

APPENDIX No. 50.

3/19/15
ORDINANCE. ST. ANDREW'S.

AN ORDINANCE to authorise application to Parliament to pass an Act to enable the Church of England Property Trust Diocese of Sydney as Trustee of certain parcels of land situate in the Parish of St. Lawrence in the City of Sydney held with other property upon certain trusts connected with the Church of England in the Diocese of Sydney to sell the freehold reversion expectant upon a Lease granted for a term of fifty years computed from the first day of July One thousand eight hundred and ninety six of and in portion of the said land to provide for the application of the proceeds thereof and for other purposes in connection with the premises.

WHEREAS the Church of England Property Trust Diocese of Sydney on the 20th day of January last entered into a Conditional Contract with John Danks & Son Proprietary Limited for the sale to the said Proprietary of the freehold reversion expectant upon a Lease granted for a term of fifty years computed from the first day of July 1896 of and in certain land situate in the Parish of

St. Lawrence in the City of Sydney held by the said Church of England Property Trust Diocese of Sydney upon certain trusts connected with the Church of England in the said Diocese of Sydney AND WHEREAS a copy of the said Conditional Contract is contained in the Schedule to the form of Bill contained in the Schedule hereto AND WHEREAS the fourth condition of the said Contract provides as follows:—"An application shall be made by the Vendor to the next session of Synod for an Ordinance sanctioning the said sale and/or to the Legislature of the said State for an Act enabling the said sale to be effectuated and in case such Ordinance and/or Act is not obtained sanctioning the sale hereby made either in its present terms or with such variations as may be assented to by both parties this contract shall be void" AND WHEREAS it is expedient to make the provision hereinafter contained for promoting the Bill a copy whereof is contained in the Schedule hereto in the Parliament of New South Wales WHEREFORE the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it by the Constitutions for the management and good government of the Church of England within the State of New South Wales and of all other powers thereunto enabling it ordains and rules as follows:—

1. Application shall be made to the Parliament of New South Wales to pass an Act in the terms of the draft Bill contained in the Schedule hereto or with such modifications (if any) as may be deemed desirable by the Standing Committee of the Diocese of Sydney.

2. The Church of England Property Trust Diocese of Sydney is hereby authorised and empowered to promote in the Parliament of New South Wales a Bill in the terms of the said draft Bill with such modifications if any as aforesaid and for the said purpose to do all such things and incur all such expenses as may seem expedient under the circumstances.

3. This Ordinance may be cited as the "St. Andrews Church and School Land Sale Enabling Ordinance 1915."

THE SCHEDULE.

AN ACT to enable the Church of England Property Trust Diocese of Sydney as Trustee of certain parcels of land situate in the Parish of St. Lawrence in the City of Sydney held with other property upon certain trusts connected with the Church of England in the Diocese of Sydney to sell the freehold reversion

expectant upon a Lease for a period of 50 years computed from the 1st day of July 1896 of and in portion of the said land, to provide for the application of the proceeds thereof and for other purposes in connection with the premises.

WHEREAS the congregation attending in St. Andrew's temporary Cathedral in Sydney in the State of New South Wales in the year One thousand eight hundred and sixty-six with the consent of the then Bishop of Sydney raised certain sums of money as subscriptions for the purpose of erecting a Church to be called the New Church of St. Andrew's AND WHEREAS Robert Chadwick George Fox Alexander Haywood Richardson George Kenyon and George Watts were duly elected Trustees for carrying out the purposes for which the said moneys were raised AND WHEREAS portion of the said moneys was applied in the purchase of a piece of land in Pitt Street Sydney aforesaid now comprised in Certificate of Title under the provisions of the Real Property Act dated the thirtieth day of April One thousand eight hundred and sixty-nine Registered Volume 84 Folio 156 AND WHEREAS subsequently to the purchase of the said piece of land and while the proposed Church Building was in course of erection the then Bishop of Sydney deemed it expedient to withdraw the consent so given as aforesaid and refused to consecrate the said building as a Church AND WHEREAS in view of such refusal the subscribers to the moneys so raised as aforesaid by resolution at a public meeting duly called by advertisement resolved that the said moneys should be appropriated for the purpose of erecting Schools for the Parish of St. Andrew in connection with the Established Church of England and Ireland AND THEREUPON the said Alexander Haywood Richardson George Kenyon and George Watts resigned their respective offices as Trustees and Charles Moore Charles Bown and Thomas Frederick Thompson were duly elected as Trustees in their place AND WHEREAS in accordance with the said trust the residue of the said moneys was expended partly in the completion of the said building as a School House and partly towards the purchase of a piece of land originally intended and for some time used as a playground in connection with the said School House which said piece of land is now comprised in Certificate of Title dated the fourteenth day of November One thousand eight hundred and seventy Registered as Volume 110 Folio 134 AND WHEREAS inasmuch as the residue of the said moneys was insufficient to pay the whole of the purchase money for the said last mentioned piece of land the balance of such purchase money was raised on mortgage of

