ANNO QUADRAGESIMO QUARTO ET QUADRAGESIMO QUINTO

VICTORIÆ REGINÆ.

A.D. 1881.

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Private Act.

An Act to enable the Trustees of the piece or parcel of land and hereditaments, situate in Rundle-street, in the City of Adelaide, and known as the Adelaide Jewish Synagogue property, by the direction of the members for the time being of the Adelaide Hebrew Congregation, to sell, mortgage, or lease the said piece or parcel of land and hereditaments, and to make provision for the disposal of the proceeds thereof, and to extend the trusts upon which the said piece or parcel of land and hereditaments are held.

[Assented to, November 18th, 1881.]

WHEREAS by a certain indenture bearing date the eleventh day of December, one thousand eight hundred and forty-eight, made between George Morphett, of Adelaide, in the Province of South Australia, Esquire, of the one part, and Burnett Nathan, of Adelaide aforesaid, merchant, Morris Marks, and Louis Joseph, of Adelaide aforesaid, drapers, and Samuel Hart, of Adelaide aforesaid, draper, of the other part, and registered in the General Registry Office of the said province, Number 419, Book XIII, for the considerations therein mentioned—All that piece or parcel of land situate on the north side of Rundle-street, in Adelaide aforesaid, being portion of all that one acre section of land Numbered 37 in the Porvicial Survey, marked with the letter A, and containing in width from east to west as well as on the south side fronting Rundle-street aforesaid, as on the north side next other portion of the said acre
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acre, severally ninety feet, and running in depth eastwards as well as on the west side next the acre section Numbered 38 in the same survey, as on the east side next the private road hereinafter described, severally one hundred and five feet be the said several dimensions, a little more or less, as the said piece of land with the boundaries and admeasurements thereof are delineated in the plan drawn in the margin of the now reciting presents and therein colored green: And also a right-of-way for them the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, their heirs and assigns, owners or occupiers for the time being of the piece or parcel of land hereinbefore described, and their tenants, servants, and friends, either alone or in company with any other person or persons, on foot or on horseback, or with horses, cattle, carts, and carriages, loaded or unloaded, into, through, over, and along all that piece of land of the width of thirty-two feet lying to the east of the piece or parcel of land thereinbefore in the now reciting presents described, and running from Rundle-street aforesaid, through the whole length of the said section as far as section Numbered 26 in the same survey as the said road is delineated in the said plan and therein colored red, together with all houses, outhouses, ways, fences, rights, members, and appurtenants to the said hereditaments and premises belonging or appertaining, and all the estate, right, title, interest, claim, and demand whatsoever, both at law and in equity, of him the said George Morphett therein and thereunto, were bargained, sold, and released unto and to the use of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, and their heirs and assigns for ever, as joint tenants: And whereas by an indenture of mortgage dated the tenth day of January, one thousand eight hundred and fifty-one, the said piece or parcel of land and hereditaments were conveyed by the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart unto and to the use of one Peter Belches, his heirs and assigns, for securing the repayment of the sum of Three Hundred Pounds and interest thereon, at the times and in manner therein mentioned: And whereas by a deed poll or declaration of trust, dated the fourteenth day of February, one thousand eight hundred and fifty-four, under the hands of the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart, after reciting the said recited indenture of the eleventh day of December, one thousand eight hundred and forty-eight, and that the said piece or parcel of land and hereditaments were then vested in the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart, subject to the said recited indenture of mortgage; and that the said piece or parcel of land and hereditaments had been bought, and a synagogue had been erected, partly out of the moneys subscribed by different persons professing the Jewish faith, and partly with the sum of Three Hundred Pounds so borrowed on mortgage as aforesaid, and that the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart were desirous of making such declaration of trust as was thereinafter contained: It was made known and witnessed that the said Burnett Nathan, Louis Joseph, Morris Marks, and Samuel Hart did thereby severally declare that the said piece or parcel of land and hereditaments
