

*St. Michael's Surry Hills Resumption.*

41915

AN ORDINANCE approving the terms of a certain Agreement between The Municipal Council of Sydney of the first part The Church of England Property Trust Diocese of Sydney of the second part John Kent of the third part, and The Most Reverend John Charles Wright Archbishop of Sydney and Metropolitan of the fourth part for the settlement of all matters in dispute between the parties thereto arising in any way out of the resumption by the said Municipal Council of certain lands and hereditaments forming the site of St. Michael's Surry Hills Church Parsonage and School House and the land held in connection therewith.

WHEREAS the terms of arrangement embodied in the form of Agreement of which a copy is set out in the Schedule hereto are for the settlement of all matters in dispute between the parties thereto arising out of the resumption by the Municipal Council of Sydney of certain lands and hereditaments forming the site of St. Michael's Church Parsonage and School House at Surry Hills Sydney and the land held in connection therewith and being the lands comprised and described in the first and second schedules to the said Agreement AND WHEREAS the said terms of arrangement have been arrived at after conferences between the Solicitors of the various parties to the said Agreement and the hearing of evidence as to the value of the lands resumed and other matters in connection therewith before a Special Court of Conciliation appointed by the City Council for the purpose of amicably settling all disputes and differences in reference to the resumption of lands AND WHEREAS the settlement intended to be effected by the said Agreement is an advantageous one for the said Church of St. Michael AND WHEREAS by the said Agreement and as one of the terms thereof The Church of England Property Trust Diocese of Sydney undertook to procure the passing of an Ordinance of the Synod of the Diocese of Sydney approving of its terms. NOW THEREFORE the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Constitutions for

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the management and good government of the Church of England within the State of New South Wales and of all other powers in any wise enabling it in this behalf ordains declares directs and rules as follows:—

1. That the Synod approves of the terms of the Agreement of which a copy is set out in the Schedule hereto.

2. This Ordinance shall be styled and cited as "The St. Michael's Surry Hills Land Resumption Claims Ordinance 1915."

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THE SCHEDULE.

THIS AGREEMENT made the ninth day of August One thousand nine hundred and fifteen Between The Municipal Council of Sydney (hereinafter called the Council) of the first part The Church of England Property Trust Diocese of Sydney (hereinafter called the Corporation) of the second part John Kent of Sydney Incorporated Accountant of the third part and The Most Reverend John Charles Wright Archbishop of Sydney and Metropolitan (hereinafter called the Archbishop) of the fourth part WHEREAS by Notice of Resumption dated the 6th day of March 1912 under the Common Seal of the Council the said Council in pursuance of the power and authority given to or vested in the Council by the "Sydney Corporation Amendment Act 1905" and otherwise did declare and give notice that the lands described in the Schedule thereto (which comprise the lands described in the first and second schedule of land hereunder written) were thereby resumed by the Council under the provisions of the "Sydney Corporation Amendment Act 1905" aforesaid AND WHEREAS the said Notice of Resumption and the description in the Schedule thereto were duly published in the Government Gazette and in four of the Sydney daily newspapers on the 11th day of March 1912 and thereupon the lands therein described became for the purposes and subject to the provisions of the said Act vested in the said Council for an estate in fee simple in possession freed and discharged from all trusts obligations estates interests contracts charges rates rights of way or easements whatsoever AND WHEREAS the said Corporation was at the time of the publication of the said Notice of Resumption seised of an estate in fee simple of part of the lands and

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premises described in the first schedule of land hereunder written and registered as the proprietors of an estate in fee simple in the residue of the lands and premises described in the first schedule of land hereunder written free from encumbrances excepting only a certain Indenture of Mortgage dated the 28th day of October 1902 Registered No. 638 Book 723 and a certain Memorandum of Mortgage dated the 28th day of October 1902 Registered No. 352358 both to the said John Kent and James Plummer (since deceased) to secure repayment of the principal sum of £500 and interest advanced by the said John Kent and James Plummer out of moneys belonging to them on a joint account AND WHEREAS the said Archbishop was at the time of the publication of the said Notice of Resumption seised of an estate in fee simple free from encumbrances of the lands described in the second schedule of land hereunder written as to part thereof upon the trusts contained in a certain Indenture of Conveyance dated the 10th day of July 1871 Registered No. 631 Book 125 and made between Esther Dodd and Frances Ann Dodd of the one part and the Bishop of Sydney of the other part and as to the residue thereof upon the trusts contained in a certain Indenture of Conveyance dated the 23rd day of February 1861 Registered No. 627 Book 71 and made between Edward Flood of the first part George Henry Rewley and Henry Lumsdaine of the second part and The Bishop of Sydney of the third part AND WHEREAS the said Corporation and the said Archbishop respectively in pursuance of the provision of the Public Works Act 1900 as adopted by the Sydney Corporation Amendment Act 1905 aforesaid caused Notices of Claim in respect of the resumption of the said lands and premises to be duly served in which Notices they respectively claimed the sums of £2250 and £20,000 as and for compensation. AND WHEREAS by Deed Poll dated the 5th day of March 1914 under the hand and seal of the said Archbishop the said Archbishop in pursuance of the provisions contained in the "Church of England Trust Property Incorporation Act 1881" did thereby consent that the compensation moneys and interest payable to him in respect of the resumption of the lands described in the second schedule of lands hereunder written should become and be vested in the Church of England Property Trust Diocese of Sydney their successors and assigns subject to and upon the trusts in the aforesaid Indentures of the tenth day of July 1871 and the 23rd day of February 1861 respectively

