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*St. Barnabas' Sydney Mortgaging Ordinance 1944.*

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**No. 2, 1944.**

AN ORDINANCE to authorise the mortgaging of certain land situated in St. Barnabas Lane Sydney in the County of Cumberland such lands being more particularly described in the Schedule hereto and to provide for the application of the proceeds thereof.

WHEREAS by Indenture of Conveyance bearing date the Thirtieth day of August One thousand eight hundred and sixty-five Registered Number 13 Book 95 made between the said Joseph Dickson of the one part and the Reverend Thomas Smith of the other part for the considerations therein mentioned the said Joseph Dickson did appoint and did also grant bargain sell alien release and confirm unto the said Thomas Smith and his heirs all that piece or parcel of land therein described of which the land described in the Schedule forms part to have and to hold the said lands messuages and hereditaments unto the said Thomas Smith and his heirs to such uses upon such trusts and to and for such ends intents and purposes as the said Thomas Smith should by any deed or deeds or by his last Will and Testament appoint and in default of appointment to the use of the said Thomas Smith his heirs and assigns for ever AND WHEREAS by Indenture of Conveyance bearing date the Twenty-fourth day of December One thousand eight hundred and sixty-eight Registered Number 682 Book 111 made between the said Thomas Smith of the one part and Patrick Lindesay Crawford Shepherd John Barnett and William Nixon of the other part for the consideration therein mentioned the said Thomas Smith did appoint and did also grant bargain and sell alien release and confirm unto the said Patrick Lindesay Crawford Shepherd John Barnett and William Nixon and their heirs all that piece or parcel of land therein described and which included part of the land described in the lastly recited Indenture to have and to hold the said lands messuages and hereditaments unto the said Patrick Lindesay Crawford Shepherd John Barnett and William Nixon their heirs to the use of the said Patrick Lindesay Crawford Shepherd John Barnett and William Nixon their heirs and assigns for ever. AND WHEREAS by Declaration of Trust dated the Twenty-fourth day of December One thousand eight hundred and sixty-eight Registered Number 684 Book 111 the said Patrick Lindesay

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Crawford Shepherd John Barnett and William Nixon declared that the land hereinbefore conveyed by the said Thomas Smith was held by them in trust for the School connected with St. Barnabas' Church Sydney aforesaid AND WHEREAS the said Patrick Lindesay Crawford Shepherd John Barnett and William Nixon subsequently departed this life AND WHEREAS by deed of Consent dated the Fourteenth day of May One thousand nine hundred and twelve Registered Number 172 Book 967 The Bishop of the Diocese of Sydney consented that the said land lastly hereinbefore mentioned should thenceforth become and be vested in the Church of England Property Trust Diocese of Sydney their successors and assigns AND WHEREAS by Indenture of Conveyance bearing date the Thirty-first day of August One thousand eight hundred and seventy-one Registered Number 787 Book 126 made between the said Thomas Smith of the one part and Patrick Lindesay Crawford Shepherd John Barnett and James Pemell the younger of the other part for the considerations therein mentioned the said Thomas Smith did appoint and did also grant bargain sell alien release and confirm unto the said Patrick Lindesay Crawford Shepherd John Barnett and James Pemell the younger and their heirs all that piece or parcel of land therein described of which the land described in the Schedule also forms part to hold the said land hereditaments and premises unto the said Patrick Lindesay Crawford Shepherd John Barnett and James Pemell the younger and their heirs to the use of the said Patrick Lindesay Crawford Shepherd John Barnett and James Pemell the younger their heirs and assigns for ever AND WHEREAS, by Declaration of Trust dated the Twentieth day of September One thousand eight hundred and seventy-one Registered Number 789 Book 126 the said Patrick Lindesay Crawford Shepherd John Barnett and James Pemell the younger declared that the land hereinbefore lastly described was held by them in trust for the School connected with Saint Barnabas' Church Sydney aforesaid AND WHEREAS the said Patrick Lindesay Crawford Shepherd and John Barnett subsequently departed this life AND WHEREAS by deed of consent dated the Twenty-sixth day of June One thousand nine hundred and twelve Registered Number 68 Book 969 the said James Pemell the younger now known as James Pemell thereby consented that the said land lastly hereinbefore described should thenceforth become and be vested in the Church of England Property Trust Diocese of Sydney their successors and assigns AND WHEREAS the land described in the Schedule forms part of the said land vested in the Church of England Property Trust Diocese

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of Sydney by virtue of the hereinbefore recited deeds of consent dated the Fourteenth day of May One thousand nine hundred and twelve Registered Number 172 Book 967 and the Twenty-sixth day of June One thousand nine hundred and twelve Registered Number 68 Book 969 AND WHEREAS by Indenture of Lease dated 4/6/1913 Registered Number 45 Book 1003 made between the Church of England Property Trust Diocese of Sydney of the one part and Joseph Neal Grace Albert Edward Grace and Juliet Grace of the other part the land described in the said Schedule was leased to the said lessees for the term of thirty-eight years three months from 1/6/13 (less the last seven days thereof) at the rental and upon the terms conditions and stipulations therein expressed AND WHEREAS it has become necessary to effect certain repairs and renovations to the Rectory used in connection with the Church of St. Barnabas Sydney and for such purpose it is necessary and expedient to borrow upon the security of a mortgage or mortgages of the land described in the Schedule. Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the Sydney Synod ordains and declares as follows:—

1. By reason of circumstances subsequent to the creation of the said recited Trusts it is expedient to mortgage the land comprised in the Schedule hereto.

(i) The Corporate Trustees are hereby empowered to mortgage from time to time the whole or any part of the land comprised in the Schedule hereto for the purpose of borrowing the sums following:—

(a) When the power is first exercised a sum not exceeding (£800).

(b) When the power is subsequently exercised such sum as the Standing Committee shall by Resolution determine Provided that such debt shall be reduced at the rate of not less than (One hundred pounds) per annum after the power is subsequently exercised.

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

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(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 Mortgagee be conclusive evidence that such Resolution was duly passed.

2. The proceeds of any Mortgage hereby authorised shall be applied by the Corporate Trustees as follows:—

(a) In payment of the costs charges and expenses of and incidental to this Ordinance and such Mortgage or any Mortgages executed in pursuance of this Ordinance.

(b) Subject thereto the balance shall be paid to the Rector and Churchwardens for the time being of the said parish (whose receipt shall be a sufficient discharge therefor) and who shall apply such moneys received in or towards payment or satisfaction of the cost of and incidental to the renovation and repairs of the Rectory used in connection with the said Parish.

3. The Rector and Churchwardens for the time being of St. Barnabas' Sydney 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.

4. This Ordinance shall be styled and cited as the "St. Barnabas Sydney Mortgaging Ordinance 1944."

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SCHEDULE REFERRED TO.

All that piece or parcel of land situate at Saint Barnabas Lane City of Sydney Parish of Petersham County of Cumberland State of New South Wales containing by admeasurement twenty and a quarter perches commencing at a point on the Southern side of St. Barnabas Lane distant eighty-four feet two inches Westerly from Mountain Street (late Athlone Place) and bounded on the North by St. Barnabas Lane bearing Westerly sixty-four

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feet on the West by a line bearing Southerly eighty-six feet to land in application No. 9213 thence on the South by the Northern boundary of said application and a line in prolongation thereof bearing Easterly sixty-five feet on the East by a line bearing Northerly eighty-eight feet to the point of commencement be the said several dimensions a little more or less.

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

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

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this 29th day of May, 1944.

H. V. ARCHINAL,  
Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY.

May 30, 1944.