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*St. John's Peshurst Mortgaging and Sale Ordinance 1950.*

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No. 15, 1950

AN ORDINANCE to authorise the mortgaging and/or sale of certain land situated at the corner of Victoria Avenue and Ocean Street Peshurst and to provide for the application of the proceeds thereof.

WHEREAS by Certificates of Title dated respectively the twenty-fifth day of June 1885 and the twenty-first day of October 1890 Registered Volume 746 Folio 173 and Volume 986 Folio 121 Charles Simpson John Upton William Arps and Keith Alroy Ball are the registered proprietors in fee simple as joint tenants of the land therein and in the first schedule hereto described upon which are erected buildings formerly used as a rectory in connection with the Church of England in the Parish of Mortdale Peshurst cum Oatley and Peakhurst. AND WHEREAS by Declaration of Trust dated the twenty-fifth day of March 1930 the said Charles Simpson John Upton William Arps and Keith Alroy Ball did declare they should hold the property therein referred to (being the said land and the buildings thereon) upon trust that the same should be used for the purposes of a Rectory in connection with the Church of England in the Parish of Mortdale Peshurst cum Oatley and Peakhurst but with powers and rights in respect of the same property thereafter contained. AND WHEREAS the said Charles Simpson died on the Tenth day of March 1940. AND WHEREAS a provisional district known as Mortdale and Oatley was created out of the said Parish of Mortdale Peshurst cum Oatley and Peakhurst on the first day of April 1946. AND WHEREAS the said land is situated within the residue of the said parish of Mortdale Peshurst cum Oatley and Peakhurst which said Parish is now known as the Parish of Peshurst with Peakhurst with Hurstville Grove and Beverley Hills. AND WHEREAS the said land is now held by the said John Upton William Arps and Keith Alroy Ball (hereinafter designated "the Trustees") upon trust for the Church of England in the Parish of Peshurst with Peakhurst with Hurstville Grove and Beverley Hills. AND WHEREAS the said land has been subdivided into two pieces or parcels of land more particularly described in the second schedule hereto and therein called "A" and "B" for the purposes of identification. AND WHEREAS by reason of circumstances subject to the creation of the said trusts it has become inexpedient to carry out and observe such trusts. AND WHEREAS it is expedient to erect on Lot "B" a new Rectory

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for the Parish of Penshurst with Peakhurst with Hurstville Grove and Beverley Hills and to mortgage the whole or part of the said land or to sell Lot "A" for that purpose.

Now the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod ordains and declares as follows:—

1. By reason of circumstances subsequent to the creation of the said trusts it is expedient to mortgage the whole or part of the said land comprised in the second schedule hereto—

(1) The Trustees are hereby empowered to mortgage from time to time the whole or any part of the said land comprised in the second Schedule hereto for the purpose of borrowing;

(a) When the power is first exercised a sum not exceeding Three thousand pounds;

(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 fifty pounds per annum as from the date of the first borrowing.

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

(3) 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 Mortgage be conclusive evidence that such Resolution was duly passed.

2. The proceeds of any Mortgage hereby authorised shall be applied by the 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 Parish of Penshurst with Peakhurst with Hurstville Grove and Beverley Hills (whose receipt shall be a sufficient dis-

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charge therefor) and who shall apply such moneys received in or towards payment or satisfaction of the cost of and incidental to the erection on the said Lot "B" of a new Rectory and of laying out the grounds used in connection therewith.

3. The Rector and Churchwardens for the time being of the said Parish 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 amounts paid off and the balance owing.

4. By reason of circumstances subsequent to the creation of the said trusts it is expedient to sell the land described in the second schedule hereto as Lot "A."

5. The Trustees may sell the said Lot "A" by public auction or private contract at such price and upon such terms and conditions as the Trustees may deem expedient free from such trusts as aforesaid.

6. The Trustees are hereby authorised and empowered to execute the deed or mortgage or other instrument or instruments and do all acts measures and things necessary for the purpose of carrying into effect any sale or mortgage or other dealing matter or thing authorised by this ordinance.

7. The proceeds of any such sale shall stand charged with the payment of all outgoing properly chargeable against the said land and all costs charges or expenses of and incidental to this Ordinance so far as the same have not been paid or satisfied and of the said sale and subject thereto the balance shall be paid to the Rector and Churchwardens for the time being of the Parish of Penshurst with Peakhurst with Hurstville Grove and Beverley Hills whose receipt shall be a sufficient discharge therefor and who shall apply such moneys received firstly in discharging wholly or in part any money borrowed upon the security of the said Lots "A" and "B" or either of them and secondly in or towards the cost of erecting and laying out the grounds of a new Rectory for the Parish of Penshurst with Peakhurst with Hurstville Grove and Beverley Hills.

8. This Ordinance shall be styled and cited as the "St. John's Penshurst Mortgaging and Sale Ordinance 1950."

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THE FIRST SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situate in the Municipality of Hurstville Parish of St. George and County of Cumberland being Lots 6 and 7 and part of Lot 5 Section 1 Deposited Plan 1399 having a frontage to Victoria Avenue of about 119 feet by a depth along one side of about 141 feet 5 inches and along the other side of about 142 feet 8 inches and with a rear measurement of about 124 feet and being the whole of the land comprised in Certificates of Title Registered Volume 746 Folio 173 and Volume 986 Folio 121.

THE SECOND SCHEDULE HEREINBEFORE REFERRED TO.

All that piece or parcel of land situated in the Municipality Parish and County aforesaid having a frontage of about 104 feet to Victoria Avenue with a splay corner to the said Victoria Avenue and Ocean Street of 21 feet 7 inches with a depth along Ocean Street of 55 feet 8½ inches and depth along the other side of 72 feet 8 inches and a rear line of 121 feet 6¼ inches being Lot "A" of a resubdivision of Lots 6 and 7 and part of Lot 5 Section 1 Deposited Plan Number 1399 and being part of the land comprised in Certificate of Title Volume 986 Folio 121 and Volume 746 Folio 173. And also that piece or parcel of land situate in the Municipality Parish and County aforesaid having a frontage of about 70 feet to Ocean Street with a depth of 124 feet on one side and 121 feet 6¼ inches on the other side being Lot "B" of a resubdivision of Lots 6 and 7 and part of Lot 5 Section 1 Deposited Plan Number 1399 and being part of the land comprised in Certificates of Title Volume 986 Folio 121 and Volume 746 Folio 173.

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

W. G. HILLIARD, Bishop.

Chairman of Committees.

I certify that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney this 22nd day of September, 1950.

H. V. ARCHINAL,

Diocesan Secretary.

I assent to this Ordinance.

HOWARD SYDNEY,

22nd September, 1950.