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contained AND WHEREAS it has been agreed that all matters in dispute between the parties hereto arising in any way out of the said resumption shall be finally settled between them upon the following terms and conditions that is to say:--

1. The Corporation undertakes to procure the passing of an Ordinance of Synod approving the terms of this Agreement.

2. Forthwith upon the Council requiring possession under Clause 5 hereof the Council shall pay the sum of £7500 without interest into the Equity Court to the credit of an account to be entitled "Ex parte The Municipal Council of Sydney In the matter of the Claims of The Church of England Property Trust Diocese of Sydney and the Archbishop of Sydney or other the person or persons entitled thereto."

3. The Council shall thereupon transfer or convey to the said Corporation and subject to such provision as may be necessary for the carrying out of the works referred to in Clause 5 hereof shall deliver vacant possession of the land described in the third schedule of land hereunder written and which is delineated and surrounded by a red line on the plan hereto annexed to be held by the said Corporation upon such trusts as may be declared and authorised by an Ordinance of the Synod of the Diocese of Sydney.

4. The said Corporation and the said Archbishop shall be entitled to remain in possession of the said lands and premises described in the first and second schedules hereto at a rental of one shilling per annum until the same or any part thereof are required by the Council.

5. On the said Council requiring possession of the whole or any part thereof the said Corporation and the said Archbishop shall within three calendar months after service of notice in that behalf deliver up possession thereof to the Council its contractors agents or servants and if at the expiration of the said three months the said Corporation and the said Archbishop have not commenced or if after commencing they do not with reasonable diligence proceed with the work of demolition and removal of all such parts of the buildings standing upon the lands in the first and second schedules hereto as are outside the new building lines shewn on the annexed plan then and in such case the Council

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shall forthwith be at liberty at the cost of the said Corporation which cost shall be payable by the said Corporation on demand to carry out the work of demolition and construction incident to or consequent upon the widening of Flinders Street nevertheless the building material shall be the property of the said Corporation.

6. The payment by the Council mentioned in Clause 2 hereof and the transfer or Conveyance by the Council mentioned in Clause 3 hereof shall not be required to be made or executed respectively until the Council shall have required possession of the said lands and premises as mentioned in Clauses 4 and 5 hereof and contemporaneously therewith the said Corporation the said John Kent and the said Archbishop shall execute and deliver to the Council a full and complete Deed of Release in a form to be prepared by the City Mayor and approved by or on behalf of the parties hereto of the second third and fourth parts of all actions claims and demands whatsoever in relation to their respective estates and interests in the said lands and premises described in the first and second schedules of land hereunder written and in respect of all damage sustained or to be sustained by them or in any way arising out of the said resumption.

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THE FIRST SCHEDULE OF LAND REFERRED TO.

All that piece or parcel of land situated at Sydney in the Parish of Alexandria County of Cumberland in the Colony aforesaid be the hereinafter mentioned several dimensions a little more or less being a part of Block E7 of the Riley Estate Surry Hills commencing at the intersection of the Eastern side of Church Street with the Southern side of Floods Lane and bounded thence towards the North-west by that lane bearing North-easterly fifty-nine feet seven and three-quarters inches thence towards the South-east by a line bearing South-westerly fifty-three feet four inches thence towards the South-west by a line bearing North-westerly sixty-one feet two and three quarters inches to Church Street aforesaid and towards the North-west by that Street bearing North-easterly eight feet four inches to the point of commencement.

Also all that piece or parcel of land situated as aforesaid be the hereinafter mentioned several dimensions a little more or

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less being a part of the Surry Hills Estate commencing at the intersection of the Northern side of Albion Street with the Eastern side of Church Street aforesaid and bounded thence towards the South by Albion Street aforesaid bearing Easterly thirty-nine feet nine inches thence towards the South-east by a line bearing North-easterly eighty-nine feet eleven inches thence towards the North-east by a line bearing North-westerly sixty-one feet two and three quarters inches to the South-eastern side of Church Street aforesaid thence towards the North-west by the South-eastern side of Church Street aforesaid being lines bearing South-westerly thirty-eight feet two and a quarter inches and seventy-two feet ten and a quarter inches to the point of commencement and containing by admeasurement nineteen and one-quarter perches and being the whole of the land comprised in Certificate of Title dated 20th May 1891 Registered Vol. 1014 Folio 38.

