ANNO QUADRAGESIMO NONO ET QUINQUAGESIMO VICTORIAE REGINÆ. A.D. 1886.

Private Act.

An Act to vest in a Corporation, to be called "The Corporation of Saint John's Church," having a common seal, and consisting of the Incumbent Minister and the Wardens for the time being of the said Saint John's Church, parts of Town Acres 581 and 582, in the city of Adelaide, known as St. John's Church and Parsonage property, together with all chattels thereon belonging to the said church, and to revoke the present trusts upon which the said land and hereditaments are held, and to substitute others in lieu thereof.

[Assented to, November 17th, 1886.]

WHEREAS by an indenture dated the fifth day of May, one thousand eight hundred and forty, and enrolled in the General Registry Office, in the province of South Australia, No. 10 of 1847, between Osmond Gilles, of Adelaide, in the said province, Esquire, of the one part, and Lieutenant-Colonel George Gawler, Knight of the Royal Hanoverian Guelphic Order, Governor and Commander-in-Chief of the said province, Benjamin Archer Kent, of Adelaide aforesaid, Doctor of Medicine; and William Bartley, of Adelaide aforesaid, Esquire, of the other part, inter alia: All that piece or parcel of land, part and parcel of the two several one-acre sections of town land numbered 581 and 582, being the premises firstly hereinafter more particularly described, and colored green on the plan hereto attached, together with all erections thereon, was granted unto and to the use of the said George Gawler,
Gawler, Benjamin Archer Kent, and William Bartley, their heirs and assigns, for ever, nevertheless upon the trusts and for the ends, intents, and purposes, thereafter declared or expressed concerning the same: And it was, amongst other things, thereby declared that it should be lawful for the trustees for the time being, from time to time, and at any time, to revoke and determine all or any of the trusts thereinbefore contained, and to declare any new or other trusts in lieu thereof and in addition thereto, or otherwise qualify, alter, or vary the same as circumstances or the exigencies of the case might require, but so, and in such manner, and with such limitations nevertheless, that the new additional or qualified trusts so from time to time to be added to or put in lieu and stead of all or any of the then existing trusts by those presents declared, should not in any other way alter or vary the purposes for which the said land and the said church and parsonage house were granted and released, or erected and built, as the case might be, it being the express intent and meaning of those presents that the said land, erections, and buildings were for ever to be held and kept for the purpose of maintaining the doctrines of the united churches of England and Ireland, as by law established, and for providing a place of residence for the minister, and for paying a salary to him and other officers of the church, and for maintaining, repairing, and rebuilding the said church as for the time being might be required: And whereas by an indenture dated the thirteenth day of December, one thousand eight hundred and eighty-three, made between Walter Boyd Tate Andrews, therein described of the first part; the Reverend Frederic Slaney Poole, Alfred Farr, and Walter Laurence, therein described of the second part; Nathaniel Oldham, therein described of the third part; Beaumont Arnold Moulden, therein described of the fourth part; and the said Walter Boyd Tate Andrews, John Eldin Moulden, and Nathaniel Oldham, of the fifth part, after reciting the hereinbefore recited indenture of the fifth day of May, one thousand eight hundred and forty, and that George Gawler and Benjamin Archer Kent, therein named, were dead, and that William Bartley, therein named, desired to be discharged from the trusts in him reposed by the said indenture: All that the land and premises hereinafter firstly described and colored green in the plan hereto attached, and also certain moneys then belonging to and forming portion of the said trust estate, were conveyed, assured, and assigned to the said Walter Boyd Tate Andrews, John Eldin Moulden, and Nathaniel Oldham, as trustees upon certain trusts therein declared as to the said moneys, and as to the said land upon the trusts declared in and by the said indenture of the fifth day of May, one thousand eight hundred and forty: And whereas the trustees, acting under the said indenture of the fifth day of May, one thousand eight hundred and forty, acquired the piece of land secondly hereinafter described and colored pink in the plan hereto attached, in addition to the lands hereinbefore referred to, and granted by the said indenture of the fifth day of May, one thousand eight hundred and forty, all of which said land and premises, together with certain moneys and personal effects, are now vested in the said Walter Boyd.
Boyd Tate Andrews, Joseph Eldin Moulden, and Nathaniel Oldham, as trustees under the hereinbefore lastily recited indenture: And it is desirable, in terms of the power contained in the said indenture of the fifth day of May, one thousand eight hundred and forty, to revoke the trusts declared in and by the said indentures, and to substitute others in lieu thereof, and to definitely settle and define such substituted trusts, and to extend such last-mentioned trusts to the whole of the lands hereinafter described, and colored green and pink in the plan hereto attached, and all moneys and personal effects now vested in such trustees, and to vest all such lands, moneys, and personal effects in a corporation to be called "The Corporation of Saint John's Church:"—Be it therefore enacted by the Governor of the province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. This Act may be cited for all purposes as "The Corporation of St. John's Church Act, 1886."

