
*The Christ Church St. Lawrence Sydney.
Resumptions Ordinance, 1929.*

No. 9. 1929.

AN ORDINANCE to authorise the Church of England Property Trust Diocese of Sydney to receive from the Master in Equity the respective amounts of moneys paid into Court as (1) the balance of compensation for the resumption of lands formerly belonging to the Church of England Property Trust Diocese of Sydney as Trustee for Christ Church St. Lawrence Sydney and (2) the balance of compensation for the resumption of lands formerly belonging to the said Church of England Property Trust Diocese of Sydney as Trustee for Christ Church St. Lawrence Rectory and (3) the balance of compensation for the resumption of lands formerly belonging to the said Church of England Property Trust Diocese of Sydney as Trustee for the School in connection with Christ Church St. Lawrence (4) and for leave to demise pertion of the Rectory Lands And also to declare the trusts upon which the said respective moneys shall be held.

WHEREAS by Deed Poll or Grant from the Crown dated the 9th day of May 1842 all that piece or parcel of land containing 2 roods and 25 perches more or less situated in the County of Cumberland and Parish of St. Lawrence Town (now City) of Sydney and therein more particularly described was granted by Her late Majesty Queen Victoria unto the Lord Bishop of Australia afterwards Archbishop of Sydney William Kerr, Prosper de Mestre John Betts and Michael Metcalfe therein described as Trustees upon trust for the erection thereon of a Church of the United Church of England and Ireland which said Church is in the State of New South Wales called the Church of England AND WHEREAS by a Deed Poll or Grant from the Crown dated the ninth day of May One thousand eight hundred and forty-two all that parcel of land containing one rood twenty-five and a half perches more or less situate in the County of Cumberland Parish of Saint Lawrence Town (now City) of Sydney was granted by Her late Majesty Queen Victoria unto the said Lord Bishop of Australia William Henry Kerr Prosper de Mestre and Michael

Metcalfe therein described as being trustees respectively nominated and appointed by the said recited Act passed in the eighth year of the reign of His late Majesty King William the Fourth their heirs and assigns for ever upon trust (subject to the conditions and reservations in the said Crown Grant contained) for the appropriation thereof as the Site of a dwelling house garden and other appurtenances for the clergyman duly appointed to officiate in the said Church in conformity with the provisions of the said Act and of a certain other Act made and passed in the Seventh year of the reign of His said late Majesty King William The Fourth 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 WHEREAS by a certain other Act passed in the sixteenth year of the reign of Her late Majesty Queen Victoria intituled an Act to enable the Trustees of Christ Church and the Parsonage adjoining in the City of Sydney to dispose of and convey either by way of absolute sale or by exchange or to demise or lease the site of such Parsonage and to purchase or erect another Parsonage in a more convenient situation in the said Parish and for other purposes therein mentioned assented to on the twenty-first day of December one thousand eight hundred and fifty-two after reciting in the preamble thereof amongst other things the said two Crown Grants and that a Church of the said United Church known as Christ Church and a dwelling house for the clergyman of the said Church had been erected the said Church in part on other land and in part on the site granted for the dwelling house and garden aforesaid and the said dwelling house or parsonage on the site granted for the Church and that such change of sites as aforesaid had been assented to by the Crown AND WHEREAS the Trustees named in the said Grants with the exception of the said Bishop of Sydney William Henry Kerr and Michael Metcalfe had departed this life and the said William Henry Kerr (never having acted in the said Trust) had ceased to reside within the Colony of New South Wales AND that no new Trustees having been appointed in the place of the Trustees so dying and absent as aforesaid the right of nomination of such new Trustees had lapsed to the said Bishop And that the said Bishop had nominated Edmund Thomas Blacket Thomas Woolley and Michael Egan Murnin Trustees of the said Church and Minister's dwelling

