

*St. Mary's Church Mortlake Sale and Mortgage
Ordinance 1938.*

No. 11, 1938.

AN ORDINANCE to authorise the sale and mortgage respectively of certain lands situated at Mortlake near Sydney and more particularly described in the Schedules hereto and to provide for the application of the proceeds thereof and for other purposes incidental thereto.

WHEREAS by Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty second day of January one thousand nine hundred and fourteen registered Volume 2440 Folio 98 The Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustees") is the registered proprietor of the land therein and in the First Schedule hereto described AND WHEREAS the said land is held upon trust to permit the same to be used for a Parish Hall and for other purposes in connection with the Church of England in the Parish of St. Luke's Burwood AND WHEREAS by Certificate of Title under the provisions of the Real Property Act 1900 dated the fifth day of December one thousand nine hundred and twenty two registered Volume 3395 Folio 171 William Frederick Pyke Frederick Taylor Harry Finnigan and Thomas Richard Finnigan are the registered proprietors as joint tenants of an estate in fee simple of the land comprised therein and in the Second Schedule hereto described AND WHEREAS by Declaration of Trust dated the twentieth day of December one thousand nine hundred and twenty seven it was declared that the said land was held upon trust inter alia to erect or build upon the said land or upon some part thereof a Church Parsonage or Parish Hall by and for the Church of England or any one or more of them respectively AND WHEREAS the said William Frederick Pyke Frederick Taylor Harry Finnigan and Thomas Richard Finnigan or a majority of such Trustees are desirous of vesting the said land in the Corporate Trustees AND WHEREAS it is expedient that the land comprised in the Second Schedule hereto should be vested in the Corporate Trustees AND WHEREAS the Provisional District of St. Mary's Mortlake has been established AND WHEREAS it is expedient to vary the hereinbefore recited trusts and to declare that the land subject to the said trusts are held by the Corporate Trustees upon trust

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for the Church of England in the Provisional District of St. Mary's Mortlake and to further declare that the land in the Second Schedule is held upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for another or others of such purposes in the said Provisional District AND WHEREAS certain land more particularly described in the Third Schedule hereto has been acquired by the Sydney Diocesan Board of Finance in the name of the Corporate Trustees and such land is church trust property and is not held for the sole benefit of some particular parish AND WHEREAS by reason of circumstances subsequent to the creation of the trusts firstly hereinbefore recited it is expedient to sell the land described in the First Schedule hereto either with or without the buildings erected thereon (which buildings are at present used as a Parish Hall for the said Provisional District) and to apply the proceeds of such sale (so far as they will extend) in removing and re-erecting the said Parish Hall building upon the land described in the Third Schedule hereto AND WHEREAS by reason of circumstances subsequent to the creation of the trusts secondly hereinbefore recited it is expedient to mortgage the said land described in the Second Schedule hereto and to apply the proceeds in or towards the erection of a Rectory or Parsonage thereon NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod ordains and declares as follows:—

1. By reason of circumstances subsequent to the creation of the secondly hereinbefore recited trusts it is expedient to vest the land in the Second Schedule hereto in the Corporate Trustees.

2. The Standing Committee hereby consents to the said land in the Second Schedule hereto being vested and the same is hereby vested in the Corporate Trustees.

3. By reason of circumstances subsequent to the trusts hereinbefore firstly and secondly described it is expedient to vary the same And it is hereby declared that the lands comprised in the First and Second Schedules hereto are held by the Corporate Trustees for the Church of England in the Provisional District of St. Mary's Mortlake And it is further declared that the land in the Second Schedule hereto is held upon trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one and partly for another or others of such purposes in connec-

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tion with the Church of England in the said Provisional District of St. Mary's Mortlake.

4. By reason of circumstances subsequent to the creation of the hereinbefore firstly recited trusts it is expedient to sell the land comprised in the First Schedule hereto.

5. The said land may be sold by the Corporate Trustees under and in pursuance of the provisional Contract of Sale set out in the Fourth Schedule hereto freed from such trusts as aforesaid or failing the said provisional Contract of Sale the Corporate Trustees are hereby empowered to sell the said land or any portion or portions thereof either with or without the building erected thereon and/or any such building erected thereon at any time hereafter and from time to time by public auction or private contract either in one lot or several lots at such price or prices and upon such terms and conditions as the Corporate Trustees may deem expedient freed from such trusts as aforesaid.

6. The Corporate Trustees shall execute the transfer or transfers necessary for the purpose of carrying any such sale or sales as aforesaid into effect.

7. The proceeds of any such sale or sales shall stand charged with the payment of all outgoings properly chargeable against the said land and all costs charges and expenses of such sale and without limiting the generality thereof of any other matters authorised to be done by this Ordinance including all costs charges and expenses of and incidental to this Ordinance and subject thereto the balance shall be paid to the Incumbent and Churchwardens (for the time being) of St. Mary's Church Mortlake (whose receipt shall be a sufficient discharge) to be applied by them in or towards removing and re-erecting the buildings erected on the subject land upon the land described in the Third Schedule hereto and the proper laying out and completely adapting the last mentioned land and appurtenances for the purpose of a Parish Hall.

8. By reason of circumstances subsequent to the creation of the trusts hereinbefore secondly recited and varied it is expedient to mortgage the land comprised in the Second Schedule.

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9. (1) The Corporate Trustees are hereby empowered to mortgage from time to time the whole or any part of the said land for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding £800.

(b) When the power is subsequently exercised such sum as the Standing Committee shall by resolution determine but pending such resolution such debt shall be reduced at the rate of not less than £30 per annum as from the date of the said mortgage.

