

Epping Land Sale, etc.

6/1902

AN ORDINANCE to authorise the sale of certain lands situated in the Conventional District of St. Alban's, Epping, within the Parish of Field of Mars and to authorise the leasing or mortgaging of certain other lands situated in the said District and Parish, and to provide for the application of the proceeds, rents, profits, and issues thereof.

(Assented to 23 September, 1902)

WHEREAS certain lands situated within the Parish of Field of Mars containing an area of three roods thirty four perches and being lots seven and eight section nine were purchased from the Crown by the Right Reverend Alfred Barry at that time Lord Bishop of Sydney for the sum of fifty-five pounds which was advanced by the Church Society for the Diocese of Sydney. And whereas on the fourth day of September one thousand eight hundred and eighty-six, a Crown Grant or Certificate of Title, Volume 835, Folio 250, was issued to the said Right Reverend Alfred Barry in respect of the said lands. And whereas on the twenty-fifth day of February, one thousand eight hundred and eighty-nine the said lands were transferred by the said Right Reverend Alfred Barry to the "Church of England Property Trust, Diocese of Sydney" (herein after called the Corporate Trustees) and the said Corporate Trustees are now the registered proprietors in fee simple of the said lands. And whereas no trusts have been declared in respect of the said lands but the said lands were in fact purchased in trust for a site for a Church and Parsonage for the benefit of the part of the said Parish of Field of Mars now included in the Conventional District of St. Alban's, Epping. And whereas owing to change of circumstances which occurred since the creation of the said trust the said lands became unsuitable for a site for a Church and Parsonage as afore.

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said. And whereas certain other lands situated within the said Parish and Conventional District containing an area of two roods twenty-seven perches being lot twelve section four of the said subdivision and being all the lands included in Certificate of Title Volume 1194, Folio 189, have been purchased and a School Church has been erected thereon, and the cost of the said School Church and part of the price of the said land has been defrayed out of moneys raised by public subscription. And whereas the said School Church is not consecrated. And whereas certain other lands adjoining the lands comprised in Certificate Volume 1194, Folio 189, containing an area of one acre two roods four and a half perches being lots ten and eleven section four of said subdivision and being all the lands included in the Certificate of Title Volume 823, Folio 214, were afterwards purchased by the Trustees of the said School-Church. And whereas Henry Albert Brigg, Robert Hilliard and Arthur Newham (hereinafter called the Church Trustees) are the registered proprietors in fee simple of the lands included in the said Certificates Volume 1194, Folio 189, and Volume 823, Folio 214. And whereas the said Church Trustees by Memorandum of Mortgage under the Real property Act dated the ninth day of September one thousand eight hundred and ninety-seven mortgaged the lands included in the two said certificates to Sophia Ambrosia Vanzetti for five years to secure the payment of the sum of three hundred and twenty-five pounds, which was duly applied by them in paying the purchase money of the lands included in certificate Volume 823, Folio 214 and the balance of the purchase money of the lands included in Certificate Volume 1194, Folio 189 and the expenses of the said purchases. And whereas by Deed Poll dated the thirteenth day of October one thousand nine hundred the said Church Trustees declared that they held the lands included

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in the last two-mentioned Certificates of Title upon trust for Church purposes in connection with St. Alban's Church, Epping, and upon further trust to permit a Church to be erected on the said land to be called St. Alban's Church, Epping, and that the said land and applicable) contained in the Sydney Church Ordinance, or in any other Ordinance to be passed by the Synod of the Diocese of Sydney altering or modifying the first mentioned Ordinance, subject nevertheless to the right of the said Church Trustees, to be indemnified out of the said lands and their proceeds against any liability under buildings should be subject to the regulations (so far as the covenants contained in the said Memorandum of Mortgage. And whereas it is proposed to erect a Parsonage upon part of the land included in the said Certificate of Title Volume 823, Folio 214. And whereas the Church Society of the Diocese of Sydney has consented to the sale of the lands included in the said Certificate Volume 835, Folio 250, and to the application of the proceeds in and towards the erection of the said Parsonage. And whereas it may shortly be necessary to raise money on the security of the lands included in the said Certificates of Title Volume 1194, Folio 189, and Volume 823, Folio 214, for the purpose of paying off the said Mortgage to the said Sophia Ambrosia Vanzeiti. And whereas it is expedient that the mortgaging from time to time of the said lands included in the said Certificates of Title Volume 1194, Folio 189, and Volume 823, Folio 214, to the extent hereinafter mentioned should be authorised for the purpose of repaying the sum due on the present or on any other mortgage at any time existing over the same lands, and also for the purpose of procuring funds towards erecting the said Parsonage. And whereas it is expedient that the land included in the said Certificate Volume 835, Folio 250, should be sold and the proceeds employed in erecting the said Parsonage. And whereas it is ex-

