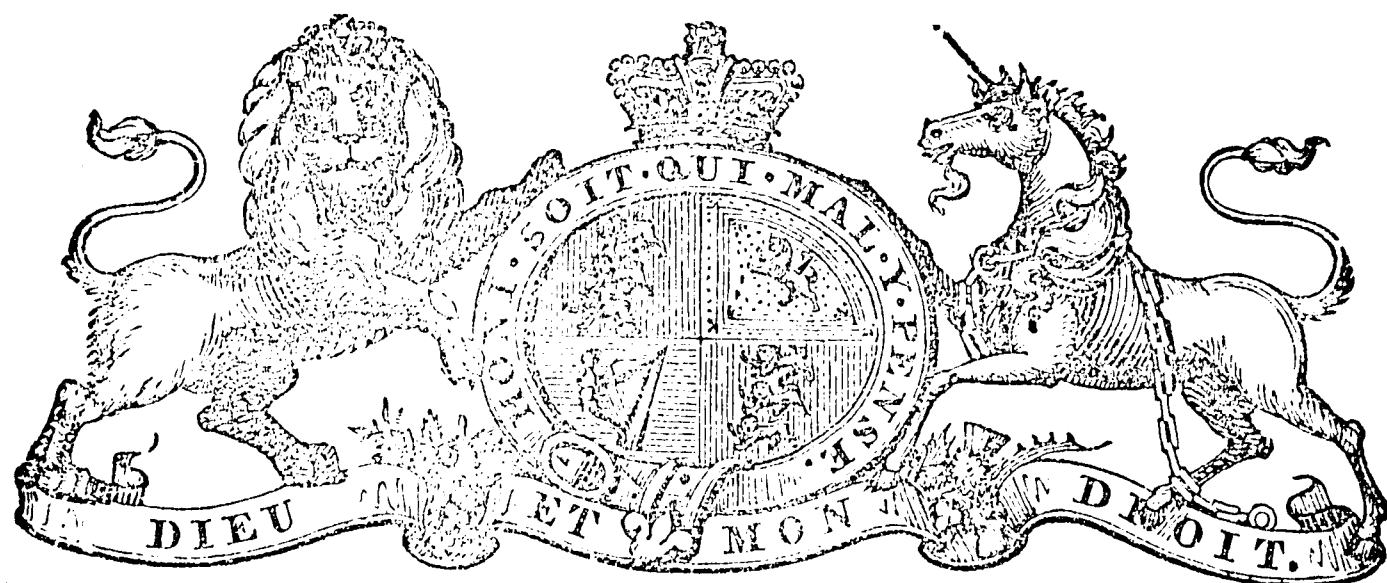


VICTORIA.



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VICTORIÆ REGINÆ.

No. DX.

An Act to enable the Melbourne Orphan Asylum Corporation to sell and otherwise deal with certain Land situate at Emerald Hill vested in such Corporation as a site for an Asylum for Orphan Children and for other purposes.

[19th October 1875.]

WHEREAS by a Deed Poll bearing date the twelfth day of January Preamble.
One thousand eight hundred and seventy-two under the hand of the Right Honorable John Henry Thomas Viscount Canterbury Knight Commander of the Most Honorable Order of the Bath Governor and Commander-in-Chief of the colony of Victoria with the seal of the said colony affixed Her Majesty in order to provide a site for an asylum for orphan children at Emerald Hill in the said colony did grant unto the Honorable Thomas Turner a'Beckett John Badcock Henry Cooke Samuel Mullen and William Hordern therein respectively described and to their heirs all that piece or parcel of land in the said Deed Poll and in schedule A hereto annexed particularly mentioned and described together with all the rights incumbrances privileges and appurtenances whatsoever thereunto belonging or in anywise appertaining subject nevertheless to certain reservations therein specified to have and to hold the said land and premises unto the said Thomas Turner a'Beckett John Badcock Henry Cooke Samuel Mullen and William Hordern and to their heirs subject to certain conditions provisions and declarations therein mentioned and amongst others that the said land thereby granted and the buildings for the time being thereon should be at all times thereafter maintained and used as and for a site for an asylum for orphan children at Emerald Hill aforesaid and offices and conveniences connected therewith under and in accordance with such regulations as should

