

THE ST. MARK'S DARLING POINT (CHURCH LANDS).

An Act to resolve certain doubts concerning the construction of a certain Declaration of Trust dated the 31st day of October, 1927 setting forth the trusts on which certain lands situated at Darling Point near Sydney and comprised in Certificate of Title dated 30th August, 1911 and registered Volume 2178 Folio 196 are held in connection with the Parish of St. Mark's Darling Point near Sydney in the State of New South Wales and to rectify the terms of the said Declaration of Trust so as clearly to constitute the trusts declared thereby good and valid charitable trusts. [Assented to, 13th April, 1944.] George VI.

WHEREAS prior to the execution of the Declaration of Trust, copy whereof is set forth in the Schedule to this Act, the then Rector of the Parish of St. Mark's Church of England, Darling Point in the State of New South Wales had collected from the Parishioners of and other persons well disposed to the said Parish a sum of money for the purpose of purchasing the land the subject matter of the said Declaration of Trust which land is situate at Darling Point aforesaid and abuts on the land whereon is erected the said Church of St. Mark and is the land comprised in Certificate of Title dated the 30th August, 1911 registered Volume 2178 Folio 196 in order that the said land when purchased should be held by Trustees upon trust to be used as a Clergy House, School, Parish Hall or other charitable purposes in connection with the Church of England in the said Parish: And whereas on the completion of the purchase Preamble.

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purchase of the said land the said land was transferred to The Honourable John Musgrave Harvey (since deceased) a Justice of the Supreme Court of New South Wales, one Alfred Herbert Streatfield (since deceased) Contractor, and one Cecil Usher Spier, Bank Manager: And whereas the said Transferees were then registered under the provisions of the Real Property Act, 1900 as the proprietors of the said land: And whereas on the 31st day of October, 1927 the said registered proprietors of the said land executed the Declaration of Trust a copy whereof is set forth in the Schedule to this Act: And whereas by deed endorsed on the said Declaration of Trust and made the 6th day of September, 1938 between the said John Musgrave Harvey, the said Alfred Herbert Streatfield and the said Cecil Usher Spier of the one part and Perpetual Trustee Company (Limited) of the other part the said John Musgrave Harvey Alfred Herbert Streatfield and Cecil Usher Spier appointed Perpetual Trustee Company (Limited) Trustee of the said Declaration of Trust in their stead and the said Company accepted the said appointment and the trusts of the said Declaration: And whereas Perpetual Trustee Company (Limited) is now registered as proprietor of the said land: And whereas doubts have arisen whether the trusts as declared in the said Declaration of Trust are charitable trusts good and valid in law: And whereas it is desirable that the said doubts should be resolved and that the said Declaration of Trust should be rectified so as to express clearly the charitable purposes for which the money subscribed for the purchase of the said land was given: Be it therefore enacted by the King's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Rectification
of
Declaration
of Trust.

1. The Declaration of Trust, copy whereof is set forth in the Schedule hereto, is hereby rectified by striking out the word "parochial" where therein appearing and inserting in lieu thereof the word "charitable."

Construction
of
Declaration
of Trust.

2. The said Declaration of Trust shall be construed as if the terms thereof had always been the terms as so rectified.

3.

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3. The Church Wardens of the Parish of St. Mark's Darling Point may out of Church moneys in their hands pay the costs of and incidental to the preparation of this Act and its submission to Parliament.

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Costs.

4. This Act shall be intituled "The St. Mark's Darling Point (Church Lands) Act, 1944."

Short title.

THE SCHEDULE HEREINBEFORE REFERRED TO.

Schedule.

To all to whom these presents shall come The Honourable John Musgrave Harvey of Sydney in the State of New South Wales a Justice of the Supreme Court Alfred Herbert Streatfield of Darlinghurst Sydney aforesaid Contractor and Cecil Usher Spier of Edgecliff near Sydney aforesaid Bank Manager Send greeting Whereas the said John Musgrave Harvey Alfred Herbert Streatfield and Cecil Usher Spier are the registered proprietors of all that piece of land situated in the Shire of Woollahra Parish of Alexandria County of Cumberland containing one rood eight perches (1 r. 8 p.) and being the whole of the land comprised in Certificate of Title dated 30th August 1911 registered volume 2178 folio 196 Now these presents witness and it is hereby declared that the said John Musgrave Harvey Alfred Herbert Streatfield and Cecil Usher Spier and their assigns shall stand seised of and interested in all and singular the said lands and premises upon trust to permit the same to be used for a Clergy House, School, Parish Hall or other parochial purpose 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's Darling Point near Sydney as the Parishioners of the Parish of St. Mark's Darling Point at a duly convened vestry meeting may decide.

In witness whereof the parties hereto have hereunto set their hands this thirty-first day of October one thousand nine hundred and twenty-seven.

Signed by the said the Honourable
John Musgrave Harvey in the
presence of: } J. M. HARVEY.

G. E. DAVIS, Bank of New
South Wales, Edgecliff.

Signed by the said Alfred Herbert
Streatfield in the presence of: } A. H. STREATFIELD.

H. J. SPIER, 269 New South
Head road, Edgecliff.

Signed by the said Cecil Usher Spier
in the presence of: } C. U. SPIER.

G. E. DAVIS, Bank of New
South Wales, Edgecliff.