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*St. Thomas North Sydney Cemetery Resumption 1928.*

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**No. 12. 1928.**

AN ORDINANCE to authorise the Church of England Property Trust Diocese of Sydney to receive from the Municipal Council of Sydney the amount of compensation money to be paid by the Council in respect of the resumption by the Council of certain land situated in West Street North Sydney and to declare the trust upon which the said compensation money shall be held.

WHEREAS by Conveyance dated the twenty-fifth day of January One thousand eight hundred and sixty-seven Registered No. 53 Book 102 made between Alexander Berry of the one part and Conrad Martens and Charles Younger of the other part certain land of which the land described in the Schedule hereto forms part was conveyed to the said Conrad Martens and Charles Younger upon trust to permit and suffer the same to be used as a burial ground of the Church of England and upon certain other trusts as therein provided AND WHEREAS by Vesting Deed witnessed the tenth day of September One thousand eight hundred and eighty-six Registered No. 639 Book 631 the said land conveyed by the lastly recited Conveyance was vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the said Trust) subject to the trusts in the said recited Conveyance expressed or contained or to so much of the same as were still subsisting undetermined and capable of taking effect AND WHEREAS with the consent of the said Trust the Churchwardens of the Church of St. Thomas in the Parish of North Sydney have used the said land for the purpose aforesaid AND WHEREAS by Notice of Resumption dated the thirty-first day of January One thousand nine hundred and twenty-seven under the Common Seal of The Municipal Council of Sydney the said Council in pursuance of the power and authority given to or vested in the Council by the Sydney Corporation Amendment Act of 1905 and otherwise did declare and give notice that the land described in the Schedule thereto being the same land as is described in the Schedule hereunder written was thereby

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resumed by the Council under the provisions of the "Sydney Corporation Amendment Act 1905" aforesaid AND WHEREAS the said Notice of Resumption and the description in the Schedule thereto were duly published in the Government Gazette and in four of the Sydney daily newspapers on the fourth day of February One thousand nine hundred and twenty-seven and there upon such land became for the purposes and subject to the provisions of the said Act vested in the said Municipal Council of Sydney for an estate in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights of way or other easements whatsoever AND WHEREAS in pursuance of the Public Works Act 1900 as adopted by the Sydney Corporation Amendment Act 1905 the said Trust caused the prescribed Notices of Claim to be served upon the City Solicitor and The Municipal Council of Sydney AND WHEREAS the interest of the said Trust in the said land has been valued by the Municipal Council of Sydney at the sum of one hundred and ninety-two pounds AND WHEREAS by reason of the said resumption which is a circumstance subsequent to the creation of the trusts of such land it has become impossible to carry out or observe such trusts AND WHEREAS it is expedient that the said Trust should be authorised to receive the amount of compensation money and interest thereon to be paid by the Council in the matter of the said resumption and that power should be conferred upon the said Trust to apply the same in manner hereinafter appearing Now therefore the Standing Committee of the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Church of England Trust Property Act 1917 and the Land Ordinance Procedure and Delegation of Powers Ordinance 1926 and in pursuance of the powers vested in the said Synod by the Constitutions for the management and good government of the Church of England within the State of New South Wales or otherwise in the name and in the place of the said Synod directs declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the hereinbefore mentioned trusts it has become impossible to carry out or observe such trusts with regard to the land comprised in the Schedule hereto.

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2. The said Trust is hereby authorised to receive from The Municipal Council of Sydney the amount of the compensation money and interest thereon to be paid by the Council as compensation in respect of the resumption of the land described in the Schedule hereto and the receipt of the said Trust shall effectually discharge the Council from being concerned to see to the application of the said moneys or being answerable for the loss or misapplication thereof.

3. The said moneys after payment thereof of all costs charges and expenses already incurred and to be incurred of and incidental to the resumption notice of claim the ascertainment of the value of the said land and of and incidental to this Ordinance shall be held by the said Trust and the income thereof shall be applied by it for and towards the repair maintenance upkeep and improvement of the said burial ground.

4. The said moneys held upon such trust may be invested in any one or more of the investments following, that is to say:—

- (a) Purchase of real estate.
- (b) Any public funds or Government stock or Government security bonds debentures inscribed stock or Treasury Bills of or guaranteed by the Federal Government or the Government of any State in the Commonwealth of Australia.
- (c) First mortgage on real property situated within the Commonwealth.
- (d) Stocks funds or securities in or upon which by any general order cash under the control of any Court of Equity within the said Commonwealth may from time to time be invested.
- (e) Debentures of any Harbour Trust or Board of Works within the Commonwealth.
- (f) Municipal debentures of any State capital.
- (g) Mortgage bonds under any of the Savings Banks Acts of the Federal Government or any State within the Commonwealth.
- (h) Deposits in any Government Savings Bank within the Commonwealth.
- (i) Fixed deposits in any Bank carrying on business in the State of New South Wales

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and the Trustee may from time to time vary or release or raise money on the security of such investments.

5. This Ordinance may be cited as "St. Thomas North Sydney Cemetery Resumption Ordinance 1928."

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that piece of land situated in the Municipality of North Sydney Parish of Willoughby County of Cumberland State of New South Wales and containing an area of 2½ perches commencing on the North-western alignment of West Street at a point bearing 190 degrees 35 minutes 30 seconds and distant 189 feet 9 inches from the intersection of that alignment of that street with the South-western alignment of Chandos Street and bounded thence on the South-east by part of the North-western alignment of West Street aforesaid bearing 190 degrees 35 minutes 30 seconds for 16 feet on the South-west by a line bearing 279 degrees 58 minutes for 40 feet on the North-west by a line bearing 10 degrees 35 minutes 30 seconds for 16 feet to the South-western boundary of a reserve one foot wide adjoining the South-western boundary of Lot 23 Deposited Plan No. 1265 and thence on the North-east by part of the said South-western boundary of that reserve being a line bearing 99 degrees 58 minutes for 40 feet to the point of commencement.

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

W. J. G. MANN,

Acting Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this thirtieth day of July, 1928.

C. R. WALSH,

Secretary.

I assent to this Ordinance,

JOHN CHARLES SYDNEY.

31st July, 1928.