

St. James Carlton Mortgaging and Sale Ordinance 1952.

No. 2, 1952.

AN ORDINANCE authorising the mortgaging of certain land situate at Carlton and Bexley in the parish of St. George and County of Cumberland and the sale of certain land situate at Bexley aforesaid and providing for the application of the proceeds thereof And for other purposes concerning such land.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustees) is registered under the provisions of the Real Property Act 1900 as the proprietor of the land described in the first schedule hereto and it is declared by a certain Deed Poll or Declaration of Trust under the Common Seal of the Corporate Trustees bearing date the twenty first day of July One thousand nine hundred and twenty four that the Corporate Trustees shall stand seized of interested in and registered as the proprietor of such land 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 Hurstville. AND WHEREAS the land described in the first schedule hereto is situate within the area of the Parochial District of St. James Carlton. AND WHEREAS there is erected on the land described in the first schedule hereto a weatherboard building used as St. James Church Carlton and Church Hall for the said Parochial District. AND WHEREAS it is proposed to erect on part of the land described in the first schedule hereto a new brick Church building for the said Parochial District. AND WHEREAS Robert Francis Dowd, William James Long and Thomas George Stoddart are registered under the provisions of the said Real Property Act as the proprietors of the land described in the second schedule hereto. AND WHEREAS the land described in the second schedule hereto is held upon trust to permit the same to be used for a rectory for the Church of England in the Parochial District of St. James West Kogarah as appears by the St. James (Parochial District) West Kogarah Mortgaging and New Brick Church Fund Ordinance 1938. AND WHEREAS the said Parochial District of St. James West Kogarah is now known as the Parochial District of St. James Carlton and there is erected

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on the land described in the said second schedule the residence of the Curate-in-Charge of the said Parochial District. AND WHEREAS one Louisa Dinah Kennedy of Taren Point Widow is registered under the provisions of the said Real Property Act of 1900 as the proprietor of the land described in the third schedule hereto upon which is erected a brick cottage residence known as No. 27 Cameron Street Carlton. AND WHEREAS by reason of the fact that the land described in the third schedule hereto adjoins the land described in the first schedule hereto it is a desirable site for the residence of the Curate-in-Charge of the said Parochial District and the Curate-in-Charge and Church Wardens of the said Parochial District and as trustees for and on behalf of the Church of England in such District have entered into a contract with the said Louisa Dinah Kennedy for the purchase of the land described in the said third schedule for the sum of One thousand seven hundred pounds (£1,700). AND WHEREAS in order to provide for the payment of the cost of the erection of a new Brick Church building on the land described in the first schedule hereto and the price for the purchase of the land described in the third schedule hereto it is necessary to raise certain moneys by way of loan. AND WHEREAS on the purchase on behalf of the said Parochial District of the land described in the third schedule hereto being completed and possession of such land being obtained on behalf of such District it will not be necessary for the land described in the second schedule hereto to be retained on behalf of the said Parochial District. AND WHEREAS by reason of circumstances subsequent to the creation of the beforementioned trusts affecting the land described in the first schedule hereto in so far as such trusts are expressed to be in connection with the Church of England in the Parish of Hurstville it has in the opinion of the Standing Committee of Synod become and is impossible or inexpedient to carry out or observe such trusts and to deal with or apply such land for the use or benefit of the Church of England in the Parish of Hurstville. AND WHEREAS it is expedient to vest the land described in the second schedule hereto in the Corporate Trustees as trustees thereof in the place of the said Robert Francis Dowd, William James Long and Thomas George Stoddart. AND WHEREAS by reason of circumstances subsequent to the creation of the beforementioned trusts it is expedient to mortgage the land described in the first second and third schedules hereto and to sell the land described in the second schedule hereto. 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:—

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1. The land described in the first schedule hereto shall be held 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 Parochial District of St. James Carlton instead of in connection with the Church of England in the Parish of Hurstville.

2. The said Synod hereby consents to the land described in the second schedule hereto becoming vested in the Corporate Trustees and upon trust to permit the same to be used for a Rectory for the Church of England in the Parochial District of St. James Carlton in lieu of the trusts declared in respect of such land by Paragraph 1 of the St. James (Parochial District) West Kogarah Mortgaging and New Brick Church Fund Ordinance 1938.

3. By reason of circumstances subsequent to the creation of the hereinbefore mentioned trusts affecting the land described in the first second and third schedules hereto it is expedient to mortgage the land described in the first second and third schedules hereto and—

- (i) The Corporate Trustees are hereby empowered to mortgage from time to time the whole or any part of the land described in the first second and third schedules hereto for the purpose of borrowing the sums following:
 - (a) When the power is first exercised a sum not exceeding Eight thousand seven hundred pounds (£8,700 0s. 0d.) and
 - (b) When the power is subsequently exercised such sum as the Standing Committee shall by resolution determine provided that the principal moneys secured by any mortgage of such land shall as from the expiration of five years after the date of the original advance be reduced at the rate of not less than Five hundred pounds (£500 0s. 0d.) per annum.
- (ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the aforesaid power.

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- (iii) Any document purporting to be certified by the Archbishop or the Diocesan Secretary 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 mortgage be conclusive evidence that such resolution was duly passed.

