



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

Private Act.

An Act to extend the powers of the Trustees under the Marriage Settlement of Edward Stirling, Esquire, and Harriett his wife, and to provide for the better management of the Trust Estate.

[Assented to, 27th January, 1858.]

WHEREAS by a certain indenture bearing date the third day of August, one thousand eight hundred and forty-seven, and made between Edward Stirling, of Hampden, in the District of Strathalbyn, in the Province of South Australia, Esquire, of the first part, and Harriett Taylor, of North Adelaide (youngest daughter of the late John Taylor, of Ryelands, Herefordshire, Esquire), spinster, of the second part, and Andrew Murray, of Rundle-street, Adelaide, in the said Province, Printer, Alexander Lang Elder, of Hindley-street, Adelaide, aforesaid, merchant, John Taylor, of North Adelaide, in the said Province, stockholder, and Charles Stirling, of Hampden, aforesaid, stockholder, of the third part (being the settlement made previous to, and in contemplation of, the marriage which was shortly afterwards had and solemnized between the said Edward Stirling and the said Harriett Taylor), certain freehold Sections of land situate in the said Province were conveyed and assured by the said Edward Stirling unto the said Andrew Murray, Alexander Lang Elder, John Taylor, and Charles Stirling, their heirs and assigns, upon certain trusts for the benefit of the said Harriett Taylor (now Harriett Stirling, the wife of the said Edward Stirling), and the children of the said marriage, which trusts are in the said indenture of settlement particularly mentioned and set forth: And whereas the said indenture of settlement does not contain any power of sale of the said trust estate in the lifetime of the tenant for life, and several other powers and authorities

Preamble.

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which are usually inserted in settlements of real estates, and which are necessary for the due management of the said trust estate, and the execution of the trusts of the said indenture of settlement are omitted therein, and by reason of such omission the said Trustees are unable to deal with and manage the said trust estate to the best advantage: And whereas the grant of powers authorizing the Trustees of the said trust estate, from time to time, to make sale of and exchange the trust estate, and, from time to time, to lay out the moneys to arise by any such sale or exchange in the purchase of freehold lands, or (with the consent of the party or parties for the time being beneficially interested) on Government or real securities at interest, to grant rights of road, and if thought fit, to dedicate roads to the public, to lay out any part or parts of the trust estate as a township or townships, to grant leases with rights of pre-emption, to accept surrenders of leases, and to re-let, to expend moneys in repairs and improvements, to make abatements and allowances to tenants, to appoint new Trustees in case of vacancy, and to sign receipts for money, would greatly enhance the value of the said trust estate, and it is expedient and just that the Trustees of the said indenture of settlement should be invested with such power as aforesaid; but such powers cannot be conferred on the said Trustees except by Legislative Enactment: And whereas the said Edward Stirling and Harriett Stirling, his wife, are desirous that such powers as are hereinafter given to and conferred upon the Trustees of the said marriage settlement should be so given and conferred: Be it therefore Enacted, by the Governor-in-Chief of the Province, by and with the advice and consent of the Legislative Council and House of Assembly of the Province of South Australia, in this present Parliament assembled, as follows, that is to say—

Power to sell.

1. That it shall be lawful for the Trustees for the time being of the said indenture of settlement, and they are hereby authorized and empowered, from time to time at their discretion, with the consent in writing of the said Edward Stirling and Charles Stirling, or the survivor of them, or the heirs of such survivor, to make sale and dispose of and convey any messuages, lands, tenements, and hereditaments for the time being vested in them, upon the trusts of the said indenture of settlement, or any part or parts thereof, either together or in parcels, and either by public auction or private contract, unto any person or persons who shall be willing to become the purchaser or purchasers thereof, for such sum or sums of money as the said Trustees shall think reasonable, and to give time for (either with or without security) the payment of such purchase-money, and upon payment to them of the purchase-money for which the said messuages, lands, tenements, and hereditaments, or any part or parts thereof, shall be so sold, to convey the same messuages, lands, tenements, and hereditaments so sold and disposed of as aforesaid, unto and to the use of the purchaser or purchasers thereof, his, her, or their heirs or assigns, or as he, she, or they shall direct or appoint, and that for the purposes of such sale, and the convenience of purchasers, it shall be lawful for the said Trustees to lay out any part or parts of the said messuages, lands, tenements, and hereditaments,

ments, as and for a township or townships, and from time to time, as they may think fit, to set apart and appropriate such portion of the said messuages, lands, tenements, and hereditaments, as they shall consider most eligible, as and for roads, streets, and other easements, and thereupon to dedicate such roads, streets, and easements to the public, or in the discretion of the said Trustees to grant to the purchasers of any part or parts of such messuages, lands, tenements, and hereditaments, and others such rights, privileges, and easements, in, upon, and over the portion of the said land and hereditaments so set apart and appropriated as aforesaid, as they the said Trustees shall think fit, or that it shall be lawful for the said Trustees to exchange the same messuages, lands, tenements, and hereditaments, or any part or parts thereof, for or in lieu of any other hereditaments, and to give or receive any sum or sums of money by way of equality of exchange, which hereditaments so to be received shall be held by the said Trustees upon and subject to the like trusts and powers as the said messuages, lands, tenements, and hereditaments now vested in the said Trustees under the said indenture of settlement.