house jointly with the said surviving and continuing Trustees And it was amongst other things enacted that the lands assured by the said two several recited Grants respectively as the same were then fenced in and occupied by the continuing Trustees of the said Church and Parsonage with all buildings thereon should from and immediately after the passing of the Act now in recital and without the execution of any Conveyance or other assurance thereof become vested in the said Edmund Thomas Blacket Thomas Wooley and Michael Egan Murnin jointly with the said Bishop of Sydney and Michael Metcalfe as the Trustees thereof for the purposes of the two several Acts herein referred to but with power nevertheless for any three of the said trustees or other the trustees for the time being of the said Church Parsonage lands and hereditaments to sell the said two roods and twenty-five perches freed and discharged from the trusts respecting the same And by Section Three of the said Act it was further enacted that it should be lawful for the trustees for the time being of the said lands and they were thereby authorised and empowered to accept a Grant or gift of other suitable freehold land within the said Parish either with or without buildings thereon as a site for a new Parsonage AND WHEREAS it was agreed between the Minister of Works and the said Trustees that the sum of £8500 should be taken and accepted in full payment and satisfaction for the resumption by the Crown from the said Trustees of Christ Church of the said Church lands and of all claims in respect thereof AND WHEREAS by an Order of the Supreme Court of New South Wales in Equity dated the 16th day of November 1904 upon the hearing of the Petition of the said Trustees intituled "Ex parte the Minister for Public Works for the State of New South Wales In the matter of the Public Works Act 1900 and of the City Railway Extension (Devonshire Street) Act 1900 and of certain lands in the Parish of Saint Lawrence County of Cumberland which have been resumed by the Minister under the said Public Works Act 1900 And of the claim of the Archbishop of Sydney James Moors and Thomas James Foote Trustees of Christ Church Sydney Church Lands to be paid compensation in respect of the lands so resumed" It was ordered (inter alia) that the balance of the money in Court be invested by the Master in Equity in Government Debentures or other stock in the names of the said Trustees

to be held on the same trusts (in so far as they are applicable to money) as the lands resumed as aforesaid AND WHEREAS such balance in Court amounting to £8475 (since increased to £8658 6s. 8d.) has been so invested by the Master in Equity AND WHEREAS by deed of consent made by the said William Saumarez Smith, D.D., Archbishop of Sydney James Moors and Thomas James Foote (the said Trustees of Christ Church Church Lands) dated the 23rd day of August 1900 registered No. 760 Book 810 the lands held upon trust for the erection of Christ Church St. Lawrence Sydney became vested in the said Church of England Property Trust Diocese of Sydney as successors in the trusts of the said William Saumarez Smith James Moors and Thomas James Foote and on the same date the said £8250 debentures and £225 debentures became vested in the said Church of England Property Trust Diocese of Sydney as successors in the trusts of the said William Saumarez Smith James Moors and Thomas James Foote AND WHEREAS it is expedient that the said Church of England Property Trust Diocese of Sydney should be authorised to receive the balance of the said moneys so invested as aforesaid with interest from the Master in Equity and to give and execute effectual receipts and discharges of the same And by the said agreement it was agreed that the sum of £9000 should be assessed as compensation in full for the resumption of the said Rectory land and that £3000 of this amount should be expended in the purchase from the Crown of certain land belonging to the Crown as superfluous land and that application be made to the Court to sanction the said Agreement AND WHEREAS by an Order of the Supreme Court of New South Wales in Equity dated the first day of July 1904 the said Court did sanction and approve of the said agreement AND WHEREAS such compensation money and interest was paid into Court to the credit of this matter AND WHEREAS by an Order of the Supreme Court of New South Wales in Equity in the same matter dated the sixteenth day of November one thousand nine hundred and four it was ordered that after payment of certain sums of money therein mentioned the balance of the said moneys in Court should be invested by the Master in Equity in Government Debentures or other stock in the names of the said Trustees subject to the aforesaid trusts AND WHEREAS such balance paid into Court now amounts to £875 and is invested in Government Debentures

