
*St. Philip's Sydney Leasing and/or Mortgaging
Ordinance 1939.*

No. 23, 1939.

AN ORDINANCE authorising the leasing and/or mortgaging of certain lands situate in the City of Sydney and having frontages to York Street and Clarence Street respectively and providing for the application of the proceeds thereof.

WHEREAS by Indenture of Conveyance bearing date the ninth day of July 1863 and made between John Croft therein described of the one part and John Campbell George Kilgour Ingelow and John Alexander Mathews therein described of the other part Registered Number 969 Book 84 certain lands having a frontage to York Street Sydney and being more particularly described in the First Part of the First Schedule hereto were conveyed unto the said John Campbell George Kilgour Ingelow and John Alexander Mathews in fee simple as a site for a Parsonage of the Church of the United Church of England and Ireland erected in the Parish of Saint Philip in the City of Sydney and known as Saint Philip's Church and as and for the residence of the Incumbent of the said Church for the time being upon the trusts and for the purposes declared in and subject to the provisions of an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the eighth year of the reign of His Majesty King William the Fourth Number Five in reference to lands appropriated as sites for dwelling houses for clergymen of the United Church of England and Ireland AND WHEREAS by Indenture of Conveyance bearing date the Twenty-sixth day of September 1873 and made between the said John Croft of the first part James Sutherland Mitchell of the second part and John Campbell William Joseph Day and James Watson therein described of the third part Registered Number 183 Book 138 certain other lands having a frontage to York Street Sydney adjoining the lands described in the First Part of the First Schedule hereto and being more particularly described in the Second Part of the First Schedule hereto were conveyed unto the said John Campbell William Joseph Day and James Watson in fee simple as a site for a Parsonage of the Church of the United Church of England and Ireland erected in the Parish of Saint Philip in the City of Sydney and known as Saint Philip's Church and as and for the residence or occupation of the Incumbent of the said Church for the time being upon the like trusts as are hereinbefore

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mentioned in the hereinbefore recited Indenture of Conveyance of the Ninth day of July 1863 with respect to the land thereby conveyed AND WHEREAS by Indenture of Conveyance bearing date the Sixth day of October 1869 and made between the said John Croft of the first part the said James Sutherland Mitchell of the second part and the said John Campbell and John Alexander Mathews of the third part certain other lands having a frontage to Clarence Street Sydney and being more particularly described in the Second Schedule hereto were conveyed unto the said John Campbell and John Alexander Mathews in fee simple as a site for a Parsonage of the Church of the United Church of England and Ireland erected in the Parish of St. Philip in the City of Sydney and known as St. Philip's Church and as and for the residence of the Incumbent of the said Church for the time being upon the like trusts as are hereinbefore mentioned in the hereinbefore recited Indenture of Conveyance of the ninth day of July 1863 with reference to the land thereby conveyed AND WHEREAS Howard West Kilvinton Mowll Thomas Chatterton Hammond and William James Levick are the present duly constituted Trustees of the lands described in the First and Second Schedules hereto as appears by a Certificate under the hand of the Archbishop of Sydney bearing date the Second day of November 1939 AND WHEREAS there is erected on the lands described in the First and Second parts of the First Schedule hereto a stone house known as "Greystanes" Number 3 York Street Sydney AND WHEREAS there is erected on the land described in the Second Schedule hereto a brick store building known as Numbers 6 8 and 10 Clarence Street Sydney AND WHEREAS by Deed Poll or Grant from the Crown bearing date the Twenty-sixth day of March 1850 certain other lands having frontages to York Street Grosvenor Street (then Charlotte Place) and Clarence Street Sydney and more particularly described in the Third Schedule hereto were granted unto the Right Reverend William Grant Broughton the Lord Bishop of Sydney and his successors Bishops of Sydney for ever John Campbell and Francis Mitchell in fee simple upon trust for the erection thereon of a School House in connection with the United Church of England and Ireland as by Law established and for no other purpose whatsoever AND WHEREAS by Notification of Resumption dated the Twenty-second day of October 1926 published in the New South Wales Government Gazette of that date part of the lands described in the Third Schedule hereto were resumed under the Public Works Act 1912 for public purposes

