

ST. ANDREWS HOUSE ORDINANCE 1975

No. 7 1975

AN ORDINANCE to provide for the management of certain land and for the investment of certain church trust property.

WHEREAS

A. Glebe Administration Board (hereinafter called the "Board") is registered as the proprietor of the land described in the First Schedule hereto which land is hereinafter called "the said land".

B. By virtue of various ordinances of the Synod of the Diocese of Sydney and of the Standing Committee thereof, the management and use of the said land is vested in Glebe Administration Board which, by virtue of the Glebe Administration Ordinance 1930 Further Amendment Ordinance 1972, is obliged to exercise and perform all of the powers, authorities, duties and functions conferred or imposed upon it in relation to the said land only to the extent to which the same are authorised by the Standing Committee and subject to the direction of the Standing Committee given from time to time by resolution thereof.

C. The said land is church trust property held upon various trusts for the Diocese of Sydney.

D. A substantial building and other improvements are being erected on the said land.

E. Funds are needed to complete the erection of the said building and improvements.

F. The Board holds the sum of Seven million five hundred thousand dollars (\$7,500,000.00) upon the trusts set forth in the Second Schedule hereto which trusts are commonly called the "Endowment of the See".

G. The Board holds the sum of Four million six hundred thousand dollars (\$4,600,000.00) upon trust to apply the income in accordance with Clause 14 of the Glebe Administration Ordinance 1930-1974.

H. It is expedient that the said sums (to the extent that the same are required) be applied in meeting the cost of erecting improvements on the said land.

I. It is expedient that a committee of management be constituted for the purpose of governing and controlling the management and user of the said land.

J. It is expedient that the said committee of management be constituted a body corporate under the Church of England (Bodies Corporate) Act 1938.

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

1. On and from the date on which the members of the Council hereby constituted (hereinafter called "the Council") become and be a body corporate under the Church of England (Bodies Corporate) Act 1938, the said land shall cease to be managed and controlled by the Board and shall be managed by the Council.

2. The members of the Council shall be four persons appointed by the

Standing Committee (hereinafter called "the See Nominees") and four persons appointed by the Board (hereinafter called "the Board Nominees").

3. (1) Subject to sub-clause (2) of this Clause, the Standing Committee shall have the right to appoint each of the See Nominees and to revoke any appointment made by it. Every such appointment or revocation shall be effected by resolution of the Standing Committee and shall take effect on and from the date on which such resolution is passed.

(2) The Standing Committee shall not appoint any person as a See Nominee unless the name of that person has been recommended to the Standing Committee by the Archbishop as being a person suitable to be appointed as a See Nominee.

4. The Board shall have the right to appoint each of the Board Nominees and to revoke any appointment made by it. Every such appointment or revocation shall be effected by resolution of the Board and shall take effect on and from the date on which such resolution is passed.

5. (1) At meetings of the Council, four members, two being Board nominees and two being See Nominees shall constitute a quorum.

(2) The Council shall select from their number a chairman for each meeting who shall have a deliberative but not a casting vote.

(3) At each meeting of the Council, each See Nominee who is present shall exercise votes equal to the number of Board Nominees who are then present and each Board Nominee shall exercise votes equal to the number of See Nominees who are then present. Should the Council be unable to reach a decision on any question due to the number of votes cast in favour of the question being equal to the number of votes cast against the question, the question shall be referred to the Standing Committee for determination and the decision of the Standing Committee on any such question shall be final and binding on the members of the Council.

(4) Subject to the foregoing provisions, the members of the Council may meet and regulate their affairs as they consider appropriate.