hereditaments were purchased, and the said synagogue was erected out of moneys subscribed for the purpose by persons holding the views thereinafter mentioned, and with such sum of Three Hundred Pounds so borrowed as aforesaid; and that the same hereditaments, subject to the said mortgage, were held upon trust to permit and suffer the said synagogue to be used as a place of worship of Almighty God by the community of Jews, for the time being resident in South Australia, who believed in the doctrines and practised the rites, forms, and ceremonies held, observed, and practised by the body of Jews known as "the German and Polish Jews in England," as then presided over by the Chief Rabbi of the Great Synagogue, in England: And upon trust to permit or suffer to be erected a dwelling-house for the minister for the time being of the congregation assembling in such place of worship, holding such views and observing such rites, forms, and ceremonies as aforesaid; and also a schoolhouse for the use of the said congregation: And it was by the now reciting deed poll declared that the said piece or parcel of land and hereditaments, notwithstanding anything therein contained to the contrary, should at all times, so long as there should be any money due on the thereinbefore recited mortgage, be subject and liable to such mortgage money, and be resorted to in exnovation of the said trustees for payment of such mortgage money: And in the now reciting deed poll is contained a proviso that whenever the number of trustees, either the present or any future trustees appointed under the now reciting provision, should be reduced by death below three, it should be lawful for the president for the time being of the said congregation to convene a general meeting of the congregation for the appointment of new trustees in the place of the deceased trustees, and at such meeting such new trustees should be appointed by a majority of votes, and the president should have a casting vote; and upon every such appointment, the trust property should be so vested as that the new trustees should hold the same jointly with the surviving trustees, or solely, as the case might require: And whereas by a certain indenture, bearing date the first day of July, one thousand eight hundred and sixty-eight, made between the said Morris Marks and Louis Joseph, of the first part, and Aaron Edwin Cohen, of Adelaide aforesaid, merchant, Israel Simmons, of Adelaide aforesaid, draper, Isaac Solomon, of Adelaide aforesaid, auctioneer, and Moss Judah Solomon, of Adelaide aforesaid, merchant, of the second part, and registered in the General Registry Office of the said province, Number 250, Book 236, after reciting the said recited indenture of conveyance of the eleventh day of December, one thousand eight hundred and forty-eight, and the said recited deed-poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four, and after reciting that, by an indenture dated the ninth day of January, one thousand eight hundred and fifty-six, the said piece or parcel of land and hereditaments were re-conveyed by the said Peter Belches unto and to the use of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, their heirs and assigns for ever, freed and discharged from the said indenture of mortgage and from all moneys thereby secured.
secured: And after reciting that the said Burnett Nathan and Samuel Hart had departed this life, and the said Morris Marks and Louis Joseph had ceased to reside in the said Province of South Australia, and that at a general meeting of the said congregation, convened for the purpose of appointing new trustees, the said parties to the now reciting presents of the second part were duly appointed as trustees in the place of the said Burnett Nathan, Morris Marks, Louis Joseph, and Samuel Hart, and it had been agreed that the now reciting presents should be executed for the purpose of vesting the said piece or parcel of land and hereditaments in the said parties to the now reciting presents of the second part upon the before-mentioned trusts, it was witnessed that, for the considerations therein mentioned, the said piece or parcel of land and hereditaments, with the appurtenants thereto belonging, were granted, bargained, sold, and released by the said Morris Marks, and Louis Joseph, unto and to the use of the said Aaron Edwin Cohen, Israel Simmons, Isaac Solomon, and Moss Judah Solomon, and their heirs and assigns for ever, as joint tenants upon and for the trusts, intents, and purposes, and subject to the provisions expressed and declared in and by the said recited deed poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four: And whereas the said Aaron Edwin Cohen has departed this life, and whereas at a general meeting of the members for the time being of the Adelaide Hebrew Congregation, held on the twelfth day of April, one thousand eight hundred and eighty-one, Solomon Saunders, of Adelaide aforesaid, money agent, was appointed as a trustee of the said piece or parcel of land and hereditaments in the place of the said Aaron Edwin Cohen, deceased: And whereas it is desirable and expedient, and it would be for the benefit and advantage of the Jewish community in the said province, that the trustees for the time being of the said piece or parcel of land and hereditaments should be invested with powers (subject to the direction of the members for the time being of the Adelaide Hebrew Congregation) to sell, mortgage, and lease the said piece or parcel of land and hereditaments, and that the proceeds to arise therefrom should be applied in the manner hereinafter by this Act provided: And whereas the members for the time being of the Adelaide Hebrew Congregation have, by certain resolutions passed at a general meeting called for the purpose, expressed their desire that such powers as are hereinafter given to or conferred upon the said trustees should be so given and conferred: And whereas it is desirable that the said piece or parcel of land and hereditaments should be properly vested in the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, as such trustees as aforesaid, and that such provision should be made for the appointment of new trustees as is hereinafter contained: And whereas it is desirable and expedient that the furniture and effects hereinafter mentioned should be vested in such trustees as aforesaid upon the trusts hereinafter contained concerning the same: 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. The
1. This Act may be cited for all purposes as the "Adelaide Synagogue Act, 1881."