2. The following words and expressions in this Act shall have the meanings hereby assigned to them unless there be something in the subject or context repugnant to such construction, that is to say:

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number:

The expression "the incumbent minister" shall mean the clergyman of the Church of England appointed by this Act and who shall be elected to the office of Incumbent of the Church by the seatholders in manner hereinafter prescribed, or such qualified person as shall be temporarily appointed by the Bishop or Administrator for the time being of the Anglican Church in South Australia:

The word "Corporation" or the words "the Corporation" shall mean the Corporation of Saint John's Church as incorporated by this Act:

The expression "seatholders" shall mean the persons who for the time being shall rent a seat, sittings, or pews in the Church, and who shall have so rented a seat, sittings, or pews for at least three calendar months immediately previous to the period of exercising any right conferred upon seatholders by this Act, and whose rents shall not be in arrear:

The word "church" shall mean Saint John's Church, situate at the corner of Halifax-street and Saint John's-street in the city of Adelaide, and all moneys and other personal property belonging to or used with the said Church, and the parsonage and all other buildings and erections on the same land:

The expression "churchwardens" shall mean the persons appointed to be churchwardens by this Act, and any two or more of the seatholders elected as churchwardens in manner hereinafter provided:
The word "lease" shall include an agreement for a lease, memorandum of lease, and an agreement to let for any term less than three years:

The word "mortgage" shall include memorandum of mortgage.

3. The trusts declared in and by the said indentures of the fifth day of May, 1840, and the 13th day of December, 1883, are hereby revoked.

4. The churchwardens for the time being of the church, and their several and respective successors, shall for all time hereafter be incorporated by the name of "The Corporation of Saint John's Church," with perpetual succession, and by that name shall have power to hold, purchase, or otherwise acquire real and personal estate; and shall and may sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all Courts and places whatsoever.

5. From and immediately after the passing of this Act:—

Firstly—All that piece or parcel of land, part and parcel of the two several one-acre sections of town land, numbered 581 and 582, situate in St. John's-street and Halifax-street, in Adelaide aforesaid, fronting west on Saint John's-street aforesaid, north on Halifax-street aforesaid, and abutting east on other portion of town acre 582, next hereinafter described, and south on other parts of the said two town acres, sections numbered 581 and 582, containing by admeasurement one rood and thirty-seven perches, and measuring in width from east to west in every part thereof one hundred and thirty feet nine inches, and in depth from north to south in every part thereof one hundred and sixty-one feet eight inches:

Secondly—All that piece or parcel of land, also part and parcel of the said two several one-acre sections of town land, numbered 581 and 582, adjoining the land hereinbefore described on the east and south sides thereof, abutting east on other portion of the said town acre, section 582, two hundred and eleven feet eight inches; west, on St. John's-street aforesaid, fifty feet; north, on Halifax-street aforesaid, twenty feet; and south, on town acres 585 and 586, containing by admeasurement thirty-nine perches or thereabouts. The piece or parcel of land hereinbefore firstly described is colored green, and the piece or parcel of land hereinbefore secondly described is colored pink in the plan attached hereto, together with all buildings and erections thereon. And all moneys and personal property and effects of whatsoever nature and kind now belonging to the church:

shall absolutely vest and be vested in the Corporation, their successors, and assigns.

6. All
6. All costs, charges, and expenses of, and incidental to, the applying for, obtaining, and passing of this Act, shall be borne and paid by the Corporation.