6. On and from the date on which the members of the Council become and be a body corporate under the Church of England (Bodies Corporate) Act, 1938, the Council shall have absolute and full powers of managing and controlling the said land (and any land which may be acquired pursuant to any exchange effected pursuant to Ordinance No. 20 of 1972) and without limiting the generality of such powers the Council may,

- (a) let or demise the said land or any part or parts thereof for any term not exceeding ten years at such rents and subject to such terms and conditions as the Council shall think fit save and except as hereinafter provided,
- (b) accept surrenders of leases and tenancies and release tenants from claims thereunder,
- (c) receive and give effectual receipts for all moneys accruing from the said land for rent or on any account whatsoever,
- (d) complete the erection of the said buildings and other improvements upon the said land,
- (e) carry out repairs, renovations and alterations of any buildings upon the said land and to erect thereon any further building or buildings,

- (f) borrow such sum or sums of money on the security of the said land or of the future rents profits and other income arising therefrom as it may deem necessary,
- (g) appoint and remove officers, servants and agents and fix their remuneration, if any,

Provided that:

- (i) every lease of any premises to which this clause refers shall contain a covenant restricting the use of the demised premises during the term of the lease or any holding over thereof after the expiration of such lease to uses to which in the opinion of the Council at the time the lease is granted the premises may be suitably put PROVIDED that with respect to the use of the premises for public entertainment or in the case of the use of any auditorium the prior consent of the Council to any use shall be first obtained in writing;
- (ii) every such lease (except any containing covenants by the lessee restricting the use of the demised premises to use for office professional consulting rooms or as a banking chamber) shall contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the demised premises or any part thereof
  - (a) for any illegal or immoral purpose;
  - (b) for the sale by wholesale of tobacco in any form;
  - (c) in any way connected with gambling or betting;
  - (d) for the manufacture, sale, distribution or consumption on the said premises of liquor in any of the following ways:
    - (A) in a restaurant,
    - (B) at social functions held in premises used commercially as reception rooms,
    - (C) on the premises of a club or any like association,
    - (D) in or from any hotel shop or other point of delivery PROVIDED that the prohibitions contained in this sub-paragraph (d) shall not apply to liquor manufactured sold or distributed for medicinal purposes or for purposes other than for human consumption. PROVIDED further that the Council shall not let lease or demise any part of the said land to any person corporation or any organisation whose main business or one of whose main businesses comprises the manufacture sale or distribution of liquor as is hereinafter defined.
  - (e) in any way connected with narcotic drugs except as part of the normal trading practices of a registered pharmacist or registered chemist;
  - (f) for the erection of any sign or advertisement which

expressly or impliedly refers to tobacco or alcoholic liquor in such a position as to be visible from the outside of the premises leased or any part thereof PROVIDED that this prohibition shall not apply to non-illuminated signs relating to tobacco in or adjacent to any kiosk or shop premises which relate to goods sold therein, and the Council may waive this prohibition in any particular case;

- (g) On Sundays for purposes of trade except the operation of automatic vending machines for essential purposes and for such trade as the law may at any time and from time to time permit, authorise or make lawful for the sale of food, newspapers, petrol or pharmaceutical services and supplies or other necessary services and supplies urgently required on Sundays for reason of sickness or injury; and
- (iii) Every such lease containing covenants by the lessee restricting the use of the demised premises to use for offices, professional consulting rooms or as a banking chamber shall contain covenants forbidding the use of and requiring the lessee to refrain from permitting or suffering the use of the demised premises or any part thereof:-
  - (a) for any illegal or immoral purpose,
  - (b) in any way connected with gambling or betting,
  - (c) in any way connected with narcotic drugs, and
  - (d) (without prejudice to all other covenants by the lessee in the lease as to the use of the premises) for the manufacture sale or distribution of liquor in any way.

PROVIDED that the Council may grant a lease containing the following proviso to either or both of the covenants in paragraphs (c) and (d):-

"except as part of the practice of a qualified medical practitioner or qualified dentist".

- (iv) The word 'Liquor' shall be construed in paragraphs (ii) and (iii) of this proviso as it was defined in the Liquor Act, 1912 as at 22nd August, 1966.

In addition to these powers, authorities, duties and functions, the Council shall have power:

- (a) to appoint the Board its attorney to act for and in the name and on behalf of the Council and to revoke any such appointment,
- (b) to receive money on deposit or loan, and
- (c) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments.

