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*C.E.N.E.F. and Glebe Administration Board Variation of  
Trusts Ordinance 1971*

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No. 22, 1971

AN ORDINANCE to vary the trusts upon which the property known as 511 Kent Street, Sydney is held and for purposes incidental thereto.

WHEREAS the Church of England National Emergency Fund (201 Castlereagh Street) Sale Ordinance 1961 authorised the sale of certain land in Castlereagh Street, Sydney described in the Schedule thereto AND WHEREAS at the time of the sale the said land was held upon trust for the Board of Management of Church of England National Emergency Fund in the Diocese of Sydney (which Board is hereinafter called "C.E.N.E.F.") to be used and applied for the purposes of C.E.N.E.F. as long as it might require or determine or in default of such requirement, or determination for the use benefit or purposes of the Church of England in the Diocese of Sydney as the Synod might by ordinance determine AND WHEREAS the said ordinance provided that the proceeds arising from the sale of the said land after payment of certain costs, charges and outgoings should be held upon the same trusts as the said land was held at the time of the said sale AND WHEREAS the proceeds were applied (inter alia) in the purchase of the property described in the Schedule hereto (which property is hereinafter called "the site") AND WHEREAS no further or additional trusts have been declared in relation to or imposed upon the site AND WHEREAS by reason of circumstances which have arisen since the creation of the trusts upon which the site is held it is inexpedient to carry out and observe the same AND WHEREAS certain arrangements between the Glebe Administration Board (hereinafter called "the Board") and C.E.N.E.F. have been proposed in relation to the site AND WHEREAS by reason of circumstances which have arisen since the creation of the trusts upon which the church trust property (other than the Bishopthorpe Estate) which, on the date on which this ordinance is assented to, is vested in the Board or is subject to the management and control of the Board, is held it is inexpedient to carry out and observe the same to the extent that those 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 RULES ORDAINS AND DIRECTS as follows:—

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1. In this Ordinance—

- (a) the term "possession date" means the date on which C.E.N.E.F. delivers vacant possession of the site (other than the upper ground floor of the improvements erected on the site as at the 20th day of September, 1971) to the Board,
- (b) the term "demolition date" means the date on which the Board commences to demolish the said improvements comprised in the site for the purpose of erecting a new building thereon,
- (c) the term "date of practical completion" means the date which the architect of such new building certifies that it is reasonably fit for use and occupation,
- (d) the term "total cost of the new building" means an amount equal to the value of the site as at the demolition date (such value to be determined by a valuer appointed by the Board and approved by C.E.N.E.F. but if no such valuer is appointed and approved within three (3) months of the demolition date, then by a valuer appointed by the Standing Committee), the cost of demolition of the said improvements erected on the site as at the date on which this Ordinance is assented to, the cost of excavating the site, the cost of erecting the new building on the site, the fees of all architects and other consultants, all rates taxes and similar outgoings charged in respect of or payable during the period commencing on the demolition date and ending on the date of practical completion, all interest paid or payable during this period on monies borrowed and applied in meeting the total cost of the new building the amount which the Board is bound to pay to C.E.N.E.F. pursuant to paragraph (c) of sub-clause (1) of Clause 8 and all other like or similar costs and all costs which the Board would normally and could reasonably charge to the capital cost of a project similar to the new building, and
- (e) the term "C.E.N.E.F.'s interest" means the proportion being the amount specified in the written notification given by C.E.N.E.F. to the Board pursuant to Clause 7 divided by the total cost of the new building.

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2. C.E.N.E.F. may at any time and from time to time hereafter deposit any sum or sums of money with the Board for such term, on such conditions and at such rate of interest as the Board and C.E.N.E.F. may agree to.

3. Subject to Clause 8, the Board shall pay to C.E.N.E.F. such sums not exceeding in aggregate Eight hundred and thirty-five thousand dollars (\$835,000) as C.E.N.E.F. may call upon the Board from time to time by notice in writing to pay to C.E.N.E.F. provided that C.E.N.E.F. shall give to the Board three months' notice of its intention to make any such call and the Board shall not be obliged to pay any such sum until after the earliest of the following dates—

- (a) the 1st of November, 1975,
- (b) the date which the architect of the new building to be erected on the land defined as "Lot A" in the St. Andrew's Cathedral Site Development Ordinance 1970 certifies that it is reasonably fit for use and occupation.

4. By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the church trust property (other than the Bishopthorpe Estate) which, on the date on which this Ordinance is assented to, is vested in the Board or is subject to the management and control of the Board, is held it has become inexpedient to carry out and observe such trusts in their entirety and it is expedient that such trusts be varied to the extent that the same are hereby varied.

