
*St. Martin's Kensington Sale and Mortgaging
Ordinance 1935.*

No. 3, 1935.

AN ORDINANCE to authorise the sale of certain land situate at Kensington near Sydney and to provide for the application of the proceeds thereof and also the mortgage of certain land situate at Kensington aforesaid and to provide for the application of the proceeds thereof and for other purposes incidental thereto.

WHEREAS by Certificate of Title dated the 23rd day of September 1932 registered Volume 4546 Folio 10 the Church of England Property Trust Diocese of Sydney (hereinafter referred to as the Corporate Trustees) is the registered proprietor in fee simple of the land therein and in the first schedule hereto described 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 connection with the Church of England in the Parish of St. Martin at Kensington.

AND WHEREAS on or about the 12th day of September 1910 the Rector and Churchwardens for the time being of the Church of St. Martin's Kensington agreed to purchase from one George Frederick Todman the land more particularly described in the second schedule hereto together with the buildings thereon to the intent that the same should be used as a site of a rectory for the Church of England in the Parish of St. Martin's Kensington AND WHEREAS a short memorandum of such terms was signed by the said George Frederick Todman AND WHEREAS the said land and the buildings thereon have since the date of the said agreement been used as a rectory in connection with the said Parish AND WHEREAS no trusts have been declared in respect of the said land AND WHEREAS it is expedient to complete the purchase of the said land and vest the legal estate in the Corporate Trustees and that the trusts of the said land should be declared in manner hereinafter appearing AND WHEREAS by Certificate of Title dated the 16th day of January 1908 registered Volume 1844 Folio 136 the said Corporate Trustees are the registered proprietors in fee simple of the land therein and the third schedule hereto described. AND WHEREAS erected upon the said land is a Church used in connection with the Church of England in the Parish of St. Martin's Kensington AND WHEREAS the said land is Church

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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 herebefore recited it is expedient to sell the land described in the first schedule hereto and to apply the proceeds in paying off any debt upon any land and the buildings thereon held in connection with the Church of England in the Parish of St. Martin's Kensington AND WHEREAS by reason of circumstances subsequent to the acquisition of the land described in the second schedule hereto it is expedient to mortgage the said land and to apply the proceeds in payment of the balance of purchase money due in respect thereof and subject thereto towards erecting a parish hall upon the land described in the second and third schedules hereto and for other purposes in manner hereinafter appearing AND WHEREAS by reason of circumstances subsequent to the acquisition by the Corporate Trustees of the land comprised in the third schedule hereto it is expedient to mortgage the same and to apply the proceeds in repayment of the amount due to the Sydney Church Endowment Fund and subject thereto towards erecting a parish hall upon the land described in the second and third schedules hereto 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 firstly hereinbefore recited trusts it is expedient to sell the land described in the first schedule hereto.

2. The Corporate Trustees are hereby empowered to sell the said land or any portion or portions thereof 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.

3. The proceeds of any such sale or sales shall stand charged with the payment of all costs charges or expenses of and incidental to the said sale or sales and the balance shall be applied in paying off any debt upon any land and the buildings thereon held in connection with the Church of England in the Parish of St. Martin's Kensington.

4. By reason of circumstances subsequent to the acquisition of the land described in the second schedule hereto it is expedient

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to vest the said land in the Corporate Trustees and declare the trusts in respect thereof and also to mortgage the said land.

5. The Standing Committee hereby consents to the said land being vested and the same is hereby vested in the Corporate Trustees.

6. The said land shall be held upon trust to permit the same to be used as a site for a Church rectory or parish hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St. Martin's Kensington.

7. By reason of circumstances subsequent to the acquisition of the lands described in the third schedule hereto by the said Corporate Trustees and by reason of circumstances subsequent to the creation of the trusts upon which the said land is held it is expedient to mortgage the same.

8. (i) The Corporate Trustees are hereby empowered to mortgage from time to time the whole or any part of the lands comprised in the second and third schedules hereto for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding One thousand six hundred pounds.

(b) When the power is subsequently exercised such sum not exceeding One thousand five hundred pounds or as the Standing Committee shall by resolution determine.

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

(iii) A document purporting to be certified by the Archbishop or Registrar 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.

9. The proceeds of any mortgage hereby authorised shall stand charged with the payment of the costs charges and expenses of and incidental to this Ordinance and such mortgage and subject thereto such proceeds shall be applied by the Corporate Trustees

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firstly in payment of the balance of purchase money due and owing in respect of the land comprised in the second schedule hereto and secondly in or towards the repayment of the amount due to the Sydney Church Endowment Fund in respect of the land comprised in the third schedule hereto together with all interest owing thereon and subject thereto in payment of the balance to the Rector and Churchwardens for the time being of the said Parish (whose receipt shall be a sufficient discharge therefor) and who shall apply such moneys in or towards erecting a parish hall on the said land.

10. Upon repayment of all moneys owing to the Sydney Church Endowment Fund in respect of the land comprised in the third schedule hereto the said Corporate Trustees shall execute a declaration and declare that the said lands comprised in the third schedule hereto are held upon trust to permit the same to be used for a Church parsonage or parish hall or partly for one or partly for another or others of such purposes in connection with the Church of England in the Parish of St. Martin at Kensington.

11. This Ordinance shall be styled and cited as St. Martin's Kensington Sale and Mortgaging Ordinance 1935.

FIRST SCHEDULE REFERRED TO.

All that piece or parcel of land situate at Kensington in the Municipality of Randwick Parish of Alexandria County of Cumberland and State of New South Wales containing an area of twenty and one half perches or thereabouts having a frontage to Lenthal Street of forty-seven feet and to Todman Avenue of forty-nine feet six inches and being Lot 44 of Section 9 of Deposited Plan in the Registrar-General's Office Sydney Number 5031 and being the whole of the land comprised in Certificate of Title registered Volume 4546 Folio 10.

SECOND SCHEDULE REFERRED TO.

All that piece or parcel of land situate at Kensington in the Municipality of Randwick Parish of Alexandria County of Cum-

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berland and State of New South Wales having a frontage of about forty-eight feet six inches to Todman Avenue by a depth of one hundred and forty-eight feet six inches being lot 45 on Deposited Plan in the Registrar-General's Office Sydney Number 5081 and being part of the land comprised in Certificate of Title registered Volume 2295 Folio 221.

THIRD SCHEDULE REFERRED TO.

All that piece or parcel of land situate at Kensington in the Municipality of Randwick Parish of Alexandria County of Cumberland and State of New South Wales having a frontage of one hundred feet to Todman Avenue by a depth of one hundred and forty-eight feet six inches being Lots 46 and 47 on Deposited Plan in the Registrar-General's Office Sydney Number 5081 and being the whole of the land comprised in Certificate of Title registered Volume 1844 Folio 136.

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

HENRY W. F. ROGERS,

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Fourth day of March, 1935.

H. V. ARCHINAL,

Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY.

4th March, 1935.