

ON APPEAL FROM THE SUPREME COURT OF NEW
SOUTH WALES IN ITS EQUITABLE JURISDICTION

IN THE MATTER of the Trusts of the Will
of EDMUND RICHARD EMIL RESCH

1967/23

BETWEEN

A. VERA CAROLINE LE CRAS
Appellant

PERPETUAL TRUSTEE COMPANY & ORS.
Respondents

AND

B. FAR WEST CHILDREN'S HEALTH
SCHEME & ORS.
Appellants

PERPETUAL TRUSTEE COMPANY & ORS.
Respondents

APPEAL BOOK

Watts, Vallance & Vallance,
The Outer Temple,
222-225 The Strand,
London. W.C. 2.

Solicitors for the Respondent
Perpetual Trustee Company Limited

Bircham & Co., 46 Parliament Street,
Westminster. S.W.1. London.

Solicitors for the Respondents
Trustees of the Sisters of Charity
of Australia; Edna Mavis Skewes;
Alice Nolan Elphick and Frederick
McDonough.

Lawrence Messen & Co.,
16 Coleman Street,
London. E.C.2.

Solicitors for the Appellants
Far West Children's Health Scheme;
The Spastic Centre; Royal New
South Wales Institution for Deaf
and Blind Children.

Bell Broderick & Gray,
29 Martin Lane,
Cannon Street,
London. E.C.4.

Solicitors for the Appellant
Vera Caroline Le Cras

M.L. Moss & Son,
Western Australia House,
115-116 The Strand
London. W.C.2.

Solicitors for the Respondents
Stephen de Bono and Brian de Bono

Light & Fulton,
24 John Street,
Bedford Row,
London. W.C.1.

Solicitors for the Respondent
The Attorney General for New
South Wales.

Gouldens,
Lincoln Inn Chambers,
40/43 Chancery Lane,
London. W.C.2.

Solicitors for the Respondent
The Salesian Society
Incorporated.

ON APPEAL FROM THE SUPREME COURT OF NEW
SOUTH WALES IN ITS EQUITABLE JURISDICTION

IN THE MATTER of the Trusts of the Will
of EDMUND RICHARD EMIL RESCH

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The Salesian Society
Incorporated,

IN THE PRIVY)
)
COUNCIL)

ON APPEALS from the Supreme Court of New South Wales in its Equitable Jurisdiction in Suit instituted by Originating Summons No. 754 of 1964.

IN THE MATTER of the trusts of the Will of EDMUND RICHARD EMIL RESCH deceased

A. BETWEEN

VERA CAROLINE LE CRAS

(Defendant) Appellant

AND

PERPETUAL TRUSTEE COMPANY LIMITED

(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF CHARITY OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

ROYAL NEW SOUTH WALES INSTITUTION FOR DEAF AND

BLIND CHILDREN

THE SALESIAN SOCIETY INCORPORATED

STEPHEN de BONO

BRIAN de BONO and

THE ATTORNEY GENERAL FOR NEW SOUTH WALES

(Defendants) Respondents

AND

B. BETWEEN

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

ROYAL NEW SOUTH WALES INSTITUTION FOR DEAF AND

BLIND CHILDREN

(Defendants) Appellants

AND

PERPETUAL TRUSTEE COMPANY LIMITED

(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF CHARITY OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

THE SALESIAN SOCIETY INCORPORATED

VERA CAROLINE LE CRAS

STEPHEN de BONO

BRIAN de BONO and

THE ATTORNEY GENERAL FOR NEW SOUTH WALES

(Defendants) Respondents

TRANSCRIPT RECORD OF PROCEEDINGS

INDEX OF REFERENCE

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2	Annexure "E" to the Affidavit of John Sanders	12th March, 1965.
3	Appearance of the Defendant Far West Children's Health Scheme	23rd March, 1965.
4	Appearance of the Defendant The Royal New South Wales Institution for Deaf and Blind Children	24th March, 1965.
5	Appearance of the Defendants Stephen de Bono and Brian de Bono	7th January, 1965.
6	Appearance of the Defendants Edna Mavis Skewes, Alice Nolan Elphick and Frederick McDonough	4th August, 1964.
7	Appearance of the Defendants The Trustees of the Sisters of Charity of Australia	4th August, 1964.
8	Appearance of the Defendant Boys Town	6th August, 1964.
9	Appearance of the Defendant The Spastic Centre	11th August, 1964.
10	Affidavit of William Patterson	19th August, 1964.
11	Affidavit of Norman Barton	26th August, 1964.
12	Affidavit of Herbert Moore Aspinall	11th September, 1964.
13	Appearance of the Defendant Vera Caroline Resch	28th September, 1964.
14	Affidavit of Herbert Moore Aspinall	26th October, 1964.
15	Affidavit of Edward Joseph Power	7th December, 1965.
16	Notice of Hearing of Originating Summons	24th September, 1965.
17	Affidavit of Neil McLeod	7th October, 1965.
18	Affidavit of Noel Arthur Rhodes	25th October, 1965.
19	Affidavit of Stanley Swaine	3rd November, 1965.
20	Affidavit of Thomas John Ward	3rd December, 1965
21	Motion for Leave to Appeal of the Appellant Vera Caroline Le Cras	2nd August, 1966.
22	Affidavit of Mahla Liane Pearlman	2nd August, 1966.

NUMBER	DESCRIPTION OF DOCUMENT	DATE
23	Motion for Leave to Appeal of the Appellants Far West Children's Health Scheme, The Spastic Centre and Royal New South Wales Institution for Deaf and Blind Children	8th August, 1966.
24	Affidavit of Roland Montrose Maclean	8th August, 1966.
25	Appearance of the Salesian Society (as amended)	11th August, 1966.
26	Remainder Exhibit marked "7" being Annual Reports of St. Vincent's Hospital for years ended 30th June, 1960, 30th June, 1961, 30th June, 1962, 30th June, 1963, and 30th June, 1964 respectively.	
27	Exhibit marked "9" being Constitutions and Regulations of the Society of St. Francis of Sales	
28	Exhibit marked "A" being Letter dated 24th December, 1965 from Messrs. H.J. Aspinall & Son, Solicitors for the Plaintiff to the State Crown Solicitor; Letter dated 13th January, 1966 from the State Crown Solicitor to the said Solicitors.	
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IN THE SUPREME COURT

OF NEW SOUTH WALES

IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts of the
Will of EDMUND RICHARD EMIL RESCH
deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY LIMITED

Plaintiff.

AND

10

TRUSTEES OF THE SISTERS OF CHARITY

OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES INSTITUTION

FOR DEAF AND BLIND CHILDREN

20

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

Defendants.

AND by Amendments made the twenty-seventh day of
July, 1966 pursuant to leave granted on the twenty-
seventh day of July, 1966.

BETWEEN

PERPETUAL TRUSTEE COMPANY LIMITED

Plaintiff.

30

Originating Summons
(as amended)

AND

1. TRUSTEES OF THE SISTERS OF CHARITY OF AUSTRALIA
2. EDNA MAVIS SKEWES
3. ALICE NOLAN ELPHICK
4. FREDERICK McDONOUGH
5. FAR WEST CHILDREN'S HEALTH SCHEME
6. THE SPASTIC CENTRE
7. THE SALESIAN SOCIETY INCORPORATED
8. ROYAL NEW SOUTH WALES INSTITUTION 10
FOR DEAF AND BLIND CHILDREN
9. VERA CAROLINE LE CRAS
10. STEPHEN de BONO
11. BRIAN de BONO and
12. THE ATTORNEY GENERAL FOR NEW SOUTH WALES

Defendants.

LET TRUSTEES OF THE SISTERS OF CHARITY OF AUSTRALIA
of St. Vincent's Hospital Victoria Street Darlinghurst
near Sydney in the State of New South Wales EDNA 20
MAVIS SKEWES Reverend Mother General for the time
being of the Sisters of Charity of Australia ALICE
NOLAN ELPHICK Reverend Mother Rectress for the time
being of St. Vincent's Hospital Sydney and FREDERICK
McDONOUGH the Honorary Treasurer for the time being
of St. Vincent's Hospital Sydney being the Trustees
of St. Vincent's Hospital pursuant to St. Vincent's
Hospital Act 1912 of Victoria Street Darlinghurst
aforesaid FAR WEST CHILDREN'S HEALTH SCHEME of 18
Wentworth Street Manly near Sydney aforesaid, THE 30

Originating Summons
(as amended)

SPASTIC CENTRE of 6 Queen Street Mosman near Sydney
aforesaid, THE SALESIAN SOCIETY INCORPORATED of
Waratah Street Engadine in the said State, ROYAL
NEW SOUTH WALES INSTITUTION FOR DEAF AND BLIND
CHILDREN of 229 Castlereagh Street Sydney aforesaid,
VERA CAROLINE LE CRAS of Blanc Pignon La Haule
Jersey in the Channel Islands, STEPHEN de BONO (an
infant) of 133 Darling Point Road, Darling Point
near Sydney aforesaid BRIAN de BONO (an infant) of
133 Darling Point Road, Darling Point aforesaid 10
AND the ATTORNEY GENERAL FOR NEW SOUTH WALES within
20 days after service of this originating summons
upon them respectively inclusive of the day of such
service cause appearances to be entered for them
to this originating summons which is issued upon
the application of PERPETUAL TRUSTEE COMPANY LIMITED
whose registered office is situate at 33-39 Hunter
Street Sydney the Executor and Trustee of the Will
of the abovenamed Testator Edmund Richard Emil
Resch deceased for the determination of the follow- 20
ing questions namely:-

1. Whether upon the true construction of the
Will of the Testator and in the events which
have happened the direction to the Trustee
to pay two-thirds of the net income of the
residue of his real and personal estate to
the Sisters of Charity as therein provided
as a valid bequest?
2. If the answer to question (1) is "No" upon
what trusts should the Trustee hold the 30
net income and the corpus of the residue of

Originating Summons
(as amended)

the testators real and personal estate?

3. Whether by the codicil to his Will which codicil is dated 5th September, 1963 the testator revoked the provisions of the two codicils admitted to probate and dated 22nd May, 1962 and 24th September, 1962 respectively or either of them and if so which of them?
4. If the answer to question 3 is "No" whether upon the true construction of the testator's Will and in the events which have happened Stephen deBono is entitled to receive out of the income of the residue of the testator's real and personal estate an annuity during his lifetime of:- 10
- (a) £2,000. per annum; or
 - (b) £4,000. per annum; or
 - (c) Some other and if so what annuity?
5. Whether upon the true construction of the testator's Will and in the events which have happened the bequest to Brian deBono of "other personal jewellery" includes:- 20
- (a) only jewellery related to the testator's personal use and enjoyment; or
 - (b) some other and if so what jewellery?

AND for the following orders:-

- (1) That the costs and expenses of the plaintiff of and incident to this originating summons and the costs of all other parties as between Solicitor 30

Originating Summons
(as amended)

and Client be paid out of the residuary
estate of the Testator.

- (2) That all necessary and proper orders
and declarations may be made directions
given enquiries had and accounts taken.

AND for such further or other order as the nature
of the case may require. 10

Appearances may be entered in the office of
the Master in Equity Elizabeth Street, Sydney.

DATED this 27th day of July 1966.

G.K. Whalan,

L.S.

Chief Clerk in Equity.

This Originating Summons is taken out by H.J.
ASPINALL & SON of 74 Pitt Street, Sydney Solicitors
for the abovenamed Plaintiff.

NOTE: If the defendants do not enter appearances 20
within the time and at the place abovementioned such
order will be made and proceedings taken as the
Judge thinks fit and expedient.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

) No. 754 of 1964.

IN THE MATTER of the Trusts
of the Will of EDMUND
RICHARD EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

10

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA.

EDNA MAVIS SKEWES.
ALICE NOLAN ELPHICK.
FREDERICK McDONOUGH.
FAR WEST CHILDREN'S HEALTH
SCHEME.
THE SPASTIC CENTRE.
BOYS TOWN.
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF &
BLIND CHILDREN.
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO.

20

Defendants

On the twelfth day of March One thousand Nine
hundred and sixty-five JOHN SANDERS of 33/39 Hunter
Street Sydney in the State of New South Wales
Assistant Manager being duly sworn makes oath and
says as follows :-

30

1. I am the Assistant Manager of Perpetual
Trustee Company Limited and am authorised to make
this affidavit on its behalf.

2. The abovenamed Edmund Richard Emil Resch
(hereinafter called "the Testator") died on the
second day of October, 1963 leaving a Will dated
the fifth day of December, 1960 together with
three codicils thereto dated the twenty second

Affidavit of
John Sanders

day of May, 1962 the twenty fourth day of September,
1962 and the fifth day of September, 1963 respective-
ly Probate whereof was on the seventh day of Novem-
ber, 1963 granted by this Honourable Court in its
Probate Jurisdiction to Perpetual Trustee Company
Limited the executor named therein. Annexed hereto
and marked with the letters "A" "B" "C" and "D"
respectively are true copies of the said will and
three codicils.

3. Annexed hereto and marked with the letter "E" 10
is a list of the assets and the liabilities of
the Testator's estate as at the date of his death
together with their values as returned for probate
purposes.

4. All debts have been paid including Income
Tax to date of death, New South Wales, Victorian
and English death duties have been paid and a
payment of £150,000.0.0 has been made on account
of Federal Estate Duty whilst this duty has not
yet been assessed. All annuities are being paid 20
and the upkeep of various properties are being
provided for and effect has been given to the
devise of "Swifts" Darling Point and household
effects. The Willys Car and Calendar Watch have
been handed over and the cameras, projectors, films
and other photographic appliances have been handed
to the parents on behalf of the minor beneficiary.
The present assets of the Estate are as scheduled
below whilst outstanding liabilities comprise
commission on corpus due to my said Company of 30
approximately £32,500.0.0. and legal costs.

Affidavit of
John Sanders

Sir John Young Hotel, Sydney	£25,000. 0.0.	
Kings Hotel, Sydney	80,000. 0.0.	
Windsor Hotel, Sydney	50,000. 0.0.	
Royal Exhibition Hotel, Sydney	25,000. 0.0.	
Vacant Land, Chalmers Street, Sydney	6,200. 0.0.	
Occidental Hotel, Sydney	50,000. 0.0.	
Imperial Hotel, Sydney	25,000. 0.0.	
254 Oxford Street, Paddington	2,500. 0.0.	
14 Hampden Avenue, Darling Point	12,500. 0.0.	
Tooth & Co. Limited - 930486 £1. Stock Units	3,914,353. 0.0.	10
V.E.J. Heaton loan	1. 0.0.	
A.G. and Mrs. K. de Bono loan	2,500. 0.0.	
Cash in hand 6 1/2 Sovereigns	23.11.3.	
Cash in hand	13.8.	
Department of Public Works debt	1,350. 0.0.	
Cash in hand U.S.A. dollars	84. 4.2.	
Cash in hand Canadian Dollars	29.13.5.	
Cash in hand 10 German Sovereigns	35.10.0.	
Mr. & Mrs. K. de Bono debt 21/3	1,458. 1.4.	20
Furniture	30.10.0.	
Jewellery	26,079.11.0.	
	£4,222,145.14.10.	

We are in process of giving effect to the bequest of the abovementioned mortgage and debt of A. G. & Mrs. K. de Bono.

5. The Testator was married to Florence Mabel Resch on the seventeenth day of October, 1927.

There were no issue of the said marriage. The testator was the son of Edmund Resch and Caroline Resch who were married on the seventeenth day of October, 1878. There were issue of their said marriage two children namely the testator who was born on the seventeenth day of October, 1879 and Arnold Gottfried Resch who was born on the thirteenth day of February, 1881. The said Edmund Resch and Caroline Resch predeceased the said testator. The said Arnold Gottfried Resch was married to Tottie Dennis on the thirteenth day of February, 1926. There was issue of their said marriage one child namely Vera Caroline Resch a defendant in this suit who was born on the eighteenth day of October, 1934 and is still living. The said Arnold Gottfried Resch died on the

Affidavit of
John Sanders

twentieth day of February, 1942.

6. The defendants Brian de Bono and Stephen de Bono are the persons so named in the testator's will and codicil. They are sons of the marriage of Karla de Bono and Anthony George de Bono also referred to in the testator's said will. The said Brian de Bono is aged seven years and the said Stephen de Bono is aged three years.

7. The item "watches jewellery etc" shown in the list of assets hereunto annexed and marked with the letter "E" consisted of the following items of property which were valued at the figure set opposite thereto for the purposes of probate:-

B x	1.	1 Diamond Bracelet	£2,350. 0.0.	
B x	2.	1 Pair of Square Cut Diamond Clip Brooches	1,100. 0.0.	
B x	3.	1 Pair Diamond Clip Earrings	595. 0.0.	
B x	4.	1 Square Cut Diamond Bracelet	2,450. 0.0.	
B x	5.	1 Pair of Diamond Cluster Earrings	1,875. 0.0.	20
B x	6.	1 Diamond Bracelet	2,500. 0.0.	
B x	7.	1 Diamond Wrist Watch	245. 0.0.	
B x	8.	1 Large 14.59 Carat Diamond Ring	7,250. 0.0.	
B x	9.	1 Diamond Platinum Brooch	1,450. 0.0.	
B x	10.	1 Diamond Necklace	3,400. 0.0.	
B x	11.	1 4 drop Diamond Pendant	1,875. 0.0.	
B x	12.	1 Single Stone Diamond Brooch	165. 0.0.	
B	13.	1 Small Gold & Enamel Fob Watch	7.10.0.	30
B	14.	Small Wedding Ring	2. 0.0.	
B x	15.	1 Pair Gold Diamond Ear Clips	75. 0.0.	
B x	16.	1 Jade Pendant	47.10.0.	
B x	17.	1 Gold and Diamond Flower Brooch	40. 0.0.	
B x	18.	1 Gold Bracelet	47.10.0.	
B x	19.	1 Gold Bracelet	47.10.0.	
B x	20.	1 Black Evening Bag with Diamond Clip Ornament	110. 0.0.	
C	21.	1 Small Platinum Chain	5. 0.0.	40
A	22.	2 Gold Coin Fobs	50. 0.0.	
A	23.	1 Set of 3 Diamond Studs and 6 Buttons	185. 0.0.	
B	24.	1 Long Crystal Necklace	1.10.0.	
A	25.	1 9 Carat Gold Curb Gents Watch Chain	4.10.0.	
C	26.	7 Various Loose Opals	10. 0.0.	
C	27.	28 Various Small Diamonds	67.10.0.	
B	28.	1 Small Gold Mesh Bag	9.10.0.	
C	29.	2 Small Silver Dishes	6.10.0.	50

Affidavit of
John Sanders.

	30.	1 Gents 18 Ct. Gold Stop Watch- Calendar Watch with Gold Chain and Gold Match Box. Bequeathed to Ronald Duff	47.10.0.	
B	31.	1 Small Part Diamond Brooch (5 Diamonds Missing)	37.10.0.	
A	32.	1 Silver Cigarette Case	2.10.0.	
A	33.	1 Double Gold Sovereign Case	3.10.0.	
B	34.	1 Small Gold Locket and Part Gold Bangle	1.10.0.	10
C	35.	1 Gold Medal	1. 0.0.	
B	36.	1 Gold Locket	1. 5.0.	
C&B	37.	1 Gold Buckle and 1 Gold Wedding Ring	2.10.0.	
A	38.	1 Gold Gents Watch Chain	2.10.0.	
B	39.	1 Silver and Pearl Shell Muff Chain	10.0.	
A	40.	1 Opal Tie Pin	3. 5.0.	
A	41.	1 Opal Tie Pin	3. 0.0.	
A	42.	1 Pearl Tie Pin	3. 5.0.	20
C	43.	1 Small Box containing 6 various semi-precious stones and 4 small gold Pencils, 1 Small chain	4.10.0.	
A	44.	1 Gents Metal Pocket Watch	6.0.	
B	45.	1 Ladies Small Silver Wrist Watch	1. 0.0.	
A	46.	1 Set of 3 15Ct. Gold Pearl Studs	15. 0.0.	
A	47.	3 Various Dress Watches in individual cases	25. 0.0.	30
			<u>£26,127. 1.0.</u>	

Those items in the said list with a cross against them represent jewellery which belonged to the testator's wife and which the Testator inherited from her. The items marked with the letters "A" and "B" respectively male and female jewellery. Those marked "C" represent loose cut opals and diamonds and other jewels and it is not clear whether they were for male or female wear.

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8. The Sisters of Charity referred to in the Testator's will is a congregation within the Roman Catholic Church. Produced and shown to me at the time of swearing this my Affidavit and marked with the letter "F" is a document supplied to the executor by the Solicitors for the first named defendant as being a copy of the Constitution of the said Congregation. The executor has no

Affidavit of
John Sanders

direct knowledge of the said Congregation and its activities and has requested the first named defendant which is a body corporate to place before the Court evidence of these matters. From information supplied to it by the said solicitors it appears that in 1857 the Sisters of Charity established St. Vincent's Hospital and that St. Vincent's Private Hospital referred to in the testator's Will was established in 1909. Annexed hereto and marked with the letter "G" is a copy of the St. Vincent's Hospital Act 1912, a Private Act of Parliament. 10

The defendants Edna Mavis Skewes Alice Nolan Elphick and Frederick McDonough are Trustees of St. Vincent's Hospital. The executor has no direct knowledge of the facts relating to the establishment of the said Hospital and the conduct thereof by the Sisters of Charity and has requested the said defendants to place before the Court evidence of these matters. 20

9. Such of the facts as are deposed to in this my affidavit as are not within my own knowledge are based on information contained in the records of Perpetual Trustee Company Limited as executor of the testator's will.

SWORN by the Deponent on
the day first abovementioned
at Sydney before me; } J. Sanders

B.B. Scobie J.P.

Affidavit of
John Sanders

This is the annexure marked "A" referred to in the
annexed Affidavit of JOHN SANDERS. SWORN this
twelfth day of March, 1965. Before me :-

B.B. Scobie J.P.

THIS IS THE LAST WILL AND TESTAMENT of me EDMUND
RESCH of Darling Point near Sydney in the State
of New South Wales Gentleman I HEREBY REVOKE all
Wills and testamentary writings at any time
heretofore made or executed by me AND I APPOINT
PERPETUAL TRUSTEE COMPANY (LIMITED) of Hunter 10
Street Sydney aforesaid Sole Executor and Trustee
of this my Will AND I GIVE DEVISE AND BEQUEATH
UNTO my late Wife's nephew RONALD DUFF my Willys
Car registered No. KN732 and my calendar watch
UNTO BRIAN de BONO a son of Karla de Bono my
cameras projectors films and other photographic
appliances and my watches (other than my calendar
watch) chains studs and other personal jewellery
AND UNTO the said KARLA de BONO all moneys secured
at the time of my death my mortgage executed by 20
the said Karla de Bono and her husband Anthony
George de Bono in my favour over the premises
known as Nos 133 and 135 Darling Point Road
Darling Point aforesaid and also any other moneys
whether secured or unsecured which may be owing
to me at the time of my death by the said Karla
de Bono and/or the said Anthony George de Bono
AND UNTO the Trustees of the ROMAN CATHOLIC CHURCH
for the Archdiocese of Sydney all my household
furniture plate linen china glass cutlery 30
pictures musical instruments and other household
effects AND I GIVE AND DEVISE my residence known

Affidavit of
John Sanders

as "Swifts" situated at Darling Point aforesaid
unto my said Trustee UPON TRUST in appreciation
of the splendid services given by Sister Mary
Loyola of St. Vincent's Private Hospital to my late
father my late wife and myself and her many kind-
nesses to transfer my said residence to or cause
it to be vested in the Trustees of the ROMAN CATHOLIC
CHURCH for the Archdiocese of Sydney or other
appropriate body AND I EXPRESS the wish but without
creating any trust that the said residence shall 10
be used as a residence for the Roman Catholic
Archbishop of Sydney or if that is considered by
the said Trustees of the Roman Catholic Church
to be impracticable or undesirable then for such
other purpose as such Trustees may from time to
time determine and that the said residence includ-
int the grounds shall not be sold and the main
building shall not be demolished for at least
twenty years after the date of my death and that
as a memorial to my late father Edmund Resch and 20
my late mother Caroline Resch their names shall be
associated with the said residence or the purpose
for which it shall be used AND I GIVE AND DEVISE
my cottage known as "the Bungalow" situated at
Hampden Avenue, Darling Point erected in the
grounds of my said residence known as "Swifts"
together with the land used in connection therewith
unto my said Trustee UPON TRUST to permit my
sister-in-law CLARA DUFF her son RONALD DUFF
and her daughters FLORENCE STEVENS JEAN HEATON 30
and JOAN DUFF or such one or more of them as my
said trustee shall think fit during their joint
lives and during the life of the survivors and

Affidavit of
John Sanders

survivor of them to use and occupy the said land
and cottage AND I DIRECT that during such time as
my said cottage shall be held upon trust as afore-
said all rates taxes insurances premiums repairs
and other outgoings in connection therewith
(Sgd.) H.M. ASPINALL (Sgd.) ED RESCH (Sgd.) K. CATO
be paid out of the general income of my estate
PROVIDED HOWEVER AND I HEREBY DIRECT that my said
Trustee shall be at liberty to terminate the
occupancy of my said cottage as aforesaid and 10
permit any other person to occupy the same free
of rent rates insurance premiums repairs and other
outgoings or permit the same to be unoccupied or
let at such rent for such period and subject to
such terms and conditions as my said Trustee may
think fit AND I DECLARE that any rents received
from my said cottage shall be deemed to be income
from my residuary estate and be disposed of
accordingly AND after the death of the survivor
of them the said CLARA DUFF RONALD DUFF 20
FLORENCE STEVENS JEAN HEATON and JOAN DUFF or
on them or the survivors or survivor of them
notifying my said Trustee that they he or she no
longer wish to occupy the said cottage I DIRECT
that my said cottage shall henceforth be subject
to the same direction and trusts as are herein-
before mentioned concerning my said residence
known as "Swifts" AND I DECLARE that the above
bequests and devises shall be free of all duties
in anywise payable in connection with my estate 30
AND I GIVE DEVISE AND BEQUEATH the residue of
my real and personal estate unto my said Trustee
UPON TRUST to pay thereout all my just debts

Affidavit of
John Sanders

funeral and testamentary expenses and all duties
in anywise payable in connection with my estate
AND I DIRECT my said Trustee out of the income
arising from the residue of my real and personal
estate to hold the following annuities payable
quarterly on protective trusts as declared by
Section 45 of the Trustee Act 1925 for the benefit
of the respective annuitants hereinafter mentioned
namely: FOR each of them MRS. HERTHA KRUG of
90 Fleyer Strasse Hagen Westphalia Germany 10
MRS. HILDERGARD SCHULZEBOEING of Bruggemanneshof
Kamen Westphalia Germany MRS. ANNELIESE WIARDA
of 30 Markus Strasse Dortmund Syburg Westphalia
Germany and MRS. MARGARETE THIELE of 32 Johannes
Strasse Dortmund in Westphalia Germany the sum
of FIVE HUNDRED POUNDS per annum during her life
FOR WILLIAM STEWART of 4 Higgs Street Coogee
near Sydney aforesaid the sum of FIVE HUNDRED
POUNDS per annum during his life FOR each of them
my cousin PAUL GUILLEAUME of 18C Isabellen Strasse 20
Cologne am/Rhein Germany his wife MARTHA GUILLEAUME
of the same address my cousin EDMUND GUILLEAUME of
58 Holler Strasse Buedelsdorf Germany his wife
MAGDA GUILLEAUME of the same address ERNST
GUILLEAUME of 23 Gottesweg Cologne-Zollstock
Germany his wife KAETE GUILLEAUME of the same
address EDIGFRIED WELTE of 19 Runzstrasse Freiburg
Baden Germany and his wife ANNELISSE WELTE of the
same address the sum of TWO HUNDRED AND FIFTY
POUNDS during his or her life AND to hold the 30
following further annuities payable quarterly on
protective trusts as declared by Section 45 of

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John Sanders

the Trustee Act 1925 for the benefit of the respective annuitants hereinafter mentioned namely: FOR each of them the said FLORENCE STEVENS the said JEAN HEATON the said JOAN DUFF the said RONALD DUFF and EDMUND de BONO a son of the said Karla de Bono the sum of TWO THOUSAND POUNDS per annum during her and his life respectively AND for each of them the said VALENTINE HEATON and DENISE HEATON children of the said Jean Heaton and JENNIFER STEVENS a daughter of the said Florence Stevens 10
the sum of ONE THOUSAND POUNDS per annum during his and her life respectively PROVIDED HOWEVER AND I HEREBY DIRECT that if any moneys are owing to me at the date of my death

(Sgd.) H.M. ASPINALL (Sgd.) ED RESCH (Sgd.) K. CATO
by VALENTINE EDWARD JOSEPH HEATON the husband of the said Jean Heaton in respect of certain advances made by me to him and other payments made by me on his account on the security of mortgages over the property known as "Hawthorn" near Yass previously 20
owned by him (hereinafter referred to as the mortgage debt) my said Trustee shall withhold payment of each of the annuities payable to the said Jean Heaton, Valentine Heaton and Denise Heaton until the amounts withheld equal the amount of the mortgage debt remaining unpaid and thereafter my Trustee shall pay the said annuities for the then current periods and if the whole or any part of the said mortgage debt shall be subsequently paid my Trustee shall pay 30
the annuities withheld to the extent that may be necessary to reduce the amounts withheld to the amount of the mortgage debt still owing to

Affidavit of
John Sanders.

the intent that the amount of annuities withheld shall from time to time be equal to the mortgage debt from time to time remaining unpaid AND I DIRECT that my Trustee shall accumulate as income any annuity payments withheld as aforesaid and in the event of annuities withheld becoming payable by virtue of payment of the mortgage debt or part thereof such annuity payments shall be made out of the moneys accumulated as income provided that no such annuity payment shall be withheld or accumulated for a longer period than twenty years AND I DECLARE that except by virtue of payment of the mortgage debt or part thereof as aforesaid the said annuitants shall not be entitled to claim payment of the amount of annuities withheld and that after the death of any of the said annuitants no payment of amounts withheld as aforesaid shall be made to her or his estate notwithstanding the payment of the said mortgage debt or any part thereof unless such annuitant became entitled to such payment prior to her or his death AND I DIRECT that the amount of annuities withheld shall not be deemed to be or credited as a payment in or towards satisfaction of the said mortgage debt and nothing herein contained shall relieve the said Valentine Edward Joseph Heaton or his estate from payment of the said mortgage debt PROVIDED HOWEVER AND I HEREBY DECLARE that my Trustee shall be at liberty to apply the amount withheld as aforesaid in satisfaction of the said mortgage debt either before or after the death of the said Valentine Edward Joseph Heaton if the amount withheld is sufficient to meet the

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Affidavit of
John Sanders

mortgage debt and my Trustee is of the opinion that
no further payment can or is likely to be obtained
in respect of the said mortgage debt AND I DECLARE
that my Trustee shall not be obliged to take legal
proceedings against the said Valentine Edward
Joseph Heaton or his estate to endeavour to recover
the said mortgage debt AND I DECLARE that any income
or other tax which may become payable by my said
Trustee in respect of the amount of annuities
withheld shall be paid out of the amounts withheld 10
and the amounts which may become payable to the
said annuities shall be reduced accordingly AND I
DECLARE that any surplus of the accumulations of
income as aforesaid which are not required to be
held to meet payments under the provisions herein
contained shall be dealt with as residuary income
of my estate and be disposed of accordingly AND I
HEREBY DIRECT my Trustee out of the capital of my
estate to pay death estate and other duties which
may become payable on the Estate of my late wife 20
Florence Mabel Resch or on any
(Sgd.) H.M. ASPINALL (Sgd.) ED. RESCH (Sgd.) K. CATO
part thereof during the lifetime of the said Brian
de Bono in consequence of the death of any other
person to the extent that her estate other than
Stock in Tooth & Co. Limited and real and personal
property specifically devised and bequeathed may
be insufficient to pay such duties and other lia-
bilities to the intent that duties the payment of
which would otherwise involve the sale of Stock in 30
Tooth & Co. Limited and real and personal property
specifically devised and bequeathed shall be paid

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John Sanders

out of and borne by my estate if such duties become payable during the lifetime of the said Brian de Bono AND I DIRECT that out of the income arising from the residue of my real and personal estate during such time as the premises known as "Sunray" situated at Leura shall be held by the Trustees of the Estate of my late wife Florence Mabel Resch for the benefit of children of the said KARLA de BONO but not after any of such children shall have attained the age of twenty one years my said 10
Trustee shall pay for the maintenance and upkeep of the said premises known as "Sunray" and land and premises used in connection therewith including the payment of rates charges insurance premiums outgoings for repairs wages for staff including a gardener and two maids and such other expenses as my said Trustee may consider reasonable to maintain such premises at its present standard AND I HEREBY DIRECT that if and so often as by reason of the 20
nationality of any of any of such annuitants it shall be or become unlawful for my said Trustee to pay or for any of the said annuitants to receive payment of all or any part of the said annuities or any of them so given and bequeathed to the said annuitants respectively or if any action claim demand enquiry inquisition or proceeding be brought instituted made had directed or taken whereby or in consequence whereof the right interest or property of the said annuitants or any of them in to or in

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respect of their respective annuities or any part thereof or any payment or payments thereunder may or might be taken seized or forfeited by or on behalf of the crown or if and so often as each of the said annuitants shall not be entitled to the personal receipt and enjoyment of the annuities so given and bequeathed to each of them as aforesaid respectively then and in every such case the payment of the annuity so affected shall cease and determine for the period during which such payment and/or receipt may be unlawful or during or for which such annuity or any payment thereof may or might be taken seized or forfeited or become liable to be taken seized or forfeited by or on behalf of the Crown or during which the annuitant is not entitled to personal receipt and enjoyment thereof and in such case the amount of the payments of the said respective annuities so affected as aforesaid shall for the period or periods aforesaid form part of the income from the residue of my real and personal estate payable to the institutions hereinafter mentioned and shall be disposed of accordingly AND I DECLARE that the annuities hereinbefore mentioned shall be paid in Australian currency and the cost of remitting to each annuitant shall be borne by such annuitant AND I DIRECT that the said annuities shall be charged upon and payable out of income only of my estate and not the capital thereof AND I HEREBY DECLARE that it shall be lawful for my said Trustee in its absolute discretion to apply for the maintenance advancement and education or otherwise for the benefit of any infant entitled (Sgd.) H.M. ASPINALL (Sgd.) ED RESCH (Sgd.) K. CATO to an annuity under the trusts of this my Will

Affidavit of
John Sanders

during his or her minority the whole or any part
of the said annuity AND subject to payment of such
annuities as aforesaid I DIRECT my said Trustee
from time to time to pay or apply the income of
the residue of my real and personal estate and of
the investments for the time being representing
the same in paying or discharging all costs charges
and expenses of my said Trustee of and incidental
to the administration of the trusts of this my
Will and subject thereto to pay two-third parts 10
of the net income of the said residue and of the
investments representing the same to the SISTERS
OF CHARITY for a period of two hundred years or for
so long as they shall conduct ST. VINCENT'S PRIVATE
HOSPITAL whichever shall be the shorter period to
be applied for the general purposes of such
Hospital and upon the expiration of the said period
of two hundred years or upon the said Sisters of
Charity ceasing to conduct such Hospital whichever
shall first happen to pay the said two-third parts 20
of the said net income to FAR WEST CHILDRENS HEALTH
SCHEME of Manly THE SPASTIC CENTRE of Mosman BOYS'
TOWN of Engadine and ROYAL NEW SOUTH WALES INSTITUT-
ION FOR DEAF AND BLIND CHILDREN of Sydney in equal
shares and to pay one-third part of the said net
income to the said FAR WEST CHILDREN'S HEALTH
SCHEME, THE SPASTIC CENTRE, BOYS TOWN and ROYAL
NEW SOUTH WALES INSTITUTION FOR DEAF AND BLIND
CHILDREN in equal shares for the general purposes
of such institutions PROVIDED that if any 30
(Sgd.) H.M.A. (Sgd.) E.R. (Sgd.) K.C.
of the said institutions shall amalgamate with or
be absorbed by or otherwise become merged with any

Affidavit of
John Sanders

other charitable institution its share of income shall thenceforth be paid to the institution with or by which such institution shall amalgamate be absorbed or merged PROVIDED HOWEVER that in the event of any institution entitled to a share of income as aforesaid being dissolved or ceasing to exist without any such amalgamation absorption or merger as aforesaid then the share of income payable to it shall thence forth be paid to the other institution or institutions for the time being entitled to receive a share of the said income AND in the event of all the said institutions being dissolved or ceasing to exist without any such amalgamation absorption or merger as aforesaid then I DIRECT my said Trustee to pay or apply the income of the said residue of my estate and of the investments for the time being representing the same to such institution or institutions person or persons for such purposes and objects for the relief care education and/or maintenance of poor and/or sick persons in New South Wales as the Supreme Court of New South Wales in its Equity Jurisdiction shall upon application made by my said Trustee from time to time determine AND I DECLARE that the receipt of the secretary or Treasurer or other proper officer of the respective institutions as aforesaid shall be sufficient discharge to my said Trustee for all moneys paid to the said institutions respectively and my said Trustee shall not be concerned or bound to enquire into the application thereof AND I DECLARE that any such institution entitled to a share of the income of my estate shall not be entitled to

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Affidavit of
John Sanders

receive any part of the capital of my estate AND I EXPRESS the wish without creating any trust that as a memorial to my late father EDMUND RESCH and my late mother CAROLINE RESCH their names shall be associated by each of the said

(Sgd.) H.M. ASPINALL (Sgd.) ED. RESCH (Sgd.) K. CATO institutions with the gift to it as aforesaid AND

I HEREBY DIRECT that the annuities and gifts of income hereinbefore mentioned shall be free of all death duties in anywise payable in connection with

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my estate AND I EMPOWER my Trustee to continue all or any part of my Estate in the state or upon the investments in or upon which the same shall be at the time of my decease however doubtful or hazardous or limited the description or nature of the property or investment may be and in particular to continue to hold all my stock or shares in Tooth & Co. Limited and any other Company and to take up any bonus or other issue from time to time

AND I HEREBY DECLARE that my Trustee shall be at liberty to let or demise and to join in letting or demising any property belonging to me or in which I may be interested for any estate whatsoever

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for any term not exceeding five years at such rent for such bonus and subject to such covenants and conditions as my said Trustee shall think fit and to accept surrenders of leases and tenancies and to expend money in repairs and improvements and generally to manage the property according to the absolute discretion of my said Trustee AND I

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EMPOWER my said Trustee to sell call in and convert into money the residue of my real and personal estate and the investments for the time

Affidavit of
John Sanders.

being representing the same at such times and in such manner as my said Trustee shall think fit and to postpone during such period as my said Trustee shall think fit such sale calling in and conversion and to invest the proceeds arising from such sale calling in and conversion in or upon such stocks funds and securities as shall be hereby authorised and to hold such investments and the income arising therefrom upon the trusts hereinbefore declared concerning the residue of my real and personal estate AND I DECLARE that all moneys liable to be invested under the trusts of this my Will may be invested in any one or more of the following modes of investment:- (a) Any investment from time to time sanctioned by law for the investment of trust funds (b) Similar investments to those in which any part of my estate may be invested at the time of my death (c) Freehold lands situated in the State of New South Wales (d) Shares Stock Units or Debentures or Debenture stock of any Bank or banking company or of any other Company carrying on business in New South Wales or elsewhere whether there is or is not a liability in respect of any such shares or stock units and whether the registered office of any such bank or banking company or other company is or is not within the Commonwealth of Australia (e) Notes or similar securities issued by any public company with or without security provided such Notes are or are intended to be officially listed on any of the Stock Exchanges of the Commonwealth of Australia (f) The Units of a Fixed or Flexible Trust registered and carrying on business in New South Wales or

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Affidavit of
John Sanders

elsewhere (g) Fixed deposit in any bank or banking
company (h) On deposit with any public company AND
I DIRECT that my said Trustee shall have my body
interred at South Head Cemetery Sydney irrespective
of the place of my death and to pay such sum to
the Trustees of the said Cemetery or other proper
Authority as may be necessary to provide for per-
petual care for the

(Sgd.) H.M. ASPINALL (Sgd.) ED. RESCH (Sgd.) K. CATO
respective graves in the said Cemetery in the names 10
of myself and of my said late wife AND to pay such
sum to the Trustees of Waverley Cemetery Sydney or
proper Authority as may be necessary to provide for
perpetual care for the graves of my Father and Mother
and pending such payment to expend such amounts as
my said Trustee shall think fit in keeping the said
graves in order AND I HEREBY DIRECT that Perpetual
Trustee Company (Limited) shall be paid as remuner-
ation for acting as Executor and Trustee of this my
Will commission at a rate not exceeding one half of 20
one percent on the gross capital value of my Estate
as valued for assessment of Death Duty in the State
of New South Wales payable out of capital by equal
yearly instalments over a period of ten years and
at a rate not exceeding two and one half per cent
on the gross annual income of my Estate in lieu of
any other commission to which it may be entitled
and shall not be paid any further or other remuner-
ation out of my Estate IN WITNESS whereof I have
hereunto set my hand this fifth day of December in 30
the year of our Lord One thousand nine hundred and
sixty.

