

APPENDIX No. 49. 4

ORDINANCE. WATERLOO LAND LEASE AND MORTGAGE.

(As Passed.)

AN ORDINANCE to authorise the leasing and mortgaging of certain land situate in the parish of Alexandria County of Cumberland the demolition and sale of certain buildings thereon and to provide for the application of the rents and proceeds arising therefrom.

WHEREAS certain land situate in the Parish of Alexandria County of Cumberland and more particularly described in the First Schedule hereto is now vested in the Church of England Property Trust Diocese of Sydney for an estate in fee simple UPON TRUST for the maintenance thereon of the Church known as "St. Silas' Church Waterloo" or any Church for the celebration of Public Worship according to the use of the Church of England in Australia which may be erected in lieu thereof AND WHEREAS there now stands upon a portion of the said land which is more particularly described in the Second Schedule hereto the major portion of a Parish Hall and a Class Room and there also stands upon other portion of the said land more particularly described in the Third Schedule hereto a building known as St. Silas' Waterloo AND WHEREAS the said Parish Hall and the said Class Room are old and dilapidated and it is desirable that either a new Parish Hall should be erected upon the land described in the Third Schedule hereto or that the said Church should be altered or enlarged within the boundaries of the last mentioned land so that the same can be used not only as a Church but also for the purposes of a Parish Hall AND WHEREAS to provide the moneys required for the purposes aforesaid it is expedient to sell the existing Parish Hall and Class Room and to lease and if needs be to mortgage the land described in the said Second Schedule AND WHEREAS by reason of circumstances which have occurred since the creation of the aforesaid trusts it has become inexpedient to carry out or observe in their entirety the particular purposes to which the land described in the said First Schedule is devoted 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 the powers vested in the said Synod by the "Church of England Trust Property Act 1917" or otherwise declares ordains directs and rules as follows:—

1. By reason of circumstances subsequent to the creation of the trusts to which the lands described in the First Schedule hereto are subject it has in the opinion of the said Synod become inexpedient to carry out or observe such trusts in their entirety.

2. The land described in the Third Schedule hereto being portion of the said lands shall be held in trust as a site for a Church and Parish Hall for the Parish of St. Silas' Waterloo aforesaid.

3. It shall be lawful for the Church of England Property Trust Diocese of Sydney (hereinafter called the said Corporation) to sell the materials of which the Parish Hall and Class Room now standing upon the land described in the Second Schedule hereto are now composed either by public auction or private contract and for that purpose if deemed expedient so to do to previously demolish such buildings.

4. The land described in the Second Schedule hereto shall be held for the use benefit and purposes of the Church of England in the said Parish in manner hereinafter appearing.

5. The land described in the said Second Schedule or any portion or portions thereof may with the consent of the Archbishop at any time hereafter and from time to time be demised or leased freed from the trusts aforesaid upon building or occupation leases or for such other suitable purpose or purposes as the Rector and a majority of the Churchwardens for the time being of the said Parish may determine provided that the term or terms of any such lease or leases shall not either as to the whole or any portion of the said land exceed Fifty years at such rent or rents fixed varying or progressive and upon and subject to such terms covenants and conditions as the Rector and a majority of the Churchwardens for the time being of the said Parish may direct or approve but 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 without taking any fine or premium for the making thereof and so as there be contained in every such lease or leases a covenant on the part of every lessee his executors administrators and assigns that he and they shall not use or cause or permit to be used the demised premises or any part or parts thereof for the purposes of carrying on

the trade or business of a publican distiller brewer seller of wine ale beer or spirituous liquors or any noxious or offensive trade or business whatsoever AND ALSO that every and any such lessee his executors administrators or assigns shall not use or cause or permit to be used the demised premises for Sunday trade in any form.

And every such lease shall contain a condition for re-entry by the lessor or 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.

