

St. Simon and St. Jude's Resumption of 1924.

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AN ORDINANCE to authorise the Church of England Property Trust Diocese of Sydney (hereinafter called the Property Trust) to receive from the Municipal Council of Sydney (hereinafter called the Council) or out of Court the amount of compensation money to be paid by the Council in respect of the resumption by the Council of certain land forming the site of St. Simon and St. Jude's Church of England Sydney and the land held in connection therewith AND ALSO to declare the Trusts upon which such compensation money shall be held.

WHEREAS by an Indenture of Conveyance dated the sixteenth day of March One thousand eight hundred and eighty-one Registered No. 998 Book 215 and made between Ann Sophia Campbell of the first part The Honourable John Campbell of the second part and the Reverend John Douse Langley William Edward Toose and William Hill (therein called the Trustees) of the third part the lands and hereditaments therein particularly described and comprised in the First Schedule hereto with the appurtenances were conveyed and assured unto and to the use of the said John Douse Langley William Edward Toose and William Hill as joint tenants but UPON TRUST for the erection and maintenance thereon of a Church or Building which is intended when consecrated to be called St. Simon and St. Jude's for the celebration of public worship according to the use of the Church now or lately known as the United Church of England and Ireland and for any other purpose in connection with such church BUT SUBJECT so far as the nature of the property and the circumstances of the case will admit to the provisions of an Act of the Governor and Legislative Council of the Colony of New South Wales passed in the eighth year of the reign of his late 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 WHEREAS by an Indenture of Conveyance bearing date the twenty-seventh day of June One thousand eight hundred and eighty-four Registered No. 473 Book 292 made between Edward Joseph Spark of the one part and the said John Douse

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Langley, William Edward Toose and William Hill of the other part certain lands and hereditaments therein particularly described and comprised in the Second Schedule hereto with the appurtenances were granted and released unto and to the use of the said John Douse Langley William Edward Toose and William Hill their heirs and assigns, as joint tenants upon the Trusts and with and subject to the powers and provisions by and in the hereinbefore recited Indenture of Conveyance of the sixteenth day of March One thousand eight hundred and eighty-one declared and contained of and concerning the hereditaments thereby conveyed or such of the same trusts powers and provisions as were then subsisting and capable of taking effect in the same and like manner as if the land and hereditaments by the now reciting Indenture conveyed or intended so to be had been included in the said hereinbefore recited Indenture of Conveyance of the sixteenth day of March One thousand eight hundred and eighty-one and had been thereby conveyed to the said John Douse Langley William Edward Toose and William Hill AND WHEREAS in pursuance of the Ordinance of Synod styled and cited as the "St. Simon and St. Jude's Church Sydney Ordinance of 1905" the lands and hereditaments comprised and described in the Third Schedule hereto being part of those comprised in the Second Schedule hereto were by Indenture of Conveyance bearing date the twenty-seventh day of October One thousand nine hundred and five and made between the Most Reverend William Saumarez Smith Archbishop of the Diocese of Sydney of the first part and the said Venerable John Douse Langley and the said William Edward Toose of the second part and the Municipal Council of Sydney of the third part Registered Number 864 Book 790 conveyed and assured unto the Municipal Council of Sydney in fee simple AND WHEREAS by Deed of Consent bearing date the twenty-first day of May One thousand nine hundred and thirteen Registered No. 674 Book 999 the said John Douse Langley being the surviving Trustee of the lands comprised in the First Schedule hereto did thereby consent that the said lands should thenceforth become vested in the Property Trust its successors and assigns SUBJECT NEVERTHELESS to the Trusts in the said Indenture of the sixteenth day of March One thousand eight hundred and eighty-one expressed and contained or to so much of the same as were still subsisting undetermined