Affidavit of
John Sanders.

SIGNED by the said Testator as
and for his last Will and Testament
in the presence of us present at
the same time who at his request
in his presence and in the pres-
ence of each other have hereunto
subscribed our names as witnesses:-

)
(Sgd.)
Ed. Resch

(Sgd.) H. M. Aspinall
Solicitor
Sydney.

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(Sgd.) K. Cato
Solicitor
Sydney.

"B"

This is the annexure marked "B" referred to in the Annexed Affidavit of JOHN SANDERS. SWORN this twelfth day of March, 1965. Before me:-

B.B. Scobie. J.P.

THIS IS A FIRST CODICIL to the last Will and Testament of me EDMUND RESCH of Darling Point near Sydney in the State of New South Wales Gentleman (which Will bears date the fifth day of December, 1960) I HEREBY DIRECT my said Trustee out of the capital of my estate to pay any stamp duty death duty estate duty and other duties which may be or become payable at any time and from time to time in respect of any declaration of trust settlement or other trust document executed by me and in respect of any gifts made by me during my lifetime AND in all other respects I confirm my said Will IN WITNESS whereof I have hereunto set my hand this Twenty-second day of May in the year of Our Lord One thousand nine hundred and sixty-two.

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SIGNED by the said Testator as an
for a first Codicil to his last Will
and testament in the presence of us
present at the same time who at his
request in his presence and in the
presence of each other have hereunto
subscribed our names as witnesses :-)

(Sgd.)
Ed. Resch

(Sgd.) H.M. Aspinall
Solicitor
Sydney.

(Sgd.) B. Hall,
Clerk.
33-39 Hunter Street,
Sydney.

"C"

This is the annexure marked "C" referred to in the annexed Affidavit of JOHN SANDERS. SWORN this twelfth day of March, 1965. Before me :-

B.B. SCOBIE. J.P.

THIS IS A SECOND CODICIL to the last Will and Testament of me EDMUND RESCH of Darling Point near Sydney in the State of New South Wales Gentleman (which Will bears date the fifth day of December one thousand nine hundred and sixty)

I HEREBY DIRECT my said Trustee out of the income 10
arising from the residue of my real and personal estate to hold the following Annuities payable quarterly on protective trusts as declared by Sec. 45 of the Trustee Act 1925 for the benefit of the respective annuitants hereinafter mentioned namely; for STEPHEN GEORGE de BONO a son of Karla de Bono of Darling Point aforesaid the sum of TWO THOUSAND POUNDS per annum during his life and for each child of the said Karla de Bono born after the date hereof but within a period 20
of ten years after that date the sum of TWO THOUSAND POUNDS per annum during his or her life AND I AUTHORISE AND DIRECT my said Trustee as far as practicable to raise the whole or any part of the moneys required to pay duties in anywise payable in connection with my Estate by mortgage or overdraft or otherwise howsoever and to repay the amounts so borrowed out of capital other than my stock in Tooth & Co. Limited and/or income as and when my said Trustee may think fit 30

to the intent that my stock in Tooth & Co. Limited shall not be sold but shall be preserved in tact as far as practicable AND in all other respects I confirm my said Will and first Codicil IN WITNESS whereof I have hereunto set my hand this twenty fourth day of September in the year of our Lord one thousand nine hundred and sixty two. x x

SIGNED by the said Testator as and for a Second Codicil to his last Will and Testament in the presence of us present at the same time who at his request in his presence and in the presence of each other have hereunto subscribed our names as witnesses:-) (Sgd.) Ed. Resch 10

(sgd.) H.M. Aspinall Solicitor Sydney.

(Sgd.) K. Cato Solicitor Sydney.

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"D"

This is the annexure marked "D" referred to in the annexed Affidavit of JOHN SANDERS. SWORN this twelfth day of March 1965, Before me:-

B.B. SCOBIE. J.P.

THIS IS A FIRST CODICIL TO THE LAST WILL AND TESTAMENT of me EDMUND RESCH of Darling Point near Sydney in the State of New South Wales Gentleman which Will bears date the fifth day of December One thousand nine hundred and sixty WHEREAS by my said Will I GAVE DEVISED AND BEQUEATHED the residue of my real and personal estate unto my Trustee UPON TRUST to pay thereout all my just debts funeral and testamentary expenses and all duties in anywise payable in connection with my estate NOW I HEREBY DECLARE that such trust shall include all duties in anywise payable in connection with my motional estate AND I DIRECT my Trustee out of the income arising from the residue of my real and personal estate to hold an annuity of TWO THOUSAND POUNDS (£2000) per annum payable quarterly on protective trusts as declared by Section 45 of the Trustee Act 1925 for the benefit of STEPHEN de BONO a Son of Karla de Bono AND WHEREAS by my said Will I DIRECTED that if any moneys were owing to me at the time of my death by VALENTINE EDWARD JOSEPH HEATON in respect of certain advances made by me to him and other payments made by me on his account my Trustee should withhold payment on each of the annuities payable under my said Will to JEAN HEATON VALENTINE HEATON and DENISE HEATON as therein mentioned AND

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WHEREAS the said Valentine Edward Joseph Heaton has since died NOW I HEREBY REVOKE the provisions contained in my said Will whereby I directed that my Trustee should withhold payment of the said annuities AND I HEREBY DIRECT my Trustee to pay the said annuities to the said JEAN HEATON VALENTINE HEATON and DENISE HEATON respectively in the same manner in all respects as they would have been payable if my said Will had not contained any restrictions on the payment thereof on account of the mortgage debt owing to me by the said Valentine Edward Joseph Heaton AND in all other respects I confirm my said Will IN WITNESS whereof I have hereunto set my hand this fifth day of September in the year of our Lord One thousand nine hundred and sixty-three.

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SIGNED by the said Testator as and for a First Codicil to his last Will and Testament in the presence of us present at the same time who at his request in his presence and in the presence of each other have hereunto subscribed our names as witnesses:-

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}
} (Sgd.)
} Ed. Resch

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(Sgd.) Joan Therese Turner

(Sgd.) H.M. Aspinall

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

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EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES

INSTITUTION FOR DEAF AND

BLIND CHILDREN

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

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Defendants

On the Twentyfirst day of July One thousand nine
hundred and sixty four ELEANOR CATHERINE DANIEL
of St. Vincent's Hospital, Darlinghurst, a Member
of the Congregation of The Sisters of Charity and
known by my name in Religion as MOTHER MARY EDMUND
being duly sworn make oath and say:

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1. I became a member of the Congregation of
the Sisters of Charity (hereinafter referred to
as "the Congregation") in 1895 as a Postulant and
I have continuously been a member of the Congreg-
ation since that time.

2. In 1903 I was appointed Novice Mistress
in the Novitiate situated at Tarmons, Potts Point,

Affidavit of Eleanor
Catherine Daniel

Affidavit of Eleanor
Catherine Daniel,

and I retained that office until 1921. In 1921 I was appointed Counsellor and as such I became a member of the governing body of the Congregation, being one of four assistants to the Mother General. I remained in that office until 1937 in which year I was elected Mother General of the Congregation for a term of six years and on the expiration of that term I was re-elected Mother General for a second term of six years. Thereafter I ceased to be a member of the governing body of the Congregation, nevertheless I have always maintained a keen interest in and have kept myself well informed of the activities of the Congregation, particularly in New South Wales up to the present time.

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3. Although as Novice Mistress I resided at Potts Point I frequently visited the Convent where the nursing sisters live which is situated between St. Vincent's General Hospital and St. Vincent's Private Hospital in Victoria Street, Darlinghurst.

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4. The building now called St. Vincent's Private Hospital was officially opened in 1909. I was present at the opening. Previously the building was a Hospice for the Dying under the control of Mother Rectress of St. Vincent's Hospital.

5. I had frequent conversations with the Mother General Frances McGuigan on the subject of the removal of the Hospice to a new site on

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(Sgd) W.J. Bourke J.P. (Sgd) Eleanor Catherine Daniel

Affidavit of Eleanor
Catherine Daniel.

the opposite side of Victoria Street, Darlinghurst.
For some years prior to 1909 the Hospice for the
Dying was far too small to cope with the applicat-
ions for the admission of persons whose lives
were approaching their terminations. It was the
policy and practice of the Congregation to admit
to the Hospice persons whose state of health
rendered them eligible without regard to their
religious denomination, their need being the only
qualification for admission.

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6. There was in Victoria Street almost immedi-
ately opposite the then Hospice a large building
owned by the Crown and known as the Industrial
School for Girls which was no longer in use for
that purpose and was for sale. On the advice of
His Eminence Cardinal Moran the Congregation
purchased the Industrial School in 1908 principally
with the aid of monies bequeathed and gifts made
by various persons and by means of fetes and similar
functions, but there was a heavy burden of debt
on the premises for many years.

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7. I was informed by the then Mother General
McGuigan and verily believe that when the trans-
fer of the Hospice to its new site was being con-
sidered by Mother General, she and the governing
body of the Congregation had also considered con-
version of the Hospice building when vacated as a
hospital for private patients.

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(Sgd) W.J. Bourke J.P. (Sgd) Eleanor Catherine Daniel

Affidavit of Eleanor
Catherine Daniel

8. In about the year 1907 or 1908 Mother General McGuigan informed me and I verily believe that she considered that it was necessary to establish a private hospital in connection with St. Vincent's General Hospital in order to relieve the pressing demands of the public for admission to the General Hospital, which was quite inadequate to admit all those who sought and needed admission. She also informed me and I verily believe that another reason which was moving the governing body of the Congregation to establish a private hospital was the fact that there were many persons who needed hospital nursing and attention who were not willing to enter a public hospital but were willing and desirous of having hospital accommodation with more privacy and comfort than were possible in the General Hospital. She also informed me that the establishment of an adjacent private hospital would provide an opportunity to members of the honorary medical staff who were rendering noble service in the General Hospital to admit for treatment under their care in the private hospital their patients who were reluctant to enter the General Hospital and were capable of and willing to pay reasonable and proper fees for admission and treatment in a private hospital.

9. The original Hospice building, having become vacant after the Hospice was transferred to its new site, the Congregation decided to use it to accommodate private patients in the General Hospital and others who wished to be cared for

(Sgd) W.J. Bourke J.P. (Sgd) Eleanor Catherine Daniel

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by and under the supervision of the nursing sisters of the Congregation and the medical officers of the General Hospital in a greater degree of privacy and comfort than was possible in the General Hospital.

10. I was informed by the said Mother General and verily believe that it was intended by her and the governing body of the Congregation that such profits as might accrue from the private hospital should be applied primarily to the support of the General Hospital and secondly to the other charitable works of the Congregation as defined in its constitution. 10

11. As Mistress of Novices I say of my own knowledge that at the time of the opening of the private hospital and for some years thereafter the Novitiate at Tarmons, Potts Point, was in impoverished circumstances to the extent that I was constrained to approach Mother General McGuigan for aid. Knowing that the private hospital was making considerable profits almost from its inception, I informed Mother General of the straightened condition of the Sisters and Novices at Tarmons and asked her twice to let us have some financial aid out of the profits of the private hospital and she replied that the profits from the private hospital were for the assistance of the General Hospital and that we would have to manage without it. We at the Novitiate had to make do as best we could depending on gifts from 20 30

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Catherine Daniel.

friends of the Sisters of Charity and such money as came from such small school fees, namely, threepence or sixpence per week, as were paid by the children whom the Novices were teaching. As Novice Mistress from the time of the opening of the private hospital in 1909 until I ceased to be the Novice Mistress in 1921 I say that no part of the revenue of the private hospital was spent or applied in assistance of the Sisters and Novices in Tarmons, Potts Point.

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12. I say that from the time of my entering the Congregation of the Sisters of Charity in 1895 until the present time the only material benefits which I and other members of the Congregation have received have been clothing, food, housing and medical and dental care and I refer to the Constitution of the Congregation under which I, in common with every person who becomes a Sister of Charity, make, inter alia, a vow of poverty.

13. Prior to the transfer of the Hospice for the Dying from its site adjacent to the General Hospital to the western side of Victoria Street the Mother Rectress of St. Vincent's Hospital had the control and management of the Hospice. Upon its transfer to the western side of Victoria Street the Hospice for the Dying was controlled by a Mother Rectress appointed exclusively for that purpose and she, with the Sisters of Charity assisting her, became a self-contained community independent of the Mother Rectress and community of St. Vincent's Hospital. When the private

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(Sgd) W.J. Bourke J.P. (Sgd) Eleanor Catherine Daniel

Affidavit of Eleanor
Catherine Daniel

hospital was established it came under and still remains under the control of the Mother Rectress of St. Vincent's Hospital and the Sisters of Charity engaged in the private hospital are members of the community of St. Vincent's Hospital.

14. It was one of my duties as Novice Mistress to familiarise myself with the activities and administration of all the establishments of the Congregation in New South Wales, which were principally hospitals and schools and also orphanages, and the visitation of the gaols and the destitute.

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15. After I became a member of the governing body of the Congregation in 1921 I was fully aware of the fact that the private hospital and the public hospital were both parts of the same establishment although separate accounts were kept for each of them. I was aware that an Act of Parliament, which I am now informed by Mr. Keith Harris, Solicitor, and believe is Act No. 5 of 1912, distinguished between the land on which the public hospital is built and the land on which the private hospital is built, but the Congregation regarded the two hospitals as one establishment. The distinction made by the said Act of which I was aware was that it was possible to borrow money on the security of that part of the land on which the private hospital

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(Sgd) W.J. Bourke J.P. (Sgd) Eleanor Catherine Daniel

stood but not on the land on which the general
hospital stood.

16. Subsequently after the Hospitals' Commission was created it granted substantial subsidies to the public hospital and exercised wide powers of supervision of its administration and I believe that this is the position at the present time. This involved a distinction in the financial administration by the Mother Rectress between the private and public hospitals but nevertheless they both remained under her control and management.

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SWORN by the Deponent on the day)
and year first abovementioned) (Sgd.)
Before me:) ELEANOR CATHERINE
) DANIEL
(Sgd.) W.J. Bourke J.P.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

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EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

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Defendants

On the third day of June One thousand nine hundred
and sixty five ALICE NOLAN ELPHICK known in relig-
ion as Mother Mary Bernice of St. Vincent's Hospit-
al, Victoria Street, Darlinghurst in the State of
New South Wales, Mother Rectress and Matron being
duly sworn, makes oath and says as follows: 30

1. I am the third named defendant herein and
I am the Mother Rectress of St. Vincent's Hospital.
I became a perpetually professed Sister of Charity
on the fourteenth day of January One thousand nine
hundred and forty nine. I was appointed to the
office of Mother Rectress of St. Vincent's Hospital
Sydney on the eighth day of December One thousand

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

Affidavit of Alice
Nolan Elphick

nine hundred and sixty two and I took up my duties as Mother Rectress on the twenty fourth day of February One thousand nine hundred and sixty three.

2. As far as I am aware, the duties pertaining to the office of Mother Rectress of St. Vincent's Hospital include duties normally performed by Matrons of other large Hospitals such as Sydney Hospital and Royal Prince Alfred Hospital.

3. Prior to my appointment as Mother Rectress of St. Vincent's Hospital, Sydney as aforesaid I was for a period of six years the Mother Rectress of St. Vincent's Hospital conducted by the Sisters of Charity in Launceston, Tasmania. I have had the following other experience in nursing and in the administration and control of hospitals.

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February 1942 - Graduated as General Trained Nurse, St. Vincent's Hospital, Melbourne.

February 1942 - July 1943 - Staff Sister, St. Vincent's Hospital, Melbourne.

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January 1946 - July 1947 - Charge Sister, St. Vincent's Hospital, Sydney.

July 1947 - January 1949 Charge Sister, St. Vincent's Hospital, Launceston.

January 1949 - August 1950 - Charge Sister, St. Vincent's Hospital, Melbourne.

August 1950 - January 1952 Supervisor of Nursing Personnel St. Vincent's Hospital, Melbourne.

1952 - Received Diploma of Ward Administration, College of Nursing, Australia.

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December 1952 - November 1955 - Supervisor of Nursing Personnel, St. Vincent's Hospital, Melbourne.

1956 - Received Certificate in Midwifery, St. Vincent's Maternity Hospital, Melbourne.

1956 - Elected to Fellow of the College of Nursing Australia.

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(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

4. Exhibited to me at the time of swearing this affidavit and marked with the letter "A" is an aerial photograph showing in my opinion a true and correct view of the area occupied by the buildings known as St. Vincent's General Hospital and St. Vincent's Private Hospital and other buildings in Darlinghurst, New South Wales.

5. The buildings numbered one to eleven inclusive on the said exhibit are as follows:

1. St. Vincent's General Hospital the main frontage of which is to Victoria Street, Darlinghurst. 10
2. The service block of the General Hospital.
3. The Thoracic Unit of the General Hospital known as the Cameron Wing.
4. St. Vincent's Private Hospital.
5. The Convent of the Sisters of Charity who staff St. Vincent's General Hospital and St. Vincent's Private Hospital. 20
6. The Garvan Institute of Medical Research.
7. The Notre Dame Nurses' Home.
8. The Nurses' Home (Xavier) Unit.
9. The Clinical School conducted as part of the activities of St. Vincent's Hospital as a teaching hospital as hereinafter referred to. 30
10. The boiler house and resident medical officers' quarters.

(Sgd) Joseph N. Moslyn J.P.
(Sgd) A.N. Elphick

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Nolan Elphick

11. Terrace of cottages owned by Trustees
of St. Vincent's Hospital.

6. There are certain annexes of St. Vincent's Hospital which are not shown in the said exhibit namely Babworth House at Darling Point, which is an after care institution for patients of the General Hospital, the Caritas Centre for the mentally ill conducted in Forbes Street, Darlinghurst and the Hostel for medical students at Darlinghurst all of which are under my control and supervision as Mother Rectress of St. Vincent's Hospital.

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7. The medical and nursing activities conducted in the Cameron Wing consist of medical and surgical treatment of cardiac and thoracic diseases and in the treatment of tropical diseases. Techniques which could not be maintained in a Private Hospital, for instance in the field of cardiac disease are available in the Cameron Wing to patients of the Private Hospital.

8. The Garvan Institute of Medical Research, which was opened in February 1963, is engaged in fundamental and clinical medical research in the fields of blood and heart disease and in endocrine research. The Garvan Institute is conducted in association with St. Vincent's General Hospital. The facilities of the Garvan Institute are available to patients in the Private Hospital when they need them. The results of research carried out in the Institute, for instance, estimates of the secretion of the adrenal gland are applied in the

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(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

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care of patients as well in the Private Hospital as in the General Hospital. Techniques learnt in the Garvan Institute have been applied in appropriate cases in the care of patients in the Private Hospital. The land on which the Garvan Institute is erected, so I am informed by other Sisters of the Congregation and verily believe was purchased from the funds of the Private Hospital, but apart from this the finance necessary for the erection and conduct of the institute was provided from the proceeds of a public appeal which was made on the occasion of the centenary of St. Vincent's Hospital.

9. The Notre Dame Nurses' Home is a Nurses' Home principally for nurses of the General Hospital. Most of the accommodation in the Notre Dame Nurses' Home is occupied by trainee nurses of St. Vincent's Hospital but about fourteen trained nurses live there, the staff of the General Hospital. In addition, five female resident medical officers of St. Vincent's General Hospital reside in the Notre Dame Nurses' Home. The School of Nursing of the General Hospital is situated in the Notre Dame Nurses' Home. All the trainee nurses except on occasions for one senior trainee who may be engaged in operating theatre work in the Private Hospital, carry out their duties in the General Hospital. In respect of the trainee nurse resident in the Notre Dame Nurses' Home who from time to time is engaged in operating

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick 30

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Nolan Elphick

theatre work in the St. Vincent's Private Hospital,
the Private Hospital makes payment to the General
Hospital for her food and lodging.

10. All the buildings numbered 1 to 10 inclusive
on the said Exhibit "A" and the facilities therein
provided together with Babworth House and the
Caritas Centre are under the care of one community
of the Sisters of Charity in the Constitutions of
the Congregation referred to as a "House". As the
Mother Rectress of this community I have, subject 10
to the Superior General, in accordance with the
Constitutions the control and supervision of the
whole of the said hospitals, hospital buildings
and facilities and of the Sisters of Charity of
this community. The community of which I am
Mother Rectress provides nursing services both
at St. Vincent's General Hospital and at St.
Vincent's Private Hospital.

11. The Sisters of the said Community reside as
far as the accommodation available permits in the 20
building which is marked 5 on the said Exhibit "A"
and the number of Sisters comprising the community
during the time I have been Mother Rectress is
approximately fifty (50).

12. Approximately forty (40) Sisters of Charity
are engaged in nursing and supervisory duties in
the General Hospital and four (4) to six (6)
Sisters of Charity are engaged in such duties in
the Private Hospital.

13. The Private Hospital is a building com- 30
prising a ground floor and two floors above.

(Sgd.) Josephn N. Moslyn J.P. (Sgd) A.N. Elphick

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Nolan Elphick

There are two operating theatres and an X-ray Unit in the Private Hospital. The Private Hospital has eighty two (82) beds made up as follows:

Single Rooms 36, double rooms 3, three bed wards 6, six bed wards, 3, balcony beds 4.

14. At present the staff employed at St. Vincent's Private Hospital who are not members of the Congregation comprise forty one (41) trained nurses (excluding holiday relief staff) nineteen (19) trainee nurses, four (4) nurse aids, four (4) permanent and four (4) relief clerical staff in addition to the kitchen, domestic, cleaning and laundry staff and porters which number forty two (42).

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15. St. Vincent's Private Hospital provides accommodation for fees for persons needing surgical or medical attention other than the treatment of infectious diseases.

16. Prior to and since the death of the testator there has been a heavy demand for beds in the Private Hospital which it is not possible to satisfy with the accommodation available. Greatly increased accommodation is needed in the Private Hospital and it is impossible to provide this accommodation from fees received from patients. The existing building is in need of modernization in relation to its kitchens, operating theatres, medical equipment and other necessary facilities. At the present time patients in the Private Hospital

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

requiring special treatment, for instance, deep X-ray treatment for cancer, have to be sent to the General Hospital building where such facilities are available.

17. The Private Hospital shares with the General Hospital certain facilities provided in the building mentioned in paragraph 4 hereof for example, the boiler house. In addition, the bulk of the clerical and accounting work involved in the administration of the Private Hospital is carried out in the General Hospital by General Hospital staff, including the preparation of wages for payment of Private Hospital staff, the keeping of the necessary records in relation thereto such as Private Hospital supplies, food and maintenance accounts and the keeping of the ledgers of the Private Hospital. 10

18. Pharmacy requirements of patients in the Private Hospital are provided on a shared service with the General Hospital by the General Hospital pharmacy and staff and partly by dispensing from outside pharmacists. There is no pharmacy in the Private Hospital although this facility is needed. 20

19. Private Hospital patients needing any form of complicated or special X-rays are sent to the General Hospital for the taking of the x-rays. The x-ray facilities of the Private Hospital are inadequate for such complicated or special work.

20. The accommodation for trained nurses is insufficient to provide for the trained nurses (Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick 30

working in either the General or the Private Hospital. Nor is there adequate accommodation for the trainee nurses who receive their training in the General Hospital and in the Private Hospital.

21. There is no pathology department and no bio-chemistry department in the Private Hospital, although these facilities are needed.

22. The services of staff employed for maintenance purposes are shared by the Private and General Hospitals.

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23. The private Hospital makes payments from its funds into General Hospital funds for the use of the services and facilities which it shares with the General Hospital, such payments being made in accordance with the requirements of the Hospitals' Commission of New South Wales which subsidises the General Hospital, but not the Private Hospital.

24. From my own experience as a nursing sister and in hospital administration, I am of the opinion that the existing building of the Private Hospital by reason of its age and design could not by renovation and extension be brought up to the most satisfactory modern standards, and that it would be better to rebuild the Private Hospital in stages, partly on land owned by the trustees of St. Vincent's Hospital adjoining the existing building; this land is shown number 11 in the said photograph Exhibit "A".

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25. St. Vincent's Private Hospital does not receive any Government subsidy or assistance. It is an approved Hospital under the National Health Act 1953-1962.

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(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

26. I have examined the audited accounts of the Private Hospital for the years ended 30th June 1963 and 30th June 1964. Since the 30th June 1962 the results of the activities of the Private Hospital have been calculated by accounting methods designed to show the actual result for the year taking into account accruing items. The accounts of the Private Hospital for the year ended 30th June 1963 showed a net surplus for the year of £12,854. 0. 0. and the accounts for the year ended 30th June 1964 showed a net surplus for that year of £9,979.15. 8. No provision has been made in these accounts for depreciation of buildings or equipment and the balance sheets relative to these two periods do not include the cost or value of land, buildings, plant and equipment except that the balance sheet as at the 30th June 1964 shows that the value of new equipment purchased during the year ended 30th June 1964 the value of which was £4,067.11. 5.

27. As at the 30th June 1964 there was to the credit of the St. Vincent's Private Hospital building account an amount of £79,978.10. 0. which to a very considerable extent was built up by donations, but it includes a sum of £11,000. 0. 0. transferred to the credit of the building account from the St. Vincent's Private Hospital working account in the year ended 30th June 1962.

28. St. Vincent's Hospital as a separate institution under the Third Schedule of the Public Hospitals' Act 1929 receives very considerable subsidies

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

from the Hospitals' Commission under the said Act in respect of the General Hospital, and it also receives grants from the Commonwealth Department of Health in respect of pensioners under the Pensions' Medical Scheme and in respect of patients who are not members of any hospitals' contribution fund under the National Health Act 1953-1962 of the Commonwealth of Australia and in respect of tuberculous patients treated in the Cameron Wing under the Tuberculosis Act 1948. St. Vincent's General Hospital has three hundred and forty seven (347) beds; only twelve (12) of these beds are for "intermediate patients". In addition there are ninety five (95) beds in the Cameron Wing; sixty (60) beds in Babworth House and thirty six (36) beds in the Caritas Centre.

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29. The functioning of St. Vincent's Hospital is, like that of other large general hospitals, dependent upon the services of its honorary medical staff. At the present time there are one hundred and forty one (141) honorary medical officers on the staff of the Hospital, and there are seventy nine (79) medical officers on the salaried staff of the Hospital including specialists.

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30. The salaried staff of St. Vincent's Hospital do not, except in emergencies, attend patients in the Private Hospital. The medical care of the patients in the Private Hospital is the responsibility of the doctors chosen by the Private patients and at whose request and under whose care they have been admitted to the hospital. In cases of emergency,

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(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

Affidavit of Alice
Nolan Elphick

members of the salaried medical staff have attended patients in the Private Hospital when the private patient's own doctor has not been available.

Except in cases of extreme emergency, such treatment has never been given except with the consent of the patient, and, if it should be possible to make contact with the doctor whose private patient needed such care, any treatment given has always been given under the direction of such doctor.

31. St. Vincent's General Hospital is one of 10
the major teaching hospitals for medical students in Sydney and, by way of illustration, in the year ended 30th June 1963 one hundred and sixty four (164) students in their fourth, fifth and final years of their course for qualification as medical practitioners were students at the General Hospital. Eighteen (18) recently qualified medical practitioners filled positions as resident doctors at the hospital. Resident medical officers reside in accommodation built upon land which, I am informed 20
by Mr. William Vincent Bourke, Supervisor of Works and Property of St. Vincent's Hospital and verily believe was purchased from funds provided by the Private Hospital.

32. Apart from the Private Hospital building there is no accommodation in St. Vincent's Hospital by way of private wards or rooms. There are as previously mentioned only twelve (12) intermediate beds in St. Vincent's Hospital. Accordingly, 30
honorary medical officers are able only to use the Private Hospital for treatment of their private patients.

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick
Affidavit of Alice
Nolan Elphick

33. To enable the Honorary Medical officers to devote a considerable part of their time to giving free services to St. Vincent's General Hospital it is desirable that such medical officers should for their own patients have access to Private Hospital accommodation such as is provided in St. Vincent's Private Hospital. I am of the opinion that availability of Private Hospital accommodation to the honorary doctors attached to St. Vincent's Hospital is essential to the continued high efficiency of the Hospital.

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34. Admission to the Private Hospital however is not and has never been confined to patients of honorary medical officers. The Private Hospital is and always has been, to the extent of its accommodation, open to the public at large, whether or not they are treated by an honorary doctor at St. Vincent's Hospital, so long as they are admitted as patients on the request of a doctor as his patient.

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35. I have caused an examination of the admissions to St. Vincent's Private Hospital in the period from the 1st September 1961 to the 31st August 1963 and from the 1st September 1963 to the 31st August 1964 to be made. I am informed by the two Sisters who made that examination and verily believe that the records disclose that during the period 1st September 1961 to the 31st August 1963 4,724 patients were admitted, of whom 2,751 were patients of 71 of the honorary doctors attached to St. Vincent's

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(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

Hospital. The remaining 1,973 patients admitted were patients of 159 other doctors none of whom was at the relevant time on the honorary staff of St. Vincent's Hospital. During this period 4,177 operations were carried out at the Private Hospital including operations upon patients who attended as out-patients. In the year ended 31st August 1964 the records disclose that 2,385 patients were admitted of whom 1,510 were patients of 61 of the honorary doctors attached to St. Vincent's Hospital. 10

The remaining patients admitted were patients of 113 other doctors none of whom was at the relevant time on the honorary staff of St. Vincent's Hospital. During the year ended 31st August 1964, 2139 operations were carried out in the Private Hospital including operations upon patients who attended as out patients.

36. The Private Hospital serves people of average means, its scale of fees being within the range of persons of moderate incomes who are mainly members of approved hospital contribution funds under the National Health Act 1953-1962 of the Commonwealth of Australia. 20

37. In order that the Private Hospital should continue and expand its operations as a high standard hospital without considerably increasing its charges reliance has to be placed upon the receipt of gifts and benefactions.

38. Since I have been Mother Rectress of St. Vincent's Hospital the Private Hospital has not been conducted for the financial gain of any 30

(Sgd) Joseph N. Moslyn J.P. (Sgd) A.N. Elphick

person or persons and has never been so conducted.

39. The Sisters of Charity at St. Vincent's Hospital either as a community or individually derive no financial gain or benefit of a financial character from the services which they carry out in St. Vincent's Hospital other than their food, clothing and shelter. The only sources other than gifts and benefactions from which the community of Sisters of St. Vincent's Hospital can make any contribution towards the general funds of the Congregation required for its administration and the training of postulants and novices is from such surplus income as may arise from conducting the Private Hospital.

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40. Patients of any religious denomination and patients who profess no religion at all are admitted to the Hospital without difference or distinction.

41. Since I have been Mother Rectress of St. Vincent's Hospital no part of the surplus funds of St. Vincent's Private Hospital has been expended except upon purposes of the Congregation and to the best of my knowledge at no time has any part of the surplus funds of the Private Hospital been expended except upon purposes of the Congregation.

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SWORN by the deponent on the day }
first abovementioned at Sydney } A.N. Elphick
Before me:

Joseph N. Moslyn J.P.
A Justice of the Peace

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IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY }

No. 754 of 1964.

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD EMIL
RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES INSTITUTION
FOR DEAF AND BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

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Defendants

On the eighth day of September One thousand nine hundred and sixty five ALICE NOLAN ELPHICK known in religion as Mother Mary Bernice of St. Vincent's Hospital, Victoria Street, Darlinghurst in the State of New South Wales, Mother Rectress and Matron being duly sworn, makes oath and says as follows:

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1. I refer to my Affidavit sworn on the third day of June One thousand nine hundred and sixty five and filed herein and I refer especially to paragraphs 5, 9, 14, 15, 34, 36 and 39 thereof.
2. In paragraph 5 (8) of my said Affidavit I referred to the Nurses Home (Xavier) Unit. This

building which I am informed is erected on land comprised within Schedule 11 of the St. Vincent's Hospital Act 1912 comprises the original nurses quarters for the General Hospital and the additions to it which were built about the year 1938. Since the completion in about 1960 of the Notre Dame Nurses Home (No. 9. on aerial photograph Exhibit "A" to my said Affidavit) the Xavier Nurses Home is used principally for the junior nurses working in the General Hospital and 17 trainee nurses working in the Private Hospital of whom 15 work full time and 2 work part time as night reliefs while the Notre Dame Home is used principally for senior nurses of the General Hospital except for three senior trainee nurses engaged in operating theatre work in the Private Hospital.

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3. Referring to paragraph 9 of my said Affidavit I say that owing to a typographical error in line 5 where the word "and" should have read "all on", the second sentence is not correct. I say that the sentence should read - "Most of the accommodation in the Notre Dame Nurses Home is occupied by trainee nurses of St. Vincent's Hospital but about fourteen trained nurses who are on the staff of the General Hospital live there".

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In the said paragraph 9 of my said Affidavit lines 10 to 13 inclusive I referred to - "All the trainee nurses, except on occasions for one senior trainee who may be engaged in operating theatre work in the Private Hospital, carry out their duties in the General Hospital." - in amplification I say

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that I was referring to those trainee nurses who live at The Notre Dame Nurses Home so that as amended in accordance with paragraph 2 hereof the sentence referred to commencing at line 10 should read - "All the trainee nurses who live at the Notre Dame Nurses Home, except on occasions for three senior trainee nurses who may be engaged in operating theatre work in the Private Hospital, carry out their duties in the General Hospital".

