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*St. Alban's Five Dock Sale and Mortgage Ordinance 1930.*

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**No. 5. 1930.**

AN ORDINANCE to authorise the sale of certain land and the mortgage of certain land at Drummoyne held in connection with the Church of St. Alban Five Dock.

WHEREAS a block of land approximately rectangular in shape with a frontage of two hundred and thirty feet ten inches to the Great North Road by a depth along Henry Street of two hundred and thirty feet four inches is vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the Property Trust) in connection with the Church of St. Alban Five Dock under five separate titles as described in the first second third fourth and fifth parts of the first schedule hereto.

AND WHEREAS by Conveyance dated the tenth day of November one thousand nine hundred and eleven registered No. 725 Book 950 the land described in the first part of the first schedule was conveyed by Rosina Yalden Best to Arthur Gilbert Friend William Richard Croker and Robert Sidney Ferns in fee simple as joint tenants.

AND WHEREAS the said Robert Sidney Ferns died on or about the eighth day of July one thousand nine hundred and twenty-one.

AND WHEREAS by Declaration of Trust dated the thirtieth day of November one thousand nine hundred and twenty-three registered No. 820 Book 1327 the said Arthur Gilbert Friend and William Richard Croker declared that they were seized of the last mentioned 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 St. Alban Five Dock.

AND WHEREAS by Deed of Consent dated the first day of December one thousand nine hundred and twenty-three registered No. 821 Book 1327 the said Arthur Gilbert Friend and William Richard Croker did thereby consent that the said last mentioned land should thenceforth become vested in the said Property Trust

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subject to the trusts in the last mentioned 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 Conveyance dated the fifteenth day of May one thousand eight hundred and sixty-six registered No. 614 Book 99 the land described in the second part of the first schedule was conveyed by William Wright to the 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 Church 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 might 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 be vested And as to 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 might be consistent with the trusts and purposes hereinbefore declared And upon and for no other trust intent or purpose whatsoever

AND WHEREAS the Property Trust is registered as the proprietor in fee simple under the provisions of the Real Property Act of the land described in the third part of the first schedule hereto upon trust to permit the same to be used as 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 Five Dock.

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AND WHEREAS the Property Trust is registered as the proprietor in fee simple under the provisions of the Real Property Act of the land described in the fourth part of the first schedule hereto upon trust for the use and benefit of the Church of England and such purposes in connection with the Church of St. Alban Five Dock as the Parochial Council of the said Church shall approve the said land and premises to be held subject to the regulations so far as they may be applicable contained in the Sydney Church Ordinance or any other Ordinance to be passed by the Synod of the Diocese of Sydney altering or modifying such Ordinance

AND WHEREAS the Property Trust is registered as the proprietor in fee simple under the provisions of the Real Property Act of the land described in the fifth part of 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. Alban Five Dock.

AND WHEREAS owing to an apparent error in the surveyor's description of the land in the hereinbefore recited Conveyance dated the tenth day of November one thousand nine hundred and eleven registered No. 725 Book 950 from Rosina Yalden Best to Arthur Gilbert Friend William Richard Croker and Robert Sidney Ferns there was some doubt as to whether such Conveyance effectually conveyed the land intended to be conveyed thereby so accordingly by Conveyance dated the eleventh day of December one thousand nine hundred and twenty nine registered No. 948 Book 1585 the Reverend Stanley Grant Best the executor of the will of the said Rosina Yalden Best conveyed and confirmed to the Property Trust the land described in the second schedule hereto which description more accurately describes the land intended to be conveyed by the said Rosina Yalden Best as aforesaid upon the like trusts as were declared with regard to the land described in the first part of the first schedule hereto

AND WHEREAS by The St. Alban's Five Dock Mortgaging and Leasing Ordinance 1925 the Property Trust was authorised to mortgage portion of the said land to secure the repayment of any sum or sums not exceeding seven thousand pounds and to

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lease other portion thereof and accordingly by mortgage dated the thirteenth day of May one thousand nine hundred and twenty-five the land described in the third schedule hereto was mortgaged to the Australian Bank of Commerce Limited to secure the repayment of the sum of three thousand nine hundred and twenty pounds and interest but the authority to lease so conferred by such Ordinance was never exercised.

AND WHEREAS with the aid of the moneys so advanced as aforesaid the present Church of St. Alban was erected on part of the land described in the fourth schedule hereto at an approximate cost of seven thousand pounds.

