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*St. James' Pitt Town Vesting Variation of Trusts and  
Land Sale Ordinance 1970*

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No. 14, 1970

AN ORDINANCE to vest and vary the trusts of and to authorise the sale of certain land at Wellesley Street Pitt Town and to provide for the application of the proceeds.

WHEREAS by Indenture of Conveyance dated the 8th and 9th days of March 1841 Registered No. 552 Book 2824 between Thomas Smidmore of the one part and The Bishop of Australia of the other part the land and hereditaments described in the First Schedule hereto were conveyed unto the said Bishop and his successors for ever upon trust for the erection thereon of a Church for the performance of divine worship according to the rites of the United Church of England and Ireland and also for the erection of a residence for a clergyman in Holy Orders and for a burial ground according to the use of the said United Church or for all or any of the said objects as the said Bishop should from time to time determine and upon trust for all and every or any other of the purposes provided for in and by the Act intituled "An Act to regulate the Temporal Affairs of Churches and Chapels of the United Church of England and Ireland in New South Wales" AND WHEREAS the said land has never been used as a burial ground AND WHEREAS the said land has in recent times been sub-divided and now comprises Lots 3 and 4 in Deposited Plan No. 520118 which land is by recent survey described in the manner set forth in the First and Second parts respectively of the Second Schedule hereto AND WHEREAS by Deed of Lease dated the 15th day of November, 1968 Registered No. 370 Book 2918 the said lands described in the First and Second Parts of the Second Schedule were leased to Margaret Findlay Scott for the term of forty (40) years commencing from and including the 1st day of January 1968 and ending on and including the 31st day of December 2008 AND WHEREAS the said Lessee has forfeited the said lease for non-payment of rent AND WHEREAS by reason of the situation of the said lands and by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said lands are held it is expedient to carry out and observe the same to the extent to which the same are hereby varied AND WHEREAS it is expedient that the said lands be vested in Church of England Property Trust Diocese of Sydney (hereinafter called the "Corporate Trustee") AND WHEREAS it is expedient that the trusts upon which the land described in the

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Second Part of the Second Schedule is held be varied as hereinafter set forth AND WHEREAS it is now expedient that the land described in the First Part of the Second Schedule be sold and the proceeds applied as hereinafter set forth NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:—

1. That the lands described in the First and Second Parts of the Second Schedule hereto be and the same are hereby vested in the Corporate Trustee.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Second Part of the Second Schedule is held it is inexpedient to carry out and observe the same to the extent to which such trusts are hereby modified or varied and the said land described in the Second Part of the Second Schedule shall henceforth be held by the Corporate Trustee upon trust to permit the same to be used as a church parsonage or parish hall or partly for one and partly for another of such purposes in connection with the Church of England in Australia in the Parish of St. James' Pitt Town or any Parish into which it may subsequently be formed.

3. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the First Part of the Second Schedule is held it is inexpedient to carry out and observe the same and it is expedient that the said land be sold.

4. The Corporate Trustee is hereby empowered to sell the land described in the First Part of the Second Schedule 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 Corporate Trustee determines freed from the trusts upon which it is now held.

5. The proceeds arising from the sale or sales of the said land after paying thereout the costs of and incidental to this Ordinance and for the sale or sales and transfer in pursuance thereof and all outgoings to which the said land may be subject shall be paid to the Churchwardens of St. James' Church Pitt Town and applied towards the cost of erection of a new Parish Hall within the said Parish.

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6. This Ordinance may be cited as "St. James' Pitt Town Vesting Variation of Trusts and Land Sale Ordinance 1970".

**FIRST SCHEDULE**

ALL THAT piece or parcel of land containing by admeasurement three roods and twenty-seven perches more or less situated in the town of Pitt Town and in the Parish of Pitt Town in the County of Cumberland COMMENCING at the East corner of W. Janes's allotment bounded on the North-west by a line South sixty-two degrees West three chains five links; on the South-west by a line South fifty-four degrees East three chains and twenty links on the South-east by a line North fifty-eight degrees East two chains eighty-five links and on the North-east by a line North fifty-two degrees West three chains five links.

**SECOND SCHEDULE**

**FIRST PART**

ALL THAT piece or parcel of land containing by admeasurement 1 rood 20 $\frac{1}{2}$  perches being Lot 3 as shown upon Deposited Plan 520118 situate at Pitt Town Municipality of Windsor Parish of Pitt Town County of Cumberland and State of New South Wales COMMENCING at a point on the South-western side of Wellesley Street being the Northern most corner of Lot 4 on Deposited Plan 520118 bounded thence on the South-east by the North-western boundary of Lot 4 aforesaid being a line bearing 231 degrees 30 minutes 35 seconds 190 feet 1 $\frac{1}{2}$  inches bounded thence on the South-west by a line bearing 303 degrees 44 minutes 00 seconds 105 feet 5 $\frac{1}{2}$  inches bounded thence on the North-west by a fenced line bearing 60 degrees 00 minutes 50 seconds 199 feet 8 $\frac{1}{2}$  inches to the South-western side of Wellesley Street bounded thence on the North-east by the South-western side of Wellesley Street being a line bearing 126 degrees 27 minutes 05 seconds 75 feet 0 inches to the point of commencement by the said several dimensions all a little more or less.

**SECOND PART**

ALL THAT piece or parcel of land containing by admeasurement 1 rood 20 $\frac{1}{2}$  perches being Lot 4 as shown upon Deposited Plan 520118 situate as aforesaid COMMENCING at a point on the South-western side of Wellesley Street being the Northern most corner of Lot 5 as shown upon Deposited Plan 520118 bounded thence on the

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South-east by the North-western side of Lot 5 aforesaid being a line bearing 222 degrees 19 minutes 35 seconds 185 feet 1 inch bounded thence on the South-west by a fenced line bearing 306 degrees 44 minutes 00 seconds 105 feet 5½ inches to the Southern corner of Lot 3 on Deposited Plan 520118 bounded thence on the North-west by the South-eastern boundary of Lot 3 aforesaid being a line bearing 51 degrees 30 minutes 35 seconds 190 feet 1¾ inches to the South-western side of Wellesley Street, bounded thence on the North-east by the South-western side of Wellesley Street being a line bearing 126 degrees 27 minutes 05 seconds 75 feet 0 inches to the point of commencement be the said several dimensions all a little more or less.

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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.