4. The words "nineteen (19) trainee nurses" referred to in line 4 of paragraph 14 of my said Affidavit should now read "twenty (20) trainee nurses"; these nurses who are at present employed at St. Vincent's Private Hospital all live at the said Xavier Nurses Home with the exception of the three senior trainee nurses engaged in operating theatre work who live at the Notre Dame Nurses Home. 10

5. Referring to paragraph 15 of my said Affidavit I say that since January in the year 1957 the records of St. Vincent's Private Hospital show that 24 patients have been treated free of charge involving the sum of £7,302.11.10 while 24 patients have been treated without fees other than the amount received from the patients' medical and hospital benefits fund refund leaving an amount of £867.13.11 in fees waived by the Hospital; while, since 1961, 6 patients have been treated at fees reduced by a total of £111.15.11. Arrangements for free treatment or for treatment at reduced fees are 20 30

Affidavit of Alice
Nolan Elphick.

made by the Sister in Charge in consultation with the Mother Rectress and with the patient personally usually on discharge or at a later date.

6. In paragraph 26 of my said Affidavit I have referred to the accounts of the Private Hospital for the years ended 30th June 1963 and 30th June 1964. The accounts for the year ended 30th June 1965 show a deficit of the sum of £1,237. 0. 0.

7. Referring to paragraph 34 of my said Affidavit I say that the medical condition of the patient and the urgency of treatment are the primary factors in determining the priority of the admission of patients to available beds at St. Vincent's Private Hospital and where a Doctor seeks to admit two patients and only one bed is available the Doctor's recommendation of which is the more urgent case is accepted. In cases where no bed is available the patient is frequently admitted to the General Hospital or to some other Hospital until a bed is available for the patient. Where there are competing claims, the decision is made by the Admitting Sister and priority is given to the more urgent case.

8. Referring to paragraph 36 of my said Affidavit the records of St. Vincent's Private Hospital show that its scale of fees since and including the year 1958 is as follows:

1958

Ward rates (Jan.)	£3. 3. 0. per day
2 Bed-room & small room	3.12. 0. " "

Affidavit of Alice
Nolan Elphick.

3 Bed-room	£3. 6. 0. per day
Private Room	4. 7. 0. " "
Private Room (New Wing)	4.13. 0. " "

1959

Ward Rates	£3. 4. 6. per day
2 Bed-room & small room	3.13. 6. " "
3 Bed-room	3. 9. 0. " "
Private Room	4.10. 0. " "
Private Room (New Wing)	4.19. 0. " "

1960 and 1961

10

Ward Rates	£3.19. 6. per day
2 Bed-room & small room	4. 8. 6. " "
3 Bed-room	4. 4. 0. " "
Private Room	5. 8. 0. " "
Private Room (New Wing)	5.14. 0. " "

1962

Ward Rates	£4. 7. 0. per day
2 Bed-room & small room	4.16. 0. " "
3 Bed-room	4.11. 6. " "
Private Room	5.15. 0. " "
Private Room (New Wing)	6. 1. 0. " "

20

1963

Ward Rates	£4.10. 0. per day
2 Bed-room & small room	5. 2. 0. " "
3 Bed-room	4.17. 6. " "
Private Room	6. 1. 0. " "
Private Room (New Wing)	6. 7. 0. " "

1964

Ward Rates	£4.15. 0. per day
2 Bed-room & small room	5.12. 0. " "
3 Bed-room	5. 7. 0. " "

30

Affidavit of Alice
Nolan Elphick

Private Room	£6.13. 0. per day
Private Room (New Wing)	7. 0. 0. " "
Suites	7. 6. 0. " "
Theatre Fees - Out Patients -	£3. 3. 0.
" " - From	£5. 5. 0. (Minor cases)

and approximately £5 per hour for major cases.

The scale of fees is determined by a Committee comprising the Mother Rectress of St. Vincent's Hospital, the Sister in Charge of St. Vincent's Private Hospital, the Medical Superintendent and the Accountant of St. Vincent's Hospital. 10

9. In paragraph 39 of my said Affidavit I refer in line 9 to "the training of postulants and novices". One who enters the Congregation is referred to as a postulant for the first six (6) months and then, taking the habit, she becomes a novice for a period of two (2) years; her training as a postulant is general, including both spiritual and secular study to determine whether she has the intelligence, education and character which she will require to proceed as a novice. As a novice her training in her first year is mainly spiritual but it includes periods amounting to a total of $6\frac{1}{2}$ hours per week for secular study; in her second year her training is more secular including preparation for that branch of the Congregation she is intended to follow namely teaching, nursing or hospital ancillary services. 20 30

10. Eleanor Catherine Daniel known in Religion

Affidavit of Alice
Nolan Elphick.

as Mother Mary Edmund and whose affidavit sworn
the 21st day of July 1964 is filed herein, died
on the 22nd day of April, 1965 and I refer to
paragraph 16 of her said affidavit; the distinction
in the financial administration is that St. Vincent's
Private Hospital is self supporting while St.
Vincent's General Hospital enjoys the benefit of
large Governmental subsidies and grants.

Conditions are attached to such subsidies and grants
and directions are given to the General Hospital
by the Hospitals Commission. Annexed hereto and
marked with the letters "A" and "B" respectively
are copies of the Conditions of Subsidy dated
2nd November 1964 and a circular dated 4th April
1963 relating to increased accommodation charges
received from the Commission. The conditions
necessitate a very strict accounting for the cost
of services rendered by the General Hospital to
the Private Hospital.

10

SWORN by the Deponent on the day }
first abovementioned at Sydney } A.N. Elphick
Before me: }

20

Joseph N. Mostyn J.P.
A Justice of the peace.

"A"

COPY ONLY.

HOSPITALS COMMISSION OF N.S.W.
CONDITIONS OF SUBSIDY TO PUBLIC HOSPITALS

In terms of the authority contained in Section 11 (f) of the Public Hospitals Act, 1929-59, the Hospitals Commission has attached the following conditions to the payment of subsidy to public hospitals:

1. Expenditure in excess of £100 shall not be incurred in the purchase of land or buildings, the erection of new buildings or the alteration of existing buildings without the prior written approval of the Commission. In the case of any organisation included in the Third Schedule to the Public Hospitals Act which conducts other activities as well as a public hospital, the above condition will, of course, only apply in respect of that section of its functions connected with its public hospital activities. 10 20
2. New services and/or facilities or extension of those already existing shall not be undertaken or brought into use without the prior approval of the Commission.
3. Maintenance moneys must not be used for capital expenditure. Capital expenditure is defined as -
 - (a) the purchase of land or buildings, erection of additional buildings or improvements or additions to existing buildings; 30

- (b) the purchase of additional plant, furnishings or equipment;
 - (c) the cost of replacement of any of the above assets beyond the amount required to provide a similar article.
4. Bank overdraft accommodation should be avoided, except as a temporary expedient and only resorted to if the funds required to liquidate the overdraft are immediately insight. 10
5. Wages and conditions in respect of all employees must conform strictly to the appropriate Award, Industrial Agreement or Commission Determination and must not exceed same unless approved by the Commission.
6. Additional staff (whether nursing staff or otherwise) must not be employed without the prior approval of the Hospitals Commission. This also applies, in the case of any hospital whose establishment has not been fixed by the Commission, to the filling of vacancies existing for a period in excess of six months which must be regarded as new appointments. 20
7. Extraordinary and/or non-recurring maintenance expenditure under any heading and particularly "Renewals, Renovations and Repairs", which cannot be encompassed within the limits of the allotted budget, must not be undertaken unless the necessary funds have been made 30

available either by the Commission or from other sources.

8. All patients must be means tested, classified and charged fees appropriate to their means except:-
- (a) those persons who from time to time the Commission has stipulated are to be given treatment free of charge, or in accordance with a special formula or arrangements, e.g. pensioners, State wards, police injured in the execution of their duties, Workers' Compensation patients, military patients, etc. 10
 - (b) No means test need be applied to a patient seeking private or intermediate classification, provided he is made aware of the obligations to the hospital and his attending medical practitioner which such classification entails, and the hospital is satisfied as to his ability to pay the hospital fees involved. 20
9. Compliance with the requirements of the Tuberculosis Act, 1940 and arrangement thereunder and of the Hospital Benefits Scheme and Pharmaceutical Benefits Scheme as provided for in the National Health Act.
10. The public hospital mortuary must be made available for police cases in towns where there is no public mortuary. 30

Annexure "A" to Affidavit of Alice Nolan Elphick.

J.A. STEPHEN,
Secretary

HOSPITALS COMMISSION OF N.S.W.

2nd November 1964.

This and the preceding page comprise the annexure marked "A" referred to in annexed Affidavit of ALICE NOLAN ELPHICK sworn at Sydney this eighth day of September, One thousand nine hundred and sixty five before me:

Joseph N. Mostyn JP

A Justice of the Peace

10

"B"

COPY ONLY

THE HOSPITALS COMMISSION
OF N.S.W.
225/227 Macquarie Street,
SYDNEY.

4th April, 1963. H.407

CIRCULAR TO ALL HOSPITALS NO. 1378
(Last Circular to all Hospitals No. 1377.)

INCREASED ACCOMMODATION CHARGES

With a view to meeting in some measure the increased maintenance costs of public hospitals, the Government has decided that accommodation charges are to be increased to the following:

10

Public Ward	£21. 0.0. per week (60/- per day)
Intermediate Ward	£30.16. 0. per week (88/- per day)
Private Ward	£40.12.0. per week (116/- per day)

The standard charges in respect of out-patients and for extras in respect of private and intermediate inpatients will remain unchanged. In this latter regard, the charge of 3/- per day to private and intermediate inpatients in respect of miscellaneous ward services, as notified in Circular No. 1202, will continue to be levied in addition to the new accommodation rates.

20

The new rates are to apply from 1st May 1963. Patients admitted to hospital prior to that date will be required to pay the higher rate only from 1st. May, 1963.

30

To implement this decision a special meeting of your Board of Directors of controlling .

authority should be called at the earliest possible moment appropriately to vary the by-laws of the hospital, or, where there are no by-laws, to bring the charges into operation.

Whilst it will be necessary to obtain formal approval of this Commission to the variation of by-laws such approval may be anticipated for purposes of applying the new rates. Hospitals are requested to seek the Commission's formal approval by completing the attached form and forwarding it to the Commission as soon as possible.

10

Notwithstanding the increase in Local revenue which will accrue from the increased charges, it will still be incumbent upon Boards of Directors to observe the strictest economy in the conduct of the hospitals' affairs.

J.A. STEPHEN,
Secretary.

Previous charges	1958	Public 28/-	Int. 57/-
	1960	44/-	Int. "
	1963	60/-	88/-

20

This and the preceding page comprise the annexure marked "B" referred to in annexed Affidavit of ALICE NOLAN ELPHICK sworn at Sydney this eighth day of September, one thousand nine hundred and sixty five before me:

Joseph N. Mostyn JP

A Justice of the Peace

IN THE SUPREME COURT)
OF NEW SOUTH WALES)
IN EQUITY)

No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the fourth day of June One thousand nine hundred
and sixty five WINIFRED AGNES POWELL known in
religion as Mother Mary Aurelius of St. Vincent's
Convent, Potts Point, Sydney in the State of New
South Wales, Bursar General, being duly sworn
makes oath and says as follows:

30

1. I am the Bursar General of the Pious Con-
gregation of the religious Sisters of Charity of
Australia. I was admitted as a postulant to the
Congregation in 1925 and became a perpetually
professed Sister in 1931. I have been Bursar
General of the Congregation since the 22nd day

(sgd) Joseph N. Moslyn J.P. (Sgd) Winifred A. Powell

Affidavit of Winifred
Agnes Powell

of January One thousand nine hundred and fifty five. I have also held the following offices in the Congregation during the years mentioned hereunder:

1928 to 1938 Housekeeper at Novitiate and Motherhouse, St. Vincent's Convent, Potts Point.

1938 to 1955 Assistant to the Secretary of St. Vincent's Hospital, Melbourne and Assistant in the General Office of that Hospital.

10

2. As Bursar General I have charge of all the records of the general funds of the Congregation.

3. During the period June 1922 to December 1964 contributions were made from the funds of St. Vincent's Private Hospital to the general fund of the Congregation for its teachers' training college and other congregational works in a total amount of £4,690.0.0.

4. Between September 1942 and January 1965 contributions amounting to £4,826.0.0. were made from the funds of St. Vincent's Private Hospital to the Novitiate Training College Maintenance Fund.

20

5. On the 28th October 1954 a contribution of £10,000.0.0 was made from the funds of St. Vincent's Private Hospital towards the purchase and building of the new Novitiate for the Congregation at Wahroonga, New South Wales.

6. On the 19th April 1962 a donation of £500.0.0 was made to St. Vincent's College Junior School from St. Vincent's Private Hospital funds.

30

7. On the 10th October 1956 a contribution of £230.0.0. was made from the funds of St. Vincent's Private Hospital towards travelling expenses to establish an educational mission in Fiji.

(Sgd) Joseph N. Moslyn J.P. (Sgd) Winifred A. Powell

8. By arrangement with the Bank of New South
Wales the credits in St. Vincent's Private Hospital
accounts with that Bank have been from time to time
offset against loans made by the Bank to the Con-
gregation for the purposes of its educational work.

9. According to the said records no part of the
surplus funds of the said Hospital have been ex-
pended except upon the purposes of the Congregation
save that in some schools conducted by the Congreg-
ation some boys are accepted for education as well
as girls.

10

SWORN by the deponent on the day)
first abovementioned at Sydney } Winifred A. Powell
Before me :

Joseph N. Moslyn J.P.

A Justice of the Peace.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the eighth day of September One thousand nine hundred and sixty five WINIFRED AGNES POWELL known in religion as Mother Mary Aurelius of St. Vincent's Convent, Potts Point, Sydney in the State of New South Wales, Bursar General, being duly sworn makes oath and says as follows :

30

1. I refer to my Affidavit sworn on the fourth day of June One thousand nine hundred and sixty five and filed herein.

2. The contributions referred to in paragraph 3 of my said Affidavit were not made by St.

Vincent's Private Hospital to the General Fund

Affidavit of Winifred
Agnes Powell

Affidavit of Winifred
Agnes Powell

of the Congregation subject to any condition imposed on such funds by the Private Hospital.

3. The contributions of £4,826. 0. 0. referred to in paragraph 4 of my said Affidavit were of moneys collected and raised annually on the Feast Day of the Superior General for the specific purpose of the Novitiate Training College Maintenance Fund. The Novitiate Training College is identical with Novitiate House. The training given at Novitiate Training College includes the full training of Novices and post graduate lectures in nursing and teaching. It is both Spiritual and Secular and includes full courses of study and the teaching of those who enter the Congregation without the standard of education required for their future; these courses include English Literature, Art, Science, the Art of Speech and Mathematics.

10

SWORN by the Deponent on the
day first abovementioned at
Sydney. Before me

} Winifred Agnes Powell

20

Joseph N. Mostyn JP

(A Justice of the Peace)

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
CENTRE

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES

INSTITUTION FOR DEAF AND

BLIND CHILDREN

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

20

Defendants

On the third day of June One thousand nine hundred
and sixty five WILLIAM VINCENT BOURKE of 75 Darley
Road Randwick in the State of New South Wales
Supervisor of Works and Property, being duly sworn
makes oath and says as follows :

30

1. I am the Supervisor of Works and Property
of St. Vincent's Hospital Sydney.

2. I became a member of the staff of St. Vincent's
Hospital in October 1932 when I was appointed to the
office of collector which was an office the duties
of which in past times had involved the raising
of funds by means of donations for St. Vincent's
Hospital.

(Sgd) Joseph N. Moslyn J.P. (Sgd) W.V. Bourke

Affidavit of William
Vincent Bourke,

Affidavit of William
Vincent Bourke

3. However from the time of my appointment, although there was an honorary secretary of St. Vincent's Hospital, I in fact carried out the duties of Secretary of the Hospital. My duties included keeping the books of account and records of the Private Hospital and together with Mother Rectress and the Bursar I had authority to sign cheques on the Private Hospital Banking account.

4. When I was appointed Supervisor of Works and Property on the 1st January 1964 I ceased to carry out the duties of Secretary of St. Vincent's Hospital which I previously discharged.

10

5. During the time I carried out such duties I was engaged in and had personal knowledge of the purchase of property by the Trustees of St. Vincent's Hospital, and in particular I had personal knowledge of all the transactions involving St. Vincent's Private Hospital building account.

6. I have read the affidavit of Alice Nolan Elphick known in religion as Mother Bernice who is the Mother Rectress of St. Vincent's Hospital dated the 3rd day of June One thousand nine hundred and sixty five and intended to be filed herein; in particular I have examined the photograph which is Exhibit "A" to the said affidavit.

20

7. During the period 1937 to 1950 funds from St. Vincent's Private Hospital building account totalling £20,014.12.3 were used to purchase property which is now occupied by buildings of the General Hospital as follows :

30

(a) In 1937 the properties known as Nos. 189 to 201 Barcom Avenue comprising the area

(Sgd) Joseph N. Moslyn J.P.
(Sgd) W.V. Bourke

Affidavit of William
Vincent Bourke

Affidavit of William
Vincent Bourke.

of land now occupied by the General Hospital boiler house and the resident medical officers quarters, marked 10 on the said exhibit and portion of the land occupied by the Cameron Wing marked 3 on the said Exhibit were purchased at a cost of £4,526.18.5.

(b) In 1939 the properties known as Nos. 51 and 53 West Street which comprise portion of the site now occupied by the Notre Dame Nurses Home marked 7 on the said Exhibit were purchased in the name of the Trustees of St. Vincent's Hospital at a cost of £2,850.0 .0.

10

(c) In 1947 to 1948 the remainder of the land on which the Notre Dame Nurses' Home is built comprising land in Burton and West Streets was purchased in the name of the Trustees of St. Vincent's Hospital for £3,057.18.5.

20

(d) In 1950 the properties comprised in Nos. 384 Victoria Street and 386-392 Victoria Street which comprises the site occupied by the Garvan Institute of Medical Research marked 6 on the said exhibit was purchased in the name of the Trustees of St. Vincent's Hospital for £9,579.15.5.

8. On the 9th May 1952 a contribution of £6,000. 0. 0. was made from the funds of the St. Vincent's Private Hospital building account towards the purchase price of a vacation home for the

30

(Sgd) Joseph N. Moslyn J.P. (Sgd) W.V. Bourke

Sisters of Charity at Leura, New South Wales.

9. I have examined the audited accounts of St. Vincent's Private Hospital for the years ended 30th June 1944 to the 30th June 1962. During this period of 19 years the Private Hospital accounts were kept on the cash receipts and expenditure basis, and the surplus or deficiency shown at the end of each year reflected in the cash book figures as at the end of the financial year. On the 28th October 1954 an amount of £10,000. 0. 0. was contributed from the funds of St. Vincent's Private Hospital towards the purchase and building of a new Novitiate for the Congregation at Wahroonga, New South Wales, and this amount was debited to St. Vincent's Private Hospital working account. In the year ended 30th June 1955 an amount of £11,000.0.0. transferred to St. Vincent's Private Hospital building account was debited to the Private Hospital working account. After writing back to the credit of the Private Hospital working account the amounts of £10,000. 0. 0. and £11,000. 0. 0. mentioned in this paragraph, the result of operations of the Private Hospital in the years mentioned was an overall surplus of £30,147.9.10. Annexed hereto and marked "A" is a statement of St. Vincent's Private Hospital working account balances as at the 30th June for the years 1944 to 1962 after making the adjustments referred to in this paragraph.

10. I have examined the annual reports of St. Vincent's General Hospital for the years from

(Sgd) Joseph N. Moslyn J.P., (Sgd) W.V. Bourke

Affidavit of William
Vincent Bourke.

1910 onwards. Those reports show that in the period between 1910 and 1934 payments being variously described as donations or loans were made from the funds of St. Vincent's Private Hospital to the maintenance account of St. Vincent's General Hospital in the amount of £39,100. 0. 0. and payments also variously described as donations and loans were made from the funds of St. Vincent's Private Hospital to the building account of St. Vincent's General Hospital in the amount of

10

£16,295. 0. 0. The said reports further show that repayments in the amount of £14,200. 0. 0. to the Private Hospital were made from the maintenance account of St. Vincent's General Hospital, and repayments totalling £7,500. 0. 0. were made to St. Vincent's Private Hospital from the funds of St. Vincent's General Hospital building account.

The last such repayment was made in 1936. In the result the total contribution for the years mentioned from the funds of the Private Hospital to

20

the funds of St. Vincent's General Hospital was an amount of £24,900. 0. 0. paid to the maintenance account of the General Hospital, and an amount of £8,795.17.7. paid to the building account of St. Vincent's General Hospital.

SWORN by the deponent on the day }
first abovementioned at Sydney }
Before me:

W.V. Bourke

Joseph N. Moslyn J.P.

Justice of the Peace

Affidavit of William
Vincent Bourke

Annexure "A" to Affidavit of William Vincent Bourke

"A"

<u>SURPLUS</u>		<u>DEFICIENCY</u>	
1944	3,564.11. 9.		
1945		1,164.11. 7.	
1946		2,217. 7. 0.	
1947		2,310. 7. 0.	
1948		6,954.12. 3.	
1949		1,051. 5.10.	
1950	5,766.11. 4.		
1951	3,600.17. 9.		
1952	17,262. 9. 2.		10
1953	14,510. 5. 9.		
1954	8,552.16.10.		
1955	932. 3. 9.		
1956		6,056.15.11.	
1957		2,261.18. 1.	
1958	1,717. 0. 9.		
1959	1,121. 1. 5.		
1960		12,305. 8. 5.	
1961		3,988.12. 2.	
1962	11,430. 9. 7.		20
	<hr/>	<hr/>	
	68,458. 8. 1.	38,310.18. 3.	
	<hr/>		
	38,310.18. 3.		
	<hr/>		
<u>Net Surplus</u>	£30,147. 9.10.		

This is the annexure marked "A" to the affidavit of William Vincent Bourke sworn on the third day of June One thousand nine hundred and sixty five.

(SGD.) Joseph N. Moslyn. J.P.

A Justice of the Peace

Annexure "A" to Affidavit of William Vincent Bourke.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964.

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES INSTITU-
TION FOR DEAF AND BLIND
CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the Eighteenth day of February One thousand nine hundred and sixty-five IAN DOUGLAS MILLER, Knight Bachelor of Killeaton Street West St. Ives in the State of New South Wales being duly sworn make oath and say

30

1. I am a legally qualified medical practitioner practising my profession at No. 149 Macquarie Street, Sydney. I am a Bachelor of Medicine of the University of Sydney, a Fellow of the Royal College of Surgeons of England since 1928

(Sgd) Nicholas Larkins J.P. (Sgd) I. Douglas Miller

Affidavit of Ian
Douglas Miller

and Past President of The Royal Australasian
College of Surgeons. I have been an Examiner for
both Colleges. I have done several tours of
teaching duty under Columbo Plan in Asian countries,
and am an Honorary Academician of The Academy of
Medicine of Singapore.

2. I have been associated with St. Vincent's
Hospital from before my graduation in the Univers-
ity of Sydney in 1924 up to the present time.

3. When I graduated in medicine I was appointed 10
to the resident medical staff of the said Hospital;
in 1929 I was appointed to the honorary surgical
staff first as a junior surgeon and became senior
surgeon in 1939 and the first honorary neuro-
surgeon in 1948. In 1960 I was appointed honorary
consultant neurosurgeon and I am a member of the
Advisory Board of the Hospital.

4. In 1931 I was appointed Dean of the Clinical
School conducted at St. Vincent's Hospital
which was and is a teaching hospital of the Univers- 20
ity of Sydney and I relinquished that post in
1964.

5. My association with both the General Hosp-
ital and the Private Hospital has been continuous
and close. For many years after I became a member
of the honorary staff the various Mother Rectresses
of the Hospital consulted me on hospital affairs
and honoured me with their confidence. This was
especially so before the formation approximately
ten years ago of the Advisory Board of St. Vincent's 30
Hospital.

(Sgd) Nicholas Larkins J.P. (Sgd) I. Douglas Miller

Affidavit of Ian
Douglas Miller

6. Throughout the whole period of my association with St. Vincent's Hospital the Mother Rectress for the time being governed and controlled both the General Hospital and the Private Hospital and from my own observation and knowledge I am able to say that administration of the Private Hospital has been closely integrated with the administration of the General Hospital.

7. In the years of economic depression (1929 and the following years) St. Vincent's Hospital was the only hospital in Sydney that did not close down any of its public wards. The Mother Rectress at that time, Mother Stephanie, frequently told me that this ability to carry on without closing any public wards was due to the support supplied from the funds of the Private Hospital.

10

8. The Sisters of Charity whether working in the General Hospital or the Private Hospital live in frugal comfort and accommodation, an absolute minimum being expended on their personal comfort.

20

9. The services of the honorary medical staff are essential to the functioning of St. Vincent's General Hospital. The care of patients is dependent on their directions.

10. From my own knowledge and experience I am of the opinion that St. Vincent's Private Hospital which is in the same grounds as the General Hospital is of great importance to the General Hospital particularly in that the honorary medical staff of the General Hospital have available private hospital facilities for treatment of their

30

(Sgd) Nicholas Larkins J.P. (Sgd) I. Douglas Miller

Affidavit of Ian
Douglas Miller

private patients. It is thus possible to supervise their private patients in association with their honorary work in the General Hospital. Close proximity has the further advantage that patients may be, and to my own knowledge are, frequently and easily moved from the Private Hospital building to the General Hospital building and vice versa in accordance with their own desires and financial resources and further patients in the Private Hospital may easily be taken to the General Hospital for special treatments not otherwise available to them. I have no doubt that the calibre and quality of the medical staff which has been attracted to St. Vincent's Hospital is in no small measure due to the Private Hospital facilities which are there available. This a matter of importance in another way for the honorary medical officers are teachers of medical students attached to the Hospital from the Medical School of the Universtiy of Sydney. 10

11. I would not have been able to develop the new branch of neurosurgery in the General Hospital had I not had available the Private Hospital in which to treat my private patients.

13. The Private Hospital has always been available for the admission of patients of doctors who

(Sgd) Nicholas Larkins J.P. (Sgd) I. Douglas Miller

are not members of the honorary staff.

14. In my opinion there is great need for the expansion of Private Hospital accommodation at St. Vincent's to meet the needs of people willing to pay for their accommodation and treatment. Under existing conditions and the high costs of administration there appears to be no possibility of the Private Hospital developing along modern lines and making all proper facilities available to the public, except by the assistance of very substantial outside funds.

10

SWORN by the deponent on the day)
first abovementioned at Sydney) Sgd.
Before me:-) I. Douglas Miller

Sgd. Nicholas Larkins

A. Justice of the Peace.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK MODONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the 14th day of September One thousand nine hundred and sixty-five IAN DOUGLAS MILLER, Knight Bachelor of Killeaton Street West, St. Ives in the State of New South Wales being duly sworn make oath and say:

30

1. I refer to my Affidavit sworn on the 18th day of February 1965 and filed herein and in particular in paragraphs 4, 10 and 11 thereof.

2. The reference in paragraph 4 of my said Affidavit to "St. Vincent's Hospital" is a

(Sgd) Nicholas Larkins J.P. (Sgd) Douglas Miller

Affidavit of Ian
Douglas Miller.

reference to St. Vincent's General Hospital as
St. Vincent's Private Hospital does not have a
teaching commission and therefore does not have
a Dean.

3. The reference to "St. Vincent's Hospital"
in the third last line on Page 3 of Paragraph 10
of my said Affidavit is a reference to St.
Vincent's General Hospital as St. Vincent's Private
Hospital has no Honorary Medical Staff.

4. With regard to paragraph 11 of my said
Affidavit I say that the reason why I would not
have been able to develop the new branch of
Neurosurgery in the General Hospital if the
Private Hospital had not been available to me
was that:

10

Firstly it was essential to have some place
to treat private patients and so earn my
living conveniently located near the place
where I was engaged in the neurosurgical
work; and

20

Secondly that often the facilities of the
General Hospital were necessary to me in
the care of private patients.

SWORN by the deponent on the day)
first abovementioned at Sydney)
Before me;) Douglas Miller

Nicholas Larkins

A Justice of the Peace.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the Tenth day of May One thousand nine hundred
and sixty five DOUGLAS WARDEN of 10 Ocean Street,
Edgecliff Medical Practitioner being duly sworn
makes oath and says as follows:

1. I am a legally qualified medical practitioner 30
and I graduated as a Bachelor of Medicine from the
University of Sydney in 1930.

2. I have since 1933 been in general medical
practice.

3. I have never been a member of the honorary
staff of St. Vincent's Hospital.

(Sgd) Emily Murphy J.P. (Sgd) Douglas Warden

Affidavit of Douglas
Warden

4. During the past 31 years I have been associated with St. Vincent's Private Hospital in that I have regularly had patients of mine admitted to that hospital for treatment.

5. Approximately four or five patients per year of mine have been admitted to St. Vincent's Private Hospital for many years now.

6. I have never found that there has been any discrimination against me or my patients in any way by reason of the fact that I am not a member of the honorary staff of St. Vincent's Hospital.

7. I have always found that the Sisters of St. Vincent's Private Hospital have done everything they can to make accommodation available when I require it although there have been occasions when no beds have been available and accordingly they have not been able to accommodate my patients.

8. There has never been any religious discrimination whatever in respect of my patients.

SWORN by the deponent on the day
first abovementioned at Edgecliffe } Douglas Warden
Before me: }

Emily Murphy J.P.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the First day of June One thousand nine hundred
and sixty five KENNETH BEESON NOAD of 135 Macquarie
Street, Sydney in the State of New South Wales,
Medical Practitioner, being duly sworn makes oath
and says as follows :

30

1. I am a duly qualified medical practitioner
and hold the degree of Doctor of Medicine of the
University of Sydney. I am a fellow of the Royal
College of Physicians of London, a fellow of the
Royal Australasian College of Physicians, and
honorary fellow of the American College of
Physicians. I am the immediate past president of

(Sgd) Nicholas Larkins J.P. (Sgd) K.B. Noad

Affidavit of Kenneth
Beeson Noad.

the Royal Australasian College of Physicians having held that office for the term of two years ending in February 1965. I am a consulting physician on the staff of Sydney Hospital and am Director of the Northcott Neurological Centre of North Sydney and am an honorary consulting physician to the Eastern Suburbs Hospital.

2. I have never been on the honorary staff of St. Vincent's Hospital.

3. During the thirty-three years during which I have been in practice I have been referring patients for admission to St. Vincent's Private Hospital in numbers which have ranged from about 10 each year in the early years to about 30 in recent years.

10

4. I have always received the utmost co-operation from the Sisters of St. Vincent's Private Hospital in the matter of the admission of my patients to the Hospital. There have, however, been occasions when due to all available accommodation being occupied it has not been possible to admit a patient or admission has been delayed until accommodation became available.

20

5. In my experience I have never found I was in any way at a disadvantage in having my patients admitted to St. Vincent's Private Hospital by reason of the fact that I am not a member of the honorary staff of St. Vincent's Hospital.

SWORN by the deponent on the day
first abovementioned at Sydney
Before me..

} K.B. Noad

30

Nicholas Larkins.
Justice of the Peace

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY)

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF 10
CHARITY OF AUSTRALIA

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND 20
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the twentieth day of May One thousand nine
hundred and sixty five NICHOLAS LARKINS of 135
Macquarie Street, Sydney in the State of New South
Wales, Medical Practitioner, being duly sworn makes
oath and says as follows:- 30

1. I am a legally qualified practitioner and
am a Bachelor of Medicine and a Bachelor of
Surgery of the University of Sydney and am Secret-
ary of the New South Wales Branch of the Austral-
ian Medical Association.

2. I was a student at St. Vincent's Hospital
commencing in 1934 and I have since that time

(Sgd) John Fulton

(Sgd) Nicholas Larkins

continued to be associated with the hospital.

After graduation, I served as junior resident medical officer, senior resident medical officer and medical superintendent until February of 1941 when I relinquished my appointment to undertake war service.

3. I have never been a member of the honorary staff of St. Vincent's Hospital. Over the years during the time I was in general practice at Leura in the said State I had many patients admitted to St. Vincent's Private Hospital. The treatment of these patients was carried out by some consultant in Sydney through whom the admission was arranged. This was the procedure customarily followed with respect to the admissions of a country practitioner's patients to the private section of a large Sydney Hospital.

10

4. Whenever I requested admission of a patient to St. Vincent's Private Hospital, I always found that the staff made every effort to meet my request, and, in an emergency if unable to admit the patient at once, arrangements were made to admit the patient temporarily to the General Hospital whilst awaiting a bed in the Private Hospital.

20

5. As medical secretary of the New South Wales Branch of the Australian Medical Association I am aware that in certain public hospitals the intermediate and private accommodation is restricted to patients under the care of members of the medical staff of the hospital, whereas St. Vincent's Private Hospital is an "open" hospital, that is to say, patients are constantly admitted there under the

30

(Sgd) John Fulton

(Sgd) Nicholas Larkins

Affidavit of Nicholas
Larkins

care of doctors both specialists and general pract-
itioners who are not members of the honorary staff.

SWORN by the deponent on the day } Nicholas Larkins
first abovementioned at Sydney }
Before me:

John Fulton

A Justice of the Peace

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

) No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

20

Defendants

On the Third day of September One thousand nine
hundred and sixty-five NICHOLAS LARKINS of 135
Macquarie Street, Sydney in the State of New South
Wales, Medical Practitioner, being duly sworn makes
oath and says as follows:

30

1. I refer to paragraphs 3 and 4 of my Affidavit
sworn on the 20th day of May One thousand nine
hundred and sixty-five and filed herein and for
the purpose of clarification I say that there were
two methods used by me as a General Practitioner
in the country to seek the admission to St. Vincent's
Private Hospital of my patients;

Firstly - the method referred to in paragraph

Affidavit of Nicholas
Larkins

Affidavit of Nicholas
Larkins

3 of my said Affidavit through a Consult-
ant in Sydney, and

Secondly - the method referred to in paragraph 4
of my said Affidavit namely by my direct
communication to St. Vincent's Private
Hospital requesting the admission of a
patient for treatment by a Consultant
in Sydney.

SWORN by the Deponent on the day }
and year first abovementioned at } Nicholas Larkins
Sydney. Before me : }

10

R. Newland

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

) No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED.

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN.
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

20

Defendants

On the fourth day of June One thousand nine hundred
and sixty five EDNA MAVIS SKEWES known in religion
as Mother Mary St. Agnes, of St. Vincent's Convent,
Potts Point Sydney in the State of New South Wales,
Superior General being duly sworn makes oath and
says as follows:

30

1. I am the Superior General of the Pious Congreg-
ation of the Religious Sisters of Charity of Austral-
ia and I am the second named defendant herein.

2. Exhibited to me at the time of swearing this
affidavit and marked with the letter "A" is a true
and correct copy of the Constitutions of the said
Congregation.

(Sgd) Joseph N. Moslyn J.P.
(Sgd) Edna Skewes

Affidavit of Edna
Mavis Skewes

Affidavit of Edna
Mavis Skewes.

3. A similar copy of the 1964 Reprint of the Constitutions was forwarded by my office to Bishop Carroll then in Rome for certification by the Sacred Congregation of Religious at Rome as a true copy of the Constitutions of the Pious Congregation of the Religious Sisters of Charity of Australia.

4. On or about the twenty fourth day of December One thousand nine hundred and sixty four I received from the Sacred Congregation of Religious at Rome a Certification by the Prefect Sacred Congregation of Religious that the said Reprint is a faithful copy and presentation of the said Constitutions. 10

5. A photographic copy of the said Certification is hereunto annexed marked with the letter "B".

6. On or about the eighth day of February One thousand nine hundred and sixty five my office received from the said Bishop Carroll a typewritten copy of the Rescript of 1841-1842 in Latin a photographic copy of which is hereunto annexed marked with the letter "C" and a typewritten copy of the Rescript of 1879 in Italian a photographic copy of which is hereunto annexed marked with the letter "D"; the said typewritten copies purport to have been signed by the Secretary of the Congregations of Propaganda Fide and bear a certification of such signature by the British Legation to the Holy See dated the fourteenth day of January One thousand nine hundred and sixty five. 20

7. In the said Constitutions the head of the said Congregation is referred to as the Superior General, but the customary mode of addressing the (Sgd) Joseph N. Moslyn J.P. (Sgd) Edna Skewes 30

person occupying the office of Superior General for the time being is Mother General.

8. In accordance with the Canon Law of the Catholic Church, a review of the Constitutions of the said Congregation was undertaken and the general and special ends of the Congregation as set out in the Constitutions were approved in their present form by the Sacred Congregation of Religious on the twenty fifth day of November One thousand nine hundred and thirty one. The said Exhibit "A" sets forth the said Constitutions in the form in which they stood at the time of the testator's death and as they now stand.

10

9. I was appointed to the office of Superior General on the twenty second day of January One thousand nine hundred and fifty five and I have been continuously Superior General of the Congregation since that time. I entered the said Congregation as a postulant in 1927 and became a perpetually professed Sister in 1933. I was engaged in the teaching work of the Congregation and became a Rectress of the Congregation in the year 1941.

20

10. I have read the affidavit of Alice Nolan Elphick known in religion as Mother Bernice, who is the Mother Rectress of St. Vincent's Hospital dated the third day of June One thousand nine hundred and sixty five and intended to be filed herein. In particular I have examined the photograph which is exhibit "A" to the said affidavit.

