

*St. Andrew's Land Leasing.*

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AN ORDINANCE to declare it to be inexpedient to carry out or observe the purposes for which certain lands buildings and hereditaments known as the St. Andrew's Church and School Property situate in Pitt Street Sydney in the Diocese of Sydney were purchased and to authorise the letting or otherwise dealing with the said lands and to provide for the application of the proceeds rents profits income and issues thereof.

*(Assented to 6 October, 1904.)*

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 money 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

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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 from 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

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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 and 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 George Fox and the death of the said Charles Moore the said lands and hereditaments are now vested in the said Robert Chadwick, Charles Bown and Thomas Frederick Thompson as joint tenants. And whereas the income arising from the said lands and hereditaments has been from time to time applied partly in repairing the said School House partly in paying rates taxes and other outgoings partly in paying the expenses of evangelistic mission teaching in the said Parish and partly at the request of the Dean for the time being of the said St. Andrew's Cathedral in contributions towards the stipend of his Curate and the balance of the said income has been accumulating in the hands of the said Robert Chadwick, Charles Bown and Thomas Frederick Thompson and portion thereof amounting to four hundred and fifty pounds has been invested by them on first mortgage of freehold property at Katoomba in the said State and another portion amounting to four hundred and ninety-three pounds and tenpence has been placed on Fixed Deposit with the Equitable Permanent Benefit Building Land and Savings Institution. And whereas by reason of the matters hereinbefore recited and by reason also of other changes in the circumstances under which the said moneys originally were raised it has become impossible to observe the particular purposes to which such moneys were devoted. And whereas the said Robert Chadwick, Charles Bown, and Thomas Frederick Thompson allege that in raising the said moneys the subscribers were desirous of furthering the general benefit of St. Andrew's Church by assisting the promulgation in

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the Parish of St. Andrew of the doctrines of the United Church of England and Ireland according to purely evangelical principles and in simplicity and truth.. And whereas the said Parish of St. Andrew is now designated the Ecclesiastical District of St. Andrew in the Diocese of Sydney and the United Church of England and Ireland is now designated the Church of England. And whereas it is expedient to provide for the future dealing with the said trust property and for the application of all moneys arising therefrom. Now therefore 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 powers vested in the said Synod by "The Church of England Property Act of 1889" ordains declares directs and rules as follows:—

*Interpretation.*

1. In the interpretation of this Ordinance unless inconsistent with the subject or context—

"The Trustees" means the said Robert Chadwick, Charles Bown and Thomas Frederick Thompson or other the duly constituted Trustees for the time being of these presents.


"The property" means the said lands buildings and hereditaments and the income and investments of income arising therefrom and all the real and personal property from time to time belonging to or vested in or under the control or management of the Trustees by virtue hereof or which ought in due course of law to be vested in them.

2. By reason of circumstances which have occurred since the creation of the said recited trust it has become inexpedient to carry out or observe the particular purpose to which the property is by the said trust devoted. And it has become expedient to substitute other purposes and to make provision for dealing with the said property

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for the purpose of obtaining income therefrom in furtherance or aid of the substituted purposes hereinafter declared concerning the same and for the other purposes hereinafter provided.

3. The property shall hereafter 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 shall be dealt with in manner hereinafter specified freed from the first recited trusts.



4. The whole or any portion of the property may be demised from time to time and so often as may be necessary freed from the trust aforesaid to any person or persons for any term or terms not exceeding fifty years in any one lease to take effect in possession so as there be reserved in every such lease or leases the best rent that can reasonably be obtained for the same having regard to the nature of the covenants entered into by the Lessee or Lessees without any fine or foregift for the making thereof and so as there 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 not use or permit to be used the premises erected or placed on any part of the land mentioned or described 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 said Lessee or Lessees shall not use or permit to be used the said premises for Sunday trade in any form and also a condition for re-entry by the Lessors for non-payment of rent by the Lessee or Lessees within a reasonable time to be therein specified or a breach or non-performance of any of the covenants therein contained and so as the Lessee or Lessees do execute a counterpart and do thereby covenant for payment of the rent thereby reserved.

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5. The Trustees for the time being of the property are hereby appointed to receive the income therefrom and shall apply the same (after payment thereof of the expenses of and incidental to this Ordinance and any lease or leases made in pursuance thereof and the execution of the said Trust and all other necessary outgoings including Rates Taxes and Insurance) for all or any of the purposes hereinafter mentioned that is to say in or towards the maintenance and repair of the buildings erected on the said land so far as the same may be necessary and in and towards the repairing improving or making additions to such buildings or the out-houses fences easements or appurtenances thereof and shall apply all such moneys arising from the property as shall not be required for the purposes aforesaid in furtherance or 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.

6. The Trustees may forthwith hand over the whole of the property to the Corporate Trustees appointed by or under The Church of England Trust Property Incorporation Act of 1881 and such handing over shall operate as an absolute release and discharge to the Trustees from all actions proceedings claims and demands for or in relation to the administration of the property.

7. The acts of the Trustees as hereinbefore recited including the lease to the said John Danks and Son Limited are hereby confirmed and every Trustee shall be indemnified out of the property against all losses costs and expenses incurred in the discharge of his duties and in the initiating and promoting the passing of this Ordinance and in handing over the property to the Trustees appointed by or under The Church of England Trust Property Incorporation Act of 1881 as aforesaid.

8. This Ordinance shall be styled and cited as "St. Andrew's Church and School Property Ordinance of 1904."