

THE CHURCH OF ENGLAND HOMES (VARIATION OF THE TRUSTS OF THE WILL OF HARRIET ELIZABETH BLAXLAND) ORDINANCE 1980

NO. 14 1980

AN ORDINANCE to vary the trusts of the Will of Harriet Elizabeth Blaxland.

WHEREAS Harriet Elizabeth Blaxland (hereinafter called "the Testatrix") died on the 4th day of July, 1943 having made a last Will on the 16th day of July, 1942 Probate of which was granted to Perpetual Trustee Company Limited the Executor and Trustee named therein on the 15th day of December, 1943 AND WHEREAS the Testatrix after creating certain life estates in favour of her children left her residuary estate upon trust "for the Executive or Principals of the Church of England Homes 70 King Street, Sydney, to be used and applied for the erection of a home for sick children to be named and known as "The Harriet Blaxland Home for Sick Children"."

AND WHEREAS the management conduct and control of the Church of England Homes (hereinafter called "the Society") is vested by its constitution in a Committee which is a body corporate incorporated under the provisions of the Church of England (Bodies Corporate) Act, 1938 known as The Committee of the Church of England Homes AND WHEREAS the Committee upon investigation of the cost of constructing and equipping a home in the nature of a hospital determined in 1963 that the residuary estate was less by half than the amount which would be required for the cost of such construction and equipment and that therefore the literal implementation of the wishes of the Testatrix by the Committee in the construction of a home for sick children was impossible AND WHEREAS the Trustee of the estate of the Testatrix therefore resolved to put certain questions to the Supreme Court in Equity as to the interpretation of the Will of the Testatrix and depending upon the answers to the questions so put sought settlement of a cy-pres scheme by the Court for the administration of the residuary estate AND WHEREAS by decretal order made by the Supreme Court of New South Wales and passed the 10th day of August, 1964 a cy-pres scheme

was settled in the following terms:-

"1. That the property given by the Will of the late Harriet Elizabeth Blaxland "upon trust for the Executive or Principals of the Church of England Homes, 70 King Street, Sydney to be used and applied for the erection of a home for sick children to be named and known as 'The Harriet Blaxland Home for Sick Children'" (hereinafter referred to as the "Trust Fund") be paid or transferred to the Committee of the Church of England Homes to be applied by it as follows:-

(a) In meeting the costs of building, furnishing and equipping a home for sick children (hereinafter called the Home) on land owned by the Committee of the Church of England Homes at Carlingford in the State of New South Wales forming part of the grounds of the present Homes for Children conducted by the Committee of the Church of England Homes.

(b) The balance, if any, of the Trust Fund remaining thereafter and any investments from time to time representing such balance and the income therefrom to be applied as and when the said Committee may deem desirable in meeting the costs of and expenses incidental to:-

(i) Alterations, additions, extensions, refurnishing and re-equipping to or of the Home, and

(ii) The maintenance and upkeep of the Home, and the administration staffing and conduct of the Home as a home for sick children.

"2. That the Home be named and known as "The Harriet Blaxland Home for Sick Children".

"3. That the Home be used and conducted by the Church of England Homes as a home for children in the care of the Church of England Homes who are in need of medical, nursing, hospital or convalescent care and attention from time to time."

AND WHEREAS by reason of circumstances which have arisen subsequent to the cy-pres scheme as settled by the Court it is inexpedient to carry out and observe the same to the extent to which such trusts are hereby varied 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. By reason of circumstances which have arisen subsequent to the cy-pres scheme of the trusts of the Will of the Testatrix it has become impossible or inexpedient to carry out or observe such trusts and that it is therefore expedient to vary such trusts to enable the residuary estate and accrued income thereof to be applied for the benefit of Kingsdene Special School and Hostel or otherwise for the general purposes of the Society.

2. The moneys or investments comprising the residuary estate of the Testatrix shall be received by The Committee of the Church of England Homes and such part thereof as shall be required for that purpose shall be applied in payment of the costs charges fees and expenses of and incidental to this Ordinance and the balance shall be held and applied in recoupment of the capital cost of Kingsdene Special School and Hostel and any balance thereafter shall be applied for the general purposes of the Society.

3. This Ordinance may be cited as "The Church of England Homes (Variation of the Trusts of the Will of Harriet Elizabeth Blaxland) Ordinance 1980".

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

E.D. CAMERON

Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Diocese of Sydney on the 23rd day of June 1980.

W.G.S. GOTLEY

Secretary

I ASSENT to this Ordinance.

M.L. LOANE

Archbishop of Sydney  
23/6/1980