
*St. John's Robertson Vesting Variation of Trusts and
Land Sale Ordinance 1970*

No. 20, 1970

AN ORDINANCE to vest and vary the trusts of and to authorise the sale of certain lands at Kangaloon and East Kangaloon and to provide for the application of the proceeds:

WHEREAS by Land Grant Volume 193 Folio 171 dated the 16th day of February 1872 the land described in the first part of the First Schedule hereto was granted to Frederick Levi Diggins, John Brown and William Smith being respectively Trustees nominated and appointed under and by virtue of an Act intituled "An Act to regulate the Temporal Affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" upon trust for the erection thereon of a Church of the United Church of England and Ireland in conformity with the provisions of the said Act AND WHEREAS the said land has been subdivided and it is expedient that the northern moiety thereof being the land described in the first part of the Second Schedule hereto be sold and the proceeds thereof applied as hereinafter set forth AND WHEREAS the southern moiety thereof being the land described in the second part of the First Schedule hereto has been used as a cemetery it is expedient that the same be vested in Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") and be held upon trust to permit the same to be used as a cemetery in connection with the Church of England in Australia in the Parish of St. John Robertson AND WHEREAS by Land Grant Volume 193 Folio 172 dated the 16th day of February 1872 the land described in the second part of the Second Schedule hereto was granted to the said Frederick Levi Diggins the said John Brown and the said William Smith as Trustees pursuant to the Act hereinbefore recited upon trust for the appropriation thereof as a site of a dwelling house, garden and other appurtenances for the clergyman duly appointed to officiate in the Church of the United Church of England and Ireland in New South Wales erected at Kangaloon AND WHEREAS it is expedient that the said land described in the second part of the Second Schedule be vested in the Corporate Trustee and that the said land be sold and the proceeds applied as hereinafter set forth AND WHEREAS by Land Grant Volume 460 Folio 214 dated the 5th day of September 1877 the land described in the third part of the Second Schedule hereto was granted to the said Frederick Levi Diggins, Archibald Kirkland and John Hamilton as Trustees pursuant to the Act hereinbefore recited upon trust for the erection thereon of a School House in connection with the United Church of England

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and Ireland aforesaid AND WHEREAS there is erected on the said land described in the third part of the Second Schedule the Church known as St. Matthew's East Kangaloon AND WHEREAS no evidence of the consecration of the said Church has been found AND WHEREAS the said Church has not been used for several years by reason of the decrease of members of the Church of England in Australia residing in the neighbourhood of the said Church and of the proximity of other Churches and other circumstances which have occurred, it has become inexpedient to continue to use the same as a Church of the Church of England in Australia AND WHEREAS it is expedient that the said land described in the third part of the Second Schedule be vested in the Corporate Trustee and that the said land be sold and the proceeds applied as hereinafter set forth AND WHEREAS by virtue of Certificate of Title Volume 882 Folio 62 the said Frederick Levi Diggins, Archibald Kirkland Junior and the said John Hamilton are registered as the proprietors of an estate in fee simple as joint tenants of the land described in the fourth part of the Second Schedule subject to the reservations and conditions contained in the Grant AND WHEREAS the said land is church trust property held for the sole benefit of the Parish of St. John Robertson but no trusts in writing have been declared concerning the same AND WHEREAS it is expedient that the said land described in the fourth part of the Second Schedule be vested in the Corporate Trustee and that the said land be sold and the proceeds applied as hereinafter set forth AND WHEREAS by virtue of Certificate of Title Volume 494 Folio 6 Henry Smith, William Brenning and John Weir are registered as the proprietors of an estate in fee simple as joint tenants of the land described in the fifth part of the Second Schedule AND WHEREAS by Declaration of Trust dated the 26th day of June 1880 the said Henry Smith, William Brenning and John Weir declared themselves trustees of the said land to hold the same upon trust for the erection thereon of a Church of the United Church of England and Ireland under and subject to the provisions of the Act 8 William 4 No. 5 and for such other purposes in connection with the said Church as the Bishop of the Diocese should from time to time appoint AND WHEREAS it is expedient that the said land described in the fifth part of the Second Schedule be vested in the Corporate Trustee and that the said land be sold and the proceeds thereof applied as hereinafter set forth NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES AND DIRECTS as follows:—

1. The land described in the second part of the First Schedule hereto shall be and the same is hereby vested in the Corporate Trustee

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and shall be held by the Corporate Trustee upon trust to permit the same to be used as a cemetery in connection with the Church of England in Australia in the Parish of St. John Robertson.

2. The lands described in the Second Schedule shall be and the same are hereby vested in the Corporate Trustee and by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said lands and the Church of St. Matthew East Kangaloon are held it is inexpedient to carry out and observe the same and it is expedient that the said lands and such improvements be sold.

3. The Corporate Trustee is hereby empowered to sell the lands described in the Second Schedule by public auction or private auction or private contract at such time or times and at such price and upon such terms and conditions as the Corporate Trustee determines freed from the trusts upon which they are now held.

4. The proceeds arising from the sale of the said lands after paying thereout the costs of and incidental to this Ordinance and of the sale or sales and transfers in pursuance thereof and all outgoings to which the said lands may be subject shall be held and invested by the Corporate Trustee as follows:—

- (a) As to the sum of Two hundred and fifty dollars (\$250) upon trust as to both capital and income for the East Kangaloon Anglican Cemetery Trust to assist in the maintenance of the East Kangaloon cemetery.
- (b) As to the balance of the proceeds the same shall be held upon trust as to both capital and income for the Churchwardens for the time being of St. John's Church Robertson for general parochial purposes PROVIDED THAT the Corporate Trustee shall upon the written request of the said Churchwardens pay to them:—
 - (i) such sum not exceeding Seven hundred dollars (\$700) as shall be required towards the establishment of a pre-school kindergarten in the Parish Hall of St. John's Church Robertson.
 - (ii) such sum not exceeding Six hundred dollars (\$600) as shall be required to undertake plumbing and drainage work to the Rectory of the said Parish necessitated by the provision to the town of Robertson of a Council Water Supply.