30

The Sisters residing at the Convent which is marked "5" on the said photograph and in any of the (Sgd) Joseph N. Moslyn J.P. (Sgd) Edna Skewes

Affidavit of Edna
Mavis Skewes.

other buildings shown on the said photograph comprise one "house" within the meaning of the said Constitutions. Mother Bernice has the entire control and management of all the Sisters of Charity residing as aforesaid and of all the works of the Sisters of Charity carried on in the said buildings. Opposite to the said hospital buildings in Victoria Street the Sisters of Charity also conduct a hospice for the dying but the Sisters of Charity at the hospice for the dying comprise a separate "house" within the meaning of the Constitutions and are under the control of another Mother Rectress.

10

11. No member of the Congregation receives any financial or other material reward for work or services which she performs whilst a member of the Congregation, the vow of poverty in all respects being observed. When by way of exception, Sisters do receive an honorarium or some form of payment such as the fee paid to certain Sisters for correcting Leaving Certificate Examination papers this money is acquired, in accordance with Canon 580, paragraph 2 (Code of Canon Law), by the Congregation.

20

12. Since I became Superior General of the Congregation of the Sisters of Charity of Australia, it has been my responsibility to ensure and I have ensured that all the property held by the trustees of the Sisters of Charity throughout Australia and the trustees of St. Vincent's Hospital has been used in carrying out the ends and

30

(Sgd) Joseph N. Moslyn J.P. (Sgd) Edna Skewes

Affidavit of Edna
Mavis Skewes

purposes of the Congregation as set out in this affidavit.

13. Every member of the Congregation unless prevented by age or illness, has been actively engaged in carrying out the works of the establishments referred to in this affidavit or in the administration of the affairs of the Congregation or in the education and training of postulants and novices who are desirous of becoming Sisters of Charity.

14. In New South Wales the Sisters of Charity at the present time conduct the following establishments:- 10

- (1) St. Vincent's Hospital as shown in the said photograph together with its annexes not shown in the said photograph.
- (2) Sacred Heart Hospice at Darlinghurst.
- (3) St. Joseph's Hospital at Auburn.
- (4) St. Joseph's Hospice at Lismore.
- (5) St. Vincent's Hospital at Lismore. 20
- (6) St. Vincent's Hospital at Bathurst.
- (7) Three girls' colleges, namely:
 - (a) Bethlehem - Ashfield.
 - (b) St. Vincent's - Potts Point.
 - (c) Mount St. Mary's - Katoomba.
- (8) Nineteen parochial schools, namely:
 - (a) St. Vincent's Ashfield.
 - (b) St. John's Auburn.
 - (c) St. Joseph the Worker, Auburn South. 30
 - (d) St. Thomas More's, Brighton.
 - (e) St. Mary's Concord.

(Sgd) Joseph N. Moslyn J.P. (Sgd) Edna Skewes

Affidavit of Edna
Skewes

Affidavit of Edna
Mavis Skewes.

- (f) St. Ambrose's Concord West.
- (g) Sacred Heart, Cabramatta.
- (h) Sacred Heart, Darlinghurst.
- (i) St. Joseph's, Edgecliff.
- (j) St. Canice's, Elizabeth Bay.
- (k) St. Mary's, Hurstville.
- (l) St. Raphael's, Hurstville South.
- (m) St. Canice's, Katoomba.
- (n) St. Thomas', Lewisham.
- (o) St. Mary's, Liverpool. 10
- (p) Our Lady of Mount Carmel,
Mount Pritchard.
- (q) St. Francis, Paddington.
- (r) Stella Maris, Shellharbour.
- (s) St. Mary's Cathedral Commerical
College, Sydney,

all of which are schools for girls although boys up to fourth class in a few cases up to sixth class in primary divisions are accepted in them.

- (9) One Orphanage for Girls, namely St. Ann's, Liverpool. 20

15. The Congregation carries out in New South Wales only the works specifically listed in Clause 3 of the said Constitutions except that in some of its educational institutions boys up to fourth class and in a few cases up to sixth class are accepted as previously mentioned. Some few Sisters are also engaged in accordance with the spirit of the Congregation in additional works connected with the apostolate of the Congregation such as the teaching of Religion to Catholic children in various State schools. Such

(Sgd) Joseph N. Moslyn J.P. (Sgd) Edna Skewes

Affidavit of Edna
Mavis Skewes

works have only been undertaken with due permission.

16. No works other than those specifically listed in Clause 3 of the Constitutions are carried out by the Congregation in other parts of Australia except that in some of its educational institutions in Victoria, boys up to eighth class standard are accepted and elsewhere in Australia, boys up to seventh class standard are accepted.

17. Since I have been Mother General, St. Vincent's Private Hospital has not been conducted for financial gain of any person or persons and so far as I know the Private Hospital has never been so conducted.

10

18. To the best of my knowledge no part of the surplus funds of the said Hospital have been expended except upon purposes of the Congregation.

SWORN by the Deponent on the day }
first abovementioned at Sydney } Edna Skewes
Before me: }

Joseph N. Moslyn. J.P.

A Justice of the Peace.

20

"B"

CREST
SACRA CONGREGATIO
DE RELIGIOSIS

Prot. N. 16841/61
S.35

TO WHOM IT MAY CONCERN,

This is to certify that the edition of the Constitutions of the Pious Congregation of the Religious Sisters of Charity of Australia, printed in 1964 by Westmead Printing, Westmead, N.S.W., is a faithful copy and presentation of the Constitutions of the aforesaid Pious Congregation following the Chapter of 1960 and the subsequent approval of this Sacred Congregation of Religious (23rd June, 1961. Prot. N. 16841/61). 10

Ildebrando Cardinal Antoniutti
Prefect, Sacred Congregation
of Religious

Rome, December 15, 1964.

Certified for the legalisation of the signature of Cardinal Antoniutti, Prefect of the Sacred Congregation of Religious. 20

This sixteenth day of December 1964 at the British Legation to the Holy See.

(Sgd.) D. S. Cape
First Secretary.

This is the annexure marked "B" referred to in the annexed affidavit of EDNA MAVIS SKEWES sworn at Sydney this fourth day of June 1965. Before me:

Joseph N. Moslyn J.P.
A Justice of the Peace

"C"

SACRA CONGREGATIO
DE PROPAGANDA FIDE

E X E M P L U M

ARCHIVIUM
Prot. N.

Registro delle Udienze di Nostro Signore (1841-1842).
f.npp.

Beatissime Pater

Joannes Beda Polding Episcopus Hierocaesarensis ac
Vicarius Apostolicus in Nova Hollandia humilliter
S.V. exponit haec quae sequuntur

Eminentissime Cardinalis

10

Anno 1838 quaedam Sorores et Novitiae Ordinis
seu Congregationis Sororum Charitatis in Hibernia
institutaе flagranti animarum zelo permotae ex Hib-
ernia ad praedictum Vicariatum venerunt. Quatuor ad
Novitiatum cito post earum ad memorata littora
accessum receperunt. Domus satis ampla cum horto
est emptā, et iis in perpetuum donata. Venerunt
autem pleno consensu, et etiam hortatu Reverend-
issimi Illustrissimi Archiepiscopi Dublinensis
Generalis Congregationis Ecclesiastici Superioris
et Superioris immediatae Dominae Aikenhead. Cum
vero ob distantiam aliasque causas maxima incommoda
possent oriri, si sub jurisdictione Superiorum in
Hibernia permanerent, humillime supplicatur ut
in Nova Gallia Meridionali Sanctae Sedis Auctoritate
sit stabilita ista Sororum piissima institutio
eodem modo quo existit in Hibernia, cum omnibus
privilegiis, indulgentiis congregationi huius a
Sancta Sede concessis.

20

Ex Audientia SS.mi - die 3 Martii anno 1842

30

SS.mus Dominus Noster Gregorius PP.XVI referente

for the legalisation of the Signature of Archbishop
Sigmund, Secretary of the Congregation of
Propaganda Fide.

STAMP
AFFIXED

(Sgd.) D.S. Cape
1st. Secretary.

British Legation to the Holy
See. 4th January, 1965.

Annexure "C" to Affidavit of Edna Mavis Skewes.

Secretario, mature perpensis expositi, et rerum
ac locorum adiunotis accurate considerat benigne
in omnibus annuit relate superius Episcopi oratoris
petitioni ita tamen, ut de hac Sanctitatis Suae
concessione R.P.D. Archiepiscop Dublinensem Vicarius
Apostolicus certiorem faciat.

Datum etc.

STAMP AFFIXED

"D"

SACRA CONGREGATIO

DE PROPAGANDA FIDE

E X E M P L U M

ARCHIVIUM

Dept. N.

Udienze di Nostro Signore del 1879, Parte II (193)

f. 1168.

Beatissimo Padre

Rogero Arcivescovo di Sydney espone quante
segne: Le Sorelle di Carita in Sydney ai soliti 10
voti di Castita, Obbedienza e Peverta aggiungene
quelle speciale del loro servizio ai Poveri.
Essendo sorte da qualche tempo nella mente di
aloune sorelle il dubbio, se oltre all'attendere
gratuitamente ai Poveri sia ad esse libere di
dedicarsi al bene della gioventu di civil condi-
zione, particelaramente per via de souole ed
educandati ricovendone pero congrui compensi;
progane la Santita Vostra a voler benignamente
rimnovere questo dubbio concedendo ad esse il per- 20
messo di tale estensione e di tali compensi: 1^o
perche i vari poveri qui sono comparativamente
pochi; 2^o perche questi compensi si formano il
cospite principale di loro sussistenza; 3^o perche
qui il popolo, in generale, rifuggendo di passer
per poveri, ricusa servigi gratuiti, disprezza
ben anco chi glieli effre e spenso finisce col
rivolgersi, pagando, ai Protestanti. Onde
l'influenza delle lodate Sorelle al bene resta

for the legalisation of the signature of
Archbishop Sigiamondi, Secretary of the Congregation
of Propaganda Fide.

(Sgd) D.S. Cape
1st Secretary

British Legation to
the Holy See. 4th January,
1965.

Annexure "D" to Affidavit
of Edna Mavis Skewes

in gran parte paralizzata e non di rado anche
interamente alienata. Che ecc.

Ex Audientia SS.mi habita die 4 Decembris 1879.
SS.mns Dominus Noster Leo Divina Providentia
PP.XIII, referneto me infrascripto S.Congregationis
de Propaganda Fide Praefesta attentis expositis
extraordinariis circumstantiis, de quibus iz
precibus, benigne annuit pro gratia juxta potita.
Contrariis quibuscumque hand obstantibus. Datum
Romae ex Aedibus Saerae eiusdem Congregationis 10
die et anno praedictis.

Joannes Card. Simsoni Praefectus.

P.N. Kowalsky

S.C. de Propaganda Fide

Concordat cum originali

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964.

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD EMIL
RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED.

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

20

Defendants

On the eighth day of September One thousand nine
hundred and sixty five EDNA MAVIS SKEWES known in
religion as Mother Mary St. Agnes, of St. Vincent's
Convent, Potts Point Sydney in the State of New
South Wales, Superior General being duly sworn
makes oath and says as follows:

30

1. I refer to my Affidavit sworn on the fourth
day of June One thousand nine hundred and sixty
five and filed herein and I refer especially to
paragraphs 12, 15 and 18 thereof.

2. In paragraph 12 of the said Affidavit I
referred to "the ends and purposes of the Con-
gregation as set out in this Affidavit"; the

Affidavit of Edna
Mavis Skewes.

Affidavit of Edna
Mavis Skewes.

"ends" to which I made reference are the "ends" mentioned in Chapter 1 of the Constitutions marked as Exhibit "A" to my said Affidavit.

3. In the said paragraphs 12 and 18 of my said Affidavit I referred to "purposes of the Congregation", no reference is made in the said Constitutions to the word "purposes" and the said word was included in my said Affidavit to emphasise the word "ends" but has no separate significance.

4. In the said paragraph 15 of my said Affidavit 10
one example of "additional works" only is given:
the following are substantially the "additional works connected with the Apostolate of the Congregation" referred to:

- (a) the regular visitation of the sick in Hospitals other than Roman Catholic Church Hospitals, such as Sydney Hospital;
- (b) the regular visitation of the mentally sick at Callan Park Hospital;
- (c) the direction of the Theresian Club 20
by one Sister engaged full time and one Sister engaged for part time;
- (d) the lecturing and demonstrations in Science by one Sister part time in connection with the Catholic Teachers' College, North Sydney;
- (e) the management and control of the Emergency House at Edgecliff at which one Sister will be engaged full time - the Emergency House is one to 30
which children up to thirteen years of

Affidavit of Edna
Mavis Skewes

age will be taken in emergency cases
for a period of up to three months
until they can be returned to their
homes or housed in permanent institut-
ions.

(f) for a period of about 24 years prior
to the year 1960 the provision of
free meals for a number usually
between 50 to 70 aged male persons;
one Sister was engaged full time at
this work which was carried out in
premises belonging to the Congregat-
ion at the end of Tusculum Lane,
Potts Point, part of the building
having been erected for the purpose
on the lane with the permission of
the City Council.

10

SWORN by the Deponent on the day)
first abovementioned at Sydney) Edna Skewes
Before me:)

20

Joseph N. Mostyn

A Justice of the Peace

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

) No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

On the eighth day of June One thousand nine hundred
and sixty five THOMAS JOHN CONNOLLY of St. Patrick's
College Manly in the State of New South Wales Doctor
of Canon Law (Atheneum De Propaganda Fide) and
Associate Professor in Moral Theology being duly
sworn makes oath and says as follows:

30

1. I am a Doctor of Canon Law and the Associate
Professor in Moral Theology at St. Patrick's College
Manly in the State of New South Wales.

2. In the course of my duties I am frequently
called upon to translate into English documents
written in Latin and occasionally documents
written in Italian in the legal style.

Affidavit of Thomas
John Connolly

3. In the year One thousand nine hundred and sixty four I made arrangements for a copy of the Reprint in 1964 by Westmead Printing Westmead New South Wales of the Constitutions of the Pious Congregation of the Religious Sisters of Charity of Australia to be taken by Bishop Carroll to the Sacred Congregation of Religious at Rome to be certified as a true copy of the said Constitutions.

4. I have received from Edna Mavis Skewes the Superior General of the Pious Congregation of the Religious Sisters of Charity of Australia a photographic copy of the document in Latin called Rescript of 1841-1842 and marked "C" in the Affidavit of the said Edna Mavis Skewes sworn on the fourth day of June One thousand nine hundred and sixty five and intended to be filed herein, the said photographic copy is hereunto annexed and marked with the letter "A".

10

5. I have translated the said document marked "A" into English and annexed hereto and marked with the letter "B" is a true copy of my translation thereof.

20

6. I have also received from the said Edna Mavis Skewes a photographic copy of the document in Italian called Rescript of 1879 and marked "D" in the said affidavit of the said Edna Mavis Skewes, the said photographic copy is hereunto annexed marked with the letter "C".

7. I have translated the said document marked "C" into English and annexed hereto and

30

Affidavit of Thomas
John Connolly

marked with the letter "D" is a true copy of my
translation thereof.

8. The formula of concession in the said docu-
ment marked "A" is not easy of translation and it
appears to me that the word "expositi" in the
fourth last line of the document should read
"expositis" and the word "relate" in the third
last line of the said document should read
"relatae".

SWORN by the deponent on the day } T.J. Connolly
first abovementioned at Sydney }
Before me:

10

V. Kelly J.P.

A Justice of the Peace

"A"

SACRA CONGREGATIO
DE PROPAGANDA FIDE

E X E M P L U M

ARCHIVIUM

Prot. N.

Registro delle Udienze di Nostro Signore (1841 - 1842), f.npp.

Beatissime Pater

Joannes Beda Polding Episcopus Hierocaesarensis ac Vicarius Apostolicus in Nova Hollandi humilliter S.V. exponit haec quae sequuntur

10

Eminentissime Cardinalis

Anno 1838 quaedam Sorores et Novitiae Ordinis seu Congregationis Sororum Charitatis in Hibernia institutae flagranti animarum zelo permotae ex Hibernia ad praedictum Vicariatum venerunt. Quatuor ad Novitiatum cito post earum ad memorata littora accessum receperunt. Domus satis ampla cum horto est empta, et iis in perpetuum donata. Venerunt autem pleno consensu, et etiam hortatu Reverendissimi Illustrissimi Archiepiscopi Dublinensis Generalis Congregationis Ecclesiastici Superioris et Superioris immediatae Dominae Aikenhead. Cum vero ob distantiam aliasque causas maxima incommoda possent oriri, si sub jurisdictione Superiorum in Hibernia permanerent, humillime supplicatur ut in Nova Gallia Meridionali Sanctae Sedis Auctoritate sit stabilita ista Sororum piissima institutio eodem modo quo existit in Hibernia, cum omnibus privilegiis, indulgentiis congregationi huius a Sancta Sede concessis.

20

For the legalisation of the signature of Archbishop Sigmund, Secretary of the Congregation of Propaganda Fide.

D S Cape
(D.S. Cape).
1st Secretary.

British Legation to the Holy See. 4th January, 1965

P. Sigmund

Annexure "A" to Affidavit of Thomas John Connolly.

Ex Audientia SS.mi - die 3 Martii anno 1842
SS.mus Dominus Noster Gregorius PP.XVI referente
Secretario, mature perpensis expositi, et rerum ac
locorum adiunctis accurate considerati benigne in
omnibus annuit relate superius Episcopi oratoris
petitioni, ita tamen, ut de hac Sanctitatis Suae
concessione R.P.D. Archiepiscopi Dublinensem
Vicarius Apostolicus certiozem faciat.
Datum etc.

10

P.N. Kowalsky
S.C. of Propaganda Fide.

This is the annexure marked "A" referred to
in the annexed affidavit of THOMAS JOHN
CONNOLLY sworn at Sydney on the Eighth day
of June 1965 Before me:

V. Kelly J.P.
A Justice of the Peace.

"B"

St. Patrick's College,
Manly. N.S.W.

TRANSLATION
COPY OF DOCUMENT FROM THE ARCHIVES OF THE SACRED
CONGREGATION

DE PROPAGANDA FIDE
REGISTER OF THE AUDIENCES OF THE HOLY FATHER
(1841 - 1842).

F.npp.

Most Holy Father,

John Bede Polding, Bishop of Hiero-Caesarea
and Vicar Apostolic in New Holland, humbly submits
to Your Holiness the following:

10

Your Eminence

In the year 1838 certain Sisters and
Novices of the Order or Congregation of Sisters
of Charity, instituted in Ireland, moved by a
burning zeal for souls came from Ireland into
our Vicariate.

They received four to the Novitiate soon
after their arrival to the aforesaid shores. A
house sufficiently large, with a garden, has been
purchased and given to them in perpetuity. They
came, however, with the full consent and even
encouragement of the Most Reverend and Renowned
Archbishop of Dublin, the general ecclesiastical
Superior of the Congregation and of the immediate
Superior Mother Aikenhead.

20

But because of the distance and other causes
the greatend inconvenience might arise if they
were to remain under the jurisdiction of the
Superiors in Ireland, it is most humbly requested

30

Annexure "B" to Affidavit of Thomas John Connolly

that, by the authority of the Holy See, this most pious Institute of Sisters may be established in New South Wales in the same manner that it exists in Ireland with all the privileges and indulgences granted by the Holy See to this Congregation.

In an audience with the Holy Father, 3rd March 1842 Our Most Holy Father, Gregory XVI Pope, the request being maturely weighed and the circumstances of things and places being carefully considered, graciously assented to the petition, as set out above, in all things, with the proviso, however, that the Vicar Apostolic inform the Most Reverend, the Archbishop of Dublin of this concession by His Holiness, the Secretary recording.

10

Granted etc.

SEAL OF ARCHIVES

Concordat cum originali P.N. Kowalsky

Archivist S.C. de Propaganda Fide

This and the preceding page comprise Annexure "B" referred to in the annexed affidavit of THOMAS JOHN CONNOLLY sworn at Sydney the eighth day of June 1965 Before me:

20

K. Kelly J. P.

A Justice of the Peace

"C"

SACRA CONGREGATIO

DE PROPAGANDA FIDE

ARCHIVIUM

Dept. N.

Udienze di Nostro Signore del 1879, Parte II (193)

f.1168.

Beatissimo Padre

Rogero Arcivescovo di Sydney espone quante
segne: Le Sorelle di Carita in Sydney ai soliti 10
voti di Castita, Obbedienza e Peverta aggiungene
quelle speciale del lero servizio ai Poveri.
Essendo sorte da qualche tempo nella mente di
aloune sorelle il dubbio, se oltre all'attendere
gratuitamente ai Poveri sia ad esse libere di
dedicarsi al bene della gioventa di civil condi-
zione, particelaramente per via de souole ed
educandati ricovendone pero congrui compensi;
progane la Santita Vostra a voler benignamente
rimnovere questo dubbio concedendo ad esse il per- 20
messo di tale estensione e di tali compensi: 1^o
perche i vari poveri qui sono comparativamente
pochi; 2^o perche questi compensi si formano il
cospite principale di loro sussistenza; 3^o perche
qui il popolo, in generale, rifuggendo di passer
per poveri, ricusa servigi gratuiti, disprezza
ben anco chi glieli effre e spenso finisce col
rivolgersi, pagando, ai Protestanti. Onde
l'influenza delle lodate Sorelle al bene resta

for the legalisation of the signature of
Archbishop Sigmamondi, Secretary of the Congregation
of Propaganda Fide.

(Sgd) D.S. Cape
1st Secretary

British Legation to
the Holy See,
4th January, 1965.

Annexure "C" to Affidavit
of Thomas John Connolly

in gran parte paralizzata e non di rado anche
interamente alienata. Che ece.

Ex Audientia SS.mi habita die 4 Decembris 1879.

SS.mms Dominus Noster Leo Divina Providentia
PP.XIII, referneto me infrascripto S.Congregationis
de Propaganda Fide Praefesta attentis expositis
extraordinariis circumstantiis, de quibus iz
precibus, benigne annuit pro gratia juxta potita.
Contrariis quibusoumque hand obstantibus. Datum
Romae ex Aedibus Saerae eiusdem Congregationis
die et anno praedictis.

10

Joannes Card. Simsoni Praefectus.

P.N. Kowlasky

S.C. de Propaganda Fide

Concordat cum originali

"D"

St. Patrick's College.
Manly. N.S.W.

TRANSLATION

COPY OF DOCUMENT FROM THE ARCHIVES OF THE SACRED
CONGREGATION DE PROPAGANDA FIDE

AUDIENCES OF THE HOLY FATHER 1879, Part 11 (193)
f. 1168

Most Holy Father,

Roger, Archbishop of Sydney, submits as follows:

10

The Sisters of Charity in Sydney add, to the usual vows of Chastity, Obedience and Poverty, the special one of their service to the Poor.

Now, a doubt having risen in the minds of some of the Sisters, whether, besides their gratuitous attendance on the Poor, they were free to devote themselves to the welfare of the children of the better classes, particularly in Day and Boarding Schools, receiving therefrom the usual fees;

20

They beg that Your Holiness would kindly remove that doubt, by granting them the permission for such an extension and such fees;

- 1st, because, here (in this country) the really poor are comparatively few;
- 2nd, because these fees form the principal means of their support;
- 3rd, because the people in this country, in general not liking to appear poor, refuse gratuitous services even despise those who offer them, and often end by turning to Protestants and paying them.

30

Thus the wholesome influence of the Good Sisters becomes in great part paralysed, and often enough even entirely nullified.

In an audience with the Holy Father held on the 4th day of December 1879, Our Most Holy Lord Leo XIII by Divine Providence Pope, willingly and graciously acceded to the petition in view of the extraordinary circumstances, as explained.

Anything to the contrary notwithstanding.

I, the undersigned, Prefect of the Sacred Congregation de Propaganda Fide, recording it. Given at Rome in the Chancery of the same Sacred Congregation on the above-mentioned day and year.

(Signed) Joannes Card. Simeoni Prefect.

10

SEAL OF ARCHIVES.

Concordat cum originali P.M. Kowalsky

Archivist S.C. de Propaganda Fide.

This and the preceding page comprise Annexure "D" referred to in the annexed affidavit of THOMAS JOHN CONNOLLY sworn at Sydney on the eighth day of June 1965 Before Me:

V. Kelly J.P.

A Justice of the Peace

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

20

Defendants

I, LOUIS BENNETT of 56 Hunter Street, Sydney in
the State of New South Wales, Solicitor, being duly
sworn make oath and say :

1. I am a member of the firm of Messrs. Wm.

Lieberman and Tobias Solicitors for Vera Caroline

30

Resch the eighth-named defendant herein.

2. Annexed hereto and marked with the letters

"A", "B" and "C" respectively are scales of fees

charged by St. Luke's Hospital, Royal Prince Alfred

Hospital (Gloucester House) and Mater Misericordiae

Private Hospital respectively.

Affidavit of Louis
Bennett.

The said scales of fees were supplied by the said
hospitals to the Solicitors for the Plaintiff
herein and were supplied to us by the said solicitors
for the plaintiff.

SWORN by the abovenamed
Deponent at Sydney on
the third day of December
1965 Before me;

L. Bennett

D. Mulcahey J.P.

A Justice of the Peace.

Annexure "A" to Affidavit of Louis Bennett

"A"

ST. LUKE'S HOSPITAL
Roslyn Street
DARLINGHURST.

Single Room and
Ward Charges to
Private Hospital
(per day)

	From 1-9-55 to 30-9-60	From 1-10-60 to 30-4-63	From 1-5-63 to present date
Type A 4 Bed Ward	£2.17. 0.	£3.10. 0.	£4.13. 0.
Type B 2 Bed Room	£3. 3. 0.	£3.10. 0. to £3.16. 0.	£4.19. 0.
Type C 3 Bed Room	£3. 0. 0.	NIL	NIL
Type (4) Private Room	£3.12. 0. (Lowest)	£4.12. 0. (Lowest)	£5.19. 0. (Lowest)
	£4. 5. 0. (Highest)	£5.14. 0. (Highest)	£7. 7. 0. (Highest)
Public	£1.16. 0.	£2. 4. 0.	£3. 0. 0.
Intermediate	£2.14. 0.	£3. 8. 0.	£4.11. 0.

10

This is the annexure marked with the letter "A" referred to in the annexed affidavit of Louis Bennett sworn before me on the third day of December 1965.

20

D. Mulcahy J.P.

A Justice of the Peace

"B"

ROYAL PRINCE ALFRED HOSPITAL

1958.

Ward Rates.

2 Bed-room	£3. 2. 0.	per day	
4 bed-room	2.17. 0.	" "	
Private Room	3.17. 0.	to £5. 1. 0.	
		per day	
Other accommodation			
Solarium	2.17. 0.	" "	10

1959.

2 Bed-room	£3. 2. 0.	per day	
4 bed-room	2.17. 0.	" "	
Private room	3.17. 0.	to £5. 1. 0.	
		per day	
Other accommodation			
Solarium	2.17. 0.	" "	

1960.

2 bed-room	£3.17. 0.	per day	
4 bed-room	3.11. 0.	" "	
Private Room	4.15. 0.	to £6. 0. 0.	20
		per day	
Other accommodation			
Solarium	3.11. 0.	" "	

1961.

2 Bed-room	£3.17. 0.	per day	
4 bed-room	3.11. 0.	" "	
Private Room	4.15. 0.	to £6. 0. 0.	
		per day	
Other accommodation			
Solarium	3.11. 0.	" "	30

1962.

2 bed-room	£3.17. 0.	per day	
4 bed-room	3.11. 0.	" "	
Private room	4.15. 0.	to £6. 0. 0.	
		per day	
Other accommodation			
Solarium	3.11. 0.	" "	

1963.

2 bed-room	£3.17. 0.	per day	
4 bed-room	£3.11. 0.	" "	
Private room	4.15. 0.	to £6. 0. 0.	40
		per day	
Other accommodation			
Solarium	3.11. 0.	" "	

Annexure "B" to
Affidavit of Louis
Bennett

"B"

ROYAL PRINCE ALFRED HOSPITAL

1964.

Ward rates

2 bed-room	£4.17. 0. per day
4 bed-room	4.11. 0. " "
Private room	6. 0. 0. to £7. 0. 0. per day
Other accommodation	
Solarium	4.11. 0. " "

This is the annexure marked with the letter "B"
referred to in the annexed affidavit of Louis
Bennett sworn before me on the third day of
December 1965.

10

D. Mulcahy J.P.

A Justice of the Peace.

"C"

MATER MISERICORDIAE PRIVATE HOSPITAL

1958

Ward rates	£3. 9. 0. per day		
2 Bed-room & small room	£3.16. 0. "	"	
3 Bed-room	£3.16. 0. "	"	
Private Room	£4. 4. 0. "	"	
Other accommodation (if any)	£5. 7. 0. "	"	

1959

Ward rates	£3.12. 0. "	"	10
2 Bed-room & small room	£4. 1. 0. "	"	
3 Bed-room	£4. 1. 0. "	"	
Private room	£4.10. 0. "	"	
Other accommodation (if any)	£5.11. 0. "	"	

1960

Ward rates	£3.15. 0. "	"	
2 Bed-room & small room	£4. 1. 0. "	"	
3 Bed-room	£4. 1. 0. "	"	
Private room	£4.12. 0. "	"	
Other accommodation (if any)	£5.14. 0. "	"	20

1961

Ward rates	£4. 0. 0. "	"	
2 Bed-room & small room	£4.10. 0. "	"	
3 Bed-room	£4.10. 0. "	"	
Private room	£4.19. 0. "	"	
Other accommodation (if any)	£5.17. 0. "	"	

1962

Ward rates	£4. 4. 0. "	"	30
2 Bed-room & small room	£4.10. 0. "	"	
3 Bed room	£4.10. 0. "	"	
Private room	£4.19. 0. "	"	
Other accommodation (if any)	£5.17. 0. "	"	

1963

Ward rates	£4. 4. 0. "	"	
2 Bed-room & small room	4.10. 0. "	"	
3 Bed-room	4.10. 0. "	"	
Private Room	5. 2. 0. "	"	
Other accommodation (if any)	6. 0. 0. "	"	40

"C"

MATER MISERICORDIAE PRIVATE HOSPITAL

1964

Ward rates	£4.10. 0. per day
2 Bed-room & small room	4.12. 0. " "
3 Bed-room	4.12. 0. " "
Private room	5. 5. 0. " "
Other accommodation (if any)	to 6.11. 0. " "

This is the annexure marked with the latter "C"
referred to in the annexed affidavit of Louis
Bennett sworn before me on the third day of
December 1965.

10

D. Mulcahy J.P.
A Justice of the Peace.

IN THE SUPREME COURT)
OF NEW SOUTH WALES)
IN EQUITY)

No. 754 of 1964

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

ENDA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE
BOYS TOWN

ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN

20

VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

ON the sixth day of December in the year of Our
Lord One thousand nine hundred and sixty five
KARLA de BONO of 133 Darling Point Road, Darling
Point, in the State of New South Wales, Married
Woman, being duly sworn makes oath and says as
follows:

30

1. I am a niece of the abovenamed Edmund
Richard Emil Resch deceased (hereinafter called
"the Testator"), and I am the Mother of Stephen
de Bono and Brian de Bono, two of the abovenamed
defendants.

2. I have been shown a copy of the Affidavit
of John Sanders sworn the twelfth day of March,
1965, and filed herein.

Affidavit of Karla
de Bono.

3. I lived with the late Mr. and Mrs. Resch at "The Swifts" from 1950 to 1955. I was married in 1955, but even after my marriage I used to visit the late Mr. and Mrs. Resch at "The Swifts" every day. The purpose of my visits was to take care of them as they were elderly and needed attention.

4. My aunt, the late Mrs. Resch died in 1959 and I became even closer to the Testator after her death and he become increasingly dependent upon me for care and attention.

10

5. The jewellery referred to in Paragraph 7 of the said Affidavit of John Sanders was kept more often than not in a safe deposit box at the Testator's bank, but from time to time he used to go to the bank and bring the whole or part of the jewellery home to "The Swifts" with him. He would keep it there for various periods of time.

SWORN by the Deponent
at Sydney on the day and
year first hereinbefore
mentioned before me:

} (Sgd.) Karla de Bono

20

A Justice of the Peace

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS TOWN
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

20

Defendants

On the Seventh day of December One thousand nine hundred and sixty-five KEITH CHARLES FLEMING HARRIS of 16 Barrack Street Sydney in the State of New South Wales, Solicitor, being duly sworn makes oath and says as follows:

1. I am a member of the firm of Messieurs Cutler, Hughes, Harris & Garvin of 16 Barrack Street Sydney aforesaid the Solicitors for the first four named Defendants herein and the Solicitors who for many years have acted for both The Sisters of Charity of Australia and the Trustees of St. Vincent's Hospital Darlinghurst.

30

2. The deeds and Certificates of Title of all land vested in the Trustees of St. Vincent's Hospital are held by my said firm.

3. Land acquired by the Trustees of St. Vincent's Hospital since the Saint Vincent's Hospital Act 1912 has been acquired in the names of the Reverend Mother General for the time being of the Religious Order of the Sisters of Charity, the Reverend Mother Rectress for the time being of Saint Vincent's Hospital and the honorary Treasurer for the time being of the said Hospital. Such land under the provisions of the Real Property Act is registered in the names of the three persons at the relevant time holding the offices mentioned above as registered proprietors as joint tenants; such land under the Old System Title is vested in the names of the three persons at the relevant time holding the offices mentioned above as Trustees of St. Vincent's Hospital as joint tenants.

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4. I have been informed by Alice Nolan Elphick the Mother Rectress of St. Vincent's Hospital and by Frederick McDonough the honorary Treasurer of St. Vincent's Hospital that the Annual Reports and Accounts of St. Vincent's Hospital for each of the years ended the thirtieth day of June, 1960, 1961, 1962, 1963 and 1964 (being Exhibit No. 7 herein) do not include any item of income or expenditure of St. Vincent's Private Hospital shown in the handwritten and typewritten accounts of St.

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Affidavit of Keith
Charles Fleming Harris

Vincent's Private Hospital for such years (being
Exhibit No. 6 herein) other than items referable
to shared services.

SWORN by the Deponent on the
day and year first before
written in the presence of: }

K.C.F.Harris

R.W. Cameron

A Commissioner for Affidavits
for the State of New South Wales

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

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EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES

INSTITUTION FOR DEAF AND

BLIND CHILDREN

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

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Defendants

ON the Thirteenth day of December, One thousand nine
hundred and sixty-five HERBERT MOORE ASPINALL
of 74 Pitt Street Sydney in the State of New South
Wales, Solicitor, being duly sworn makes oath and
says as follows:

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1. I acted as the Solicitor for the abovenamed
deceased during his lifetime and drew his Will
dated the Fifth day of December, One thousand nine
hundred and sixty and the three codicils thereto
dated respectively the 22nd day of May, One
thousand nine hundred and sixty-two, the 24th
day of September, One thousand nine hundred and

sixty two and the 5th day of September, One thousand nine hundred and sixty three of which Probate has been granted by his Honourable Court.

2. At the time of execution by the said deceased of his said Will I handed him a copy thereof. Subsequently on the 12th day of January, One thousand nine hundred and sixty-one I handed his original Will to the said deceased who sealed it in an envelope and stated that he would lodge it with the abovenamed Plaintiff, The Perpetual Trustee Company Limited.

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3. I received instructions to draw the said codicil dated the 22nd day of May, One thousand nine hundred and sixty-two from one Bruce Hall, an officer of the abovenamed Plaintiff. Upon execution of the same on the 22nd day of May, One thousand nine hundred and sixty-two the said deceased instructed me to retain the said codicil until he called for it.

4. On the 20th day of September, One thousand nine hundred and sixty-two I received instructions from the said deceased in person, to draw the second codicil to his Will. Subsequently on the 24th day of September One thousand nine hundred and sixty-two I attended again upon the said deceased and informed him that he had left an annuity of Two thousand pounds (£2000) per annum to Edmund de Bono by his Will and he then stated he would do the same for Stephen de Bono and any other child of Karl de Bono. Subsequently on the same day I read over to him the said second

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Affidavit of Herbert
Moore Aspinall

codicil bearing date that day and the same was then, after execution retained by me.

5. On the 8th day of October, One thousand nine hundred and sixty-two I attended upon the said deceased and he then sealed the first and second codicils in an envelope and instructed me to forward the same to the abovenamed Plaintiff. I did this on the following day.

6. Prior to the 21st day of June, One thousand nine hundred and sixty-three I made a social call on the said deceased at his residence on some date which I am now unable to fix and in the course of conversation he said that it was his intention to leave Stephen de Bono a legacy of (£2000) per annum as he wanted to treat the de Bono boys alike. 10

7. On the 21st day of June, One thousand nine hundred and sixty-three I received instructions by telephone from the said Bruce Hall who said that he was at the residence of the said deceased who desired a codicil to his Will providing that duties on any notional estate left by the deceased be paid out of his estate, that the restrictions made by the Will of the deceased in relation to the annuities to Mrs. Heaton and her children be deleted and that an annuity of (£2000) per year be given to the said Stephen de Bono. 20

8. By the time of the conversation referred to in Paragraph (6) hereof the existance of the earlier two codicils had gone out of my mind at 30

Affidavit of Herbert
Moore Aspinall

the time of the conversation of the 21st day of June, One thousand nine hundred and sixty-three I thought that the provision of (£2000) per annum for Stephen had still to be made. I had completely forgotten about the existence of the earlier codicils and did not remember them again until they came to light after the deceased's death.

9. Either at the time of receipt of the said instructions or prior to the engrossment of the codicil of the 22nd May, 1962 I telephoned the abovenamed Plaintiff and asked the date of the Will of the said deceased. I was informed of the date of the said Will but nothing was said to me regarding any codicil. At the time of receipt of the said instructions I did not have and appear not now to have any copies of the said first and second codicils in my office and my attention was not directed in any way to the existence of the said codicils. The final codicil of the 5th September, 1963 was drafted by me after reference to parts of the deceased's Will but without reference to or thought of the earlier codicil.