the said land which mortgage was subsequently paid off partly by subscriptions collected by the said Robert Chadwick personally and partly by moneys supplied by him and his co-Trustees out of their own private moneys AND WHEREAS for many years the said School House and playground were used as a Denominational School for the Parish of St. Andrew but such School although at first of great benefit to the Parish eventually ceased to exist for want of support and the said School House has since been let at a nominal rental for the purposes of a Choir School in connection with St. Andrew's Cathedral AND WHEREAS in or about the year One thousand eight hundred and eighty-six it being found that the revenue arising from the said School House and playground was insufficient to pay the Municipal Rates and other outgoings and to make necessary repairs to the said School House a large portion of the land comprised in the said Certificate of Title Registered Volume 110 Folio 134 was let to the Australian Property Investment Company Limited and upon the said Company going into liquidation the said portion of land was on the thirty-first day of July One thousand eight hundred and ninety-six let on building lease to John Danks & Son Limited for the term of fifty years from the first day of July One thousand eight hundred and ninety-six at a yearly rental of Two hundred and seventy-five pounds payable quarterly AND WHEREAS owing to the resignation of the said G. Fox and the death of the said C. Moore the said lands and hereditaments became vested in the said R. Chadwick C. Bown and T. F. Thompson as joint tenants AND WHEREAS by reason of circumstances which occurred after the creation of the trusts upon which the said moneys and lands and certain accumulated income therefrom were held it was in the opinion of the Synod of the Diocese of Sydney inexpedient to carry out or observe the particular purposes to which the said property was by the said trust devoted and the Synod of the said Diocese by Ordinance known as "St. Andrew's Church and School Property Ordinance of 1904" made and recorded in the office of the Master in Equity under and in pursuance of the provisions of the "Church of England Property Act of 1889" directed that the said property should thereafter be held upon trust for evangelistic mission work and for parochial and educational purposes in connection with the Church of England in the Ecclesiastical District of St. Andrew Sydney according to evangelical principles and also directed that the whole or any portion of the said property might be demised as therein provided and by the said Ordinance it was also provided that the income of the said property might be applied for all or any of the purposes hereinafter expressed AND WHEREAS the said property is now vested in the Church of England Property Trust Diocese of Sydney upon the trust

aforesaid and subject to the hereinbefore recited Lease AND WHEREAS it is expedient that the freehold reversion expectant upon the said lease of and in the said portion of land should be sold to John Danks & Son Proprietary Limited and that the conditional Contract for Sale hereinafter referred to should be carried into effect AND WHEREAS it is anticipated that the income to arise from the said proceeds of sale will largely exceed the said yearly rental of two hundred and seventy-five pounds AND WHEREAS it is in the opinion of the Synod of the said Diocese impossible or inexpedient to apply more than the sum of three hundred pounds per annum for the work and purposes aforesaid AND WHEREAS it is expedient that the proceeds to arise from such sale should with the remainder of the said property be held upon the trusts and the income therefrom applied as hereinafter provided Be it therefore enacted by the King's most excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:--

1. It shall be lawful for the Church of England Property Trust Diocese of Sydney to carry into effect the Contract for Sale a copy whereof is contained in the Schedule hereto and to transfer and assure the freehold reversion of and in the parcel of land comprised in the said Contract to John Danks & Son Proprietary Limited the purchaser therein named or as such purchaser shall direct freed and discharged from all trusts affecting the same and to receive the purchase money thereof. And the receipt under the Seal of the Church of England Property Trust Diocese of Sydney for the said purchase money shall be an effectual discharge to the said purchaser and shall exonerate the said purchaser from seeing to the application of the said purchase money and from all liability in respect of the misapplication or non-application thereof.

