
St. Bartholomew's, Pymont, Land Resumption.

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AN ORDINANCE to vary the trusts declared by two several Indentures of Conveyance dated the thirteenth day of August. One thousand eight hundred and forty-nine from Edward Macarthur to the Lord Bishop of Sydney and the Tenth day of November One thousand eight hundred and fifty-five from the said Edward Macarthur to the Bishop of Sydney the latter being Registered No. 178 Book 217 and to authorise the Church of England Property Trust Diocese of Sydney to receive out of Court certain compensation moneys and interest paid into Court in respect of the resumption of parts of the lands comprised in the said Indentures of Conveyance and which are described in the Schedule hereto and to deal with the said compensation moneys and interest.

WHEREAS by Indenture made the thirteenth day of August One thousand eight hundred and forty-nine between Edward Macarthur of London in England Esquire of the one part and the Lord Bishop of Sydney of the other part for the consideration therein mentioned the said Edward Macarthur did grant bargain sell release and confirm unto the said Bishop of Sydney and his successors All that piece or parcel of land situate lying and being at Pymont in the County of Cumberland in the Colony of New South Wales containing by admeasurement two roods and fourteen perches little more or less bounded on the West by Point Street commencing at a point on the East side thereof being the junction of the said Street with Church Street bearing North Nineteen degrees West Two hundred and nine feet two inches on the North by a line bearing North Fifty-three degrees ten minutes East Eighty-five feet nine inches dividing the land being described from Allotment number Sixteen On the East by a line bearing South Thirty-six degrees thirty minutes East Two hundred and thirty-five feet seven inches dividing it from Allotment Number Seventeen and on the South by Church Street bearing West Twenty-two degrees forty-five minutes South One hundred and forty-nine feet to the point of commencement be the said several dimensions a little more or

less upon trust to permit and suffer to be erected and built upon the said land and hereditaments a Church or Chapel and Minister's dwelling and School House of the United Church of England and Ireland with the appurtenances thereto belonging and also to permit and suffer the same or a part thereof to be used as a Burial Ground of the said United Church of England and Ireland and to stand possessed of the said piece or parcel of land Church or Chapel Minister's dwelling and Burial Ground upon the trusts to and for the ends intents and purposes and with under and subject to the powers provisoes declarations and agreements mentioned expressed and declared in and by a certain Act of the Governor and Legislative Council of the then Colony of New South Wales made and passed in the Seventh Year of the Reign of his late Majesty King William IV. 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 of another Act of the Governor and Legislative Council made and passed in the Eighth Year of the Reign of his late Majesty King William IV. intituled "An Act to Regulate the Temporal Affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" and in and by any other Act of the Governor and Legislative Council of the said Colony then or thereafter to be made which did or should or might in any manner affect or regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales or for other purposes as the said Bishop of Sydney should from time to time determine AND WHEREAS by Indenture made the tenth day of November One thousand eight hundred and fifty-five between the said Edward Macarthur of the one part and the Bishop of Sydney of the other part after reciting the lastly recited Indenture and that the said Edward Macarthur had agreed to execute the now reciting presents for the purpose of more effectually assuring the land comprised in the thereinbefore in part recited Indenture and of conveying the remaining portion of the land thereafter described upon the same trusts as were declared by the thereinbefore in part recited Indenture it was witnessed that for the consideration therein mentioned the said Edward Macarthur so far as he lawfully could or might did grant bargain sell release and confirm unto the Bishop of Sydney and his successors All that piece or parcel of land situate

