

MILTON VARIATION OF TRUSTS AND LAND SALE ORDINANCE 1985

No. 20 1985

AN ORDINANCE to vary the trusts of certain land at Milton, Burrill Lake and Ulladulla to permit the sale of part thereof and to amend the Milton Variation of Trusts and Land Sale Ordinance No. 48 of 1977.

WHEREAS:

- A. The land described in the First Schedule hereto is held upon the trusts expressed in Indenture of Conveyance made the 11th Day of May, 1863 Book 86 No. 474 namely to be "used as a burial ground according to the rites and ceremonies of the United Church of England and Ireland".
- B. The Bishop of Sydney for the time being is trustee of that land.
- C. It is appropriate that the Bishop of Sydney cease to be trustee of that land and that the land be vested in Anglican Church Property Trust Diocese of Sydney (herinafter called "the Corporate Trustee").
- D. The Corporate Trustee is the registered proprietor of the whole of the land comprised in Land Grant Volume 7454 Folio 1 more particularly described in the Second Schedule hereto.
- E. The land in the Second Schedule is church trust property within the meaning of Anglican Church of Australia Trust Property Act, 1917 (as amended) held for the sole benefit of the Parish of Milton but no trusts in writing have been declared concerning the same.
- F. By the Milton Variation of Trusts and Land Sale Ordinance No. 48 of 1977 (herinafter called "the Milton Ordinance") the Corporate Trustee was authorised to sell certain land, to apply the proceeds first in payment of the arrears of Diocesan assessments owing by the Parish to the date of that Ordinance and then towards the costs of the construction of a Rectory at Milton, to invest any proceeds not so required and to pay the

income arising from such investment to the churchwardens to be applied by them for general parochial purposes.

G. By reason of circumstances which have arisen subsequent to the passing of the Milton Ordinance it is inexpedient to carry out and observe the trusts thereby created to the extent to which the same are hereby varied.

H. The land described in the Third Schedule hereto is held upon the trust expressed in Land Grant Volume 376 Folio 117 namely "as a site for a church in connection with the United Church of England and Ireland in New South Wales".

I. The persons named and described in the Fourth Schedule hereto are the Trustees of that property.

J. It is appropriate that the said persons cease to be Trustees of that property and that the property be vested in the Corporate Trustee.

K. By reason of circumstances which have arisen subsequent to creation of the trusts upon which the lands in the First and Second Schedules are held, it is inexpedient to carry out and observe the same to the extent that they are hereby varied and it is expedient to sell the lands described in the First and Second Schedules.

L. By reason of circumstances which have arisen subsequent to creation of the trusts upon which the land in the third Schedule is held, it is inexpedient to carry out and observe the same to the extent that they are hereby varied.

NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:-

1. Consent is hereby given to the land described in the First and Third Schedules vesting in the Corporate Trustee.
2. By reason of the circumstances which have arisen subsequent to the creation of the trust upon which the land described in the First and Second Schedules is held it is inexpedient to carry out

and observe the same and it is inexpedient to deal with or apply such property or any part thereof for the same or like purposes and it is expedient that such trusts be varied and that the land be sold.

3. The Corporate Trustee is hereby authorised to sell the land described in the First and Second Schedules within three (3) years after the date of assent to this ordinance and thereafter only with the consent of the Standing Committee by public auction or private agreement in one or more lots and for such price or prices and subject to such terms and conditions, as to the Corporate Trustee, may seem appropriate.

4. By reason of circumstances which have arisen subsequent to the passing of the Milton Ordinance it is inexpedient to carry out and observe the trusts thereby created to the extent that the same are hereby varied.

5. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Third Schedule hereto is held, it is inexpedient to carry out and observe the same and it is expedient that such trusts be varied as hereinafter set out.

6. The land described in the Third Schedule hereto shall henceforth be held upon trust for a:-

- (a) Church;
- (b) Residence for a minister, assistant to the minister, or person employed by the churchwardens;
- (c) Hall or halls;
- (d) A school or other place of assembly;

or partly for one or another or others of those purposes in connection with the Anglican Church of Australia within the Diocese of Sydney for the sole benefit of the Parish of Milton or any parish or ecclesiastical district into which it may subsequently be formed or form a part.

*Handwritten signature*

7. (1) The proceeds arising from the sale of the land described in the First and Second Schedules after paying thereout the costs of and incidental to this ordinance and the costs of and incidental to any subdivision and sale, together with the proceeds held pursuant to the Milton Ordinance, shall be paid to the churchwardens of St Martin's Ulladulla and applied by them towards the cost of the construction of a church and halls upon the land described in the Third Schedule hereto.

(2) Pending the application set out in sub-clause (1) of this clause, the Corporate Trustee shall invest the net proceeds and capitalise the income.

8. This ordinance may be cited as the "Milton Variation of Trusts and Land Sale Ordinance 1985".

#### FIRST SCHEDULE

ALL THAT piece or parcel of land at Milton in the County of St. Vincent and Colony of New South Wales being a portion of 45 acres 2 rods 16 perches Lot No. 13 granted to Roger Seccombe and being the land in Indenture of Conveyance Registered No. 474 Book 86.

#### SECOND SCHEDULE

ALL THAT piece or parcel of land at Burrill Lake in the County of St. Vincent Parish of Ulladulla being Portion 273 and the whole of the land in Land Grant Volume 7454 Folio 1.

#### THIRD SCHEDULE

ALL THAT piece or parcel of land at Ulladulla in the County of St. Vincent Parish of Ulladulla being Lot 1 of Section 3A and the whole of the land in Land Grant Volume 376 Folio 117.

#### FOURTH SCHEDULE

John Valentine Wareham, Thomas Hobbs, John Kendall and William Millard pursuant to Land Grant Volume 376 folio 117 dated 1st June, 1872.

*John Kendall*

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

*Alfred O'Connell*  
Chairman of the Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the *23rd* day of *September* 1985.

*W. J. M. M.*  
Secretary.

I ASSENT to this Ordinance.

*Samuel P. Wilson*  
Archbishop of Sydney.  
/ 1985