
*Bishopthorpe and Moorebank Variation of Trusts
(Assistance Outside Diocese) Ordinance 1975*

No. 36, 1975

AN ORDINANCE to vary the trusts of certain church trust property known as the Bishopthorpe Estate and the Archbishop's portion of the Moorebank Estate and for purposes connected therewith.

WHEREAS

A. The lands comprised in Indenture dated the 2nd day of January 1839 and made between Thomas Moore of the one part and the Right Reverend William Grant Broughton, Doctor of Divinity, Lord Bishop of Australia, of the other part and the land comprised in Crown Grant dated the 9th day of July 1846 (except so much thereof as has been appropriated, sold or resumed) together with various investments and moneys for the time being representing the same (which said lands investments and moneys are herein collectively called "the Estates") are presently held upon trust for the purposes set forth in clause 3 of the Bishopthorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960 (and as set forth in the Schedule hereto) which said trusts have been affected or varied in the manner hereinafter mentioned.

B. The Estates are church trust property within the meaning of the Church of England Trust Property Act 1917.

C. By virtue of the Dean of St. Andrew's Cathedral Stipend Ordinance 1967, the Trustee charged with the administration of the Estates was thereby authorised to pay to the Chapter of St. Andrew's Cathedral with the approval of the Standing Committee and the Archbishop out of the rent issues and profits of the Estates or either of them a sum or sums in the aggregate not exceeding the amount payable by way of stipend and allowances to the person for the time being holding the office of Dean of St. Andrew's Cathedral, Sydney.

D. By virtue of Sydney Church of England Girls' Grammar Schools Assistance Ordinance 1974, the trusts upon which the Estates were held were varied so that part or parts of the income from the Estates as described in sub-clauses (2) and (3) of clause 4 of such Ordinance shall be held upon the trusts set forth in clause 5 thereof under such circumstances and subject to such conditions as are therein mentioned.

E. This Synod is empowered by section 3 of the Church of England Constitutions Act Amendment Act of 1902 to legislate by ordinance "upon and in respect of all matters or things concerning the order and good government of the Church of England and the regulation of its affairs within the diocese including the management and disposal of all Church property moneys and revenues (not diverting any specifically appropriated, or the subject of any specific trust, nor interfering with any vested rights, except in accordance with any Act of Parliament).

F. This Synod is empowered by section 32 of the Church of England Trust Property Act 1917 to declare that it has become impossible or inexpedient to carry out or observe trusts in respect of church trust property and to declare other trusts for or for the use benefit or purposes of the Church of England within the Diocese.

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G. It is desired hereby to declare and confirm it to be one of the purposes of the Church of England as it is administered and as it operates within the Diocese of Sydney to support and assist other dioceses within the Church of England in Australia within the Province of New South Wales by means of financial payments, grants or endowments from the Estates to such dioceses from time to time.

H. By reason of circumstances which have arisen it is inexpedient to carry out and observe the trusts set forth in the Schedule hereto in relation to the Estates and it is expedient that the said trusts be varied to the extent hereinafter provided.

NOW the Synod of the Diocese of Sydney HEREBY ORDAINS DIRECTS DECLARES AND RULES as follows:—

1. (1) This Ordinance may be cited as "Bishophorpe and Moorebank Variation of Trusts (Assistance Outside Diocese) Ordinance 1975".

(2) The Bishophorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960 as amended by this Ordinance may be cited as "Bishophorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960-1975".

2. It is hereby declared and confirmed that one of the purposes of the Church of England as it is administered and as it operates within the Diocese of Sydney is to support and assist other dioceses of the Church of England in Australia within the Province of New South Wales by means of financial payments, grants or endowments from the Estates to such other dioceses from time to time.

3. By reason of circumstances which have arisen subsequent to the trusts upon which the Estates are held it is inexpedient to carry out and observe the same to the extent that such trusts are hereby varied.

4. Bishophorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960 is amended by inserting after sub-clause (c) of clause 3 thereof the following sub-clause:—

"(d) Subject as aforesaid to pay such other amounts for such purposes of the Diocese beyond the Diocese as may be determined by resolution of Synod or by Ordinance of Standing Committee"

5. Nothing in this Ordinance affects the application of the income rents and profits of the Estates or either of them in accordance with the previous Ordinances to the extent to which the operation of such previous Ordinances has not become exhausted or any liability under any such Ordinances which still exist or an obligation under this Ordinance is substituted for an obligation under any previous Ordinance.

6. It is hereby determined that the provisions of this Ordinance shall stand notwithstanding the provisions of the Delegation of Powers and Ordinance Procedure Ordinance 1973.

7. In accordance with clause 3 (d) of the Bishophorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960 as amended by clause 4 of this Ordinance, Synod hereby determines and expressly authorises the Trustee charged with the administration of the Estates

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to pay with the approval of the Archbishop the sum of one hundred thousand dollars (\$100,000) out of income from the Estates in respect of the year ended 31 December 1974, such sum to be paid and applied as follows:—

- (a) As to the sum of twenty-five thousand dollars (\$25,000) to the Trustees of the Church Property for the Diocese of Riverina;
- (b) As to the sum of twenty-five thousand dollars (\$25,000) to the Church of England Property Trust Diocese of Bathurst;
- (c) As to the sum of twenty-five thousand dollars (\$25,000) to the Church of England Property Trust Diocese of Sydney upon trust to pay the income therefrom towards the stipend and allowances payable to the person for the time being holding office as the Bishop in Wollongong.
- (d) As to the sum of twenty-five thousand dollars (\$25,000) to the Church of England Property Trust Diocese of Sydney upon trust to pay the income therefrom towards the stipend and allowances payable to the person for the time being holding office as the Bishop in Parramatta.

8. In accordance with Clause 3 (d) of the Bishophthorpe and Moorebank Variation of Trusts and Mortgaging Ordinance 1960 as amended by Clause 4 of this Ordinance Synod hereby determines and expressly authorises the Trustee charged with the administration of the Estates so soon as such amount shall become available to pay with the approval of the Archbishop the sum of \$50,000 (fifty thousand dollars) out of the income from the Estates in respect of the year ending 31 December 1975 such sum to be paid and applied as follows:—

- (a) As to the sum of twenty-five thousand dollars (\$25,000) to the Trustees of the Church Property Trust for the Diocese of Armidale.
- (b) As to the sum of twenty-five thousand dollars (\$25,000) to the Trustees of the Church Property Trust for the Diocese of Grafton.

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 in filling up the vacancy of the See;
 - (iv) travelling and other expenses and allowances to the incoming Archbishop.

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(c) Subject as aforesaid to pay such other amounts in connection with the diocese for such purposes as may from time to time be determined.

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

ATHOL RICHARDSON,
Chairman of Committees.

We certify that this Ordinance was passed by the Synod of the Diocese of Sydney this 9th day of October, 1975.

W. G. S. GOTLEY,
R. J. BOMFORD,
Secretaries of Synod.

I assent to this Ordinance.

A. JACK DAIN,
Commissary.

9/10/1975.