
St. Mark's Darling Point School Lands 1928.

No. 14. 1928.

AN ORDINANCE to authorise the Leasing and/or Mortgaging of land situated at New South Head Road Paddington near Sydney and providing for the application of the proceeds thereof.

WHEREAS by an Indenture of Conveyance dated the twenty-first day of December one thousand nine hundred and seven made between The Most Reverend William Saumarez Smith Archbishop of Sydney Henry Williams The Honorable James Watson Sidney Herbert Young and the Reverend William Isaac Carr Smith the then Trustees of the Glebe of the Church of Saint James Sydney (thereinafter called the Vendors) of the one part and William Edey Mort and James William Johnson the then Trustees of the Church of Saint Mark (thereinafter called Purchasers) of the other part registered No. 51 Book 846 after reciting an Act made and passed in the nineteenth year of the reign of Her late Majesty Queen Victoria Intituled "An Act to enable the Trustees of the Glebe of Saint James Church Sydney to convey a portion thereof to the Trustees of Saint Mark's Church Alexandria (North) near Sydney as a site for the erection thereon of a school and schoolmaster's residence" the said vendors did thereby convey release and assign unto the said purchasers and their heirs All that piece or parcel of land described in the first schedule hereto To have and to hold the said lands and premises thereby released and assured unto and to the use of the said Purchasers their heirs and assigns Trustees for the time being of the said Church of Saint Mark for ever absolutely discharged and exonerated from all trusts created by or existing under or by virtue of the letters patent thereinbefore mentioned or referred to but nevertheless upon trust for the erection and maintenance thereon of a Parish School House and a residence for the Master thereof and to permit the same to be for ever thereafter appropriated and used as and for a school for the education of children in the Parish of Alexandria (North) County of Cumberland and as a residence for the Schoolmaster thereof the said School to be under the

general management and control of the Minister or Encumbent for the time being of the said Church of Saint Mark and the Trustees or Trustee for the time being of such Church but so nevertheless that the instruction at the said school should comprise the following branches of school learning namely:—Reading, writing, arithmetic, geography, scripture, history, and (in the case of girls) needlework AND that it should be made a fundamental regulation and practice in the said School that the Bible be daily read therein by the children and that instruction in the Church Catechism and the doctrines and principles of the said United Church of England and Ireland should at all suitable times twice at least in every week be regularly given to all the children in the said school whose parents or guardians shall not on religious grounds object thereto such religious instruction to be under the superintendence and direction of the Minister or Encumbent for the time being of the said Church of Saint Mark and that no children should be required to receive or be present at such religious instructions whose parent or guardian should object thereto on religious grounds and that no child should in any case be required to learn any catechism or other religious formulary or attend any Sunday School or any place of worship to which respectively his or her parent or guardian should on religious grounds object and that the selection of such Sunday School and place of Worship should in all cases be left to the free choice of such parent or guardian without the child thereby incurring any loss of the benefits or privileges of the School AND WHEREAS by Deed of Consent dated the twenty-fourth day of October 1912 under the hand and seal of John Charles Wright Archbishop of the Diocese of Sydney registered No. 437 Book 980 the said John Charles Wright as Archbishop of the Diocese of Sydney did thereby consent that the property mentioned in the Schedule thereto (which is identical with the land described in the First Schedule hereto) should thenceforth become and be vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the said Trustee) their successors and assigns subject as therein expressed AND WHEREAS in pursuance of the said recited trusts a school building and school-master's residence was erected upon the land AND WHEREAS the land described in the second schedule hereto is vested in the Honourable John Musgrave Harvey Albert Herbert Streatfield and Cecil Usher Spier for an estate in fee simple upon the trusts following

that is to say Upon Trust to permit the same to be used for a Clergy House School Parish Hall or other parochial purposes or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St. Mark Darling Point near Sydney as the Parishioners of Saint Mark Darling Point at a duly convened vestry meeting may decide AND WHEREAS it is expedient to remove the building erected on the land described in the first schedule hereto and to use the materials of such building or part thereof towards carrying out the said trusts relating to the land comprised in the Second Schedule hereto or to sell the said materials or part thereof and to use the proceeds of such sale for or towards the purposes hereinafter provided AND WHEREAS it has become desirable to make the said land described in the first schedule hereto revenue producing and to apply the revenue of the said land in manner hereinafter provided 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 place of the said Synod ordains declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the trust hereinbefore recited it is expedient to empower the Trustee of the said land described in the First Schedule hereto to raise moneys by mortgage thereof for the purpose of improving the said land or to grant leases of the said land.

2. The said land described in the First Schedule hereto may be demised by the said Trustee for the purpose of obtaining revenue therefrom in furtherance or aid of purposes similar or analogous to the trusts attached to the same and for such other purposes as are hereinafter provided.

