

No. IV.

An Act for vesting the Orphan School Estates in the Trustees of the Clergy and School Lands in the Colony of New South Wales and for duly governing the Children at School and in Apprenticeship. [2nd August, 1826.]

ORPHAN SCHOOL
ESTATES.

WHHEREAS by Indenture dated the twenty-seventh day of May one thousand eight hundred and twenty-three and made between His Excellency Sir Thomas Brisbane Knight Commander of the Most Honorable Military Order of the Bath Captain General and Governor-in-Chief in and over His Majesty's Colony of New South Wales and its Dependencies of the one part and the Reverend Samuel Marsden Clerk Principal Chaplain of the said Colony John Palmer of Parramatta in the said Colony Esquire and John Harris of the South Creek in the said Colony Esquire of the other part reciting that by a Deed of Grant under the Seal of the said Colony dated the fifteenth day of August one thousand eight hundred and three Philip Gidley King Esquire then Captain General and Governor-in Chief in and over His Majesty's said Colony and its Dependencies did give and grant unto Mrs. Anna Josepha King Mrs. Elizabeth Paterson the Reverend Samuel Marsden Thomas Jamison John Harris and John Palmer Esquires the then Committee for conducting the Female Orphan Institution of the Settlements of New South Wales aforesaid and in case of their death or absence from the Colony to such two married ladies wives of Commissioned Officers as might be willing to undertake that charitable office and to the gentlemen acting as Clergymen of the Church of England the Principal Surgeon and Commissary for the time-being for the purpose aforesaid to have and to hold for ever twelve thousand three hundred acres of land situate in the District of Cabramatta bounded on the north side by the Prospect Common Ground on the west by a south line of four hundred and ninety-eight chains

Preamble.

Indenture between
Governor Sir Thomas
Brisbane and the
Trustees dated 27th
May 1823 reciting

Deed of Grant by
Governor King
dated 15th August
1803

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chains to Cabramatta Creek which was to be the boundary on the south side to Captain Cummings' farm along his side line north sixty-eight chains fifty links then north thirty-five degrees east two hundred and sixty-seven chains fifty links to the Prospect Creek which was to be the remaining part of the boundary together with the farms granted up to that date the said Committee paying or causing to be paid an annual quit-rent of Twelve Pounds Six Shillings for the aforesaid twelve thousand three hundred acres of land after the term or time of five years payable from the funds of that Institution

Deed of Grant by
Governor King dated
1st May 1804

And reciting that by a Deed of Grant under the Seal of the Colony aforesaid dated the first day of May one thousand eight hundred and four the said Philip Gidley King Captain General Governor and Commander-in-Chief as aforesaid did give and grant unto the said Mrs. Anna Josepha King Mrs. Elizabeth Paterson the Reverend Samuel Marsden Thomas Jamison John Harris and John Palmer Esquires the then Committee for conducting the aforesaid Institution and in case of their death or absence from the Colony to such two married ladies wives of Commissioned Officers as might be willing to undertake that charitable office and to the gentlemen acting as Clergymen of the Church of England the Principal Surgeon and Commissary for the time-being for the purpose aforesaid to have and to hold for ever two acres and seventeen rods of ground lying and situate in the township of Sydney and described as follows viz. front from Underwood's Corner south three and a quarter east two hundred and fifty feet then to the Arch of Bridge east fourteen and three-quarters north three hundred and forty feet stream line reserving twenty-two feet for stream parallel with Lord's and Randall's leases three hundred and fifteen feet then Underwood's side up to street west twenty and a half south three hundred and eighty-two feet the said Committee paying or causing to be paid to the Crown an annual quit-rent of One Shilling for the aforesaid allotment after the expiration of the term or time of five years payable from the funds of the said Institution