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and capable of taking effect AND WHEREAS by Deed of Consent bearing date the fourth day of August One thousand nine hundred and fourteen Registered No. 875 Book 1036 the said John Douse Langley being the surviving Trustee of the residue of the lands comprised in the Second Schedule hereto after excluding therefrom that parcel of land conveyed to the Municipal Council of Sydney by the hereinbefore recited Indenture of Conveyance of the twenty-seventh day of October One thousand nine hundred and five did thereby consent that the said residue of the said lands should thenceforth become vested in the Property Trust its successors and assigns SUBJECT NEVERTHELESS to the Trusts in the said Indenture of the twenty-seventh day of June One thousand eight hundred and eighty-four expressed as contained or to so much of the same as were still subsisting undetermined and capable of taking effect AND WHEREAS by Indenture bearing date the twenty-fifth day of September One thousand nine hundred and fourteen Registered No. 745 Book 1041 and made between the Municipal Council of Sydney of the one part and the Property Trust (therein erroneously called the Church Property Trust Diocese of Sydney) of the other part the lands and hereditaments comprised and described in the Fourth Schedule hereto were conveyed and assured unto the Property Trust in fee simple AND WHEREAS by Declaration of Trust under its common seal bearing date the fourteenth day of December One thousand nine hundred and twenty-three the Property Trust did thereby declare that it has held and been seised of all and singular the hereditaments comprised and described in the Fourth 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. Simon and St. Judes Sydney AND WHEREAS by Indenture of Conveyance bearing date the twenty-fifth day of September One thousand nine hundred and fourteen Registered No. 803 Book 1041 the Property Trust did thereby convey unto the Municipal Council of Sydney in fee simple the lands and hereditaments comprised and described in the Fifth Schedule hereto being part of those comprised in the First and Second Schedules hereto AND WHEREAS the remainder of the land comprised and described in the First and Second Schedules hereto together with that comprised in the Fourth Schedule

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hereto which at the date of the resumption hereinafter referred to stood vested in the Property Trust is more particularly described in the Sixth Schedule hereto AND WHEREAS the Church known as St. Simon and St. Jude has been erected and maintained on the land comprised and described in the Sixth Schedule hereto which said land comprises part of the land described in the First and Second Schedules hereto in conformity with the trusts contained in the hereinbefore recited Indentures of the sixteenth day of March One thousand eight hundred and eighty-one and the twenty-seventh day of June One thousand eight hundred and eighty-four and upon which the lands comprised in the First and Second Schedules were held AND WHEREAS by Notice of Resumption dated the second day of July One thousand nine hundred and twenty-three under the hand of the Town Clerk of the Council the Council in pursuance of the power and authority given to or vested in it by the "Sydney Corporation Amendment Act 1905" and otherwise did declare and give notice that the land described in the Schedule thereto which said lands comprise the land described in the Sixth Schedule hereto were thereby resumed by the said Council under the provisions of the "Sydney Corporation Amendment Act 1905" aforesaid AND WHEREAS the said Notice of Resumption and the description in the Schedule thereto were duly published in the Government Gazette and in four of the Sydney Daily Newspapers of issue the second day of July One thousand nine hundred and twenty-three and thereupon the lands therein described became for the purposes and subject to the provisions of the said Act vested in the Council for an estate in fee simple in possession freed and discharged from all trusts obligations estates interest conditions purposes rates rights of way or assessments whatsoever AND WHEREAS the Property Trust in pursuance of the provisions of the "Public Works Act 1900" as adopted by the "Sydney Corporation Amendment Act 1905" as aforesaid caused Notice of Claim in respect of the resumption of the lands and hereditaments comprised in the Sixth Schedule hereto to be served upon the City Solicitor and the said Council in which notice the sum of Five thousand five hundred pounds (£5500) was claimed by the Property Trust as and for compensation AND WHEREAS by reason of the said resumption it has become impos-

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sible to carry out or observe the particular trusts hereinbefore recited so far as regards the land comprised in the Sixth Schedule hereto AND WHEREAS it has become expedient that the Property Trust should be authorised to receive from the said Council or out of Court the amount of compensation money and interest thereon to be paid by the said Council in the matter of the said resumption AND WHEREAS by an Indenture of Conveyance bearing date the Twenty-third day of June One thousand eight hundred and eighty six made between William Robert Campbell and Robert Campbell Close therein described of the one part and Thomas Browning Dearin therein described of the other part Registered Number 68 Book 342 certain lands and hereditaments having frontages to Tudor Street, Arthur Street and Riley Street, Surry Hills, Sydney, in the Parish of Alexandria and County of Cumberland were conveyed and assured unto the said Thomas Browning Dearin in fee simple absolutely AND WHEREAS by a certain Decree or Order of the Supreme Court of New South Wales in Equity bearing date the Eighteenth day of December One thousand eight hundred and ninety-six and made in the suit between the Reverend Joshua Hargrave and others plaintiffs and Thomas Henry Dearin and others defendants Registered Number 769 Book 594 IT WAS ORDERED AND DECREED inter alia that the hereinbefore recited Indenture of Conveyance of the Twenty-third day of June One thousand eight hundred and eighty-six be rectified in manner therein set forth and by virtue of such Decree and rectification IT WAS DECLARED by the said Indenture of Conveyance inter alia that the lands and hereditaments comprised therein were held by the said Thomas Browning Dearin UPON TRUST for the benefit of the members of the Church of England who shall from time to time reside within the Parish or District whereof the Church of Saint David situate in Arthur Street Surry Hills Sydney aforesaid is the Parish Church and to permit the land and the dwelling house now erected thereon to be used as a residence for the incumbent of the said Church for the time being and the land and the Hall erected thereon to be used as a Parish Hall by the said Members of the said Church PROVIDED ALWAYS that it should be lawful for the said Thomas Browning Dearin or other the Trustee or Trustees for the time being of the said Indenture from time to time to demise the said lands

