

*Manly Land Sale.*

4/1897

AN ORDINANCE to authorise the sale of certain Church land situate in Wentworth Street, Manly, in the Colony of New South Wales, and certain School House materials erected on other portion of such land, and to provide for the application of the proceeds thereof.

*(Assented to 30 September, 1897.)*

WHEREAS by Deed Poll, or Deed of Grant, bearing date the twelfth day of April, one thousand eight hundred and seventy-eight, under the hands and seals of George Osborne and Alexander Stuart therein described, after reciting that by an Indenture bearing date the fourth day of May, one thousand eight hundred and sixty four, made between Benjamin Darley therein described, and Katherine Darley, his wife (formerly Katherine Wentworth, spinster) of the one part, and the Right Reverend Frederic Barker, Doctor of Divinity, Lord Bishop of Sydney, of the other part, the land described in the first Schedule thereunder written and shown on the plan endorsed thereon and thereon coloured red and blue, was released and conveyed as therein mentioned for all the estate, right and interest of the said Benjamin Darley and Katherine Darley upon trust, to use the same as a site and for the purpose of a Church of the Church of England and a Parsonage and School House in connection therewith. And reciting that by an Act of Council made and passed in the fortieth year of the Reign of Her present Majesty Queen Victoria, intituled an Act to authorise the Trustees of the Marriage Settlement of Mrs. Bassett to sell and dispose of certain lands at Manly and elsewhere in the Colony of New South Wales, the lands described in the first Schedule to the said Act including the land comprised in the said Indenture, became vested in the said George Osborne and Alexander Stuart, their heirs and assigns for an

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estate of inheritance in fee simple in possession. And reciting that by the said Act it is enacted that it should be lawful for the said Trustees or Trustee, without price or consideration, to convey and dedicate any part or parts of the said lands, hereditaments, and premises mentioned and described in the said first Schedule thereto, either absolutely or upon any conditions for the purpose of the erection of any building for religious, educational, or charitable purposes, and to confirm any appropriation or gift of any part of the said lands and hereditaments made over to any such parties at any time previously to the passing of the Act. And reciting that it appeared by reason of the imperfection of the title of the said Benjamin Darley and Katherine Darley the said recited Indenture of the fourth day of May, one thousand eight hundred and sixty four, was ineffectual for the purpose of vesting an absolute and indefeasible estate in fee simple in the land therein described in the said Frederic Barker as such Bishop of Sydney, and that the said George Osborne and Alexander Stuart, having subdivided for the purpose of sale a portion of the land comprised in the first Schedule to the said Act, which portion includes within its boundaries the land included in the said recited Indenture, and laid out certain streets and ways therein, and having also determined on widening the thoroughfare called the Corso, mentioned in the description contained in the first Schedule to the deed now in recital and such portion of the land contained in such Schedule thereto being shown on the said plan endorsed thereon and thereon coloured red is required for the purpose of addition to the said Corso. And reciting that the said George Osborne and Alexander Stuart were desirous as well of confirming the title of the said Frederic Barker as such Bishop as aforesaid to the remaining portion of the land comprised in the said recited Indenture as also in lieu of the land required for

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the said Corso of granting to the said Frederic Barker as such Bishop as aforesaid, upon trusts similar to those contained in the said Indenture the land colored yellow on the said plan, which forms part of the land comprised in the Second Schedule thereto. They, the said George Osborne and Alexander Stuart, did thereby grant, release, convey, assure, and confirm unto the said Bishop of Sydney, his successors and assigns, all that piece of land described in the said second Schedule thereunder written, which land is delineated on the plan thereon endorsed and thereon colored blue and yellow with the rights, members and appurtenances thereto. To have and to hold the said land, hereditaments, and premises thereby assured, or intended so to be, with the appurtenances for ever, upon trust to use the same as a site or sites, and for the purpose of a Church of the Church of England and a Parsonage and School House in connection with the Church of England, or for any or either of such purposes. And whereas a Church, Parsonage and School House have been already erected upon a portion of the said land reasonably sufficient in area and in all other respects for the purposes of the same, and the remaining portion of the said land (which said remaining portion is described in the Schedule hereto) is not required for the purpose of carrying out said trusts. And whereas the said School House is of so unsubstantial a character in structure, and has fallen into so ruinous a condition of dilapidation as to be incapable of efficient repair, and is absolutely unfit for the purposes of a School House, and a larger and more commodious building is required for the said purposes. And whereas under the circumstances hereinbefore stated it is desirable that the said School House should be pulled down and the materials thereof sold, and that the said portion of the said land which is described in the Schedule hereto should also be sold, and that the proceeds arising from

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the sale of the said materials and the said portion of land should be applied in and towards the erection of a new School House upon the site of the existing one. And whereas by reason of the said circumstances which have occurred since the creation of the hereinbefore stated express trust, it has in the opinion of the Synod of the Diocese of Sydney become inexpedient to carry out or observe the particular purposes to which the said portion of land described in the Schedule hereto is by such trust devoted, and it is desirable that the same should be sold and the proceeds arising therefrom applied in manner hereinafter provided. 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 Colony of New South Wales, and of 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 the exigencies of the case and the circumstances which have arisen since the creation of the said recited trust, it is inexpedient and undesirable to carry out or observe the particular purposes to which the land described in the Schedule hereto is by the said trust devoted.

2. The materials of the said School House and the said land described in the Schedule to this Ordinance shall be sold by public auction or private contract, and either in one lot or in several lots, or for such price or prices, and upon such terms and conditions as the incumbent and Churchwardens for the time being of St. Matthew's Church, Manly, aforesaid may deem expedient freed from such trust as aforesaid.

3. The purchase moneys arising from such sale shall be paid by the purchaser or purchasers to the Arch-

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bishop of Sydney, or his Commissary, and the receipt of the said Archbishop, or his Commissary, shall be sufficient discharge therefor.

4. The said purchase moneys after payment thereof of all proper expenses of this Ordinance and of the said sale shall be applied in and towards the erection upon the site of the present School House of a new School House and appurtenances to be used in connection with St. Matthew's Church, Manly. Provided that no part of the said proceeds shall be applied to any of the purposes hereinbefore mentioned, until the said Archbishop or his Commissary shall have been certified that an amount equal to the said proceeds has been obtained for the same purposes from other sources.

5. Any part of the said proceeds not immediately required to be applied as aforesaid may be invested by the said Archbishop or his Commissary at interest with the Savings Bank of New South Wales or on mortgage of Real Estate and the interest arising from such investment shall be dealt with and applied in the manner hereinbefore prescribed with regard to the said proceeds.

6. This Ordinance shall be styled and cited as the "St. Matthew's Manly Church and School Land Sale Ordinance of 1897."

THE SCHEDULE HEREINBEFORE REFERRED TO.

A piece of land commencing at a point on the North West side of Wentworth Street in the parish of Manly Cove bearing North forty-five degrees East and distant one hundred and forty-nine feet three inches from the junction of the North West side of Wentworth Street with the North East side of Darley Road in the said parish thence North forty-five degrees West for one hun-

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dred and twenty-two feet thence North forty-five degrees East for fifty feet and nine inches thence South forty-five degrees East for one hundred and twenty-two feet to the North West side of Wentworth Street thence South forty-five degrees West for fifty feet and nine inches by the North West side of Wentworth Street to the commencing point. Be the said dimensions a little more or less and containing an area of twenty-two and three-quarter perches.

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