6. For the purposes of carrying out the erection of the said new Parish Hall or of altering or enlarging the said Church as aforesaid it is expedient to obtain an advance of money upon the security of the land described in the said Second Schedule or some portion or portions thereof and authority is accordingly hereby given to the said Corporation to obtain an advance upon the security of the same of any sum or sums of money not exceeding in the whole the sum of £1500. The said advance may be obtained in one or several sums and upon the security of one mortgage for the whole or upon one or several mortgages upon any portion or portions of such land.

7. The land described in the said Second Schedule or any portion or portions thereof may be mortgaged free from the aforesaid trusts to secure the repayment of the money so to be borrowed as aforesaid together with the interest payable in respect thereof.

8. The amount so to be advanced shall be paid to the said Corporation and shall be applied for or towards the cost of erecting the said new Parish Hall or enlarging the said Church as aforesaid.

9. Any mortgage given in pursuance of the powers hereby conferred may be renewed from time to time and the land described in the said Second Schedule may be mortgaged from time to time in connection with any such renewal or for the purpose of raising any sum or sums not exceeding in the whole the said sum of £1500 with which to discharge the mortgage or mortgages hereinbefore authorised or any other mortgage or charge given or executed in pursuance of the powers herein contained.

10. The rents issues and profits arising from the land described in the said Second Schedule shall be received by the Rector and Churchwardens of the said Church and may be

applied in the first place in or towards the payment of all rates taxes assessments and out-goings which may at any time become payable in respect of such land and of the interest from time to time payable in respect of any of the said mortgages thereover and in the next place in and towards the payment of the Synod and Registry expenses of the said Church and the balance shall be applied in or towards the maintenance upkeep and repair of the said new Parish Hall and subject as aforesaid in or towards repayment of the principal sum or sums so to be raised as aforesaid until the whole of such principal sum or sums shall have been repaid and after repayment of such principal sum or sums the net income to be derived from the said land shall be applied to such purposes as may hereafter from time to time be determined by this Synod of the said Diocese and subject to any such determination shall be paid to the authority for the time being empowered by the Sydney Church Ordinance 1912 or any Ordinance amending or taking the place of the same to control funds and property of the said Church Parish of St. Silas Waterloo and be applied by such authority in or towards such of the purposes in of the said Church as they may in their absolute discretion think fit.

11. The costs charges and expenses of and incidental to this Ordinance and of all leases and mortgages and other documents entered into or given in pursuance hereof may be defrayed out of the proceeds of the said sale or the rents issues and profits arising from the land described in the said Second Schedule or the moneys raised by way of mortgage as aforesaid or partly out of one of such funds or partly out of another thereof.

12. This Ordinance may be styled and cited as the "St. Silas' Waterloo Land Lease and Mortgage Ordinance of 1918."

FIRST SCHEDULE.

All that piece or parcel of land containing by admeasurement 2 roods 11 perches more or less commencing at the intersection of the South-west side of Botany Street with the North-west side of McEvoy Street and bounded thence on the South-east by that side of the last mentioned Street bearing South 64 degrees 49 minutes West 212 6/10th links thence on the South-west by the North-east side of Botany Road bearing North 33 degrees 54 minutes West 256 links thence North-west by a line bearing North 68 degrees 36 minutes East 254 6/10th links and thence on the North-east by the South-west side of Botany Street aforesaid bearing South 24 degrees 31 minutes East 236 links to the point of commencement.

SECOND SCHEDULE.

All that piece of land forming that part of the land described in the said First Schedule which is bounded by McEvoy Street Botany Street and Botany Road and a straight line intersecting the two last mentioned boundaries drawn from a point on the Botany Street boundary 80 feet distant from the intersection of that road with McEvoy Street and parallel with the last named Street.

THIRD SCHEDULE.

The land described in the said First Schedule excluding therefrom the land described in the said Second Schedule.

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

E. W. MOLESWORTH,

Chairman of Committees.

We certify that this Ordinance was passed on 9th October, 1918.

E. CLAYDON { *Secretaries*
W. R. BEAVER { *of the Synod.*

I assent to this Ordinance,

JOHN CHARLES SYDNEY.

15th October, 1918.