

Saint Andrew's Cathedral Site Act 1935 No 32

[1935-32]



New South Wales

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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Saint Andrew's Cathedral Site Act 1935 No 32



New South Wales

An Act to give effect to certain arrangements made by the Government of New South Wales with the authorities in the Diocese of Sydney of the Church of England regarding certain claims with respect to Saint Andrew's Cathedral lands; to provide for the acquisition of other land and for the vesting of the same in the Trustees of the Central Baptist Church, Bathurst Street, in part satisfaction of their claims for compensation arising out of the giving effect to such arrangements; to appropriate certain sums from the Consolidated Revenue Fund; to repeal *The Cathedral Close Amendment Act 1916* and certain other Acts; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Saint Andrew's Cathedral Site Act 1935*.

2 Repeals

The enactments mentioned in the First Schedule to this Act are to the extent therein indicated hereby repealed.

3 Arrangements to be carried out

To give effect to certain arrangements which have been made between the Government and the authorities in the Diocese of Sydney of the Church of England regarding claims of that Church with respect to Saint Andrew's Cathedral lands and for the purpose of satisfying all claims of that Church arising out of any resumption or occupation of the said lands whether by the Crown or under any Act or otherwise howsoever and particularly but without limiting the generality of the foregoing expressions arising out of any resumption made in connection with the construction of the City Railway authorised by the *City and Suburban Electric Railways Act 1915*, and with a view of finally composing all matters indifference between the parties the following provisions shall have effect:

- (a) The lands described in the Second Schedule to this Act are hereby vested in the Church of England Property Trust, Diocese of Sydney (in this section hereinafter referred to as **the Trust**) as church trust property within the meaning of the *Church of England Trust Property Act 1917* for an estate in fee simple in possession freed and discharged from all trusts, obligations, estates, interests, contracts, charges, rates, rights of way or other easements whatsoever, and to the intent that the legal estate

therein, together with all powers incident thereto, shall be vested in the Trust to hold the same upon trust for all or any of the following purposes, that is to say, a site for a Cathedral Church, a residence for the chief officiating minister of the Cathedral, a Church house and offices, and otherwise in connection with the Cathedral and the administration of the affairs of the Church of England in the Diocese of Sydney.

- (b) The vesting under paragraph (a) of this section shall extend to the buildings erected upon the parcels of land described in the first, third, fourth and seventh parts of the said Second Schedule, but shall not extend to:
- (i) any machinery or trade fixtures or tenants' fixtures upon any of the parcels described in the first, third and fourth parts of the said Second Schedule, or
 - (ii) any fixtures upon the parcel of land described in the seventh part of the said Second Schedule.

Any such machinery or fixtures may be removed by the owners of the same, and neither the said owners, nor the persons who, immediately before the commencement of this Act, were the persons interested in the land, nor the Crown, shall be liable to place the buildings in repair after the removal of such machinery or fixtures.

- (c) The vesting under paragraph (a) of this section shall not extend to the buildings or to any fixtures or machinery upon the parcel of land described in the eighth part of the said Second Schedule.

The Municipal Council of Sydney shall remove or allow the removal of such buildings, fixtures and machinery and shall not be liable to keep the buildings in repair.

If the Municipal Council of Sydney neglects or refuses to remove such buildings, fixtures and machinery before the date upon which the trust becomes entitled to the possession or to the receipt of the rents and profits of the said parcel, the Governor may remove or cause the removal of such buildings, fixtures and machinery within two years after such date, and in such case the property in the buildings, fixtures and machinery shall vest in the Minister, and such buildings, fixtures and machinery may be disposed of as the Governor may direct.

The land so described may be handed over to the Trust as vacant land.