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AND WHEREAS by virtue of the "St. Philip's (Sydney) Church and School Resumption Ordinance 1934 Amendment Sale and Vesting Ordinance 1935" the unresumed portion of the lands described in the Third Schedule hereto is now vested in Church of England Property Trust Diocese of Sydney AND WHEREAS a new Parish Hall is required for the purposes of the Parish of St. Philip Sydney and the same is now in course of erection upon the unresumed portion of the lands described in the Third Schedule hereto and the cost of the erection of the same is estimated to be the sum of about Six thousand and twenty-three pounds (£6023) AND WHEREAS for the purpose of providing money to pay for the cost of the erection of the said new Parish Hall it is expedient to borrow or raise money upon the security of a mortgage or mortgages of the whole or some part or parts of the lands described in the First and Second Schedules hereto AND WHEREAS the buildings erected on the lands described in the First and Second Schedules hereto are not used as a Parsonage for St. Philip's Church Sydney and it is expedient to lease such lands and to apply the rents profits and income to be received from the leasing of the same or any part or parts thereof after payment of all outgoing payable in respect of such lands for or towards the general purposes of St. Philip's Church Sydney and in so far as the same shall not be required for such purposes for the general purposes of Moore College Sydney AND WHEREAS by the said "St. Philip's (Sydney) Church and School Resumption Ordinance 1934 Amendment Sale and Vesting Ordinance 1935" authority was given to sell the lands described in the First and Second Schedules hereto but no part of such lands has been sold pursuant to such authority Now Therefore 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 Trusts affecting the lands described in the First and Second Schedules hereto it is expedient to lease such lands and/or to mortgage the same or some part or parts thereof.

2. The lands described in the First and Second Schedules hereto and the buildings erected thereon or any part or parts thereof may be leased from time to time by the Trustees for the time being of such lands to such person or persons at such rent or rents and for such period or periods and subject to and upon such terms and conditions as such Trustees shall determine and the Trustees for the time being of the said lands or any part or

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parts thereof are hereby authorised to execute and do all such acts leases instruments and other documents as shall be necessary for the purpose of carrying into effect any lease of the said lands and buildings or any part or parts thereof hereby authorised. Provided that any lease or leases granted under this Ordinance shall expire on or before the Thirty-first day of December 1949 unless the Standing Committee shall otherwise determine.

3. The rents profits and income to arise in respect of the leasing of the lands described in the First and Second Schedules hereto and the buildings erected thereon or any part or parts thereof under the powers hereby conferred shall be received by the Trustees for the time being of such lands and after payment thereof of all rates taxes and other outgoings payable by such Trustees in respect of the said lands and the interest payable under any mortgage hereby authorised the balance of such rents profits and income shall be paid by such Trustees to the Churchwardens for the time being of St. Philip's Church Sydney and applied by such Churchwardens for or towards the general purposes of St. Philip's Church Sydney under and in accordance with the provisions of the Sydney Church Ordinance 1912 or any ordinance amending or taking the place of the same but if and so far as such balance of the said rents profits and income shall not be required by the said Churchwardens for the purposes of St. Philip's Church Sydney the same shall be paid by the said Trustees to the persons who are the Trustees for the time being of the will of the late Thomas Moore to be applied by such persons for the general purposes of Moore Theological College Sydney.

4. (i) The Trustees for the time being of the lands described in the First and Second Schedules hereto are hereby empowered to mortgage from time to time the whole or any part or parts of such lands for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding Three thousand five hundred pounds (£3,500).

(b) When the power is subsequently exercised such sum as the Standing Committee shall by resolution determine.

Provided that the debt created by any Mortgage executed pursuant to this Ordinance shall be reduced at the rate of not less than One hundred pounds (£100) per annum.

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

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(iii) 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 a Mortgagee be conclusive evidence that such resolution was duly passed.

