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# St John's Parramatta Sale and Variation of Trusts Ordinance 1954

(Reprinted under the Interpretation Ordinance 1985.)

The St John's Parramatta Sale and Variation of Trusts Ordinance 1954 as amended by the Investment of Church Trust Property Ordinance 1990.

## Long Title

An Ordinance to authorise the sale of certain land situated in Parramatta to provide for the application of the purchase money and to declare the trusts on which the same shall be held and for the purposes incidental thereto.

## Preamble

Whereas this ordinance is introduced under the following circumstances -

- (1) By Crown Grant dated 16 March 1858 the land described therein and in the Schedule hereto (herein called "the said land") was granted to the then Bishop of Sydney and his successors 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.
- (2) The Parramatta Church School Act passed in 1886 empowered the sale or lease of the said land and provided that the proceeds of any sale or lease should be applied subject as therein mentioned in the purchase of some suitable and convenient site in the Town of Parramatta aforesaid for a school house and in the erection thereon of a school house in connection with the said church or with the consent of any trustee in whom lands were then vested in trust for the Parish of St John Parramatta in the erection of a new school house on any of such last mentioned land or in either of the said purposes.
- (3) In 1907 the said land was leased to William Richard Murray for 50 years, and in 1924 this lease was assigned to Murray Bros. (Parramatta) Limited (herein called "the Company") which has since changed its name to Murray Bros. (Parramatta) Pty. Limited.
- (4) In December 1910 certain land in Hunter Street, Parramatta was conveyed to the then Archbishop of Sydney.
- (5) In December 1910 a security deed was executed by the Archbishop the Honorary Treasurer of the Parochial Council of St John Parramatta (herein called "the Council") and the Treasurers of the Church Building Loan Fund and the Centennial Church Extension Fund which deed recited among other things the lease of the land and that part of the rents had been applied in the purchase of a site in Parramatta for a school house (being the Hunter Street land) and recited certain resolutions of the Council to borrow money from the said two funds for the purpose of completing the erection of the School House on the Hunter Street site and request to the Archbishop to apply the net rents received under the lease in payment of the amount advanced and interest thereon. The Archbishop agreed to apply the rent accordingly.
- (6) In 1925 the said land was vested in the Church of England Property Trust Diocese of Sydney (herein called "the Corporate Trust").
- (7) The St John's Parramatta Leasing Ordinance 1926 after reciting some of the matters abovementioned and that it was expedient to surrender the existing lease and grant a new lease did by clause 1 declare that by reason of circumstances subsequent to the creation of the said recited trusts it had become expedient to accept the surrender of the said lease of the land described in the Schedule thereto (being the said land) and to further lease the same to the Company for the purpose of obtaining income therefrom and to apply such income for such purposes as were thereafter provided; by Clause 2 authorised the surrender of the lease; by Clause 3 authorise the grant of the new lease to the Company for 52 years from the 1st April 1925 at the rent of £310 per annum up to 1st April 1957 and thereafter at the rent of five per cent of the unimproved capital

value appraised each five years; by Clause 4 provide that the rent payable under any such lease in pursuance of the Ordinance should subject to the charge created by the indenture of security be paid to the Corporate Trust and applied by it after payment of the costs mentioned therein as follows -

- (a) In payment of an annual sum equal to Five pounds per centum per annum of the rents not required for any of the purposes aforesaid to The Home Mission Society.
  - (b) In further payment of a similar sum to the Board of Education.
  - (c) In payment of a similar sum to the Trustees of Moore Theological College to be known as the Samuel Marsden Exhibition towards assisting a candidate for Holy Orders with preference to one from the Parish of St John's Church Parramatta.
  - (d) The balance of the said rents to be paid to the Rector and Churchwardens for the time being of the Church of St John Parramatta for general parish purposes in accordance with the provisions of the Sydney Church Ordinance or any ordinance amending or taking the place of the same.
- (8) In 1927 the said lease was surrendered and the further lease entered into and is still in force.
- (9) The moneys owing under the security have been paid and the rents have since 1927 been applied in accordance with Clause 4 of the Ordinance.
- (10) The Company has offered to purchase the freehold of the land for £250,000 and it is expedient that the land be sold and the proceeds applied in accordance with this Ordinance.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and in the place of the said Synod Ordains and Declares as follows -