- (d) Notwithstanding anything in paragraph (a) of this section:
- (i) the Trust shall not be entitled to the possession of:
 - (a) those parcels of land described in the third and fourth parts of the said Second Schedule—until the fifteenth day of March, one thousand nine hundred and thirty-six,
 - (b) that parcel of land described in the eighth part of the said Second Schedule—until the first day of July, one thousand nine hundred and forty-nine,

or until such earlier date, not being earlier than the first day of July, one thousand nine hundred and forty-two, as the Governor, by proclamation published in the Gazette, may fix,

- (c) those parcels of land described in the first, second, fifth, sixth and seventh parts of the said Second Schedule—until the thirty-first day of December one thousand nine hundred and thirty-six or until the date upon which the trustees of the Central Baptist Church, Bathurst Street, shall vacate possession of the parcel of land described in the seventh part of the said Second Schedule, whichever of such dates is the earlier,
- (ii) for all purposes of or relating to any lease or letting of, or of the whole or part of any building on any parcel of land referred to in subparagraph (i) of this paragraph, the reversion expectant upon such letting or lease shall, until the date upon which the Trust becomes entitled to the possession of such parcel, be deemed to remain or to be in the person who, but for this Act, would have been entitled to such reversion,
- (iii) after the commencement of this Act and before the fifteenth day of March, one thousand nine hundred and thirty-six The Baptist Union of New south Wales shall have a right of carriage way over the land described in the fifth part of the said Second Schedule as appurtenant to the land described in the seventh part of the said Second Schedule to this Act,
- (iv) the Trust shall not be entitled to ask, demand, sue for, recover or receive any payment by way of rent or for use or occupation or otherwise of any parcel of land vested in the Trust by this Act for or in respect of any period after the commencement of this Act and before the date upon which the Trust becomes entitled to possession of such parcel,
- (v) the persons who, immediately before the commencement of this Act, were liable to pay any rates or charges to the Municipal Council of Sydney or to the Metropolitan Water Sewerage and Drainage Board in respect of any parcel of land which by this Act is vested in the Trust shall continue to be so liable for any such rates or charges accruing before the date upon which the Trust becomes entitled to the possession of such parcel. Such rates shall be considered as accruing from day to day and shall be apportionable in respect of time accordingly.
- (e) No part of the surface of the land vested in the Trust by this Act or of the land held by the Trust lying between that land and George Street shall, while held by the Trust, be resumed for any purpose under the powers conferred by any Act in force at the commencement of this Act or coming into force after such commencement, but this provision shall not preclude the resumption, under the powers conferred by any such Act:
 - (a) of any part of such land expressly delimited by such Act, or

(b) of an easement under the said land.

- (f) The Colonial Treasurer shall pay to the Trust the sum of one hundred thousand pounds in five equal annual instalments of twenty thousand pounds without interest.

Such instalments may be paid out of the Consolidated Revenue Fund without further appropriation than this Act.

The first such instalment shall be payable on the first day of July, one thousand nine hundred and thirty-six.

4 Estate of proprietor vested in Church of England Property Trust

- (1) The estate and interest of every person entitled to the lands described in the Second Schedule to this Act or any portion thereof and whether to the legal or equitable estate therein shall, by virtue of this Act, be deemed to have been as fully and effectually conveyed to the Church of England Property Trust, Diocese of Sydney, as if the same had been conveyed by the persons legally or equitably entitled thereto by means of the most perfect assurances in the law.
- (2) Every such estate or interest shall be taken to have been converted into a claim for compensation in pursuance of the provisions of this section.
- (3) Subject to this Act, every person shall, upon asserting his claim and making out his title in respect of any portion of the said vested lands, be entitled to the like compensation on account of such vesting as he would have been entitled to had the lands been resumed under the provisions of Division 1 of Part 5 of the [Public Works Act 1912](#), as amended by subsequent Acts, for the purpose of carrying out an authorised work, and the provisions of that Act as so amended shall, mutatis mutandis, apply as if the lands had been so resumed.
- (4) No compensation shall be payable to the Municipal Council of Sydney or any other person for or in respect of the taking, closing or obstruction of the parcels of land described in the fifth and sixth parts of the Second Schedule to this Act (being the site of St. Andrew's Place).
- (5)
 - (a) The trustees in whom the land described in the Third Part of the Second Schedule to this Act was vested at the date of commencement of this Act or their successors in office shall be entitled to agree upon and receive all compensation money whatsoever payable in respect of the vesting of such land in the Church of England Property Trust Diocese of Sydney by this Act and to execute valid releases in respect thereof in favour of the Minister and the Crown.
 - (b) Such compensation money shall be held by the persons receiving the same on the same trusts and with and subject to the same powers and restrictions as affected

the said land at the date of the commencement of this Act or as affect the compensation money.

