

*St. Matthias' Paddington Sale Ordinance 1939.*

No. 22, 1939.

AN ORDINANCE to authorise the sale of certain land situate at Paddington in the State of New South Wales and to provide for the application of the proceeds thereof.

WHEREAS by Grant from the Crown dated the first day of June One thousand eight hundred and seventy-two Registered Volume 273 Folio 56 certain land therein particularly described was granted unto William Godfrey McCarthy Frederick Oatley Prosper Nicholas Trebeck Thomas Matthews and Richard Westaway their heirs and assigns for ever Upon Trust for the appropriation thereof as a site for a dwelling house garden and other appurtenances for the Clergyman duly appointed to officiate in the Church of the United Church of England and Ireland in New South Wales erected at Upper Paddington in conformity with the provisions of "An Act to regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" and of a certain other Act of the Governor and Legislative Council of New South Wales made and passed in the seventh year of the reign of His Majesty King William IV intituled "An Act to promote the building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales" so far as the same may apply to the Trusts of the said Grant and for no other purpose whatsoever.

AND WHEREAS by a further Grant from the Crown bearing date the first day of June One thousand eight hundred and seventy-two Registered Volume 273 Folio 57 certain lands therein referred to were granted unto William Godfrey McCarthy Frederick Oatley Prosper Nicholas Trebeck Thomas Matthews and Richard Westaway their heirs and assigns for ever Upon Trust for the erection thereon of a Church of the United Church of England and Ireland as by law established in conformity with the provisions of "An Act to regulate the temporal affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" and of a certain other Act of the Governor and Legislative Council in New South Wales made and passed in the seventh year of the reign of his said Majesty King William IV intituled "An Act to promote the building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales" so far as the same

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may apply to the Trusts of the said Grant and for no other purpose whatsoever.

AND WHEREAS many years ago a dwelling house or rectory was erected partly on the land comprised in the firstly recited Grant and partly on the land comprised in the secondly recited Grant and wholly within the boundaries of the land described in the Schedule hereto.

AND WHEREAS many years ago a Church and Parish Hall were erected on the land comprised in the secondly recited Grant.

AND WHEREAS the said Crown Grants were surrendered and the lands thereby granted are now comprised in Certificate of Title Volume 3350 Folio 26 and are vested in the Church of England Property Trust Diocese of Sydney (hereinafter referred to as the said Trust).

AND WHEREAS in or about the year one thousand nine hundred and twenty seven a new rectory was erected partly on the land comprised in the firstly recited Grant and partly on the land comprised in the secondly recited Grant and for this purpose moneys were borrowed from certain persons and advances were obtained by way of overdraft from The Commercial Banking Company of Sydney Limited (hereinafter called the Bank) the payment whereof was guaranteed by certain persons.

AND WHEREAS in pursuance of the provisions of St. Matthias' Paddington Land Leasing Ordinance 1920 one Cyril Leslie Stewart Macintosh became and still is the tenant of part of the said lands including the land described in the Schedule hereto.

AND WHEREAS it seemed expedient to sell the land described in the said Schedule and a Contract has been entered into to take effect subject to the passing of this Ordinance for the sale of the land described in the Schedule hereto to the said Cyril Leslie Stewart Macintosh for the sum of Two thousand five hundred pounds (£2500) to be satisfied by the payment of One thousand pounds (£1000) in cash on or before completion and the giving to the Trust of a mortgage for the sum of One thousand five hundred pounds (£1500) over the land sold to secure the payment of the balance of the purchase money.

AND WHEREAS the Department of Main Roads has intimated that it proposes to acquire by resumption or purchase from the said Trust for the purpose of widening Oxford Street Paddington a strip of the land comprised in the said Certificate of Title

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extending along the whole of the frontage thereof with a depth of about fourteen feet and hereinafter referred to as the said land intended to be resumed in consequence whereof portion of the said parish hall will have to be demolished.

AND WHEREAS by reason of circumstances subsequent to the creation of the trusts of the said land it has become inexpedient to carry out and observe such trusts insofar as the same are hereby varied.

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 trusts to which the said land is subject it has become inexpedient to carry out and observe such trusts to the extent to which the same are varied by this Ordinance and it is expedient that such trusts should be varied accordingly.

