
*St. Andrew's Church and School Property Sale and
Variation of Trusts Ordinance 1970*

No. 19, 1970

AN ORDINANCE to authorise the sale of certain land known as the St. Andrew's Church and School Property to provide for the application of the proceeds and to vary the trusts upon which the same is held.

WHEREAS the Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") is registered as the proprietor of the land (hereinafter called "the said land") comprised in Certificate of Title Volume 2754 Folio 105 and more particularly described in the First Schedule hereto AND WHEREAS the said land is church trust property held, as to corpus and income, upon the trusts set out in Sections 4 and 6 of the Saint Andrew's Church and School Property Act 1916 (hereinafter called "the 1916 Act") as varied by the Ordinances listed in the Second Schedule hereto AND WHEREAS by a lease dated the 16th day of October, 1959 registered number J126672 granted pursuant to the St. Andrew's Church and School Property Leasing and Variation of Trusts Ordinance 1958 (No. 26 of 1958) the Corporate Trustee demised the said land to Stafford House Investments Pty. Ltd. for a term of 20 years commencing on the 21st day of August, 1961 AND WHEREAS by a Mortgage granted pursuant to the St. Andrew's Church and School Property Mortgaging Ordinance 1961 (No. 48 of 1961) as amended by the St. Andrew's Church and School Property Further Mortgaging Ordinance 1964 (No. 46 of 1964) the Corporate Trustee mortgaged the said land to the Commercial Banking Company of Sydney Limited (hereinafter called "the Bank") for the purposes of borrowing moneys to be applied (inter alia) in or towards the payment or satisfaction of the cost of and incidental to the erection of a new Choir School in connection with St. Andrew's Cathedral or for such other purpose or purposes in pursuance of the trusts of the said lands as the Chapter of St. Andrew's Cathedral (hereinafter called "the Chapter") may by resolution determine and the Standing Committee may by resolution approve AND WHEREAS the Bank is charging interest at five point eight seven per centum (5.87%) per annum on the amount secured from time to time by the said mortgage AND WHEREAS such interest is payable by the Chapter to the Bank by half-yearly payments on the 15th day of the months of February and August in each year whilst any amount secured by the said mortgage remains unpaid AND WHEREAS the Chapter has undertaken to pay to the Bank the sum

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of Eight thousand seven hundred and eighty-four dollars and sixty-four cents (\$8,784.64) on the 15th day of the months of February and August in each year, the first such payment to be made on the 15th day of August, 1973, until the whole of the amount secured by the said mortgage has been repaid AND WHEREAS the Bank proposes to apply each such payment of Eight thousand seven hundred and eighty-four dollars and sixty-four cents (\$8,784.64) firstly in satisfaction of any unpaid interest on the amount secured by the said mortgage and thereafter in reduction of the amount secured by the said mortgage AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said land is held, it has become inexpedient to carry out and observe such trusts to the extent (if any) that the same are hereby varied and it is expedient that the said land be sold and that the proceeds be applied as hereinafter set forth NOW the Standing Committee of the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:—

1. (a) This Ordinance is supplemental to and shall be read and construed with the 1916 Act and the Ordinances listed in the Second Schedule hereto.
(b) The provisions of this Ordinance shall take effect notwithstanding anything to the contrary contained in the 1916 Act or in any of the Ordinances listed in the Second Schedule hereto.
2. By reason of the circumstances which have arisen subsequent to the creation of trusts upon which the land described in the First Schedule is held, it has become inexpedient to carry out and observe the trusts to the extent (if any) that the same are hereby varied and it is expedient that the said land be sold.
3. The Corporate Trustee is hereby empowered to sell the said land by public or private auction or private contract at such time or times and at such price and upon such terms and conditions as the Chapter may determine freed from the trusts upon which the said land is now held.
4. The proceeds from the sale of the said land shall:—
 - (a) firstly, be applied to discharge the said mortgage to the Bank,
 - (b) secondly, be applied in payment of the costs, charges and expenses of and incidental to this Ordinance, the

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discharge of the said mortgage to the Bank and the sale of the said land, and

(c) lastly, be invested by the Corporate Trustee in any of the modes of investment in which the Corporate Trustee is authorised to invest church trust property but subject to clause 6 of this Ordinance.