2. Whenever the expression "the said trustees" occurs, or is used in this Act, such expression shall be construed and taken to mean and include, any trustees of the said premises, whether original or substituted. And whenever the expression "the members for the time being of the Adelaide Hebrew Congregation" occurs, or is used in this Act, such expression shall be construed and taken to mean and include all persons who shall have attained the age of twenty-one years, who for the time being shall hold seats, and shall for a period of upwards of twelve calendar months have held seats in the synagogue now or hereafter to be erected on the said piece or parcel of land and hereditaments, or any other lands and hereditaments which may be purchased, pursuant to the provisions of this Act.

3. That the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, shall henceforth be the trustees of the said piece or parcel of land and hereditaments hereinbefore mentioned and described, and of all buildings, erections, and appurtenances thereon and thereunto appertaining; and the said piece or parcel of land and premises shall henceforth be vested in the said Israel Simmons, Isaac Solomon, Moss Judah Solomon, and Solomon Saunders, their heirs and assigns, for an absolute estate of inheritance in fee simple upon the trusts, and to and for the ends, intents, and purposes, and with, under, and subject to the powers and provisions declared and contained in the said recited deed poll or declaration of trust of the fourteenth day of February, one thousand eight hundred and fifty-four, except so far as the same may be altered or varied by this Act, and upon the trusts and to and for the ends, intents, and purposes, and with, under, and subject to the powers and provisions in this Act expressed and contained.

4. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, from time to time to make sale, dispose of, convey, transfer, and assure the said piece or parcel of land and hereditaments, or any part or parts thereof, with the appurtenances thereunto belonging, either together or in parcels, and either by public auction or private contract, unto any person or persons who shall be willing to become the purchaser or purchasers thereof, for such sum or sums of money as the majority of the members of the Adelaide Hebrew Congregation shall think reasonable, and to give time (either with or without security) for the payment of such purchase-money, or any part thereof, and upon payment to them of the purchase-money for which the said piece or parcel of land and hereditaments, or any part or parts thereof, shall be so sold to convey the same messuages, lands, tenements, and hereditaments, so sold and disposed of as aforesaid, unto and to the use of the purchaser or purchasers thereof, his, her,
or their heirs and assigns, or as he, she, or they shall direct, freed and discharged from the trusts affecting the same.

5. That the moneys to arise from the sale of the said premises under the power in that behalf hereinbefore given, shall be received by the said trustees and applied by them for all or such of the following purposes as the members for the time being of the Adelaide Hebrew Congregation shall direct—

The purchase of such piece or parcel or pieces or parcels of land as the members for the time being of the Adelaide Hebrew Congregation shall direct, and the erection thereon of a synagogue, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, and the maintaining of such synagogue in good repair, such synagogue to be used as a place of worship of Almighty God by the community of Jews for the time being resident in the said province, who believe in the doctrines and practice the rites, forms, and ceremonies held, observed, and practised by the body of Jews known as “The German and Polish Jews in England.”

