

*St. James' Church Sydney Rectory Resumption  
Ordinance 1932.*

**No. 2. 1932.**

AN ORDINANCE to authorise the Church of England Property Trust Diocese of Sydney to receive out of Court the amount of compensation money to be paid by the Council in respect of the resumption by the Council of certain land in Phillip Street Sydney being the new Parsonage site of the said Church and being the whole of the land comprised in Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty-third day of February One thousand nine hundred and nine Volume 1951 Folio 47 and to declare the Trusts upon which the said compensation money shall be held and for other purposes incidental thereto.

WHEREAS at the time of resumption hereinafter mentioned the Most Reverend John Charles Wright Archbishop of Sydney Cyril Ernest Corlette Thomas Lewthwaite Grainger The Reverend Philip Arthur Micklem Doctor of Divinity and Reginald Lee Rex Rabett (hereinafter designated the said Proprietors) were the registered proprietors as joint tenants of an estate in fee simple in the land comprised in Certificate of Title under the provisions of the Real Property Act 1900 dated the twenty-third day of February One thousand nine hundred and nine Volume 1951 Folio 47 (hereinafter designated the said land) subject to the declaration of Trust hereinafter mentioned AND WHEREAS by Declaration of Trust bearing date the twenty-seventh day of April One thousand nine hundred and nine filed in the Land Titles Office Sydney and numbered 7200 the then Trustees declared that they and the survivors or survivor of them would hold the said land upon Trust as the site of a dwelling house for the clergyman for the time being licensed to officiate in the Church of St. James King Street Sydney AND WHEREAS by notice of resumption dated the fourteenth day of December One thousand nine hundred and twenty-five under the Common Seal of the Council the Council in pursuance of the power and authority given to or vested in the Council by the Sydney Corporation Amendment Act of 1905 and otherwise did declare and give notice that the said land was thereby resumed AND WHEREAS the said notice of resumption and the description of the said land were

duly published in the Government Gazette and four Sydney daily newspapers dated the first day of January One thousand nine hundred and twenty-six and thereupon such land became for the purposes and subject to the provisions of the said Act vested in the Council and the interest if any turned into a claim for compensation against the Council AND WHEREAS the said proprietors caused the prescribed notices of claim to be served upon the City Solicitor and the Council AND WHEREAS the Council valued the said land for compensation at the sum of £27,875 but subsequently increased the same to £30,000 which sum of £30,000 has been accepted as compensation for the said land AND WHEREAS the said Thomas Lewthwaite Grainger and Reginald Lee Rex Rabett resigned their position as Trustees of the said land and the Reverend John Fraser Sydney Russell of Sydney Clerk in Holy Orders and Robert Bell Symington of Sydney Civil Servant were appointed in lieu of the said Thomas Lewthwaite Grainger and Reginald Lee Rex Rabett and the said John Charles Wright as Archbishop being the Bishop of the Diocese of Sydney by his certificate bearing the date the fifteenth day of January One thousand nine hundred and twenty-seven in pursuance of section 34 of the Church of England Trust Property Act of 1917 stated that he the said John Charles Wright Cyril Ernest Corlette The Reverend Philip Arthur Micklem the Reverend John Fraser Sydney Russell and Robert Bell Symington (hereinafter designated the said Trustees) were the duly constituted Trustees of the said land and such Trustees have been duly registered by endorsement on the said Certificate of Title AND WHEREAS the Reverend John Fraser Sydney Russell and Robert Bell Symington resigned their position as Trustees of the said land and Albert Edward Norden and William George Kett were appointed in lieu of the Reverend John Fraser Sydney Russell and Robert Bell Symington and the said John Charles Wright as Archbishop as aforesaid by his certificate stated that he the said John Charles Wright Cyril Ernest Corlette the Reverend Philip Arthur Micklem Albert Edward Norden and William George Kett were the duly constituted Trustees of the said land (hereinafter designated the said Trustees) AND WHEREAS by Agreement bearing date the sixth day of April One thousand nine hundred and thirty-one and made between the said Trustees of the one part and the Council of the other part for the considerations therein stated it was agreed:—

1. The Trustees should remain in occupation of the said land and premises as tenants of the Council for a period of

twelve months commencing on the first day of January One thousand nine hundred and thirty-one at a rental of thirteen pounds (£13) per week payable monthly the first payment after the date thereof to be made on the first day of May One thousand nine hundred and thirty-one.

2. The Trustees should pay all Water and Sewerage Rates on the said land and premises up to the thirtieth day of June One thousand nine hundred and thirty-one and one half of the same for the following ratable year. If the Trustees remain on as tenants from the expiration of the term thereby fixed their tenancy should continue as a weekly tenancy at the same rental as was thereby reserved and in addition thereto they should pay a proportioned amount of the Water and Sewerage rates for the period of such extended tenancy.

3. The Council should pay all Municipal Rates and the cost of carrying out all structural repairs as may be certified to by the City Architect as being necessary having in view the proposed demolition of the property in the near future.

4. The Council should pay to the Master in Equity in accordance with the provisions of Section 47 of the Public Works Act 1900 as adopted as aforesaid to the credit of a fund to be entitled "Ex parte the Municipal Council of Sydney in the matter of the claim of the Trustees of St. James' Rectory" the said sum of thirty thousand pounds (£30000) less the amounts properly to be deducted for rates and interest abovementioned.

5. The Council should pay to the Trustees interest at the Statutory rates of six pounds (£6) per centum per annum on the said sum of thirty thousand pounds (£30000) (less the amount to be deducted for unpaid rates) from the first day of January one thousand nine hundred and thirty-one to the date of payment into Court as aforesaid.

6. The Trustees should on settlement execute a Release to the Council of its claim for compensation in such form as might be approved of by the city Solicitor.