Deed of Grant by
Governor King
dated 10th August
1806

And further reciting that by a Deed of Grant under the Seal of the Territory aforesaid dated the tenth day of August in the year of our Lord one thousand eight hundred and six the said Philip Gidley King Captain General Governor-in-Chief as aforesaid did give and grant unto the said Mrs. Anna Josepha King Mrs. Elizabeth Paterson the Reverend Samuel Marsden John Palmer Thomas Jamison and John Harris Esquires the then Committee for conducting the aforesaid Institution and in case of their death or absence from the Colony to such two married ladies wives of Commissioned Officers as might be willing to undertake that charitable office and to the gentlemen acting as Clergymen of the Church of England Principal Surgeon and Commissary for the time-being two hundred and eighty acres of land the remainder of Grose Farm lying and situate in the District of Petersham-hill and described as follows commencing at the south-east corner of farm and running east thirty degrees north fifty-six chains thence north thirty degrees west to the Sydney Road which road is the north-west boundary and thence by farm and Foveaux's lease reserving a road through of one chain wide in the most convenient part to the farms at Bullanaming And there being reason to suppose that a grant of thirty acres had been given within the above limits which could not be traced to its then possessor a reservation was thereby made should the grant thereafter be proved to be legal the said two hundred and eighty acres of land to be had and held by the aforesaid Committee or the members composing the same for the time-being free from all fees taxes quit-rents and other acknowledgments for the space of five years from the date thereof such timber as might be then growing or might thereafter grow upon the

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the said land which might be deemed fit for Naval purposes to be reserved for the use of the Crown and paying an annual quit-rent of Six Shillings after the term or time of five years before mentioned

And further reciting that by His Majesty's Commission bearing date the third day of February in the second year of his reign His Majesty did give and grant unto the said Sir Thomas Brisbane full power and authority to agree for such lands tenements and hereditaments as should be in His Majesty's power to dispose of and them to grant to any person or persons upon such terms and under such moderate quit-rents services and acknowledgments to be thereupon reserved to His Majesty according to such instructions as should be given to the said Sir Thomas Brisbane under his Sign Manual which said grants were to pass and be sealed by His Majesty's Seal of the said Colony and its Dependencies and being entered upon record by such officer or officers as the said Sir Thomas Brisbane should appoint thereunto should be good and effectual in law against His Majesty His Heirs and Successors

and His Majesty's Commission to Governor Sir Thomas Brisbane bearing date 3rd Feb. 1821.

And also reciting that the said Samuel Marsden John Palmer and John Harris were the only three of the aforesaid grantees who are not either dead or absent from the Colony aforesaid

Names of the surviving grantees recited.

And also reciting that it had been contracted and agreed by and between the said Sir Thomas Brisbane and the then Committee for conducting the said Female Orphan Institution that the said two hundred and eighty acres of land should be surrendered and reconveyed to His Majesty his Heirs and Successors and that in consideration of such surrender and reconveyance the said Sir Thomas Brisbane should give and grant unto the said Samuel Marsden John Palmer and John Harris and the survivors and survivor of them and the heirs and assigns of such survivor

Contract and agreement between Sir Thos. Brisbane and the Committee recited.

In trust for the benefit of the said Female Orphan Institution as thereafter mentioned

Lands granted by Sir Thos. Brisbane

One thousand acres of land in Township number three in the County of Roxburgh in the Territory aforesaid and also six hundred acres of land in the District of Cabramatta aforesaid granted to the said Institution by the said Governor Philip Gidley King only by a memorandum in the book of the Surveyor General of the Territory aforesaid dated the eleventh day of August one thousand eight hundred and six in lieu of two hundred and twenty acres of the original grant of five hundred acres at Petersham aforesaid resigned by the Committee of the said Institution And also the piece or parcel of land at Parramatta called Arthur's Hill on which the Female Orphan House of the said Institution now stands which said piece or parcel of land has never yet been granted to the said Institution

And also reciting that it being doubtful whether the two first recited grants of twelve thousand three hundred acres and two acres and seventeen rods of land were so technically worded as to convey legal estates for the benefit of the said Institution for ever the said Sir Thomas Brisbane had agreed to regrant and assure the same to the said Samuel Marsden John Palmer and John Harris and the survivors of them and the heirs and assigns of such survivor

and agreed to be re-granted.

In trust for the benefit of the said Institution as thereafter mentioned

It was witnessed that the said Samuel Marsden John Palmer and John Harris in pursuance of the order direction and appointment of the then Committee of the aforesaid Institution by a minute entered in their book and bearing date the eighth day of May one thousand eight hundred and twenty-two and for the considerations aforesaid bargained surrendered reconveyed and assigned to His Majesty His Heirs and Successors

Re-conveyance to His Majesty of

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280 acres of land the remainder of Grose Farm.

