

ST. BARNABAS' SYDNEY ORDINANCE 1978No. 42 1978

AN ORDINANCE to vary the trusts on which certain land is held, to vary the trusts on which certain moneys are held, to authorise the sale of certain land and to provide for the management and use of certain land.

WHEREAS

A. Glebe Administration Board is the trustee of the land described in the First and Second Schedules heretó.

B. The land described in the First and Second Schedules hereto forms part of certain property commonly referred to as the "Endowment of the See" and is held upon the trusts set forth in the Seventh Schedule to the Endowment of the See Ordinance 1977.

C. By reason of circumstances which have arisen subsequent to the creation of the trusts on which the land described in the First Schedule is held, it is inexpedient to carry out and observe the same.

D. Certain arrangements have been made regarding the leasing and sale of the land described in the Second Schedule.

E. Church of England Property Trust Diocese of Sydney (hereinafter called "the Corporate Trustee") is the trustee of the amount specified in the Third Schedule hereto upon trust (inter alia) for the former Parish of St. Bartholomew Pyrmont, which Parish is now part of the Parish known as St. Barnabas' Sydney subject to a direction that the income therefrom be paid at least annually to Glebe Administration Board by way of reduction of the debt payable pursuant to the Bishopthorpe Estate and St. Barnabas' Sydney Variation, Declaration of Trust and Vesting Ordinance 1972 in addition to the provision for repayment of that debt contained in that Ordinance.

F. The Corporate Trustee is the trustee of the amount specified in the Fourth Schedule hereto upon trust both as to capital and income ... (to) be invested by the Corporate Trustee provided that the Synod or the Standing Committee thereof may from time to time upon application thereto by the said

Churchwardens by ordinance determine that any portion of the said capital and income of such Fund be paid to such Churchwardens and applied by them in such manner and for such purposes as such ordinance may direct.

30 G. The Corporate Trustee is the trustee of the amount specified in the Fifth Schedule hereto upon the trusts set forth in the St. Barnabas' Sydney Ordinance 1977.

H. The amount specified in the Sixth Schedule hereto has been deposited with the Corporate Trustee by the churchwardens of the said church building from moneys under their control.

35 I. By reason of circumstances which have arisen subsequent to the creation of the trusts on which the amount specified in the Third Fourth Fifth and Sixth Schedules hereto are held, it is inexpedient to carry out and observe the same.

40 J. The Corporate Trustee is the trustee of the lands described in the Seventh and Eighth Schedules hereto.

K. The land described in the Seventh Schedule hereto is held upon trust to permit the same to be used for a church, parsonage, parish hall or counselling centre, or partly for one or partly for another or other of such purposes in connection with the Church of England in Australia in the Parish of St. Barnabas' Sydney and for such other purpose or purposes in connection with the said church in the said Parish as may be approved from time to time by the Parish Council of the said Parish and by the Archbishop.

45 L. The land described in the Eighth Schedule hereto is held upon the trusts set forth in the St. Barnabas' Sydney (St. Bartholomew's Pymont) Lease Ordinance 1970 as varied by the Bishopthorpe Estate and St. Barnabas' Sydney Variation, Declaration of Trust and Vesting Ordinance 1972.

50 M. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the lands described in the Seventh and Eighth Schedules hereto are held it is inexpedient to carry out and observe the same.

55 NOW the Standing Committee of the Synod of the Diocese of Sydney in the name and place of the said Synod HEREBY DECLARES ORDAINS DIRECTS AND RULES as follows:

1. The provisions of this Ordinance shall take effect on and from the third day of July 1978.

60 2. (1) Subject to the provisions of this Ordinance, the said Church-
wardens shall pay to the Corporate Trustee on or before the 31st day of
December 1983 a sum (which sum is hereinafter called "the principal sum")
equal to the difference between \$212,634.84 and the aggregate of the amounts
specified in the Third Fourth Fifth and Sixth Schedules and all interest
and other income which may have accrued on the amounts referred to in the
65 Third Fourth and Fifth Schedules prior to the third day of July 1978 and
which was not distributed prior to that date in accordance with the trusts
on which those amounts are held.

70 (2) The principal sum shall be held by the Corporate Trustee on the
trusts set forth in the Seventh Schedule to the Endowment of the See Ordinance
1977.

