

An Act to consolidate and amend the Saint James' Parsonage Land Leasing Act, and the Saint James' Parsonage Lands Amending Act, 1909. [3rd December, 1912.]

SAINT JAMES'
PARSONAGE

WHEREAS by a deed of grant dated the fourteenth day of June, Preamble. one thousand eight hundred and forty-five, certain lands were granted to trustees upon trust for the appropriation thereof as a dwelling-house for the clergyman duly appointed to officiate in the Church of Saint James in the city of Sydney: And whereas a dwelling-house was afterwards erected on the said lands in pursuance of the said trust: And whereas by an Act of Parliament passed in the fifty-first year of the reign of Her Majesty Queen Victoria, entitled the Saint James' Parsonage Land Leasing Act, the trustees for the time being of the said lands which are fully described in the said Act were authorised to grant leases of the said lands as therein mentioned, and to apply the rents and profits arising from any such leases in and towards the maintenance, repair, and improvement of the then existing parsonage in the parish of Saint James, in the city of Sydney, and in such manner as the trustees for the time being might deem advisable, and in payment of the rent or purchase money of a dwelling-house for the clergyman for the time being licensed to officiate in the said Church of Saint James upon some other site, and in the enlargement, maintenance, repair, and improvement of the said church: And whereas in pursuance of the said Act the said lands were let on building lease, and the parsonage or dwelling-house then existing on the said lands was demolished: And whereas the trustees for the time being of the said lands expended portion of the said rents and profits arising from the said lands (hereinafter called "the old parsonage site") upon the maintenance, repair, and improvement of the said church, and also in paying the rent of a dwelling-house upon another site for the clergyman for the time being licensed to officiate in the said church and accumulated the unexpended balance of the said rents and profits from time to time: And whereas it became expedient that a new site should be acquired and a suitable parsonage should be erected thereon for the clergyman licensed as aforesaid, but the accumulations of the said rents and profits were insufficient for that purpose: And whereas power was given to the trustees for the time being of the said lands, by the Saint James' Parsonage Lands Amending Act, 1909, to borrow a sum not exceeding four thousand pounds upon mortgage for the purpose of purchasing in whole or in part a new site for a parsonage within the said parish and for building and completing on such site a parsonage in all respects suitable as a residence for the said

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said clergyman, and to apply the rents and profits of the old parsonage site partly in providing a sinking fund for repayment of the said mortgage and partly for certain purposes connected with the parish of Saint James: And whereas the Most Reverend John Charles Wright, Lord Archbishop of Sydney, Sidney Herbert Young, Cyril Ernest Corlette, The Reverend Wentworth Francis Wentworth-Sheilds, and Thomas Lewthwaite Grainger are the present trustees of the old parsonage site and of the site next hereinafter referred to: And whereas the said trustees acquired a new site as aforesaid and let a contract for the erection of a parsonage thereon, and for such purposes borrowed the sum of four thousand pounds upon mortgage of the site so acquired (hereinafter called "the new parsonage site"): And whereas the said sum of four thousand pounds, together with other moneys, being rents and profits of the old parsonage site, have been expended upon the new parsonage site and the erection thereon of the new parsonage, and further moneys are required for such purposes: And whereas it is expedient that the said trustees should for the last mentioned purposes have power to raise a further sum of not exceeding three thousand pounds by mortgage of the old parsonage site and the new parsonage site: And whereas doubts have arisen as to whether or not the powers conferred upon the said trustees by the said Saint James' Parsonage Lands Amending Act, 1909, authorised the said trustees to mortgage the new parsonage site as security for the said sum of four thousand pounds: And whereas it is expedient that the trustees for the time being of the new parsonage site should have power if and when the necessity so to do should arise to sell the same and the buildings thereon with the approval of the Archbishop of Sydney for the time being, and to apply the net proceeds of sale with the like approval in manner hereinafter mentioned: And whereas it is expedient that the trustees for the time being of the old parsonage site should have the power to expend the rents and profits thereof for such purposes and in such manner as is hereinafter mentioned: And whereas the said purposes or some of them cannot be carried out without the authority of an Act of Parliament: And whereas it is expedient to amend and also to consolidate the said Saint James' Parsonage Land Leasing Act and the said Saint James' Parsonage Lands Amending Act, 1909: And whereas the provisions of this Act have been approved of by or on behalf of the Synod of the Diocese of Sydney: 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:—

Repeal.

1. The Saint James' Parsonage Land Leasing Act and the Saint James' Parsonage Lands Amending Act, 1909, are hereby repealed,

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repealed, but such repeal shall not prejudice, affect, or invalidate any matter or thing lawfully done or contracted to be done under the said Acts or either of them before the commencement of this Act.

2. The said mortgage for four thousand pounds upon the new Declaration of validity of mortgage over new parsonage site. parsonage site, being the lands comprised in certificate of title registered volume one thousand nine hundred and fifty-one, folio forty-seven, is hereby declared to have been authorised under the Saint James' Parsonage Lands Amending Act, 1909.

