
St. Mark's Church Darling Point Land Sale Ordinance, 1961.

No. 13, 1961.

AN ORDINANCE to authorise the sale of certain land situated at Darling Point Road Darling Point and providing for the application of the proceeds thereof.

WHEREAS by an Indenture of Conveyance dated the twenty sixth day of June One thousand eight hundred and forty eight made between Thomas Sutcliffe Mort of the first part Charles Nicholson William Dumaresq Thomas Ware Smart Thomas Whistler Smith and the said Thomas Sutcliffe Mort of the second part and Charles Lowe of the third part Registered No. 676 Book 15 after reciting that at a meeting of subscribers for the erection and providing of a church to be called St. Mark's Church in the Parish of Alexandria and a Minister's dwelling duly convened and held pursuant to Public Notice in the Vestry of the temporary Chapel of St. Mark in the said Parish on the twelfth day of June then instant the parties to the said Indenture of the second part were by a plurality of votes of the subscribers present at such meeting elected trustees of the said intended church in conformity with the provisions of the Act of the Governor and Legislative Council of the Colony of New South Wales 8 William IV No. 5 intituled "an act to regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" and further that the party to the said Indenture of the first part having a power of appointment in respect of two acres and thirty three perches of land of which the land intended by such Indenture to be conveyed formed part had contracted with his said co-trustees for the sale to them of the fee simple free from encumbrances of the land described in the First Schedule hereto as a site for the said intended Church and in order that the same might be legally and effectually conveyed to and vested in all the said parties to the said Indenture of the second part jointly as such trustees as aforesaid it had been agreed that the same should be limited and appointed to the use of the said Charles Lowe upon the trusts and for the purposes in such Indenture declared the said Thomas Sutcliffe Mort the party to such Indenture of the first part did at the request and by direction of his Co-trustees and in pursuance of the said power of appointment vested in him appoint All That the land comprised and described in the First Schedule hereto unto and to the use of the said Charles Lowe and his heirs to the intent that he and his heirs should by Deed of Reconveyance then already prepared and marked

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with the number 2 convey and assure such land unto the parties to the said Indenture of the second part and their heirs upon the trusts expressed and contained of and concerning the said land in a certain Deed Poll or Declaration of Trust also then already prepared and marked with the number 3 AND WHEREAS the said deed of Reconveyance and Declaration of Trust both duly executed and bearing the same date as the said Indenture were respectively registered as Nos. 677 and 678 Book 15 and the land described in the First Schedule hereto was duly conveyed by the said Deed of Reconveyance to the parties to the said Indenture of the second part Upon Trust for the erection thereon of the said intended church and to the intent that they the parties referred to might thereby be constituted trustees to whom might be issued all such sum of money as by the provisions of the Act of Council in that behalf might be authorised to be issued for the erection of the said intended church and subject to the powers and declarations contained in the said Declaration of Trust marked with the number 3 And by the said Declaration of Trust marked with the number 3 and entered into by the before named Charles Nicholson William Dumaresq Thomas Ware Smart Thomas Whistler Smith and Thomas Sutcliffe Mort they the declarants declared that the moneys paid in respect of the purchase from the said Thomas Sutcliffe Mort of the land described in the said Indenture and in the First Schedule hereto were part of the moneys raised by the subscriptions and for the purposes as hereinbefore recited and that they and the survivor of them and the heirs of such survivor should at all times thereafter stand seized of the said land upon trust that the said land and church and all buildings to be thereon erected might be for ever thereafter appropriated and used as and for a Church according to the order and usage of the said United Church of England and Ireland and to and for no other use or purpose whatsoever in conformity with the provisions of the Acts of the Governor and Legislative Council of the said Colony 7 William IV intituled "an act to promote the building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales" and 8 William IV No. five intituled "An Act to regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" and such of them as should then be subsisting and capable of effect AND WHEREAS in pursuance of the said recited trusts a church was erected upon the land such church now being known as St. Mark's Church Darling Point AND WHEREAS by Consent dated the Second day of December One thousand nine hundred and sixty Registered No. 307 Book

