

*St. James' Turramurra Declaration of Trust Land Sale and
Mortgaging Ordinance 1968*

No. 48, 1968

AN ORDINANCE to declare the trusts of certain land at Turramurra in the Municipality of Ku-ring-gai to authorise the sale of certain other land at Turramurra, the mortgaging of the first mentioned land and to provide for the application of the proceeds of such sale and mortgage.

WHEREAS Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is registered as proprietor in fee simple of the land comprised in Certificate of Title Volume 9760 Folio 250 and of the land comprised in Certificate of Title Volume 9761 Folio 21 more particularly described in the First Schedule hereto AND WHEREAS certain moneys have been advanced by Sydney Church of England Finance and Loans Board and Commonwealth Trading Bank of Australia in respect of the purchase of such land AND WHEREAS the Corporate Trustee is registered as proprietor in fee simple of the land comprised in Certificate of Title Volume 6546 Folio 233 more particularly described in the Second Schedule hereto AND WHEREAS all the said lands are Church Trust Property held for the sole benefit of the Parish of St. James' Turramurra but no trusts in writing have been declared concerning the same AND WHEREAS it is expedient that the trust of the land comprised in the First Schedule hereto be declared AND WHEREAS it is inexpedient to carry out and observe the trusts of the land described in the Second Schedule hereto and it is expedient that the said land be sold AND WHEREAS it is proposed to erect Church buildings on part of the land described in the First Schedule hereto AND WHEREAS it is necessary and expedient that the land described in the First Schedule be mortgaged for a sum not exceeding Seventy thousand dollars (\$70,000) the proceeds of such mortgage and sale to be applied in reduction of moneys advanced by Sydney Church of England Finance and Loans Board and Commonwealth Trading Bank of Australia and to provide for the erection of the said Church buildings NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of such Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:—

1. The land comprised in the First Schedule shall subject to any mortgage hereby authorised be held by the Corporate Trustee upon trust to permit the same to be used as a church parsonage or parish hall or partly for one and partly for another of such purposes

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Mortgaging Ordinance 1968

in connection with the Church of England in Australia at St. Philip's Turramurra in the Parish of St. James Turramurra or any provisional district parish or parish into which it may subsequently be formed.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Second Schedule hereto is held it is inexpedient to carry out and observe the same and it is expedient that such land be sold.

3. The Corporate Trustee is hereby empowered to sell the land described in the Second Schedule hereto by public auction or private contract together or in parcels at such time or times at such price or prices and upon such terms and conditions as the Corporate Trustee may determine freed from the trusts upon which it is now held.

4. (i) The Corporate Trustee is hereby empowered to mortgage from time to time the whole or any part of the land described in the First Schedule hereto for the purpose of borrowing the sums following:—

(a) When the power is first exercised for a sum not exceeding Fifty-five thousand dollars (\$55,000).

(b) When the power is subsequently exercised for such sum not exceeding Seventy thousand dollars (\$70,000) as the Standing Committee may by resolution determine. PROVIDED that such debt shall be reduced at the rate of not less than Four thousand dollars (\$4,000) per annum principal and interest for a period of three (3) years and thereafter at the rate of not less than Six thousand dollars (\$6,000) per annum principal and interest when the power is first exercised and thereafter at such rate as Standing Committee shall by resolution determine.

PROVIDED further that no person or corporation advancing moneys under the provisions of this Ordinance shall be concerned to enquire whether such reductions shall have been made.

(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

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Mortgaging Ordinance 1968*

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.

5. The proceeds of any mortgage hereby authorised shall after paying the costs of and incidental to this Ordinance and such mortgage and sale or sales and transfer or transfers pursuant thereto be applied as follows:—

(i) When the power is first exercised:—

- (a) First in repayment of moneys owing to Sydney Church of England Finance and Loans Board in respect of the purchase of part of the land described in the First Schedule.
- (b) Secondly in repayment of moneys owing to Commonwealth Trading Bank of Australia in respect of the purchase of part of the land described in the First Schedule.
- (c) Thirdly towards the costs of providing for the erection of church buildings on part of the land described in the First Schedule.

(ii) When the power is subsequently exercised (other than by a renewal of the original mortgage) in payment of the principal interest and costs of discharge of any existing mortgage.

(iii) Any mortgagee advancing moneys pursuant to the provisions of sub-clause (i) of this clause is hereby authorised to pay the same direct to the Churchwardens for the time being of the said Church of St. James Turramurra.

6. The Churchwardens of St. James' Church Turramurra shall within seven days of the holding of the Annual Vestry Meeting of such Church during such time as any money is owing to any mortgagee pursuant to the provisions of this Ordinance cause an account to be forwarded to the Diocesan Secretary giving particulars of the amount originally borrowed the amounts paid off and the balance owing.

7. This Ordinance may be cited as "St. James' Turramurra Declaration of Trust Land Sale and Mortgaging Ordinance 1968".

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FIRST SCHEDULE

All that piece or parcel of land situated at Turramurra in the Municipality of Ku-ring-gai Parish of Gordon County of Cumberland having a frontage of 318 feet 4¼ inches to Parkinson Avenue by rear measurement of 292 feet 9 inches being Lot 43 D.P. 221650 comprising the whole of the land in Certificate of Title Volume 9761 Folio 21.

Also all that piece or parcel of land situated as aforesaid having a frontage of 103 feet 6½ inches to Parkinson Avenue by depth of 155 feet 10 inches being Lot 22 D.P. 221650 comprising the whole of the land in Certificate of Title 9760 Folio 250.

SECOND SCHEDULE

All that piece or parcel of land situated as aforesaid having a frontage of 112 feet to Kissing Point Road by depth of 234 feet 1 inch all measurements being a little more or less being Lots 1 and 2 Section 1, D.P. 859 comprising the whole of the land in Certificate of Title Volume 6546 Folio 233.

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 16th day of December, 1968.

W. L. J. HUTCHISON,
Secretary.

I assent to this Ordinance.

MARCUS LOANE,
Archbishop of Sydney.

16/12/1968.