

*St. John's Bishopthorpe Endowment.*

11905

AN ORDINANCE to repeal "The St. John's Bishopthorpe Parsonage Land Leasing Ordinance of 1900" and to authorise the dealing with the compensation moneys payable in respect of the resumption of the said Parsonage land and to provide for the appropriation of the annual income derivable therefrom.

*(Assented to 25 August, 1905.)*

WHEREAS by Deed Poll or Grant from the Crown bearing date the twenty-second day of May one thousand eight hundred and fifty-eight under the hand of His Excellency Sir William Thomas Denison Knight Commander of the Most Honorable Order of the Bath Governor-General for the time being over the Colony of New South Wales and under the seal of the said Colony Her Most Gracious Majesty Queen Victoria did grant unto the Reverend William Macquarie Cowper, John William Wood and Edward Apps Smith being respectively Trustees nominated and appointed under and by virtue of an Act of the Governor and Legislative Council made and 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 to their heirs and assigns subject to the trusts conditions reservations and provisoes thereafter contained All that piece or parcel of land described in the schedule hereto with all the rights and appurtenances whatsoever thereto belonging to hold unto the said Reverend William Macquarie Cowper, John William Wood and Edward Apps Smith their heirs and assigns for ever upon trust for the appropriation thereof as the site of a Dwelling-house garden and other appurtenances

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*St. John's Bishopthorpe Endowment.*

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for the Clergyman duly appointed to officiate in the Church of the United Church of England and Ireland as by law established to be erected at the Glebe and known as St. John's in conformity with the provisions of the said Act and of a certain other Act of the Governor and Legislative Council made and passed in the seventh year of the reign of his said late Majesty King William the Fourth intituled "An Act to promote the building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales" so far as the same may apply to the trusts of the said Grant and for no other purpose whatsoever. And whereas the said John William Wood died on or about the thirteenth day of February one thousand eight hundred and seventy-five And whereas by deed poll bearing date the fifth day of October one thousand eight hundred and seventy-seven the Right Reverend Frederic Barker the Lord Bishop of Sydney under and by virtue of the power and authority vested in him by the said Act intituled "An Act to regulate the temporal affairs of the Churches and Chapels of the United Church of England and Ireland in New South Wales" nominated and appointed Thomas James Bowyer Esquire to be a Trustee of the said Church of St. John at Bishopthorpe and of the Minister's dwelling thereto annexed in the place and stead of the said John William Wood deceased. And whereas the said Reverend William Macquarie Cowper resigned the office of Trustee And whereas the said Edward Apps Smith became disqualified and was removed from his office of Trustee. And whereas on the twenty-third day of April one thousand eight hundred and seventy-eight at a meeting held in accordance with the said Act 8 William IV. No. 5 William Hattam Wilkinson was duly elected a Trustee of the said Church and Minister's dwelling thereto an-

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*St. John's Bishopthorpe Endowment.*

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nexed in the place and stead of the said Reverend William Macquarie Cowper resigned and Charles York was duly elected a Trustee of the said Church and Minister's dwelling thereto annexed in the place and stead of the said Edward Apps Smith removed. And whereas the said Thomas James Bowyer after leaving the said Colony died and the said Charles York also died And whereas the said William Hattam Wilkinson being the sole surviving Trustee of the said land in the Schedule hereto described by deed under his hand and seal bearing date the twenty-fourth day of September one thousand nine hundred consented that the said land should become and be vested in the Corporate body known as the "Church of England Property Trust Diocese of Sydney." And whereas doubts having arisen as to the validity of such last mentioned deed the Most Reverend William Saumarez Smith, Archbishop of Sydney as Bishop of the Diocese of Sydney by deed dated the twenty-fifth day of November one thousand nine hundred and four consented that the said property should become and be vested in the said Church of England Property Trust Diocese of Sydney and whereas by an ordinance of the Synod of the Diocese of Sydney styled "The St. John's Bishopthorpe Parsonage Land Leasing Ordinance of 1900" it was provided that the whole or portion of the said land might be demised freed from the trusts aforesaid to any person or persons for any term not exceeding fifty years upon building lease and the said Corporate Trustees were thereby appointed to receive the rent payable under any such lease or leases and to apply same in manner therein specified And whereas no lease was made of the said land or any part thereof under the said Ordinance. And whereas the consent of the Rector of the said Parish to the passing of the said "St. John's

