
*"St. Philip's (Sydney) Church and School Resumption
Ordinance 1934 Amendment Sale and Vesting
Ordinance 1935."*

No. 16, 1935.

AN ORDINANCE to authorise the sale of certain lands situate in the City of Sydney known as "Greystanes" No. 3 York Street and Nos. 6, 8 and 10 Clarence Street and to provide for the application of the proceeds thereof to amend the "Saint Philip's (Sydney) Church and School Resumption Ordinance 1934" and to provide for the vesting of certain properties in the Church of England Property Trust Diocese of Sydney and for purposes incidental thereto.

WHEREAS premises known as No. 3 York Street and Nos. 6, 8 and 10 Clarence Street Sydney are vested for estates in fee simple in the Most Reverend Howard West Kilvinton Mowll D.D. Archbishop of Sydney William Henry Crago Surgeon and William James Levick as Trustees AND WHEREAS the said property was acquired with the proceeds of the sale of certain lands held upon trust for a site for a parsonage in connection with the Parish of St. Philip Sydney and the said property is Church Trust Property AND WHEREAS it has become inexpedient to further observe such trusts AND WHEREAS by "Saint Philip's (Sydney) Church and School Resumption Ordinance 1934" (hereinafter referred to as the said Ordinance) it was recited that William Henry Crago of Sydney in the State of New South Wales Surgeon the Right Reverend Sydney James Kirkby of Sydney aforesaid Bishop Coadjutor and William James Levick of Cremorne near Sydney aforesaid Builder were the Trustees of the unresumed portion of the Church Land comprised in a Deed Poll or Crown Grant dated the eleventh day of February one thousand eight hundred and fifty-eight and firstly recited in the said Ordinance and hereinafter called St. Philip's Church Land AND WHEREAS the said Sydney James Kirkby died on the 12th July 1935 and the Most Reverend Howard West Kilvinton Mowll D.D. Archbishop of Sydney was appointed a Trustee in the place of the said Sydney James Kirkby AND WHEREAS it was recited in the said Ordinance that the Bishop of

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Sydney by Deed Poll registered No. 629 Book 435 vested in the Church of England Property Trust Diocese of Sydney its successors and assigns the land comprised in a Deed Poll or Crown Grant dated twenty-sixth day of March one thousand eight hundred and fifty and more fully recited in the said Ordinance and hereinafter called St. Philip's School Land. AND WHEREAS by Certificate of the Archbishop of Sydney registered No. 137 Book 1563 it was certified that the then Trustees of the unresumed portion of St. Philip's School Land were the Church of England Property Trust Diocese of Sydney, the said William Henry Crago the Right Reverend Gerard Addington D'Arcy-Irvine and the said William James Levick (therein wrongly called William Charles Levick) AND WHEREAS the said Certificate registered No. 137 Book 1563 erroneously included the said William Henry Crago the Right Reverend Gerard Addington D'Arcy-Irvine and William James Levick as Trustees inasmuch as they were never appointed or elected as Trustees of St. Philip's School Land AND WHEREAS the said unresumed portion of St. Philip's School Land is vested in the Church of England Property Trust Diocese of Sydney alone AND WHEREAS it is expedient that the Synod of the Diocese of Sydney should confirm the vesting of the same in the Church of England Property Trust Diocese of Sydney as such sole Trustee as aforesaid AND WHEREAS it is expedient to vary the trusts of the resumption moneys mentioned in the said Ordinance so far as the said resumption moneys have not been applied under the said Ordinance.

The Synod of the Diocese of Sydney ordains directs declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the trusts of the said lands and premises known as Number 3 York Street and Numbers 6, 8 and 10 Clarence Street Sydney it has in the opinion of the said Synod become inexpedient to carry out or observe such trusts and deal with the said lands and premises for the exclusive use or benefit of the said Parish of St. Philip and it is expedient to sell such lands and premises and to apply the purchase money arising from the sale of the same or of any part or parts thereof in accordance with the provisions hereinafter contained.