AND WHEREAS by Deed of Consent of the said Trustees dated the twenty-third day of August one thousand nine hundred and six registered number 759 Book 810 the said Rectory land became vested in the Church of England Property Trust Diocese of Sydney subject to the aforesaid trusts AND WHEREAS it is expedient that the said Church of England Property Trust Diocese of Sydney should be authorised to receive the balance of the said moneys so invested as aforesaid with interest (if any) from the Master in Equity and to give and execute effectual receipts and discharges for the same AND WHEREAS by an Indenture of Lease dated the 14th day of June 1929 made between the said Church of England Property Trust Diocese of Sydney (therein called Lessor) of the one part and Marcus Clark and Company Limited (therein called Lessee) of the other part and registered number 156 Book 1563 the said Lessor demised unto the said Lessee all that piece of land described in the Schedule hereto from the 1st day of March 1929 for the term of three years at the yearly rental of £375 AND WHEREAS it is expedient that the said Church of England Property Trust Diocese of Sydney should be authorised on the expiration of the said demise to grant a further demise of the land described in the schedule for such term and for such rents and on such conditions as the said Church of England Property Trust Diocese of Sydney and the Standing Committee of the Synod of the Diocese of Sydney should approve AND WHEREAS the lands belonging to the said Church of England Property Trust Diocese of Sydney as Trustees for the erection of a School House in connection with the Church of England in the Parish of Christ Church Saint Lawrence Sydney were resumed and the sum of £43,500 was agreed upon as the amount of compensation payable in respect thereof AND WHEREAS by an Order of the Supreme Court of New South Wales in Equity dated the first day of July one thousand nine hundred and four upon the hearing of the Petition of the said Trust and of the Most Reverend William Saumarez Smith Frederick John Albergh William Everett Charles William McEwan and James Moors intituled "In the matter of the Christ Church School Lands being certain lands situate in the Parish of Saint Lawrence City of Sydney in the State of New South Wales held in trust for Schools in connection with Christ Church aforesaid AND in the

matter of the Act Fifty Two George III. Cap 101 intituled an Act to create a summary remedy in cases of abuses of trusts created for charitable purposes AND in the matter of the Public Works Act 1900 and of the City Railway Extension (Devonshire Street) Act of 1900" it was ordered and allowed that thirteen thousand pounds of the compensation money payable to the said Church of England Property Trust Diocese of Sydney under the agreement mentioned in the said Petition (being the hereinbefore in part recited agreement) dated the fifteenth day of June one thousand nine hundred and four in respect of the lands resumed from them the said Trustees be applied in the purchase of the lands described in the Fourth Schedule to the said agreement so soon as the said compensation money should be made available and by the said order it was declared that the said Court did sanction and ratify the said agreement AND WHEREAS by an order of the Supreme Court of New South Wales in Equity dated the sixteenth day of November 1904 upon the hearing of the Petition of the Church of England Property Trust Diocese of Sydney William Saumarez Smith Archbishop of Sydney James Moors Thomas James Foote and Frederick John Albery intituled "ex parte the Minister for Public Works In the matter of the Public Works Act 1900 and of the City Railway Extension (Devonshire Street) Act 1900 and of certain lands in the Parish of Saint Lawrence County of Cumberland which have been resumed by the Minister under the said Public Works Act 1900 and of the claim of the Church of England Trust Property Diocese of Sydney to be paid the compensation in respect of the land so resumed as aforesaid AND in the matter of the Act 52 George III c 101" It was ordered that the moneys in Court to the credit of the said matter be paid out to the said Church of England Property Trust Diocese of Sydney and the Court did declare that subject to the provisions of the hereinbefore recited order of the 1st July 1904 the moneys in Court were subject to the same trusts (so far as such trusts were applicable to money) as were the said lands before resumption and it was declared that the Court did sanction and approve of the application of the moneys then in Court to the credit of this matter as follows:—

- (a) that a sum of £13000 be paid out of the said moneys to the said Respondent Minister as purchase money for

a site for a school in accordance with the terms in the said agreement dated 15th June 1904 as sanctioned by the Court by its said order dated 1st July 1904.