AND WHEREAS by The St. Alban's Five Dock Mortgaging and Leasing Ordinance 1925 the Property Trust was directed to apply part of the moneys thereby authorised to be borrowed upon mortgage towards the costs of the erection of a new Parish Hall on that part of the said Church land situated at the corner of Henry and East Streets but such Hall was never erected and the old Church building which is situated near the southern boundary of the said land on the frontage to the Great North Road and to the east of and immediately in the front of the present Church is now being used as and for a Parish Hall and it is expedient that a new Parish Hall should be erected on other part of the said Church land with a frontage to the Great North Road.

AND WHEREAS the present Church of St. Alban is erected on the south-west corner of the said Church land and the Rectory attached thereto immediately to the north of it and the land described in the fourth and fifth parts of the first schedule hereto being the northern part of the said Church land with frontages to the Great North Road of one hundred and ten feet ten inches to Henry Street of two hundred and thirty feet four inches and to East Street of one hundred and ten feet ten inches is in fact used for tennis courts.

AND WHEREAS it is expedient to use part of such last mentioned land as a site for a new Parish Hall and to sell those parts of it at the corner of the Great North Road and Henry Street

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retaining sufficient for the site of one tennis court with a frontage to Henry Street.

AND WHEREAS in or about the year one thousand nine hundred and twenty-five an arrangement was made between the then Rector and Churchwardens of the Church of St. Alban and the Council of the Municipality of Drummoyne that the Council should take a strip of land twelve feet wide along the whole of the said frontage of two hundred and thirty feet ten inches to East Street and add such land to East Street thereby widening it from thirty-three feet to forty-five feet and that in consideration therefor the Council should kerb and gutter East Street and erect certain fencing along the western boundary of the said Church land and the Property Trust agreed to offer no opposition to such arrangement being carried out provided that an Ordinance authorising it was passed and the consent of the mortgagee obtained.

AND WHEREAS neither the authority of the Synod to the aforesaid arrangement nor the consent of the mortgagee was ever obtained but notwithstanding this the said Council took possession of the twelve foot strip erected the said fencing and constructed the said kerbing and guttering and the said strip is now in fact used as part of East Street.

AND WHEREAS it is expedient that the title to the aforesaid strip of land should be legally vested in the said Council and that the Property Trust should be authorised to convey the same accordingly.

AND WHEREAS by reason of circumstances subsequent to the creation of the trusts to which the said land is subject it has become inexpedient to carry out and observe such trusts in so far as such trusts are hereby varied and it is expedient to vary such trusts in manner hereinafter mentioned and to make the further provisions hereinafter contained.

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 Land Ordinance Procedure and Delegation of Powers Ordinance 1926 and in pursuance of the powers vested in the

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said Synod by the Constitutions for the management and good government of the Church of England within the State of New South Wales or otherwise in the name and in the place of the said Synod directs declares and rules as follows:—

1. By reason of circumstances subsequent to the creation of the trusts to which the said land is subject it has become inexpedient to carry out and observe such trusts in so far as such trusts are hereby varied.

2. The Property Trust is hereby authorised to convey to the Council of the Municipality of Drummoyne all that strip of land on the western boundary of the said Church land extending along East Street two hundred and thirty feet ten inches by a depth throughout of twelve feet or thereabouts.

3. The Property Trust is hereby authorised to sell part of the said land with a frontage to the Great North Road of sixty feet or thereabouts by a depth of and extending along Henry Street for one hundred feet or thereabouts also part of the said land with a frontage of one hundred and ten feet ten inches or thereabouts to East Street by a depth of and extending along Henry Street for seventy feet or thereabouts or such parts thereof as it may deem expedient and such sale or sales may be by public auction or private contract together or in lots for cash or on credit at such price or prices and upon such terms and conditions as the Property Trust may deem proper with power to vary or rescind any contract for sale and to buy in at any auction.

4. The Property Trust is hereby authorised to mortgage the whole or any part of the land described in the fifth schedule hereto at any time and from time to time to secure the repayment of any sum or sums not exceeding seven thousand pounds with interest thereon.

5. The proceeds arising from such sale or sales as aforesaid and the moneys so to be obtained from time to time on the security of mortgage as aforesaid after deducting thereout the costs charges and expenses of and incidental to this Ordinance and the said sale or sales and of the conveyance of the land in

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pursuance thereof and of the said mortgage or mortgages shall be applied towards the costs of the erection of a new Parish Hall upon the land described in the sixth schedule hereto 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 and in repayment of the principal sum so secured or to be secured by mortgage as aforesaid.

