

No. 31, 1953.

AN ORDINANCE to vest certain land in Ocean Street Bondi in the Church of England Property Trust Diocese of Sydney to authorise the mortgaging and sale of certain land at Bondi aforesaid and to provide for the application of the proceeds thereof.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called the Corporate Trustee) is the purchaser under a certain Contract of Sale dated 28th day of August, 1953, from Charles Adrian Jenkins and Annette Ellen Jenkins of the land and premises known as No. 54 Ramsgate Avenue Bondi more particularly described in the First Schedule hereto for the sum of Four thousand five hundred pounds (£4,500) AND WHEREAS the purchase money for the said land and premises is being provided by St. Matthew's Bondi and the equitable interest in the said land and premises is church trust property held for the sole benefit of the said Parish but no express trusts in writing have been declared concerning the same AND WHEREAS by Conveyance dated 12th day of February 1935 Registered No. 602 Book 1710 the land described in the Second Schedule hereto was conveyed to John Cook, William Stewart, Robert Andrew Pollard and Henry William Frederick Rogers 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 St. Matthew Bondi AND WHEREAS there is erected on the said land a house and premises known as St. Matthew's Rectory AND WHEREAS the said William Stewart and Henry William Frederick Rogers died on the 25th day of September 1942 and on the 15th day of May 1937 respectively AND WHEREAS the said John Cook and Robert Andrew Pollard as surviving Trustees of the said land have consented to the same being vested in the said Corporate Trustee AND WHEREAS the said Corporate Trustee is registered as proprietor of the land comprised in Certificate of Title Registered Volume 2291 Folio 88 and more particularly described in the Third Schedule hereto AND WHEREAS by Declaration of Trust dated 3rd day of November 1923 Registered No. 346 Book 1522 it was declared that the said land should be held 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 at North Bondi in the Parish of Bondi AND WHEREAS there is erected on the said land a Church Hall known as St. Barnabas AND WHEREAS it is necessary and expedient that the lands described in the Schedules hereto be mortgaged to provide for the balance purchase money required to complete the said recited contract for the acquisition of the land and premises described in the First Schedule and certain repairs thereto and incidental expenses AND WHEREAS it is expedient that the land described in the Second Schedule be vested in the said Corporate Trustee AND WHEREAS it is expedient that the land described in the Third Schedule should be sold and the proceeds applied in reduction of the moneys to be borrowed on the security of the said lands as aforesaid Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod Hereby Ordains and Declares as follows:—

1. That the land described in the Second Schedule hereto be and the same is hereby vested in the said Corporate Trust subject to the trusts upon which the same is now held as aforesaid.

2. By reason of circumstances subsequent to the creation of the trusts to which the lands described in the first second and third Schedules hereto are subject it is expedient to mortgage the said lands and the Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the said lands for the purpose of borrowing the sums following:—

(i) (a) When the power is first exercised a sum not exceeding Five thousand pounds (£5,000) PROVIDED that such debt shall be reduced at the rate of not less than one hundred pounds (£100) per annum, but no Mortgagee advancing moneys in pursuance of this Ordinance shall be concerned or obliged to see that this proviso is complied with.

(b) When the power is subsequently exercised such sum (not exceeding Five thousand pounds (£5,000) and subject to such conditions as to repayment as the Standing Committee shall by resolution determine.

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- (ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.
- (iii) A document purporting to be certified by the Archbishop or Diocesan Secretary of the said Diocese as a copy of any such resolution shall in favour of a mortgagee or any person or corporation claiming under the mortgage be conclusive evidence that such resolution was duly passed.

3. The proceeds of any mortgage hereby authorised shall be applied by the Corporate Trustee as follows:—

- (a) In payment of the costs charges and expenses of and incidental to this Ordinance and of such mortgage or any mortgages executed in pursuance thereof.
- (b) Subject thereto the balance shall be paid to the Churchwardens of the Parish of St. Matthew's Bondi to be applied by them in payment of the balance purchase money payable under the contract of sale for the completion of the purchase of the land described in the First Schedule hereto and of the costs charges and expenses of and incidental thereto and for the repairs and alterations to be carried out to the building erected thereon.

4. The Churchwardens for the time being of the Parish of St. Matthew's Bondi 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 the amounts paid off and the balance owing.

5. By reason, of circumstances subsequent to the creation of the trusts to which the land described in the Third Schedule hereto is subject it is expedient to sell the land described in such Schedule.

6. The land and premises described in the Third Schedule hereto may be sold by public auction or private contract at such time or times at such price or prices and upon such terms and conditions as the said Corporate Trustee may deem expedient, free from the trusts aforesaid.

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7. The moneys arising from the said sale or sales shall after deducting therefrom all rates and other outgoings properly chargeable against the said land and all costs charges and expenses of and incidental to the said sale and transfer in pursuance thereof and of the discharge of any mortgage thereon shall be applied in reduction of the amount owing on any mortgage or mortgages over the land described in the said Schedules or any part thereof.

8. This Ordinance shall be styled and cited as "St. Matthew's Bondi Mortgage and Sale Ordinance 1953."

FIRST SCHEDULE.

All that piece or parcel of land situated in the Municipality of Waverley Parish of Alexandria County of Cumberland having a frontage to Ramsgate Avenue Bondi of about 39' 9", being the whole of the land comprised in Certificate of Title Registered Volume 5883 Folios 93 and 94.

SECOND SCHEDULE.

All that piece or parcel of land situated at Waverley near Sydney in the Parish of Alexandria County of Cumberland and State of New South Wales being Lot Seven and part of Lot Eight of Section Number Three of George Penkivil Slade's sub-division of Portions of Flood and Jones' Grant of fourteen acres and Woolley's Grants of fourteen and one half acres and thirteen and one half acres Commencing in Ocean Street at a point four hundred and thirty-two feet Northerly from Waverley Street and bounded on the West by Ocean Street aforesaid bearing northerly seventy-two feet to land conveyed to Albert Victor Shaw thence on the North by that land being a line bearing Easterly one hundred and sixty-five feet thence on the East by a line bearing Southerly seventy-two feet and on the South by Lot Number Six of said Section bearing Westerly one hundred and sixty-five feet to the point of commencement.

THIRD SCHEDULE.

All that piece or parcel of land situated as aforesaid having a frontage of 40' to Ramsgate Avenue Bondi by depth through to Brighton Boulevard of 128' 6" being Lot 27 Section 6 D.P. 786 and being the whole of the land comprised in Certificate of Title Volume 2291 Folio 88.

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

W. G. HILLIARD, Bishop,
Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the first day of December, 1953.

H V. ARCHINAL,
Diocesan Secretary.

I assent to this Ordinance

HOWARD SYDNEY,
Archbishop of Sydney.

3/12/1953