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5. This Ordinance may be cited as "St. John's Robertson Vesting Variation of Trusts and Land Sale Ordinance 1970".

FIRST SCHEDULE

FIRST PART

ALL THAT piece or parcel of land containing by admeasurement one acre be the same more or less, situated in the County of Camden and Parish of Kangaloon COMMENCING on the Northern side of the road from Bowral to Robertson at its intersection with the Western boundary line of Portion Sixty-eight and Sixty-six acres, and bounded thence on the South by that Road, dividing it partly from part of Portion Thirty-seven of Two hundred acres, bearing West two chains and fourteen links, on the West by the Eastern boundaries of the appropriations for a Public School and Church of England Parsonage, being in all a line bearing North four chains and sixty-eight links, on the North by part of the Southern boundary line of Portion Sixty-seven of thirty-eight acres, bearing East two chains and fourteen links, and on the East by a line dividing it from that portion and from part of aforesaid portion Sixty-eight bearing South four chains and sixty-eight links to the point of commencement and being the whole of the land comprised in Land Grant Volume 193 Folio 171.

SECOND PART

ALL THAT piece or parcel of land in the Shire of Mittagong Town of East Kangaloon Parish of Kangaloon and County of Camden comprising 2 roods 1 perch being Lot 2 on Plan of Subdivision prepared by Mr. Surveyor Lanyon dated the 4th day of March 1970 having a frontage of 144' 0" to Main Road No. 263 by a depth on the Eastern side of 154' 5½" and on the Western side of 153' 7" with a rear line of 141' 8¾" (be the said area and dimensions a little more or less) and being part of the land comprised in Land Grant Volume 193 Folio 171.

SECOND SCHEDULE

FIRST PART

ALL THAT piece or parcel of land in the Shire of Mittagong Town of East Kangaloon Parish of Kangaloon and County of Camden comprising 2 roods 1 perch being Lot 1 on Plan of Subdivision prepared by Mr. Surveyor Lanyon dated the 4th day of March 1970 having dimension on the Southern boundary of 141' 8¾", Northern boundary of 141' 3", on the Eastern boundary of 155' 9" and on the Western boundary of 156' 7" (be the said area and

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dimensions a little more or less) and being part of the land comprised in Land Grant Volume 193 Folio 171.

SECOND PART

ALL THAT piece or parcel of land containing by admeasurement two roods be the same more or less, situated in the County of Camden Parish of Kangaloon COMMENCING on the Eastern side of a road fifty links wide at the South-western corner of Portion Sixty-seven of thirty-eight acres and bounded thence on the West by that Road dividing it from part of Portion Sixty-six of sixty acres bearing South two chains and thirty-four links, on the South by the Northern boundary line of the appropriation of two roods for a Public School, bearing East two chains and fourteen links, on the East by part of the Western boundary line of the appropriation of one acre for a Church of England Church bearing North two chains and thirty-four links and on the North by part of a Southern boundary line of Portion Sixty-seven aforesaid bearing West two chains and fourteen links to the point of commencement and being the whole of the land comprised in Land Grant Volume 193 Folio 172.

THIRD PART

ALL THAT piece or parcel of land containing by admeasurement two roods be the same more or less, situated in the County of Camden and Parish of Kangaloon COMMENCING on the Northern side of a road one chain wide at the South-western corner of an appropriation of one acre for a Church of England Church and bounded thence on the South by that Road bearing West two chains fourteen links on the West by a road fifty links wide bearing North two chains thirty-four links on the North by the Southern boundary of an appropriation of two roods for a Church of England Parsonage bearing East two chains fourteen links and on the East by part of the Western boundary of appropriation of one acre aforesaid bearing South two chains thirty-four links to the point of commencement and being the whole of the land comprised in Land Grant Volume 460 Folio 214.

FOURTH PART

ALL THAT piece or parcel of land situated in the Parish of Kangaloon and County of Camden containing four acres or thereabouts COMMENCING on the Northern side of a reserved road one chain wide to Robertson at its intersection with the Western boundary of Portion Sixty-eight and bounded thence on the South

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by that Road bearing Easterly ten chains twenty-nine links on the East by a line bearing Northerly three chains eighty and a half links on the North by a line bearing Westerly ten chains thirty-one links and on the West by a line bearing Southerly three chains ninety-seven links to the point of commencement and being the whole of the land comprised in Certificate of Title Volume 882 Folio 62.

FIFTH PART

ALL THAT piece or parcel of land situated in the Parish of Kangaloon and County of Camden containing two roods or thereabouts COMMENCING on the Northern boundary of Portion Twenty at a point bearing Westerly and distant two chains from its North-eastern corner and bounded thence on the North by part of that boundary bearing Westerly three chains fifty links on the West by a line bearing Southerly eighty-two links to a reserved road one chain wide on the South-west by that Road bearing South-easterly three chains seventy-one links and on the East by a line bearing Northerly two chains five links to the point of commencement and being the whole of the land comprised in Certificate of Title Volume 494 Folio 6.

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

ATHOL 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 20th day of July, 1970.

W. L. J. HUTCHISON,
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

20/7/1970.