(3) The said churchwardens shall be at liberty to pay any part of the
principal sum at any time prior to the 31st day of December 1983 provided
that part is either \$1,000.00 or a multiple thereof or an amount equal to
the amount (if any) by which the principal sum exceeds the multiple of \$1,000.00.

75 (4) The said churchwardens shall pay to the Corporate Trustee interest
on so much of the principal sum as shall remain to be paid from time to time.
Such interest shall be calculated at the rate of ten per centum (10%) per
annum from the third day of July 1978 and shall be paid by monthly instalments
within fourteen days of the last day of each month.

80 3. (1) The land described in the First Schedule hereto is hereby vested in
the Corporate Trustee.

(2) By reason of circumstances subsequent to the creation of the trusts
on which the land described in the First Schedule hereto is held, it is
inexpedient to carry out and observe the same.

85 (3) The land described in the First Schedule hereto shall be held upon
trust for the Parish of St. Barnabas' Sydney subject however, to the following
sub-clauses of this clause.

(4) The said churchwardens shall govern and control the management and
use of the land described in the First Schedule hereto and all improvements
thereon and, without limiting the generality of the foregoing, may permit the
90 same to be used by any council approved by them for the purpose of providing

accommodation for students and others.

(5) Any rents issues or profits from the land described in the First Schedule hereto shall be paid to the said churchwardens and applied by them in or towards all or any of the purposes of the said Parish provided that the said churchwardens may permit the said land to be used for the purpose of providing accommodation for students and others without making any charge therefor.

(6) If requested so to do by a majority of the members of the Parish Council of the said Parish by a resolution passed at a duly convened meeting of the members thereof, the Corporate Trustee shall sell the part of the land described in the First Schedule hereto as is specified in such resolution free from the trusts on which the same is held by public auction or private contract and for such consideration and on and subject to such terms and conditions as the Corporate Trustee may deem appropriate. The proceeds from any such sale, after meeting all costs of and incidental to the same, shall be applied firstly in or towards repaying so much of the principal sum as remains to be paid, secondly, in accordance with any resolution of the Standing Committee under Clause 9 and any balance remaining in or towards the purchase of real property or an interest therein and pending any such resolution or purchase the income therefrom and the income from any such real property or interest therein shall be paid to the said churchwardens and applied by them in or towards all or any of the purposes of the said Parish provided that, if default is made in the payment of the principal sum in accordance with the provisions of Clause 2 hereof, the Corporate Trustee may sell the whole or any part of the land described in the First Schedule hereto free from the said trusts without any such consent and shall apply the proceeds in accordance with the foregoing provisions of this subclause.

4. (1) By reason of circumstances subsequent to the creation of the trusts on which the amounts specified in the Third Schedule hereto, the Fourth Schedule hereto, the Fifth Schedule hereto and the Sixth Schedule hereto are held, it is inexpedient to carry out and observe the same.

(2) The said amounts shall be held upon the trusts set forth in the Seventh Schedule of the Endowment of the See Ordinance 1977.

5. (1) By reason of circumstances subsequent to the creation of the trusts on which the land described in the Seventh Schedule is held, it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

(2) If requested so to do by a majority of the members of the Parish Council of the said Parish by a resolution passed at a duly convened meeting of members thereof, the Corporate Trustee shall sell the part of the land described in the Seventh Schedule hereto (other than the part of the land described in the Seventh Schedule hereto on which stands the cottage known as 37 Arundel Street, Glebe) as is specified in the said resolution free from the trusts on which the same is held by public auction or private contract and for such consideration and on and subject to such terms and conditions as, to the Corporate Trustee, may seem appropriate. The proceeds from any such sale, after meeting all costs and expenses incidental thereto, shall be applied firstly in meeting any part of the debt remaining to be paid pursuant to the Bishopthorpe Estate and St. Barnabas' Sydney Variation, Declaration of Trust and Vesting Ordinance 1972, secondly in or towards paying any part of the principal sum which is then outstanding, thirdly in accordance with any resolution of the Standing Committee under Clause 9 and the balance remaining thereafter in the purchase of real property or an interest therein and pending any such resolution or purchase the income from the balance and any income from such real property or interest therein shall be paid to the said churchwardens and applied by them in or towards all or any of the purposes of the said Parish.

