

St. Paul's Redfern with St. Silas' Waterloo Declaration of  
Trusts Variation of Trusts and Mortgaging Ordinance 1968

No. 19, 1968.

AN ORDINANCE to declare and vary the trusts of certain land in Botany Road Waterloo in the City of Sydney County of Cumberland to authorise the mortgaging of the said land and to provide for the application of the proceeds and matters incidental thereto.

WHEREAS by Indenture of Lease dated 1st day of July 1858 between Sir Daniel Cooper and Thomas Buckland of the one part and John Gaddis of the other part (unregistered) the land firstly described in the First Schedule hereto was leased to the said John Gaddis his Executors Administrators and Assigns from the 1st day of July 1858 for the term of ninety-nine (99) years thence next ensuing AND WHEREAS by divers mesne assignments and other acts and assurances in the law and ultimately by a Deed of Consent (unregistered) dated the 27th day of June 1900 the land firstly described in the First Schedule was vested in the Church of England Property Trust Diocese of Sydney its successors and assigns (hereinafter called "the Corporate Trustee") for the residue then to come and unexpired of the term created by the before recited Indenture of Lease less the last day thereof and subject to the covenants conditions and agreements contained in the said Lease AND WHEREAS by Deed of Conveyance Registered No. 756 Book 1064 and dated the 30th day of June 1915 made between William Charles Cooper as Executor of the Estate of the said Daniel Cooper of the one part and the Corporate Trustee of the other part the land firstly described in the First Schedule hereto was conveyed unto the Corporate Trustee in fee simple subject to the before recited lease upon trust to permit a rectory to be erected on the said land to be called St. Silas' and subject to the provisions of the Sydney Church Ordinance or any other . . . . AND WHEREAS by Indenture of Lease dated the 1st day of July 1859 between Sir Daniel Cooper and Thomas Buckland of the one part and Frederick Clissold of the other part Registered Number 681 Book 62 the land secondly described in the First Schedule hereto was leased to the said Frederick Clissold his Executors Administrators and Assigns from the 1st day of July 1859 for the term of ninety-nine (99) years thence ensuing AND WHEREAS by divers mesne assignments and other acts and assurances in the law and ultimately by a Deed of Consent Registered Number 91 Book 370 dated the 19th day of August 1887 the land secondly described in the First Schedule hereto was vested in the Corporate Trustee for the residue then to come and unexpired of the term created by the lastly before recited Indenture of Lease

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less the last day thereof and subject to the covenants conditions and agreements contained in the said Lease AND WHEREAS by Deed of Conveyance Registered No. 92 Book 370 and dated 1887 made between William Charles Cooper as Executor of the Estate of the said Daniel Cooper of the one part and the Corporate Trustee of the other part the land secondly described in the First Schedule hereto was conveyed unto the Corporate Trustee in fee simple subject to the lastly hereinbefore recited lease upon and for the trusts, ends intents and purposes and with and subject to the powers declarations and agreements or such as are now subsisting and capable of taking effect contained in a certain deed poll or Declaration of Trust dated 23rd day of June 1865 and made by the Reverend Robert Allwood Edward Wrentmore Cook and Alexander Gordon Trustees of the said St. Silas' Church and in a certain deed poll dated 15th day of August, 1887 and endorsed thereon AND WHEREAS the land described in the First Schedule hereto is Church trust property held for the sole benefit of the Parish of St. Silas' Waterloo but save as aforesaid no information is available to establish the trusts concerning the same AND WHEREAS part of the said land was re-resumed by the Minister of Lands for road widening by Notifications in the Government Gazettes bearing date the 25th day of February 1938 and 1st day of July 1938 AND WHEREAS it is expedient that the land described in the First Schedule hereto be subdivided into two lots and that factory premises be erected on part of the said land being Lot 1 as more particularly described in the Second Schedule hereto AND WHEREAS for such purpose it will be necessary to borrow a sum or sums not exceeding One hundred and twenty thousand dollars (\$120,000) to be applied towards the costs thereof AND WHEREAS it is expedient that the said land be mortgaged or charged to secure such advances NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:—

1. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the First Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient to declare that the Corporate Trustee shall hold the said land upon trust to permit the same to be used as a church, parsonage or parish hall or partly for one and partly for another of such purposes in connection with the Church of England in Australia at Waterloo in the Parish of St. Paul, Redfern or in any other parish in which it may subsequently be included and further to permit part of the said land to be used for the erection thereon of a factory as hereinafter provided.