10. Subsequently on the 5th day of September, One thousand nine hundred and sixty-three I attended upon the said deceased at his residence and Sister Turner read over to him the said codicil now dated the 5th day of September, One thousand nine hundred and sixty-three and he then executed the said codicil in my presence and that

Affidavit of Herbert
Moore Aspinall,

of Sister Turner. On that occasion the deceased
did not have either of the two earlier codicils
before him and no mention was made of either
of them.

SWORN by the Deponent on the)
day first abovementioned at) H.M. Aspinall
Sydney. Before me:)

J.M. Caffrey JP

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964.

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA

10

EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES

INSTITUTION FOR DEAF AND

BLIND CHILDREN

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

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Defendants

ON the Fourteenth day of December, One thousand nine
hundred and sixty-five HERBERT MOORE ASPINALL
of 74 Pitt Street, Sydney in the State of New
South Wales, Solicitor, being duly sworn makes
oath and says as follows:

1. I crave leave to refer to my Affidavit sworn 30
herein the Thirteenth day of December instant and in
particular to Paragraph 10 thereof.

2. On the occasion referred to in the said
Paragraph 10 the deceased did not have his Will
before him and no mention was made of it except
during the reading of the codicil in the said
Paragraph referred to and then only to the extent

Affidavit of Herbert
Moore Aspinall

that the said Will is mentioned in the said
codicil.

SWORN by the Deponent on the)
day first abovementioned at) H.M. Aspinall
Sydney Before me;)

Hall JP

IN THE SUPREME COURT)
OF NEW SOUTH WALES)
IN EQUITY)

No. 754 of 1964

Coram: Jacobs, J.

RE: E.R.E. RESCH (DEC'D) PERPETUAL TRUSTEE COMPANY
LIMITED .v. TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA & ORS.

Monday, 6th December, 1965.

Kenny Q.C. & Gyles for plaintiff.

Kerrigan Q.C. Byers Q.C. Henderson & B. McKenna 10
for 1st, 2nd, 3rd and 4th defendants.

Fox Q.C. & Sheller for 5th, 6th and 8th Defendants.

Gleeson for 7th defendant.

Staff Q.C. & Tobias for 9th Defendant.

Lee Q.C. Deane & Hulme for 10th and 11th defendants.

Leave generally to amend names of defendants.

Originating Summons	21. 7.64
Affidavit J. Sanders	12. 3.65
Affidavit E.C. Daniel	21. 7.64

Last sentence of Paragraph (14) not pressed. 20

Affidavit A.N. Elphick 3. 6.65

Exhibit 1 Photograph

Paragraph 15 last sentence rejected

Affidavit A.N. Elphick 8. 9.65

Affidavit W.A. Powell 4. 6.65

Exhibit 2 Letter 9.11.65 and reply 11.11.65

Affidavit W. V. Bourke 3. 6.65

Affidavit I. D. Miller 18. 2.65

Paragraph 12 not pressed

Affidavit I. D. Miller 14. 9.65 30

Affidavit D. Warder 10. 5.65

Affidavit K. B. Noad 1. 6.65

Affidavit N. Larkins 20. 5.65

Affidavit N. Larkins 3. 9.65

Notes of His Honour
Mr. Justice Jacobs

Affidavit E.M. Skewes	4. 6.65	
Affidavit E. M. Skewes	8. 9.65	
Exhibit 3 Constitution of the Congregation of the Religious Sisters of Charity of Australia.		
Affidavit T. J. Connolly	8. 6.65	
Exhibit 4 Opinion on Canon Law		
Exhibit 5 Hospital Plan		
Exhibit 6 Accounts year ended	30. 6.60 30.6.61 30. 6.62 30.6.63 30. 6.64	
Exhibit 7 Annual Reports	1960, 1961, 1962, 1963, 1964.	10
Affidavit N. A. Rhodes	25.10.65	
Affidavit N. McLeod	7.10.65	
Affidavit S. Swaine	3.11.65	
Affidavit T. J. Ward	3.12.65	
Affidavit L. Bennett	3. 9.65	

Question 1

Kerrigan Q.C. addresses

Fox Q.C. addresses

Tuesday, 7th December, 1965

Fox Q.C. continues

Exhibit 8 Hospital Benefit Contributions & Benefits
schedule 20

Gleeson addresses

Affidavit E. J. Power 7.12.65

Exhibit 9 Constitution of Society of St. Francis

Affidavit K. C. F. Harris 7.12.65

Staff Q.C. addresses

Wednesday, 8th December,
1965.

Staff Q.C. continues

Exhibit 10 Admitted facts

Kenny Q.C. addresses

Kerrigan Q.C. in reply 30

Thursday, 9th December,
1965.

Leave to add the Attorney General as a party.

Kerrigan Q.C. continues

Judgment reserved on Question 1 Questions 3 & 4
submitted.

Notes of His Honour
Mr. Justice Jacobs

Mr. Stuckey Q.C. now appears in place of Mr. Lee
Q.C.

Fox Q.C. addresses

Monday, 13th December,
1965.

Helsham for the Attorney General

Fox Q.C. continues

Argument on Questions 3 & 4 adjourned

Question 5

Stuckey Q.C. reads:

Affidavit K. de Bono	6.12.65	
Paragraph 5 objected to, allowed		10
Paragraph 6 objected to, rejected		
Paragraph 7 objected to, rejected		

Stuckey Q.C. addresses

Fox Q.C. addresses

Staff Q.C. addresses

Stuckey Q.C. in reply

C.A.V. on Question 5

Fox Q.C. further on Questions 3 & 4.

Stuckey Q.C.

Kenny Q.C.

Tuesday, 14th December,
1965. 20

Kenny Q.C. continues

Leave to file in Court two Affidavits of H.M.

Aspinall of 13th December, and 14th December.

Affidavit H.M. Aspinall	13.12.65	
	read	

Stucky Q.C. objects to the Affidavit particularly
Paragraph 4 except first and last sentences,
Paragraph 6, 8, 9 and 10.

I reserve my decision on the question of evidence.

Affidavit of H.M. Aspinall	14.12.65	
	read	30

I reserve my decision on admissibility of this
evidence.

I reserve my decision on Questions 3 & 4.

Notes of His Honour
Mr. Justice Jacobs

Kenny Q.C. submits Question 2.

Fox Q.C. addresses

Gleeson addresses

Helsham addresses

Kerrigan Q.C. addresses

Wednesday, 15th December,
1965.

Kerrigan Q.C. Continues

Staff Q.C. addresses

Fox Q.C. addresses

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Helsham addresses

C.A.V.

Tuesday, 26th July, 1966.

I deliver judgment

I answer the various questions as follows:

Question 1 Yes

Question 2 Does not arise

Question 3 Not answered but in lieu thereof I declare that the provisions of the third codicil do not render ineffective the whole of the provisions of the first and second codicils.

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Question 4 (a) No.
(b) Yes
(c) Does not arise

Question 5 (a) No
(b) All items set forth in Paragraph 7 of the affidavit of John Sanders sworn on the 12th March, 1965 except watches and chains, they being specifically bequeathed, and items numbered 26, 27, 29, 30 and the six various semi-precious stones in item 43.

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I make order 1 as asked in the Originating Summons.

I reserve liberty to apply.

Wednesday, 27th July,
1966.

Exhibit "A" Copy letter H.J. Aspinall & Son to State Crown Solicitor 24.12.65 and reply 13/1/66.

By consent I make order and declaration as set out in the copy letter dated 24.12.65

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Notes of His Honour
Mr. Justice Jacobs.

Leave to amend Originating Summons as to parties
and otherwise which was previously given is now
given again.

Sarah Neal

Associate

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY }

No. 754 of 1964

CORAM: JACOBS, J.

PERPETUAL TRUSTEE CO. LTD. v. TRUSTEES OF THE
SISTERS OF CHARITY OF AUSTRALIA & ORS.

JUDGMENT

HIS HONOUR: The testator Edmund Richard Emil Resch died on 2nd October 1963 and probate of his will made on 5th December 1960 and of three codicils made respectively on 22nd May 1962, 24th September 1962 and 5th September 1963 was granted to the plaintiff. The testator left an estate of more than four million pounds. A number of questions of construction and of the validity of certain of the dispositions arise and the present proceedings have been commenced in order to obtain a determination of them. 10

The most far-reaching of the questions is that concerning the validity of the residuary bequeaths which are in the following terms: 20

"I DIRECT my said Trustee from time to time to pay or apply the income of the residue of my real and personal estate and of the investments for the time being representing the same in paying or discharging all costs charges and expenses of my said Trustee of and incidental to the administration of the trusts of this my Will and subject thereto to pay two-third parts of the net income of the said residue and of the investments representing the same to the SISTERS OF CHARITY for a period of two hundred years or for so long as they shall conduct ST. VINCENT'S PRIVATE HOSPITAL whichever shall be the shorter period to be applied for the general purposes of such Hospital and upon the expiration of the said period of two hundred years or upon the said Sisters of Charity ceasing to conduct such Hospital whichever shall first happen to pay the said two-third parts of the said net income to FAR WEST CHILDREN'S HEALTH SCHEME of Manly THE SPASTIC CENTRE of Mosman BOY'S TOWN of Engadine and 30 40

Judgment of His Honour
145. Mr. Justice Jacobs

ROYAL NEW SOUTH WALES INSTITUTION FOR DEAF AND BLIND CHILDREN of Sydney in equal shares and to pay one-third part of the said net income to the said FAR WEST CHILDREN'S HEALTH SCHEME, THE SPASTIC CENTRE, BOY'S TOWN and ROYAL NEW SOUTH WALES INSTITUTION FOR DEAF AND BLIND CHILDREN in equal shares for the general purposes of such institutions PROVIDED that if any of the said institutions shall amalgamate with or be absorbed by or otherwise become merged with any other charitable institution its share of income shall thenceforth be paid to the institution with or by which such institution shall amalgamate be absorbed or merged PROVIDED HOWEVER that in the event of any institution entitled to a share of income as aforesaid being dissolved or ceasing to exist without any such amalgamation absorption or merger as aforesaid then the share of income payable to it shall thenceforth be paid to the other institution or institutions for the time being entitled to receive a share of the said income AND in the event of all the said institutions being dissolved or ceasing to exist without any such amalgamation absorption or merger as aforesaid then I DIRECT my said Trustee to pay or apply the income of the said residue of my estate and of the investments for the time being representing the same to such institution or institutions person or persons for such purposes and objects for the relief care education and/or maintenance of poor and/or sick persons in New South Wales as the Supreme Court of New South Wales in its Equity Jurisdiction shall upon application made by my said Trustee from time to time determine AND I DECLARE that the receipt of the Secretary or Treasurer or other proper officer of the respective institutions as aforesaid shall be a sufficient discharge to my said Trustee for all moneys paid to the said institutions respectively and my said Trustee shall not be concerned or bound to enquire into the application thereof AND I DECLARE that any such institution entitled to a share of the income of my estate shall not be entitled to receive any part of the capital of my estate."

The initial question which arises on these provisions is whether the gift of two third parts of income to the Sisters of Charity for the general purposes of St. Vincent's Private Hospital is a valid gift. If this question were answered in the negative questions would arise on the disposition of the income thus undisposed of, on whether it should

go to the institutions intended to take at the end of 200 years or whether it should be applied cy-pres because of a general charitable intention or whether it passes as on an intestacy. However, upon the conclusion which I have reached that the gift in question is valid, these questions do not arise.

In my opinion a gift for the purposes of St. Vincent's Private Hospital is a valid charitable gift. My commencing point in reaching this conclusion is that a gift for the purposes of a hospital is prima facie a valid gift, because prima facie it is a gift for the relief of the impotent. It is thus prima facie charitable even though it is not limited to or primarily intended for the relief of poverty because the words "aged impotent and poor" in the preamble to the Statue of Elizabeth have now been established by authority to be used disjunctively. I would refer first in this connection to certain decisions at first instance in the Chancery Division in England - *Re Hillier* (1944) 1 All E.R. 480; *In re Chaplin* (1933) Ch.115; *in re Lewis* (1955) 1 Ch. 104. I would feel bound in any case to follow this line of authority despite difficulties which might be thought to arise in reconciling them with certain dicta in earlier cases. However, the point is in my view covered by decisions of the appellate Courts. In *Kytherian Association v. Sklavos* 101 C.L.R. 56, the High Court held that

the provision of a hospital was prima facie a charitable purpose and there was not indicated any necessity that relief of poverty was a necessary element. The same conclusion is expressed in the Court of Appeal in *Re Smith* (1962) 2 All E.R. 563. See particularly at page 566.

Although a gift for the purposes of a hospital is thus prima facie charitable in law and therefore valid, it may in any particular case not be so because of something in the nature of its constitution or operation which reveals a lack of those elements of public purpose and of public benefit which are essential in the case of every charitable trust. First, the hospital must not be carried on for purposes of private gain. If it is so carried on then it is in the same position as, for instance, a school carried on for private gain. In both cases a prima facie charitable end is advanced, but in both cases that is insufficient to give the activity the character of a public purpose. It will be necessary to consider whether St. Vincent's Private Hospital is a hospital which must be regarded in the relevant legal sense as one carried on for private gain. 10 20

Secondly, the hospital must be open to the public or such a class of the public as is of its nature sufficient to invest the activity with the necessary element of benefit to the public. I shall return to this aspect after a brief review of some of the salient facts which appear in 30

evidence in relation to the carrying on of St.
Vincent's Private Hospital.

This hospital is conducted by the Sisters
of Charity of Australia upon certain land delineat-
ed upon the plan and the photograph which are in
evidence. The hospital is conducted by the same
house (within the meaning of the Constitutions of
the Sisters of Charity) as St. Vincent's Hospital
itself which is a public hospital within the mean- 10
ing of those words as used in the Public Hospitals
Act, 1929-59, and within the common meaning of
those words as they are used in New South Wales.
The other works of the Sisters of Charity in New
South Wales are mainly the conduct of hospitals,
hospices and schools, and the conduct of one
orphanage. The Sisters form a Congregation within
the meaning of their Constitutions and for any
work done by them in the service of the Order they
receive no financial or material reward. A Number 20
of the Sisters serve in the work of St. Vincent's
Private Hospital and no account is taken of the
value of their services in any estimate of the
profit or loss of the Private Hospital.

St. Vincent's Private Hospital was offic-
ially opened in 1909 in a building which had
previously been used as a Hospice for the Dying
when the latter was moved to a new site. The
purpose of the private hospital was to relieve
the demands upon the public hospital, and, further, 30
to provide a hospital for those persons who needed

hospital attention, who were not willing to enter a public hospital but who desired accommodation which provided more privacy and comfort. The intention was that such profits as might accrue should be applied primarily to the support of the public hospital and secondly to the other charitable works of the Congregation.

It would seem that over the years an amount of profit (in the sense of surplus of actual receipts over actual outgoings) was made which could be described as considerable. Between 1937 and 1950 an amount of £20,014.12. 3. was expended from such profits in the purchase of real property for buildings of the public hospital. Between 1910 and 1934 a net contribution to the public hospital from the funds of the private hospital was made in the total of approximately £33,500.

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Between 1944 and 1962 the total net profit in the sense which I have indicated was approximately £30,000 or an average of £1586 per annum. In ten of these years there was a surplus and in nine of them there was a loss. If account was taken of the unpaid services of the Sisters of Charity and of usual accounting provisions in the conduct of a business, e.g. rent, it is clear that the total surplus would be much more than absorbed. In other words, the hospital services were not provided at a true profit or gain in an accounting sense. However, some disbursements were made from the moneys of the Private Hospital

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Judgment of His Honour
Mr. Justice Jacobs.

for purposes of the Congregation other than St. Vincent's Hospital. See the affidavits of Winifred Agnes Powell of 4th June 1965 and 8th September 1965.

In the Private Hospital there are 82 "beds" consisting of 36 single rooms, 3 double rooms, 6 three-bed wards, 3 six-bed wards and 4 balcony beds. The charges for the hospital services appear in the affidavit of Alice Nolan Elphick of 8th September 1965. I shall not set them out but I note that they ranged in 1963 from £4.10.0. to £6.7.0. per day and in 1964 from £4.15.0. to £7.6.0. per day. These rates were much the same as those being charged at St. Luke's Hospital, Gloucester House of the Royal Prince Alfred Hospital and the Mater Misericordiae Hospital, as appears by the affidavit of Louis Bennett of 3rd December 1965.

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A calculation has been made from the accounts of the Hospital in evidence of the cost per bed per day in 1963-64 and 1964-65. This has been done by deducting special re-imbursed costs such as drugs and special departments and telephone from gross expenditure and by dividing the gross expenditure by the number of "bed-days". The result of the calculation is a cost per bed per day of £6.1.0 in 1963-64 and of £6.12.3 in 1964-65. It thus appears that the charge for more than half the beds in the Hospital is less than the average cost per day of maintaining a patient in the Hospital.

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Judgment of His Honour
Mr. Justice Jacobs

Again it must be kept in mind that this is a cost calculated without regard to the free services rendered by a number of the Sisters of Charity and without regard to any rent or other outgoings which could properly be charged against expenditure and are not so charged.

In this setting of fact it is necessary to determine whether the prima facie charitable nature of the institution as a Hospital is lost either because it is conducted for private gain or because its services are not available to the community as a whole or to an appropriate section of the community. I do not think that either disqualification is applicable. It is, I think, true that any profit or surplus which the Hospital may accumulate need not be and has not always been used in purposes of St. Vincent's Private Hospital or of St. Vincent's Hospital as a whole. It has been submitted that, even though the Sisters of Charity are a charitable body, they in this connection carry on a profit making activity which is not made charitable by the fact that the operating body is a charitable one. It was argued that the carrying on, for instance, of a retail store by a charitable body would not make the purpose of the retail store charitable. Of course it would not, but the comparison is not in my view an apt one. The essential difference is that the purpose of a retail store is not prima facie charitable nor probably capable of being an activity charitable

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in law. In the present case one has a prima facie charitable purpose or activity carried on in circumstances where the result may be a profit which accrues to a charitable body. The fact of the profit does not destroy the charitable purpose even though it would do so if the profit making body were a non-charitable one.

I next consider whether the services of the Hospital are available to the community or a significant section of the community. It has been submitted that the effect of the charges made by the Hospital is to exclude the poor. This submission has been relied upon in two ways: first, in order to deny that the purpose of the Hospital is prima facie charitable, and secondly, in order to base the submission that a section of the community is thereby excluded so that the element of public benefit is lost within the principle of *Inland Revenue Commissioners v. Baddeley* (1955) A.C. 572. 10

It is here necessary, I think, to consider the particular Hospital within the social setting of New South Wales at the present time. The question cannot be determined by a consideration of cases dealing with other hospital systems as though by the facts of those cases some principles of the law of charity in relation to hospitals at any time anywhere were thereby established. It may be said that in the hospital system of New South Wales at this time there are found (1) public hospitals 30 which may or may not have a private or intermediate wing; (2) private hospitals or nursing homes, some

large and some small, which are run by private individuals for private profit and (3) certain hospitals which may or may not be called private hospitals, in which considerable fees are charged, and which are not conducted by private individuals for private gain but are conducted by organisations, usually religious bodies. Examples are those which I have referred to earlier. Although certain of them may reduce fees in cases of special need, this is not an important feature of any of them because there is the public hospital for those with the need of lower fees. However, the fees charged by this group of hospitals are little or no greater than the cost of their running and certainly the purpose is not profit but the provision of hospital service.

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There must also be taken into account the Hospital Benefits scheme whereby for a small contribution a large part of the cost of hospitalization in such a hospital is met by the Commonwealth Government and by the officially recognised Hospital Fund. I do not think that this is merely a private insurance by individuals against sickness. It is part of the Commonwealth social service, namely, the National Health Service. The fact that it is a voluntary contributing service does not change its importance as part of the social background against which it must be determined whether this Hospital can be said to discriminate against a class of the community, namely, the poor. On

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the evidence of Alice Nolan Elphick, established by the figures in evidence, the Hospital serves people of average means, its scale of fees being within the range of persons of moderate means who are mainly members of approved hospital contribution funds under the National Health Act., 1953-1962.

In these circumstances I do not think that any class of persons is excluded so that it may be said that the public nature of the activity is lost. The poor are not excluded. The hospital is far from a place limited to the rich. More than half the patients are accommodated below actual cost. The Hospital in this sense can truly be said to be open to rich and poor, even though the very poor would not be able to afford its charges. In this sense the Hospital is open to all. Cf. Taylor v. Taylor 10 C.L.R. 218; In re Macduff (1896) 2 Ch. 451. I do not regard the latter case as an authority for the proposition that this gift is merely philanthropic and not charitable. The words there used were intended to express the necessary width of charitable purpose, but were not intended to state a general proposition that no purpose is charitable if in the particular circumstances as a result of unrelated factors rich and poor have unequal opportunities of benefiting. If this were so, many charities, particularly educational charities, would fail.

Further, I do not think that the class of persons to benefit are here defined by financial

capacity so that there is a definition of the class by reference to an irrelevant factor.

This argument is based on Baddeley's Case (supra) but in considering the application of the principle propounded in that case it is necessary to bear in mind the distinction between a purpose which of its nature may be in practical fact only capable of being enjoyed by a limited number of persons and a purpose capable of enjoyment by a wide class but limited by the trust to enjoyment by a much narrower class selected upon an irrelevant consideration. The first may be good; the second, which is Baddeley's Case (supra), is bad. In the present case the fact of the charges made may in practice limit the enjoyment to those able to pay some amount of the charges, but this is part of the nature of the purpose - it is a hospital which charges some fees. However, there is no such actual limiting of the class in the expression of the purpose that the class is selected upon an irrelevant consideration. If the charging of fees does not otherwise prevent the purposes of the Hospital being regarded as a public purpose, no principle of the kind applied in Baddeley's Case (supra) will destroy the element of public benefit necessary for a charity to be good in law.

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I therefore answer Question 1 - Yes, and then Question 2 does not arise.

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Questions 3 and 4.

"3. Whether by the codicil to his Will which codicil is dated 5th September 1963 the

Testator revoked the provisions of the two codicils admitted to probate and dated 22nd May 1962 and 24th September 1962 respectively or either of them and if so which of them?

4. If the answer to question 3 is "No", whether upon the true construction of the Testator's Will and in the events which have happened Stephen de Bono is entitled to receive out of the income of the residue of the Testator's real and personal estate an annuity during his lifetime of:-
- (a) £2,000. per annum; or
(b) £4,000. per annum; or
(c) Some other and if so what annuity?

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Upon these questions certain evidence was tendered in the form of affidavits by the solicitor of the testator, Mr. Herbert Moore Aspinall. I reserved my decision upon the question whether this evidence was admissible. I have come to the conclusion that it is not admissible. If this Court were a Court of Probate evidence of actual intention might well be admissible, but this Court is one of construction and the well settled rules for the construction of wills prevent evidence being given of actual intention, even though evidence of surrounding circumstances is admissible. It may be that evidence would be admissible as to the documents which the testator had before him at the time of execution of the will but not the first and second codicils had been before him, but that is not the substance of the evidence tendered and in the circumstances I do not think that any of the evidence is admissible.

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The first codicil is as follows:-

"THIS IS A FIRST CODICIL to the last Will and

Testament of me EDMUND RESCH of Darling Point near Sydney in the State of New South Wales Gentleman (which Will bears date the fifth day of December, 1960) I HEREBY DIRECT my said Trustee out of the capital of my estate to pay any stamp duty death duty estate duty and other duties which may be or become payable at any time and from time to time in respect of any declaration of trust settlement or other trust document executed by me and in respect of any gifts made by me during my lifetime AND in all other respects I confirm my said will in WITNESS whereof I have hereunto set my hand this twenty-second day of May in the year of Our Lord One thousand nine hundred and sixty-two. 10

SIGNED by the said Testator as and for)
a first Codicil to his last will and)
testament in the presence of us)
present at the same time who at his) 20
request in his presence and in the)
presence of each other have hereunto)
subscribed our names as witnesses:-)

The second codicil is as follows:-

"THIS IS A SECOND CODICIL to the last Will and Testament of me EDMUND RESCH of Darling Point near Sydney in the State of New South Wales Gentleman (which Will bears date the fifth day of December One thousand nine hundred and sixty) I HEREBY DIRECT my said Trustee out of the income arising from the residue of my real and personal estate to hold the following Annuities payable quarterly on protective trusts as Declared by Sec. 45 of the Trustee Act 1925 for the benefit of the respective annuitants hereinafter mentioned namely: For STEPHEN GEORGE de BONO a son of Karla de Bono of Darling Point aforesaid the sum of TWO THOUSAND POUNDS per annum during his life and for each child of the said Karla de Bono born after the date hereof but within a period of ten years after that date the sum of TWO THOUSAND POUNDS per annum during his or her life AND I AUTHORISE AND DIRECT my said Trustee as far as practicable to raise the whole or any part of the moneys required to pay duties in anywise payable in connection with my estate by mortgage or overdraft or otherwise howsoever and to repay the amounts so borrowed out of capital other than my stock in Tooth & Co. Limited and/or income as and when my said Trustee may think fit to the intent that my Stock in Tooth & Co. Limited shall not be sold but shall be preserved intact as far as practicable AND in all other respects I confirm my said Will and first Codicil IN WITNESS whereof I have hereunto set my hand this twenty-fourth day of September in the year of Our Lord one thousand nine hundred and sixty two. 30

SIGNED by the said Testator as and for a)
Second Codicil to his last Will and)
Testament in the presence of us present) 60

at the same time who at his request in
his presence and in the presence of each
other have hereunto subscribed our names
as witnesses:-

The third codicil is as follows:-

"THIS IS A FIRST CODICIL TO THE LAST WILL AND
TESTAMENT of me EDMUND RESCH of Darling Point
near Sydney in the State of New South Wales
Gentleman which will bears date the fifth day
of December One thousand nine hundred and
sixty WHEREAS by my said Will I GAVE DEVISED
AND BEQUEATHED the residue of my real and
personal estate unto my Trustee UPON TRUST to
pay thereout all my just debts funeral and
testamentary expenses and all duties in any-
wise payable in connection with my estate
NOW I HEREBY DECLARE that such trust shall
include all duties in anywise payable in
connection with my notional estate AND I DIRECT
my Trustee out of the income arising from the
residue of my real and personal estate to hold
an annuity of TWO THOUSAND POUNDS (£2000) per
annum payable quarterly on protective trusts
as declared by Section 45 of the Trustee Act
1925 for the benefit of STEPHEN De BONO a son
of Karla De Bono AND WHEREAS by my said Will
I DIRECTED that if any moneys were owing to
me at the time of my death by VALENTINE EDWARD
JOSEPH HEATON in respect of certain advances
made by me to him and other payments made by
me on his account my Trustee should withhold
payment of each of the annuities payable
under my said Will to JEAN HEATON VALENTINE
HEATON and DENISE HEATON as therein mention-
ed AND WHEREAS the said Valentine Edward Joseph
Heaton has since died NOW I HEREBY REVOKE the
provisions contained in my said Will whereby
I directed that my Trustee should withhold pay-
ment of the said annuities to the said JEAN
HEATON VALENTINE HEATON and DENISE HEATON
respectively in the same manner in all respects
as they would have been payable if my said Will
had not contained any restrictions on the pay-
ment thereof on account of the mortgage debt
owing to me by the said Valentine Edward Joseph
Heaton AND in all other respects I confirm my
said Will IN WITNESS whereof I have hereunto set
my hand this fifth day of September in the year
of Our Lord one thousand nine hundred and sixty-
three.
SIGNED by the said Testator as and for a
First Codicil to his last Will and Testa-
ment in the presence of us present at the
same time who at his request in his
presence and in the presence of each other
have hereunto subscribed our names as
witnesses:-

In my view the question for this Court as
a Court of construction is whether as a matter of

construction the provisions of the third codicil render ineffective the whole or any of the provisions of the first and second codicils either because they are inconsistent with the provisions of those codicils or because they are mere repetitions of the provisions of those codicils. This is the effect of the decision of Luxmoore J. in *In re Hawksley's Settlement* (1934) Ch. 384, which I follow and whose reasoning I adopt. I do not think that it is necessary to set out passages from that judgment, valuable though they are, nor do I think it is necessary to refer in detail to certain earlier decisions to which I was referred, particularly *McLeod v. McNab* (1891) A.C. 471; *In re Baker* (1929) 1 Ch. 668, *In re Pearson* (1963) 1 W.L.R 1358. Each of them turns upon the language of the particular will considered in the light of certain principles of construction which have been developed. There are two principles of construction to which I would here refer. First, when a codicil confirms a will and where there have been intermediate codicils between the will and that confirming the codicil, the confirmation of the will in the codicil is construed in the absence of any contrary indication in the language of the codicil as a confirmation of the will as altered by those intermediate codicils. This principle is stated in *Jarman on Wills* 8th Edition Vol. 1 page 214 as follows:

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"Where a testator makes a will and alters it by one or more codicils, and then makes a codicil confirming the will but not referring to the previous codicils, the question arises whether he thereby confirms them also. Mr. Jarman points out that it is necessary to bear in mind that every codicil is a constituent part of the will to which it belongs; for in a general and comprehensive sense, a will consists of the aggregate contents of all the papers through which it is dispersed; and, therefore, where a testator in a codicil refers to and confirms a revoked will, it is not necessarily to be inferred that he means to set up the will (using the word in its special and more restricted sense) in contradistinction to, and in exclusion of, any intermediate codicil or codicils which he may have engrafted on it. He is rather to be considered as confirming the will with every codicil which may belong to it; and accordingly, in a case where a person made his will, and afterwards executed several codicils thereto, containing partial alterations of and additions to the will; and by further codicil, referring to the will by date, he changed one of the trustees and executors, and in all other respects expressly confirmed the will, this confirmation of the will was held not to revive the parts of it which were altered or revoked by the preceding codicils: Sir R.P. Arden, M.R. observing that if a man ratifies and confirms his last will, he ratifies and confirms it with every codicil that has been added to it.'

So in *Green v. Tribe* (9Ch.D.231), where the testatrix made a codicil by which she revoked certain gifts contained in her will, and afterwards made a second codicil confirming her will, but not referring to the first codicil, it was held that the second codicil confirmed the will as modified by the first codicil.

In *Follett v. Pettman* (23 Ch. D. 337), the testator made two codicils, each confirming the will, and then made a third codicil, by which he confirmed his will 'except as altered by' the first codicil: it was held by Kay, J. that no intention to revoke the second codicil was shown."

Secondly, where a legacy is given by one testamentary instrument and another legacy, even of exactly the same amount, is given by another testamentary instrument, it is presumed in the absence of indications in the instrument to the contrary that the second legacy was intended to be

cumulative upon the first and not in substitution for it. The context may lead to a contrary construction, but in the absence of any such context the presumption which I have set out is applicable. See Halsbury Vol. 39 3rd Edition pages 1109-1110 and the cases there cited, particularly Re Davies (1957) 3 All E.R. 52 at 54. The same rule applies to annuities. See Jarman on Wills 8th Edition Vol 2. page 1114; Spire v. Smith 1 Beav. 419; Radburn v. Jervis 3 Beav. 450. 10

With these principles in mind I now turn to the third codicil. There are a number of features about it which certainly raise the query whether it is appropriate as a third codicil to the will rather than a first codicil as it describes itself. There are the words "first codicil"; it refers to the will by date but not to either of the intermediate codicils; it in terms confirms the will only; it is signed with an attestation clause which refers to it as a first codicil; it contains 20 numbers of provisions which apparently overlap or duplicate the provisions of the first and second codicils.

If it were not for the rules of construction to which I have referred I would, I think, be inclined to conclude that the testator had forgotten the intermediate codicils and intended the will to consist of the original will and this last codicil. However, it seems to me that on ultimate analysis such a conclusion would be speculative and it seems to me that the reason for the 30

development of both the rules which I have set out above is to counter the tendency towards such speculation outside the terms of the instrument. It is for the same reason that an intention to revoke a will or a codicil must be clearly expressed and this principle is one which must be borne closely in mind. The developed rules are a reminder that persons are taken to mean what they have solemnly declared and that grave injustice can be done by speculating that they did not intend that each of their declarations of intention should have its appropriate effect. Thus, if I describe a codicil as a first codicil when it is not, I have not used language appropriate to displace the effectiveness of dispositions contained in a true first codicil and it could create a grave injustice to speculate that I did so intend. If I in a second codicil confirm my will, I do not thereby in words revoke a first codicil and it might be a grave injustice to speculate that by this language I disclosed such an intention. This is what I take to be the intent of the rules of construction to which I have referred.

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There is the same intent in the rules relating to legacies. If a testator gives two legacies, he is taken to mean what he says and to speculate that he meant otherwise and meant that one should be in substitution for the other could do grave injustice. Thus in my view a conclusion that the testator intended to displace the provisions of

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Judgment of His Honour
Mr. Justice Jacobs.

the first and second codicils would truly be speculative and such a conclusion is prevented by the rules of construction to which I have referred.

This Court, as a court of construction, is not dealing strictly with revocation since that is a question for a Court of Probate, but the same principles lie behind the rule there applied and the rule of construction applied by a court of construction. I have already referred to those unusual features which might lead to a view that the testator intended that the first and second codicils should not have effect. To me those indications do not appear sufficient. There is a purpose in the third codicil beyond the repetition of matters dealt with in the first and second codicils so that there were reasons for making it even though the first and second codicils were in existence. There is certainly no immediately apparent reason to suppose that the testator was intending to revoke the intermediate codicils. It might be thought that he had forgotten their existence but it is impossible to know this or to know how much he had forgotten of them if he had forgotten anything. Further, and most importantly, even if he had forgotten that the matters contained in the first and second codicils had been in those codicils as distinct from in the will itself, there is nothing to convince a Court that the testator had forgotten that he had made the dispositions which were in the first and second codicils. It is most important in my view to

bear in mind that the fact that annuities of the same amount are given by the last codicil and an earlier codicil cannot be used as a source of the testator's intention to revoke or render ineffective the earlier codicils. Prima facie the annuities are cumulative and it would be incongruous to rely on the giving of the two annuities of the same amount to the same person as some indication of an intention to displace the earlier provisions.

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By the third codicil the testator recited a part of his will and then declared that the trust to pay all duties should include all duties in anywise payable in connection with the notional estate. This provision touches upon a matter dealt with in the first codicil but there is no recital of the provisions of the will and the direction for payment is not only of duties on notional estate but also of stamp duty payable in respect of any declaration of trust settlement or other trust document executed by the testator and in respect of any gifts made by him during his lifetime. Thus the provision of the first codicil is at the same time broader and narrower than that in the third codicil. It is broader in that it includes a direction to pay any outstanding stamp duty or gift duty, whilst the third codicil deals only with death or estate duties. At the same time the first codicil is narrower in that it includes a direction to pay duties in respect of declarations of trust settlements or other trust

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documents and in respect of gifts, but does not include other forms of notional estate such as duty on a joint tenancy interest. However, the latter would be included in the direction contained in the third codicil to pay duties payable in connection with the notional estate.

There then follows the annuity to Stephen de Bono. By the second codicil an annuity of the same amount was given to Stephen de Bono but in addition annuities of that amount were given to each child of Karla de Bono born after the date of that second codicil but within a period of ten years after that date. I do not think that it can be inferred from the circumstances and the language of the third codicil that the testator intended to revoke the annuities to this other issue of Karla de Bono.

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There is in the second codicil but not in the third codicil an authority and direction to the trustee to raise the whole or any part of the moneys required to pay duties by mortgage or overdraft or otherwise and to repay such amounts out of capital other than the stock in Tooth and Co. Limited with the expressed intent that the stock in Tooth and Co. Limited should not be sold but should be preserved intact as far as practicable. There is in my view no substantial indication in the testamentary instruments that the testator intended to revoke this provision.

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In the light of these conclusions I turn to the two questions. I do not think that Question

3 can be answered by this Court in its present form because I think that that question is one proper only for the Court of Probate. It is proper and sufficient for this Court to declare that the provisions of the third codicil do not render ineffective the whole of the provisions of the first and second codicils. See *In re Hawksley's Settlement* (supra). It would not be proper for me to declare in extenso which part or parts of the first and second codicils are rendered ineffective by the third codicil. These question must be dealt with if and when they arise. The only one which has arisen and upon which a specific question is asked is in relation to the annuities to Stephen de Bono. I have already expressed my conclusion that they must be regarded as prima facie cumulative and I see nothing in the context which is sufficient to rebut this prima facie presumption. In the circumstances therefore I do not answer Question 3 but I declare that the provisions of the third codicil do not render ineffective the whole of the provisions of the first and second codicils. I answer question 4 (a) - No, Question 4 (b) - Yes.

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Question 5.

"5. Whether upon the true construction of the Testator's Will and in the events which have happened the bequest to Brian de Bono of 'other personal jewellery' includes:-

- (a) only jewellery related to the Testator's personal use and enjoyment; or
- (b) some other and if so what jewellery?"

