

AN ORDINANCE to authorise the mortgaging and leasing of certain lands situate at Five Dock in the Municipality of Drummoyne Parish of Concord and County of Cumberland and to provide for the application of the proceeds thereof.

WHEREAS by an Indenture of Conveyance bearing date the tenth day of November One thousand nine hundred and eleven and made between Rosina Yalden Best therein described of the one part and Arthur Gilbert Friend, William Richard Croker and Robert Sidney Ferns therein described of the other part Registered Number 725 Book 950 the lands and hereditaments firstly described in the First Schedule hereto were conveyed and assured unto the said Arthur Gilbert Friend, William Richard Croker and Robert Sidney Ferns in fee simple absolutely AND WHEREAS by Deed Poll or Declaration of Trust bearing date the Thirtieth day of November One thousand nine hundred and twenty-three Registered Number 820 Book 1327 the said Arthur Gilbert Friend and William Richard Croker being the survivors of them the said Arthur Gilbert Friend, William Richard Croker and Robert Sidney Ferns did declare that they were seized of the land and hereditaments firstly described in the First Schedule hereto 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 St. Albans Five Dock AND WHEREAS by Deed of Consent bearing date the First day of December One thousand nine hundred and twenty-three Registered Number 821 Book 1327 the said Arthur Gilbert Friend and William Richard Croker did thereby consent that the said lands and hereditaments firstly described in the First Schedule hereto should thenceforth become and be vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the Property Trust) subject nevertheless to the trusts in the hereinbefore recited Deed Poll or Declaration of Trust expressed and contained or to so much of the same as were still subsisting undetermined and capable of taking effect AND WHEREAS by Indenture of Conveyance bearing date the fifteenth day of May One thousand eight hundred and sixty-six made between William Wright therein described of the one part and

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the Bishop of Sydney of the other part Registered Number 614 Book 99 the lands and hereditaments secondly described in the First Schedule hereto were conveyed and assured unto the said Bishop of Sydney his successors and assigns upon trust to permit the same to be used for the following purposes that is to say As to a portion thereof for the erection thereon of a Church for the celebration of divine worship according to the rites and ceremonies of the United Church of England and Ireland as by law established but subject to the provisions of the Act of the Governor and Legislative Council of New South Wales passed in the eighth year of the reign of His Majesty King William the Fourth intituled "An Act to regulate the temporal affairs of Churches and Chapels of the United Churches of England and Ireland in New South Wales" And as to another portion thereof upon trust to permit and suffer the same to be used for the erection of a School for the purpose of educating therein young persons according to the principles of the said United Church of England and Ireland and according to such rules and regulations as may from time to time be prescribed by the Denominational School Board of New South Wales or by any other authority in which by law the functions of the said Board might thereafter have been vested And as to a further portion of the said land upon trust to permit the same to be used for the erection of a residence for the master or head teacher for the time being of the said school And as to the residue of the said land upon trust to hold the same for such purposes as may be consistent with the trusts and purposes therein declared and upon and for no other trust intent or purpose whatsoever AND WHEREAS by virtue of Certificate of Title dated the Seventeenth day of November One thousand eight hundred and eighty-four Registered Volume 722 Folio 90 the Property Trust is registered as the Proprietor of an Estate in fee simple in all that piece of land thirdly described in the First Schedule hereto which said land is held by the said Property Trust 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 St. Albans Five Dock as appears by a Declaration of Trust under the Common Seal of the said Property Trust dated the Third day of July One thousand nine hundred and twenty-four AND WHEREAS

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by virtue of Certificate of Title dated the Twentieth day of October One thousand nine hundred and nine Registered Volume 2010 Folio 247 the said Property Trust is registered as the proprietor of an Estate in fee simple in all that piece of land fourthly described in the First Schedule hereto which said land is held by the said Property Trust upon trust for the use and benefit of the Church of England for such Church purposes in connection with St. Albans Church Five Dock as the Parochial Council of the said Church shall approve the said lands and premises to be held subject to the regulations (so far as they may be applicable) contained in "The Sydney Church Ordinance" or in any other Ordinance to be passed by the Synod of the Diocese of Sydney altering or modifying the first mentioned Ordinance as appears by a Declaration of Trust under the hands, and seals of Arthur Gilbert Friend, William Richard Croker and Robert Sidney Ferns dated the Eleventh day of September One thousand nine hundred and nine AND WHEREAS by virtue of Certificate of Title dated the Twentieth day of February One thousand nine hundred and twenty-three Registered Volume 3424 Folio 167 the said Property Trust is registered as the Proprietor of an Estate in fee simple in all that piece of land fifthly described in the First Schedule hereto which said land is 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 Parish of St. Albans Five Dock as appears by a Declaration of Trust under the Common Seal of the said Property Trust dated the Seventeenth day of August One thousand nine hundred and twenty-three AND WHEREAS a Church and School Hall for use in connection with the Church of England in the Parish of St. Albans Five Dock were long since erected on the lands secondly described in the First Schedule hereto in accordance with the trusts hereinbefore expressed concerning the same AND WHEREAS a new Church building for the purposes of the said Parish has now been erected on the land described in the Second Schedule hereto (which comprises that described in the First and Second parts of the First Schedule hereto and part of that described in the third part of the First Schedule hereto) and it has become desirable and expedient to make provision for the erection on the land described in the Third Schedule hereto (being