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*St. John's Bishopthorpe Endowment.*

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Bishopthorpe Parsonage Land Leasing Ordinance of 1900" was given under a misapprehension and without full knowledge of the rights of the Rector for the time being of the said Parish in and to the said property, And whereas the said land has been resumed by the Crown under the provisions of the Public Works Act 1900 for the erection of a Fire Brigade Station at the Glebe And whereas the amount of compensation money agreed to be paid in respect of the resumption of the said land is the sum of one thousand four hundred pounds And whereas the constructing authority has notified his intention of paying the amount of the said compensation money together with interest thereon into the Supreme Court of New South Wales in its Equitable Jurisdiction And whereas by reason of the resumption of the said land and of other circumstances which have occurred since the creation of the said trust it has become impossible or inexpedient to carry out the particular purpose to which the said land was by such trust devoted And whereas it is expedient that the said "St. John's Bishopthorpe Land Leasing Ordinance of 1900" should be repealed and that the annual income to be derived from the proceeds of the said land so resumed as aforesaid should be applied as a perpetual endowment of the Rector for the time being of the said Parish 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:—

1. By reason of circumstances which have occurred since the creation of the said recited trust it has become impossible to carry out or observe as to the land des-

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*St. John's Bishopthorpe Endowment.*

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cribed in the Schedule hereto the particular purpose or purposes to which the said land was by the said trust devoted and the powers of leasing the same given by the said "St. John's Bishopthorpe Parsonage Land Leasing Ordinance of 1900."

2. The "St. John's Bishopthorpe Parsonage Land Leasing Ordinance of 1900" is hereby repealed.

3. The Church of England Property Trust Diocese of Sydney is hereby authorised to receive the moneys payable in respect of the resumption of the said land described in the Schedule hereto.

4. The said Corporate Trustees shall out of the said sum of one thousand four hundred pounds to be received as compensation money for the resumption of the said land pay to the Churchwardens of the said Church of St. John's Bishopthorpe the sum of one hundred and twenty-seven pounds (being ten per cent. of the value of the said land allowed for the compulsory taking thereof) to be by them applied in or towards repairing and renovating the Parsonage annexed to the said Church but for the application whereof the said Corporate Trustees shall not be responsible.

5. The balance of the said sum of one thousand four hundred pounds compensation for the resumption of the said land shall be treated as capital moneys and may from time to time be invested by the said Corporate Trustees in any Stocks Funds or securities of or guaranteed by the Government of the Commonwealth of Australia or of or by the Government of the State of New South Wales or in mortgage of freehold properties in any part of New South Wales and pending such investment may be deposited 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.

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*St. John's Bishopthorpe Endowment.*

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6. The interest accrued on the said sum of one thousand four hundred pounds up to the date when the same shall be received by the said Corporate Trustees and the income arising from any such investment or deposits as aforesaid shall after payment thereof of the expenses of and incidental to this Ordinance and to the execution of the said trust be paid to the Rector for the time being duly licensed as Minister of the said Parish of St. John's Bishopthorpe as a perpetual endowment of such Rectors.

7. This Ordinance shall be styled and cited as "The St. John's Bishopthorpe Endowment Ordinance of 1905."

THE SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land in the State of New South Wales containing by admeasurement two roods be the same more or less situated in the County of Cumberland and Parish of Petersham commencing at the Southern corner of the allotment appropriated for Church of England Church and bounded thence on the South East by Church Street bearing South forty-seven degrees forty-two minutes east one chain sixty-four links on the South West by a line North Westerly at right angles to Church Street to the South Eastern boundary of land sold as portion number fourteen of the Glebe lands on the North West by part of the aforesaid South Eastern boundary of portion number fourteen of the Glebe lands North Easterly one chain sixty-four links to the Western corner of the aforesaid allotment appropriated for Church and on the North East by the South Western boundary line of that allotment South Easterly to the Southern corner as aforesaid advertised in the Government Notice dated sixteenth day of April one thousand eight hundred and fifty-eight.