The erection upon such piece or parcel or pieces or parcels of land so to be purchased as aforesaid, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, of a dwelling-house for the minister for the time being of the congregation assembling in such place of worship holding such views and observing such rites, forms, and ceremonies as aforesaid, and the maintaining of such dwelling-house in good repair.

The erection upon such piece or parcel or pieces or parcels of land so to be purchased as aforesaid, in accordance with such plans as the members for the time being of the Adelaide Hebrew Congregation shall direct, of a schoolhouse for the use of such congregation, and the maintaining of such schoolhouse in good repair.

Provided, nevertheless, that it shall be lawful for the said trustees, until the whole of the moneys to arise from a sale under the power herein contained shall have been applied in manner hereinbefore provided, to invest the same, or so much thereof as shall for the time being remain unapplied, in such manner as the members for the time being of the Adelaide Hebrew Congregation shall from time to time direct; and the income derived from such unapplied moneys and the investments thereof shall be expended in such manner as such members shall from to time direct, for the promotion of the worship of God by the community of Jews for the time being resident in the said province holding such views and observing such rites, forms, and ceremonies as aforesaid.

6. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, to raise by mortgage of the said piece or parcel of land and hereditaments
ditaments, or any part or parts thereof, with the appurtenances thereunto belonging, such sum or sums of money as the members for the time being of the Adelaide Hebrew Congregation shall from time to time direct, for such purposes, and to be applied in such manner as is hereinafter in that behalf provided: And for effectuating any such mortgage, it shall be lawful for the said trustees, by any 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, subject to redemption upon payment of the mortgage-money and interest at a time or times to 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 trustees shall think necessary: Provided, nevertheless, that the power of raising money upon mortgage hereinbefore contained shall only be exercised by the said trustees, for all or such of the purposes hereinbefore provided, in respect of the moneys to arise from a sale of the said piece or parcel of land and hereditaments as the members for the time being of the Adelaide Hebrew Congregation shall direct, or for the purposes of paying off or discharging, either wholly or partially, any mortgage, or other charge or incumbrance, for the time being affecting the said piece or parcel of land and hereditaments, and the moneys raised for the last-mentioned purposes shall and may be applied by the said trustees accordingly; 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, for the purposes aforesaid.

7. That it shall be lawful for the said trustees, and they are hereby authorised and empowered, by and with the direction of the members for the time being of the Adelaide Hebrew Congregation, to demise or lease the said piece or parcel of land and hereditaments, or any part or parts thereof, with the appurtenances thereunto belonging, for any term of years not exceeding forty 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 from the said trust estate leased under this power shall be received by the said trustees, and applied by them for all or such of the purposes hereinbefore provided in respect of the moneys to arise from a sale of the said premises as the members for the time being of the Adelaide Hebrew Congregation shall direct: Provided, nevertheless, that it shall be lawful for the said trustees, out of such rents and profits, to pay all interest which may accrue due in respect of
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, upholthing, 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 trust estate, or any part or parts thereof, whenever it shall appear to the said trustees that such abatement or allowance will have the effect of retaining tenants and be beneficial to the said trust estate.

8. That it shall be lawful for the said trustees, with and by the direction of the members for the time being of the Adelaide Hebrew Congregation, 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.

