

Roman Catholic Diocese of Lismore Church Lands.

ROMAN CATHOLIC
DIOCESE OF LISMORE
CHURCH LANDS.

An Act to validate and confirm certain grants of land to the trustees of the Roman Catholic Church at Lismore; to regulate the trusts of the Roman Catholic lands in the Diocese of Lismore, and to provide for the appointment and succession of trustees thereto; and to confer on such trustees powers to lease, mortgage, sell, and exchange the said lands. [24th December, 1908.]

Preamble.

WHEREAS by deed-poll or grant, bearing date the first day of December, in the year one thousand eight hundred and seventy-four, under the hand of Sir Hercules George Robert Robinson, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of the Colony of New South Wales, and under the seal thereof, and registered as volume four hundred and sixty, folio eighty-four, Her Majesty Queen Victoria did grant unto the Right Reverend Timothy O'Mahony, the Reverend Felix Schurr, Francis Napoleon Girard, Charles Dean, and John Sexton, being trustees nominated and appointed as therein mentioned, and to their heirs and assigns, all that piece or parcel of land described in the First Schedule hereto, upon trust for the appropriation thereof as the site of a dwelling-house, garden, and other appurtenances for the clergyman duly appointed to officiate in the Roman Catholic Church at Lismore, and for no other purpose whatsoever, and subject to the further trusts and the conditions, reservations, and provisos in the said grant contained: And whereas by another deed-poll or grant, bearing date the first day of December, in the year one thousand eight hundred and seventy-four, under the hand and seal of His Excellency the said Governor, and registered as volume four hundred and sixty, folio eighty-three, Her said Majesty did grant unto the same trustees, also appointed as therein mentioned, their heirs and assigns, all that piece or parcel of land described in the Second Schedule hereto upon trust for the erection thereon of a Roman Catholic church as therein mentioned, and for no other purpose whatsoever, and subject to the further trusts and the conditions, reservations, and provisos in the said grant contained: And whereas by another deed-poll or grant, bearing date the fifteenth day of December, in the year one thousand eight hundred and seventy-nine, under the hand of Sir Augustus William Frederick Spencer Loftus, Knight

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Knight Grand Cross of the Most Honorable Order of the Bath, Governor of the said Colony, and under the seal thereof, and registered as volume four hundred and eighty-three, folio sixty-two, Her said Majesty did, for the consideration in the said deed mentioned, grant unto the Right Reverend Elzear Torregiani, the Reverend Jeremiah Joseph Doyle, and the said Francis Napoleon Girard, Charles Dean, and John Sexton, the trustees of the Roman Catholic Church at Lismore, their heirs and assigns, all that piece or parcel of land described in the Third Schedule hereto, upon and subject to the reservations and conditions therein contained: And whereas a Roman Catholic Cathedral has been erected partly upon the land described in the First Schedule, and partly upon the land described in the Second Schedule; a clergyman's dwelling has been erected partly upon the land described in the First Schedule, and partly upon the land described in the Third Schedule; and a Roman Catholic convent has been erected partly upon the lands described in the First and Second Schedules, and partly upon lands adjacent thereto: And whereas doubts have arisen as to the validity of the first-mentioned Crown grant, and doubts have also arisen whether the conditions of the two first-mentioned Crown grants have been properly fulfilled, and it is therefore expedient that the said two first-mentioned Crown grants should be ratified and confirmed: And whereas all of the grantees mentioned in the said two first-mentioned grants have departed this life, and no new or other trustees have been appointed in place of the said deceased grantees, and probate of the will of the said John Sexton, the last surviving grantee was, on the eighteenth day of October, in the year one thousand nine hundred and six, granted by the Supreme Court of New South Wales in its probate jurisdiction to John Thomas Sexton and Patrick Joseph Sexton, the executors in his said will named, and the legal estate in the lands described in the First and Second Schedules hereto is now vested in the said John Thomas Sexton and Patrick Joseph Sexton as such executors: And whereas all of the grantees mentioned in the lastly recited grant, with the exception of the said Reverend Jeremiah Joseph Doyle, have departed this life, and no new or other trustees have been appointed in place of the said deceased grantees, and the legal estate in the lands described in the Third Schedule hereto is vested in the said Reverend Jeremiah Joseph Doyle: And whereas it is expedient that the new trustees of the said lands should be appointed, that provision should be made for the succession of trustees of the said lands, and that certain powers of lease, mortgage, sale, exchange, and otherwise should be conferred upon such trustees: And whereas other lands within the Roman Catholic Diocese of Lismore now are, or may hereafter, be held by trustees for the benefit of the Roman Catholic Church in the said diocese, and it is expedient that provision should be made for bringing such

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such lands from time to time under the provisions of this Act: 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:—

Interpretation.