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The gift in the Will is in the following terms:

"Unto Brian de Bono a son of Karla de Bono my cameras projectors films and other photographic appliances and my watches (other than my calendar watch) chains, studs and other personal jewellery". The calendar watch had been disposed of by the immediately preceding disposition. The assets of the general character referred to are set out in paragraph 7 of the affidavit of John Sanders sworn on 12th March 1965. It is there indicated whether the items are male or female jewellery or whether, as in the case of certain loose cut opals and diamonds and other jewels, this question is indeterminate. At the hearing evidence upon this question was tendered in the form of an affidavit from Karla de Bono sworn on 6th December 1965. I rejected paragraphs 6 and 7 of this Affidavit but I allowed paragraph 5 and the effect of that paragraph is that the jewellery to which I have referred was kept more often than not in a safe deposit box at the testator's bank but from time to time the testator used to go to the bank and bring the whole or part of the jewellery home with him where he would keep it for various periods of time.

I find it very difficult to determine to my satisfaction the meaning of the words in question in the will when consideration is had to the nature of the assets of jewellery left by the testator. I have come to the conclusion that the

word "personal" cannot be limited to the person of the testator. I think that personal jewellery is a phrase which is used to describe jewellery appropriate for wearing on the person as distinct from jewellery which is ornamental to a chattel or a place. The word "personal" in its primary sense means "one's own". See Shorter Oxford English Dictionary. However, the testator is dealing with his own property and he describes this property as "my... personal jewellery". I think that this must mean "my jewellery of or pertaining to the person body or figure", to quote the meaning given in the dictionary to which I have referred and where the example given is "the personal ornaments of the Bronze age". It was suggested in argument that the word "jewellery" was one appropriate only to articles pertaining to the person body or figure, but I do not think that this is so. The word "jewellery" means "jeweller's work; gems or ornaments made or sold by jewellers; jewels collectively, or as a form of adornment." See Shorter Oxford English Dictionary. The ordinary meaning is wide enough to cover all gem stones and rare metals worked upon by jewellers. I do not think that there is any indication that the testator intended to draw a distinction between those items which he used himself upon his person and those which he did not. I think that all items of personal jewellery owned by the testator go with the bequest. This covers all those items set out

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in Paragraph 7 of the Affidavit of John Sanders sworn on 12th March 1965 other than the calendar watch otherwise bequeathed and the two small silver dishes, and since it is not known whether the seven loose opals and the twenty-eight small diamonds were in any way personal jewellery, although they were jewellery, they should be excluded. There should also be excluded the six semi-precious stones. I therefore answer Question 5(a) - No; Question 5(b) - all items set forth in Paragraph 7 of the affidavit of John Sanders sworn on 12th March 1965 except watches and chains, they being specifically disposed of, and the items numbered 26, 27, 29 and 30 and the six semi-precious stones in item 43.

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I therefore answer the various questions as follows:

Question 1. - Yes.

Question 2. - does not arise.

Question 3. - not answered but in lieu thereof

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I declare that the provisions of the third codicil do not render ineffective the whole of the provisions of the first and second codicils.

Question 4. (a) - No.

(b) - Yes.

(c) - Does not arise.

Question 5. (a) - No.

(b) - All items set forth in Paragraph 7 of the affidavit of

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Judgment of His Honour
Mr. Justice Jacobs.

John Sanders sworn on 12th
March 1965 except watches and
chains, they being specifically
bequeathed, and items numbered
26, 27, 29 and 30 and the six
various semi-precious stones in
Item 43.

I make Order 1 as asked in the Originating Summons.

I reserve liberty to apply.

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IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964.

IN THE MATTER of the Trusts
of the Will of EDMUND RICHARD
EMIL RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF 10
CHARITY OF AUSTRALIA
EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
BOYS' TOWN
ROYAL NEW SOUTH WALES INSTIT-
UTION FOR DEAF AND BLIND 20
CHILDREN
VERA CAROLINE RESCH
STEPHEN de BONO and
BRIAN de BONO

Defendants

AND by amendments made the
twenty-seventh day of July
1966 pursuant to Leave
granted on the twenty-seventh
day of July 1966 30

BETWEEN

PERPETUAL TRUSTEE COMPANY
LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA
EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH 40
SCHEME
THE SPASTIC CENTRE
THE SALESIAN SOCIETY
INCORPORATED
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF AND
BLIND CHILDREN
VERA CAROLINE LE CRAS
STEPHEN de BONO
BRIAN de BONO and THE ATTORNEY
GENERAL FOR NEW SOUTH WALES. 50

Defendants

WEDNESDAY the twenty-seventh day of July One
thousand nine hundred and sixty-six THIS SUIT
instituted by Originating Summons coming on to be
heard the sixth seventh eighth ninth thirteenth
fourteenth and fifteenth days of December last be-
fore the Honourable Kenneth Sydney Jacobs a Judge
of the Supreme Court sitting in Equity WHEREUPON
AND UPON HEARING what was alleged by Mr. P.J. Kenny
of Queen's Counsel with whom was Mr. R.V. Gyles of 10
Counsel for the Plaintiff by Mr. A.B. Kerrigan of
Queen's Counsel with whom was Mr. M.H. Byers of
Queen's Counsel Mr. R.G. Henderson and Mr. B.N.
McKenna of Counsel for the Defendants Trustees of
the Sisters of Charity of Australia Edna Mavis
Skewes Alice Nolan Elphick and Frederick McDonough
by Mr. Russell W. Fox of Queen's Counsel with whom
was Mr. C.S.C. Sheller of Counsel for the Defend-
ants Far West Children's Health Scheme The Spastic
Centre and Royal New South Wales Institution for 20
Deaf and Blind Children by Mr. A.M. Gleeson of
Counsel for the defendant Boy's Town by Mr. D.A.
Staff of Queen's Counsel with whom was Mr. M.H.
Tobias of Counsel for the defendant Vera Caroline
Resch and by Mr. J.A. Lee of Queen's Counsel and
Mr. G.P. Stuckey of Queen's Counsel with whom was
was Mr. W.P. Deane and Mr. R.S. Hulme of Counsel
for the infant Defendants Stephen de Bono and Brian
de Bono THIS COURT DID ORDER on the said sixth day
of December last that the Plaintiff have leave 30
generally to amend the names of the Defendants

Decretal Order of His
Honour Mr. Justice Jacobs

to the said Originating Summons AND THIS COURT DID
FURTHER ORDER on the said ninth day of December
last that the Plaintiff have leave to add The
Attorney General for New South Wales as a Defend-
ant to the said Originating Summons AND the said
Originating Summons being treated as having been
amended accordingly WHEREUPON AND UPON HEARING READ
the said Originating Summons so treated as amended
and the affidavits listed in the First Schedule 10
hereto all filed herein AND UPON READING AND
EXAMINING the exhibits put in evidence and marked
"1" "2" "3" "4" "5" "6" "7" "8" "9" and "10" respect-
ively AND UPON HEARING what was alleged by the said
Counsel for the said parties respectively and by
Mr. M.M. Helsham of Counsel for the Defendant The
Attorney General for New South Wales THIS COURT
DID ORDER that this suit stand for judgment and
the same standing in the paper the twenty-sixth
day of July instant and this day for judgment 20
accordingly WHEREUPON AND UPON READING AND EXAMINING
the exhibit put in evidence on behalf of the Plaintiff
and marked "A" THIS COURT DOTH DECLARE that upon the
true construction of the Will and Codicils of the
abovenamed Testator Edmund Richard Emil Resch
deceased and in the events which have happened the
direction contained in the said Will to the Trustee
thereof to pay two-thirds of the net income of the
residue of the real and personal estate of the said
testator to the Sisters of Charity as therein pro- 30
vided is a valid bequest AND THIS COURT DOTH BY

CONSENT ORDER AND DECLARE that the plaintiff as trustee of the said Will and Codicils would be justified in paying the income from time to time payable pursuant to the said direction to or to the order of the Defendant Trustees of the Sisters of Charity of Australia and accepting the receipt of the Bursar-General of the Congregation of the Religious Sisters of Charity of Australia as a sufficient receipt therefor without enquiring into the application of any such payment after the same shall have been so made AND THIS COURT DOTH FURTHER DECLARE that upon the true construction of the said Will and Codicils and in the events which have happened the provisions of the third codicil to the said Will do not render ineffective the whole of the provisions of the first and second codicils thereto AND THIS COURT DOTH FURTHER DECLARE that upon the true construction of the said Will and Codicils and in the events which have happened the defendant Stephen de Bono is entitled to receive out of the income of the residue of the real and personal estate of the said testator an annuity during his lifetime of Four thousand pounds (£4000.) per annum AND THIS COURT DOTH FURTHER DECLARE that upon the true construction of the said Will and Codicils and in the events which have happened the bequest to Brian de Bono contained in the said Will of "other personal jewellery" does not include only jewellery related to the personal use and enjoyment of the said testator but includes all those of the items referred to in Paragraph 7 of the

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affidavit of John Sanders sworn herein the twelfth day of March One thousand nine hundred and sixty-five particulars of which are set out in the Second Schedule hereto AND THIS COURT DOTH GRANT LEAVE to the Plaintiff to amend the said Originating Summons as to parties and otherwise AND THIS COURT DOTH ORDER that it be referred to the Deputy Master and Registrar the Deputy Registrar or Chief Clerk in Equity to tax and certify the costs and expenses of the Plaintiff of and incident to this suit and to tax as between solicitor and client and certify the costs of the Defendants of this suit and that such costs and expenses when so taxed and certified be retained or paid out of the residuary estate of the said testator in manner following that is to say the costs and expenses of the Plaintiff be retained by it or paid to its solicitors the costs of the Defendants other than the infant Defendants be paid to them respectively or to their respective solicitors and the costs of the infant Defendants be paid to their guardian ad litem or to their solicitors AND all parties are to be at liberty to apply as they may be advised.

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FIRST SCHEDULE

<u>Deponent</u>	<u>Date Sworn</u>	<u>Remarks</u>
John Sanders	12th day of March 1965	
Eleonor Catherine Daniel	21st day of July 1964	Excepting the last sentence of paragraph 14 thereof
Alice Nolan Elphick	3rd day of June 1965	Excepting the last sentence of paragraph 15 thereof

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<u>Deponent</u>	<u>Date Sworn</u>	<u>Remarks</u>
Alice Nolan Elphick	8th day of September 1965	
Winifred Agnes Powell	4th day of June 1965	
William Vincent Bourke	3rd day of June 1965	
Ian Douglas Miller	18th day of February 1965	Excepting paragraph 12 thereof
Ian Douglas Miller	14th day of September 1965	
Douglas Warden	10th day of May 1965	
Kenneth Beeson Noad	1st day of June 1965	
Nicholas Larkins	20th day of May 1965	10
Nicholas Larkins	3rd day of September 1965	
Edna Mavis Skewes	4th day of June 1965	
Edna Mavis Skewes	8th day of September 1965	
Thomas John Connolly	8th day of June 1965	
Noel Arthur Rhodes	25th day of October 1965	
Neil McLeod	7th day of September 1965	
Stanley Swaine	3rd day of November 1965	
Thomas John Ward	3rd day of December 1965	
Louis Bennett	3rd day of December 1965	
Edward Joseph Power	7th day of December 1965	20
Karla de Bono	6th day of December 1965	Excepting paragraphs 6 and 7 thereof
Herbert Moore Aspinall	13th day of December 1965	
Herbert Moore Aspinall	14th day of December 1965	

Decretal Order of His
Honour Mr. Justice Jacobs

<u>Deponent</u>	<u>Date Sworn</u>	<u>Remarks</u>
Keith Charles Fleming Harris	7th day of December 1965	

SECOND SCHEDULE

B x 1	1 Diamond Bracelet	
B x 2	1 Pair of square cut Diamond Clip Brooches	
B x 3	1 Pair Diamond Clip Earrings	
B x 4	1 Square Cut Diamond Bracelet	
B x 5	1 Pair of Diamond Cluster Earrings	
B x 6	1 Diamond Bracelet	10
B x 8	1 Large 14.59 Carat Diamond Ring	
B x 9	1 Diamond Platinum Brooch	
B x 10	1 Diamond Necklace	
B x 11	14 Drop Diamond Pendant	
B x 12	1 Single Stone Diamond Brooch	
B x 14	Small Wedding Ring	
B x 15	1 Pair Gold Diamond Ear Clips	
B x 16	1 Jade Pendant	
B x 17	1 Gold and Diamond Flower Brooch	
B x 18	1 Gold Bracelet	20
B x 19	1 Gold Bracelet	
B x 20	1 Black Evening Bag with Diamond Clip Ornament	
A 22	2 Gold Coin Fobs	
A 23	1 Set of 3 Diamond Studs and 6 Buttons	
B 24	1 Long Crystal Necklace	
B 28	1 Small Gold Mesh Bag	
B 31	1 Small Part Diamond Brooch (5 Diamonds missing)	
A 32	1 Silver Cigarette Case	30

Decretal Order of His
Honour Mrs Justice Jacobs

A 33	1 Double Gold Sovereign Case	
B 34	1 Small Gold Locket and Part Gold Bangle	
C 35	1 Gold Medal	
B 36	1 Gold Locket	
C & B 37	1 Gold Buckle and 1 Gold Wedding Ring	
A 40	1 Opal Tie Pin	
A 41	1 Opal Tie Pin	
A 42	1 Pearl Tie Pin	
C 43	1 Small box containing 4 small gold pencils	10
A 46	1 Set of 3/15 ct. Gold Pearl Studs	

PASSED this Second day of November, 1966

A.V.R.

ENTERED same day.

(L.S.)

S.H.

(Sgd.) A.V. RITCHIE
DEPUTY REGISTRAR IN EQUITY

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

No. 754 of 1964

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD EMIL
RESCH deceased.

BETWEEN

PERPETUAL TRUSTEE COMPANY LIMITED

Plaintiff

AND

TRUSTEES OF THE SISTERS OF CHARITY
OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

BOYS TOWN

ROYAL NEW SOUTH WALES INSTITUTION

FOR DEAF AND BLIND CHILDREN

VERA CAROLINE RESCH

STEPHEN de BONO and

BRIAN de BONO

Defendants

AND by Amendments made the twenty-
seventh day of July, 1966 pursuant
to leave granted on the twenty-
seventh day of July, 1966.

BETWEEN

PERPETUAL TRUSTEE COMPANY LIMITED.

Plaintiff

AND

TRUSTEES OF THE SISTERS OF CHARITY
OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

THE SALESIAN SOCIETY INCORPORATED

ROYAL NEW SOUTH WALES INSTITUTION

FOR DEAF AND BLIND CHILDREN

VERA CAROLINE LE CRAS

STEPHEN de BONO

BRIAN de BONO and

THE ATTORNEY GENERAL FOR NEW
SOUTH WALES.

Defendants

FRIDAY the Twenty-sixth day of August One
thousand nine hundred and sixty-six.

UPON MOTION made the twelfth and nineteenth days
of August instant and this day unto this Court

180. Order of his Honour
Mr. Justice Street.

Order of his Honour
Mr. Justice Street

before the Honourable Laurence Whistler Street a
Judge of the Supreme Court sitting in Equity by
Counsel on behalf of the defendant Vera Caroline
Le Cras pursuant to notice of motion filed herein
the second day of August instant AND by Counsel on
behalf of the defendants Far West Children's Health
Scheme The Spastic Centre and Royal New South Wales
Institution for Deaf and Blind Children pursuant
to notice of motion filed herein the eighth day of 10
August instant WHEREUPON AND UPON HEARING READ the
said notices of motion the decretal order made here-
in the twenty-seventh day of July last the affidavit
of Mahla Liane Pearlman sworn the second day of
August instant and the affidavit of Roland Montrose
Maclean sworn the eighth day of August instant all
filed herein AND UPON HEARING what was alleged by
Mr. M.H. Tobias of Counsel for the defendant Vera
Caroline Le Cras by Mr. C.S. Sheller of Counsel
for the defendants Far West Children's Health Scheme 20
The Spastic Centre and Royal New South Wales Institut-
ion for Deaf and Blind Children by Mr. P.J. Kenny
of Queen's Counsel with whom was Mr. R.V. Gyles of
Counsel for the Plaintiff by Mr. W.P. Deane of
Counsel for the defendants Stephen de Bono and Brian
de Bono by Mr. A.M. Gleeson of Counsel for the
defendant The Salesian Society Incorporated by
Mr. B.N. McKenna of Counsel for the Defendants
Trustees of the Sisters of Charity of Australia
Edna Mavis Skewes Alice Nolan Elphick and Frederick 30
McDonough and by Mr. G.G. Masterman of Counsel for

the Defendant The Attorney General for New South
Wales THIS COURT DOTH ORDER that leave to appeal
to Her Majesty in Her Majesty's Privy Council
from that part of the said decretal order which
declares that upon the true construction of the
Will and Codicils of the abovenamed testator
Edmund Richard Emil Resch deceased and in the
events which have happened the direction to the
Trustee of the said Will and Codicils in the said 10
will contained to pay two thirds of the net income
of the residue of his real and personal estate to
the Sisters of Charity as therein provided is a
valid bequest be and the same is hereby granted to
the defendant Vera Caroline Le Oras UPON CONDITION
that she do within three (3) months from the date
hereof give security to the satisfaction of the
Master in Equity in an amount of One thousand
dollars(\$1,000.00) for the due prosecution by
her of her said appeal and the payment of all such 20
costs as may become payable by her in the event
of her not obtaining an order granting her final
leave to appeal as aforesaid or of her appeal
being dismissed for non-prosecution or of Her
Majesty in Council ordering her to pay any costs
to any party as the case may be AND UPON FURTHER
CONDITION that she do within fourteen (14) days
from the date hereof deposit with the Master in
Equity the sum of Fifty dollars (\$50.00) as sec-
urity for and towards the costs of the preparation 30
of the transcript record for the purpose of the

consolidated appeals hereinafter referred to AND
UPON FURTHER CONDITION that she do within three (3)
months from the date hereof take out and proceed
upon all such appointments and take all such other
steps as may be necessary for the purpose of settling
the index to the said transcript record and
enabling the Master in Equity the Deputy Master and
Registrar in Equity or in their absence the Deputy 10
Registrar in Equity to certify that the said index
has been settled and that the conditions hereinbefore
referred to to be by her performed have been duly
performed AND UPON FURTHER CONDITION finally that
she do obtain a final order of this Court granting
her leave to appeal as aforesaid AND THIS COURT
DOETH FURTHER ORDER that leave to appeal to Her Majesty
in Her Majesty's Privy Council from the whole of
the said decretal order except so far as the same
makes provision for the costs of the parties be 20
and the same is hereby granted to the defendants
Far West Children's Health Scheme The Spastic
Centre and Royal New South Wales Institution for
Deaf and Blind Children UPON CONDITION that they
do within three (3) months from the date hereof
give security to the satisfaction of the Master in
Equity in the amount of One thousand dollars
(\$1,000.00.) for the due prosecution by them of
their said appeal and the payment of all such
costs as may become payable by them in the event 30
of their not obtaining an order granting them final
leave to appeal as aforesaid or of their appeal
being dismissed for nonprosecution or of Her

Order of his Honour
Mr. Justice Street

Majesty in Council ordering them to pay any costs to any party as the case may be AND UPON FURTHER CONDITION that if the said Vera Caroline Le Cras does not within three (3) months from the date hereof obtain a final order of this Court granting her leave to appeal as aforesaid or if thereafter the appeal of the said Vera Caroline Le Cras be dismissed for non-prosecution that they do within fourteen (14) days from the expiry of the said 10
three (3) months or the date as from which the appeal of the said Vera Caroline Le Cras shall stand dismissed make a further application to this Court for such orders as to the time or times within which the defendants Far West Children's Health Scheme The Spastic Centre and Royal New South Wales Institution for Deaf and Blind Children shall take the steps then necessary for the purpose of procuring the preparation of the said transcript record and the settling of 20
the index thereof and the despatch thereof to England as this Court having regard to all the circumstances of the case may think it reasonable to make AND UPON FURTHER CONDITION finally that they do obtain a final order of this Court granting them leave to appeal as aforesaid which final order may if the said Vera Caroline Le Cras does within three(3) months from the date hereof obtain a final order of this Court granting her leave to appeal as aforesaid be made upon their 30
producing to a Judge of this Court within three (3)

Order of his Honour
Mr. Justice Street

months from the date hereof a certificate of the Master in Equity the Deputy Master and Registrar in Equity or in their absence the Deputy Registrar in Equity that the index to the said transcript record has been settled and that they have duly given security as aforesaid but if the said Vera Caroline Le Cras does not within three (3) months from the date hereof obtain a final order of this Court granting her leave to appeal as aforesaid 10
may be made at such time as may be fixed by the Court at the time of the application by them made in accordance with the immediately preceding condition AND THIS COURT DOETH FURTHER ORDER that the said appeals be consolidated provided that such consolidation shall not preclude the defendants Far West Children's Health Scheme The Spastic Centre and Royal New South Wales Institution for Deaf and Blind Children from lodging a separate case from the case lodged by the defendant Vera 20
Caroline Le Cras and from being represented by separate solicitors and counsel from those representing the defendant Vera Caroline Le Cras AND THIS COURT DOETH FURTHER ORDER that the Defendant Vera Caroline Le Cras do have the carriage of the preparation of the transcript record for the purposes of the said consolidated appeals and the settling of the index thereof AND THIS COURT DOETH FURTHER ORDER that the costs and expenses of the Plaintiff of and incident to this Motion and the costs as between 30
solicitor and client of all other parties of this

Order of his Honour
Mr. Justice Street

Motion and of the preparation of the said trans-
cript record and of all other proceedings hereunder
and of the said final orders do follow the decis-
ion of Her Majesty's Privy Council with respect
to the costs of the said appeals subject however
in case the defendant Vera Caroline Le Cras or
either of the defendants Far West Children's Health
Scheme The Spastic Centre and Royal New South Wales
Institution for Deaf and Blind Children shall not 10
duly prosecute their said appeals or appeal or
shall not obtain a final order granting her or them
final leave to appeal from the said decretal order
as aforesaid or the said appeals or either of them
be dismissed for non-prosecution to any further
orders that may be made by this Court up to and
including the said final orders or under any of
the Rules next hereinafter mentioned that is to say
Rules 16 17 20 and 21 of the Rules of the Second
day of April One thousand nine hundred and nine 20
regulating appeals from this Court to Her Majesty
in Council AND THIS COURT DOETH FURTHER ORDER that it
be referred to the Deputy Master and Registrar the
Deputy Registrar or Chief Clerk in Equity to tax and
certify the costs and expenses and costs incurred in
New South Wales payable under any order of Her Majesty's
Privy Council out of the estate of the said testator
or by any party or parties to any other party or par-
ties hereto AND that the said costs and expenses and
costs when so taxed and certified as aforesaid be
retained or paid out of the said estate or be paid by
the party or parties by whom to the party or parties
to whom the same shall be certified as payable within

Order of his Honour
Mr. Justice Street

fourteen (14) days after service upon the plaintiff
as trustee of the said estate or upon the party or
parties by whom the same shall be payable as the
case may be of an office copy of the Certificate of
such taxation or be otherwise paid as may be ordered
AND THIS COURT DOTH FURTHER ORDER that so much of
the said costs and expenses and costs as become pay-
able by the defendant Vera Caroline Le Cras and the
defendants Far West Children's Health Scheme
The Spastic Centre and Royal New South Wales
Institution for Deaf and Blind Children or either 10
of the said appellants under any subsequent order
of this Court or under any order made by Her Majesty
in Council in relation to the said appeals or
either of them may be paid out of any moneys paid
into Court by them respectively as such securities
as aforesaid so far as the same shall extend AND
that after such payment **out** (if any) the balance
(if any) of the said moneys paid into Court as
such securities as aforesaid be paid out of Court
to the appellants or appellant respectively who 20
paid the same into Court as aforesaid AND all parties
are to be at liberty to apply as they may be advised.

PASSED this Third day of November, 1966.

A.V.R.

ENTERED same day

A.M.

L.S.

(Sgd.) A.V. RITCHIE
DEPUTY REGISTRAR IN EQUITY.

IN THE SUPREME COURT
OF NEW SOUTH WALES
IN EQUITY

} No. 754 of 1964.

IN THE MATTER of the Trusts of
the Will of EDMUND RICHARD EMIL
RESCH deceased.

A. BETWEEN VERA CAROLINE LE CRAS
(Defendant) Appellant

A N D PERPETUAL TRUSTEE
COMPANY LIMITED 10
(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF
CHARITY OF AUSTRALIA
EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
FAR WEST CHILDREN'S HEALTH
SCHEME
THE SPASTIC CENTRE
ROYAL NEW SOUTH WALES INSTITUTION 20
FOR DEAF AND BLIND CHILDREN
THE SALESIAN SOCIETY INCORPORATED
STEPHEN deBONO
BRIAN deBONO and
THE ATTORNEY GENERAL FOR NEW
SOUTH WALES
(Defendants)
Respondents

A N D

B. BETWEEN FAR WEST CHILDREN'S 30
HEALTH SCHEME
THE SPASTIC CENTRE
ROYAL NEW SOUTH WALES
INSTITUTION FOR DEAF
AND BLIND CHILDREN
(Defendants)
Appellants

A N D PERPETUAL TRUSTEE
COMPANY LIMITED
(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF CHARITY 40
OF AUSTRALIA
EDNA MAVIS SKEWES
ALICE NOLAN ELPHICK
FREDERICK McDONOUGH
THE SALESIAN SOCIETY INCORPORATED
VERA CAROLINE LE CRAS
STEPHEN deBONO
BRIAN deBONO and
THE ATTORNEY GENERAL FOR NEW
SOUTH WALES 50
(Defendants)
Respondents

FRIDAY the Sixteenth day of December One thousand
nine hundred and sixty six UPON MOTION made this day

Order Granting Final Leave
to the respective Appellants
188. to appeal to Privy Council

Order Granting Final Leave
to the respective Appellants
to appeal to Privy Council

unto this Court before the Honourable Laurence
Whistler Street a Judge of the Supreme Court sitting
in Equity by Counsel on behalf of the Appellant
Vera Caroline Le Cras and on behalf of the Appell-
ants Far West Children's Health Scheme The Spastic
Centre and Royal New South Wales Institution for
Deaf and Blind Children pursuant to notice of motion
filed herein the fourteenth day of December instant

WHEREUPON AND UPON HEARING READ the said notice of
motion and the certificate of the Deputy Master 10

and Registrar in Equity dated the fifth day of
December instant certifying due compliance with
the order granting provisional leave to appeal
made herein the twenty sixth day of August last
and filed herein AND UPON HEARING what was alleged

by Mr. M.H. Tobias of Counsel for the Appellant
Vera Caroline Le Cras by Mr. C.S. Sheller of
Counsel for the Appellants Far West Children's
Health Scheme The Spastic Centre and Royal New
South Wales Institution for Deaf and Blind Children 20

by Mr. R.P. Meagher for the Plaintiff Perpetual
Trustee Company Limited by Mr. B.N. McKenna of
Counsel for the Respondents Trustees of the Sisters
of Charity of Australia Edna Mavis Skewes Alice
Nolan Elphick and Frederick McDonough and by Mr.
A.M. Gleeson of Counsel for the Respondent the

Salesian Society Incorporated THIS COURT DOTH ORDER
that final leave to appeal to Her Majesty in Her
Majesty's Privy Council from that part of the

Order Granting Final Leave
to the respective Appellants
to appeal to Privy Council

Decretal Order made herein the twenty seventh day
of July last which declares that upon the true
construction of the Will and Codicils of the above-
named Testator Edmund Richard Emil Resch Deceased
and in the events which have happened the direction
to the Trustee of the said Will and Codicils in the
said Will contained to pay two thirds of the net
income of the residue of his real and personal
estate to the Sisters of Charity as therein prov-
ided is a valid bequest be and the same is hereby 10
granted to the Appellant Vera Caroline Le Cras
AND THIS COURT DOTH FURTHER ORDER that final leave
to appeal to Her Majesty in Her Majesty's Privy
Council from the whole of the said Decretal Order
except so far as the same makes provision for the
costs of the parties be and the same is hereby
granted to the Appellants Far West Children's
Health Scheme The Spastic Centre Royal New South
Wales Institution for Deaf and Blind Children AND
THIS COURT DOTH FURTHER ORDER that the sum of 20
Fifty Dollars (\$50.00) deposited in Court by the
Appellant Vera Caroline Le Cras pursuant to the
said Order made the twenty sixth day of August last
as security for and towards the costs of the pre-
paration of the transcript record for the purpose
of the consolidated appeals of the Appellants be
paid out of Court to the Appellant Vera Caroline
Le Cras AND all parties are to be at liberty to

Order Granting Final Leave
to the respective Appellants
to appeal to Privy Council

apply as they may be advised.

PASSED this First day of February, 1967.

CD 1

ENTERED same day.

SH

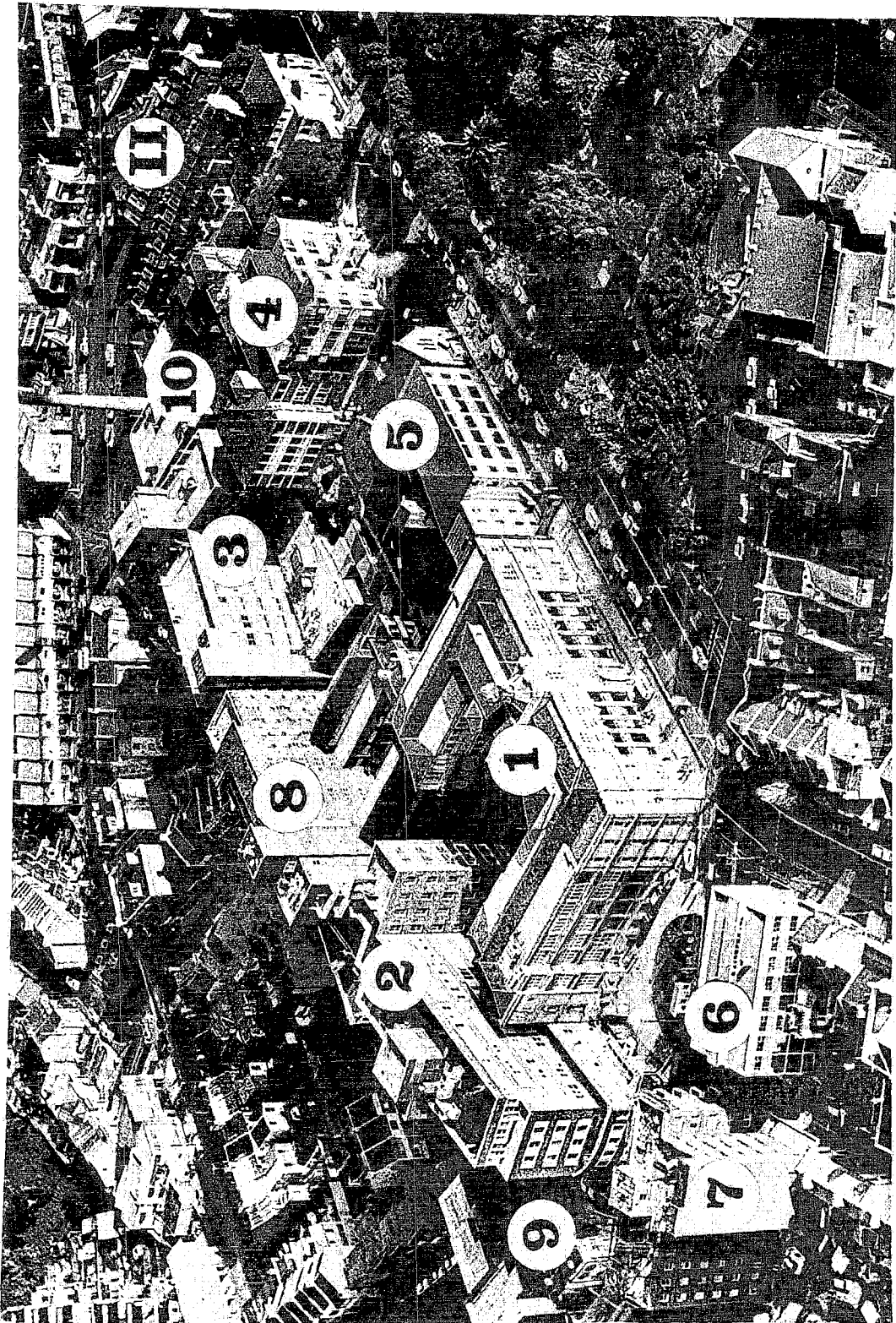
L.S.

(Sgd)

C.D. IRWIN

DEPUTY MASTER AND REGISTRAR IN EQUITY

Order Granting Final Leave
to the respective Appellants
191. to appeal to Privy Council



COPY ONLY

CUTLER, HUGHES, HARRIS & GARVIN

KCFH.MC

9th November, 1965.

The Reverend Mother Aurelius,
Bursar General,
Sisters of Charity of Australia,
St. Vincent's Convent,
Victoria Street,
POTTS POINT.

Reverend and Dear Mother,

Sisters of Charity and St. Vincent's
Hospital re Estate late E. Resch

10

We refer to your two Affidavits sworn and filed in relation to this matter and wish to advise that Senior Counsel for Miss Resch requires the answers to several questions which are under-mentioned.

We understand that the answers to these questions have been discussed by Mother Rectress with you but Mr. Kerrigan Q.C. of Counsel feels that as the questions refer to matters in your Affidavit that the answers should come from you.

20

Accordingly we should be glad if you would kindly furnish us by letter with the answers to the undermentioned questions:

1. In paragraph 7 of your Affidavit you state that on the 10th October 1956 a contribution of £230.0.0. was made from the funds of St. Vincent's Private Hospital towards travelling expenses to establish an educational Mission in Fiji - will you kindly advise:

- (a) Who went to Fiji;
- (b) Were they Sisters of the Order of the Sisters of Charity of Australia;
- (c) How many went;

30

2. In paragraph 5 of your Affidavit you state that on the 28th October 1954 a contribution of £10,000 was made from the funds of St. Vincent's Private Hospital towards the purchase and building of the new Novitiate for the Congregation at Wahroonga, New South Wales - will you please advise:

40

- (a) for what purpose the gift of £10,000 was made and to whom or into what account was the money paid?

3. With regard to the Novitiate abovementioned at Wahroonga would you please advise;

Exhibit "2"

- (a) Whether the Order has any Novitiates other than that at Wahroonga.
- (b) For what purpose is the Novitiate used.

We shall be grateful to have your reply at your early convenience.

Yours faithfully,
CUTLER, HUGHES, HARRIS & GARVIN

signed

K.C.F. HARRIS

Exhibit "2"

Telephone 35-4288

THE SISTERS OF CHARITY
ST. VINCENT'S CONVENT
POTTS POINT SYDNEY

11th November, 1965.

Mr. K.C.F. Harris,
Messrs. Cutler, Hughes, Harris & Garvin,
Solicitors,
Box 3336, G.P.O.,
SYDNEY. N.S.W.

Dear Mr. Harris,

10

Sisters of Charity and St. Vincent's
Hospital re Estate late E. Resch

With reference to your letter of the 9th inst. I wish to furnish the following information in regard to your questions.

1. The contribution of £230.0.0. which was made from the funds of St. Vincent's Private Hospital on 10th October 1956, was given direct to Mother General for travelling expenses to establish an educational Mission in Fiji for Fijians. 20
 - (a) Mother General and Mother M. St. Margaret, one of her Councillors, went in October '56 and in the following March, Mother M. Peter, S.M. Florence and S.M. Mark went to carry on the work in Fiji.
 - (b) Yes. They are all members of our Order of the Sisters of Charity of Australia. 30
 - (c) Two in October '56 and three in March '57.
2. (a) The contribution on the 28th October 1954 of £10,000 made from the funds of St. Vincent's Private Hospital, was paid into the Novitiate Building Account for the purpose of erecting a new novitiate house at Wahroonga.
3. (a) No. The Novitiate at Wahroonga is the Order's only one. 40
 - (b) The Novitiate is used for the spiritual training and formation of those who wish to dedicate their lives to the service of God as religious nurses, teachers or social workers in the hospitals, schools and orphanages under the care of our Order of the Sisters of Charity of Australia.

Thanking you for your help in this matter.

I remain,

Yours faithfully,

Sr. M. Aurelius, R.S.C.
BURSAR GENERAL

50

Exhibit "3"

SEE POCKET AT BACK OF BOOK

CANON 489 OF THE CODE OF CANON LAW 1918 READS AS FOLLOWS:-

"The rules and particular constitutions of each Institute, not contrary to the canons of this Code, retain their force; while those contrary to these canons are abrogated".