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or any part thereof together with the buildings then or thereafter to be erected thereon for such time or times and upon such terms as he or they should think reasonable AND ALSO from time to time to borrow such money as he or they should think fit on the security of the said land or any part thereof and the buildings thereon and to convey the same to the Mortgagee or Mortgagees with powers of sale and all other usual powers for securing the repayment of the borrowed moneys with interest AND WHEREAS by the said recited Decree the said the Reverend Joshua Hargrave was appointed sole Trustee of the lands comprised in the said Indenture of the Twenty-third June One thousand eight hundred and eighty-six or so much thereof as then remained unsold in the place of the said Thomas Browning Dearin then deceased. AND ALSO by virtue thereof so much of the lands comprised in the said recited Indenture as at the date thereof then remained unsold did vest in the said the Reverend Joshua Hargrave for all the estate therein of the said Thomas Browning Dearin deceased. SUBJECT HOWEVER to an Indenture of Mortgage dated the Twenty-fourth day of July One thousand eight hundred and ninety-six Registered Number 100 Book 422 made between the said Thomas Browning Dearin Mortgagor of the one part and one James Clegg Taylor Mortgagee of the other part which said Indenture of Mortgage has since been discharged AND WHEREAS in pursuance of the powers and authorities conferred upon him by the hereinbefore recited Decree of the Supreme Court of New South Wales in Equity the said the Reverend Joshua Hargrave did by an Indenture of Mortgage bearing date the Twenty-seventh day of March One thousand eight hundred and ninety-seven Registered Number 404 Book 596 convey by way of Mortgage to the Property Trust ALL THAT piece or parcel of land therein described upon which are erected the Parsonage and Parish Hall used in connection with the Church of England in the Parish of St. David Surry Hills which said land forms part of the land comprised in the hereinbefore recited Indenture of Conveyance dated the Twenty-third day of June One thousand eight hundred and eighty-six to secure repayment of the sum of Two thousand pounds together with interest at the times and in manner as in the said Indenture provided AND WHEREAS the said Parish of St. Simon and St. Jude is now incorporated with the said Parish of St. David AND

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WHEREAS there still remains due and owing upon the security of said recited Indenture of Mortgage the said sum of Two thousand pounds, as principal and also interest thereon AND WHEREAS it is expedient that powers should be conferred upon the Property Trust to apply the Compensation money in manner hereinafter appearing NOW THEREFORE the Standing Committee 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 One thousand nine hundred and twenty-one and one thousand nine hundred and twenty-three appointing the Standing Committee for the purposes 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. In the construction and for the purpose of this Ordinance the following expressions shall bear the respective meanings set against them:—

- (a) "The Property Trust":—The Church of England Property Trust Diocese of Sydney its successors and assigns.
- (b) "Compensation Money":—The money paid or payable as compensation for the resumption of the lands described in the Sixth Schedule hereto.
- (c) "Parish Authority":—The body empowered under the provisions of the "Sydney Church Ordinance 1912" or any ordinance amending or taking the place of the same to control funds and property of the Church of St. Davids Surry Hills.

2. By reason of the circumstances before recited which have occurred since the land comprised in the Sixth Schedule hereto became vested in the said Trust upon the Trusts aforesaid it has become impossible to carry out or observe the particular purpose or purposes to which the said land was by such Trusts devoted.