2. The said lands known as No. 3 York Street and Nos. 6, 8 and 10 Clarence Street Sydney or any portion or portions

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thereof together with any rights or easements appurtenant thereto may at any time hereafter and from time to time be sold by the Trustees for the time being of the same by Public Auction or private contract and either in one lot or in several lots at such price or prices and upon such terms and conditions as they may deem expedient or if the said lands are not sold by them within a period of six months from the date of the assent to this Ordinance then the same may at any time thereafter be sold by the Church of England Property Trust Diocese of Sydney in all respects as aforesaid and the said Trustees or the Church of England Property Trust Diocese of Sydney as the case may be shall execute the Deed or Deeds or other instrument or instruments and do all acts measures and things necessary for the purpose of carrying into effect the sale or sales as provided in section 27 of the Church of England Trust Property Act 1917.

3. Consent is hereby given to the unresumed portion of St. Philip's Church Land and (if and so far as not already vested) the unresumed portion of St. Philip's School Land being vested and the said Lands are hereby vested accordingly in the Church of England Property Trust Diocese of Sydney subject to the Trusts upon which the said lands are now respectively held.

4. By reason of circumstances subsequent to the creation of the trusts of the resumption moneys mentioned in the said Ordinance so far as the said resumption moneys have not been applied under the said Ordinance respectively it is impossible or inexpedient to carry out or observe the same.

5. The purchase money arising from such sale or sales as aforesaid shall be paid to the Church of England Property Trust Diocese of Sydney whose receipt shall be an effectual discharge therefor and after the payment of all costs charges and expenses of and incidental to this Ordinance and the said sale or sales and the conveyance or conveyances transfer or transfers of the said land in pursuance thereof shall be held upon trust to apply the sum of £2000 thereof together with the said unapplied resumption moneys in or towards the cost of building upon the said unresumed portion of St. Philip's School Land a Parish Hall and the balance shall be paid to the Most Reverend Howard West Kilvinton Mowll D.D. Archbishop of Sydney the Venerable Herbert Smirnoff Begbie Archdeacon and Herbert Langley Tress

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Solicitor the present Trustees of the Will of the late Thomas Moore or others the Trustees for the time being of such Will to be held and applied by them as such Trustees and after conference with the Committee of Management of Moore Theological College for the purposes of Moore Theological College. Provided that if the said property be sold for an aggregate sum of more than twenty thousand pounds (£20,000) an amount of one half of the said sum over and above the said sum of twenty thousand pounds (£20,000) shall be held in trust for the parish of St. Philip and paid to the persons entitled to receive the same on behalf of the said parish.

6. Pending the application of the said sum of Two thousand pounds (£2,000) and of the other moneys payable under the provisions of the proviso of clause 5 and of the said unapplied resumption moneys mentioned in clause 5 hereof for the purposes for which the same are authorised to be applied by that clause such sums may be invested upon any investments for the time being authorised by law for the investment of Trust Funds and the income arising from such investments shall be applied by them as follows:—The income arising from the investment of the said unapplied resumption moneys or any part thereof shall be applied for the purposes for which the same may now be applied by virtue of clause 5 of the said Ordinance and the income from the investment of the said sum of Two thousand pounds (£2,000) and of the other moneys payable under the provisions of the proviso of clause 5 or any part thereof shall be paid to the Rector and Churchwardens of St. Philip's Church Sydney and applied by them for general parish purposes in accordance with the provisions of the Sydney Church Ordinance 1912 or any Ordinance amending or taking the place of the same.

7. The land and premises in this Ordinance referred to or described as Number 3 York Street and Numbers 6, 8 and 10 Clarence Street Sydney shall for the purposes of this Ordinance be deemed to include any land adjoining the premises generally known by such descriptions which is held upon the same trusts as those upon which the said premises are held.

8. This Ordinance may be cited as "Saint Philip's (Sydney) Church and School Resumption Ordinance 1934 Amendment Sale and Vesting Ordinance 1935."

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I certify that the Ordinance as printed is in accordance with
the Ordinance as reported.

R. C. ATKINSON,

Chairman of Committees.

We certify that this Ordinance was passed this fifteenth day
of October, 1935.

S. H. DENMAN
HARINGTON B. COWPER } Secretaries of
the Synod.

I assent to this Ordinance.

HOWARD SYDNEY.

4th November, 1935.