3. The buildings erected on the said land may be removed and the materials of such building or part thereof may be used towards the erection of another building on part of the land described in the second schedule hereto or such materials or part thereof may be sold and the proceeds of such sale used for the purposes hereinafter provided.

4. The whole or any portion or portions of the land described in the First Schedule hereto may be demised from time to time for the purposes of building occupation or other purpose or purposes from time to time approved by the said Trustee freed from the trusts affecting the said land to any person or persons for any term or terms not exceeding thirty years in any one lease to take effect in possession within twelve months from the date thereof so as there be reserved in every such lease or leases the best rent that can reasonably be obtained for the time being progressive or otherwise having regard to the nature of the covenants entered into by the lessee or lessees and so as there be contained in every such lease or leases a covenant that every lessee or lessees of any part or parts of the said land shall not use or permit to be used the premises erected or placed on any part of the land mentioned or described in any such lease or leases for the purpose of carrying on the trade or business of a publican distiller brewer wine ale or beer seller or any dangerous noxious or offensive trade or business whatsoever And also that every such lease shall contain a covenant by the lessee that the said premises shall not be used for Sunday trading in any form without the consent in writing of the said Trustee And also a condition for re-entry by the Lessor on non-payment of rent by the lessee or lessees within a reasonable time to be therein specified or on the breach or non-performance of any of the covenants therein contained and so as the lessee or lessees do execute a counterpart of such lease or leases and do thereby covenant for payment of the rent thereby reserved but so that any such lease or leases shall otherwise be subject to such covenants provisions conditions and agreements as the Rector and Churchwardens for the time being of Saint Mark's Church Darling Point with the consent of the said Trustee shall deem proper.

5. The said Trustee may mortgage the said land described in the first schedule or any part thereof for the purpose of raising money to be expended in erecting buildings, fences or other improvements thereon but no mortgagée shall be concerned to see to the due application of the moneys raised by the said Trustee in pursuance of this power.

6. The rents income and profits of the said land shall be applied by the said Trustee

- (a) in defraying the expenses of and incidental to the obtaining this ordinance
- (b) in defraying the expenses of leasing or mortgaging the land described in the first schedule
- (c) in defraying the expenses of the removal of the buildings erected on the land described in the first schedule
- (d) in paying off any mortgage from time to time existing on the land described in the first schedule.

7. When the expenses referred to in clause 6 hereof have been fully discharged the rents income and profits of the said land received by the said Trustee shall thereafter be paid by the said Trustee to the Churchwardens for the time being of Saint Mark's Church Darling Point and shall be applied by them

- (1) (a) In the erection of a club house hall or school on portion of the land described in the first schedule thereto with power to use the materials of the buildings so removed
- (b) In the erection on the land described in the second schedule hereto of a hall for educational and parochial purposes with rooms for assistant clergy and caretaker's residence with power to use the materials of the buildings so removed
and subject thereto
- (2) (a) One third of the income shall be applied by the said Churchwardens and paid to the Diocesan Board of Education for religious education
- (b) Two thirds of the income shall be applied for religious and educational purposes in connection with the Parish of Saint Mark Darling Point in accordance with regulations to be framed by the Rector and Churchwardens of the Parish of Saint Mark Darling Point and approved by the said Trustee

8. This Ordinance may be styled "St. Mark's Darling Point School Lands Ordinance 1928."

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land containing by admeasurement three roods five perches or thereabouts situated at Paddington in the Parish of Alexandria County of Cumberland and State of

New South Wales be the hereinafter several dimensions a little more or less and being part of Lot Eight of a subdivision of part of Saint James Glebe commencing at a point on the Southern building line of the New South Head Road at the North East corner of land leased by E. T. Beilby and recently applied to be brought under the Real Property Act and referred to in application Plan 12698 and bounded thence on the North West by old fenced lines bearing South Westerly ninety eight feet two inches and one hundred and fifty feet as per application Plan 12698 thence on the South West by a fenced line bearing South East one hundred and twenty five feet eight inches thence on the South East and North East by Herbert Street as now occupied bearing North Easterly two hundred and twelve feet six inches sixty four feet six inches and ten feet two inches and North Westerly thirty three feet one inch to the Southern building line of the New South Head Road aforesaid and thence towards the North by that building line bearing Westerly one hundred and seven feet four inches to the point of commencement.

THE SECOND SCHEDULE HEREINBEFORE
REFERRED TO.

All that piece of land situated in the Shire of Woollahra Parish of Alexandria and County of Cumberland containing one rood eight perches or thereabouts being the whole of the land comprised in Certificate of Title dated 30th August 1911 registered volume 2178 folio 196.

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

A. J. GOULD,
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this twenty-seventh day of August, 1928.

C. R. WALSH,
Secretary.

I assent to this Ordinance,

JOHN CHARLES SYDNEY.

29th August, 1928.