should from time to time be made by the person or persons and in the manner therein mentioned and for no other purpose whatsoever And also that if the said Thomas Turner a'Beckett John Badcock Henry Cooke Samuel Mullen and William Hordern or the survivors or survivor of them or other the trustees or trustee of the said land and premises should permit or suffer the said land and premises or any part thereof to be used for or applied to any other than the purpose aforesaid or to become out of proper order and repair or should alienate or attempt to alienate in fee simple or for any less estate or interest the said land and premises or any part thereof save and except under and in pursuance of some law thereafter to be in force in the said colony it should be lawful for Her Majesty in manner therein mentioned to re-enter upon the said land or any part thereof and to hold possess and enjoy the same as fully and effectually to all intents and purposes as if the said grant had not been made And by such deed full provision was made for the appointment of new trustees upon the happening of certain events therein mentioned And whereas in accordance with such last-mentioned provision of the said Deed Poll John M'Cutcheon of Emerald Hill was duly appointed a trustee thereof in the place of the said John Badcock And whereas at the date of the Order in Council hereinafter recited the said Thomas Turner a'Beckett Henry Cooke Samuel Mullen William Hordern and John M'Cutcheon were the duly constituted trustees for the time being of and under the said Deed Poll and all and singular the said land and trust premises up to and at the date aforesaid continued and were vested in the said trustees subject only to the trusts of the said Deed Poll And whereas by an Order in Council dated the first day of March One thousand eight hundred and seventy-five made by the Governor in Council under the provisions in that behalf of the Act of the Parliament of Victoria 27 Victoria No. 220 the said charitable institution theretofore known as "The Melbourne Orphan Asylum" was duly declared and thereupon became and now is a body politic and corporate by the style and title of "The Melbourne Orphan Asylum" hereafter referred to as the said corporation having perpetual succession and a common seal and thereupon by virtue of the said Act No. 220 the said land and trust premises were transferred to and became and still are vested in the said corporation. And whereas the land so granted as a site for the said asylum forms a considerable portion of the most central part of the Town of Emerald Hill and it has been found desirable in the interests of the inhabitants thereof and of the said asylum that such asylum should be removed to some other and less populous locality And whereas the said land is of considerable and increasing value for building purposes and the Municipality of Emerald Hill aforesaid has offered to purchase the portion thereof which is described in schedule B hereto annexed together with the buildings thereon at and for the price of Twenty thousand pounds and to allow the said corporation sufficient time after the completion of such sale to procure and enter into occupation of suitable and sufficient freehold land and building

building accommodation for the purposes of the said asylum, in lieu of the land and premises so sold. And whereas it appears that if the said corporation is authorized to sell such portion of the said land as aforesaid to the said municipality at the price and upon the terms above-mentioned and to deal with the purchase-money thereof and with the remainder of the land comprised in the said Deed Poll in manner hereinafter provided it will enable it to procure such land and building accommodation and also to secure a permanent endowment for the said asylum and that thereby the public advantage and the interests of the said corporation will be greatly promoted. Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows that is to say:—



1. It shall be lawful for the said corporation and it is hereby authorized and empowered to contract at any time after the passing of this Act for the sale of and in pursuance of such contract sell and convey the lands and premises comprised in Schedule B hereto annexed to the mayor councillors and burgesses of the town of Emerald Hill (hereinafter referred to as the said municipality) for an estate of inheritance in fee simple freed and discharged from the conditions provisions and declarations contained in the said Deed Poll and from all reservations except such as are incident to a Crown grant of purchased lands at and for a sum or price of not less than twenty thousand pounds: Provided that it shall be one of the conditions of such sale that such corporation as aforesaid shall be permitted to occupy the said lands and premises so sold or so much thereof as shall be necessary for the purposes of the said asylum for such period not exceeding two years as the said corporation shall find necessary for the procuring and entering into actual occupation of sufficient land as aforesaid and the erecting of building accommodation for the purposes of the said asylum in lieu of the land and premises so sold. And also that such occupation shall be at a nominal rent to be agreed upon between the parties previously to the said corporation executing or covenanting to execute any transfer of the said lands and premises. And that during such occupation as aforesaid the said corporation shall with respect to the lands and premises so sold enjoy the same immunity as heretofore in respect of all municipal rates taxes assessments and other charges.