5. (a) The Chapter shall pay to the Corporate Trustee an amount equal to the sum applied pursuant to paragraph (a) of clause 4 of this Ordinance and interest thereon at the same rate and in the same manner as the Chapter has undertaken to repay the amount secured by the said mortgage to the Bank and has hitherto been obliged to pay interest thereon to the Bank.

(b) The Chapter shall ensure that no part of the income from the said land or from any investments representing the same shall be paid to the Corporate Trustee pursuant to paragraph (a) of this clause other than that applicable for educational purposes.

(c) All amounts paid to the Corporate Trustee by the Chapter pursuant to paragraph (a) of this clause, shall be invested by the Corporate Trustee in any of the modes of investment in which the Corporate Trustee is authorised to invest church trust property but subject to clause 6 of this Ordinance.

(d) All amounts paid to the Corporate Trustee by the Chapter pursuant to paragraph (a) of this clause, being interest, shall be deemed to be income from the investments representing the said land.

(e) Clause 6 of the St. Andrew's Church and School Property Mortgaging Ordinance 1961 (No. 48 of 1961) is hereby repealed, but such repeal is without prejudice to all obligations arising prior to the date hereof imposed thereby.

6. The Corporate Trustee, in exercising its powers of investment, shall comply with all directions given to it from time to time by the Chapter and shall deposit such certificates and other documents of title to all or any of the investments representing the said land with the Sydney Church of England Finance and Loans Board as the Chapter may, from time to time, direct.

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7. This Ordinance may be cited as "St. Andrew's Church and School Property Sale and Variation of Trusts Ordinance 1970".

FIRST SCHEDULE

ALL THAT land situated in the City of Sydney, Parish of St. Lawrence and County of Cumberland being part of Allotment 21 Section 14, having an area of about 32 perches, a frontage to Pitt Street of about 76 feet 8 inches and depths on either side of about 117 feet 8 inches and about 115 feet 9 inches respectively being the whole of the land in Certificate of Title Volume 2754 Folio 105.

SECOND SCHEDULE

St. Andrew's Church and School Land Sale Mortgage Ordinance, 1916.

Moore Bank Interest Fund and St. Andrew's Church and School Property Income Ordinance, 1917.

St. Andrew's Church and School Property Income Supplemental Ordinance, 1926.

The Cathedral Compensation Fund (Old Organ) Ordinance, 1948 (No. 2 of 1948).

The Cathedral Compensation Fund (Organs) Ordinance, 1948 (No. 13 of 1948).

The Cathedral Compensation Fund (Organs) Amendment Ordinance, 1948 (No. 18 of 1948).

The St. Andrew's Church and School Property Trust Variation Ordinance, 1949 (No. 13 of 1949).

The Cathedral Compensation Fund (Organs) Further Amendment Ordinance, 1950 (No. 13 of 1950).

St. Andrew's Church and School Property Variation of Trust Ordinance of 1949 Amending Ordinance, 1953 (No. 17 of 1953).

St. Andrew's Church and School Property Trust (Cathedral Chapter) Mortgaging and Variation of Trust Ordinance, 1954 (No. 1 of 1954).

St. Andrew's Church and School Property Leasing and Variation of Trusts Ordinance, 1958 (No. 26 of 1958).

St. Andrew's Church and School Property Mortgaging Ordinance, 1961 (No. 48 of 1961).

St. Andrew's Church and School Property Further Mortgaging Ordinance, 1964 (No. 46 of 1964).

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St. Andrew's Church and School Property Leasing and Variation of Trusts Ordinance 1958 Amendment Ordinance, 1967 (No. 2 of 1967).

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

ATHOL RICHARDSON,
Chairman of Committees.

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 29th day of June, 1970.

W. L. J. HUTCHISON,
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

29/6/1970.