lying and being at Pyrmont in the County of Cumberland and in the Colony of New South Wales aforesaid containing by admeasurement three roods and four and a half perches little more or less bounded on the West by Point Street commencing at a point on the East side thereof being the junction of the said Street with Church Street bearing North nineteen degrees West three hundred and thirty-five feet two inches on the North by a line bearing North fifty-four degrees thirty minutes East forty-one feet four inches dividing the land being described from Allotment Number fifteen on the East by a line bearing South thirty-five degrees thirty minutes East three hundred and fifty-five feet seven inches dividing it from part of Allotment Number Sixteen and from Allotment Number Seventeen and on the South by Church Street bearing West twenty-two degrees forty-five minutes South One hundred and forty-nine feet to the point of commencement be the said several dimensions a little more or less to hold upon trust similar to those contained in the firstly recited Indenture AND WHEREAS at the time of the Notification of the Resumption next hereinafter mentioned a Church Minister's Dwelling and School House known as St. Bartholomew's Pyrmont had been erected upon the lands described in the said Indentures of Conveyance AND WHEREAS by Notice of Resumption dated the twenty-seventh day of September One thousand nine hundred and twenty-three under the Common Seal of the Municipal Council of Sydney in pursuance of the power and authority vested in the Council by the Sydney Corporation Amendment Act 1905 and any Act or Acts amending the same and otherwise it was made known that the land described in the Schedule thereto and in the Schedule of this Ordinance (being portion of the lands comprised in the said recited Indentures) was resumed by the Council under the provisions of the Sydney Corporation Amendment Act 1905 aforesaid AND WHEREAS the said Notice of Resumption and the description in the Schedule thereto were duly published in the Government Gazette and in four of the Sydney daily newspapers on the Eighth day of October One thousand nine hundred and twenty-three and thereupon the land therein described became for the purposes and subject to the provisions of the said Act vested in the said Council for an estate in fee simple free from all trusts estates and interests whatsoever AND WHEREAS it was

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agreed by and between the Most Reverend John Charles Wright Archbishop of Sydney as the successor in title of the Bishop of Sydney and the said Council that the sum of Eight thousand one hundred pounds should be taken and accepted in full payment and satisfaction for the land described in the Schedule hereto and of all claims in respect thereof. AND WHEREAS on or about the Sixteenth day of January last the said sum of Eight thousand one hundred pounds was paid by the Municipal Council of Sydney into the Office of the Supreme Court of New South Wales in Equity to the credit of an account intituled "Ex parte The Municipal Council of Sydney in the Matter of the Archbishop of Sydney and of the Sydney Corporation Amendment Act 1905" AND WHEREAS the right to receive out of Court the said sum and all interest payable in respect thereof has by the consent in writing of the said Archbishop of Sydney become vested in the Church of England Property Trust Diocese of Sydney AND WHEREAS it is expedient that the trusts contained in the before recited Indentures of Conveyance should be varied and that the said resumption moneys should be applied partly in building upon the remainder of the land comprised in the said Indentures of Conveyance a Dwelling House with a garden and other appurtenances for the Clergyman duly appointed to officiate in the said St. Bartholomew's Church and in building upon the other part of such remaining land a Schoolhouse and appurtenances according to plans and specifications which have already been approved and that the balance of the said resumption moneys should be applied as hereinafter provided AND WHEREAS by reason of the said resumption the Clergyman appointed to officiate in the said St. Bartholomew's Church was compelled to vacate the said Minister's Dwelling and to occupy a temporary residence pending the erection of the Dwelling House aforesaid AND WHEREAS the erection of such Dwelling House School House and appurtenances has been commenced and the Building Contractor has become entitled to certain payments on account of the buildings but owing to the fact that the compensation moneys will not be available until the passing of this Ordinance it has become necessary to make temporary provision for the progress payments to the Building Contractor and an account called "The Archbishop of Sydney No. 2 Account" has been opened with the Bank of New South Wales for the purpose of

providing the necessary moneys out of which such progress payments may be made. NOW THEREFORE the Standing Committee 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 Ordinances of the Synod passed in the years 1918 and 1921 appointing the Standing Committee for the purposes of exercising during the recess of the Synod the powers and functions in the said Ordinance referred to 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. By reason of circumstances which have occurred since the creation of the trusts declared by the said Indentures of Conveyance it has become as to part of the land therein comprised that is to say as to the land described in the Schedule hereto impossible to carry out or observe the particular purpose or purposes to which such lands were respectively by the said trusts devoted.

2. The Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustees) are hereby authorised to receive the moneys paid into Court in respect of the resumption of the land in the Schedule hereto.