All those two hundred and eighty acres of land the remainder of Grose Farm lying and situate in the District of Petersham-hill and described as therein mentioned to have and to hold the same unto His said Majesty His Heirs and Successors for ever

Lands granted by Sir Thos. Brisbane in consequence of such surrender

And it was thereby further witnessed that in consideration of the said surrender and for the other consideration aforesaid the said Sir Thomas Brisbane in pursuance of the power and authority so given and granted unto him as aforesaid did give and grant unto the said Samuel Marsden John Palmer and John Harris and the survivors and survivor of them and the heirs and assigns of such survivor

12,300 acres of land in the District of Cabramatta

All those twelve thousand three hundred acres of land situate in the District of Cabramatta aforesaid and hereinbefore more particularly described

2 acres 17 rods of ground in Sydney

And also all those two acres and seventeen rods of ground lying and situate in the Township of Sydney as hereinbefore more particularly mentioned and described.

1,000 acres of land in the County of Roxburgh

And also all those one thousand acres of land of Township number three in the County of Roxburgh bounded on the north by an east line eighty chains on the east by a north line of one hundred and thirty chains on the north by a west line of eighty and on the west by a south line of one hundred and thirty chains being section number sixteen and part of section number fifteen

600 acres of land at Cabramatta

And also six hundred acres of land situate lying and being in the District of Cabramatta aforesaid bounded by a line north thirty-five east of the aforesaid grant of twelve thousand three hundred acres being two hundred and seventy-six chains fifty links in length thence by a straight line to the north-west angle of lot three hundred and forty granted to ————— Jones thence by Jones and Cummings' farm reserving a road of one hundred feet wide in that line

and also a piece of land called Arthur's Hill in Parramatta.

And also all that piece or parcel of land containing by estimation sixty acres called Arthur's Hill situate and being in Parramatta aforesaid being bounded on the east side by the creek which separates it from Vineyard Farm and on the west side by the farm known by the name of Irving's Farm and crossed by a public road of one hundred feet in breadth together with all houses outhouses &c. saving and reserving to His Majesty His Heirs and Successors such timber as is now growing or may grow hereafter upon the said lands which shall be deemed fit for Naval purposes also such parts of the said lands as are now or shall hereafter be required by the proper officer of His Majesty's Government for a highway or highways to hold the said several lands thereby granted to the said Samuel Marsden John Palmer and John Harris and the survivors and survivor of them and the heirs and assigns of such survivor for ever

Yearly quit-rent £14 ls.

At and under to His Majesty His Heirs and Successors the quit-rent or sum of Fourteen Pounds One Shilling of lawful money yearly for ever

The said lands to be used and occupied for the support of the Female Orphan Institution.

And it was thereby declared that the said grantees and their survivors should stand seized of and intrusted in the said lands and premises for ever upon trust to permit and suffer the same to be used occupied and enjoyed for the support maintenance and benefit of the Female Orphan Institution of New South Wales and upon further trust to let convey sell and dispose of the said lands and premises for such ends interests and purposes as the Committee for the time-being of the said Institution shall from time to time by any minute or minutes to be entered in their book or books order direct or appoint and upon no other trust or for no other end interest or purpose whatsoever

His Majesty's Letters Patent dated 8th March 1826 creating the Church Corporation recited.

And whereas by Letters Patent dated the ninth day of March one thousand eight hundred and twenty-six His Majesty was pleased to

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to create a Corporation by the name of the Trustees of the Clergy and School Lands in the Colony of New South Wales

And whereas doubts have been raised whether the exchange mentioned to have been made of the said two hundred and eighty acres of land hereinbefore described as the remainder of Grose Farm for one thousand acres of other land in the County of Roxburgh as aforesaid was not defective and whereas in order to quiet the said doubts and in consideration that the said exchange was agreed upon between His Excellency the late Governor Macquarie and the Committee for conducting the said Female Orphan Institution at a time when the said two hundred and eighty acres were waste and uncultivated and the said one thousand acres of land in the County of Roxburgh were considered as fully equivalent thereto and also in consideration that the Government under the faith of the said exchange being good and lawful had laid out and expended large sums of money in the clearing fencing and building upon the said two hundred and eighty acres of land described as aforesaid it is just and expedient that the said exchange should be declared lawful Be it therefore enacted by His Excellency the Governor of New South Wales with the advice of the Legislative Council That the said two hundred and eighty acres of land described as aforesaid at Grose Farm shall be vested in His Majesty His Heirs and Successors for ever.

Doubts as to the validity of the exchange of Grose Farm for 1,000 acres of other land in the County of Roxburgh.

