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# GEORGI V REGIS.

A.D. 1919.

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## *Private Act.*

An Act to revoke and alter the Trusts of The Church of The Holy Trinity, Adelaide, and for the sale of Trust Land.

[*Assented to, November 27th, 1919.*]

**W**HEREAS by an Indenture made the twenty-fifth day of August, one thousand eight hundred and thirty-six, between Pascoe Saint Leger Grenfell, of Lombard Street, in the City of London, Esquire, of the first part; Raikes Currie, of Hyde Park Terrace, in the County of Middlesex, Esquire; and the Reverend Henry Robert Dukinfield, of Saint Martin, in the County of Middlesex, two of the members of the Committee of Management of an Association formed in connection with the Society for the Propagation of the Gospel, to assist the colonists then settling in South Australia in providing for themselves the means of public worship and religious instruction according to the doctrines of the Church of England, of the second part; and James Hurtle Fisher, Land Commissioner and Registrar-General of the Province of South Australia; Osmond Gilles, Colonial Treasurer of the said Province; and Charles Mann, Advocate-General and Crown Solicitor of the said Province, trustees appointed for the purposes in the said Indenture mentioned, of the third part: After reciting (amongst other things) that the said Pascoe Saint Leger Grenfell was entitled, by virtue of a Land Order No. 171, under the hands and seals of two of the Colonization Commissioners for South Australia, to require that a town section of one acre of land and a country section of one hundred and thirty-four acres of land should be granted by the Land Commissioner of the said Province, to him, his heirs, and assigns, subject to the laws

Preamble.

and

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and regulations of the said Colony : It was witnessed that the said Pascoe Saint Leger Grenfell granted, bargained, and sold, and also assigned and transferred unto the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, and their heirs, all that the estate, interest, and possibility or possibility coupled with interest of the said Pascoe Saint Leger Grenfell of and in all that one acre of land, piece or parcel of ground or town section to which, by virtue of the said Land Order No. 171, the said Pascoe Saint Leger Grenfell was entitled to have or claim a grant of from the said Land Commissioner of the said Province of South Australia, and also all that the estate, interest, and possibility or interest coupled with a possibility, of the said Pascoe Saint Leger Grenfell of and in forty acres of the country section of one hundred and thirty-four acres of land, to which by virtue of the said Land Order the said Pascoe Saint Leger Grenfell was also entitled to have or claim a grant of and from the said Land Commissioner, and all mines, quarries, easements, profits, commodities, and appurtenances whatsoever to the same land and every part thereof belonging : And it was by the said Indenture expressly agreed and declared by and between all the parties to the said Indenture that the said town section of one acre of land and the said forty acres part and parcel of the said country section when granted to the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, and their heirs, should be held by them upon trust as to the said town acre (*inter alia*) to set apart and appropriate portion of the said piece or parcel of land comprised in the said town section as therein directed for the erection of a Church, and to permit and suffer the said parties thereto of the second part, or such persons as they or the Committee for the time being of the said Association should depute for that purpose, to erect and build thereon a Church or Chapel for the celebration of Divine service according to the rites and ceremonies of the Church of England, as by law established, and as to and concerning the piece or parcel of ground comprised in the forty acres of the country section thereby granted and released, or otherwise assured or intended so to be upon trust, to set apart and appropriate such portion thereof not being less than six acres, or more than eight acres, as they the said trustees, with the concurrence of the Governor and Chief Justice for the time being of the said Province should consider most fitting for the erection of a cemetery or burial ground, and to permit and suffer the same, when enclosed and duly consecrated according to the usage of the Church of England, to be for ever used as the churchyard, burial ground, or cemetery belonging to the said Church or Chapel, and to appropriate the residue of the said piece or parcel of ground comprised in the said country section as and for a glebe for the Minister of the said Church or Chapel, subject to the proviso in the said Indenture set forth : And whereas by an Indenture made the twenty-seventh day of June, one thousand eight hundred and thirty-seven, between the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, of the one part, the said Raikes Currie and Henry Robert Dukinfield

