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AN ORDINANCE to authorise the mortgage of certain Church lands situate at Mosman in the Parish of Willoughby County of Cumberland and Diocese of Sydney in the State of New South Wales and to provide for the application of the moneys to arise from such mortgage or mortgages.

*Preamble.*

WHEREAS by Indenture of Conveyance made the 12th day of May One thousand eight hundred and ninety-one between James Paine of the one part and William Edward Wilson and Thomas Nock of the other part Registered No. 658 Book 469 the lands described in the first Schedule hereto were *inter alia* granted and released unto the said William Edward Wilson and Thomas Nock AND WHEREAS by a document or declaration of trust bearing date seventh February One thousand eight hundred and ninety-two under the hands of the said William Edward Wilson and Thomas Nock the said William Edward Wilson and Thomas Nock did agree that subject to the payment or satisfactory guarantee for the payment by the Reverend Ernest Claude Beck and the Churchwardens of St. Clement's Mosman of £965 before 1st September One thousand eight hundred and ninety-three with interest in the meantime being the amount secured on a mortgage debt by them the said William Edward Wilson and Thomas Nock to the said James Paine and the payment of certain other sums mentioned in the said document or declaration of trust they the said William Edward Wilson and Thomas Nock would transfer the said land to the Reverend Ernest Claude Beck or whoever he might appoint but subject to the approval of a majority of the Churchwardens of St. Clement's Mosman at the time of such appointment for the purpose of a Church School or Parsonage or for such other purposes as the said Ernest Claude Beck might appoint AND WHEREAS by an appointment and declaration of trust made the twenty-third June One thousand nine hundred and two after reciting the last mentioned document or declaration of trust and that such sum of £965 was not paid nor was a guarantee for the payment of the same

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*St. Clements' Mosman Mortgage, 1924.*

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furnished as required by the said Declaration of Trust before the first day of September One thousand eight hundred and ninety-three and since that date portion of the land described in the said Declaration of Trust was sold and the proceeds of such sale applied to the partial payment of the said mortgage debt of £965 and the balance of the said mortgage debt and the other sums mentioned in the said Declaration of Trust had then all been paid and satisfied; and reciting that the land described in the Schedule thereto (which is the land described in the first Schedule hereto) was the residue of the land described in the said recited Declaration of Trust after the sale of portion thereof as before mentioned And that Archibald George Yeatman Shaw James Thompson Wilshire and John Fox were the then Churchwardens of St. Clement's Mosman the said Ernest Claude Beck did thereby appoint and the said Archibald George Yeatman Shaw James Thompson Wilshire and John Fox did thereby approve that the said William Edward Wilson and Thomas Nock should convey the land described in the Schedule thereto to the said William Edward Wilson John Barre Johnston, Robert Little and the said James Thompson Wilshire to be held upon the trusts thereafter set forth And the said William Edward Wilson John Barre Johnston Robert Little and James Thompson Wilshire (thereinafter called Trustees) did thereby elect to hold the said land upon the said trusts that is to say:—

1. To raise a loan or loans not exceeding in the aggregate at any one time the sum of £5000 at a rate or rates of interest of £5 per centum per annum more or less by a mortgage or mortgages containing a power of sale and other usual powers and in like manner at any time to raise a loan or loans to pay off any then existing mortgage.

2. The receipt of the Trustees to be a complete discharge to the Mortgagee who should not be required or concerned to see to the application or be answerable for the loss of misapplication of money advanced.

3. The money to be paid into the Commercial Bank of Australia Limited to the credit of the Trustees.

4. The money to be applied in discharging the expenses of and in connection with the preparation and completion of the

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*St. Clements' Mosman Mortgaging, 1924.*

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now reciting presents and of the said mortgage or mortgages and the balance in building a Church on the said land according to plans then in course of preparation but subject to any alteration thereafter made or in extending repairing or rebuilding the said Church or in erecting any Church School or other building on the said land.

