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*St. Barnabas' Sydney Further Variation of Trusts  
and Sale Ordinance 1963*

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No. 12, 1963.

AN ORDINANCE to provide for the application of the rents of certain land held for the Parish of St. Barnabas' Broadway in the City of Sydney and to vary the provisions of the "St. Barnabas' Sydney Lease Ordinance 1952" in respect thereof AND to authorise the sale of a small parcel of land known as Bates' Land held for the said Parish.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is seized of an estate in fee simple of the lands described in the first schedule hereto AND WHEREAS in pursuance of the "St. Barnabas' Sydney Variation of Trusts and Mortgaging Ordinance 1954" the land contained in the first schedule hereto is mortgaged to the National Bank of Australasia Limited such mortgage debt now standing at Six thousand seven hundred and fifty pounds (£6,750) AND WHEREAS in pursuance of the provisions of the "St. Barnabas' Sydney Mortgaging and Leasing Ordinance of 1912" as varied by the provisions of the "St. Barnabas' Sydney Lease Ordinance 1952" the Corporate Trustee did lease the said land contained in the first schedule to Grace Bros. Pty. Limited from month to month as from the 24th day of August 1951 at the monthly rental of One hundred and fifty pounds (£150) and did by clause 2 of such last mentioned Ordinance provide for the application of the said rent AND WHEREAS it is expedient that the said clause 2 of such Ordinance be varied with regard to the application of the said rent as hereinafter provided AND WHEREAS it is necessary and expedient both that the said rental be increased and that the mortgage to the National Bank of Australasia Limited be substantially reduced by applying part of the moneys accumulated in the "St. Barnabas' Sydney Endowment Fund" for that purpose AND WHEREAS the legal title to the land described in the second schedule hereto depends on possessory title AND WHEREAS the buildings erected on such land were erected by Grace Bros. Pty. Limited and encroach thereon to a certain extent and it is expedient that the said land should be sold and conveyed to the said Grace Bros. Pty. Limited NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod ORDAINS AND DIRECTS AS FOLLOWS:-

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1. By reason of circumstances which have arisen since the passing of "St. Barnabas' Sydney Lease Ordinance 1952" it is expedient to increase the rental of the said land described in the first schedule and to apply the whole of such rental other than 12½% thereof in reduction of the mortgage to the National Bank of Australasia Limited.

2. The Corporate Trustee by itself or its agents is hereby empowered to effect such lawful increase in the rental of the property described in the first schedule to such sum as it may deem necessary.

3. The Corporate Trustee is hereby empowered to apply the moneys which have accumulated in the "St. Barnabas' Sydney Endowment Fund" as follows:-

- (a) as to a sum not exceeding Four hundred pounds (£400) or such part thereof as is necessary, for the promotion of the purposes contained in paragraph 2 hereof.
- (b) as to the sum of £2,000 of such fund for the reduction of the amount secured by mortgage to The National Bank of Australasia Limited on the land contained in the first schedule hereto.

4. Clause 2 "St. Barnabas' Sydney Lease Ordinance 1952" is hereby varied to the extent that the whole of the net rents and profits other than 12½% thereof from time to time arising from the said lease to Grace Bros. Pty. Limited or any other lease or leases taking the place of the same of the land contained in the first schedule hereto shall be applied and paid to the Churchwardens of St. Barnabas' Sydney for the purpose of repayment both of principal and interest secured by the mortgage to the National Bank of Australasia Limited until such mortgage is fully paid and satisfied and thereafter for such general Church purposes in connection with the said Parish as the Rector and a majority of the Churchwardens shall from time to time determine.

5. By reason of circumstances subsequent to the creation of the trusts upon which the land described in the second schedule hereto is held it is inexpedient to carry out or observe the same and it is expedient that the said land be sold.

6. The Corporate Trustee is hereby empowered to sell and convey the land described in the second schedule hereto to Grace Bros. Pty. Limited at such time and at such price and upon such

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terms and conditions as it may think fit freed from the said trusts upon which it is now held.

7. The proceeds arising from the said sale shall after paying thereout all charges and outgoings to which the said land is subject and the costs of and incidental to this or any application to bring this Ordinance under the Real Property Act of 1900 and the sale and transfer in pursuance thereof be paid to the Churchwardens for the time being of St. Barnabas' Broadway Sydney who shall apply the same in reduction of the amount secured by the said mortgage to the National Bank of Australasia Limited.

8. This Ordinance may be cited as "St. Barnabas' Sydney Further Variation of Trusts and Sale Ordinance 1963."

#### FIRST SCHEDULE REFERRED TO

All that piece or parcel of land situate at Saint Barnabas Lane City of Sydney Parish of Petersham County of Cumberland State of New South Wales containing by admeasurement twenty and a quarter perches commencing at a point on the Southern side of St. Barnabas Lane distant eighty-four feet two inches westerly from Mountain Street (late Athlone Place) and bounded on the North by St. Barnabas Lane bearing westerly sixty-four feet on the West by a line bearing southerly eighty-six feet to land in application No. 9213 thence on the South by the Northern boundary of said application and a line in prolongation thereof bearing Easterly sixty five feet on the East by a line bearing Northerly eighty eight feet to the point of commencement be the said several dimensions a little more or less.

#### SECOND SCHEDULE REFERRED TO

All that piece or parcel of land known as Bates Land situate in the Parish of Petersham County of Cumberland being part of one acre three roods fifteen perches contained in Number 182 Book J and having dimension of approximately sixteen feet by thirty-nine feet appurtenant to the land comprised in Real Property Act application Number 9213 by Grace Bros. Pty. Limited also being the land comprised in Real Property Act application Number 8279 by Maria Bates, John Bates and Thomas Bates.

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

H. G. S. BEGBIE,

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 29th day of April 1963.

W. L. J. HUTCHISON,

Secretary of Standing Committee.

I assent to this Ordinance.

HUGH SYDNEY,

29/4/1963.

Archbishop of Sydney.

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1. By reason of circumstances which have arisen since the passing of "St. Barnabas' Sydney Lease Ordinance 1952" it is expedient to increase the rental of the said land described in the first schedule and to apply the whole of such rental other than 12% thereof in reduction of the mortgage to the National Bank of Australasia Limited.

2. The Corporate Trustee by itself or its agents is hereby empowered to effect such lawful increase in the rental of the property described in the first schedule to such sum as it may deem necessary.

3. The Corporate Trustee is hereby empowered to apply the moneys which have accumulated in the "St. Barnabas' Sydney Endowment Fund" as follows:-

- (a) as to a sum not exceeding Four hundred pounds (£400) or such part thereof as is necessary, for the promotion of the purposes contained in paragraph 2 hereof.
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