7. The Corporation shall have a common seal, whereon shall be imprinted or engraved the words "The Corporation of Saint John's Church." The churchwardens shall have the custody and control thereof, and all deeds, documents, and writings requiring to be executed by the Corporation shall bear the impress of such seal, and be signed by the incumbent minister and one of the churchwardens; but in all cases wherein it may be necessary for the Corporation to serve or give any summons, demand, or notice of any kind whatsoever to any person or corporation, such summons, demand, or notice may be given in writing, signed by the incumbent minister and one of the churchwardens, or by the solicitor for the time being of the Corporation, without being required to be under the common seal of the Corporation.

8. In all cases wherein it may be necessary for any person or corporation to serve or to give any summons, demand, or notice, or any writ or other proceeding at law, or otherwise upon the Corporation, personal service thereof upon the incumbent minister, or any one of the churchwardens, shall be deemed good and sufficient service of the same respectively on the Corporation.

9. The Corporation shall be deemed to have lawfully directed any power to be exercised, or any act, matter, or thing to be done under and pursuant to this Act, whenever a resolution has been passed embodying such direction, act, matter, or thing by a majority of the seatholders present in person or by proxy (such proxy in every case to be a seatholder, and appointed in writing) at any meeting of the seatholders, of which notice specifying the time and place of meeting, and the purpose for which such meeting is to be held, shall at least seven clear days before the holding of such meeting have been served upon or given to the seatholders, either personally or by sending the same through the post-office, addressed to such seatholders at their then or last known places of abode or business in the said province. At any such meeting ten seatholders shall form a quorum. Every seatholder shall be entitled to one vote; such meeting shall be presided over by the incumbent minister or one of the churchwardens; in the event of the equality of votes the chairman of the meeting shall have a casting-vote in addition to his vote as a seatholder, and, for the purpose of voting at any such meeting, the incumbent minister shall have and exercise all rights of a seatholder; and a statutory declaration by the chairman who shall have presided at the meeting at which such resolution was passed, that any resolution set forth in such statutory declaration has been passed by the seatholders pursuant to the ninth section of this Act, shall be sufficient evidence that such resolution has been properly passed at a meeting of such seatholders, properly convened and held pursuant to the ninth section of this Act, and that
that the seatholders have, pursuant to this Act, given the direction or legally voted upon the act, matter, or thing embodied in such resolution.

10. The Reverend Frederic Slaney Poole, clerk in holy orders, is the present incumbent minister of the church. Every future incumbent minister shall be elected by the vote of the seatholders at a meeting convened and conducted in manner hereinbefore mentioned: Provided that every incumbent minister of the church and every qualified person who shall be temporarily appointed by the Bishop or Administrator for the time being of the Church of England in South Australia, as next hereinafter mentioned, shall hold the licence of the said Bishop or Administrator entitling him to conduct the services in the church according to the rites of the Church of England.

11. During the temporary absence, illness, or incapacity of the incumbent minister, or during any vacancy necessitating the election or appointment of a new incumbent minister, the said Bishop or Administrator for the time being of the Church of England in South Australia shall temporarily appoint some duly-qualified person or persons to perform the duties of the incumbent minister.

12. Alfred Farr and Samuel Auguste Icery LeBrun, Esquires, are the present churchwardens, who shall hold office until the Tuesday in Easter week next after the passing of this Act, on which day and thereafter on the Tuesday in every Easter week, a meeting of the seatholders shall be held in manner aforesaid, when one or more of the seatholders shall be elected as a churchwarden or churchwardens, and the incumbent minister shall also then elect one seatholder to be a churchwarden, and such churchwardens shall in like manner hold office until the then next Tuesday in Easter week. In the event of the death, resignation, or removal of any churchwarden during his term of office, the seatholders or incumbent minister, as the case may be, shall, in manner aforesaid, with all convenient speed, proceed to elect a churchwarden in the place of the one who shall have died, resigned, or have been removed, and the churchwarden so elected shall hold office until the Tuesday in the next Easter week: Provided that if, from any cause whatsoever, no election of churchwardens shall take place, or the necessary number of churchwardens shall not be elected, on the Tuesday in Easter week as aforesaid, the retiring churchwardens shall hold office and perform all the duties of churchwardens imposed by this Act until their successors shall be appointed at a meeting of seatholders to be held as soon thereafter as circumstances will admit.