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of the other part, further trusts (*inter alia*) were declared concerning the said cemetery or burial ground, and also concerning the pieces or parcels of land which might be appropriated as and for a glebe as aforesaid: And whereas by Land Grant, dated the thirty-first day of December, one thousand eight hundred and thirty-nine, under the hand and seal of George Gawler, Esquire, Commissioner of Public Lands of the said Province, town acre No. 9 was granted to the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, in pursuance of the said Land Order No. 171, and a Church was and still is erected thereon, which said Church is known as The Church of The Holy Trinity, at Adelaide: And whereas by Land Grant dated the twenty-eighth day of March, one thousand eight hundred and forty, under the hand and seal of the said George Gawler, forty acres being part and parcel of section 287 in the Provincial Survey marked with the letter "B" were granted to the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, in pursuance of the said Land Order No. 171: And whereas no portion of the said forty acres comprised in the said Land Grant, dated the twenty-eighth day of March, one thousand eight hundred and forty, was or has been set apart or appropriated by the said James Hurtle Fisher, Osmond Gilles, and Charles Mann, or any subsequent trustees of the said Indentures, as a cemetery, burial ground, or churchyard belonging to the said Church, and it is inexpedient, owing to the situation of the said land, that any portion thereof should be used as a cemetery, burial ground, or churchyard: And whereas the said James Hurtle Fisher, Osmond Gilles, and Charles Mann have long since been dead and William Shakespeare, Herbert Mayo, and Herbert Ralph Smythe, all of Adelaide, in the State of South Australia, Esquires, are the present trustees of the said recited Indentures: And whereas now and for some time past the rents and profits received by the said William Shakespeare, Herbert Mayo, and Herbert Ralph Smythe from the said forty acres, being the land comprised in the said Land Grant, dated the twenty-eighth day of March, one thousand eight hundred and forty, are and have been little more than the outgoings payable with respect to the said land, and it is advisable to vest the said land in the said William Shakespeare, Herbert Mayo, and Herbert Ralph Smythe, and their heirs, as such trustees as aforesaid, freed from the trusts and conditions contained in the said recited Indentures, or either of them, and to declare that the said land shall henceforth be held by the trustees of the said recited Indentures upon trust to sell the same, and to invest the proceeds arising from the sale thereof—

Be it therefore Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited for all purposes as "The Church of The Holy Trinity, Adelaide, Revocation and Alteration of Trusts and Sale of Land Act, 1919." Short title.

2. In

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Definition.

2. In this Act, unless the context otherwise requires, the expression—

“The Church” means “The Church of The Holy Trinity” at Adelaide :

“The Minister” means and includes the present Rector or Minister, the Reverend Frederick Webb, as also every future Rector or other Minister of the Church :

“The said recited Indentures” means the Indenture made the twenty-fifth day of August, one thousand eight hundred and thirty-six, and the Indenture made the twenty-seventh day of June, one thousand eight hundred and thirty-seven, referred to and in part recited in the preamble to this Act :

“The said land” means the said forty acres, being part and parcel of section 287 in the Provincial Survey marked with the letter “B” comprised in the said Land Grant, dated the twenty-eighth day of March, one thousand eight hundred and forty :

“The trustees” means the said William Shakespeare, Herbert Mayo, and Herbert Ralph Smythe, and other the trustees for the time being of the said recited Indentures.

Vesting of lands upon trust for sale.

3. The said land shall henceforth be vested in and be held by the trustees and their heirs absolutely freed and discharged from all the trusts and conditions contained in the said recited Indentures, or either of them, and the said land shall henceforth be held by the trustees upon trust to sell the said land, with power to the trustees to postpone the sale of the said land for so long as they shall think fit ; and it shall be lawful for the trustees to subdivide the said land into such allotments, streets, or ways as the trustees shall consider most advantageous, and to sell and dispose of the said land without any subdivision as aforesaid, or, if the same be subdivided, then in one or more lots with rights-of-way over such streets or ways, and any such sale may be by public auction or private contract for cash or on credit, or partly for cash and partly on credit, and either with or without special conditions relative to title or otherwise, with power to buy in at sales by auction and to rescind contracts for sale and to re-sell without being answerable for any loss or diminution in price, and for such price and generally on such terms and conditions as the trustees shall consider expedient ; and upon every such sale it shall be lawful for the trustees to convey, transfer, or otherwise assure the said land, or any part or parts thereof so sold or expressed so to be, unto and to the use of the purchaser or purchasers thereof, his or their heirs and assigns, or as he or they shall direct, absolutely freed and discharged from all the trusts and conditions contained in the said recited Indentures, or either of them : Provided that until the sale of the said land the trustees shall hold the rents, proceeds, and profits arising from the said land, or any part

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part or parts thereof for the time being remaining unsold, upon the trusts upon which the proceeds arising from the sale of the said land are by this Act directed to be held.

4. The trustees shall, out of the proceeds arising from the sale of the said land or any part or parts thereof, pay all expenses, costs, and charges of and incidental to obtaining this Act, and the sale of the said land, or any part or parts thereof, and shall stand and be possessed of the net proceeds upon trust to invest the same in such investments as are allowed by law for the investment of trust funds.

Trustees to pay expenses and invest net proceeds.

5. The trustees shall pay the net income arising from the investment of the said net proceeds to the Minister of the Church in part payment of his salary: Provided that if at any time the income of the Minister from any other sources under the said recited Indentures shall exceed the net amount of Six Hundred Pounds per annum British sterling, then the said income arising from the investment of the said net proceeds shall, unless the trustees in their absolute discretion shall deem it expedient that the whole or part of the said net income should, for any period the trustees may think fit, be paid to the Minister, notwithstanding his said income may exceed the said net amount of Six Hundred Pounds per annum, be applied in support of any school or schools attached to the Church or in the support of such other Church of England Churches or Chapels in the State of South Australia, or any schools attached thereto as the trustees shall think proper.

Trustees to pay income to Minister.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.