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*St. Matthew's Botany (St. John's Banksmeadow) Variation  
of Trusts and Mortgaging Ordinance 1972*

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No. 46, 1972

AN ORDINANCE to vary the trusts and to authorise the mortgaging or charging of certain land situate at Banksmeadow 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 6950 Folio 162 and more particularly described in the Schedule hereto AND WHEREAS the said land is church trust property held upon trust to permit the same to be used for a church and school in connection with the Church of England in the Parish of Botany AND WHEREAS there is erected upon the said land the Church and hall known as St. John's Banksmeadow AND WHEREAS it is expedient that the trusts upon which the land described in the Schedule hereto is now held be varied to permit the use of the same 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 Australia at Banksmeadow in the Parish of St. Matthew Botany AND WHEREAS it is expedient that the land described in the Schedule hereto be mortgaged or charged to secure the sum of Fifty thousand dollars (\$50,000) to be applied in manner as hereinafter set out NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES RULES 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 Schedule hereto is held it is inexpedient to carry out and observe the same to the extent to which they are hereby varied and the said land shall henceforth 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 in Australia at Banksmeadow in the Parish of St. Matthew Botany.

2. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the land described in the Schedule hereto is held it is expedient that such land be mortgaged or charged.

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3. (1) The Corporate Trustee is hereby empowered from time to time to mortgage the land described in the Schedule hereto for the purpose of borrowing the sums following:—

- (a) When the power is first exercised a sum not exceeding Fifty thousand dollars (\$50,000).
- (b) When the power is subsequently exercised such sum not exceeding Fifty thousand dollars (\$50,000) as Standing Committee shall by resolution determine.

PROVIDED that such debt shall be reduced at the rate of not less than Four thousand six hundred and thirty dollars (\$4,630) per annum inclusive of 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.

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

(3) 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.

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

- (a) When the power is first exercised in payment of the costs of and incidental to this Ordinance the costs fees and other outgoings of and incidental to the said mortgage or charge executed in pursuance thereof and the balance towards the erection of a parsonage on the land described in the Schedule hereto and the residue towards all or any of the following purposes:
  - (i) Capital improvements on other land held upon trust for the said Parish.
  - (ii) Repayment of principal and interest on the said mortgage.
- (b) 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 and the costs and expenses of such further mortgage or for such other purpose or purposes within the trusts of the said land as Standing Committee shall by resolution determine.

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(c) Any mortgagee advancing moneys pursuant to paragraph (a) of this clause is hereby authorised to pay the same to the Churchwardens for the time being of St. Matthew's Church Botany.

5. The Churchwardens for the time being of St. Matthew's Church Botany shall within seven (7) days of the date of holding the annual vestry meeting during such time as any money is owing to any mortgagee or chargee pursuant to the preceding provisions of 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.

6. This Ordinance may be cited as "St. Matthew's Botany (St. John's Banksmeadow) Variation of Trusts and Mortgaging Ordinance 1972".

#### SCHEDULE

ALL THAT piece or parcel of land having a frontage of 118' or thereabouts to Trevelyan Street with depths of 300' 1 1/2" / 311' or thereabouts and a rear dimension of 118' or thereabouts to Brighton Street situated at Banksmeadow in the County of Cumberland being the whole of the land comprised in Certificate of Title Volume 6950 Folio 162.

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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 20th day of November, 1972.

W. L. J. HUTCHISON,  
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,  
Archbishop of Sydney.

20/11/1972.