Power to corporation to sell lands in schedule B to the Emerald Hill municipality.

2. The net proceeds of sale of the lands and premises comprised in schedule B hereto or so much thereof as such corporation as aforesaid shall find necessary shall immediately upon the completion of such sale be available for and shall as and when necessary be applied in the procuring suitable and sufficient freehold land and building accommodation for the purposes of the said asylum and in defraying all expenses incident to the fitting furnishing and entering into the actual occupation thereof and the entire surplus if any of such net proceeds after such application

Application of purchase moneys of lands in schedule B.

application as aforesaid shall be set apart as a separate and distinct fund to be called "The Permanent Land and Building Fund" which shall be available for and applied to the extension and improvement of the permanent land and building accommodation actually used and occupied as and for the purposes of the said asylum by the purchase of lands in fee simple either with or without buildings thereon and by erecting or making on any lands permanently used and occupied by the said asylum such new buildings or additions to or material alterations of any existing buildings thereon as shall from time to time be necessary to satisfy in the opinion of the said corporation the requirements of the said asylum. And pending their application in manner herein authorized the moneys constituting the said fund shall be invested in manner hereinafter authorized and all income interest or profits arising out of such moneys or in any way accruing to such fund shall be added to and be and be deemed part of the capital of such fund.

Power to corporation
to sell remaining
lands.

3. It shall be lawful for the said corporation and it is hereby authorized and empowered at any time or times after the sale hereunder of the lands and premises comprised in schedule B hereto (which said lands form portion of the lands comprised in schedule A hereto) to sell and convey the residue of the lands and premises comprised in schedule A hereto for the time being remaining unsold or any portion or portions thereof for an estate in fee simple free from the conditions provisions and declarations of the said Deed Poll of the twelfth day of January One thousand eight hundred and seventy-two for such prices upon such terms and subject to such conditions and reservations in all respects as to the said corporation shall seem fit and either by public auction or private contract or partly by the one mode and partly by the other with power to buy in the said lands and premises or any of them and to rescind or vary the terms of any contract for sale and resell the same and to duly convey or transfer any property so sold to the purchaser thereof or as such purchaser shall direct. And also to defer or postpone the sale of such remaining lands and premises or of any portion or portions thereof so long as to the said corporation shall seem expedient.

Application of
purchase moneys of
remaining lands.

4. It shall be lawful for the said corporation and it is hereby authorized and empowered from time to time as and when it shall think fit to expend the net moneys arising from the sale hereby authorised of any of the lands and premises comprised in schedule A hereto other than those comprised in schedule B hereto or any portion of such net moneys in erecting houses shops and other tenantable buildings upon such of the said lands as are not comprised in the said schedule B and which shall for the time being remain unsold for the purpose of demising letting or selling the same with the land on which they shall respectively stand. And all such net moneys as aforesaid shall until expended in manner hereby authorized be invested by the said corporation in manner hereinafter authorized.

5. It

5. It shall be lawful for the said corporation to demise or let for the purposes of occupation building repairing or improving or any purposes whatsoever such of the said lands and premises other than those comprised in schedule B hereto as shall not for the time being have been sold or any portion or portions thereof for such terms of years or for lives or for years determinable on lives or for lives with or without a term or for any period whatsoever at such rents with or without fine or premium and generally upon such terms and in such manner as the said corporation shall think fit with power to enter into and to vary or rescind any contract for any such demising or letting and to apportion any rent reserved or agreed to be reserved by or in any lease or letting or agreement for a lease or letting And all moneys received by way of fine or premium in respect of any demise or letting hereunder shall be deemed capital moneys and dealt with as if the same were proceeds of sale of such lands and premises.

Power to corporation
to lease unsold
premises.

6. It shall be lawful for the said corporation for the purposes of advantageously selling demising or letting any of the lands and premises comprised in Schedule A hereto other than those comprised in Schedule B hereto to subdivide the same into such lots and make and reserve such streets right-of-ways passages and easements through over or in connection with the said lands and premises or any portion or portions thereof as it shall think fit: Provided always that the position direction length width and level of any such street shall be first approved of by the council of the said municipality and after the construction of any such street the said council shall at all times have absolute control over the alignment levels maintenance and general management thereof.