5. The Glebe Administration Ordinance 1930-1970 is hereby amended by the insertion of the words "and the payment made by the Board pursuant to Clauses 6 and 8 of the C.E.N.E.F. and Glebe Administration Board Variation of Trusts Ordinance 1971" at the end of the second sentence of sub-clause (1) of Clause 14.

6. The Board shall pay to C.E.N.E.F. an income from and after the possession date at the rate (per annum) of nine per centum (9%) of so much of the said sum of Eight hundred and thirty-five thousand dollars (\$835,000) from time to time outstanding, payable quarterly in arrear.

7. C.E.N.E.F. may, at any time on or before the 31st of December, 1973 notify the Board in writing that it desires an interest in the new building to be erected on the site and in such written notification shall specify the amount which C.E.N.E.F. wishes to invest in the said new building. If the amount so

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specified exceeds Eight hundred and thirty-five thousand dollars (\$835,000) C.E.N.E.F. shall pay such excess to the Board on giving such written notification.

8. (1) If C.E.N.E.F. gives such written notification to the Board, then

(a) the Board shall not be liable to repay to C.E.N.E.F. the amount specified in such written notice, nor shall the Board be liable to pay in respect of the amount specified in such notice the income referred to in Clause 6, from the date of such notice or from the demolition date whichever shall be the later,

(b) the Board shall pay to C.E.N.E.F. a proportion of the net income derived by it from the site and the new building thereon after the date of practical completion; such proportion being equal to C.E.N.E.F.'s interest, and

(c) if the date of practical completion is more than three years after the demolition date, the Board shall pay to C.E.N.E.F. an income from and after the third anniversary of the demolition date until the date of practical completion by quarterly instalments in arrear calculated at the rate (per annum) of nine per centum (9%) of the amount specified in such written notice.

(2) In determining the said net income there shall be deducted all proper and usual outgoings incurred in connection with the said new building (including the establishing and maintaining of the sinking funds for carpet, plant, machinery, air-conditioning, equipment and lifts) or with the derivation of such income.

(3) The Board shall endeavour to account to C.E.N.E.F. for all monies which C.E.N.E.F. is entitled to under paragraph (b) of sub-clause (1) of this clause at quarterly intervals but, in any event shall account to C.E.N.E.F. at least once during every period of twelve months following the date of practical completion or any anniversary thereof.

9. Where, in this Ordinance, it is provided that any payment is to be made on any date, it shall be sufficient if that payment is made within fourteen days of that date.

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10. (1) By reason of circumstances which have arisen subsequent to the creation of the trusts upon which the site is held it is inexpedient to carry out and observe the same.

(2) The site shall henceforth be held in trust for the Church of England in the Diocese of Sydney provided that if C.E.N.E.F. notifies the Board pursuant to Clause 7 that it desires an interest in the new building to be erected on the site, the site shall be held on and after the date of practical completion partly in trust for the Church of England in the Diocese of Sydney and partly in trust for C.E.N.E.F. as follows:—

(a) for C.E.N.E.F. — an undivided proportion of the site, such proportion being equal to C.E.N.E.F.'s interest. and

(b) for the Church of England in the Diocese of Sydney — an undivided proportion of the site being the balance,

and Clause 13 of the Glebe Administration Ordinance 1930-1970 (as amended from time to time hereafter) shall henceforth apply to the site and all rents issues and profits therefrom dealt with in accordance with Clause 14 of the Glebe Administration Ordinance 1930-1970 as amended by this Ordinance.

11. The Board shall pay the costs of and incidental to this Ordinance.

12. (1) This Ordinance may be cited as "C.E.N.E.F. and Glebe Administration Board Variation of Trusts Ordinance 1971".

(2) The Glebe Administration Ordinance 1930-1970 as amended by this Ordinance may be cited as "Glebe Administration Ordinance 1930-1971".

#### SCHEDULE

ALL THAT piece or parcel of land in the City of Sydney Parish of St. Andrew and County of Cumberland containing an area of 32 $\frac{3}{4}$  perches or thereabouts being the whole of the land comprised in Certificate of Title Volume 3901 Folio 47 and the building erected thereon.

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

ATHOL RICHARDSON,  
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 September, 1971.

W. L. J. HUTCHISON,  
Secretary.

I ASSENT to this Ordinance.

MARCUS LOANE,  
Archbishop of Sydney.

20/9/1971.