6. Any moneys receivable under or by virtue of this Ordinance and the accumulation of the income arising therefrom in the possession of the Property Trust and not immediately required to be applied as aforesaid may until such application be invested by the Property Trust in any one or more of the following investments that is to say:—

- (i.) Investments for the time being allowed by law for the investment of trust funds;
- (ii.) The purchase of real estate situated within the Commonwealth;
- (iii.) Mortgage of land situated within the Commonwealth;
- (iv.) Debentures of any Harbour Trust or Board of Works within the Commonwealth;
- (v.) Mortgage bonds under any of the Savings Banks Acts of the Federal Government or any State within the Commonwealth;
- (vi.) Deposit in any Government Savings Bank within the Commonwealth;
- (vii.) Fixed Deposit in any Bank carrying on business in the State of New South Wales;

and the Property Trust may from time to time vary release or raise money on the security of such investments.

7. This Ordinance may be cited as "St. Alban's Five Dock Sale and Mortgage Ordinance 1930."

THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

FIRST PART.

All that piece of land containing eight and three-quarter perches situate in the Municipality of Drummoyne Parish of

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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.

#### 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 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.

#### 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 eighty feet to the Great North Road by a depth of two hundred and thirty feet four 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.

#### FOURTH PART.

All that piece of land situate at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland having



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a frontage of fifty-five feet to the Great North Road by a depth of two hundred and thirty feet four inches to East Street being the whole of the land comprised in Certificate of Title dated the twenty-ninth day of October one thousand nine hundred and nine registered volume 2010 folio 247.

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 fifty-five feet ten inches to the Great North Road by a depth of two hundred and thirty feet four inches along Henry Street to East 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 HEREINBEFORE  
REFERRED TO.

All that piece or parcel of land situated in the Municipality of Drummoyne Parish of Concord County of Cumberland in the State of New South Wales commencing at the south-west corner of the land comprised in Conveyance dated the fifteenth day of May one thousand eight hundred and sixty-six registered number 614 book 99 from William Wright to the Bishop of Sydney at a point distant one hundred and fifty feet from the western boundary of the Great North Road and bounded thence on the south by the northern boundary of land comprised in Primary Application No. 15314 westerly eighty feet four inches to the eastern boundary of East Street thence northerly by the eastern boundary of East Street forty feet to the south-west corner of the land comprised in Certificate of Title registered volume 722 folio 90 thence easterly by the southern boundary of such last mentioned land to the north-west corner of the land comprised in the said Conveyance from William Wright to the Bishop of Sydney eighty feet four inches and thence southerly by the western boundary of the said last mentioned land forty feet to the point of commencement.

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## THE THIRD SCHEDULE HEREINBEFORE 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 one hundred and ten feet ten inches to East Street by a depth along Henry Street of one hundred and twenty feet four inches 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 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 fifty feet to the Great North Road by a depth of two hundred and thirty feet four 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 fourth schedule hereto.

THE FOURTH SCHEDULE HEREINBEFORE  
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 seventy feet to the Great North Road by a depth of two hundred and thirty feet four inches being the whole of the lands comprised in the second part of the first schedule hereto the second schedule hereto and part of the land comprised in the third part of the first schedule hereto.

## THE FIFTH SCHEDULE HEREINBEFORE REFERRED TO.

All that piece of land situated at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland being the whole of the land comprised in Certificate of Title registered volume 2010 folio 247 and in Certificate of Title

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registered volume 3424 folio 167 and part of the land comprised in Certificate of Title registered volume 722 folio 90 after deducting a strip of land twelve feet wide on the western boundary thereof fronting East Street with a frontage to the Great North Road of one hundred and sixty feet ten inches or thereabouts and a depth of two hundred and eighteen feet four inches or thereabouts.

THE SIXTH SCHEDULE HEREINBEFORE REFERRED TO.

All that piece of land situated at Five Dock in the Municipality of Drummoyne Parish of Concord County of Cumberland adjoining the land at the corner of the Great North Road and Henry Street hereinbefore authorised to be sold as aforesaid commencing at a point about sixty feet or thereabouts from the said corner of the said Great North Road and Henry Street and extending thence southerly along the Great North Road for fifty-five feet or thereabouts with a depth of one hundred feet or thereabouts.

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

W. J. G. MANN,  
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this twenty-eighth day of April, 1930.

C. R. WALSH,  
Secretary.

I assent to this Ordinance,

JOHN CHARLES SYDNEY.

29th April, 1930.