3. The Corporate Trustees shall hold the compensation moneys so received by them and shall apply the same as follows:—

- (a) In payment of all costs charges and expenses of and incidental to the resumption of the said property and to this Ordinance.
- (b) In payment of all arrears of rates taxes and assessments in respect of the whole of the property comprised in the before recited Indentures.
- (c) In payment of the rent of a temporary residence for the Clergyman duly appointed to officiate in the said St. Bartholomew's Church as from the date of occupation by him of such temporary residence and until the dwelling

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hereinbefore mentioned shall have been erected and made ready for occupation and also in payment to the said Clergyman of such amount as the Corporate Trustees with the approval of the Archbishop of Sydney may think reasonable by way of compensation for the disturbance occasioned by the removal of his residence such compensation not to exceed the sum of £100.

(d) In payment to the credit of the said account called "The Archbishop of Sydney No. 2 Account" of such an amount as may be necessary to liquidate the progress payments thereout to the Building Contractor and Architect interest on such payments and Bank fees and in payment of the balance of the cost of erection of a Dwelling House School House and appurtenances upon the remainder of the land comprised in the said Indentures of Conveyance after resumption thereout of the land comprised in the Schedule hereto according to plans and specifications already submitted and approved the total cost of such buildings not to exceed £5,500 and such cost to be duly certified by the Diocesan Building Surveyor.

(e) In payment of all Architect's and Solicitor's fees and out of pocket expenses in connection with this Ordinance and the erection of the said new buildings.

4. After payment of the moneys hereinbefore referred to in Clause 3 hereof ten per centum of the balance of the said compensation moneys shall be paid to the Treasurer of the Church Buildings Loan Fund for use in aid of the objects of the said Fund and the ultimate balance of such compensation moneys shall be invested by the Corporate Trustees in any stocks funds or securities of or guaranteed by the Government of the Commonwealth of Australia or of any of the States thereof or of the Dominion of New Zealand or on first mortgage of freehold properties in New South Wales with power from time to time to vary any such investments for any other or others of a like nature and pending such investments may be deposited at interest with any Government Savings Bank or with any Joint Stock Company carrying on the business of bankers in New South Wales.

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5. The accrued interest on the said compensation moneys and all interest to arise from any such investment as aforesaid shall be applied as follows, viz:—

- (a) In payment of all arrears due by the Parish of St. Bartholomew's Pymont under and by virtue of the Registry and Synod Assessment Ordinance of 1895 or any Ordinance amending or taking the place of the said Ordinance.
- (b) In payment of all premiums for Fire Insurance of the buildings now erected or hereafter to be erected upon the remainder of the lands comprised in the said Indenture of Conveyance after resumption thereof of the lands comprised in the Schedule hereto.
- (c) In discharging the obligations imposed by any Ordinance Rule or Resolution of Synod upon the said Parish directly or through any person or persons on behalf of the said Parish.
- (d) In payment of all rates taxes assessments and outgoings in respect of any Church lands and buildings in the said Parish of St. Bartholomew's Pymont.
- (e) And the balance (if any) of the said interest in payment to the Rector and Churchwardens of St. Bartholomew's Pymont for Parish purposes.

6. This Ordinance may be cited as "St. Bartholomew's Pymont Land Resumption Ordinance 1925."

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situate lying and being in the City of Sydney Parish of St. Andrew County of Cumberland and State of New South Wales being that portion of the St. Bartholomew Church Lands as is included in the Ways Terrace Resumption Area published by Gazette Notice dated the Eighth day of October One thousand nine hundred and twenty-three Commencing at a point on the Eastern building line of Point Street said point being a south-western corner of the land included in Ways Terrace Resumption and bounded thence on the

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west by the eastern building line of Point Street aforesaid being a line bearing northerly distant about one hundred and eighty (180) feet two and one quarter ($2\frac{1}{4}$) inches thence on the north by a line bearing easterly distant about fifty-one (51) feet one and one quarter ($1\frac{1}{4}$) inches thence on the east by a line bearing southerly distant about one hundred and eighty-five (185) feet five and one half ($5\frac{1}{2}$) inches thence on the south by a line bearing westerly distant about one hundred and three (103) feet five (5) inches to the point of commencement be the said several dimensions all a little more or less.

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 April, 1925.

C. R. WALSH,
Secretary.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

27th April, 1925.