5. Subject to such mortgage or mortgages the land to be held by the Trustees for the new Church of St. Clement's.

AND WHEREAS by Indenture of Conveyance of third July One thousand nine hundred and two made between the said William Edward Wilson and Thomas Nock of the first part and the said William Edward Wilson John Barre Johnston Robert Little James Thompson Wilshire of the second part and The Honourable Albert John Gould of the third part Registered No. 795 Book 715 the said land was granted and released to the said Albert John Gould and his heirs to the use of the said William Edward Wilson John Barre Johnston Robert Little and James Thompson Wilshire as joint tenants AND WHEREAS the said land is now vested in the said William Edward Wilson John Barre Johnston Archibald George Yeatman Shaw and Alfred Herbert Hale subject to a mortgage dated fifteenth January One thousand nine hundred and three to the National Mutual Life Association of Australasia Limited for £1300 and a Further Charge thereon dated ninth September One thousand nine hundred and three for £1250 upon the trusts hereinbefore declared AND WHEREAS doubts have been raised as to the power of the Trustees to raise a mortgage on the said land without the authority of an Ordinance of Synod AND WHEREAS the Church of St. Clement Mosman has been erected on the said land AND WHEREAS by Indenture of Conveyance made the sixteenth December One thousand nine hundred and ten between William Edward Wilson John Barre Johnston and Robert Little of the first part the said William Edward Wilson John Barre Johnston Archibald George Yeatman Shaw and Alfred Herbert Hale of the second part and Sir Albert John Gould of the third part Registered No. 455 Book 923 the lands described in the Second Schedule hereto were *inter alia* granted and released to the said Albert John Gould and his heirs to the use of the said William Edward Wilson John Barre Johnston Archibald George

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*St. Clements' Mosman Mortgaging, 1924.*

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Yeatman Shaw and Alfred Herbert Hale as joint tenants subject to an Indenture of Mortgage dated sixteenth January One thousand nine hundred and three to the National Mutual Life Association of Australasia Limited for the sum of £700 AND WHEREAS there has been erected on the said land described in the Second Schedule hereto the Rectory which is occupied by the Rector of St. Clement's Mosman AND WHEREAS the moneys payable under the before mentioned mortgages and Further Charge became due on first January One thousand nine hundred and twenty-four and it is expedient to raise moneys from which the same can be discharged AND WHEREAS it appears expedient by reason of circumstances subsequent to the creation of the hereinbefore recited trusts that the said properties should be mortgaged AND WHEREAS all necessary notices and consents required by the "Church of England Trust Property Act 1917" have been duly given AND WHEREAS by an Act of Parliament passed in the eighth year of the reign of His Majesty King George V. entitled the Church of England Trust Property Act 1917 (No. 21) it was enacted that during the recess of the Synod a committee, council or other body of persons appointed for that purpose by Ordinance of Synod might in place of such Synod exercise such of the powers and functions referred to in such Act as should be determined by Ordinance of the Synod AND WHEREAS by Ordinances of the Synod passed in the year one thousand nine hundred and eighteen and in the year one thousand nine hundred and twenty one the Standing Committee was appointed for the purpose of exercising and accordingly might during the recess of the Synod of the Diocese exercise in the place of such Synod all or any of the powers and functions and do and make all or any of the things referred to in Sections 26 to 31 (inclusive) constituting Part VI. of the said Act and Section 32 constituting Part VII. of the said Act AND WHEREAS the Synod of the Diocese is now in recess. NOW the Standing Committee of the Synod of the Diocese of Sydney in pursuance of the powers in that behalf conferred upon it as aforesaid and of the powers vested in Synod by the Constitutions for the management and good Government of the Church of England within the State of New South Wales and by the Church of England Trust Property Act 1917 or otherwise in the name and in place of such Synod ordains declares rules and directs as follows:—

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*St. Clements' Mosman Mortgaging, 1924.*

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1. That by reason of circumstances subsequent to the creation of the trusts in respect of the lands described in the First Schedule hereto and subsequent to the erection of the Rectory on the land described in the Second Schedule hereto it appears to the said Synod to be expedient that the said lands shall be mortgaged.

2. That the said lands described in the First Schedule hereto shall and may be mortgaged in one lot or several parcels to raise a loan or loans not exceeding in the aggregate at any one time the sum of five thousand pounds at a rate or rates of interest of five pounds per centum per annum more or less and such mortgage or mortgages may contain a power of sale and other usual powers and in like manner at any time and from time to time to raise a loan or loans to pay off any then existing mortgage Provided that after the expiration of ten years from the passing of this Ordinance no Mortgage given under the authority of this Section shall be valid for a larger sum than One thousand two hundred and fifty pounds and thereafter the principal sum shall be reduced at the rate of not less than One hundred pounds per annum.