#### **Declaration of Inexpediency**

1. By reason of circumstances subsequent to the creation of the trusts to which the said land is subject -

- (a) It is expedient that the said land be sold.
- (b) It is inexpedient to carry out or observe such trusts to which the said land is subject with respect to the application of the purchase money thereof and it is expedient to declare other trusts instead of such first mentioned trusts.
- (c) It is inexpedient to deal with or apply for the use or benefit of the parish of St John Parramatta so much of the purchase money as is hereby provided for the other purposes hereinafter mentioned.

#### **Sale of Land**

2. The said land may be sold by private contract at a price not less than £250,000.

#### **Application of Purchase Money**

3. The purchase money shall be applied by the Corporate Trustee as follows -

- (1) The sum of £125,000 after payment thereof of all costs charges and expenses of and incidental to this Ordinance and the said sale shall be held for the sole benefit of the Parish of St John Parramatta on trust to pay the income thereof to the Churchwardens for the time being of the said Parish for such general Parish purposes as may be determined in accordance with the provisions of the Sydney Church Ordinance 1912 or any Ordinance amending or taking the place of the same.
- (2) The sum of £25,000 shall be held on trust to pay the income thereof to the Council of The Home Mission Society to be applied by it for the purposes of that Society.
- (3) The sum of £25,000 shall be held on trust to pay the income thereof to the Board of Education of the Diocese of Sydney to be applied by it for the purposes of that Board.
- (4) The sum of £25,000 which shall be known as the Samuel Marsden Endowment shall be held on trust to pay the income thereof to the Trustees for the time being of Moore Theological College to be applied by them for the general purposes of the College.

*MAJ. MS*

- (5) The sum of £25,000 shall be held on trust to distribute the income thereof among such objects of the Diocese of Sydney as the Archbishop-in-Council may from time to time determine.
- (6) The sum of £25,000 shall be paid in or towards the liquidation of the debt on Gilbulla Conference Centre at Menangle.

#### **Investment of Moneys**

- 2 4. The Corporate Trustee shall invest the moneys for the time being held by it in pursuance hereof in accordance with the Investment of Church Trust Property Ordinance 1990.

#### **Discharge to Corporate Trust**

5. The receipt of any Churchwarden of the said Church or Secretary or Treasurer for the time being of any Organisation to which money is paid hereunder shall be a sufficient discharge to the Corporate Trust which shall not be concerned as to the application of such money.

#### **Citation**

6. This Ordinance may be cited as the "St John's Parramatta Sale and Variation of Trusts Ordinance 1954".

#### **The Schedule**

All that piece or parcel of land containing by admeasurement one rood and twenty seven perches be the same more or less situated in the County of Cumberland and Parish of Saint John Town of Parramatta South Allotment eighty four of section fourteen commencing at the North West intersection of Macquarie Street with Church Street and bounded thence on the South by the Northern building line of Macquarie Street bearing Westerly two chains and four links to number eighty-six or Rebecca Thorne's allotment; on the West by a portion of the Eastern boundary line of that allotment bearing North five degrees East two chains and three links to the Southern boundary line of D.S. Witherington's allotment; on the North by that Southern boundary line bearing East four degrees South two chains and ten links to Church Street, and on the East by the Western building line of Church Street Southerly two chains and nine links to its intersection with Macquarie Street at the point of commencement.

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#### **Endnotes**

1. In relation to the sum invested under clause 3(5) see the St John's Parramatta Mortgaging Sale and Variation of Trusts (Television) Ordinance 1955 and the St John's Parramatta Sale and Variation of Trusts Ordinance 1955 (No.6 of 1955) Supplemental Ordinance 1989 (No.19 of 1989). These ordinances are now of historical interest only.
2. Amended by Ordinance No.5 of 1990.

  
MARK PAYNE  
Legal Officer



W.G.S. GOTLEY  
Diocesan Secretary

13 December 1993