1. In this Act—

“Diocese of Lismore” shall mean the Roman Catholic diocese of Lismore for the time being, notwithstanding any alteration of boundary thereof.

“Lands under this Act” shall mean the lands described in the Schedule hereto, and all other lands in the Roman Catholic diocese of Lismore which may from time to time or at any time hereafter be vested in trustees of this Act or in special trustees.

“Special trustees” shall mean trustees appointed under the provisions hereof for any particular lands at any time hereafter brought under the provisions of this Act.

“Trustees of this Act” shall mean the trustees appointed under clause three hereof, or the survivors or survivor of them, and also all other trustees for the time being (excepting special trustees) hereafter appointed under this Act in succession, substitution, or addition to the said trustees.

Validation of grants in First and Second Schedules.

2. The grants of the respective lands described in the First and Second Schedules hereto, notwithstanding any want of power or invalidity in the issue thereof or of either of them, and notwithstanding that the trusts, reservations, conditions, and provisos mentioned and set forth in the said grants or either of them have not been complied with, are hereby confirmed and declared valid.

Appointment of trustees and vesting of lands in Schedules in such trustees.

3. The Right Reverend Jeremiah Joseph Doyle, Bishop of the Diocese of Lismore, Thomas John McDermott, of Lismore aforesaid, storekeeper, and Joseph Bede Kelly, of Lismore aforesaid, licensed surveyor, are hereby appointed the trustees of this act, and the lands described in the Schedules hereto are hereby vested in them, their heirs and assigns, for an estate in fee-simple as joint tenants; subject, nevertheless, to the terms of this Act, and to the trusts hereinafter declared of and concerning the same.

Declaration of trusts.

4. The lands under this Act shall, from and after the passing of this Act, but subject to the provisions thereof relating to special trustees, be held by the trustees of this Act upon trust to use and to permit the use and appropriation of the said lands for the erection thereon respectively of Roman Catholic cathedrals, churches, schools, convents, presbyteries, and other buildings, and for any other purposes in connection with or for the benefit of the Roman Catholic Church in the diocese of Lismore as the trustees of this Act in their discretion shall think fit, and upon and subject to no other trusts or provisions whatsoever.

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5. The trustees of this Act shall have power to demise and lease Power to lease. the lands under this Act or any part or parts thereof for such periods, at such rents, and upon such terms and conditions as they think fit.

6. The trustees of this Act shall have power to raise such sum Power to mortgage. or sums of money when and on such terms as they shall think fit by deposit of the deeds or by mortgage (with or without powers of or trusts for sale) of the lands under this Act or any part thereof, and to execute all proper assurances for that purpose.

7. The trustees of this Act shall have power to sell the lands Power to sell and exchange. under this Act, or any part or parts thereof, either together or in parcels, by public auction or private contract, for cash or on credit, and on such terms and subject to such conditions as to title or otherwise as they shall think fit, and also to exchange the said lands, or any part thereof, for other lands, and to transfer and assure the same, or any part or parts thereof, when sold or exchanged to the purchaser or purchasers thereof or to the person or persons taking on such exchange in fee-simple freed and discharged from all trusts affecting the same, and, for all or any of the purposes aforesaid, to sign, seal, and execute all such contracts, conveyances, transfers, and other deeds, documents, and instruments as may be necessary.

8. The trustees of this Act shall stand possessed of all lands Application of purchase moneys, &c. received in exchange for lands under this Act, and all rents and moneys received by them under sections five, six, and seven hereof, upon trust for the benefit of all or any of the Roman Catholic cathedrals, churches, schools, convents, presbyteries, or other buildings within the said diocese, or for any other purposes in connection with or for the benefit of the Roman Catholic Church within the said diocese as in their discretion they shall think fit.