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pedient that certain parts or portions of the said land included in the said Certificate Volume 823, Folio 214, should be leased and the rents thereof applied for the payment of the stipend of the Clergyman in charge of the said District, and of the interest on the said mortgage. The Synod of the Diocese of Sydney, in pursuance of the powers in that behalf conferred upon it by the Constitutions for the management and good government of the United Church of England and Ireland within the State of New South Wales, and all powers vested in the said Synod by "The Church of England Property Act of 1889," ordains, declares, directs and rules as follows:—

1. By reason of circumstances which have occurred since the creation of the said recited trusts it has become inexpedient to carry out or observe as to the lands included in Certificate of Title Volume 835, Folio 250, the particular purpose or purposes to which the said lands are by the said trusts devoted. And it has become expedient to sell the said lands for the purpose of obtaining funds for the erection of a Parsonage in connection with the Conventional district of St. Alban's, Epping.

2. The whole of the land included in Certificate of Title Volume 835, Folio 250, may be sold, freed from the trusts aforesaid, to any person or persons, at any price or prices, and upon such terms and conditions, as may be approved by the Archbishop of Sydney.

3. The Corporate Trustees are hereby appointed to receive from the purchasers the purchase money arising from such sale as aforesaid, and they shall apply the same (after payment thereof of the expenses of and incidental to this Ordinance and the said sale) in and towards the erection of such Parsonage as aforesaid.

4. It is expedient that the mortgaging from time to time of the said lands included in the said Certificate of

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Title Volume 1194, Folio 189, to secure the repayment of any sum not exceeding one hundred pounds for the purpose of repaying any principal and interest due in respect of any mortgage from time to time existing over the said lands be and the same is hereby authorised.

5. It is expedient that the mortgaging from time to time of the said lands included in the said Certificate of Title Volume 823, Folio 214, to secure the repayment of any sum not exceeding five hundred pounds; for the purpose of repaying any principal and interest due in respect of any mortgage from time to time existing over the said lands, and for the purpose of erecting such Parsonage as aforesaid be and the same is hereby authorised.

6. The Corporate Trustees are hereby appointed to receive from the mortgagee the money raised by any such mortgage as is authorised by sections four and five of this Ordinance and they shall apply the same after payment thereof of all costs and expenses connected with such mortgage in the manner specified in the section of this Ordinance by which such mortgage may have been authorised.

7. The portion of the land included in Certificate of Title Volume 823 Folio 214, which is described in the Schedule hereto may be demised, freed from the trusts aforesaid, to any person or persons for any term not exceeding thirty years, to take effect in possession, so as there shall be reserved in every such lease the best rent that can reasonably be obtained for the same, having regard to the nature of the covenants entered into by the Lessee, without any fine or fore-gift for the making thereof, and so as there be contained in every such lease a covenant that every Lessee 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

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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 Lessee shall not use or permit to be used the said premises for Sunday trade in any form, and also a condition for re-entry by the Lessors for non-payment of rent by the Lessees within a reasonable time to be therein specified, or on a breach or non-performance of any of the covenants therein contained, and so as the Lessees do execute a counterpart and do thereby covenant for payment of the rent thereby reserved.

8. The Minister and Churchwardens for the time being of the said District of St. Alban's, Epping, are hereby appointed to receive from the Lessee or Lessees the rents payable under any such lease or leases as aforesaid, and they shall apply the same in the first place in and towards the payment of interest on any mortgage due on the said land and in the next place in and towards the payment of the stipend of the Clergyman in charge of the said District.

9. This Ordinance shall be styled and cited as "The St. Alban's, Epping, Property Ordinance 1902."

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that portion of the land comprised in Certificate of Title Volume 823, Folio 214, containing by measurement an area of about one acre one rood and commencing at the North West corner of allotment nine section four of the Field of Mars sub-division, and bounded by part of the boundary line of lots nine and ten of such subdivision, being a line bearing East $10^{\circ} 15'$ South 220 feet thence by a line bearing South $10^{\circ} 15'$ West 175 feet to Pembroke Street, thence by Pembroke street 260 feet to its junction with Oxford Street, thence by Oxford Street 317 feet to the point of commencement.