Trustee authorised to carry contract into effect.

2. It shall be lawful for the Church of England Property Trust Diocese of Sydney to allow a balance of the said purchase money amounting to £12,000 to remain secured upon Mortgage in pursuance of the provisions in that behalf of the said Contract for Sale.

Part purchase money may remain upon mortgage.

3. The Church of England Property Trust Diocese of Sydney may with the consents of the Chapter of St. Andrew's Cathedral Sydney and the Standing Committee of the Diocese of Sydney expend a sum not exceeding four thousand pounds in or towards the enlargement of the Chapter House attached to the said Cathedral or in or towards providing a Church House and Synod Hall on the site of the Deanery.

4. Subject as aforesaid the Church of England Property Trust Diocese of Sydney shall hold the said purchase money and

Trusts of purchase money.

the securities representing the same together with the said remainder of the said property upon trust for evangelistic mission work and for parochial and educational purposes in connection with the Church of England in the Ecclesiastical District of St. Andrew Sydney according to evangelical principles.

vestment.

5. It shall be lawful for the Church of England Property Trust Diocese of Sydney or other the Trustees for the time being of the said purchase money securities and property to invest any moneys representing the same in the purchase of freehold messuages lands or hereditaments in the State of New South Wales or in or upon 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 mortgage of freehold properties in any part of New South Wales with power to vary any such investments for any other or others of them and pending such investments to deposit the same at interest with the Savings Bank of New South Wales or with any Government Savings Bank or with any Joint Stock Company carrying on the business of Bankers in Sydney.

Application
income

6. It shall be lawful for the Church of England Property Trust Diocese of Sydney or other the Trustees for the time being of the said purchase money securities and property to apply the income therefrom in the manner following that is to say as to the sum of three hundred pounds per annum thereof in furtherance or in aid of evangelistic mission work and for parochial and educational purposes in connection with the Church of England in the Ecclesiastical District of St. Andrew Sydney and as to the balance of the said income in such manner as the Synod of the Diocese of Sydney may by ordinance from time to time determine.

Title.

7. This Act may be cited as "St Andrew's Church and School Property Act 191 ."

THE SCHEDULE.

This Contract made the twentieth day of January One thousand nine hundred and fifteen between Church of England Property Trust Diocese of Sydney (hereinafter called "The Vendor") of the one part and John Danks & Son Proprietary Limited a Company registered under the Victoria Companies Acts and having its registered office in 391 Bourke Street Melbourne (hereinafter called "Purchaser") of the other part whereby it is mutually agreed as follows:—

1. Subject to an Ordinance of Synod or of an Act of Parliament being obtained as hereinafter mentioned the Vendor agrees

to sell and the Purchaser agrees to purchase the freehold reversion of and in all that parcel of land described in the Schedule hereto.

2. The purchase money shall be the sum of fifteen thousand pounds of which one thousand pounds shall be paid to the Vendor as a deposit on the signing hereof and the balance in cash on completion.

3. If the Purchaser so desires and of such desire gives Notice in writing to the Vendor or its Solicitors prior to completion and upon such completion pays a further sum of two thousand pounds the balance of such purchase money, namely twelve thousand pounds may remain secured upon a mortgage to be prepared at the expense in all things of the Purchaser by the Vendor's Solicitors Messrs. Norton Smith & Co. in a form to be approved of by the latter for a period of three years computed from the date of this Contract together with interest at the rate of six pounds per centum per annum reducible to five pounds per centum per annum upon punctual payment such interest to be computed from the date of such completion.