13. The Corporation shall hold the lands hereinbefore described, and all other lands which may hereafter be acquired, and all moneys and personal property which at the passing of this Act shall belong to the Corporation, or may be hereafter acquired, solely for the benefit of the church and the promotion of Divine service therein, according to the rites of the Church of England.

14. The
14. The duties of the churchwardens (subject to a general control by the seatholders as hereinafter mentioned), shall be—

To manage and control all property belonging to the Corporation, to receive all moneys, and to give receipts, in writing, for any moneys payable to the Corporation; and such receipts shall be sufficient discharges for the moneys therein expressed to be received, and shall effectually exonerate the persons paying such moneys from seeing to the application thereof, or from being answerable for any loss or misapplication thereof:

To pay to the incumbent minister, as and for his stipend, all moneys received by them as rents from the pews and sittings in the church:

To pay all such costs, charges, and expenses as shall be incurred by them, or with their authority, in and about the general management of the church and the property of the Corporation:

To repair and keep in repair the church and other property belonging to the Corporation, and to hold all surplus moneys for the use of the Corporation, and from time to time to invest or expend the same as the seatholders shall from time to time, in general meeting, determine or direct:

To permit the incumbent minister to use, occupy, and enjoy the parsonage house and land adjoining or attached to the church, free from the payment of rent:

At the meeting of seatholders to be holden on the Tuesday in every Easter week, as is hereinbefore provided, the churchwardens shall place before the seatholders a correct statement of all moneys received and paid away during the preceding twelve months, and such a statement or report of the affairs of the Corporation as they shall deem necessary; and at any such meeting it shall be lawful for the seatholders, by resolution as aforesaid, to adopt, amend, or reject any such statement of accounts and report:

To convene at any time, in manner aforesaid, a meeting of the seatholders, to consider and determine upon any matter affecting the Corporation:

In addition to the foregoing powers and duties it shall be lawful for the churchwardens to perform all the duties that appertain to the office of churchwardens in South Australia:

Notwithstanding anything herein contained to the contrary, the churchwardens shall at all times be controlled and governed by the vote of the majority of the seatholders at any meeting convened in manner aforesaid, or as hereinafter provided. But all acts lawfully done by the churchwardens prior to any such meeting shall be absolutely binding on the Corporation and all concerned.

15. The
15. The churchwardens shall at any time, upon the request, in writing, of at least ten seatholders, convene a meeting of the seatholders in manner aforesaid, to consider any matter affecting the Corporation, and any resolution duly passed at any such meeting shall be binding upon the churchwardens and the Corporation.

16. It shall be lawful for the churchwardens, from time to time, to frame rules and regulations for the general management and regulation of the affairs and property of the Corporation, but such rules and regulations shall not have any force or effect until the same shall have been approved of by a majority of the seatholders present at a meeting called for the purpose, and confirmed at a subsequent meeting of seatholders held for that purpose. Such last-mentioned meeting shall be held not less than one calendar month, or more than three calendar months, after the date of the first of such meetings: Provided that all such rules and regulations so made and confirmed as aforesaid shall be printed, and a copy thereof, signed by the incumbent minister and the churchwardens, deposited in the general registry office, at Adelaide, within one calendar month from the date of the same being confirmed; and until the same shall have been so deposited in the general registry office they shall have no force or effect.

17. From and after the due passing of any such rules and regulations, and the deposit of a copy thereof as aforesaid in the said general registry office, the same shall, until altered or revoked, be absolutely binding upon the Corporation, churchwardens, seatholders, and all others, as if they had been embodied in this Act: Provided that such rules and regulations shall not be inconsistent with this Act or affect the general objects of the Corporation.