Dr. T.J. Connolly is of the opinion that the word "constitutions" in Canon 489 means the various numbered clauses in the Constitutions as a whole or severally, exhibited to the Affidavit of Edna Mavis Skewes and that the word "rule" is a reference to the body of precepts governing the religious life of each member of an order, congregation or community within the Roman Catholic Church. The Constitutions of a community can be altered but only as permitted by the Canon Law and in accordance with the practice of the Sacred Congregation of Religious. The Canon Law itself may be altered and such alteration would be effective to alter a constitution inconsistent with it unless specifically exempted, or could require a constitution to be altered to conform to the Canon Law. 10 20

Canon 489, there being prior to 1918 no code of Canon Law, replaced no prior express provision but in practice the constitutions of a community would not have been approved unless they conformed to the Canon Law at the time of the approval. In a particular case special provision could have been made for the exception of a particular congregation. 30

OXFORD

DARLINGHURST

RD

LIVERPOOL

SHEET

HEYDON LANE

185

BURTON

HARDIE

HAYDEN

PLACE

Municipal Council of Sydney
GREEN PARK

VICTORIA

LITTLE

BARCOM

BARCOM PLACE

BARCOM

ST VINCENTS PRIVATE HOSPITAL

ST VINCENTS HOSPITAL

ST VINCENTS PUBLIC HOSPITAL

CHAPLIN

ST

ADJOINS

ST

NOTE:

- Trustees Sacred Heart R.C. Church V 68 F 15
- Trustees Sacred Heart R.C. Church V 97 F 23 App 378
- Trustees Sacred Heart R.C. School V 460 F 104
- SACRED HEART CHURCH
- 0 B School 25y
- B Nurses Quarters 25y
- SACRED HEART HOSPICE FOR DYING Hospice July & 85m
- Residents & Staff of 50
- Sisters Residence B UN 2 5y
- B Chapel 15y
- B Lavatory 15y
- Municipal Council of Sydney V 495 F 247
- B Bondstand 25y GREEN PARK
- Municipal Council of Sydney GREEN PARK
- ST VINCENTS PRIVATE HOSPITAL
- ST VINCENTS HOSPITAL
- ST VINCENTS PUBLIC HOSPITAL
- N 182 BK 1789
- THORACIC UNIT (GABRIEL WING)
- N 745 BK 767
- N 270 BK 338
- N 356 BK 91
- CHAPLIN
- ST

Compiled by	W. S. M. Morris	May 1942
Traced by	S. L. S. Morris	June 1942
Senior Registrar	W. S. M. Morris	July 1942
Chief Surveyor	W. S. M. Morris	November 1942
Charted to date from Office Records	S. L. S. Morris	November 1942

CITY OF SYDNEY

SHEET N° 183

Scale 60 Links to an Inch
M. W. S. & D. B.

WEST

SCHEDULE 1

SCHEDULE 2

ADJOINS

WEST LANE

WEST LANE

WEST LANE

WEST LANE

8 November 1960

Rev. Mother Rectress,
St. Vincent's Private Hospital,
DARLINGHURST

Dear Rev. Mother Rectress,

I have pleasure in handing you herewith
Statement of the Receipts and Payments of St.
Vincent's Private Hospital, Darlinghurst for the
year ended 30 June 1960.

The receipts for the year totalled 10
£133803.12.10 and the payments £146109. 1. 3
(including an amount paid to St. Vincent's General
Hospital of £11491. 5. 6 for Shared Services).
The Payments exceeding the Receipts by the sum of
£12305. 8. 5.

The excess of Payments over Receipts is
reflected in the credit balance at the Bank of
New South Wales, this being reduced from £21855.1.9
at 30 June 1959 to £9549.13.4 at the close of the 20
year, namely 30 June 1960.

Yours faithfully,

Jas McNally, Auditor
Chartered Accountant.

ST. VINCENT'S PRIVATE HOSPITAL DARLINGHURST

STATEMENT OF RECEIPTS AND PAYMENTS FOR YEAR ENDED 30 JUNE 1960

<u>RECEIPTS</u>		<u>PAYMENTS</u>		
<u>1959</u>	<u>1960</u>	<u>1960</u>		
June 30 To Balance brought forward		June 30 By Salaries & Wages		95142 12 7
Bank of New South Wales		" Provisions		
Credit balance as per Certificate	25898 4 7	Meat	4621 - 7	
Less Unpresented Cheques	<u>4043 2 10</u>	Fish, Poultry & Rabbits	2162 - 4	
		Butter & Cheese	911 16 10	
June 30 " Patients Fees	112635 13 5	Eggs	1028 14 3	
" Theatre Fees	10519 19 2	Milk	3038 5 11	
" Dressings	494 6 2	Bread, Flour etc	703 16 6	
" Maintenance		Groceries	5556 17 2	
Special Day Nurses	347 8 0	Vegetables & Fruit	1699 17 1	19722 8 8
Special Night Nurses	<u>623 0 0</u>	Drugs & Surgical		
Miscellaneous		Drugs & Disinfectant	874 15 7	
		Dressings & Bandages	801 16 5	2299 10 6
June 30 " Chemist Charges	6750 14 2	Appliances & Instruments	622 18 6	
Less Paid to Cruickshanks	<u>6325 2 10</u>	Light & Power		
" X. Ray	6127 13 6	Gas	63 12 5	
Less Paid to Medical Officers	<u>1799 7 9</u>	Electricity	1737 13 1	1801 5 6
		Domestic Charges		
		Bedding, Linen & Blankets	2386 4 4	
		Glassware, Crockery etc	353 15 8	
		Laundry Materials	100 19 -	2840 19 -
		Special Department		
		X. Ray		1842 - 5
		Establishment Charges		
		Insurance	1376 8 6	
		Printing & Stationery	267 1 2	
		Rates	1810 14 10	
		Legal Expenses	33 19 -	
		Repair & Maintenance	6517 16 7	
		Telephone		
		Paid	1431 2 0	
		Less Received	<u>926 10 6</u>	
			504 11 6	
June 30 " Amount carried forward	<u>155658 14 7</u>			
				10510 11 7 123648 16 8

ST. VINCENT'S PRIVATE HOSPITAL DARLINGHURST

STATEMENT OF RECEIPTS AND PAYMENTS (CONTINUED).

<u>RECEIPTS</u>		<u>PAYMENTS</u>	
<u>1960</u>	<u>To</u>	<u>1960</u>	<u>By</u>
June 30	<u>Amount brought forward</u>	June 30	<u>Amount brought forward</u>
	155658 14 7		Establishment Charges (Continued) 10510 11 7
			Accountancy 42 10 -
			Bank Charges 47 13 10
			Petty Cash 157 7 2
			Travelling Expenses 10 16 6
			123648 16 8
			" <u>Chaplain's Stipend</u>
			<u>The Very Rev Monsignor Wallace</u>
			200 - -
			" <u>Shared Services</u>
			<u>St Vincent's General Hospital</u>
			11491 5 6
			" <u>Balance carried forward</u>
			<u>Bank of New South Wales</u>
			Credit balance as per
			Certificate 15886 4 2
			Add Deposits - July 1960 889 15 9
			<u>16775 19 11</u>
			Less Unpresented Cheques 7226 6 7
			9549 13 4
			<u>£155658 14 7</u>
			<u>£155658 14 7</u>

I have examined the Books and Vouchers of St Vincent's Private Hospital, Darlinghurst, for the year ended 30' June 1960 and I certify that in my opinion the foregoing Statement is a true and correct Statement of the Receipts and Payments for the period of St Vincent's Private Hospital

Jas McNally Auditor
Chartered Accountant

24th August 1961

Rev. Mother Rectress,
St. Vincent's Private Hospital,
DARLINGHURST.

Dear Rev. Mother Rectress,

I have pleasure in handing you herewith
Statement of the Receipts and Payments of St.
Vincent's Private Hospital, Darlinghurst, for the
year ended 30 June 1961.

The Receipts for the period totalled 10
£139734. 2. 10 and the Payments including an amount
of £3678. 7. 8 paid to St. Vincent's General
Hospital for shared services, amounted to
£143722.15. 0, the Payments exceeding the Receipts
by the sum of £3988.12. 2.

The excess of Payments is reflected in the
credit balance at the Bank of New South Wales,
this being reduced from £9549.13. 4 at 30 June
1960 to £5561. 1. 2 at the close of the period,
namely 30 June, 1961. 20

Yours faithfully,

Jas McNally Auditor
Chartered Accountant

ST. VINCENT'S PRIVATE HOSPITAL DARLINGHURST

STATEMENT OF RECEIPTS AND PAYMENTS FOR YEAR ENDED 30 JUNE 1961

<u>RECEIPTS</u>		<u>PAYMENTS</u>	
1960	June 30 To Balance brought forward		100876 11 4
	Bank of New South Wales		
	Credit balance as per Certificate		
	add Deposits - July 1960	15886 4 2	
		889 15 9	
		<u>16775 19 11</u>	
	Less Unpresented Cheques	7226 6 7	
		9549 13 4	
1961	June 30		
	Patients Fees	119407 9 1	
	Theatre Fees	10388 12 -	
	Dressings	481 1 9	
	Maintenance		
	Special Day Nurses	457 6 9	
	Special Night Nurses	521 1 0	
	Miscellaneous	<u>3681 17 9</u>	
		134937 8 4	
	Chemist Charges	7024 8 7	
	Less Paid to Cruickshanks	6411 5	
	X. Ray	5697 18 6	
	Less Paid to Medical Officers	1717 11 9	
	Interest		
	Bank of New South Wales	202 19 7	
		613 8 2	
		3980 6 9	
		1533 12 7	
		352 13 9	
		72 8 7	
		1445 16 3	
		1817 12 2	
		118 19 8	
		<u>15 13 6</u>	
		3398 1 7	
		1380 13 7	
		3239 14 9	
		1310 15 1	
		662 19 4	
		1266 4	
		<u>2339 15 2</u>	
		5487 19 10	
		647 16 10	
		2937 7 -	
		1047 5 -	
		949 9 1	
		2075 12 8	
		5392 9 4	
		<u>20877 14 11</u>	
		20877 14 11	
		1958 14 11	
		1006 18 9	
		1380 13 7	
		3239 14 9	
		1310 15 1	
		662 19 4	
		1266 4	
		<u>2339 15 2</u>	
		5487 19 10	
		647 16 10	
		2937 7 -	
		1047 5 -	
		949 9 1	
		2075 12 8	
		5392 9 4	
		<u>100876 11 4</u>	
		100876 11 4	
		149283 16 2	
		Amount carried forward	129340 8 3

ST. VINCENT'S PRIVATE HOSPITAL DARLINGHURST

STATEMENT OF RECEIPTS AND PAYMENTS (CONTINUED).

<u>RECEIPTS</u>		<u>PAYMENTS</u>	
1961	1961		
June 30 To Amount brought forward	June 30 By Amount brought forward		
	" Establishment Charges	3398 1 7	129340 8 3
	(Continued)	6030 - 3	
	Repairs & Maintenance		
	Telephone		
	Paid	1641 19 3	
	Less Received	<u>962 16 2</u>	
	Accountancy	679 3 1	
	Bank Charges	42 10 -	
	Petty Cash	45 8 3	
		<u>83 15 11</u>	10278 19 1
" Chaplain's Stipend			
" The Very Rev Monsignor Wallace			300 - -
" St Vincent's Convent - Potts Point			125 - -
" Shared Services			
" St. Vincent's General Hospital			3678 7 8
" Balance, carried forward			
Bank of New South Wales			
Credit balance as per		13938 5 4	
Certificate		1194 10 6	
Add Deposits - July 1961		<u>15132 15 10</u>	
Less Unpresented Cheques		<u>9571 14 8</u>	5561 1 2
			<u>£149283 16 2</u>
			<u>£149283 16 2</u>

I have examined the Books and Vouchers of St Vincent's Private Hospital, Darlinghurst for the year ended 30' June 1961 and I certify that in my opinion the foregoing Statement is a true and correct Statement of the Receipts and Payments for the period of St Vincent's Private Hospital.

Jas McNally Auditor
Chartered Accountant

3rd September, 1962

Rev. Mother Rectress,
St. Vincent's Private Hospital,
DARLINGHURST.

Dear Rev. Mother Rectress,

I have pleasure in handing you herewith Statement of the Receipts and Payments of St. Vincent's Private Hospital, Darlinghurst, for the year ended 30 June 1962.

The Receipts for the period totalled 10
£152517.16. 5 and the Payments, including amounts
of £11000. 0. 0 transferred to St. Vincent's Private
Hospital Building Account and £3817.15. 0 paid to
St. Vincent's General Hospital for shared services
amounted to £152087. 6.10, the Receipts exceeding
the Payments by the sum of £430. 9. 7.

The excess of Receipts over Payments is re-
flected in the credit balance at the Bank of New
South Wales, this being increased from £5561. 1. 2
at 30 June 1961 to £5991.10. 9 at the close of the 20
period, namely 30 June 1962.

Yours faithfully,

Jas McNally A.C.A.

Auditor

ST. VINCENT'S PRIVATE HOSPITAL DARLINGHURST

STATEMENT OF RECEIPTS AND PAYMENTS FOR YEAR ENDED 30 JUNE 1962

<u>RECEIPTS</u>		<u>PAYMENTS</u>		
1961		1962		
June 30 To Balance brought forward		June 30 By Salaries & Wages		99635 9 7
Bank of New South Wales		" Provisions		
Credit balance as per Certificate		Meat	5046 4 2	
Add Deposits - July 1961		Fish, Poultry & Rabbits	1885 1 1	
		Butter & Cheese	928 17 7	
Less Unpresented Cheques		Eggs	875 15 -	
		Milk	2957 8 1	
		Bread, Flour etc	540 6 -	
" Patients Fees		Groceries	5780 14 1	
" Theatre Fees		Vegetables & Fruit	2031 15 3	20046 1 3
" Dressings		Drugs & Surgical		
" Maintenance		Drugs & Disinfectants	1139 15 2	
" Special Day Nurses 406 10 6		Dressings & Bandages	488 3 4	
" Special Night Nurses 560 6 6		Appliances & Instruments	1334 - 2	2961 18 8
" Miscellaneous		Light & Power		
		Electricity		1036 16 8
" Chemist Charges		Domestic Charges		
Less Paid to Cruickshanks		Bedding Linen & Blankets	1653 19 3	
" X. Ray		Glassware, Crockery etc	566 16 1	
Less Paid to Medical Officers		Laundry Materials	144 8 11	2365 4 3
		Special Department		
		X. Ray		836 19 11
		Establishment Charges		
		Insurance	2012 12 7	
		Rates	1749 11 11	
		Printing & Stationery	256 6 8	
		Repair & Maintenance	5119 8 10	
		Telephone		
		Paid	1550 5 3	
		Less Received	1084 9 8	
		Accountancy	465 15 7	
		Bank Charges	42 10 -	
			41 6 9	
" Amount carried forward	158078 17 7	" Amount carried forward	9687 12 4	126882 10 4

ST VINCENT'S PRIVATE HOSPITAL DARLINGHURST
STATEMENT OF RECEIPTS AND PAYMENTS (CONTINUED).

<u>RECEIPTS</u>		<u>PAYMENTS</u>	
<u>1962</u>			
June 30	To Amount brought forward	158078 17 7	1962
			June 30
			By Amount brought forward
			" Establishment Charges (Continued)
			" Petty Cash
			9687 12 4
			<u>299 9 2</u>
			126882 10 4
			" Shared Services
			St Vincent's General Hospital
			3817 15 -
			" Chaplains Stipend
			The Very Rev Monsignor Wallace
			100 - -
			" Feast Day Gift
			Mother General
			300 - -
			" Transfer to St Vincent's Hospital Private
			Building Account
			11000 - -
			" Balance carried forward
			Bank of New South Wales
			Credit balance as per
			Certificate
			11884 - 6
			5892 9 9
			Less Unpresented Cheques
			5991 10 9
			<u>£158078 17 7</u>
			<u>£158078 17 7</u>

I have examined the Books and Vouchers of St Vincents Private Hospital, Darlinghurst, for the year ended 30' June 1962 and I certify that in my opinion the foregoing Statement is a true and correct Statement of the Receipts and Payments for the period of St Vincent's Private Hospital.

Jas McNally A.C.A.
AUDITOR

Exhibit "6"

6th November, 1963

Mother Rectress,
St. Vincent's Hospital.
SYDNEY.

Dear Mother,

I have completed the audit of the books of Accounts for St. Vincent's Private Hospital for the six months ended the 30th June, 1963, and have prepared a Financial Statement to cover the twelve months from the 1st July, 1962, to the 30th June, 1963. In compiling this Statement I have incorporated the two quarterly returns prepared by the previous auditor, Mr. J. McNally, being the period from the 1st July, to the 31st December, 1962, and combined these figures with the half yearly audit just completed to cover the full Financial Year. 10

Schedule 1 shows the total receipts for the year under the various headings totalling £168447. 2. 3. from which has been deducted the payments totalling £160288. 0. 6. thereby giving a surplus of receipts over expenditure on Cash Book basis of £8159. 1. 9. 20

The credit balance in the Cash Book at the 30th June, 1962, amounted to £5991.10. 9. and when added to the surplus as indicated above makes a total credit balance as per the Cash Book of £14150.12. 6. This figure includes all cheques drawn at the 30th June, which, at that date, had not been presented to the Bank for payment.

In Schedule 2 I have omitted the shillings and pence and have compiled a summary of the receipts and payments which include the two previous audits for September and December, which you have already received a copy and have added the audited figures for the six months to the 30th June, to give the total as detailed in Schedule 1. I submit this Statement for the purpose of giving you a dissection of the Income and Expenditure for the various periods of the Financial Year so that a comparison may be made under each heading. 30 40

PROFIT AND LOSS

The above figures have been prepared entirely on a cash basis and include Income received from Cash and Payments made by Cheque. These figures do not include certain items of Expenditure which would necessarily effect the profit for the year and likewise certain items of Expenditure have been expended which do not relate specifically to the Financial Year under review. In order to arrive at an accurate estimation of the profit of the hospital during the Financial Year I submit hereunder a reconciliation of the figures which include the adjustments to arrive at the true profit. 50

Exhibit "6"

Surplus of Receipts over Payments for the year as detailed in Schedule 1.	8159	
<u>Add.</u>		
Creditors paid for month of June and included in Schedule 1.	4740	
Accrued Salaries at 30/6/62 and paid during the Financial Year	1946	
Transfer from profits to Building Account	1500	10
Transfer of proportion of Expenses for special repairs to Furniture to Ricketts & Thorpe regarded partly as Capital and partly in relation to previous years.	1000	
<u>Less.</u>		
Electricity paid by General Hospital and not reimbursed by Private Hospi- tal during year.	2032	
Salaries accrued at 30/6/63, and paid in July, 1963.	<u>2459</u>	4491 20
Estimated profit for the twelve months.		<u><u>£12854</u></u>

In the past the Cash Book surplus had been accepted as the profit for the Hospital and provision has not been made for outstandings such as, Creditors, Accrued Salaries and other expenses which are a liability of the Hospital at the close of the Financial Year. In the above Statement the Cash Book surplus has been included as the basis of all the financial transactions during the year and adjustments to arrive at the true profit have been included with the result that the surplus has been increased from £8159, as shown in Schedule 1 to £12854 which is regarded as the true profit for the Financial Year. 30

In the past the Income was recorded from the 1st July, to the 30th June, whereas all Creditors Accounts covered a period from the 1st June, to the 31st May. To bring the 1962/63 year into alignment with the change over at the 1st July, it was necessary to pay all June Accounts with the result that Expenditure during this Financial Year has covered a period of thirteen months. The adjustment to correctly account for this extra month is included in the above at £4740. The £1500 representing the transfer to the Building Account was paid but is a Capital Expenditure which should not be charged against profit, this has therefore been added to the Cash Book's surplus. Likewise, a similar adjustment has been made to the Repairs to the Furniture which I have estimated at £1000. 40 50

Exhibit "6"

I previously pointed out that no payment had been made for Electricity since November, 1961, and therefore an amount of £3548 was due to the General Hospital which covered a period of one year and nine months. This cheque was paid during September, last. The amount applicable to the 1962 Financial Year was £2032 which has been included in the Statement above.

GENERALLY.

Again, I strongly emphasise the importance of maintaining a high bed average as it is necessary to average sixty to cover expenses and it is only in excess of this number that the hospital is capable of functioning on a profit earning basis. I think the attached Statements set out in detail all items of Income and Expenditure which are self explanatory but if there is any matter on which you require more detail I will be pleased to furnish it. 10

Yours faithfully, 20

.....A.A.S.A., A.C.I.S.
AUDITOR.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY.STATEMENT OF RECEIPTS & PAYMENTS FOR THE TWELVE
MONTHS ENDED 30th JUNE, 1963RECEIPTS

Patients Fees		135,758	2	0
Theatre Fees		17,804	17	11
Dressings		1,241	5	7
X-Ray		3,099	0	11
Chemist Accounts		6,482	17	11
Telephone Received		1,436	17	8
Donation		2,160	2	3
Miscellaneous		300	0	0
Interest - Bank		163	18	0

Total Receipts

168,447 2 3

PAYMENTS

Salaries		107,135	11	6
Provisions		20,839	4	2
Drugs & Surgical				
- Hospital	3,208	17	0	
- Chemist Accounts	<u>6,401</u>	<u>9</u>	<u>3</u>	9,610 6 3
Domestic		4,052	17	9
Special Departments		987	16	0
Establishment				
- Rates	1,539	0	1	
- Insurance	2,218	17	8	
- Telephone	1,650	0	10	
- General	<u>1,263</u>	<u>10</u>	<u>3</u>	6,671 8 10
Repairs & Maintenance				
- General	3,359	10	0	
- Special for repairs to Furniture	<u>1,458</u>	<u>4</u>	<u>9</u>	4,817 14 9
Shared Services paid to General Hospital		3,923	1	3
Transfer to Mother General		450	0	0
Stipend to Monsignor Wallace		300	0	0
Transfer to Building A/c		<u>1,500</u>	<u>0</u>	<u>0</u>
Total Payments				<u>160,288 0 6</u>
Surplus of Receipts over Payments for the 12 months				<u>8,159 1 9</u>

.....

RECONCILIATION OF BANK ACCOUNT
FOR THE TWELVE MONTHS ENDED 30th JUNE, 1963

Credit balance per Cash Book at 30th June, 1962	5991 10 9
Add Surplus of Receipts over Payments for the twelve months ended 30th June, 1963:	8159 1 9

Credit balance per Cash Book at 30th June, 1963	14150 12 6
	=====

I have examined the Books and Records of St. Vincent's Private Hospital, Darlinghurst for the six months ended 30th June, 1963 and have incorporated the figures previously examined by Mr. J. McNally (Auditor) and certify that in my opinion the foregoing statement is a true and correct statement of Receipts and Payments for the twelve months of St. Vincent's Private Hospital.

ST. VINCENT'S PRIVATE HOSPITAL.

Victoria Street,
Darlinghurst.

12th August, 1964.

Mother Rectress.
St. Vincent's Private Hospital.
SYDNEY.

Dear Mother Rectress,

I have completed the Accounts for St. Vincent's Private Hospital for the year ended 30th June, 1964 and prepared therefrom Income and Expenditure Account and Balance Sheet in respect to the Working Account and also a Statement of Receipts and Expenditure together with a Balance Sheet for the Building Account. All income and Expenditure has been listed in detail but I will report briefly on any items of importance to clarify any figures that appear therein which may require further explanation. 10

WORKING ACCOUNT 20

INCOME AND EXPENDITURE ACCOUNT

A summary of the Income and Expenditure Account which appears on page (2) is as follows:-

The Income from Patients' Fees which includes the Daily Bed Rate Charges, X-Ray, Operating Theatre Charges, Chemist Account and Miscellaneous Income total	167,566. 9. 0.	
to which is added Miscellaneous Income from Telephone, Discount, and Interest of the total Income for the year then amounts to	<u>169,735. 3. 6.</u>	30
and from the above figure is deducted the expenses of running the Hospital as detailed in the Income and Expenditure Account amounting to	159,755. 7. 10.	40
which leaves a total nett Income for the year transferred to Capital of	<u>£ 9,979. 15. 8.</u>	

Provision has been made in the above Account for the payment to the General Hospital for Fuel Services which include Coal and Steam supplied and reimbursement for a proportion of Drugs supplied to the Hospital and a further payment for Clerical Services which include preparation of Wages, Clerical Assistance, and General Supervision. 50

Exhibit "6"

BALANCE SHEET

The Plant and Equipment shown include only new equipment purchased during the year and for the Balance Sheet to be complete a valuation of the Land, Buildings, Plant and Equipment etc., should be made and brought into the Accounts with a corresponding entry to increase the Capital of the Hospital. It is suggested that this action be taken during the present financial year.

During the year the surplus held in our Bank Account was invested in First Mortgage Debenture Stock with Alliance Holdings Limited for a period of two years at $5\frac{3}{4}\%$, the amount invested being £10,000 as shown in the Balance Sheet. At the present date there is a credit in the Working Account of the Hospital amounting to £9,564. 5. 8. 10

The profit from the Income and Expenditure Accounts of £9,979.15. 8. has been transferred to the opening Capital at the 30th June, 1963, from which a deduction has been made for payments made in respect to Sundry outstanding Accounts at the 30th June, 1963 which related to the previous year 1962-1963 totalling £7,076. 3. 3. The Capital at present is therefore £16,693. 1.10. which would be considerably increased if a valuation of all Assets was made and included as previously explained. 20

STATISTICS

The following is a summary of the patients treated during the year which is dissected into Male and Female. 30

	<u>Male</u>	<u>Female</u>	<u>Total</u>	
In hospital at commencement of year 1/7/63	35	38	73	
Admitted during year	<u>1048</u>	<u>1335</u>	<u>2383</u>	
Total Treated	<u>1083</u>	<u>1373</u>	<u>2456</u>	
Discharges and Deaths				
Discharges	1028	1313	2341	
Deaths	<u>28</u>	<u>17</u>	<u>45</u>	
Total Discharges and Deaths	1056	1330	2386	40
Remaining in hospital at end of year, 30/6/64.	<u>27</u>	<u>43</u>	<u>70</u>	
Total as above	<u>1083</u>	<u>1373</u>	<u>2456</u>	

Exhibit "6"

I detail hereunder a summary of the Bed occupancy of patients for the year:-

Quarter ended 30th September, 1963	6468
Quarter ended 31st December, 1963	6322
Quarter ended 31st March, 1964	6414
Quarter ended 30th June, 1964	6348
Total Bed Days for year	<u>25552</u>
Daily Average of Occupied Beds	70
Average stay of patients (in days)	10.4

BUILDING ACCOUNT

10

I have prepared a Statement of Receipts and Payments for the year ended 30th June, 1964 which includes the Income received into this Bank Account during the year and the payments made therefrom.

The balance in the Bank Account of the 30th June, 1963 was	5,503. 1.11.
whilst the Income received during the year amounted to	<u>19,124. 7. 9.</u>
making a total of	24,627. 9. 8.
which has been expended by the purchase of Debenture Stock of £15,000 and renovations to Bathrooms and Showers of £4,307. 8. 8. and other incidental expenses tot-	<u>19,648.19. 8.</u>
alling thereby leaving a credit balance on this Account at the 30th June, 1964 of	<u>£4,978.10. 0.</u>

20

During the year the Debenture Stock with I.A.C. matured and was reinvested in Debenture Stock with Associated Securities Limited for a period of two years at 5 $\frac{3}{4}$ %. Furthermore the £5,000 received from Miss N.E. Garvan was deposited with the Bank of New South Wales on Fixed Deposit for a period of six months at 3 $\frac{3}{4}$ % as it was undecided at the time whether this money may be required for more immediate use. Consideration for reinvestment in long term loans could be made during this Financial year. At the 30th June, 1964 investments have increased to £75,000 being £10,000 more than the figure at the 30th June, 1963.

30

40

Details of further adjustments of Income and Expenditure in this Account is made through the Capital and Accumulated Funds Account which is fully detailed in the accompanying Balance Sheet.

As you are aware the book-keeping system was altered from purely a Cash Book recording of figures to a properly mechanised accounting system whereby true and accurate figures from month to month is readily available and conforms with the requirements of a Hospital of this size. This, I must report, is

50

Exhibit "6"

working very satisfactorily and the staff performing the various function have now had several months of training which will ensure that the difficulties experienced during the changeover and the early months subsequent thereto have been overcome and it is anticipated that during the 1964-1965 financial year all problems will be dealt with as a matter of routine.

I trust the Accounts as prepared and my report thereon furnish all the necessary information and will be pleased to elaborate further on any matter on which you may require my advice.

10

Yours faithfully,

R.A. Butler, A.A.S.A., A.C.I.S.
ACCOUNTANT.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY
BALANCE SHEET AS AT 30th JUNE, 1964.

Exhibit "6"

LIABILITIES

CAPITAL
 As at 30th June, 1963
 Add:

Surplus of Income over Expend-
 iture for the year ended 30th
 June, 1964

Less:

Sundry Accounts outstanding
 prior to 30th June, 1963 paid
 during year

SUNDRY CREDITORS

Trade Accounts
 Sundry Accounts

ACCRUED SALARIES

ASSETS

PLANT AND EQUIPMENT (new)

purchased during year

SUNDRY DEBTORS

patients Account

St. Vincent's Hospital for
 Rates paid

INVESTMENTS

1st Mortgage Debenture
 Stock in Alliance Holdings
 Limited at 5,3/4% due 25th
 October, 1965

BANK OF NEW SOUTH WALES

Credit on Working Account

PETTY CASH

4,067.11. 5.

3,407.10.11.

355.13.10.

10,000. 0. 0.

9,564. 5. 8.

10. 0. 0.

13,789. 9. 5.

9,979.15. 8.

23,769. 5. 1.

7,076. 3. 3. 16,693. 1.10.

6,186. 3. 4.

1,246. 8. 7. 7,432.11.11.

3,279. 8. 1.

£27,405. 1.10.

£27,405. 1.10.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY

Exhibit "6"

INCOME & EXPENDITURE ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1964.

<u>EXPENDITURE</u>		<u>INCOME</u>	
SALARIES AND WAGES	119,029. 5. 1.	PATIENTS FEES	
PROVISIONS	19,384. 3. 3.	Daily Bed Rates excluding extras	138,871. 9. 2.
DRUGS AND SURGICAL	1,021. 2. 0.	X/Ray Charges	4,736.11. 0
FUEL, LIGHT, AND POWER		Less paid to Honorary Radiologists	1,560.11. 6.
Electricity and Gas	2,155.17.11.	Operating Theatre Charges	3,175.19. 6.
Coal-Shares Services	<u>1,306. 9. 0.</u>	Chemists Accounts for Drugs etc.,	21,116. 6. 0.
DOMESTIC		Received from Patients	6,595. 9.11.
SPECIAL DEPARTMENTS		Less paid to Chemist	<u>6,475.10. 3.</u>
X/Ray	839. 4.10.	Miscellaneous Fees	<u>4,282.14. 8.</u>
Operating Theatre	<u>1,559.10.10.</u>	TOTAL PATIENTS FEES	167,566. 9. 0.
ESTABLISHMENT CHARGES		MISCELLANEOUS INCOME	
Insurance	2,173. 6. 6.	Telephone used by Patients	1,638.10.10.
Telephone	1,446. 0. 2.	Discounts Received	231.16. 9.
Rates	893. 4.10.	Interest on Bank Account	<u>298. 6.11.</u>
Printing and Stationery	191.19. 5.		
Postages and Petty Cash	168.12. 2.		
Legal Expenses	49.14. 0.		
Sundry Expenses	<u>387. 6. 6.</u>		
RENEWALS, RENOVATIONS, AND REPAIRS			
TOTAL EXPENDITURE	<u>5,723.19.10.</u>		
	159,755. 7.10.		
BALANCE, BEING SURPLUS OF INCOME OVER EXPENDITURE FOR THE YEAR TRANSFERRED TO CAPITAL	9,979.15. 8.		
			<u>£169,735. 3. 6.</u>

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY

Exhibit "6"

BUILDING ACCOUNT

STATEMENT OF RECEIPTS & PAYMENTS FOR THE YEAR ENDED 30TH JUNE, 1964.

RECEIPTS

CREDIT BALANCE AS PER CASH BOOK

AT 30TH JUNE, 1963

RECEIPTS

DONATIONS

- Miss C.F. Garvan 4,450. 0. 0.
- Miss N.E. Garvan 5,000. 0. 0.
- Others 277. 9. 0.

INTEREST

- Mortgage Debentures 4,343.18. 3.
- Bank 53. 0. 6.

REDEMPTION OF DEBENTURE STOCK
FROM I.A.C.

5,000. 0. 0.

5,503. 1.11.

PAYMENTS

PURCHASE OF DEBENTURE STOCK

- Alliance Holdings Limited 5,000. 0. 0.
- 5 3/4% for 2 years
- Associated Securities Limited 5,000. 0. 0.
- Limited 5 3/4% for 2 years

FIXED DEPOSIT AT BANK OF
NEW SOUTH WALES - 3 3/4% FOR
6 MONTHS 5,000. 0. 0.

ALTERATIONS AND ERECTION OF
SHOWERS AND BATHROOMS INCLUD-
ING BUILDING CONTRACT, ARCHI-
TECT FEES, SCREENS, AND
RADIATORS 4,307. 8. 8.

LEGAL EXPENSES RE PURCHASE OF
426 AND 428 VICTORIA STREET 41.11. 0.

MOTHER GENERAL

300. 0. 0.

TOTAL PAYMENTS

19,648.19. 8.

CREDIT BALANCE AT BANK OF NEW

SOUTH WALES ON 30TH JUNE,
1964

4,978.10. 0.

£24,627. 9. 8.

BALANCE SHEET AS AT 30TH JUNE, 1964

Exhibit "6"

LIABILITIES

CAPITAL ACCUMULATED FUNDS

Balance at 30th June, 1963	70,503. 1.11.
Add Interest Received	4,396.18. 9.
Add Donations Received	<u>2,727. 9. 0.</u>
	14,124. 7. 2.
	84,627. 9. 8.
Less Payments for Alter- ations to Bathrooms and Showers	4,307. 8. 8.
Less Legal Costs re purchase of Land	41.11. 0.
Less Payment to Mother General	<u>300. 0. 0.</u>
	4,648.19. 8.

BALANCE AT 30TH JUNE,
1964

79,978.10. 0.
£79,978.10. 0.

ASSETS

DEBENTURE STOCK

- Alliance Holdings Limited	65,000. 0. 0.
- Associated Securities Limited	<u>5,000. 0. 0.</u>

FIXED DEPOSIT AT BANK OF
NEW SOUTH WALES

5,000. 0. 0.

BANK OF NEW SOUTH WALES -
CREDIT BALANCE AT 30TH
JUNE, 1964

4,978.10. 0.

£79,978.10. 0.

St. Vincent's Private Hospital

Victoria Street,

Darlinghurst.

5th August, 1965.

Mother Rectress,
St. Vincent's Private Hospital
SYDNEY.

Dear Mother Rectress,

I have completed the Accounts for St. Vincent's Private Hospital for the year ended 30th June, 1965 and prepared therefrom Income and Expenditure Account and Balance Sheet in respect to the Working Account and also a Statement of Receipts and Expenditure together with a balance Sheet for the Building Account. All Income and Expenditure has been listed in detail but I will report briefly on any items of importance to clarify any figures that appear therein which may require further explanation. 10

WORKING ACCOUNT 20

INCOME AND EXPENDITURE ACCOUNT

A summary of the Income and Expenditure Account which appears on page (2) is as follows:-

The Income from Patients' Fees which includes the Daily Bed Rate Charges, X/Ray, Operating Theatre Charges, Chemist Account and Miscellaneous Income total	173,671. 4. 4.	
to which is added Miscellaneous Income from Telephone, Discount, and Interest of	<u>1,938. 0. 0.</u>	
the total Income for the year then amounts to	175,609. 4. 4.	
and from the above figure is deducted the expenses of running the Hospital as detailed in the Income and Expenditure Account amounting to	176,846.11. 1.	
which leaves a total nett loss for the year transferred to Capital of	<u>£1,237. 6. 9.</u>	40

Provision has been made in the above Account for the payment to the General Hospital for Fuel Services which include Coal and Steam supplies and reimbursement for a proportion of Drugs supplies and a further payment for Clerical Services which include preparation of Wages, Clerical Assistance, and General Supervision.

Exhibit "6"

The Trading position for this year is somewhat different to last in that a profit of £9,979.15. 8. was made during the 1963/64 year whereas this has now been converted into a loss of £1,237. 6. 9. for the 1964/65 financial year. This position is somewhat alarming and it is, therefore, important that necessary steps be taken to rectify this adverse trend.

In order to show where this deterioration has occurred I submit hereunder a comparison of the Income and Expenditure for the two years, and furthermore, show the increase or decrease in the individual items of Income and Expenditure.

10

<u>INCOME</u>	1963/64 Year	1964/65 Year	+ = Increase or - = Decrease
---------------	-----------------	-----------------	------------------------------------

PATIENTS' FEES

- Daily Bed Rates excluding Extras.	138871	144497	+ 5626	
Extras.	28695	29174	+ 479	20

MISCELLANEOUS INCOME

- Telephone used by Patients	1639	1707	+ 68	
- Discounts Received	232	78	- 154	
- Interest on Bank Account	<u>298</u>	<u>153</u>	- 145	
Total Income	£169735	£175609		
Increase in Income			+ £5874	

EXPENDITURE

- Salaries & Wages	119029	129142	+ 10113	30
- Provisions	19384	21916	+ 2532	
- Drugs & Surgical	1021	1701	+ 680	
- Fuel, Light & Power	3462	3638	+ 176	
- Domestic	3426	3673	+ 247	
- Special Departments	2399	3288	+ 889	
- Establishment	5310	7221	+ 1911	
- Renewals, Renova- tions & Repairs.	<u>5724</u>	<u>6267</u>	+ 543	
Total Expendi	£159755	£176846		40
Increase in Expenditure			£17091	

From the above it will be seen that the Expenditure has increased by 17091 but as a compensating factor there is an increase in Income of 5874 with the result that the trading position of the Hospital had deteriorated to the extent of £11217 during the past financial year by the conversion of a profit of £9980 for 1963/64 to a loss of £1237 for 1964/65.

