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*St. Paul's Seaforth Mortgage Ordinance 1972*

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No. 7, 1972

AN ORDINANCE to authorise the mortgaging or charging of certain lands situate at Seaforth in the County of Cumberland and to provide for the application of the proceeds.

WHEREAS the Church of England Property Trust Diocese of Sydney (hereinafter referred to as "the Corporate Trustee") is the registered proprietor of an estate in fee simple of the land comprised in Certificate of Title Volume 5123 Folio 58 and more particularly described in the First Schedule hereto AND WHEREAS by Indenture of Conveyance made the second day of September, 1872 between Peter Ellery of Middle Harbour of the one part and Joseph Cook, William Howard Rolfe and John Baker Smithers (therein referred to as trustees) of the other part Registered No. 982 Book 131 the land more particularly described in the Second Schedule hereto was conveyed to the said trustees upon trust to permit the same to be used for the erection and maintenance upon the said land of a church for the celebration of public worship according to the use of the Church of England as established by law AND WHEREAS the lands described in the First and Second Schedules hereto are church trust property held upon trust to permit the same to be used for a church, parsonage or parish hall or partly for one or partly for another or others of such purposes in connection with the Church of England in the Parish of St. Paul West Manly AND WHEREAS the Parish of St. Paul West Manly is now known as the Parish of St. Paul Seaforth AND WHEREAS by the provisions of the St. Paul's West Manly Mortgage Ordinance 1954 the said land described in the Second Schedule was vested in the Corporate Trustee AND WHEREAS the Church of St. Paul is a consecrated building erected on part of the land referred to in the First Schedule and part of the land referred to in the Second Schedule AND WHEREAS it is proposed to erect on the balance of the lands referred to in the First and Second Schedule which balance is described in the Third Schedule hereto a parish hall AND WHEREAS for such purpose it is expedient to mortgage the said land comprised in the Third Schedule to borrow a sum not exceeding Fifty-five thousand dollars (\$55,000) NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY ORDAINS DECLARES DIRECTS AND RULES as follows:—

1. By reason of the circumstances which have arisen subsequent

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to the creation of the trusts upon which the said land described in the Third Schedule is held it is expedient that the said land be mortgaged or charged.

2. (i) The Corporate Trustee is hereby empowered to mortgage or charge the whole or any part of the land described in the Third Schedule hereto for the purpose of borrowing the sums following:—
    - (a) when the power is first exercised a sum not exceeding Fifty-five thousand dollars (\$55,000)
    - (b) when the power is subsequently exercised such sum not exceeding Fifty-five thousand dollars (\$55,000) as the Standing Committee may by resolution determine  
PROVIDED THAT the amount borrowed shall be reduced by half yearly payments of not less than Two thousand five hundred dollars (\$2,500) inclusive of principal and interest when the power is first exercised and when the power is subsequently exercised at such rate as the Standing Committee may by resolution determine  
PROVIDED FURTHER that no person or corporation advancing moneys pursuant to this Ordinance shall be concerned to enquire whether this condition has been complied with.
  - (ii) Any renewal of a mortgage shall be deemed to be a subsequent exercise of the said power.
  - (iii) A document purporting to be signed by the Archbishop or Diocesan Secretary 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:—
    - (i) When the power is first exercised in payment of the costs of and incidental to this Ordinance and of any mortgage executed in pursuance thereof and the balance shall be applied towards the costs of erection of a parish hall on the said land.
    - (ii) When the power is subsequently exercised in payment of the principal, interest and the costs of and incidental to the discharge of any existing mortgage or mortgages over the mortgaged land and the costs of and incidental

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to the discharge or renewal thereof and of such new mortgage or mortgages or for such other purpose or purposes not inconsistent with the trusts of the mortgaged land as Standing Committee may by resolution determine.

- (iii) Any mortgagee advancing moneys to the Corporate Trustee pursuant to the provisions of sub-clause (i) of this clause is hereby authorised to pay the same to the Churchwardens for the time being of St. Paul's Church Seaforth.

4. The Churchwardens of St. Paul's Church Seaforth shall within seven (7) days of the holding of 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 amount paid off and the balance owing.

5. This Ordinance may be cited as "St. Paul's Seaforth Mortgage Ordinance 1972".

### FIRST SCHEDULE

ALL THAT piece or parcel of land containing 1 rood 35¼ perches more or less situated at Seaforth Municipality of Manly Parish of Manly Cove County of Cumberland being the whole of the land comprised in Certificate of Title Volume 5123 Folio 58.

### SECOND SCHEDULE

ALL THAT piece or parcel of land situated as aforesaid having the hereinafter mentioned dimensions all more or less and being portion of thirty acres granted to John Burton at Middle Harbour commencing on the Western side of a Government Road running along part of the Eastern boundary of the said thirty acres at a point two chains twenty-five links North from the North-west corner of thirty acres granted to John Fisher and bounded on the East by aforesaid Government Road bearing North two chains on the North by a line bearing West two chains on the West by a line bearing South two chains and on the South by a line bearing East two chains to the point of commencement and containing by admeasurement one rood twenty-four perches.

### THIRD SCHEDULE

ALL THAT piece or parcel of land containing about 2 roods 22¼ perches situated at Seaforth in the Parish of Manly Cove County of

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Cumberland and State of New South Wales being Lot 2 of a subdivision of the land comprised in Certificate of Title Volume 5123 Folio 58 and Book 131 Conveyance No. 982 being part of John Burton's 30 acre grant COMMENCING at a point on the Western side of Frenchs Forest Road 3 feet Southerly from the intersection of that road and the Southern side of Ellery Parade and bounded thence on the North by a line parallel to and 3 feet distant from Ellery Parade bearing West for a distance of 154 feet 6 $\frac{1}{2}$  inches thence on the West by lines bearing South for a total distance of 247 feet 6 $\frac{1}{2}$  inches thence on the South by a line bearing East for a distance of 153 feet 2 inches to Frenchs Forest Road aforesaid thence on the East by part of the Western side of that road being a line bearing North for a distance of 66 feet 10 $\frac{1}{2}$  inches thence again on the North by a line bearing West for a distance of 113 feet thence again on the West by a line bearing North for a distance of 28 feet thence again on the North by a line bearing West for a distance of 14 feet thence again on the West by a line bearing North for a distance of 55 feet thence again on the South by a line bearing East for a distance of 127 feet to the Western side of Frenchs Forest Road aforesaid thence again on the East by part of the Western side of that road being a line bearing North for a distance of 98 feet to the point of commencement be the said several dimensions all a little more or less.

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

ATHOL RICHARDSON,  
Chairman of Committees.

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 27th day of March, 1972.

W. L. J. HUTCHISON,  
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,  
Archbishop of Sydney.

27/3/1972.