4. The proceeds of any mortgage hereby authorised shall be applied by or pursuant to directions of the Corporate Trustees as follows:—

- (a) In payment of the costs charges and expenses of and incidental to this Ordinance and such mortgage or any mortgages executed in pursuance of this Ordinance and of and incidental to the purchase and the transfer to the Corporate Trustees of the land described in the third schedule hereto.
- (b) In payment of the whole of the purchase money of One thousand seven hundred pounds and other moneys payable for and in connection with the purchase from the said Louisa Dinah Kennedy and the transfer to the Corporate Trustees of the land described in the third schedule hereto including the repayment to the persons who provided the same of the sum of One hundred and seventy pounds (£170 0s. 0d.) the amount of the deposit paid in respect of the purchase of such land.
- (c) Subject to and after payment of the amounts directed to be paid by paragraphs (a) and (b) hereof the balance of the proceeds of such mortgage shall be paid to the Curate-in-Charge and Parish Council for the time being of the said Parochial District of St. James Carlton whose receipt shall be a sufficient discharge therefor and who shall apply such moneys received in or towards the payment or satisfaction of the cost of and incidental to the erection of a new brick Church building on the land described in the first schedule hereto.

5. By reason of circumstances subsequent to the creation of the hereinbefore mentioned trusts affecting the land described in the second schedule hereto it is expedient to sell such land and the Corporate Trustees are hereby empowered to sell such land either by public auction or private contract together or in lots

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and at such price or prices and subject to and upon such terms and conditions as the Curate-in-Charge and Parish Council for the time being of the Parochial District of St. James Carlton shall think fit.

6. The moneys to arise from the sale of the land described in the second schedule hereto together with any income derived from the investment thereof or any part thereof shall be applied by or pursuant to directions of the Corporate Trustees as follows:

- (a) In payment of any costs charges and expenses of and incidental to this Ordinance then remaining unpaid.
- (b) In payment of any costs charges and expenses of and incidental to the sale and transfer of the said land.
- (c) In payment of such amount on account of principal moneys and legal costs as shall be required to be paid by the Mortgagee of such land as the consideration for the release of such land by such Mortgagee from his Mortgage.
- (d) In payment of the cost of carrying out at and upon the land described in the third schedule hereto and the buildings erected thereon such improvements repairs alterations and additions as shall be considered necessary by the Curate-in-Charge and Parish Council of the Parochial District of St. James Carlton for the purpose of adapting and making the lands described in the third schedule hereto and the buildings erected thereon suitable for use as a residence for the Curate-in-Charge for the purposes of the said Parochial District, and
- (e) As to the balance of such moneys remaining after making the payments aforesaid or provision for such payments in payment of the same to the Mortgagee of the land described in the first second and third schedules hereto or any part or parts of such land in reduction of the Principal moneys owing under any Mortgage thereof or in setting aside such moneys as a fund to be applied for such purposes as and when the Mortgagee under the said Mortgage shall be required or willing to accept the same in reduction of the principal moneys owing thereunder.

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7. Pending the application of any purchase or other moneys received by the Corporate Trustees in respect of the sale of the land described in the second Schedule hereto in accordance with the beforementioned provisions of this Ordinance the Corporate Trustees shall invest such moneys or such part thereof as shall not have been applied for such purposes and the resulting income thereof in any one or some of the following investments 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 freehold real estate within the Commonwealth.
- (c) Fixed deposits 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 Corporate Trustees may from time to time vary transpose or realise any of such investments.

8. The Curate-in-Charge and the Parish Council for the time being of the said Parochial District shall within seven days after the holding of the annual vestry meeting during such time as any moneys remain owing to any Mortgagee under any mortgage executed in pursuance of this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed the amounts paid off and the balance owing.

9. This Ordinance shall be styled and cited as the "St James Carlton Mortgaging and Sale Ordinance 1952."

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situate at Carlton in the Municipality of Rockdale Parish of St. George and County of Cumberland at the corner of Percival Street and Henry Street and having a frontage of about 120 feet to Percival Street by a depth of about 160 feet comprising Lots 4, 5, 6 and 8 of Section 8 in Deposited Plan No. 3252 and being the whole of the land comprised in Certificate of Title Registered Volume 1858, Folio 53.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situate at Bexley (formerly Carlton) in the Municipality of Rockdale (formerly in the Municipality of Bexley) Parish of St. George and County of Cumberland and having a frontage to Wallace Street of about 100 feet by a depth of about 139 feet 3 inches and comprising Lots 8 and 9 of Section 8 in Deposited Plan No. 1763 and being the whole of the land comprised in Certificate of Title Registered Volume 1911, Folio 180.

THE THIRD SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situate at Carlton in the Municipality of Rockdale (formerly in the Municipality of Bexley) Parish of St. George and County of Cumberland and having a frontage of about 80 feet to Cameron Street by a depth of about 120 feet comprising Lots 7 and 9 of Section 8 in Deposited Plan No. 3252 and being the whole of the land comprised in Certificates of Title Registered Volume 2829 Folio 24 and Registered Volume 2121 Folio 71.

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

W. G. HILLIARD, Bishop,

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this third day of June, 1952.

H. V. ARCHINAL,

Diocesan Secretary.

I assent to this Ordinance,

HOWARD SYDNEY,

6/6/1952.