Land at Grose Farm vested by this Act in His Majesty.

2. And be it further enacted That the said one thousand acres of land situate in the County of Roxburgh and also all other the lands tenements and hereditaments with their appurtenances belonging to the said Orphan School under and by virtue of the said recited deed and all the estate right and title in law or equity thereto shall be and the same are hereby vested in the said Trustees of the Clergy and School Lands and their successors for ever.

Lands in the County of Roxburgh and all other lands and their appurtenances belonging to the said Orphan School vested in the Trustees of the Clergy and School Lands for ever.

3. And whereas the accounts of the said Orphan School were settled up to the thirty-first day of December one thousand eight hundred and twenty-three Be it further enacted That the said Trustees the Reverend Samuel Marsden John Palmer and John Harris and all other Trustees and Committees theretofore concerned in the management of the same shall be and they are hereby released from all responsibility as such Trustees or Committees and all other Committees or persons having the care or disposal of the estates or funds of the said Schools since the said thirty-first day of December shall upon passing their accounts to the satisfaction of the said Trustees of the Clergy and School Land be in like manner released from all responsibility as aforesaid and that the trusts in them or in any of them or in any person or persons vested in respect of said estates shall be and the same are hereby declared to be determined Provided that claims now legally outstanding against the said Trustees or any of them in respect of the said trusts may be made and enforced against the said Corporation in the same manner as they might have been against the said Trustees or any of them if this Act had not been passed.

Release of the former Committee from responsibility in respect of the accounts of the said Orphan School to 31st December 1823.

All other Committees or persons to be released from responsibility upon passing their accounts to the satisfaction of the Trustees of the Clergy and School Lands.

Outstanding claims may be enforced against the Corporation.

4. And be it further enacted That the said Corporation shall provide in a bye-law that the said Female Orphan School at Parramatta and all other Female Schools in the said Colony whether in part or entirely supported by the funds vested in the said Corporation be duly inspected by a Female Committee or Committees to be nominated by the King's Visitor for the time-being or the person or persons lawfully authorised to act as such with the approbation of the Governor or Acting Governor for the time-being.

The Corporation to provide in a bye-law for the inspection by a Female Committee of the said Female Orphan School at Parramatta and all other Female Schools in the Colony.

5. And whereas it is expedient that the said Trustees of the Clergy and School Lands should be empowered to make rules orders bye-laws and regulations from time to time for the government of the children

The Trustees of the Clergy and School Lands empowered to make rules and

children

regulations for the government of the children received into the Schools.

children received into the Schools supported in whole or in part out of or by the said estate or funds Be it therefore enacted by and with the authority and advice aforesaid That the said Trustees and their successors for the time-being shall and they are hereby authorised and empowered to make such rules orders bye-laws and regulations from time to time as to them shall seem meet and proper for the good government and discipline of the said Schools and of the children received into the same and for the apprenticing of such children in like manner and subject to the same approbation condition and reservation as in and by the said Letters Patent are made and provided for making bye-laws for the good government of the Corporation therein mentioned and such rules orders bye-laws and regulations or any of them from time to time to alter or repeal and instead thereof to make new or other bye-laws.

How disputes between apprentices and their masters and mistresses and all complaints by either party are to be determined and punished.

6. Provided that all disputes between the said apprentices and their masters or mistresses and all complaints by either party shall be determined in a summary way by one or more Justice or Justices of the Peace who are hereby empowered to examine the complainant and witnesses on oath in respect thereof and to punish the apprentice by solitary confinement in such place as by the Governor shall be appointed for any time not exceeding one month or by extending the time of service to any term not exceeding one year And also to punish the master or mistress by withdrawing the service of such apprentice or by a fine to the King not exceeding the sum of Ten Pounds for each offence to be levied by distress and sale of the goods of such master or mistress in the usual manner if not paid within twenty-four hours after sentence shall have been given in the case.

Apprentices may be withdrawn and the master or mistress fined £10.

The parties may appeal to the Courts of Quarter Sessions.

7. Provided also that any of the parties aforesaid may appeal to the Court of Quarter Sessions in a summary way by petition from any such determination which Court of Quarter Sessions is hereby authorised to hear and determine such appeal and to award costs to either appelliant or respondent not exceeding Five Pounds.

Appropriation of fines.

8. And be it further enacted That all fines recovered under this Act shall be paid to His Majesty and applied to the public uses of the Colony.