THE SECOND SCHEDULE OF LAND REFERRED TO.

All that piece or parcel of land situate lying and being on the Surry Hills in or near the City of Sydney in the Parish of Alexandria County of Cumberland and Colony of New South Wales bounded on the North by Riley's Estate 115 feet on the East by land of Edward Flood by a South-easterly line of feet on the South by a new Street 80 feet and on the West by land of P. Haydon 86 feet being Lot No. 5 in the particulars of sale and ground plan or chart thereof exhibited at the time of a certain sale by auction which took place on 23rd November 1833.

Also all that piece or parcel of land containing by admeasurement 39½ perches more or less situate in the Colony aforesaid County of Cumberland Parish of Alexandria and City of Sydney Allotment No. 2 and part of Nos. 1, 3, 4 and 28 of Block 7E of the Riley Estate Surry Hills commencing in Botany Street distant 74 feet 4 inches Northerly from the Southernmost corner of that block and bounded towards the East by 101 feet 3 inches of Botany Street bearing North 18 degrees West towards the North by a South-westerly line of 152 feet 2 inches to the South-west boundary of said Block 7E towards the South-west by 121 feet 7 inches of that boundary bearing East 24 degrees South and

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towards the South-east by a line of 62 feet 6 inches North-easterly to the commencing corner in Botany Street.

Also all that parcel of land situate in Botany Street aforesaid and contiguous to St. Michael's Church being a portion of the Riley Estate described or known as part of Block 7E bounded on the North by a lane 10 feet wide commencing at its junction with a Lane 20 feet wide bearing Westerly 21 feet on the West by a line bearing Southerly 53 feet dividing it from other portion of Mr. Flood's land on the South by a line bearing North-easterly 42 feet dividing it from the Church land and on the East by the abovementioned lane 20 feet wide bearing Northerly 39 feet 4 inches to the point of commencement be the said several dimensions respectively a little more or less.

THE THIRD SCHEDULE OF LAND REFERRED TO.

All that piece or parcel of land situate lying and being in the City of Sydney Parish of Alexandria County of Cumberland and State of New South Wales and be the hereinafter dimensions all more or less:—

Commencing at the intersection of the Eastern building line of Flood's place with the Northern building line of Albion Street and bounded thence on the West by that building line of Flood's place aforesaid bearing Northerly about 110 feet to the new Southern building line of Flood's Lane as widened to 20 feet, thence on the North by that building line and its prolongation crossing Clare Street bearing Easterly about 172 feet to the new Western building line of Flinders Street as widened to 90 feet thence on the East by that building line bearing Southerly about 140 feet to the Northern building line of Albion Street Extension thence on part of the South by that building line bearing Westerly about 105 feet to the Northern building line of Albion Street thence again on the South by that building line bearing Westerly about 122 feet to the point of commencement.

In witness whereof the Common Seal of the Municipal Council of Sydney has been hereto affixed and the Church of England Property Trust Diocese of Sydney has caused its Common Seal to be affixed and the Archbishop of Sydney has set his hand

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and affixed his Corporate Seal and the said John Kent has set his hand and seal the day and year first hereinbefore written.

The Common Seal of the Corporation known as the Church of England Property Trust Diocese of Sydney was hereunto affixed by the Trustees thereof at a duly constituted meeting of such Trustees held on the ninth day of August 1915 in the presence of

ROBERT ATKINS,  
Secretary

JOHN CHARLES SYDNEY,  
T. A. DIBBS,  
J. RUSSELL FRENCH,  
W. R. BEAVER,

The  
Common Seal  
of The  
Church of England  
Property Trust  
Diocese of  
Sydney.

Signed sealed and delivered by the said John Kent in the presence of

ROBERT ATKINS,

JOHN KENT (L.S.)

Signed and sealed with his Corporate Seal and delivered by the said Archbishop of Sydney in the presence of

ROBERT ATKINS,  
Registrar,  
Sydney Diocesan Registry.

JOHN CHARLES SYDNEY.

Corporate  
Seal of the  
Archbishop  
of Sydney.



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

E. W. MOLESWORTH,  
*Chairman of Committees.*

We certify that this Ordinance was passed on 9th September, 1915.

E. CLAYDON | *Secretaries of*  
W. R. BEAVER | *the Synod.*

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

2<sup>nd</sup> 3<sup>rd</sup> September, 1915.