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part of that comprised in the Fourth and Fifth parts of the said First Schedule hereto) of a new Parish Hall for the purposes of the said Parish AND WHEREAS for the purposes of providing money for the payment of the cost of erection of such new Church building and new Parish Hall as aforesaid it is expedient to mortgage the land described in the Fourth Schedule hereto (being part of the land Thirdly Fourthly and Fifthly described in the First Schedule hereto) or any part or parts thereof and to apply the moneys raised by such Mortgage for the purpose of defraying the cost of the erection of such new Church Building and new Parish Hall and of the expenses incidental thereto and the costs of and incidental to this Ordinance and for such other purpose or purposes as are hereinafter provided AND WHEREAS it is expedient and desirable that the land described in the Fifth Schedule hereto (being part of that comprised in the Fourth and Fifth parts of the said First Schedule) or any part or parts thereof should be leased and that the rents and profits arising from any Lease or Leases thereof should be applied in furtherance of the said Trusts or for such other purposes as are hereinafter provided NOW THEREFORE the Standing Committee of the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the "Church of England Trust Property Act 1917" and the Ordinances of Synod passed in the years One thousand nine hundred and eighteen and One thousand nine hundred and twenty-one appointing the Standing Committee for the purpose of exercising during the recess of Synod the powers and functions in the said Ordinances referred to and in pursuance of the powers vested in the said Synod by the Constitution for the management and good government of the Church of England within the State of New South Wales or otherwise in the name and place of such Synod ordains declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the said recited trusts affecting the land fourthly and fifthly described in the First Schedule hereto it has become inexpedient to carry out or observe such trusts in their entirety and it is hereby declared that the land fourthly described in the First Schedule hereto shall, subject to the powers hereinafter conferred upon the Trustee thereof concerning the same, be henceforth held by the Trustee for the time being thereof UPON TRUST

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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 St. Alban's Five Dock and that the income to be derived from the leasing of any part of the lands fourthly and fifthly described in the First Schedule hereto in pursuance of the power in that behalf hereinafter contained shall be held by the Trustee thereof for the time being upon trust to apply the same for the purposes and in manner hereinafter provided.

2. By reason of circumstances subsequent to the creation of the said recited trusts it has become expedient to mortgage the land described in the Fourth Schedule hereto and to obtain an advance of money upon the security of same for the purpose of payment of the costs of the erection of the new Church Building and new Parish Hall hereinbefore referred to.

3. By reason of circumstances subsequent to the creation of the said recited Trusts it has become expedient to lease the land described in the Fifth Schedule hereto for the purpose of obtaining income therefrom and to apply such income for such purposes as are hereinafter provided.

4. The said land described in the Fourth Schedule hereto or any part or parts thereof together with the Parsonage erected on part thereof and the Church Hall to be erected on part thereof as aforesaid may be mortgaged to secure repayment of any sum or sums not exceeding £7000 advanced or to be advanced upon the security thereof and also for the purpose of further securing the repayment of any such sum or sums to be advanced as aforesaid together with interest thereon the said Property Trust may mortgage or charge the whole or any part of the rents profits and income to be derived by it from the leasing of the land described in the Fifth Schedule hereto pursuant to the power in that behalf hereinafter contained and the said Property Trust or other the Trustee for the time being of the said land described in the Fourth Schedule hereto and entitled to receive the rents profits and income to be derived from any such leasing as aforesaid is hereby authorised for the purposes aforesaid or any of them to give execute and do all such Mortgages Deeds Charges Assurances and things as may be necessary or as the said Property Trust or such other Trustee