9. No lessee, mortgagee, purchaser, person taking on exchange, Lessee, purchaser, &c., not bound to inquire as to application of rents, purchase money, &c. or other person, paying any rent or other money to the trustees of this Act or to any special trustees, shall be bound or concerned to see to the application thereof, and the receipt of the said trustees shall be a sufficient discharge therefor, and no such lessee, mortgagee, purchaser, or other person as aforesaid shall be bound to inquire as to the necessity or propriety of any such mortgage, sale, lease, or exchange.

10. Any other lands within the diocese of Lismore which may Vesting of other lands in trustees of this Act. now, or at any time hereafter, be vested in trustees for the benefit of the Roman Catholic Church of the said diocese, or which may in any way be granted, conveyed, acquired, held, used, or occupied for Roman Catholic Church purposes, may be brought under the provisions of this Act, and all existing and future trustees of such lands are empowered and authorised to bring such lands under this Act. The said lands may be brought under this Act—

(a) by the conveyance or transfer thereof to the trustees of this Act or otherwise vesting the same in the trustees of this Act; and thereupon

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(b)

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(b) by the trustees of this Act in the same or some other deed or instrument declaring that they hold the said lands as lands under this Act.

Power to purchase,
&c., other lands.

11. The trustees of this Act may, from time to time, purchase or take on lease or acquire by gift, devise, exchange, or otherwise, any other lands within the said diocese, and such lands shall immediately thereupon be deemed to be lands under this Act.

Appointment of
trustees.

12. (1) The trustees of this Act shall be not less in number than three, and the person officiating for the time-being as the Roman Catholic Bishop of the Diocese of Lismore may, from time to time, by deed under his hand and seal, appoint such persons as he shall think fit to be trustees of this Act or to be special trustees of any particular lands under this Act, and shall keep a register of such trustees and special trustees, and may, by deed, remove or retire any such trustees or special trustees as in his discretion he shall think fit, and delete from such register the names of any trustees or special trustees who shall die or be removed or retired as aforesaid.

(2) So often as any new trustee or new trustees is or are appointed under this Act, all the property both real and personal (if any) for the time-being vested in the surviving or continuing trustee or trustees immediately before the date of such appointment, or in the executor or administrator of any trustee, or in the Chief Justice or senior puisne judge for the time being, by virtue of the Wills Probate and Administration Act, 1898, or any Act consolidating or amending the same, and subject to the trusts in respect of which the new trustee or new trustees is or are appointed, shall, by virtue of this Act and of such appointment and without other assurance in law, become and be conveyed, assigned, and transferred, so that the same shall thereupon be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustee or trustees, as case may require.

(3) So often as any trustee of this Act is removed or retired as aforesaid, all the trust property, both real and personal, which is vested in him either solely or jointly with the continuing trustee or trustees shall, by virtue of the execution of the deed of removal or retirement and without other assurance in law, be divested from the trustee so removed or retired, and be conveyed, assigned, and transferred to and be legally vested in the continuing trustee or trustees alone, who shall be entitled to sue for and recover and to call for a transfer to him or them of all debts and choses in action subject to the trusts.

(4) Upon the appointment of special trustees of any particular lands under this Act such particular lands shall vest in such special trustees, and such special trustees shall hold the lands of which they are appointed special trustees, and any moneys received by them

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as such special trustees upon such trusts in connection with or for the benefit of the Roman Catholic Church within the said diocese as such person officiating as aforesaid shall by deed direct or appoint, and so far as concerns such lands and moneys, but not further or otherwise, the provisions of section twelve, subsections two and three, shall apply to such special trustees, and such special trustees shall be entitled to exercise all the powers of trustees of this Act, and the provisions and immunities of this Act shall apply so far as applicable to such special trustees and trusts.

13. The production of a copy of the New South Wales Government Gazette containing a copy of a notice purporting to be signed by the Roman Catholic Bishop of Lismore for the time being, in the form set forth in the Fourth or Fifth Schedules to this Act, shall be conclusive proof that the persons named in such notice are for the time being trustees of this Act, or the special trustees of any particular lands under this Act, as the case may be.

Proof of appointment of trustees.

14. A certificate purporting to be signed by the Roman Catholic Bishop for the time-being of the Diocese of Lismore shall, for the purposes of this Act, be conclusive proof that the lands referred to in such certificate are within the boundaries of the said diocese, or that such lands have ceased to be within such boundaries, as the case may be. Any such certificate may be included in or indorsed on any conveyance, transfer, mortgage, lease, or other deed, document, instrument, or assurance, or may be contained in a separate document.