5. The moneys raised by any Mortgage hereby authorised shall be received by the said Trustees and applied by them as follows:—

- (a) In payment of the costs charges and expenses of and incidental to this Ordinance and any mortgage executed in pursuance of this Ordinance and
- (b) The balance of such moneys shall be paid to the Rector and Churchwardens for the time being of the Parish of St. Philip Sydney (whose receipt shall be a sufficient discharge therefor) who shall apply such moneys received in or towards the payment of the cost of the erection or completion of the said new Parish Hall and the proper laying out and completely adapting the land upon which the said Parish Hall is erected as a site for a Parish Hall or in the repayment of any Mortgage or Mortgages executed pursuant to the terms hereof together with any interest charges costs and expenses incidental thereto.

6. The Rector and Churchwardens for the time being of St. Philip's Church Sydney shall within seven days of the date of the holding of the annual Vestry Meeting during such time as any money is owing to any Mortgagee under any Mortgage executed 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.

7. This Ordinance shall be styled and cited as "St. Philip's Sydney Leasing and/or Mortgaging Ordinance 1939."

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

First Part.

ALL THAT parcel of land containing by admeasurement eleven and one-half perches be the same more or less situated in the City of Sydney Parish of Saint Philip County of Cumber-

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land and State of New South Wales being the whole of Allotment Number Six and part of Allotment Number Five of Section Number Three of the site of the Old Military Barracks Commencing at a point on the western side of York Street eighty-five feet distant from the building line of Margaret Street and bounded on the east by the building line of York Street northerly forty feet on the north by the southern boundary line of Petty's Hotel being a westerly line of seventy-two feet ten inches to the northern termination of a lane sixteen feet six inches wide on the west by that lane southerly and parallel with York Street forty-six feet four inches and on the south by a line at right angles to that lane easterly seventy-two feet four inches and dividing the same from the residue of Allotment Number Five to the point of commencement in York Street.

Second Part.

ALL THAT piece or parcel of land situate and lying in the Parish of Saint Philip City of Sydney in the County of Cumberland State of New South Wales and be the hereinafter mentioned dimensions all more or less being Portion of Allotments Numbers Four and Five of Section Three of the site of the Old Military Barracks Commencing on the western side of York Street sixty-five feet northerly from Margaret Street and bounded on the East by York Street bearing northerly twenty feet on the north by the southern boundary of the land sold to Saint Philip's Parsonage bearing westerly seventy-two feet four inches on the west by a lane sixteen feet six inches wide leading to Margaret Street and bearing southerly twenty feet and on the south by a line bearing easterly seventy-two feet four inches to the point of commencement.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

ALL THAT parcel of land situated in the City of Sydney Parish of St. Philip County of Cumberland and State of New South Wales being the whole of Allotments Seven and Eight and part of Allotment Number Nine of Section Number Three of the site of the Old Military Barracks Commencing on the eastern side of Clarence Street eighty-three feet two inches northerly from Margaret Street and bounded on the West by said Clarence Street bearing northerly fifty-four feet five inches on the north by Petty's

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Hotel being a line bearing easterly seventy-one feet seven inches on the east by a line bearing southerly forty-eight feet four inches and on the south by a line bearing westerly seventy-one feet six inches to the point of commencement.

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO.

ALL THAT piece or parcel of land containing by admeasurement one rood and eighteen perches be the same more or less situated in the County of Cumberland Parish of Saint Philip and City of Sydney on Church Hill Commencing in Clarence Street at the north-west corner of the Church Allotment and bounded on the west by that street bearing north fifteen degrees west one chain thirty-nine links on the north by Charlotte Place bearing east fifteen degrees north two chains sixty-three links on the east by York Street bearing south fifteen degrees east one chain thirty-nine links to the north-east corner of the Church Allotment and on the south by that allotment bearing west fifteen degrees south two chains sixty-three links to the commencing corner.

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

W. J. G. MANN,

Acting Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Eighteenth day of December, 1939.

H. V. ARCHINAL,

Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY.

20th December, 1939.