishop of Sydney had consented to act as trustee, and hold the said sum of one thousand nine hundred pounds upon the trusts thereafter declared, and that the said sum, or the securities representing the same, had been paid over or transferred into the name of the said Bishop of Sydney. It was thereby witnessed that, with the consent and approval of the said Sir William Westbrook Burton and Sir Charles Nicholson, it was among other things declared that the said Bishop should stand possessed of the said sum of one thousand nine hundred pounds and the annual income and accumulations thereof upon trust to invest the same in manner therein provided, and of the income thereof upon trust to provide thereout from time to time funds for Scholarships to be awarded to boys who had been *bonâ fide* pupils for twelve months and upwards at The King's School aforesaid, at Parramatta, or at any other place to which the said school might be removed, and who should be desirous of proceeding with their education at Saint Paul's College, Sydney, with a view to taking Holy Orders in the Church of England, and it was further declared that such Scholarships should be awarded by the said Council to such persons as the Head Master of the said School should approve, in such sum not being less than thirty pounds, for such periods not exceeding four years, and subject to such conditions, rules, and regulations as the said Council should from time to time appoint: And whereas by a private Act of Parliament made and passed in the fifty-sixth year of the reign of her present Majesty, intituled "*An Act to incorporate the Council of The King's School, and to vest certain lands and other property in such Council, and to confer certain powers thereon, and upon the Bishop of Sydney, and for other incidental purposes,*" after reciting, among other things, that by virtue of the hereinbefore recited indenture of the fifteenth day of February, one thousand eight hundred and eighty-seven, the sum of money by the said indenture mentioned and assigned was vested in and held by the Bishop of Sydney and his successors, upon trust, for the endowment and maintenance of a Scholarship in connection with the said school, known as "The Burton Scholarship," it was enacted, among other things, that it should be lawful for the Bishop of Sydney, for the time being, by deed under the episcopal seal, to assign and transfer the said Burton Scholarship endowment funds, and any accumulations and investments thereof, unto the said Council (which, by the same Act, was constituted a body politic and corporate by the name of "The Council of the King's School"), and that thereupon the said Scholarship endowment funds, accumulations, and investments, so assigned and transferred, should become vested in the said Council and its successors upon the trusts and for the purposes declared by the hereinbefore recited indenture of the fifteenth day of February, one thousand eight hundred and eighty-seven: And whereas by a deed poll under the hand and corporate seal of the Most Reverend William Saumarez Smith, Bishop of Sydney for the time being, dated the third day of August, one thousand eight hundred and ninety-three, in pursuance of the hereinbefore recited Act of Parliament, fifty-sixth Victoria, the said William Saumarez Smith did thereby assign and transfer unto the Council of The King's School, and its successors, the said Burton Scholarship Endowment Fund, mentioned and comprised in the said indenture of the

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The King's School Council Act Amendment.

the fifteenth day of February, one thousand eight hundred and eighty-seven, and all accumulations and investments thereof, upon the trusts and for the purposes declared by the said indenture: And whereas it is believed that the said Sir William Westbrook Burton and Sir Charles Nicholson had no power in law or equity to alter or vary the trusts of the said Scholarship, as declared by the said Sir William Westbrook Burton upon its creation, in or about the year one thousand eight hundred and thirty-nine, as they have purported to do by the said deed poll of the twenty-first day of October, one thousand eight hundred and sixty-nine, and by the said indenture of the fifteenth day of February, one thousand eight hundred and eighty-seven, but it has become impossible to apply to the Court of Equity for relief in consequence of the passing of the said Act: And whereas the said Council, pursuant to the said Act, have become possessed of other Scholarships for the benefit of the said School: And whereas it is expedient to amend the said Act of Parliament, fifty-sixth Victoria, to enable the said Council of The King's School to hold the said trust funds and to apply the income thereof upon the trusts and for the purposes declared by the said Sir William Westbrook Burton in or about the year one thousand eight hundred and thirty-nine, and to declare the trusts upon which such trust funds shall henceforth be held, and the purposes to which the income arising therefrom shall be applied, and to enable the said Council from time to time to make and alter regulations for carrying out the trusts of all the said Scholarships and of all Scholarships which may hereafter become vested in the Council: 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 Council of The King's School shall stand possessed of the endowment funds, accumulations, and investments of the Burton Scholarship upon the trusts and for the purposes declared by Sir William Westbrook Burton upon the creation thereof in or about the year one thousand eight hundred and thirty-nine; that is to say, upon trust to lay out the same upon some good and sufficient security of real property in New South Wales, or upon Government debentures or Government stock, and to apply the interest thereof towards affording a sound religious education in the principles of The Church of England at The King's School to one youth or more being a pupil or pupils of such school or desiring to enter as pupil or pupils, or proceeding from the said school to pursue his or their studies at Saint Paul's College within the University of Sydney as the Council may from time to time by resolution determine, subject to the regulations of the Council, and not upon the trusts or for the purposes declared by the said indenture of fifteenth day of February, one thousand eight hundred and eighty-seven.

2. The Council of The King's School shall have power from time to time to make and frame regulations for the purpose of carrying out the trusts of all or any of the scholarship funds now held or hereafter to be held in connection with the said School.

3. This Act may be cited as "The King's School Council Act Amendment Act of 1894."