2. The whole of the land comprised in the said Certificate of Title Volume 3350 Folio 26 shall be held upon trust to permit the same to be used for a church rectory and 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. Matthias Paddington.

3. The land described in the said Schedule may be sold to the said Cyril Leslie Stewart Macintosh in pursuance of and subject to the terms and conditions contained in the said contract or for cash and the land proposed to be acquired or purchased by the Department of Main Roads as aforesaid or any portion or portions thereof may at any time hereafter be sold to the said Department upon such terms and conditions as the said Trust may deem expedient.

4. The proceeds arising from the said sale to the said Cyril Leslie Stewart Macintosh shall be applied as follows:—

- (i) In paying all costs charges and expenses of and incidental to this Ordinance.
- (ii) In paying and satisfying all moneys now owing in respect of moneys borrowed or advanced as aforesaid for the purpose of building the said new rectory and all interest thereon.
- (iii) In applying as far as may be necessary a sum not exceeding Fifty pounds (£50) in repairing the said parish hall.

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5. The proceeds arising from the sale or resumption of the lands proposed to be acquired by the Department of Main Roads shall be applied so far as may be necessary in rebuilding the portion of the said parish hall which shall be demolished in consequence of such acquisition in enlarging and remodelling the remainder of the said hall and in carrying out such other works as may be required by reason of such acquisition.

6. The proceeds of the said sales or resumption which shall for the time being remain in the hands of the said Trust shall be invested in one or more of the investments following, that is to say:—

- (a) Investments for the time being allowed by the law of any of the States of the Commonwealth of Australia for the investment of trust funds.
- (b) The purchase of real estate within the Commonwealth.
- (c) Fixed Deposit in any Bank carrying on business within the Commonwealth.
- (d) Debentures of any Harbour Trust or Board of Works within the Commonwealth.
- (e) Municipal debentures of any State Capital.
- (f) Deposits in any Government Savings Bank within the Commonwealth

and the said Trust may from time to time vary or release any of such investments.

7. The net income from the said investments shall be paid to the Rector and Churchwardens of the said Parish and be applied by them for the general purposes of the said Parish under and in accordance with the provisions of the Sydney Church Ordinance 1912 or any ordinance amending or taking the place of the same and a receipt purporting to be given by them or on their behalf for any such income shall be a sufficient discharge to the said Trust in respect thereof.

8. The said Trust may sub-mortgage the mortgage intended to be given by the said Cyril Leslie Stewart Macintosh to the said Trust to secure the repayment to the said Bank of the said overdraft or to borrow or raise sufficient moneys to pay off such overdraft.

9. The St. Matthias' Paddington Land Leasing Ordinance 1920 is hereby repealed but such repeal shall not take effect until the completion of the sale of the land comprised in the said Schedule.

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10. This Ordinance may be cited as the "St. Matthias' Paddington Sale Ordinance 1939."

THE SCHEDULE.

ALL THAT piece or parcel of land situate at Paddington in the Municipality of Paddington Parish of Alexandria County of Cumberland and State of New South Wales being part of the land comprised in Certificate of Title Volume 3350 Folio 26 Commencing at a point on the southern side of Oxford Street being the north-eastern corner of the land referred to above and bounded on the east by the eastern boundary of the abovementioned land being a line bearing 191 degrees 43 minutes and distant 118 feet 3¼ inches to the northern side of Park Road and bounded thence on the south by the northern side of Park Road being a line bearing 246 degrees 22 minutes and distant 30 feet thence by fenced lines bearing and distant respectively 337 degrees 40 minutes 42 feet 11 inches 298 degrees 5 minutes 27 feet 2 inches 337 degrees 40 minutes 12 feet 6¼ inches thence on the north-west by a line bearing 25 degrees 58 minutes distant 110 feet 9¼ inches to Oxford Street thence on the north-east by the south-western side of that street being a line bearing 127 degrees 56 minutes distant 51 feet 9½ inches to a bend in the south-western side of Oxford Street thence again on the north-east by a line bearing 118 degrees 49 minutes distant 8 feet 2¼ inches to the point of commencement and containing 32¼ perches.

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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.