4. An application shall be made by the Vendor to the next Session of Synod for an Ordinance sanctioning the said sale and/or to the Legislature of the said State for an Act enabling the said sale to be effectuated and in case such Ordinance and/or Act is not obtained sanctioning the sale hereby made either in its present terms or with such variations as may be assented to by both parties this contract shall be void.

5. The Auctioneer's commission and all costs and expenses of every description whatsoever incurred in connection with an application to and the obtaining of the said Ordinance and/or Act of Parliament shall be borne by the Purchaser irrespective of whether the sale hereby made is sanctioned or not and in the event of the said sale not being sanctioned the Vendor shall before returning the deposit to the Purchaser be entitled to deduct therefrom all such costs and expenses as aforesaid as well as the commission payable to Richardson and Wrench Limited in respect of such sale.

6. The sale is made subject to an existing lease granted to John Danks & Son Limited on the thirty-first day of July One thousand eight hundred and ninety-six for a period of fifty years computed from the first day of July One thousand eight hundred and ninety-six at the yearly rent of two hundred and seventy-five pounds and the Purchaser shall be deemed to buy with full knowledge of the contents of such Lease which may be inspected prior to the signing hereof at the office of

Messrs. Norton Smith and Co. Solicitors for the Vendor and no requisition claim or demand shall be made in respect thereof or of anything therein contained.

7. In the event of the term granted by the Lease specified in the last preceding clause being now vested in the Purchaser this contract shall not be deemed to merge the said term in the freehold reversion the intention of the parties hereto being that such lease shall continue in full force and effect until the completion of the sale and purchase hereby made.

8. The Purchaser or its predecessor in title having erected the buildings now upon the said land the Purchaser shall not be entitled to make any requisition claim or demand in respect of any discrepancies between the boundaries and dimensions as given in the description in the Schedule hereto and the boundaries and dimensions as occupied or in respect of any encroachments.

9. The Purchaser shall pay the fees of the Surveyors of the Vendor in respect of making any survey or preparing any plan that may be necessary in connection with the said sale.

10. Except and without prejudice to the provisions hereinbefore contained the printed form of conditions of sale of Richardson and Wrench Limited applicable to a sale by private treaty of freehold lands held under the provisions of the Real Property Act shall be deemed incorporated in and to form part of this contract.

As witness the execution of the parties hereto on the day and year first abovementioned.

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that parcel of land situate in the Parish of St. Lawrence in the City of Sydney in the County of Cumberland in the State of New South Wales containing by admeasurement one rood one perch and eight-tenths of a perch being part of Allotment Twenty-one of Section Fourteen of the City of Sydney commencing at a point on the Eastern building line of Pitt Street one hundred and ninety-one feet eight inches and a half an inch Northerly (North five degrees West) of the intersection thereof with the building of the North side of Liverpool Street and bounded on the West by part of the East building line of Pitt Street bearing North five degrees West ninety-nine feet ten inches and three-quarters of an inch to the North-west corner of an eighteen inches brick wall on the North by the North side of the said brick wall separating it from other part of allotment

Twenty-one now occupied as St. Andrew's Church School bearing North eighty-six degrees twenty minutes East one hundred and sixteen feet two inches and six-eighths of an inch on the East by a line dividing it from part of the West boundary line of Allotment seven and the West boundary lines of Allotments six and five the properties of Messrs. West Fry and others bearing South three degrees thirty-two minutes East one hundred feet to the North-western corner of an old stone wall and on the South by buildings by lines bearing respectively South eighty-six degrees thirty-one minutes West sixty-three feet eight inches and South eighty-six degrees fourteen minutes West fifty feet and one quarter of an inch to the point of commencement be the said several dimensions a little more or less being part of the land comprised in Certificate of Title dated the fourteenth day of November One thousand eight hundred and seventy Registered Volume ex. Folio 134.

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

E. W. MOLESWORTH,
Chairman of Committees.

We certify that this Ordinance was passed on 9th September, 1915.

E. CLAYDON } *Secretaries of*
W. R. BEAVER } *the Synod.*

I assent to this Ordinance.

JOHN CHARLES SYDNEY.

23rd September, 1915.