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*St. Luke's Mosman Mortgaging Ordinance 1937.*

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No. 7, 1937.

AN ORDINANCE to authorise the mortgaging of certain lands situated in the Parish of St. Luke Mosman and to provide for the application of the proceeds thereof and for other purposes.

WHEREAS the land comprised and described in Certificate of Title Registered Volume 2433 Folio 15 is vested in the Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustees),

AND WHEREAS by Declaration of Trust bearing date the twenty-first day of July One thousand nine hundred and twenty-four an attested copy whereof is filed No. 14357 in the Land Titles Office the Corporate Trustees declared that they held the said land Upon Trust to permit the same to be used for a Church Parsonage or Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of Mosman.

AND WHEREAS in the said Declaration of Trust the Parish for the benefit of which the said land was held was by inadvertence called "the Parish of Mosman" whereas it should have been called "the Parish of St. Luke Mosman."

AND WHEREAS the lands comprised and described in Certificates of Title Registered respectively Volume 1804 Folio 21 Volume 1436 Folio 21 Volume 1996 Folio 37 and Volume 2537 Folio 173 were at divers times acquired for uses in connection with the Church of England in the said Parish of St. Luke Mosman and were vested in Henry Charles Mitchell now deceased George William Briscoe Oxenbould Alfred Tallis King now deceased William Hutchinson and Herbert Francis Ward now deceased as joint tenants but no Declarations of Trust were executed declaring the express trusts upon which such lands were held.

AND WHEREAS it is expedient to build forthwith a Rectory on portion of the said lands and as soon as circumstances will permit to build a Church on other portion thereof and for such purposes to raise moneys by way of mortgage on the said lands.

AND WHEREAS by reason of circumstances subsequent to the creation of the aforesaid trusts it is expedient to vary the same in manner hereinafter appearing.

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Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Ordains and Declares as follows:—

1. The Standing Committee Hereby Consents to the lands comprised and described in Certificates of Title Volume 1804 Folio 21 Volume 1436 Folio 21 Volume 1996 Folio 37 and Volume 2537 Folio 173 being vested and the same are vested accordingly in the Corporate Trustees.

2. By reason of circumstances subsequent to the creation of the said trusts it has become inexpedient to carry out and observe such trusts in so far as the same are hereby varied.

3. The whole of the lands comprised in the aforesaid five certificates of title shall be held Upon Trust to permit the same to be used for a Church Rectory or Parish Hall or partly for one and partly for another or others of such purposes in connection with the Church of England in the Parish of St. Luke Mosman.

4. (1) The said lands or any part thereof may be mortgaged from time to time for the purposes of borrowing the sums of money following:—

- (a) When the power is first exercised a sum not exceeding One thousand five hundred pounds.
- (b) When the power is subsequently exercised such sum not exceeding One thousand five hundred pounds as the said Standing Committee shall by resolution determine.

(2) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.

5. The proceeds of any mortgage authorised by Section Four of this Ordinance shall stand charged with the payment of the costs charges and expenses of and incidental to this Ordinance and such mortgage and subject thereto such proceeds shall be applied in and towards the cost of erecting a rectory on portion of the said lands or the satisfaction of any moneys for the time being secured by any mortgage authorised by Section Four of this Ordinance Provided Always and the Corporate Trustees are hereby authorised subject as aforesaid to pay the whole or any part of the said proceeds of mortgage to the Churchwardens for the time being of the Church of St. Luke Mosman whose receipt shall be a sufficient discharge therefor and who shall apply the same in or towards the erection of the said rectory.

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6. (1) The said lands or any part thereof may also be mortgaged from time to time for the purpose of borrowing the sums of money following but only if and when authorised by resolution of the said Standing Committee so to do:—

- (a) When the power is first exercised a sum not exceeding Four thousand pounds.
- (b) When the power is subsequently exercised such sum not exceeding Four thousand pounds as the said Standing Committee shall by resolution determine.

(2) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.

7. The proceeds of any mortgage authorised by Section 6 of this Ordinance shall stand charged with the payment of the costs charges and expenses of and incidental to such mortgage and subject thereto such proceeds shall be applied in or towards the cost of erecting a Church on portion of the said lands and the furnishing thereof or the satisfaction of any moneys for the time being secured by any mortgage authorised by Section Six of this Ordinance.

8. A Document purporting to be certified by the Archbishop or Registrar or Secretary of the said Diocese as a copy of any resolution of the Standing Committee hereinbefore referred to shall in favour of a mortgage or any person or corporation claiming under such mortgagee be conclusive evidence that such resolution was duly passed.

9. The Rector and Churchwardens for the time being of St. Luke's Church Mosman shall within seven 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 amounts paid off and the balance owing.

10. This Ordinance may be cited as "St. Luke's Mosman Mortgaging Ordinance 1937"

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

R. C. ATKINSON,  
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Sixteenth day of August, 1937.

H. V. ARCHINAL,  
Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY.

17th August, 1937.