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2553 under the hand of His Grace The Archbishop of the Diocese of Sydney given under the provisions of Section 19 of Church of England Trust Property Act 1917 and by virtue of the provisions of Section 20 of the said Act the land described in the First Schedule hereto has become vested in Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) AND WHEREAS a part of the said land originally intended for a parsonage and in substitution for which part of the said Thomas Sutcliffe Mort had provided another piece of land was subsequent to the date of the said Indenture the said Reconveyance and the said Declaration of Trust and at the request of the said Thomas Sutcliffe Mort and in consideration of his foregoing payment of certain moneys then remaining unpaid in respect of the provision of such other piece of land leased for a term of 99 years from the twenty eighth day of April, 1860, to one James Renny Campbell AND WHEREAS the said term of 99 years duly expired prior to the date of such vesting in the said Corporate Trustee and prior to the date of expiry thereof the owner of the land immediately adjoining and to the south of the land described in the first Schedule hereto was the proprietor of the said lease and during the holding of such lease the land the subject of such lease had for some considerable period of time been used by such proprietor in conjunction with such adjoining land AND WHEREAS lately the said Corporate Trustee has been in treaty with the owner of the said adjoining land who had requested the said Corporate Trustee to make available by sale to and purchase by such owner of a small portion of the land formerly held under the said lease such portion of the said land being described in the Second Schedule hereto for a sum of Six hundred pounds and upon conditions deemed to be advantageous to the said Corporate Trustee in relation to the remainder of the land described in the First Schedule hereto including the provision and erection at a cost to be borne equally between the said Trustee and such adjoining owner of a stone wall which would constitute a fitting division between the remainder of St. Mark's Church land and the land sought to be disposed of and payment by the purchaser of the cost of necessary survey and plan of subdivision AND WHEREAS it is expedient that the proposed sale of the land described in the Second Schedule hereto should be carried into effect AND WHEREAS subject to the completion of such proposed sale it is desirable that the proceeds of such sale after payment thereof of all expenses incidental to this Ordinance and to the sale and conveyance of the land described in the Second Schedule hereto should be made available firstly to meet payment of the share of the cost of the stone wall

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referred to which would be undertaken by the said Corporate Trustee and subject thereto to be held and applied to payments in respect of proposed alterations of and the additions to the said Church building of Cloisters and other improvements NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod ordains declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the trusts hereinbefore recited it is inexpedient to carry out and observe the same to the extent to which they apply to the land described in the second schedule hereto and it is expedient that the land comprised and described in the said schedule be sold.

2. The said Corporate Trustee is hereby authorised and empowered to sell the land described in the said second schedule at such price and upon such terms and conditions as the Corporate Trustee may think fit freed from the trusts aforesaid.

3. The proceeds of sale of the said land shall be applied by the said Corporate Trustee.

(a) In defraying the expenses of and incidental to this ordinance.

(b) In defraying the expenses of and incidental to sale of the said land.

(c) In defraying that part to be undertaken by the said Corporate Trustee of the expenses of the provision and erection of the stone wall dividing the land described in the Second Schedule from the remainder of the land described in the First Schedule hereto of which it forms part.

(d) In holding and investing the balance in accordance with the provisions of the Church Trust Property Investment Ordinance 1944 or any amendment thereof and applying the capital and income arising therefrom in or towards the costs of alterations and additions from time to time to be made to the St. Mark's Church building at Darling Point when required by the Churchwardens thereof.

4. This Ordinance may be cited as "St. Mark's Church Darling Point Land Sale Ordinance 1961."

THE FIRST SCHEDULE REFERRED TO.

All that piece or parcel of land containing two roods and eight perches (parcel of the aforesaid two acres and thirty three perches) situate and being in the Parish of Alexandria (north) and County of Cumberland of which the boundaries and measurements are as follow that is to say Commencing at a point on the eastern side of Darling Point Road forty feet south from the North-West corner of other land there of the said Thomas Sutcliffe Mort and bounded on the north by a line east one hundred and seventy feet on the east by a line south one hundred and fifty feet passing through the centre of a well on the south by a line west one hundred and fifty two feet to the eastern side of Darling Point Road aforesaid and thence by the eastern side of the said road bearing northerly to the commencing point with the appurtenances.

THE SECOND SCHEDULE REFERRED TO.

All that piece or parcel of land containing one and one half perches or thereabouts being part of two roods eight perches comprised in Indenture of Conveyance dated 26th June, 1848, and registered number 676 Book 15 situate and being at Darling Point in Municipality of Woollahra Parish of Alexandria and County of Cumberland Commencing at a point on the eastern side of Darling Point Road being the North Western corner of the land in Certificate of Title Volume 2142 Folio 226 and bearing 81 degrees 38 minutes for 36 feet 2 inches thence 90 degrees 50 minutes for 43 feet and thence 93 degrees 57 minutes 40 seconds for 67 feet 9½ inches to a point on the northern boundary of the land in said Certificate of Title Volume 2142 Folio 226 three feet three and one half inches from the North Eastern corner of the land in such Certificate of Title and from such lastmentioned point bearing 270 degrees 1 minute for 146 feet 5 inches to the point of commencement being the said measurements all a little more or less which piece or parcel of land is Lot A shown in miscellaneous plans of subdivision (R.P. 119413) and (O/S14559).

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I certify that the Ordinance as printed is in accordance with the Ordinance as reported.

ATHOL R. RICHARDSON,
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 27th day of March, 1961.

W. L. J. HUTCHISON,
Secretary.

I assent to this Ordinance.

HUGH SYDNEY,
Archbishop of Sydney.

24/4/1961.