- (b) That out of the said moneys in Court a sum of £12000 be applied in erecting new schools paying architects fees and furnishing the said schools and other charges and expenses.
- (c) That out of the said moneys in Court a sum for rent at the rate of £750 per annum in accordance with an agreement of Lease made between the said Minister for Works and The Church Property Trust and dated the 28th day of October 1904 should be paid to the Respondent Minister for Works.
- (d) That out of the said moneys in Court a sum for rent at the rate of £950 per annum from the 13th day of October 1904 to the date of the payment of the said purchase money of £13,000 should be paid to the said Respondent Minister for Works.
- (e) That out of the said moneys in Court £1000 be paid to the said Church of England Property Trust Diocese of Sydney to be by it paid to the Petitioners William Sarmarez Smith Archbishop of Sydney James Moors and Thomas James Foote as Trustees in the said Order mentioned.
- (f) That the balance of the said moneys be invested by the Master in Equity in the name of the said Trust in Government Debentures or in other Stock subject to the approval of the Master in Equity.

AND WHEREAS the said balance of the said moneys amounting to £17216 13s. 4d. has been invested in the names of the said Church of England Property Trust Diocese of Sydney and of the Master in Equity in Government Debentures and is still so invested AND WHEREAS it is expedient that the said Trust should be authorised to receive the balance of the said moneys so invested as aforesaid from the Master in Equity and to give and execute effectual receipts and discharges for the same Now 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 declares directs and rules as follows:—

1. In the construction and for the purpose of this Ordinance the following expressions shall bear the respective meaning set against them viz. :—

“The Property Trust” The Church of England Property Trust Diocese of Sydney.

“The Church Compensation Money” The money paid as compensation for the resumption of the lands belonging to Church Trustees of Christ Church St. Lawrence Sydney.

“The Rectory Compensation Money” The money paid as compensation for the resumption of the lands belonging to the rectory Trustees of Christ Church St Lawrence Sydney.

“The Schools Compensation Money” The money paid as compensation for the resumption of the lands belonging to the Schools Trustees of Christ Church St. Lawrence Sydney.

2. By reason of the circumstances before recited which have occurred since the creation of the said respective recited trusts it has become impossible or inexpedient to carry out or observe the particular purpose or purposes to which the said resumed lands were by the said respective trusts devoted.

3. The Property Trust are hereby authorised to receive from the Master in Equity the respective amounts of The Church Compensation Money the Rectory Compensation Money and the Schools Compensation Money with all interest due or to accrue due thereon or the indicia of title of such amounts.

4. The Property Trust is hereby authorised to give and execute effectual receipts and releases for the respective amounts of such compensation moneys and interest and the receipt

or receipts of the Property Trust shall effectually discharge the Master in Equity from being concerned to see to the application thereof or being answerable for the loss or mis-application thereof or any part thereof.

5. The Property Trust shall hold the respective Church Compensation Money Rectory Compensation Money and Schools Compensation Money as and when the same shall be received by it upon the same respective trusts in respect thereof and shall have the powers and authorities hereinafter set forth namely :—

(a) To pay and discharge in pro rata proportions according to the respective amounts of the said Church Compensation Money The Rectory Compensation Money and the Schools Compensation Money all costs and expenses incurred in or about the obtaining payment by the Property Trust of the Church Compensation Money the Rectory Compensation Money and the Schools Compensation Money and about the preparation and completion of these presents.

6. The said moneys after payment thereof of all costs charges and expenses of and incidental to this Ordinance payable by the said Property Trust shall be held upon the same trusts as the said resumed lands were held prior to such resumptions and any moneys held upon such trusts may be invested in any one or more of the investments following, that is to say :—

- (a) The purchase of real estate.
- (b) Any public funds or Government Stock or Government securities 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 said 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.

*The Christ Church St. Lawrence Sydney
Resumptions Ordinance, 1929.*

- (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) On fixed deposit in any Bank carrying on business in New South Wales.

7. The land described in the Schedule hereto may be demised freed from the said trusts for such term and for such rent and on such terms and conditions as the said Church of England Property Trust Diocese of Sydney and the Standing Committee of the Synod of the Diocese of Sydney shall approve.

8. This Ordinance shall be styled and cited as "The Christ Church St. Lawrence Sydney Resumptions Ordinance 1929."

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that piece of land commencing at the north western corner of the present building of Marcus Clark and Company situated in George Street Sydney extending northerly fifty-two feet six inches and easterly eleven feet and the building and walls thereon erected.

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 twenty-sixth day of August, 1929.

C. R. WALSH,
Secretary.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

2nd September, 1929.