- (c) The powers conferred by paragraph (a) of this subsection shall be construed as cumulative and not as in substitution for any other powers of such trustees and their successors.
- (d) A certificate by the Registrar under the [Trade Union Act 1881](#), stating that the persons therein named are the trustees in whom the said land was vested at the date of commencement of this Act or, as the case may be, are the successors in office of such trustees at the date mentioned in the certificate, shall in favour of the Minister and the Crown be conclusive evidence of the facts stated therein for the purpose of paragraph (a) of this subsection.

5 Compensation

(1)

- (a) Notwithstanding any provisions of this Act relating to the date at which the Church of England Property Trust, Diocese of Sydney, becomes entitled to the possession of any parcel of land described in the Second Schedule to this Act (other than the parcel described in the eighth part) the date as at which the amount of compensation payable under this Act in respect of such parcel is to be ascertained shall be the date of commencement of this Act.
- (b) With regard to the parcel described in the said eighth part, the date as at which the value of the land is to be ascertained, shall be the date of commencement of this Act and the date as at which any compensation for disturbance, and in respect of the building, fixtures and machinery on such land is to be ascertained shall be the date upon which the said Trust becomes entitled to the possession thereof, and such compensation shall be ascertained on or after such date.
- (c) No compensation shall be payable to the Municipal Council of Sydney:
 - (i) in respect of the parcel described in the fourth part of the Second Schedule until the fifteenth day of March, one thousand nine hundred and thirty-six, and interest shall be payable in respect of such compensation as from that date only,
 - (ii) in respect of the parcel described in the eighth part of the Second Schedule until the date upon which the said Trust becomes entitled to the possession of the said parcel, and interest shall be payable in respect of such compensation as from that date only.

- (2) Any claim for compensation and any proceedings arising out of such claim may be made and taken by or against the Minister.

- (3) Such sums as may become payable as compensation under this Act may be paid out of the Consolidated Revenue Fund without further appropriation than this Act.

6 Issue of certificate of title under [Real Property Act 1900](#)

- (1) The Registrar-General shall, upon the application of the Church of England Property Trust, Diocese of Sydney, issue to such Trust a certificate of title under the [Real Property Act 1900](#) for so much of the land, which, by this Act, is vested in such Trust, as is not subject to the provisions of the [Real Property Act 1900](#) without causing any examination or report to be made as to the title to the land, and without considering such title except in so far as may be necessary to give effect to subsection two of this section.
- (2) In dealing with the application it shall not be necessary to locate the boundaries of the Crown grant (if any) of the land, but it shall be sufficient if the Registrar-General is satisfied with respect to any certificate of title proposed to be issued by him in pursuance of this section that the land to be comprised in the certificate of title is included in the land so vested.
- (3) In any certificate of title issued in pursuance of this section the land may be described in terms of or by reference to the Second Schedule to this Act.
- (4) No contribution to the assurance fund shall be payable upon the issue of any such certificate of title.

7 Acquisition of site for the congregation of the Central Baptist Church, Bathurst Street

- (1) The Governor may authorise the resumption of lands for the purpose of vesting the same in the trustees of the Central Baptist Church, Bathurst Street, and in or towards the satisfaction of any claim that may arise out of the operation of this Act.
- (2) Thereupon the Minister for Public Works may:
 - (a) resume the land by Gazette notification under Division 1 of Part 5 of the [Public Works Act 1912](#),
 - (b) notify in the Gazette that the land is vested in the trustees of the Central Baptist Church, Bathurst Street.
- (3) Thereupon the land shall vest accordingly in the said trustees for an estate in fee simple in possession upon the like trusts as those upon which they held the land described in the seventh part of the Second Schedule.
- (4) For the purposes of the [Public Works Act 1912](#), such resumption shall be deemed to be for the purpose of carrying out an authorised work within the meaning of that Act.