Proof that lands are within the Diocese of Lismore.

15. Any of the trustees of this Act may, by writing under his hand, delegate to his co-trustees, for the time being, or to any one or more of such co-trustees, or to any other person, the execution of all or any of the trusts, powers, and discretions conferred upon him by this Act, and may, by powers of attorney or otherwise, authorise such co-trustees, or co-trustee or other person, to execute, make, do, or concur in executing, making, or doing all such deeds, instruments, payments, receipts, acts, and things relating to any of such trusts, powers, and discretions without being accountable or responsible for any loss that may be occasioned thereby: Provided always that no purchaser or person dealing with any trustees or trustee, or other person purporting to act under such delegation or authority as aforesaid, shall be bound or concerned to inquire whether occasion for such delegation or authority has arisen, or is or was likely to arise, or as to the propriety, regularity, or sufficiency thereof, or whether or not the same is at the time of such dealing valid and subsisting.

Power to delegate execution of trusts.

16. Upon any lands under this Act ceasing to be within the said diocese of Lismore the trustees of this Act may convey, transfer, or otherwise vest such lands by conveyance, transfer, or otherwise in new trustees to be appointed by them and upon and subject to such trusts for the benefit and advantage of the Roman Catholic Church as they

Lands ceasing to be within the diocese may be vested in new trustees.

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they may set forth in such conveyance, transfer, or other assurance, or in the document making such appointment, and thereupon such lands shall cease to be lands under this Act.

Saving clause.

17. Nothing in this Act shall be taken to render invalid any sale, legal or equitable mortgage, or any conveyance, contract, lease, or dealing made or done bona fide, and for value by any trustees or trustee or persons or person purporting to act as such as regards the lands in the Schedules hereto, or any of them, before the date of passing of this Act; as regards lands brought under this Act before the date at which such lands are brought thereunder; as regards particular lands vested in special trustees before the date of the vesting of such lands in such special trustees; and as regards land ceasing to be within the said diocese before the date when such lands cease to be lands under this Act; but such sale, mortgage, conveyance, contract, lease, or dealing shall continue and remain of the same validity and effect as before such dates respectively.

Short title.

18. This Act may be cited as the "Roman Catholic Diocese of Lismore Church Lands Act, 1908."

SCHEDULES.

THE FIRST SCHEDULE.

ALL that piece or parcel of land containing by admeasurement two roods, be the same more or less, situated in the county of Rous, parish of Lismore, being allotment three of section thirty-four, and being the whole of the land comprised in Crown grant, dated the first day of December, one thousand eight hundred and seventy-four, registered volume four hundred and sixty, folio eighty-four.

THE SECOND SCHEDULE.

All that piece or parcel of land containing by measurement one acre, be the same more or less, situated in the county of Rous, parish of Lismore, being allotments one and two of section thirty-four, and being the whole of the land comprised in Crown grant dated first day of December, one thousand eight hundred and seventy-four, registered volume four hundred and sixty, folio eighty-three.

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THE THIRD SCHEDULE.

All that piece or parcel of land containing by measurement two roods, be the same more or less, situated in the county of Ross, parish of Lismore, being allotment four of section thirty-four, and being the whole of the land comprised in Crown grant dated fifteenth day of December, one thousand eight hundred and seventy-nine, registered volume four hundred and eighty-three, folio sixty-two.

THE FOURTH SCHEDULE.

Certificate as to trustees of church lands in the Roman Catholic Diocese of Lismore.

I hereby certify that [*here insert names and descriptions of trustees*] are at the date hereof the trustees of the Roman Catholic Diocese of Lismore Church Lands Act, 1908.

Dated at Lismore this day of one thousand nine hundred and

Roman Catholic Bishop of Lismore.

THE FIFTH SCHEDULE.

Certificate as to special trustees of church lands in the Roman Catholic Diocese of Lismore.

I hereby certify that [*here insert names and descriptions of trustees*] are at the date hereof special trustees under the Roman Catholic Diocese of Lismore Church Lands Act, 1908, of [*here set forth description of particular lands the subject of the special trust*].

Dated at Lismore this day of one thousand nine hundred and

Roman Catholic Bishop of Lismore.