3. That the proceeds arising from any such mortgage shall be paid to the Trustees in whom the property may be vested or any two of them and shall be applied after payment thereof of all proper expenses of and incidental to this Ordinance and to such mortgage towards satisfaction of any mortgage then existing on the said land or any part thereof or in extending repairing or rebuilding the Church on the said land or in erecting a Church School or Parsonage on the said land or any part thereof.

4. That the said lands described in the Second Schedule hereto shall and may be mortgaged to raise a loan not exceeding seven hundred pounds and any such mortgage may contain a power of sale and other usual powers and in like manner at any time and from time to time to raise a loan or loans to pay off any then existing mortgage Provided that after the expiration of ten years from the passing of this Ordinance no Mortgage given under the authority of this Section shall be valid for a larger sum than Three hundred and fifty pounds and thereafter the principal sum shall be reduced at the rate of not less than Fifty pounds per annum.

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*St. Clements' Mosman Mortgaging, 1924.*

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5. That the proceeds arising from any such mortgage mentioned in the preceding clause shall be paid to the Trustees in whom the property is vested or any two of them and shall be applied after payment thereof of all proper expenses of and incidental to such mortgage towards the satisfaction of any mortgage then existing on the said land.

6. That the Trustees or persons in whom the said lands are vested or any two or more of them are authorised and directed to make sign and execute all necessary mortgages and instruments and do all acts matters and things for giving full and complete effect to all or any of the things herein directed to be done.

7. This Ordinance shall be styled and cited as the "St. Clements' Mosman Mortgage Ordinance 1924."

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FIRST SCHEDULE.

All that piece or parcel of land situate in Canrobert and Raglan Streets Mosman Parish of Willoughby County of Cumberland State of New South Wales containing by admeasurement 2 roods 17 perches and being part of allotment No. 9 block No. 1 of a subdivision facing Raglan Street, and part of the southernmost of two thirty acres portions originally granted to A. Mossman Commencing at the intersection of the North-western side of Raglan Street with the North-east side of Canrobert Street and bounded thence on the South-east by Raglan Street bearing North-easterly 165 feet, thence on the North-east by the South-western boundary of allotment No. 8a bearing North-westerly 216 feet 2 inches thence on the North-west by a fenced line bearing South-westerly 5 feet 1 inch thence on the South-west by a fenced line bearing South-easterly 60 feet 6 inches then again on the North-west by a line bearing South-westerly 160 feet 3 inches to Canrobert Street thence again on the South-west by Canrobert Street bearing South-easterly 100 feet 5 inches to the point of commencement.

SECOND SCHEDULE.

All that piece or parcel of land situated in the Parish of Willoughby County of Cumberland and State of New South Wales

*St. Clements' Mosman Mortgaging, 1924.*

and being part of A. Mossman's Southernmost grant of 30 acres Commencing on the North-western building line of Raglan Street at a point bearing 44 degrees 45 minutes and distant 177 feet from the intersection of that building line with North-eastern building line of Canrobert Street and bounded thence on the South-east by that first mentioned building line bearing 44 degrees 45 minutes for 120 feet to the Southern corner of lot 30 of a subdivision by Messrs Harnett and Stuart known as "The Mosman Bay Township Second Subdivision" thence on the North east by part of the South-western boundary of that lot bearing 315 degrees 30 minutes for 116 feet 3 inches thence on the North-west by a line passing along the North-western side of a retaining wall bearing 226 degrees 37 minutes for 103 feet 11 inches thence on towards the West by lines passing along a fence bearing respectively 194 degrees 30 minutes for 6 feet 7 inches 184 degrees for 6 feet 172 degrees 30 minutes for 6 feet and 160 degrees for 6 feet thence on the South-west by a line passing along a fence bearing 135 degrees 30 minutes for 102 feet 2 inches to the point of commencement containing by admeasurement 1 rood six and one half perches be the abovementioned several dimensions all a little more or less.

I hereby certify that this Ordinance was passed in Committee.

A. J. GOULD,

*Chairman of Committee.*

7th April, 1924.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this Seventh day of April, 1924.

C. R. WALSH,

*Secretary.*

I assent to this Ordinance.

GERARD D'ARCY-IRVINE,

*V.G., Commissary.*

16th April, 1924.