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shall think fit by way of security for any sum or sums so advanced with interest and other moneys payable or to become payable in respect thereof and further to make any such Mortgage or Mortgages or charge as aforesaid either with or without a power of sale and with and subject to such other powers covenants and provisions as it or he shall think proper and the said Property Trust or other Trustee for the time being of the land described in the Fourth Schedule hereto or for the time being entitled to receive the rents profits and income as aforesaid shall have power to renew from time to time and enter into any agreement for the renewal or extension of the term of any Mortgage or charge given in pursuance of the powers conferred by this Ordinance and also to execute and give any mortgage and/or charge over such land and rents for the purpose of discharging any existing mortgage and/or charge over the same upon such terms as it or he shall think fit Provided that after the expiration of four years from the passing of this Ordinance no renewal of any mortgage shall be valid for a larger sum than six thousand eight hundred pounds and thereinafter the principal sum shall be reduced at the rate of not less than two hundred pounds per annum for the purpose of ascertaining the amount for which any subsequent renewal mortgage shall be valid.

5. The moneys advanced upon any such Mortgage or charge authorised under Section Four hereof shall be applied in manner following that is to say:—They shall be paid to the said Property Trust or other Trustee as aforesaid and shall be applied in the first place in or towards the costs of and incidental to this Ordinance and of any Mortgage Mortgages and/or charge executed in pursuance of the powers hereby conferred and towards the payment of the Architect's and Surveyor's fees incurred in connection with the erection of buildings as aforesaid and subject thereto shall be applied towards the cost of the erection of the new Church Building on the land described in the Second Schedule hereto and the cost of erection of a Parish Hall upon the land described in the Third Schedule hereto:

6. The land described in the Fifth Schedule hereto or any part or parts thereof may be demised freed from the trusts aforesaid to any person persons or corporation for any term not exceeding fifty years to take effect in possession

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so as there be reserved in every such Lease or Leases the best rent fixed varying or progressive that can reasonably be obtained for the same having regard to the nature of the covenants entered into by the Lessee or Lessees and so as there shall be contained in every such Lease or Leases a covenant that every Lessee or Lessees of any part or parts of the said land shall pay all rates taxes Municipal or Statutory charges or impositions and shall not use or permit to be used the premises erected or placed on any part of the land comprised in any such Lease or Leases for the purpose of carrying on the trade or business of a publican distiller brewer wine ale or beer seller or any dangerous noxious or offensive trade or business whatsoever. And also that every such Lessee or Lessees shall not use or permit to be used the said premises or any part thereof for Sunday trading or amusement in any form And also a condition for re-entry by the Lessor on non-payment of rent by the Lessee or Lessees within a reasonable time to be therein specified or on the breach or non-performance or non-observance of any of the covenants therein contained and so as the Lessee or Lessees do execute a counterpart of such Lease or Leases and do thereby covenant for payment of rent thereby reserved but so that any such Lease or Leases shall otherwise be subject to such covenants provisions conditions and agreements as the Property Trust shall deem proper.

7. The rents profits and income payable in respect of any such lease or leases effected in pursuance of this Ordinance shall subject however to any Mortgage or charge thereof given made or effected in pursuance of the power in that behalf herein contained and to the rights of any person being a Mortgagee thereof or holder of any charge over the same be paid to the said Property Trust and shall be applied by it in the first place in or towards the costs of and incidental to the obtaining of this Ordinance or in any way relating to the leasing of the said property or any part thereof not paid under any other authority hereby conferred And subject thereto shall be applied as follows that is to say:—

- (a) By payment thereof, in the first place of all rates and taxes payable in respect of any of the land comprised in the Schedules hereto insofar only as such rates and taxes may be payable by the said Property Trust.

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- (b) By payment thereof of the cost of the maintenance repair and upkeep from time to time of any building or buildings erected on the land demised and also of any building used as a rectory for the said Parish.
  - (c) In or towards the repayment of any moneys borrowed or for the time being owing in respect of the erection or acquisition by other means of the new Church Building and a new Parish Hall for the use of the said Parish and for or towards the payment of any interest from time to time owing or payable upon any moneys so borrowed or owing as aforesaid.
  - (d) Any balance of the said rents not required for any of the purposes aforesaid shall be applied by the said Property Trust by the payment therefrom of an annual sum equal to Five pounds per centum per annum of such balance to the Home Mission Society and subject thereto for or towards the support or maintenance of a living agent or agents working in connection with the Church of England in the said Parish.
8. This Ordinance shall be styled and cited as "The St. Alban's Five Dock Mortgaging and Leasing Ordinance 1925."

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THE FIRST SCHEDULE REFERRED TO. (First Part.)