AND WHEREAS by Indenture of Release bearing date the Seventh day of August One thousand nine hundred and thirty-one made between the said Trustees (therein called releasors) of the one part and the Council of the other part in consideration of the sum of £30,000 and interest thereon £1,364/13/2 making together the sum of £31,364/13/2 less the sum of £1,862/7/3 being

£1,301/12/7 rates prior to 1931 and £541/5/1 rent and £10/9/7 further rates subsequent to the 1st January 1931 deducted for unpaid rates making the net sum of £29,502/5/11 paid to the Master in Equity by the Council the said Trustees did grant bargain sell enfranchise release surrender and confirm unto the Council its successors and assigns the said land together with all and singular the rights easements and appurtenances thereto respectively belonging or therewith usually held occupied or enjoyed to hold the same unto and to the use of the Council its successors and assigns absolutely and it was also witnessed that for the consideration aforesaid and of the premises the said Trustees did thereby remise release and quit claim unto the Council its successors and assigns all claims demands actions suits cause and causes of action or suit sum or sums of money compensation interest damages costs and expenses which the said Releasors had or then had or at any time thereafter might have against the Council its successors and assigns for or on account of the resumption and taking of the said lands or for or by reason or on account of any matter or thing arising out of or in respect of the said resumption or otherwise howsoever in respect of the premises AND WHEREAS the said sum of £29,502/5/11 has been paid by the Council to the Master in Equity in accordance with the provisions of section 47 of the Public Works Act 1900 as adopted by the Sydney Corporation Amendment Act 1905 to the credit of a fund entitled ex parte the Municipal Council of Sydney in the matter of the claim of the Trustees of St. James' Rectory AND WHEREAS the said Trustees have consented that the Church of England Property Trust Diocese of Sydney (hereinafter designated the said Trust) shall henceforth become and they are hereby declared Trustees of the Fund hereinbefore mentioned AND WHEREAS it is expedient that the said Trust should be authorised to receive the amount of compensation money and interest thereon as paid by the Council in the matter of the said resumption and to take such money out of Court as aforesaid and to apply the same in manner hereinafter appearing Now the Standing Committee of the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Church of England Trust Property Act 1917 and the Land Ordinance Procedure and Delegation of Powers Ordinance 1926 and in pursuance of the powers vested in the said Synod by the Constitutions for the management and good government of the Church of England within the State of New South Wales or otherwise in the name and in the place of the said Synod declares directs and rules as follows:—

1. By reason of the aforesaid circumstances it has become impossible to carry out or observe such Trust.

2. The said Trust is hereby authorised to receive out of Court as aforesaid the amount of the compensation money and interest thereon and the receipt of the said Trust shall effectually discharge the Council and the Master in Equity or other officer of the Supreme Court of New South Wales from being concerned to see to the application of the said moneys or being answerable for the loss or misapplication thereof.

3. The moneys so to be received after payment thereof of all outgoings properly chargeable against the said land and all costs charges and expenses of or incidental to the resumption notice of claim the ascertainment of the value of the said land agreement with the Council obtaining the money from the Court and all costs charges and expenses of and incidental to this Ordinance shall be held upon trust and applied as follows:—

- (a) With the approval of the Rector and Churchwardens for the time being of St. James' Church Sydney and of the Standing Committee to purchase land for a Rectory and if necessary to erect any building or buildings thereon and/or remodel any building or buildings already erected thereon.
- (b) To pay to The Treasurer of the Church Buildings Loan Fund for use in aid of the objects of the said Fund the sum of one thousand pounds (£1,000).

4. Subject to the payment of the said sum of one thousand pounds and pending the purchase as aforesaid the income of the said moneys and thereafter the income of the balance of the said moneys shall be applied by them as follows:—

- (A) To retain and accumulate with interest one hundred and forty pounds per annum until the capital moneys or the investments thereof together with the accumulations thereof reach the sum of £20,000.
- (B) To retain and accumulate with interest sixty pounds per annum as a sinking fund to meet the depreciation of such building or buildings as aforesaid.
- (C) To pay all rates and taxes and other assessments charged by the Water and Sewerage Board in respect of the lease by the Council to the said Trustees of the house on the said land.

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- (D) To pay all rates taxes and insurance in respect of any other building acquired as a Rectory in connection with St. James' Church Sydney being property held upon trust for such Church purpose
- (E) To pay the balance of the income to the Rector and Churchwardens for the time being of St. James' Church Sydney (whose receipt shall be a sufficient discharge) and applied by them as follows:—
  - (a) To pay all rent and also all necessary repairs in respect of the said residence not chargeable to the owner also all necessary repairs in respect of any other building for the time being leased or held upon trust for a Rectory in connection with St. James' Church Sydney such repairs and the payment of the same being in the sole discretion of the said Rector and Churchwardens.
  - (b) To pay for telephone gas and electricity services of the said residence or any other buildings as aforesaid.
  - (c) To apply the remainder for general Church purposes in connection with the said Church and in accordance with the Sydney Church Ordinance 1912 or any other Ordinance amending or taking the place of the same.

5. Any moneys liable to be invested together with any accumulations may be invested as follows:—

- (a) Any public funds or Government Stock or Government securities of the Commonwealth of Australia.
- (b) Deposit in the Commonwealth Bank of Australia.
- (c) On fixed deposit in any Bank carrying on business in the State of New South Wales.
- (d) Mortgage of land in New South Wales.
- (e) The Trustees may from time to time vary or release such investments.

6. This Ordinance may be cited as "St. James' Church Sydney Rectory Resumption Ordinance 1932."

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

A. J. GOULD,

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Thirtieth day of May, 1932.

C. R. WALSH,

Registrar.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

9th June, 1932.