7. The Council shall

- (a) cause to be kept such accounting records as correctly record and explain the financial dealings and transactions of the

Council,

- (b) appoint an auditor who is a registered company auditor under the Companies Act 1961 (as amended),
- (c) furnish to the Synod and to the Standing Committee any information as to the affairs of the Council which Council may be requested to furnish by a resolution of the Synod or the Standing Committee, and
- (d) at least once in each year, present to the Synod and to the Standing Committee a report of its activities and a financial statement which has been reported upon by its auditor.

8. (1) The Board is hereby directed to lend to the Council, after the Council becomes a body corporate under the Church of England (Bodies Corporate) Act 1938, such moneys as the Council may require, from time to time, to enable the Council to meet and discharge all claims made upon it, being claims which may properly be regarded as part of the cost of completing the erection of the said building and other improvements. The Board shall make each such loan within one week of the Council requesting the Board to make the same and shall make such loans first from the said sum of Seven million five hundred thousand dollars (\$7,500,000.00) and, after all of the Seven million five hundred thousand dollars (\$7,500,000.00) has been lent, from moneys held upon trust to apply the income in accordance with Clause 14 of the Glebe Administration Ordinance 1930-1974 PROVIDED that to the extent that the Board may have spent any part of the said sum of Seven million five hundred thousand dollars (\$7,500,000.00) or the said moneys in meeting the cost of completing the erection of the said building and other improvements, such part or parts shall be deemed to have been lent by the Board to the Council.

(2) The moneys held upon trust to apply the income in accordance with Clause 14 of the Glebe Administration Ordinance 1930-1974 that are lent (or deemed to have been lent) by the Board to the Council are hereinafter called the "GAB debt". Part of the said Seven million five hundred thousand dollars (\$7,500,000.00) lent (or deemed to have been lent) by the Board to the Council, such part being equal to the amount of the GAB debt, is hereinafter called the "\$4.6M EoS debt" and the balance of the said Seven million five hundred thousand dollars (\$7,500,000.00) lent (or deemed to have been lent) by the Board to the Council is hereinafter called the "additional EoS debt".

(3) For the purposes of Clause 9, the Board shall be deemed to have lent the whole of the additional EoS debt before lending any part of the \$4.6M EoS debt.

(4) All moneys lent pursuant to this Clause shall be lent on and subject to the interest provided in and conditions contained in Clause 9 of this Ordinance.

9. (1) The rents issues and profits from the said land derived during each year shall be applied, so far as the same shall extend, in the following order of priority:-

- (a) first, in meeting all outgoings incurred in connection with the derivation of the said rents, issues and profits,
- (b) second, in meeting all interest on moneys borrowed on the security of the said land.

- (c) third, the next One hundred thousand dollars (\$100,000.00) shall be paid to the council, committee or body corporate which manages the school known as "St. Andrew's Cathedral School" PROVIDED THAT if the said school is occupying part of the said building the amount to be paid under this paragraph may be applied by the Council by way of set-off against any rent payable to the Council by the said council, committee or body corporate,
- (d) fourth, in meeting interest calculated at the rate of four percentum (4%) per annum on the additional EoS debt,
- (e) fifth, in meeting interest calculated at the rate of four percentum (4%) per annum on the \$4.6M EoS debt and on the GAB debt,
- (f) sixth, in meeting any arrears of interest (as defined in subclause (2) hereof),
- (g) seventh, in meeting interest calculated at the rate of four and one-half percentum (4½%) per annum on the additional EoS debt,
- (h) eighth, in repaying moneys borrowed on the security of the said land or in making provision for the repayment of any such moneys,
- (i) ninth, in repaying the additional EoS debt,
- (j) tenth, in repaying the \$4.6M EoS debt and the GAB debt.

Any balance remaining shall be applied in accordance with the trusts upon which the said land and the income therefrom are held.