First Schedule

(Section 2)

No of Act	Extent of Repeal
32 Vic No 4	The unrepealed portion.
34 Vic No 6	The whole.
1916 No 18	The whole.

Second Schedule

First part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being Crown land: Commencing at the intersection of the eastern building line of Kent-street with the northern building line of Bathurst-street and bounded thence by that latter building line bearing 86 degrees 32 minutes 20 seconds 32 feet 6⁵/₈ inches, thence by a line partly forming the eastern face of a brick wall bearing 356 degrees 49 minutes 42 feet 0¹/₄ inch to the north face of a brick wall, thence by that face of that wall bearing 254 degrees 31 minutes 30 seconds 40 feet 10 inches to the eastern building line of Kent-street aforesaid and thence by that building line bearing 164 degrees 27 minutes 30 seconds 34 feet 3³/₈ inches to the point of commencement—having an area of 5 perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Second part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being the whole of the land comprised within Certificate of Title registered volume 2,486, folio 130: Commencing at a point on the eastern building line of Kent-street bearing 344 degrees 27 minutes 30 seconds 34 feet 3³/₈ inches from its intersection with the northern building line of Bathurst-street and bounded thence by that building line of Kent-street aforesaid bearing 344 degrees 27 minutes 30 seconds 54 feet 0¹/₂ inch, thence by a line bearing 74 degrees 7 minutes 30 seconds 54 feet 3¹/₄ inches, thence by a line bearing 178 degrees 19 minutes 56 feet 0³/₄ inch to the north face of a brick wall and thence by that face of that wall bearing 254 degrees 31 minutes 30 seconds 40 feet 10 inches to the point of commencement—having an area of 9 4/10ths perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Third part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being the whole of the land comprised within Certificate of Title registered volume 2,488, folio 223: Commencing at a point on the eastern building line of Kent-street bearing 344 degrees 27 minutes 30 seconds 88 feet 3⁷/₈ inches from its intersection with the northern building line of Bathurst-street and bounded thence by that building line of Kent-street aforesaid bearing 344 degrees 27 minutes 30 seconds 50 feet, thence by line bearing 74 degrees 25 minutes 124 feet 7³/₄ inches to the western building line of St. Andrew’s Place, thence by that building line bearing 165 degrees 12 minutes 52 feet 11 inches, thence by lines bearing 257 degrees 2 minutes 69 feet 9¹/₂ inches and 254 degrees 7 minutes 30 seconds 54 feet 3¹/₄ inches respectively to the point of commencement—having