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8. The Property Trust is hereby authorised to receive from the said Council the amount of compensation money to be paid by the said Council in respect of the resumption by the said Council of the said land comprised in the Sixth Schedule hereto or in the event of the said compensation money being paid into Court the Property Trust is hereby authorised to receive the same from the Master in Equity with all interest (if any) accruing thereon.

4. The Property Trust is hereby authorised to give and execute effectual receipts and releases for the compensation money and interest (if any) and the receipt of the Property Trust shall effectually discharge the Council or the Master in Equity from being concerned to see to the application thereof or being answerable for the loss or misapplication thereof.

5. The compensation money shall be applied by the Property Trust in or towards all or any of the following purposes:—

(a) In paying and discharging all costs and expenses incurred in and about the said resumption and these presents and also all costs and expenses which may be incurred in or about the obtaining payment by the Property Trust of the compensation money and in the execution of the Trusts hereby declared.

(b) In appropriating therefrom in discharge of the hereinbefore recited Indenture of Mortgage of the Twenty seventh day of March One thousand eight hundred and ninety-seven from the Reverend Joshua Hargrave to the Property Trust Registered Number 404 Book 596 such sum as shall be required for the purpose of fully discharging and satisfying the whole of the principal interest and other moneys payable at the date of such discharge under or by virtue of such Indenture of Mortgage.

6. The balance of the compensation money not required for the purposes aforesaid may be invested by the Property Trust in any stocks funds or securities of or guaranteed by the Government of the Commonwealth of Australia or of or guaranteed by the Government of any of the States of the said Commonwealth or of or guaranteed by the Government of New Zealand or on first Mortgage of freehold properties in any part of New South Wales

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with power to vary any such investment for any other or others of them and pending such investments may be deposited at interest with the Government Savings Bank of New South Wales or the Commonwealth Bank of Australia or with any joint stock Company carrying on the business of bankers in Sydney.

7. Any interest which may remain in the hands of the Property Trust including any interest on compensation money and also the net income arising from any such deposits or investments as aforesaid shall be applied by the Property Trust as follows:—

- (a) In payment therefrom to the Home Mission Society annually of the sum of Five pounds per centum thereof.
- (b) In payment of the arrears of Assessment payable on behalf of the parish of SS. Simon and Jude.
- (c) In payment of Assessment for Synod and Registry Expenses payable from time to time on behalf of the parish of St. David's, Surry Hills.
- (d) The balance of such interest and income shall be paid annually by the Property Trust to the Parish Authority for the time being of the Parish of St. David Surry Hills and be applied by it in the first instance in insuring the Parish Church Property against loss by fire and any other pecuniary obligations imposed by any Ordinance of Synod upon the said Parish or the Clergyman licensed thereto and the balance of the said interest and income shall be controlled by them as Parish Church Funds and Property within the meaning of the "Sydney Church Ordinance 1912" or any Ordinance or Ordinances amending or taking the place of the same.

8. This Ordinance shall be styled and cited as the "St. Simon and St. Jude's Resumption Ordinance of 1924."

THE FIRST SCHEDULE.

All that parcel of land situate in the city of Sydney, bounded on the West by East Street commencing at its intersection with a lane (seven feet wide) bearing South-westerly eighty seven feet two inches on the South by lines bearing South Easterly forty feet and thirty two feet on the east by a

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line bearing North Easterly forty seven feet three inches dividing it from a portion of Dodds purchase on the North by a line bearing Westerly four feet being the end of a passage leading to Dodds purchase again on the East by a line bearing North Easterly forty-eight feet two inches to first mentioned lane along the Western side of said passage and on the North side by a line bearing North Westerly forty one feet five inches to the point of commencement containing eighteen and a half perches be the said dimensions a little more or less.

THE SECOND SCHEDULE.

All that piece or parcel of land situate in the City of Sydney in the Parish of St. Lawrence and County of Cumberland commencing at the intersection of East Street and Campbell Street and bounded on the South by Campbell Street bearing Easterly eighty feet four inches on the East by a line bearing Northerly twenty three feet on the North East by a line bearing North Westerly eighty three feet five inches to East Street aforesaid and on the West by that Street bearing Southerly sixty two feet four inches to the point of commencement be the said several dimensions all a little more or less.

THE THIRD SCHEDULE.

