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*St. Matthew's Manly Sale and Mortgaging Ordinance 1969*

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No. 30, 1969

AN ORDINANCE to authorise the sale of certain land in Pine Street Manly and to authorise the mortgaging of certain other land in Darley Road Manly and to provide for the application of the respective proceeds of such sale and mortgage.

WHEREAS by Declaration of Trust made the third day of October 1956 by ALAN EDWARD SMIRNOFF BEGIE FRANK REGINALD SKYRING ALLAN EDWARD JOHN PONT and HARRY WILLIAM BROWN (therein and hereinafter called "the Trustees") after reciting that Sarah Ann Melbourne late of 16 Pine Street Manly aforesaid who died on the twelfth day of March 1949 by her Will dated the twenty-second day of June 1944 (Probate whereof was granted to Permanent Trustee Company of New South Wales Limited by the Supreme Court of New South Wales on the eleventh day of January 1951) after appointing the said Permanent Trustee Company of New South Wales Limited to be the Executor and Trustee thereof and directing payment of all her just debts and funeral and testamentary expenses gave and bequeathed her cottage at 16 Pine Street Manly and the contents thereof to the Rector and Churchwardens of Saint Matthew's Church of England Manly aforesaid to be used or disposed of as they thought best particularly remembering in the sale thereof that she desired Saint Philip's Church of England Pacific Parade Manly to benefit at their discretion AND THAT the Trustees were then respectively the Rector and Churchwardens of St. Matthew's Church of England Manly aforesaid AND THAT the said cottage 16 Pine Street Manly comprises the whole of the land in Certificate of Title Volume 2487 Folio 84 being the land more particularly described in the First Schedule hereto AND THAT the said Permanent Trustee Company of New South Wales Limited being about to execute a Memorandum of Transfer of the land comprised in the said Certificate of Title to the Trustees as joint tenants in pursuance of the said recited devise in the Will of the said Sarah Ann Melbourne the Trustees did declare that they would hold the land comprised in the said Certificate of Title when transferred to them UPON TRUST for the purposes declared in the said recited Will of the said Sarah Ann Melbourne in respect of the said land AND WHEREAS in pursuance of the provisions of Section 19 of the Church of England Trust Property Act, 1917, as amended, the said land became and still is vested in the Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") the Trustees having given their consent thereto

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in writing on the 24th day of March, 1961 as in the said section provided AND WHEREAS the said land is no longer required for any parochial purpose AND WHEREAS by reason of circumstances which have arisen subsequent to the creation of the trusts upon which the said land is held it is inexpedient to carry out and observe the same and it is expedient that the said land be now sold and the net proceeds applied as hereinafter set forth AND WHEREAS the land described in the Second Schedule is church trust property held for the sole benefit of the said Parish and is vested in the Corporate Trustee AND WHEREAS there are now erected on the said land the rectory and parish halls AND WHEREAS there is an existing loan owing in respect of such buildings and it is proposed to mortgage the said land for the purpose of borrowing the sum of Fifty-seven thousand dollars (\$57,000) to be applied in repayment of the existing loan and the balance to purchase a residence known as No. 30 Addison Road Manly to be used as a rectory (the existing rectory hereinbefore referred to to be henceforth used as a curate's residence and for other parochial purposes) NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES ORDAINS AND DIRECTS as follows:—

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

2. The Corporate Trustee is hereby authorised and empowered to sell the said land by public auction or private contract at such time at such price and upon such terms and conditions as it shall think fit freed from the trusts upon which it is now held.

3. The proceeds arising from the sale shall after paying thereout the costs of and incidental to the sale and transfer pursuant thereto and all outgoings to which the sale is subject and the repayment of the bank overdraft account to which the said land is now subject be paid to the Churchwardens for the time being of St. Matthew's Church Manly and applied by them in reduction of the mortgage to the Bank of New South Wales Savings Bank Limited proposed to be given over the land comprised in the Second Schedule hereto.

4. 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 expedient that such land be mortgaged.

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5. (i) The Corporate Trustee is hereby empowered to mortgage or charge the whole or any part of the said land for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding Fifty-seven thousand dollars (\$57,000),

(b) When the power is subsequently exercised such sum not exceeding Fifty-seven thousand dollars (\$57,000) as Standing Committee may by resolution determine:

PROVIDED that the debt shall be reduced when the power is first exercised at the rate of not less than Four thousand dollars (\$4,000) per annum principal and interest and when the power is subsequently exercised at such rate as Standing Committee may by resolution determine:

PROVIDED that the net proceeds from the sale of the land comprised in the First Schedule hereto shall be applied in reduction of the principal sum 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 the mortgage shall be deemed to be a subsequent exercise of the said power.

(iii) A document purporting to be certified by the Archbishop or the 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.

6. 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 and expenses of and incidental to this Ordinance and of any mortgage or charge executed in pursuance thereof the repayment of any money now owing on the security of the said lands and the balance shall be applied in and towards the costs of and incidental to the purchase of the residence No. 30 Addison Road Manly aforesaid and certain alterations and renovations thereto.

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- (ii) When the power is subsequently exercised in payment of the principal interest and costs of and incidental to the discharge of any then existing mortgage or charge or of any renewal thereof the costs of such further mortgage or charge or such other purposes not inconsistent with the trusts of the said land as Standing Committee may by resolution determine.
- (iii) Any mortgagee advancing moneys pursuant to sub-clause (i) of this clause is hereby authorised and directed to pay the same to the Churchwardens for the time being of St. Matthew's Church Manly or as they may direct for the purposes aforesaid.

7. The Churchwardens of St. Matthew's Church Manly 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 this Ordinance cause an account thereof to be forwarded to the Diocesan Secretary giving details of the amount borrowed the amounts paid off and the balance owing.

8. This Ordinance may be cited as "St. Matthew's Manly Sale and Mortgaging Ordinance 1969".

### FIRST SCHEDULE

ALL THAT piece of land situated in the Municipality of Manly Parish of Manly Cove and County of Cumberland containing 7½ perches being part of Lot 15 and 16 of Section 6 in Deposited Plan No. 2427 having a frontage of 35' 3" to Pine Street with a depth along Smith Street of 57' 4" and a depth of 69' 9" on the other side with a rear dimension of 33' (all dimensions being more or less) and being the whole of the land comprised in Certificate of Title Volume 2487 Folio 84.

### SECOND SCHEDULE

ALL THAT piece or parcel of land containing about 1 rood 32½ perches situated in the Parish of Manly Cove County of Cumberland and State of New South Wales being Lot Z as shown in Miscellaneous Plan of Subdivision (Old System) Registered Number 12102 commencing at a point on the North-eastern side of Darley Road distant 125' South-easterly from the intersection of the North-eastern side of that road with the South-eastern side of The Corso and

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bounded on part of the North-west by a line bearing 45 degrees for 45 feet thence on the West by a line bearing 356 degrees 38 minutes for 12' 0 $\frac{1}{2}$ " thence again on the North-west by a line bearing 45 degrees for 30' thence on the South-west by a line bearing 315 degrees for 46' thence again on the North-west by a line bearing 45 degrees for 117' thence on the North-east by a line bearing 135 degrees for 120' thence on the South-east by a line bearing 225 degrees for 200' thence on the South-west by part of the North-east side of Darley Road aforesaid being a line bearing 315 degrees for 65' to the point of commencement.

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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 15th day of September, 1969.

W. L. J. HUTCHISON,  
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,  
Archbishop of Sydney.

15/9/1969 .