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2. By reason of the circumstances which have arisen subsequent to the creation of trusts upon which the land described in the Second Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient that a factory be erected thereon as hereinafter provided.

3. By reason of the circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Second Schedule hereto is held it is expedient that such land be mortgaged.

4. The Corporate Trustee is hereby authorised and empowered so far as is necessary to subdivide the land described in the First Schedule hereto and to enter into such Contracts as may be necessary to erect upon the land described in the Second Schedule hereto factory premises in accordance with the plans and specifications prepared by Messrs. Geoffrey Twibill & Associates in conjunction with Messrs. Jones, Lang, Wootton.

5. (i) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the land described in the Second Schedule hereto for the purpose of borrowing the sums following:—

(a) When the power is first exercised by means of a first mortgage for a sum not exceeding One hundred and twenty thousand dollars (\$120,000).

(b) When the power is subsequently exercised by means of a first mortgage such sum not exceeding One hundred and twenty thousand dollars (\$120,000) as the Standing Committee may by Resolution determine.

(c) When the power is first exercised by means of a second mortgage charge or encumbrance for a sum not exceeding Twenty thousand dollars (\$20,000).

(d) When the power is subsequently exercised by means of a second mortgage charge or encumbrance such sum not exceeding Twenty thousand dollars (\$20,000) as the Standing Committee may by Resolution determine.

PROVIDED that the total sum borrowed and secured by the first mortgage and the second mortgage, charge or encumbrance shall not exceed in the aggregate the sum of \$120,000. PROVIDED further that such debts shall be reduced by payments of principal and interest

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as hereinafter set forth when the power is first exercised and thereafter at such rate as Standing Committee shall by Resolution determine and also PROVIDED that no person or corporation advancing moneys under the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.

- (ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.
- (iii) A document purporting to be certified by the Archbishop or Diocesan Secretary of the said Diocese as a copy of any such Resolution shall in favour of a mortgagee or any person or corporation claiming under the mortgage be conclusive evidence that such Resolution was duly passed.

6. The proceeds of any mortgages charges or encumbrances hereby authorised shall after paying the costs of and incidental to this Ordinance and such mortgages charges or encumbrances be applied as follows:—

- (i) When the power is first exercised towards the cost of erection of a factory on the land described in the Second Schedule hereto.
  - (ii) When the power is subsequently exercised (other than by a renewal of the original mortgages charges or encumbrances) in payment of the principal interest and costs of discharge of any existing mortgages.
  - (iii) Any mortgagee advancing moneys pursuant to the provisions of sub-clause (i) of this clause shall pay the same direct to the Corporate Trustee.
7. (i) The Corporate Trustee is hereby empowered to lease the said factory premises to be erected on the land described in the Second Schedule hereto upon such terms and conditions as are hereafter provided by Ordinance and the annual net income arising from such lease estimated to be Nineteen thousand two hundred dollars (\$19,200) approximately shall be applied by the Corporate Trustee as follows:—
- (a) By payment of interest on the first mortgage at a rate not exceeding Eight dollars fifty cents (\$8.50) per centum per annum payable quarterly on quarterly rests.