All that piece or parcel of land situate lying and being in the city of Sydney Parish of Alexandria and State of New South Wales containing by admeasurement ten decimal four perches (10.4) little more or less commencing at a point being the intersection of the Eastern building alignment of East Street with the existing fenced building line of Campbell Street and bounded on the West by the aforesaid Eastern building alignment of East Street being a line bearing North $2^{\circ} 55'$ East $55' 61.8''$ thence on the North East and North by lines bearing South $54^{\circ} 6'$ East $27' 01.8''$ South $87^{\circ} 27' 15''$ East $45' 07.8''$, respectively thence on the East by a line bearing South $16^{\circ} 37'$ West $4' 3\frac{3}{4}''$ thence again on the North by a line bearing South $67^{\circ} 10' 19''$ East $12' 0\frac{1}{2}''$ thence again on the East by a line bearing South $22^{\circ} 5' 9''$ West $25' 61.8''$ to the existing fenced Northern building line of Campbell Street thence on the South by the aforesaid Northern building line of Campbell Street being lines

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bearing South $85^{\circ} 58' 1''$ West $23' 21.8''$ South $83^{\circ} 44' 15''$ West $10' 7''$ South $80^{\circ} 36' 5''$ West $10' 7.5-8''$ South $78^{\circ} 41'$ West $4' 03.8''$ North $89^{\circ} 0' 15''$ West $21' 10.5-8''$ to the point of commencement.

THE FOURTH SCHEDULE.

All that piece or parcel of land situate in Sydney in the Parish of St Lawrence County of Cumberland State of New South Wales containing by admeasurement One quarter perch more or less being part of Palmer Foveaux and Donaldson's two hundred acre Grant commencing at a point being the intersection of the Eastern building line of East Street with the northern building line of Campbell Street and bounded thence towards the South by part of the Northern building line of Campbell Street aforesaid being a line bearing Easterly sixteen feet one and a half inches thence towards the North-east by a line bearing North Westerly nineteen feet two and a half inches to the Eastern building line of East Street aforesaid and thence towards the West by part of that building line of that Street being a line bearing Southerly ten feet seven inches to the point of commencement.

THE FIFTH SCHEDULE.

All that piece or parcel of land lying and being in the City of Sydney Parish of Alexandria County of Cumberland State of New South Wales containing one quarter of a perch commencing at a point on the Eastern building line of East Street and said point being distant in a Northerly direction $10' 7''$ from the intersection of that building line with the Northern building line of Campbell Street and bounded on the South West by a line bearing $305^{\circ} 50', 7' 10''$ to the old building line of East Street and bounded on the West and North West by that building line being lines bearing $2^{\circ} 55', 5' 34''$ and $19^{\circ} 21', 23' 2\frac{1}{2}''$ respectively to the first mentioned building line of East Street and bounded on the East by that building line bearing $182^{\circ} 55', 32' 0\frac{1}{2}''$ to the point of commencement.

THE SIXTH SCHEDULE.

All that piece or parcel of land situate in Sydney in the Parish of Alexandria County of Cumberland State of New South Wales containing by admeasurement $18\frac{1}{2}$ perches more or less

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being part of Palmer, Foveaux and Donaldson's 200 acre grant commencing at a point being the intersection of the Eastern building line of East Street with the Northern building line of Campbell Street and bounded thence towards the West and North West by the Eastern and South Eastern building line of East Street aforesaid being lines bearing 2 degrees 55 minutes 42 feet 7½ inches and 19 degrees 21 minutes 54 feet 9½ inches respectively to a lane thence towards the North by the Southern side of that lane bearing 93 degrees 3 minutes 40 feet 10 inches to the Western side of Right of Way 4 feet wide thence towards the East by the Western side of that Right of Way bearing 182 degrees 20 minutes 43 feet 11 inches thence again towards the North by the Southern end and termination of the said Right of Way being a fenced line bearing 92 degrees 20 minutes 4 feet thence again towards the East by a line partly passing along a fence and partly along the Western face of a brick building and in continuation thereof bearing 182 degrees 20 minutes 45 feet 8 inches to the Northern building line of Campbell Street aforesaid and thence towards the South by part of that building line of that Street bearing 272 degrees 29 minutes 61 feet 3¼ inches to the point of commencement be the said area bearings and dimensions all a little more or less.

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 eighth day of October, 1924.

C. R. WALSH,
Secretary.

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

31st October, 1924.