All that piece of land containing Eight and three quarter perches situate in the Municipality of Drummoyne Parish of Concord County of Cumberland and State of New South Wales commencing at the South-west corner of the land in Primary Application 5357 and bounded on the North by that land bearing Easterly Sixty feet on the East by a lane bearing Southerly forty feet six inches on the South by land in Primary Application 15314 bearing Westerly Sixty feet and on the West by a line bearing North Forty feet Six inches to the point of commencement be the said area and several dimensions all a little more or less.

THE FIRST SCHEDULE REFERRED TO. (Second Part.)

All that parcel of land situate in the District of York Place and in that portion of the said District now known as Five Dock



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in the County of Cumberland in the State of New South Wales commencing at the North-east corner of a parcel of land containing one acre one rood and eight perches or thereabouts conveyed by one Henry Falwasser to John Budd by Indenture dated on or about the Twelfth day of May One thousand eight hundred and forty-one and which parcel of land hereby conveyed is thence bounded on the East by the Great North Road extending along the same in a South line Forty feet thence in West line One hundred and fifty feet separating it from other part of the first mentioned parcel of land then North Forty feet along other part of the said land to the Northern boundary thereof and thence by such Northern boundary separating it from land now or late belonging to I. Hewett One hundred and fifty feet to the commencing corner.

THE FIRST SCHEDULE REFERRED TO. (Third Part.)

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having a frontage of 80 feet to the Great North Road by a depth of 230 feet 4 inches being the whole of the land comprised in Certificate of Title dated the Seventeenth day of November One thousand eight hundred and eighty-four Registered Volume 722 Folio 90.

THE FIRST SCHEDULE REFERRED TO. (Fourth Part.)

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having a frontage of 55 feet to the Great North Road by a depth of 230 feet 4 inches to East Street being the whole of the land comprised in Certificate of Title dated the Twentieth day of October One thousand nine hundred and nine Registered Volume 2010 Folio 247.

THE FIRST SCHEDULE REFERRED TO. (Fifth Part.)

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having a frontage of 55 feet 10 inches to the Great North Road by a depth of 230 feet 4 inches along Henry Street to East

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Street and being the whole of the land comprised in Certificate of Title dated the Twenty-eighth day of February One thousand nine hundred and twenty-three Registered Volume 3424 Folio 167.

THE SECOND SCHEDULE REFERRED TO.

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having a frontage of 70 feet to the Great North Road by a depth of 230 feet 4 inches being the whole of the lands comprised in the First and Second part of the First Schedule hereto and part of the land comprised in the Third part of the First Schedule hereto.

THE THIRD SCHEDULE REFERRED TO.

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having a frontage of 110 feet 10 inches to East Street by a depth along Henry Street of 120 feet 4 inches being part of the land comprised in Certificates of Title dated the Twenty-ninth day of October One thousand nine hundred and nine Registered Volume 2010 Folio 247 and dated the Twenty-eighth day of February One thousand nine hundred and twenty-three Registered Volume 3424 Folio 167.

THE FOURTH SCHEDULE REFERRED TO.

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland and situate at the corner of East Street and Henry Street and having a frontage of 110 feet 10 inches to East street by a depth along Henry Street of 120 feet 4 inches being the residue of the land comprised in Certificates of Title dated the Twenty-eighth day of February One thousand nine hundred and twenty-three Registered Volume 3424 Folio 167 and dated the Twenty-ninth day of October One thousand nine hundred and nine Registered Volume 2010 Folio 247 after excluding therefrom the land comprised in the Fifth Schedule hereto And also all that piece of land situate as aforesaid having a frontage of 50 feet to the

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Great North Road by a depth of 230 feet 4 inches to East Street being the residue of the land comprised in the Certificate of Title dated the Seventeenth day of November One thousand eight hundred and eighty-four Registered Volume 722 Folio 90 after excluding therefrom that part thereof as is comprised in the Second Schedule hereto.

THE FIFTH SCHEDULE REFERRED TO.

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland situate at the corner of Great North Road and Henry Street and having a frontage of 110 feet 10 inches to the Great North Road by a depth along Henry Street of 110 feet and being part of the land comprised in Certificates of Title dated the Twenty-eighth day of February One thousand nine hundred and twenty-three Registered Volume 3424 Folio 167 and dated the Twenty-ninth day of October One thousand nine hundred and nine Registered Volume 2010 Folio 247.

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

A. J. GOULD,  
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney, this twenty-ninth day of January, 1925.

C. R. WALSH,  
Secretary.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

4th February, 1925.