an area of 23 1/10th perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Fourth part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being in part the whole of the land comprised within Certificate of Title registered volume 2,484, folio 107, and in part Crown land: Commencing at a point on the eastern building line of Kent-street bearing 344 degrees 27 minutes 30 seconds 138 feet $3\frac{7}{8}$ inches from its intersection with the northern building line of Bathurst-street and bounded thence by that building line of Kent-street aforesaid bearing 344 degrees 27 minutes 30 seconds 30 feet, thence by lines bearing 73 degrees 33 minutes 38 feet $0\frac{1}{2}$ inch, 73 degrees 43 minutes 49 feet $3\frac{1}{2}$ inches and 74 degrees 35 minutes 37 feet $8\frac{3}{8}$ inches respectively, thence partly by a line and partly by the south-western building line of St. Andrew's Place bearing 165 degrees 12 minutes 31 feet $0\frac{3}{4}$ inch and thence by a line bearing 254 degrees 25 minutes 124 feet $7\frac{3}{4}$ inches to the point of commencement—having an area of 13 9/10ths perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Fifth part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being part of the public street known as St. Andrew's Place: Commencing at a point on the northern building line of Bathurst-street bearing 86 degrees 32 minutes 20 seconds 125 feet $3\frac{3}{8}$ inches from its intersection with the eastern building line of Kent-street and bounded thence by a line bearing 345 degrees 12 minutes 182 feet $3\frac{1}{8}$ inches, thence by a line bearing 83 degrees 33 minutes 60 feet $5\frac{5}{8}$ inches, thence by a line bearing 165 degrees 10 minutes 30 seconds 185 feet 1 inch and thence by a line bearing 266 degrees 10 minutes 30 seconds 61 feet $0\frac{1}{4}$ inch to the point of commencement, and having an area of 1 rood and 3/10ths perch or thereabouts—shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Sixth part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being part of the public street known as St. Andrew's Place: Commencing at the south-western corner of the Crown Grant registered volume 1,467, folio 178, dated 5 May, 1903, and bounded thence by a line bearing 263 degrees 33 minutes 60 feet $5\frac{5}{8}$ inches, thence by a line bearing 345 degrees 12 minutes 7 feet 6 inches, thence by a line bearing 83 degrees 33 minutes 60 feet $5\frac{5}{8}$ inches, and thence by a line bearing 165 degrees 10 minutes 30 seconds 7 feet 6 inches to the point of commencement, and having an area of 1 6/10ths perches or thereabouts—shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Seventh part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being the whole of the land comprised within Crown Grant of 29 perches dated 29 March, 1844, to John Saunders, Robert Bourne and Edward Hunt (in trust for Society of Particular Baptists): Commencing at a point on the northern building line of Bathurst-street bearing 86 degrees 32 minutes 20 seconds 32 feet $6\frac{5}{8}$ inches from its intersection with the eastern building line of Kent-street and bounded thence by that building line aforesaid of Bathurst-street bearing 86 degrees 32 minutes 20 seconds 92 feet $8\frac{3}{4}$ inches to its intersection with the western building line of St. Andrew's Place,

thence by that building line bearing 345 degrees 12 minutes 111 feet 8 $\frac{5}{8}$ inches, thence by a line bearing 257 degrees 2 minutes 69 feet 9 $\frac{1}{2}$ inches, thence by a line bearing 178 degrees 19 minutes 56 feet 0 $\frac{3}{4}$ inch to the north-eastern corner of a brick wall and thence by the eastern face of that brick wall bearing 176 degrees 49 minutes 42 feet 0 $\frac{1}{4}$ inch to the point of commencement—having an area of 31 $\frac{1}{10}$ th perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.

Eighth part

ALL that piece or parcel of land situate in the City of Sydney, Parish of St. Andrew, County of Cumberland, being in part the land comprised in Conveyance registered No 393, Book 817, and part of Conveyance registered No 919, Book 816, and Crown land: Commencing at a point on the eastern building line of Kent-street bearing 344 degrees 27 minutes 30 seconds 168 feet 3 $\frac{7}{8}$ inches from its intersection with the northern building line of Bathurst-street and bounded thence by that building line of Kent-street bearing 344 degrees 27 minutes 30 seconds 69 feet 0 $\frac{5}{8}$ inch, thence by a line bearing 83 degrees 51 minutes 40 seconds 187 feet 10 $\frac{3}{8}$ inches to the north-western corner of the present Cathedral site, and bounded thence by part of the south-western boundary of that site bearing 165 degrees 10 minutes 30 seconds 52 feet 8 $\frac{1}{2}$ inches, thence by a line bearing 263 degrees 33 minutes 60 feet 5 $\frac{5}{8}$ inches, thence by a line bearing 345 degrees 12 minutes 5 feet 11 $\frac{1}{4}$ inches, thence by lines bearing 254 degrees 35 minutes 37 feet 8 $\frac{3}{8}$ inches, 253 degrees 43 minutes 49 feet 3 $\frac{1}{2}$ inches, and 253 degrees 33 minutes 38 feet 0 $\frac{1}{2}$ inch to the point of commencement—having an area of 38 $\frac{2}{10}$ ths perches or thereabouts and shown on plan catalogued Ms 8,758 Sy R in the Department of Lands, Sydney.