(2) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.

(3) A document purporting to be certified by the Archbishop or Diocesan Secretary of the said diocese as a copy of any such resolution shall in favour of a mortgagee or any person or corporation claiming under the mortgagee be conclusive evidence that such resolution was duly passed.

10. The proceeds of any mortgage hereby authorised shall be applied by the corporate Trustees as follows:—In payment of all outgoing properly chargeable against the said land and the costs of any such mortgage or mortgages and of all other costs charges and expenses then unpaid as authorised by this Ordinance and subject thereto such proceeds shall be paid to the Incumbent and Churchwardens (for the time being) of St. Mary's Mortlake (whose receipt shall be a sufficient discharge) to be applied in or towards the erection of a rectory or parsonage upon the land in the Second Schedule or for re-financing from time to time the said rectory or parsonage and the proper laying out and completely adapting the said last mentioned land and appurtenances for the said purposes.

11. The Incumbent and Churchwardens for the time being of St. Mary's Church Mortlake shall within seven days of the date of holding the annual vestry meeting during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed amounts paid off and the balance owing.

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12. St. Mary's Church Mortlake Sale and Mortgaging Ordinance No. 4 of 1931 is hereby repealed but such repeal shall not affect any matter or thing done under or pursuant to such Ordinance.

13. This Ordinance shall be styled and cited as "St. Mary's Church Mortlake Sale and Mortgage Ordinance 1938."

FIRST SCHEDULE REFERRED TO.

ALL THAT piece or parcel of land situate at Mortlake in the Municipality of Concord Parish of Concord and County of Cumberland having a frontage to Gale Street and Tennyson Road Mortlake and being the whole of the land comprised in Certificate of Title dated the twenty-second day of January one thousand nine hundred and fourteen Registered Volume 246 Folio 98.

SECOND SCHEDULE REFERRED TO.

ALL THAT piece or parcel of land situate at Mortlake in the Municipality of Concord Parish of Concord and County of Cumberland being Lot 153 on a plan deposited in the Land Titles Office Sydney No. 7564 and being the whole of the land comprised in Certificate of Title dated the fifth day of February one thousand nine hundred and twenty-two Registered Volume 2129 Folio 171.

THIRD SCHEDULE REFERRED TO.

ALL THAT piece or parcel of land situate in the Municipality of Concord Parish of Concord County of Cumberland being Lot 9 on a plan deposited in the Land Titles Office Sydney No. 5578 and being the whole of the land comprised in Certificate of Title dated the twenty-second day of April one thousand nine hundred and fourteen registered Volume 2466 Folio 213.

FOURTH SCHEDULE REFERRED TO.

Conditions and Terms of Sale for the undermentioned property sold by private Contract on the thirty-first day of

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August 1938 by the Church of England Property Trust Sydney. Particulars: All that piece or parcel of land situate at Mortlake in the Municipality of Concord Parish of Concord County of Cumberland having a frontage of about 246 feet 4½ inches to Gale Street and Tennyson Road by varying depths and being Lots 46 to 49 inclusive shown on plan of subdivision produced to the Purchaser at the time of sale. All buildings on the said land are retained by the owner or vendor. The title of the land is under the Real Property Act.

(Then follow conditions approved by the Real Estate Institute of New South Wales with provision for adjustment of rents profits rates taxes and outgoings to be adjusted on completion.)

SPECIAL CONDITIONS.

The Purchaser agrees to allow the owner or vendor six months from date hereof in which to remove buildings.

This is a provisional contract only and shall not come into operation until such time as an Ordinance has been passed under the Church of England Trust Property Act 1917 by the Synod of the Diocese of Sydney or during the recess of the said Synod by the Standing Committee of the Synod and if such Ordinance is not passed and assented to within a period of six months (or such further period or periods as may be "agreed upon by the Vendor and Purchaser") from the date hereof this contract shall be null and void and of no effect and the deposit herein shall be refunded to the Purchaser.

TERMS OF SALE.

Upon signing the Contract the Purchaser shall pay into the hands of J. H. Ryan for Vendor a cheque for a deposit of Five pounds (£5) of the whole amount of the purchase money and the balance of purchase money shall be paid to the Vendor as follows:—In cash on completion of the Memorandum of Transfer.

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CONTRACT FOR SALE.

Subject to and upon the preceding Conditions and Terms of Sale I WALLACE BEST purchase the property Lots 46 to 49 inc. frontage to Gale St. and Tennyson Rd. Mortlake as here-inbefore described for the sum of Two hundred and thirty-five pounds £235 and J. H. Ryan for the Vendor sells the same.

Dated this thirty-first day of August one thousand nine hundred and thirty-eight.

Purchase Money	£235
Deposit	5
Balance	230

Signature of Purchaser: W. Best.
Occupation: Builder.
Address: 129 Concord Rd. Concord.

Signature of Vendor: Robert William Freeman.
Herbert H. Kinane }
Arthur William Barker } (Churchwardens)
G. Williamson }

Vendor's Solicitors: Whitehead & Ferranti, Eldon Chambers, 92 Pitt Street, Sydney.

Purchaser's Solicitor: Rex Reynolds, 109 Elizabeth Street, Sydney.

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

R. C. ATKINSON,
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Twenty-eighth day of November 1938.

H. V. ARCHINAL,
Diocesan Secretary.

I ^{assent} ~~certify~~ to this Ordinance.

H. SMIRNOFF BEGBIE,
Archdeacon, Deputy Commissary.

30th November, 1938.