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- (b) By payment of interest on the second mortgage charge or encumbrance at a rate not exceeding Seven dollars fifty cents (\$7.50) per centum per annum payable quarterly on quarterly rests.
  - (c) By repayment of principal under the first mortgage by equal annual instalments for a period not exceeding twenty (20) years from the time for commencement of repayment of principal.
  - (d) By payment of one half of the balance then remaining in payment of principal under the second mortgage charge or encumbrance by instalments for a period not exceeding ten (10) years.
  - (e) Subject to the payments herein provided in sub-clauses (a), (b), (c) and (d) of this clause the said net income shall be applied by the Corporate Trustee by payment to the Churchwardens of the Parish of St. Paul Redfern for parochial purposes such payment not to exceed twenty-five per centum (25%) of the gross annual income prior to any deductions therefrom (herein called "the Parochial Fund") and thereafter of any net income in excess of the Parochial Fund in such manner as Standing Committee shall by resolution determine in equal proportions for the benefit of new housing areas (whether or not they are included in the areas defined by the Sydney Church of England New Areas Committee Constitution Ordinance 1967) and the inner city areas (whether or not they are included in the areas defined for the purposes of the Inner City Commission of Inquiry appointed by the said Synod in October, 1967).
- (ii) At the termination of the ninth year of any lease of the said factory or of any portion thereof and at the termination of every tenth year thereafter agreement shall be reached between the Churchwardens of the Parish of St. Paul Redfern and the Standing Committee of the Diocese of Sydney as to the allocation and distribution of income arising under the lease during the next succeeding ten years and the Standing Committee shall thereupon by ordinance determine the allocation and distribution of such income in the manner agreed upon provided however that in the event of the said Church-

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wardens and the Standing Committee failing to reach agreement the income shall continue to be allocated and distributed until agreement is reached in the same manner as it was allocated and distributed during the preceding year in accordance with this Ordinance.

8. The Churchwardens for the time being of St. Paul's Redfern shall within seven (7) days of the date of holding the Annual Vestry Meeting during such time as any money is owing to any mortgagee pursuant to this Ordinance cause an account to be forwarded to the Diocesan Secretary giving details of the original amount borrowed the amounts paid off and the balance owing.

9. This Ordinance may be cited as "St. Paul's Redfern with St. Silas' Waterloo, Declaration of Trusts Variation of Trusts and Mortgaging Ordinance, 1968".

#### FIRST SCHEDULE

All that parcel of land situate in the Parish of Alexandria in the County of Cumberland and Colony of New South Wales being a portion of the Waterloo Estate and containing two roods and twenty-two perches more or less bounded on the north-west by a line commencing at the eastern most corner of Ellisons allotment on the western side of Botany Street and bearing west twenty degrees fifty minutes south two chains ninety-nine links dividing it from that allotment to the Botany Road on the south-west by that road bearing south easterly two chains fifty-five links on the south-east by a line bearing east twenty-two degrees forty minutes north two chains forty-six links dividing it from Clissolds allotment and on the north-east by Botany Street aforesaid bearing north westerly two chains thirty-six links to the point of commencement.

And all that parcel of land situate in the Parish of Alexandria in the County of Cumberland and Colony of New South Wales being a portion of the Waterloo Estate and containing two roods and eleven perches more or less bounded on the north-west by a line commencing at the eastern most corner of John Gaddis allotment on the western side of the Botany Street and bearing west twenty-two degrees forty minutes south two chains forty-six links dividing it from that allotment to the Botany Road on the south-west by that road bearing south easterly two chains fifty-five links to its junction with McEvoy Street on the south-east by said street bearing easterly two chains twelve links to its junction with Botany Street and on the north-east by the said last named street bearing north westerly two chains thirty-six links to the point of commencement.

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SECOND SCHEDULE

All that piece of land containing 2 roods 24½ perches being Lot 1 on a plan of proposed subdivision of part of the Waterloo Estate dated 22/5/1968 situated at Waterloo in the City of Sydney Parish of Alexandria County of Cumberland and State of New South Wales. Commencing at a point on the north eastern alignment of Botany Road being the south western corner of Lot 2 as shown upon Deposited Plan No. 10680 and bounded thence on the north-west by the south eastern boundary of that Lot 2 being a line bearing north easterly for 195' 10½" to the south western alignment of Botany Street thence on the south-west by part of that alignment being a line bearing south easterly for approximately 152' 2" thence on the south-east by a line bearing south westerly for approximately 18' 0" thence on the south-west by a line bearing north westerly for approximately 6' 0" thence again on the south-east by a line bearing south westerly for approximately 151' 0" to the north eastern alignment of Botany Road thence again on the south-west by part of that alignment being a line bearing north westerly for approximately 167' 8" to the point of commencement.

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

H. G. S. BEGBIE,

Deputy Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 17th day of June, 1968.

F. A. JOHNSON,

Acting Secretary.

I assent to this Ordinance.

MARCUS LOANE,

Archbishop of Sydney.

21/6/1968.