6. (1) By reason of circumstances subsequent to the creation of the trusts on which the land described in the Eighth Schedule is held, it is inexpedient to carry out and observe the same to the extent that the same are hereby varied.

(2) The land described in the Eighth Schedule hereto shall be held upon trust for the Parish of St. Barnabas' Sydney subject, however, to the following sub-clauses of this clause.

(3) The rents issues and profits from the land described in the Eighth Schedule hereto shall be applied firstly in payment of all moneys payable

under the Bishopthorpe Estate and St. Barnabas' Sydney Variation, Declaration of Trust and Vesting Ordinance 1972, secondly, in or towards payment of the interest payable hereunder, thirdly, in or towards payment of the principal sum and any balance remaining thereafter shall be paid to the said churchwardens and applied by them in or towards all or any of the purposes of the said Parish.

(4) If requested so to do by a majority of the members of the Parish Council of the said Parish by a resolution passed at a duly convened meeting of members thereof, the Corporate Trustee shall sell the part of the land described in the Eighth Schedule hereto as is specified in the said resolution free from the trusts on which the same is held by public auction or private contract and for such consideration and on and subject to such terms and conditions as, to the Corporate Trustee, may seem appropriate. The proceeds from any such sale, after meeting all costs and expenses incidental thereto, shall be applied firstly in meeting any part of the debt remaining to be paid pursuant to the Bishopthorpe Estate and St. Barnabas' Sydney Variation, Declaration of Trust and Vesting Ordinance 1972, secondly in or towards paying any part of the principal sum which is then outstanding, thirdly, in accordance with any resolution of the Standing Committee under Clause 9, and the balance remaining thereafter in the purchase of real property or an interest therein and pending any such resolution or purchase the income from the balance and any income from such real property or interest therein shall be paid to the said churchwardens and applied by them in or towards all or any of the purposes of the said Parish.

7. All interest and other income which may have accrued on the amounts referred to in the Third Fourth Fifth and Sixth Schedules on and from the third day of July 1978 shall be deemed to be income derived from the said amounts and held on the trusts set forth in Clause 4(2).

8. This Ordinance may be cited as "St. Barnabas' Sydney Ordinance 1978".

9. (1) Where the gross proceeds of sale of the whole or any part of the lands described in the First, Seventh or Eighth Schedules hereto or the aggregate of the gross proceeds of sale of any two or more of the whole or any part of those properties exceeds \$210,000, the Corporate Trustee shall not distribute those proceeds -

- (a) until a resolution of the Standing Committee has been passed directing the distribution of those proceeds; and
- (b) otherwise than in accordance with that resolution.

(2) A resolution of the Standing Committee under subclause (1) directing the distribution, by way of investment, of the proceeds of sale referred to in that subclause, shall specify the objects to which the income derived from the investment shall be applied and that income shall be applied to those objects accordingly.

FIRST SCHEDULE

ALL THAT land situate in the Municipality of Leichhardt, Parish of Petersham and County of Cumberland being Lot 5 in Deposited Plan 245402 and the whole of the land in Certificate of Title Volume 12534 Folio 114.

SECOND SCHEDULE

ALL THAT land situate as aforesaid being Lot 9 in Deposited Plan 245402 and the whole of the land in Certificate of Title Volume 12534 Folio 116.

THIRD SCHEDULE

Eleven thousand seven hundred dollars (\$11,700.00).

FOURTH SCHEDULE

Nine thousand five hundred and forty nine dollars sixty one cents (\$9,549.61).

FIFTH SCHEDULE

One hundred and fourteen thousand five hundred and forty dollars (\$114,540.00).

SIXTH SCHEDULE

Ten thousand dollars (\$10,000.00).

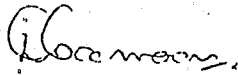
SEVENTH SCHEDULE

ALL THAT land situate as aforesaid being Lot 10 in Deposited Plan 239867 and being the whole of the land comprised in Certificate of Title Volume 11746 Folio 20.

EIGHTH SCHEDULE

ALL THAT land situate at Pyrmont and described in Deed registered No. 178 Book 217 and Deed registered No. 56 Book 1654.

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



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 1978.



Secretary

I ASSENT to this Ordinance.

M. L. Doane

Archbishop of Sydney

20 / 11 / 1978