9. The members for the time being of the Adelaide Hebrew Congregation shall be deemed to have 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, by a majority of not less than three-fourths of such members as may be present in person or by proxy (such proxy in every case to be one of the members for the time being of the Adelaide Hebrew Congregation, and appointed in writing) at any general meeting of such members, of which notice, specifying the time and place of meeting, and the purpose for which the meeting is to be held, shall at least seven days before the holding of such meeting have been served upon or given to the members for the time being of the Adelaide Hebrew Congregation, either personally or by leaving the same, or by sending the same through the post in a letter, addressed to such members at their then or last-known place of abode or business, in the said province, and shall have been advertised twice in each of the two daily newspapers published at Adelaide, and such resolution has been confirmed by a majority of such members as may be present in person or by proxy (such proxy in every case to be one of the members for the time being of the Adelaide Hebrew Congregation, and appointed in writing) at a subsequent general meeting, of which a like notice shall have been given as is hereinbefore provided in the case of the meeting at which such resolution shall have been first passed, and held at an interval of not less than fourteen days, nor more than one calendar month, from the date at which such resolution was first passed. At any such meeting ten members shall form a quorum; every member shall be entitled to one vote. In the event of an equality of votes, the chairman of the meeting shall have a casting vote in addition to his vote as a member.

10. A statutory declaration by the president for the time being of the members of the Adelaide Hebrew Congregation, or the chairman
man who shall have presided at the meeting at which such resolution was confirmed, that any resolution set forth in such statutory declaration has been passed and confirmed by the members for the time being of the Adelaide Hebrew Congregation, pursuant to the tenth clause of this Act, shall be sufficient evidence that such resolution has been properly passed and confirmed at a meeting of such members, properly convened and held, pursuant to the tenth clause of this Act, and that the members for the time being of the Adelaide Hebrew Congregation have, pursuant to this Act, given the direction required by this Act, and embodied in such resolution.

11. That all lands and hereditaments purchased with any moneys arising from the sale or leasing of the said piece or parcel of land and hereditaments, or with any money raised under the power of raising money by mortgage in this Act contained, shall be conveyed, transferred, and assured to the said trustees, their heirs, and assigns, upon and for the same trusts, and to and for the same ends, intents, and purposes, and with, under, and subject to the same powers and provisoes as are by this Act expressed and contained of and concerning the said piece or parcel of land and hereditaments hereinbefore described, and all the provisions herein contained and all the powers hereby given or conferred shall apply to and may be exercised in respect of the lands and hereditaments so purchased in the same manner in all respects as the same applied to and might be exercised in respect of the said piece or parcel of land and hereditaments hereinbefore described.

12. The receipts, in writing, of the said trustees for any moneys payable to them by reason or in the exercise of any trusts or powers reposed or vested in them or him by this Act 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.

13. Notwithstanding anything in this Act to the contrary, it shall be lawful for the said trustees to reimburse themselves respectively, or pay and discharge, out of any moneys coming to their hands by the exercise of any of the powers conferred upon them by this Act, all expenses incurred by them in or about the execution of the trusts and powers declared or given by this Act, or any of them.

14. Whenever and so often as any one or more of the said trustees, or any trustee appointed under the provisions of this Act, shall die, or resign his office of trustee, or refuse or become incapable to act in the trusts or powers in him reposed, or shall make a deed of assignment, or become insolvent, or shall go to reside out of the Australasian Colonies for a period of twelve months, it shall be lawful for the surviving or other continuing trustees or trustee, or for the last retiring trustee, or for the acting executors or administrators of the last surviving or continuing trustee, by instru-
ment in writing to appoint any person or persons whom the members for the time being of the Adelaide Hebrew Congregation shall direct to be appointed for the purpose to be a new trustee, or new trustees, in the place of the trustee or trustees so dying or resigning his or their office, or refusing or becoming incapable to act, or going to reside out of the Australasian Colonies as aforesaid; and so often as any new trustee or trustees shall be so appointed as aforesaid, the trust premises, which for the time being shall be vested in the surviving or continuing trustee or trustees, or the last retiring trustee, or the heirs, executors, or administrators of any last surviving or continuing trustee, shall, by virtue of such appointment, and without other assurance in the law become and be conveyed and transferred, so that the same shall thereupon become and be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees or trustee, as the case may require; and every new trustee to be appointed as aforesaid shall have the like powers, authorities, and discretions, and shall and may act in all respects as if he had been originally appointed a trustee by this Act.

15. This Act shall commence and take effect from and after the passing thereof.

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

WM. F. DRUMMOND JERVOIS, Governor.