18. It shall be lawful for the Corporation, and they are hereby authorised and empowered, by and with the direction of at least two-thirds of the seatholders, given at any meeting duly convened and held as aforesaid, and confirmed as hereinafter mentioned, from time to time to raise, by mortgage of the said pieces or parcels of land and hereditaments, or any part or parts thereof, except as hereinafter mentioned, or any other lands, hereditaments, and premises the property of the Corporation, with the appurtenances thereunto belonging, such sum or sums of money as the seatholders at any such meeting shall direct; but it shall not be lawful for the Corporation to charge the whole or any portion of the property of the Corporation with the payment of any sum exceeding Three Thousand Pounds and interest at any one time: And for effectuating any such mortgage, it shall be lawful for the said Corporation, by any instrument, deed or deeds, to charge the said premises, or any part or parts thereof, with any such sum or sums as aforesaid, with interest for the same, and to convey, or otherwise assure the premises so to be charged, to the mortgagee or mortgagees, or any other person or persons or corporation, subject to redemption upon payment of the mortgage-money and interest at a time or times to be
be therein named, and with such powers of sale or other powers as it may be thought expedient to insert in any such mortgage or mortgages; and generally for such purposes as aforesaid, to execute and do all such assurances and things as the said seatholders shall think necessary; and no mortgagee advancing upon any mortgage purporting to be made under this power shall be bound to see that such money is wanted, or that no more is raised than is wanted: Provided that the direction to mortgage hereinbefore given shall not be exercised until such direction shall have been confirmed by two-thirds of the seatholders present by person or by proxy at a subsequent meeting of seatholders, convened and held as provided by section nine: Provided also that nothing herein contained shall empower the Corporation at any time to mortgage or encumber so much of the land colored green in the said plan as abuts on Halifax-street, by a depth back from Halifax-street of sixty-six feet, and there shall at all times hereafter remain a right-of-way for the Corporation and all persons having occasion to go to or return from the said excepted piece of land colored pink in the said plan, having a front of twenty feet to Halifax-street to a depth of sixty-six feet, but not further.

19. It shall be lawful for the Corporation, and they are hereby authorised and empowered, by and with the direction of the seatholders as aforesaid and the written consent of the incumbent minister, to demise or lease the said pieces or parcel of land and hereditaments, or any part or parts thereof, or any other lands, hereditaments, and premises the property of the Corporation, with the appurtenances thereunto belonging, for any term of years not exceeding twenty-one years, to take effect in possession or within six calendar months after the date of the demise, so as there be reserved the best yearly rent or rents that can be reasonably gotten, without taking anything in the nature of a fine or premium, and so as there be contained in every such demise a condition of re-entry for non-payment within a reasonable time, to be therein specified, of the rent or rents thereby reserved, and so as the lessee or lessees do execute a counterpart thereof, and do thereby covenant for the due payment of the rent or rents thereby reserved: And the rents and profits to arise therefrom shall be received by the churchwardens, and applied by them for all or such of the purposes herein provided as the seatholders shall direct: Provided, nevertheless, that it shall be lawful for the churchwardens, out of such rents and profits, to pay all interest which may accrue due in respect of any moneys raised by mortgage under the power in that behalf hereinbefore contained, and to lay out and expend such sum or sums as they shall think necessary in and about the insuring, repairing, rebuilding, upholsteying, and improving the messuages, lands, tenements, and hereditaments whence such rents and profits shall arise: And also to make any abatements or allowances to tenants on account of rent due or accruing due from such tenants for the occupation of the said lands and premises, or any part or parts thereof, when-
ever it shall appear to the churchwardens that such abatement or allowance will have the effect of retaining tenants and be beneficial to the Corporation.

20. It shall be lawful for the Corporation, with and by the direction of the seatholders, as aforesaid, to accept a surrender or surrenders of any lease or leases for the time being, and to relet the messuages, lands, and tenements comprised in any such lease or leases.

21. No action, suit, claim, or demand of any nature or kind shall be brought, instituted, or made against any trustee named in the said indentures of the 5th day of May, 1840, and the 13th day of December, 1883, or against their, or either of their heirs, executors, or administrators, or upon or against their, or either of their estates and effects for or by reason of any act done, or omitted to be done, by them, or either of them, of or concerning or on account of the trust estate and premises mentioned and referred to in the said hereinbefore-mentioned indentures, or either of them; and upon any such action, suit, claim, or demand being so instituted, brought, or made, this Act may be pleaded in evidence.

22. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such, and shall commence and take effect from and after the passing hereof.

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

WM. C. F. ROBINSON, Governor.
1. Charles James Sanders, Licensed Surveyor, hereby solemnly and sincerely declare that I have surveyed the Land delineated in this Plan, and that the boundaries and measurements are correct, and I make this declaration conscientiously believing the same to be true.

(Signed) C. J. SANDERS, Licensed Surveyor.

Declared before me, at Adelaide, this 15th day of June, 1886.

(Signed) L. A. JESSOP, J.P.