To lay out townships.

To set apart roads and streets.

To dedicate to the public.

To exchange.

2. That it shall be lawful for the said Trustees, and they are hereby required, at their discretion, to lay out the several sums of money to arise from or be paid as the consideration money of the sale of the said messuages, lands, tenements, and hereditaments, or to be received for equality of exchange as aforesaid, or such portion thereof as they may think fit, in the purchase of freehold messuages, lands, tenements, and hereditaments of inheritance which they shall stand seised of, upon the trusts, and subject to the powers for the time being, of the said indenture of settlement, or to invest the same sums or sum of money, or such part thereof as they may think fit, with the consent of the party or parties for the time being beneficially interested therein, or in the annual income thereof, at interest, upon Government or real securities, and to vary the same securities if and as they shall think fit.

To invest moneys.

3. That it shall be lawful for the said Trustees, and they are hereby authorized and empowered at their discretion, to demise or lease all and every or any part and parts of the said messuages, lands, tenements, and hereditaments, or any part or parts thereof for the time being vested in them upon the trusts of the said indenture of settlement, in accordance with the power given to them by the said indenture of settlement, over the messuages, lands, tenements, and hereditaments, thereby assured, and in any such leases to contract with any person or persons whomsoever, becoming a tenant or tenants of all or any part or parts of such messuages, lands, tenements, and hereditaments, under any such leases, for the absolute sale thereof to him, her, or them, at such price or prices, payable at such time or times, and subject to such conditions, restrictions, stipulations, and agreements, and with or without any power or condition that part of the purchase-money may remain on mortgage of the messuages, lands, tenements, and hereditaments, so contracted to be sold under this power, as the said Trustees at their discretion shall see fit.

To grant leases.

4. That

To accept surrenders
of leases.

To expend moneys in
repairs, &c.

To make allowances to
tenants.

Trustees' receipt
clause.

Powers to appoint
new Trustees.

A copy of this Act to
be evidence thereof.

Saving of rights of
Her Majesty, &c.

Commencement of
Act.

4. That it shall be lawful for the said Trustees to accept a surrender or surrenders of any lease or leases for the time being, and to re-let the messuages, lands, tenements, and hereditaments comprised in any such lease or leases, at the discretion of the said Trustees ; and also to lay out and expend the annual rent or income arising from the said trust estate, or any part or parts thereof, in or towards the insuring, repairing, rebuilding, upholding, and improving the messuages, lands, tenements, and hereditaments, whence such annual rent or income shall arise ; and also to make any abatement or allowance to tenants on account of rent due, or accruing due, from such tenants, for the occupation of the said trust estate, or any part or parts thereof, whenever it shall appear to the said Trustees that such abatement or allowance will have the effect of retaining tenants, and be beneficial to the said trust estate.

5. That the receipt or receipts of the said Trustees for the time being of the said indenture of settlement shall be a sufficient discharge, or sufficient discharges to all persons paying them any sum or sums of money, for such sum of money as shall respectively be acknowledged to be received in every such receipt, and shall exonerate the person or persons taking the said receipts from all liability in respect of the application, misapplication, or nonapplication thereof.

6. That it shall be lawful for the Trustees or Trustee for the time being of the said indenture of settlement, from time to time, as often as there may be occasion, by deed executed in the presence of, and attested by one or more than one witness, to appoint any person or persons to supply the place of any present or future Trustees or Trustee under the said indenture of settlement who may die, disclaim, go to reside out of the Province, or be incompetent or unwilling to act in the execution of the trusts aforesaid, before the same shall be fully performed ; and every new Trustee shall succeed to the powers and duties of the Trustee in whose place he shall be appointed.

7. A copy of this Act, printed by the Government Printer, shall be admitted as evidence thereof by all Judges, Justices, and others.

8. Nothing in this Act shall be deemed to affect or apply to any right, title, or interest of Her Majesty, Her heirs, or successors, or of any body or bodies politic or corporate, or of any person or persons, excepting such as are mentioned therein, or of those claiming by, from, or under him, her, or them.

9 This Act shall commence and take effect from and after the passing thereof.