(2) The following provisions shall be applied in the application of rents issues and profits pursuant to subclause (1):--

- (a) Interest on the additional EoS debt, on the \$4.6M EoS debt and on the GAB debt shall be calculated on so much of the said moneys as remains unpaid and shall be calculated on and from the date on which the moneys, or any part thereof, were lent, (or deemed to have been lent, as aforesaid) whether before or after the date on which this Ordinance is assented to.
- (b) The said rates of four and one-half percentum (4½%) and four percentum (4%) per annum may be increased at any time if the Council resolves to increase the same and such increase shall take effect on and from the date of such resolution.
- (c) All interest payable hereunder shall be paid, in arrear, on the last day of December in each year during which any part of the loans made hereunder remain unpaid.
- (d) If the said rents, issues and profits derived during any year are insufficient to meet the interest payable during that year pursuant to paragraphs (d) and (e) of subclause (1), the amount not paid shall be deemed to be in arrears of interest for the purpose of paragraph (f) of subclause (1).

- (e) If the said rents, issues and profits derived during any year are sufficient to meet some of the interest payable during that year pursuant to paragraph (e) of subclause (1) but are not sufficient to meet all of that interest, one half of the amount available shall be applied in meeting interest on the \$4.6M EoS debt and the balance shall be applied in meeting interest on the GAB debt.
- (f) All moneys applied pursuant to paragraph (h) of subclause (1) shall be applied so that the proportion of the \$4.6M EoS debt which is thereby repaid is the same as the proportion of the GAB debt which is thereby repaid.

(3) Notwithstanding anything herein contained, the GAB debt shall rank prior to both the additional EoS debt and the \$4.6M EoS debt.

10. In the event that the said Council mortgages the said land, the amount borrowed shall be applied by the said Council in repaying all or any of the following:-

- (a) moneys then borrowed on the security of the said land,
- (b) all or any part of the additional EoS debt,
- (c) all or any part of the \$4.6M EoS debt,
- (d) all or any part of the GAB debt.

provided that the proportion of the \$4.6M EoS debt which is thereby repaid is the same as the proportion of the GAB debt which is thereby repaid.

11. The Board and the Council are hereby authorised to effect the exchange of land authorised by Ordinance No. 20 of 1972.

12. The provisions of Clauses 5 to 9 inclusive of the St. Andrews Cathedral Site Development Ordinance 1970-1973 shall apply subject to the provisions of this Ordinance.

13. The Council shall permit the school known as St. Andrew's Cathedral School to occupy the top two floors of the said building for so long as the council, committee or body corporate which manages the said school pays to the Council a proper and reasonable rent for those floors. Any dispute or difference between the Council and the said council, committee or body corporate as to what constitutes a proper and reasonable rent for those floors shall be determined by the Standing Committee.

14. This Ordinance may be cited as "St. Andrew's House Ordinance, 1975".

#### FIRST SCHEDULE

ALL THAT land situated in the City of Sydney Parish of St. Andrew and County of Cumberland being the whole of the land in Certificates of Title Volume 12100 Folio 74, Volume 12100 Folio 75 and Volume 12572 Folio 246.

#### SECOND SCHEDULE

Upon trust

- (a) to pay the stipend of the Archbishop of Sydney, the expenses in

relation to his official residence and travelling, secretarial and other expenses in respect of his office;

- (b) during the absence of the Archbishop or during any vacancy in the See to pay:-
  - (i) an allowance to his commissary or the administrator of the diocese for the time being;
  - (ii) the expenses incurred in the discharge of episcopal functions within the diocese;
  - (iii) the expenses incurred on filling up the vacancy of the See;
  - (iv) travelling and other expenses and allowances to the incoming Archbishop.
- (c) Subject as aforesaid to pay such other amounts in connection with the diocese for such purpose as may from time to time be determined.

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

D. Cameron

Deputy Chairman of Committees

I CERTIFY that this Ordinance was passed by the Standing Committee of the Synod of the Diocese of Sydney on the 26th day of May 1975.

W.G.S. Gotley

Secretary

I ASSENT to this Ordinance.

M.L. Loane

Archbishop of Sydney  
26/5/1975