Power to corporation
to subdivide lands
and make streets
&c.

7. All rents and income arising from lands or buildings demised or let hereunder and interest and income arising from any fine or premium received in respect of any such demising or letting or from the net proceeds of sale of any of the lands and premises comprised in Schedule A hereto other than those comprised in Schedule B hereto shall be available for and applied to the following purposes in the order of application here mentioned that is to say in the first place the payment of all rates taxes assessments and other municipal charges in respect of any of the property of the said corporation secondly the payment of all expenses incident to the repairing insuring and general management of the property of the said asylum and lastly the general maintenance and current expenses of the said asylum.

Application of rents
and income.

8. All net moneys arising from the sale of any of the lands and premises comprised in Schedule A hereto or from any fine or premium received in respect of any demising or letting hereunder shall be deemed capital or principal moneys and shall only be available for the purposes for which the same are by this Act expressly declared available and shall not nor shall any portion thereof under any circumstances by anticipation or otherwise be available for the general maintenance or current expenses

Capital or principal
moneys not avail-
able for mainte-
nance &c.

of

of the said asylum or the payment of any of the other liabilities and expenses mentioned in the last preceding section of this Act.

Investments.

9. All moneys invested under the provisions of this Act shall be invested by and in the name of the said corporation in Government debentures of this colony or in the four per cent. Victorian Government stock or upon mortgage of freehold lands in this colony and shall pending such investment be paid into the Government treasury to the credit of an account entitled "The Melbourne Orphan Asylum Account" to be operated upon by the said corporation.

Corporation's receipts to be valid.

10. Every receipt in writing which shall be given by the said corporation for any purchase or other moneys payable under or by virtue of this Act shall be an effectual discharge to the person to whom the same shall be given for so much money as shall in such receipt be expressed to be received and no person paying any such money and taking such receipt shall be bound to see to the application of the money so paid or be answerable for or affected by the loss non-application or misapplication thereof.

SCHEDULE A.

All that piece or parcel of land in the colony of Victoria containing eleven acres and two roods or thereabouts situated in the county of Bourke borough of Emerald Hill being section fourteen commencing at the intersection of the southern side of Dorcas-street by the western side of Clarendon street bounded thence by the last-named street bearing south twenty-eight degrees east eleven chains fifty links thence by Park-street bearing south sixty-two degrees west ten chains thence by Cecil-street bearing north twenty-eight degrees west eleven chains fifty links and thence by the first-named street bearing north sixty-two degrees east ten chains to the point of commencement.

SCHEDULE B.

1. All that piece or parcel of land in the colony of Victoria situated in the county of Bourke borough of Emerald Hill being part of section fourteen commencing at a point distant one hundred and five feet west from the building line of the western side of Clarendon street on the extension of the building line of the northern side of Bank street bounded thence by the last-named street bearing west seventy feet thence by a line parallel with Clarendon street bearing north two hundred and forty feet thence by a line parallel with Bank street bearing east seventy feet and thence by a line parallel with Clarendon street two hundred and forty feet to the point of commencement.

2. All that piece or parcel of land situated as aforesaid commencing at a point distant two hundred and twenty-nine feet six inches west from the building line of the western side of Clarendon street on the extension of the building line of the northern side of Bank street bounded thence by a line parallel with Clarendon street bearing north one hundred and seventy feet thence by a line parallel with Dorcas street bearing west two hundred and two feet thence by a line parallel with Clarendon-street two hundred and thirteen feet bearing south thence by a line parallel with Dorcas street bearing east two hundred and two feet thence by a line parallel with Clarendon street forty-three feet to the point of commencement.

3. All that piece or parcel of land situated as aforesaid commencing at a point distant one hundred and five feet east from the building line of the eastern side of Cecil street on the extension of the building line of the northern side of Bank street bounded thence by a line parallel with Cecil street bearing north two hundred and forty feet thence by a line parallel with Dorcas street bearing east seventy feet thence by a line parallel with Cecil street bearing south two hundred and forty feet thence by a line parallel with Dorcas street seventy feet to the point of commencement.

MELBOURNE:

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