3. It shall be lawful for the trustees for the time being Power to mortgage. of the old and new parsonage sites, at any time, and from time to time, to borrow and raise at interest, by way of mortgage, any sum or sums of money not exceeding three thousand pounds in addition to the said sum of four thousand pounds, with power to pay off the said mortgages, including the said mortgage for four thousand pounds, and to re-borrow the amount of any principal sum or sums for the time being thereby secured, or any less sum or sums for the purpose of paying for the parsonage erected or now in course of erection on the new parsonage site, and to execute any mortgage or mortgages, with or without power of sale, of the old and new parsonage sites, or either of them, for securing payment of the sum or sums so borrowed, and to give effectual receipts and discharges for the moneys advanced by any mortgagee, and to do all such acts as may be necessary or expedient for the purpose of effectuating such mortgage or mortgages.

4. No mortgagee advancing money upon the security of any Protection of the mortgagees. mortgage purporting to be made under the power herein conferred shall be bound to inquire whether such money is required for the purposes aforesaid, or in any way concerned to see to the application of such money when so advanced, or be liable for the loss, non-application, or misapplication thereof; and the declaration of the trustees that the principal sum proposed to be secured by any mortgage does not, with the other principal sums then due on the security of the old and new parsonage sites, exceed the amounts authorised to be borrowed as aforesaid, shall be sufficient evidence to the mortgagee under such mortgage of such fact.

5. The rents and profits of the old parsonage site, after payment Application of rents and profits of old parsonage site. thereout of all necessary outgoings in connection therewith, shall be applied by the trustees thereof as follows:—

- (a) Firstly, in payment of the costs, charges, and expenses of and incidental to this Act and any mortgage or mortgages given thereunder.
- (b) Secondly, in payment of all interest payable under and by virtue of such last-mentioned mortgages and the said mortgage for four thousand pounds.

(c)

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- (c) Thirdly, in setting apart in each year two-thirds parts of the balance of such net rents and profits as aforesaid for payment of the principal moneys secured by the said mortgages, or any of them, and accumulating the same at interest, and applying the same in repayment of the principal moneys secured by the said mortgages, or any of them, and from and after the satisfaction of the said mortgages, in assisting towards the repayment of the principal moneys for the time being due in respect of the mortgages authorised by the Saint James' Sydney Parish Hall Ordinances of 1899 and 1902.
- (d) Fourthly, in payment of sums not exceeding one-third part of the said balance of such net rents and profits as aforesaid in each year for the period of fifteen years in and towards the repair and improvement of Saint James' Church and all necessary repairs to the new parsonage;

or in such further or other manner as the Synod of the Diocese of Sydney, or, if the Synod be not in session, as the Standing Committee of such Synod shall from time to time, with power to vary the same, determine and appoint under and in pursuance of the provisions of section eight hereof.

6. (1) The trustees for the time being of the new parsonage site may, with the approval of the Archbishop of Sydney, at any time within six years sell such site.

(2) The proceeds of such sale shall be applied—

- (a) firstly, in payment of the principal moneys and interest then owing under the said mortgages on the old and new parsonage site;
- (b) secondly, with the approval of the Archbishop of Sydney, in purchase of some other dwelling-house suitable as a residence for the said clergyman or in the purchase of a site and the erection thereon of such dwelling-house;

or in such further or other manner as the Synod of the Diocese of Sydney, or, if the Synod be not in session, as the Standing Committee of such Synod shall from time to time, with power to vary the same, determine and appoint under and in pursuance of the provisions of section eight hereof.

7. No purchaser from the trustees shall be bound to inquire into the propriety of or reason for such sale, nor to see to the application of the purchase money.

8. Subject to the preceding provisions of this Act, the old parsonage site, the new parsonage site, and the other dwelling-house and site referred to in section six of this Act, and the proceeds of sale thereof, and the rents, income, and profits thereof, shall be respectively deemed to be held upon express trust for the use and benefit of the

Power to sell new
site and buy another.

Protection of
purchasers.

Powers of Synod.

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the Church of England within the meaning of the Sydney Bishopric and Church Property Act 1887 and the Church of England Property Act of 1889, and may be dealt with under and in accordance with the provisions of the said Acts, or either of them, or any Act or Acts amending or taking the place of the same, or applicable to the property aforesaid, or any part thereof, in all respects as the Synod of the Diocese of Sydney now is or shall hereafter be empowered to do in relation to any other property held for the use and benefit of the Church of England in the Diocese of Sydney and the management of which is not specially provided for by Act of Parliament: Provided that if and when the said Synod shall not be in session, the powers and functions of the said Synod with respect to the premises may be exercised by the Standing Committee of the said Synod, with the sanction of the Archbishop of Sydney.

9. For the purposes of this Act—**Interpretation**

- (a) the term Archbishop of Sydney shall be deemed to include the Archbishop for the time being of the said diocese or other the person for the time being exercising the powers of the said Archbishop under the Church of England Constitutions Act Amendment Act of 1902;
- (b) the powers of the Synod to direct dealings with respect to the old parsonage site, the new parsonage site, and the other dwelling-house and site herein referred to, under the Sydney Bishopric and Church Property Act, 1887, and the Church of England Property Act of 1889, shall be deemed to include a power to authorize the acceptance of the surrender of any lease and the granting of leases to commence at a future date.

10. This Act may be cited as the "Saint James' Parsonage Short title.
Act, 1912."