

## Church of England Trust Property Act Ordinance 1971

No. 26, 1971

AN ORDINANCE to authorise application to the Parliament of New South Wales to pass an Act to further amend the Church of England Trust Property Act 1917.

WHEREAS the Synod of the Diocese of Sydney wishes to apply the income from certain church trust property (not being church trust property held for the sole benefit of some particular parish) outside the Diocese of Sydney AND WHEREAS there is doubt as to whether such an application is presently lawful AND WHEREAS such doubts can be removed if the Church of England Trust Property Act 1917 is amended in the manner hereinafter provided AND WHEREAS the Synod of the Diocese of Sydney desires additional power to mortgage, lease and otherwise deal with real property NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:—

1. The Standing Committee is hereby directed, authorised and empowered to promote in the Parliament of New South Wales a Bill in terms of the Bill contained in the Schedule hereto or to the like effect and to do such things and incur all such expenses as may seem expedient in the circumstances.
2. This Ordinance may be cited as "Church of England Trust Property Act Ordinance 1971".

### SCHEDULE

A Bill to make further provisions with respect to the varying of trusts upon which church trust property is held under the Church of England Trust Property Act 1917 and for this purpose to amend that Act.

WHEREAS by an ordinance duly passed by the Synod of the Diocese of Sydney it was ordained that an application be made for the enactment of an Act in or to the effect of the provisions herein contained BE it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:

Amendment  
of Act No.  
21 1917  
New Sec.  
32A  
Additional  
power to  
vary trusts

1. This Act may be cited as "Church of England Trust Property (Amendment) Act 1971".
2. The Church of England Trust Property Act 1917 is amended by inserting next after Section 32 the following new section:

32A (1) Without limiting in any way the powers under Section 32 of the Synod of a diocese for which church trust property is held, in each case where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this Section or under Section 32, to which the income derived from any church trust property (not being church trust property held for the sole benefit of some particular parish) is for the time

being subject, it has in the opinion of the synod of the diocese for which such property is held become temporarily inexpedient to carry out or observe the trusts to which such income or part thereof is for the time being subject, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit or purposes of the Church of England in Australia within one or more of the dioceses of the said Church to apply to such income or part thereof during the period of twelve months following the date declared in the ordinance by which such opinion is declared but, if no date is declared in such ordinance, then during the period of twelve months following the date on which the ordinance by which such opinion is declared is assented to by the Bishop of such diocese instead of the first mentioned trusts and such first mentioned trusts shall thereupon by force of the said ordinance cease and determine (but only to the extent of such variation and only during the said period of twelve months) and such income shall thereupon be field upon such other trusts and the first mentioned trusts accordingly.

- (2) For the purposes of this section the words "Church of England in Australia" shall have the same meaning which those words have in the Church of England in Australia Constitution Act 1961 (No. 16 of 1961).
- (3) This section shall apply to the Diocese of Sydney but shall not apply to the remaining dioceses in the Province of New South Wales until the synod of such a diocese shall pass an ordinance declaring a desire to be bound by and to have the benefit of this section and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette and immediately upon such notification and thenceforth the provisions of this section shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

## Church of England Trust Property Act Ordinance, 1971

Amendment  
of Act No.  
21 1917

New Sec.  
26A  
Additional  
Power to  
Mortgage etc.

3. The Church of England Trust Property Act, 1917 is amended by inserting next after Section 26 the following new Section:

26A (1) Without limiting in any way the powers under Section 26 of the Synod of a Diocese for which church trust property is held, it shall be lawful for the Synod of a Diocese to direct, by ordinance, that any real property which is not church trust property held for such Diocese shall, upon such real property becoming church trust property held for such Diocese, be mortgaged or let on mining, building, occupation or other leases, or otherwise dealt with in manner provided by such ordinance, and to provide for the application of the personal property arising from any such mortgage, letting or other dealing as aforesaid.

(2) This section shall apply to the Diocese of Sydney but shall not apply to the remaining dioceses in the Province of New South Wales until the Synod of such a diocese shall pass an ordinance declaring a desire to be bound by and to have the benefit of this section and shall in the name and under the hand of the Bishop of the said Diocese notify such ordinance in the Gazette and immediately upon such notification and thenceforth the provisions of this section shall apply to the said Diocese and to all the trust property matters and things of or pertaining to the said Diocese.

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

ATHOL RICHARDSON,  
Chairman of Committees.

We certify that this Ordinance was passed by the Synod of the Diocese of Sydney this 13th day of October, 1971.

W. L. J. HUTCHISON,  
K. N. SHELLEY,  
Secretaries of Synod.

I assent to this Ordinance.

13/10/1971.

MARCUS LOANE,  
Archbishop of Sydney.