50

You will remember that during the early part of 1964 we considered the possible effect that the increase in the basic wage would have on the Hospital and consequently steps were taken to off-set this to some extent. Daily Bed Rate fees were increased, also Extras in the form of X/Ray Charges and Theatre Charges. Furthermore, the Radiologists were approached and a reduction in the amount payable to them was agreed upon and it was thought, at the time, that these measures may off-set the anticipated increase in Expenditure, but as the Accounts reveal this was not sufficient and, furthermore, it is considered that it is inadvisable for the Hospital to make further increases in this direction. 10

Referring to the comparison above you will note that the single item of Salaries & Wages has increased by £10,113 and the increased fees compensated for only 58% of this. A detailed report on the adverse position that has arisen in relation to Salaries & Wages was made by me in my May report on the financial position to 30th April, 1965. Provisions also increased by £2,532 which was, no doubt, due to the basic wage increase and likewise other items of expenditure. The Establishment item which includes Insurance also increased by £1911 and this was mainly due to the Insurance Rates being increased early in January of this year and the new Rate being retrospective for the full financial year. The increase in Salaries also had its effect. 20 30

I would also mention that Long Service Leave payments to Staff amounting to £1,326 is included in the Salaries & Wages and it would appear that provision will have to be made for in this item for all future years as many of the staff at the Private Hospital have been employed for a number of years and consequently will become eligible for Long Service Leave payments. It is anticipated that this item will be greater during the next financial year. 40

BALANCE SHEET.

The Plant, Equipment and Building Improvements shown as an asset in the Balance Sheet only include new equipment purchased and improvements, such as painting, which has not been carried out for many years. This amount represents only payments made from the Working Account during the past two financial years and in order for the Balance Sheet to be complete a valuation of Land, Buildings and Equipment etc., should be made and brought into the Accounts with a corresponding entry to increase the capital of the Hospital. It is suggested that in the future that this matter be given consideration and an effort made to obtain an up-to-date valuation of Buildings, Plant and Equipment. 50

At the 30th June, 1964, Investments held amounted to £10,000 which have been increased during the year to £15,000 by the purchase of further first mortgage debenture stock amounting to £5,000 in

Exhibit "6"

Alliance Holdings Limited for a period of two years at 6% which is redeemable on the 12th October, 1966.

Reference is made to Sundry Accounts which appear as a liability under the heading of Sundry Creditors and comprise the following:-

Electricity accrued at 30/6/65	397.15. 1.
Insurance Account for the year	2975.13. 5.
Chemist Account for June.	649. 6. 5.
	<hr/>
Total in Balance Sheet	<u>£4022.14.11.</u>

The loss for the year of £1,237. 6. 9. has been transferred from the Income and Expenditure Account to the Capital Account and also a deduction has been made by the adjustment of the Chemist Account, amounting to £560. 6. 9., which occurred prior to the 30th June, 1964, making a total reduction in Capital of £1,797.13. 6. and the final balance at the 30th June, 1965, on this account is £14,895. 8. 4. As previously explained this Capital would be greatly increased if a valuation of Buildings, Plant and Equipment was made and included in the Accounts.

STATISTICS

The following is a summary of the patients treated during the year which is dissected into Male and Female.

	<u>Male</u>	<u>Female</u>	<u>Total</u>	
In hospital at commencement of year 1/7/64	27	43	70	
Admitted during year	<u>1046</u>	<u>1254</u>	<u>2300</u>	
Total Treated	<u>1073</u>	<u>1297</u>	<u>2370</u>	30
Discharges and Deaths				
Discharges	1016	1238	2254	
Deaths	<u>22</u>	<u>19</u>	<u>41</u>	
Total Discharges and Deaths	1038	1257	2295	
Remaining in hospital at end of year, 30/6/65	<u>35</u>	<u>40</u>	<u>75</u>	
Total as above.	<u>1073</u>	<u>1297</u>	<u>2370</u>	

I detail hereunder a summary of the Bed Occupancy of Patients for the year:-

	<u>1963/64</u>	<u>1964/65</u>
Quarter ended 30th September.	6468	6681
Quarter ended 31st December.	6322	6442
Quarter ended 31st March.	6414	6045
Quarter ended 30th June.	<u>6348</u>	<u>6571</u>
Total Bed Days for Year.	<u>25552</u>	<u>25739</u>
Daily Average	70.0	70.5
Average stay of patients (in days)	10.4	10.9

Exhibit "6"

You will, therefore, note that there has been only a slight increase in Bed Occupancy days amounting to 187 for this year with a daily average increase of .5%.

BUILDING ACCOUNT

I have prepared a Statement of Receipts and payments for the year ended 30th June, 1965 which includes the Income received into this Bank Account during the year and the payments made therefrom.

The balance in the Bank Account of the 30th June, 1964 was	4,978.10. 0.	10
whilst the Income received during the year amounted to	13,469. 2. 4.	
	<hr/>	
making a total of	18,447.12. 4.	
which has been expended by the purchase of further Debenture Stock of £5,000 and other incidental expenses totalling	5,629. 4. 6.	
	<hr/>	
thereby leaving a credit balance on this Account at the 30th June, 1965 of	<u>£12,818. 7.10.</u>	20

During the year the amount of £5,000 which previously had been placed as an Interest Bearing Deposit with the Bank of New South Wales, matured and was reinvested in further Debenture Stock with Associated Securities Limited for a period of two years at 5¼%. This Interest Rate was considerably better than the amount being received from the Bank on the Interest Bearing Deposits. The amount invested in the Building Fund Account at the 30th June, 1965, is the same as for 1964, the only difference being the £5,000 invested in Debenture Stock in place of Interest Bearing Deposits. The Bank Account has increased from £4,979 at the 30th June, 1964 to £12,818 at the 30th June, 1965 which includes an amount received from Miss Garvan for £3,500 on the 30th June, 1965. As there are further renovations to Bathrooms etc., being carried out at the Private Hospital it is expected that a substantial part of this balance will be used for this purpose. Any surplus will be invested in either Debenture Stock or Interest bearing Deposits and consideration will be given to this aspect as soon as the full commitment for Building repairs is definitely known.

I trust the Accounts as prepared and my report thereon furnish all the necessary information and will be pleased to elaborate further on any matter on which you may require my advice.

Yours faithfully, 50
 R.A. Butler
 R.A. Butler, A.A.S.A., A.C.I.S.
ACCOUNTANT.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY

Exhibit "6"

BALANCE SHEET AS AT 30TH JUNE, 1965.

LIABILITIES

CAPITAL

Balance as at 30th June, 1964
 Less Outstanding Account prior to 30th June, 1964 paid during year.
 Less nett loss for the year transferred from Income and Expenditure Account

BALANCE AT 30TH JUNE, 1965.

SUNDRY CREDITORS

Trade Accounts
 Sundry Accounts
 ACCRUED SALARIES

ASSETS

PLANT, EQUIPMENT & BUILDING IMPROVEMENTS (From 1/7/1963)

Balance at 30th June, 1964
 Add Increase during year.

SUNDRY DEBTORS

Patients' Account
 St. Vincent's Hospital for Rates paid.

INVESTMENTS

1st Mortgage Debenture Stock in Alliance Holdings Limited at 5 3/4% due 25th October, 1965.
 1st Mortgage Debenture Stock in Alliance Holdings Limited at 6% due 12th October, 1966.

BANK OF NEW SOUTH WALES

Credit on Working Account

PETTY CASH

£25499.11. 1.

£25499.11. 1.

R.A. Butler, A.A.S.A., A.C.I.S.

ACCOUNTANT.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY

Exhibit "6"

INCOME & EXPENDITURE ACCOUNT FOR THE YEAR ENDED 30TH JUNE, 1965.

<u>EXPENDITURE</u>		<u>INCOME</u>
SALARIES AND WAGES	129141.18.11.	PATIENTS' FEES
PROVISIONS	21915.13.5.	Daily Bed Rates excluding extras.
DRUGS AND SURGICAL	1701.8.2.	X-Ray Charges
FUEL, LIGHT AND POWER		Less paid to Honorary Radiologists
Electricity and Gas	2254.14.0.	Operating Theatre Charges
Coal-Shared Services	<u>1383.12.9.</u>	Chemist Accounts for Drugs etc.,
DOMESTIC		Received from Patients
SPECIAL DEPARTMENTS		Less paid to Chemist
X-Ray	823.6.5.	Miscellaneous Fees
Operating Theatre	<u>2465.2.10.</u>	
ESTABLISHMENT CHARGES		TOTAL PATIENTS' FEES.
Insurance	2975.13.5.	MISCELLANEOUS INCOME
Telephone	1639.2.7.	Telephone used by Patients
Rates	1870.9.10.	Discounts Received
Printing and Stationery	301.11.3.	Interest on Bank Account
Postages and Petty Cash	157.3.6.	
Legal Expenses	43.3.6.	TOTAL INCOME
Sundry Expenses	<u>233.19.10.</u>	BALANCE BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL
RENEWALS, RENOVATIONS AND REPAIRS	7221.3.11.	
TOTAL EXPENDITURE	<u>6267.0.1.</u>	
	176846.11.1.	
	<u><u>£176846.11.1.</u></u>	
		144496.18.10.
		5164.0.6.
		<u>1412.17.11.</u>
		3751.2.7.
		21103.16.11.
		6823.1.11.
		<u>6588.14.1.</u>
		234.7.10.
		<u>4084.18.2.</u>
		173671.4.4.
		1706.18.9.
		77.14.8.
		<u>153.6.7.</u>
		1938.0.0.
		175609.4.4.
		1237.6.9.

ST. VINCENT'S PRIVATE HOSPITAL - SYDNEY

Exhibit "6"

BUILDING ACCOUNT

STATEMENT OF RECEIPTS & PAYMENTS FOR THE YEAR ENDED 30TH JUNE, 1965

RECEIPTS

CREDIT BALANCE AS PER CASH BOOK

AT 30TH JUNE, 1964.

RECEIPTS

DONATIONS

- Miss N.E. Garvan 3,500. 0. 0.
 - Mr. E. Norton 600. 0. 0.
 - Others 236. 6. 8.

INTEREST

- Mortgage Debentures 3,880. 0. 3.
 - Interest Bearing Deposit 93.15. 0.
 - Bank Account 86.16.11.

REDEMPTION OF INTEREST BEARING
 DEPOSIT WITH BANK

COMMISSION ON T.V. RENTALS

4978.10. 0.

4336. 6. 8.

4060.12. 2.

5000. 0. 0.
 72. 3. 6.

£18447.12. 4.

PAYMENTS

PURCHASE OF DEBENTURE STOCK

- Associated Securities Limited
 2 years at 5¼% due 22/7/66 5000. 0. 0.

PURCHASE OF T.V. SETS FROM
 SPECIFIC DONATION

MOTHER GENERAL 194. 0. 6.

LEGAL COSTS RE: PURCHASE
 OF PROPERTIES 425. 0. 0.

10. 4. 0.

TOTAL PAYMENTS

5629. 4. 6.

CREDIT BALANCE AT BANK OF NEW
 SOUTH WALES, WILLIAM STREET,
 ON 30TH JUNE, 1965. 12818. 7.10.

£18447.12. 4.

BALANCE SHEET AS AT 30TH JUNE, 1965.

Exhibit "6"

<u>LIABILITIES</u>		<u>ASSETS</u>	
<u>CAPITAL & ACCUMULATED FUNDS</u>		<u>DEBENTURE STOCK</u>	
Balance at 30th June, 1964	79978.10. 0.	- Alliance Holdings Limited	65000. 0. 0.
Add Interest Received	4060.12. 2.	- Associated Securities Limited	<u>10000. 0. 0.</u>
Add Donations Received	4336. 6. 8.		75000. 0. 0.
Add Commission of T.V. Rentals	<u>72. 3. 6.</u>		
	8469. 2. 4.	BANK OF NEW SOUTH WALES -	
	88447.12. 4.	CREDIT BALANCE AT 30TH	
		JUNE, 1965	12818. 7.10.
Less Purchase of T.V. Sets	194. 0. 6.		
Less Legal Costs re purchase of properties	10. 4. 0.		
Less Annual payment to Mother General	<u>425. 0. 0.</u>		
	629. 4. 6.		
BALANCE AT 30TH JUNE, 1965	<u>87818. 7.10.</u>		
			<u><u>£87818. 7.10.</u></u>

R.A. Butler A.A.S.A., A.C.I.S.

ACCOUNTANT.

Exhibit "7"

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED
30th JUNE 1960

EXPENDITURE					
	£	s.	d.	£	s. d.
SALARIES AND WAGES	559	347	7 6		
PROVISIONS	81	739	5 5		
DRUGS AND SURGICAL	74	693	6 0		
FUEL, LIGHT AND POWER	21	363	4 0		
DOMESTIC REQUISITES	34	129	18 2		
SPECIAL DEPARTMENTS (Requisites) - Pathology, X-Ray, Physiotherapy, Occupational Therapy, Almoners, etc.	36	621	5 1		
RENEWALS, RENOVATIONS AND REPAIRS	23	157	4 2		
ESTABLISHMENT CHARGES	45	741	16 6	87	6793 6 10
INTEREST ON LOANS	3	75	5 6		
INTEREST ON OVERDRAFT	5	0	19 6	4	26 5 0
DEPRECIATION - Plant and Equipment	9	672	0 0		
Furniture, Furnishings, and Office Equipment	1	322	0 0	10	994 0 0
				£888	213 11 10
INCOME					
	£	s.	d.	£	s. d.
PUBLIC CONTRIBUTIONS - Donations and Subscriptions				244	13 0
PATIENTS' CONTRIBUTIONS - In-Patients	125	375	4 10		
Out-Patients' Department	38	039	2 7	163	414 7 5
GOVERNMENT SUBSIDY - Ordinary Maintenance	68	4399	0 0		
Special Maintenance Grants	65	95	0 2	69	0994 0 2
MISCELLANEOUS INCOME - Collections from Visitors	1	641	2 0		
Telephone used by Public	7	36	14 11		
Sale of Boxes	1	25	10 7		
Sale of Refuse	9	5	0 0	2	598 7 6
BALANCE, BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL				309	62 3 9
				£888	213 11 10

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.
BALANCE SHEET AS AT 30th JUNE 1960

LIABILITIES

	£	s.	d.	£	s.	d.
CAPITAL FUND						
As at 30th June 1959				388	247	12 3
Add:						
Special Government Grants -						
In respect of accumulated deficit to 30th June 1959	44	100	0 0			
For 1959-1960 Loan Repayments	<u>110</u>	<u>77</u>	<u>18 10</u>			
Plant and Equipment Purchased				55	177	18 10
Furniture and Office Equipment Purchased				55	934	17 5
Land and Building Extensions				40	635	12 6
Received from St. Vincent's Private Hospital for shared services				20	615	16 4
				<u>78</u>	<u>54</u>	<u>0 0</u>
				<u>568</u>	<u>465</u>	<u>17 4</u>
Less:						
Depreciation Buildings, etc.	10	795	0 0			
Excess of Expenditure over Income for the Year ended 30th June 1960	<u>30</u>	<u>962</u>	<u>3 9</u>			
TRUST FUNDS (as per contra)				52	6708	13 7
RESEARCH ACCOUNT				45	571	13 6
HOSPITALS CONTRIBUTION FUND -					83	6 8
Imprest Advance Account				17	54	4 0
THE COMMERCIAL BANKING COMPANY OF SYDNEY LIMITED - OVERDRAFT						
Working Account				15	715	11 1
Loan Account				<u>17</u>	<u>86</u>	<u>5 4</u>
SUNDRY TRADE CREDITORS				17	501	16 5
ACCRUED CHARGES				4	174	10 4
				7	239	0 0
				<u>£64</u>	<u>0333</u>	<u>4 6</u>

EDNA SKEWES
I.A. PEARDON
F. McDONOUGH, A.C.A. }
Joint Hon. Treasurers.

ASSETS

	£	s.	d.	£	s.	d.	£	s.	d.
LAND AND BUILDINGS (Valuation, less Depreciation)				£361,557	15	1	538,485	13	2
PLANT, EQUIPMENT AND FURNITURE (Valuation, less Depreciation)				176,927	18	1	31,921	11	7
STOCK ON HAND (at Cost)							11,199	8	9
SUNDRY DEBTORS (Less Reserve)							1,282	4	6
SUPERANNUATION - Employees' Contributions Outstanding									
THE COMMERCIAL BANKING COMPANY OF SYDNEY LIMITED (in Funds) - Special Purposes Trust Account	957	13	6						
Fixed Deposit	1,000	0	0	105,711	13	6			
CASH IN HAND				330	0	0	10,901	13	6
INVESTMENTS - Commonwealth Government Bonds - at Cost									
£5,000-4% Special Bonds-Series "A"				5,000	0	0			
Deposit - Australian Provincial Assurance Association Limited				30,000	0	0	35,000	0	0

(We have inspected two receipts and two letters from the Australian Provincial Assurance Association Limited of Martin Place, Sydney, to the effect that this Association has sold to the Hospital, Commonwealth Bonds to the value of £30,000 which are to be repaid in full on maturity plus interest at the rate of 4% per annum. The security comprises 5% Commonwealth Bonds in the name of the above Association, date of maturity 15th December 1979 and under arrangement the term is one year from 29th February 1960 and 16th May 1960 respectively.)

£64,933 4 6

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.

BALANCE SHEET AS AT 30th JUNE 1960

We have examined the Books and Accounts of St. Vincent's Hospital, Sydney, for the year ended 30th June 1960 and have obtained all the information and explanations we have required, and report that in our opinion the foregoing Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the Hospital's affairs according to the best of our information and the explanations given to us, and as shown by the books of the Hospital. The transactions in connection with the acquiring of Babworth House Property have not been incorporated in the Hospital Accounts as at 30th June 1960 as the matter was not completed at the abovementioned date.

10

F.J. RUWALD & EVANS,
Chartered Accountants, Auditors
Registered under the Public
Accountants' Registration Act, 1945, as amended. 20

Sydney, 3rd September 1960.

Exhibit "7"

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED
30th JUNE, 1961

EXPENDITURE					
	£	s.	d.	£	s. d.
SALARIES AND WAGES	733910	6	4		
PROVISIONS	107572	14	0		
DRUGS AND SURGICAL	101655	4	10		
FUEL, LIGHT AND POWER	26016	6	3		
DOMESTIC REQUISITES	26610	7	7		
SPECIAL DEPARTMENTS (REQUISITES) Pathology, X-Ray, Physiotherapy, Occupational Therapy, Almoners, etc.	45066	3	7		
RENEWALS, RENOVATIONS AND REPAIRS	35470	6	1		
ESTABLISHMENT CHARGES	58690	19	3		
				1134992	7 11
INTEREST ON OVERDRAFT				6	3 9
PROVISION FOR DOUBTFUL DEBTS				6000	0 0
DEPRECIATION -					
Plant and Equipment	13867	0	0		
Furniture, Furnishings and Office Equipment	3353	0	0	17220	0 0
				£1158218	11 8

INCOME					
	£	s.	d.	£	s. d.
PUBLIC CONTRIBUTIONS -					
Donations and Subscriptions				265	14 10
PATIENTS' CONTRIBUTIONS -					
In-Patients	157196	2	11		
Out-Patients' Department	39476	8	10	196672	11 9
GOVERNMENT SUBSIDY -					
Ordinary Maintenance	875059	0	0		
Special Maintenance Grants	3364	0	5	878423	0 5
MISCELLANEOUS INCOME -					
Collections from Visitors	1983	19	11		
Telephone used by Public	874	6	3		
Sale of Boxes	61	5	6		
Sale of Refuse	70	0	0		
Hospital Contribution Fund Commission	5	2	0	2995	0 8
BALANCE, BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL				79862	4 0
				£1158218	11 8

ST. VINCENT'S HOSPITAL, SYDNEY N.S.W.
BALANCE SHEET AS AT 30th JUNE 1961

LIABILITIES

CAPITAL FUND				
As at 30th June, 1960	526708	13	7	
Add:				
Special Government Grant -	6000	0	0	
In respect of accumulated deficit to 30th June 1960	44572	17	4	
Plant and Equipment Purchased	16105	4	6	
Furniture and Office Equipment Purchased	700279	10	2	
Land and Building Extensions	<u>1711</u>	<u>15</u>	<u>5</u>	
Received from Nurses' Home Shop for Salaries to 30th June, 1960	1295378	1	0	
Less:				
Depreciation Buildings, etc.	11136	0	0	
Excess of Expenditure over Income for the year ended 30th June, 1961	<u>79862</u>	<u>4</u>	<u>0</u>	
TRUST FUNDS (as per Contra)	1204379	17	0	
RESEARCH ACCOUNT	25836	2	5	
HOSPITAL CONTRIBUTION FUND -	221	13	7	
Imprest Advance Account	1800	0	0	
THE COMMERCIAL BANKING COMPANY OF SYDNEY LTD. -				
OVERDRAFT -				
Working Account	29163	3	10	
Loan Account	<u>686</u>	<u>5</u>	<u>4</u>	
SUNDRY TRADE CREDITORS	29849	9	2	
ACCRUED CHARGES	84784	9	9	
UNCOLLECTED SALARIES	10968	0	0	
	291	18	3	
	<u>1358131</u>	<u>10</u>	<u>2</u>	

EDNA SKEWES }
M.A. PEARDON } Joint Hon. Treasurers.
F. McDONOUGH, A.C.A. }

BALANCE SHEET AS AT 30th JUNE 1961

ASSETS

	£	s.	d.	£	s.	d.
LAND AND BUILDINGS (Valuation, less Depreciation)	10507	01	5 3	1271	087	5 2
PLANT, EQUIPMENT AND FURNITURE (Valuation, less Depreciation)	22038	5	19 11	28224		3 3
STOCK ON HAND (at Cost)				16508	12	2
SUNDRY DEBTORS (Less Provision for Doubtful Debts)				15845	7	2
SUPERANNUATION - Employees' Contributions Outstanding				630	0	0
CASH IN HAND						
SPECIAL PURPOSES FUND (as per Contra)						
INVESTMENTS						
Commonwealth Government Special Bonds-Series "A" - at Cost	5000	0	0			
Commonwealth Government Stock-5% Maturing 15th December, 1979	30000	0	0			
(Stock held on behalf of St. Vincent's Hospital by A.P.A. Nominees Pty. Limited, which company credits interest at the rate of 4½% per annum on £30,000)				1000	0	0
Interest Bearing Deposit				30000	0	0
Less: Commercial Banking Company of Sydney Limited - Overdrawn Balance at Bank	3816	10	10			
Outstanding Accounts for Plant Equipment, etc., Purchased (Contra)	6347	6	9			
				10163	17	7
				25836	2	5
				£13581	31	10 2

We have examined the Books and Accounts of St. Vincent's Hospital, Sydney, for the year ended 30th June, 1961, and have obtained all the information and explanations we have required, and report that in our opinion the foregoing Balance Sheet is properly drawn up so as to exhibit a true and correct view of the state of the Hospital's affairs according to the best of our information and the explanations given to us, and as shown by the books of the Hospital. The transactions in connection with the acquisition of Babworth House Property have not been incorporated in the Hospital Accounts as at 30th June, 1961.

SYDNEY, 20th September, 1961.
 F.J. RUWALD & EVANS,
 Chartered Accountants, Auditors,
 Registered under the Public Accountants' Registration
 Act, 1945, as amended.

Exhibit "7"

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.INCOME AND EXPENDITURE ACCOUNT FOR THE YEAR ENDED
30th JUNE, 1962

EXPENDITURE					
	£	s.	d.	£	s. d.
SALARIES AND WAGES	839	394	1 7		
PROVISIONS	115	596	0 3		
DRUGS AND SURGICAL	112	992	5 2		
FUEL, LIGHT AND POWER	29	217	17 2		
DOMESTIC REQUISITES	34	659	14 4		
SPECIAL DEPARTMENTS (REQUISITES)- Pathology, X-Ray, Physiotherapy, Occupational Therapy, Almoners, etc.	48	424	8 0		
RENEWALS, RENOVATIONS AND REPAIRS	50	366	17 7		
ESTABLISHMENT CHARGES	67	507	10 11		
INTEREST ON OVERDRAFT		34	5 6	1,298	193 0 6
DEPRECIATION - Plant and Equipment	17	210	0 0		
Furniture, Furnishings and Office Equipment	4	159	0 0	21,369	0 0
				<u>£1,319,562</u>	<u>0 6</u>
INCOME					
	£	s.	d.	£	s. d.
PUBLIC CONTRIBUTIONS - Donations and subscriptions				337	10 4
PATIENTS' CONTRIBUTIONS - In-Patients	185	033	9 5		
Out-Patients' Department	43	898	2 6	228,931	11 11
GOVERNMENT SUBSIDY Ordinary Maintenance	970	817	0 0		
Special Maintenance	15	794	6 3	98,661	6 3
MISCELLANEOUS INCOME - Collections from Visitors	2	425	12 8		
Telephone used by Public	905	5 3			
Hospital Contribution Fund Commission	28	16 6			
Interest on Fixed Deposit	70	0 0			
Sundry Income	22	2 6		3,451	16 11
BALANCE, BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL				100,229	15 1
				<u>£1,319,562</u>	<u>0 6</u>

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.
 BALANCE SHEET AS AT 30th JUNE, 1962

Exhibit "7"

LIABILITIES

	£	s.	d.	£	s.	d.
CAPITAL FUND						
As at 30th June, 1961	120	43	79	17	0	0
Add:						
Special Government Grant -						
In respect of accumulated deficit to 30th June, 1961	45	000	0	0	0	0
Land and Building Improvements	25	242	0	0	0	0
Plant and Equipment Purchased	33	712	0	0	0	0
Furniture and Office Equipment Purchased	14	350	0	0	0	0
	132	2683	17	0		
Less:						
Transfer from Working Account to Special Purposes Account for Air Conditioning	4	269	0	0		
Transfer of Assets to Babworth House Account	33	824	0	0		
Depreciation Buildings, etc.	28	216	0	0		
Excess of Expenditure over Income for the year ended 30th June, 1962	100	229	15	1		
	166	538	15	1		
TRUST FUNDS (as per Contra)	145	614	5	11		
HOSPITAL CONTRIBUTION FUND -	22	782	10	0		
Imprest Advance Account						
THE COMMERCIAL BANKING COMPANY OF SYDNEY LTD. -	3	790	0	0		
OVERDRAFT -						
Working Account	10	705	12	7		
TRADE CREDITORS	138	996	0	5		
ACCRUED SALARIES	14	365	0	0		
PATIENTS' REFUND ACCOUNT		26	8	0		
UNCOLLECTED SALARIES	336	17	2			
UNEXPENDED ADVANCES	351	13	7			
SPECIAL PURPOSES FUND (Contra)	404	15	4			
	1347	903	19	0		

EDNA SKEWES }
 M.A. PEARLON } Joint Hon. Treasurers.
 F. McDONOUGH, A.C.A. }

ASSETS

	£	s.	d.	£	s.	d.
LAND AND BUILDINGS (Valuation, less Depreciation)	1043907	5	3			
PLANT, EQUIPMENT AND FURNITURE (Valuation, less Depreciation)	217074	19	11	1260982	5	2
STOCK ON HAND (at Cost)				26708	13	5
DEBTORS (Less Provision for Doubtful Debts)				19064	7	8
SUPERANNUATION - Employees' Contributions Outstanding				17724	2	9
CASH IN HAND				642	0	0
SPECIAL PURPOSES FUND (as per Contra)						
INVESTMENTS						
Commonwealth Government Special Bonds - Series "A" at Cost	5000	0	0			
Commonwealth Government Stock - 5% Maturing 15th December, 1979	15000	0	0			
(Stock held on behalf of St. Vincent's Hospital by A.P.A. Nominees Pty. Limited, which company credits interest at the rate of 4½% per annum on £15,000)						
Interest Bearing Deposit	1000	0	0			
The Commercial Banking Company of Sydney Limited-In Funds	7285	13	11			
Debtor - Owing from Working Account (as per Contra)	404	15	4			
	28690	9	3			
Less: Outstanding Accounts for Plant, Equipment etc., Purchased	5907	19	2	22782	10	0
				£1347903	19	0

We have examined the Books and Accounts of St. Vincent's Hospital, Sydney, for the year ended 30th June, 1962 and have obtained all the information and explanations we have required, and report that in our opinion the attached Balance Sheet is properly drawn up so as to exhibit a true and fair view of the state of the Hospital's affairs according to the best of our information and the explanations given to us, and as shown by the books of the Hospital.

SYDNEY, 1st November, 1962

F. J. RUWALD & EVANS,
Chartered Accountants, Auditors,
Registered under the Public Accountants' Registration Act,
1945, as amended.

Exhibit "7"

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.
INCOME AND EXPENDITURE ACCOUNT FOR YEAR ENDED 30th
JUNE, 1963

EXPENDITURE				
	£	s. d.	£	s. d.
SALARIES AND WAGES			958,098	11 0
PROVISIONS			124,450	0 0
DRUGS AND SURGICAL			117,491	13 2
FUEL, LIGHT AND POWER			30,718	10 9
DOMESTIC			41,252	14 7
SPECIAL DEPARTMENTS (REQUISITES)			55,729	2 4
RENEWALS, RENOVATIONS AND REPAIRS			51,227	4 10
ESTABLISHMENT CHARGES			82,467	2 3
DEPRECIATION				
Plant and Equipment	18,793	0 0		
Furniture, Furnishings and Office Equipment	4,006	0 0		
			22,799	0 0
			£1,484,233	18 11

INCOME				
	£	s. d.	£	s. d.
PUBLIC CONTRIBUTIONS				
Donations and Subscriptions			318	1 10
PATIENTS' CONTRIBUTIONS				
In-patients	220,246	10 9		
Out-patients	45,229	16 0		
			265,476	6 9
GRANTS—COMMONWEALTH DEPARTMENT OF HEALTH				
P.M.S. Pensioners	31,419	0 0		
Other Uninsured Patients	5,437	4 0		
			36,856	4 0
GOVERNMENT GRANTS				
Ordinary Maintenance Subsidy	1,109,422	0 0		
Special Maintenance Grants	28,780	0 4		
			1,138,202	0 4
MISCELLANEOUS INCOME				
Collections from Visitors	2,367	7 6		
Telephone used by Public	942	3 9		
Sundry Income	111	17 2		
Hospital Contribution Fund				
Commission	26	11 0		
Interest	20	2 6		
Sale of Boxes	54	18 1		
Caritas Meals	136	18 0		
			3,659	18 0
BALANCE, BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL			39,721	8 0
			£1,484,233	18 11

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.

BALANCE SHEET AS AT 30th JUNE, 1963

LIABILITIES

	£	s.	d.	£	s.	d.
CAPITAL FUND						
As at 30th June, 1962	1,156	145	1.11			
Add:						
Special Government Grants -						
In respect to accumulated deficit to 30th June, 1962	35,000		0 0			
Land and Building Improvements	21,977		0 0			
Plant and equipment purchased	39,948		0 0			
Furniture and Office Equipment Purchased	6,563		0 0			
	<u>1,250,633</u>		<u>1.11</u>			
Less:						
Transfer of Assets to Babworth House Account	1,545		0 0			
Depreciation - Buildings, etc.	28,514		0 0			
Excess of Expenditure over Income for the year ended 30th June, 1963	<u>39,721</u>		<u>8 0</u>			
				69,780	8	0
TRUST ACCOUNTS (as per Contra)				1,180,852	13	11
HOSPITALS CONTRIBUTION FUND -				126,159	0	9
Imprest Advance Account				3,790	0	0
THE COMMERCIAL BANKING COMPANY OF SYDNEY LTD. -				9,350	12	5
Overdraft						
CREDITORS						
Trade Accounts				142,674	16	6
Almoner Accounts				<u>209</u>	<u>15</u>	<u>2</u>
ACCRUED SALARIES				14,288	4	11
UNCOLLECTED SALARIES				2,141	8	0
UNEXPENDED ADVANCES				353	5	3
				665	18	4
				<u>148,547</u>	<u>4</u>	<u>2</u>
				<u>1,485,474</u>	<u>2</u>	<u>5</u>

EDNA SKEWES }
A.N. ELPHICK } Joint Hon. Treasurers.
F. McDONOUGH, A.C.A. }

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.
BALANCE SHEET AS AT 30th JUNE, 1963

Exhibit "7"

ASSETS

	£	s.	d.	£	s.	d.
LAND AND BUILDINGS (Valuation, less Depreciation)	1037370	5	3			
PLANT, EQUIPMENT AND FURNITURE (Valuation, less Depreciation)	230241	19	11			
STOCK ON HAND (at Cost)	28332	0	9			
DEBITORS (Less Provision for Doubtful Debts)	39290	11	9			
SUPERANNUATION -						
Employees' Contributions Outstanding	23371	4	0			
CASH IN HAND	709	0	0			
SPECIAL PURPOSES FUNDS (as per Contra)						
INVESTMENTS						
Commonwealth Government Special Bonds - Series "A" - at Cost	5000	0	0			
Commonwealth Government Stock 5% maturing 15th December, 1979	15000	0	0			
(Stock held on behalf of St. Vincent's Hospital by A.P.A.						
Nominees Limited, which company credits interest at the						
rate of 4½% per annum on £15,000)	1000	0	0			
Interest Bearing Deposit	59375	2	11			
The Commercial Banking Company of Sydney Limited-In Funds	306	4	2			
Bank of New South Wales Special Account-In Funds	45477	13	8			
Bank of New South Wales Babworth House Account-In Funds						
	<u>126159</u>	<u>0</u>	<u>9</u>			
	£1485474	2	5			

We have examined the Books and Accounts of St. Vincent's Hospital, Sydney, for the year ended 30th June, 1963 and have obtained all the information and explanations we have required, and report that in our opinion the attached Balance Sheet is properly drawn up so as to exhibit a true and fair view of the state of the Hospital's affairs according to the best of our information and the explanations given to us, and as shown by the books of the Hospital. The transactions in connection with the acquisition of the Garvan Institute for Medical Research, 384-392 Victoria Street, Darlinghurst, have not been incorporated in the Hospital Accounts as at 30th June, 1963. We understand that a contingent liability of £4,090 existed at 30th June, 1963 against the Special Purposes Funds and arose in connection with construction of the Cameron Wing Building.

SYDNEY, 22nd October, 1963

F.J. RUWALD & EVANS,
Chartered Accountants, Auditors.
Registered under the Public Accountants'
Registration Act, 1945, as amended.

Exhibit "7"

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.

INCOME AND EXPENDITURE ACCOUNT FOR YEAR ENDED 30th
JUNE 1964

EXPENDITURE				
	£	s.	d.	£ s. d.
SALARIES AND WAGES	1,090,860	13	3	
PROVISIONS	122,758	3	10	
DRUGS AND SURGICAL	143,613	10	8	
FUEL, LIGHT AND POWER	28,123	6	6	
DOMESTIC REQUISITES	34,758	19	5	
SPECIAL DEPARTMENTS (REQUISITES) Pathology, X-Ray, Physiotherapy, Occupational Therapy, Almoners, etc.	58,870	19	10	
RENEWALS, RENOVATIONS AND REPAIRS	35,448	4	4	
ESTABLISHMENT CHARGES	91,581	19	2	
				1,606,015 17 0
DEPRECIATION				
Plant and Equipment	21,050	0	0	
Furniture, Furnishings and Equipment	4,300	0	0	
				25,350 0 0
				<u>£1,631,365 17 0</u>

INCOME				
	£	s.	d.	£ s. d.
PUBLIC CONTRIBUTIONS				
Donations and Subscriptions				131 17 0
PATIENTS' CONTRIBUTIONS				
In-patients	267,631	14	9	
Out-Patients	55,060	7	2	
				322,692 1 11
GRANTS-COMMONWEALTH DEPARTMENT OF HEALTH				
P.M.S. Pensioners	71,701	4	0	
Other Uninsured Patients	10,475	4	0	
				82,176 8 0
GOVERNMENT GRANTS				
Ordinary Maintenance Subsidy	1,196,085	0	0	
Special Maintenance Grants	15,920	2	8	
				1,212,005 2 8
MISCELLANEOUS INCOME				
Collections from Visitors	2,242	0	3	
Telephone used by Public	1,618	11	5	
Sundry Income	113	15	6	
Hospital Contribution Fund Commission	60	17	0	
Caritas Meals	504	10	7	
Students' Board and Lodging	1,017	1	4	
				5,556 16 1
BALANCE, BEING EXCESS OF EXPENDITURE OVER INCOME FOR THE YEAR TRANSFERRED TO CAPITAL				8,803 11 4
				<u>£1,631,365 17 0</u>

LIABILITIES

	£	s.	d.	£	s.	d.
CAPITAL FUND						
As at 30th June, 1963	1180852	13	11			
Add:						
Special Government Grants -	60000	0	0			
In respect to accumulated deficit to 30th June, 1963	164364	0	0			
Land and Building Improvements	38268	0	0			
Plant and Equipment Purchased	10196	0	0			
Furniture and Office Equipment Purchased	7353	9	3			
Adjustment of Electricity Account	<u>1461034.</u>	<u>3.</u>	<u>2</u>			
Less:						
Transfer of Assets to Babworth House Account	476	0	0			
Depreciation - Buildings, etc.	28857	0	0			
Excess of Expenditure over Income for the year ended 30th June, 1964	<u>8803</u>	<u>11</u>	<u>4</u>	1422897	11	10
TRUST ACCOUNTS (as per Contra)				135230	7	3
HOSPITALS CONTRIBUTION FUND -						
Imprest Advance Account				3790	0	0
SUNDRY TRADE CREDITORS				124008	15	6
ACCRUED SALARIES				29815	0	0
UNCOLLECTED SALARIES				353	5	3
				<u>£1716094</u>	<u>19</u>	<u>10</u>

EDNA SKEWES
 A.N. ELPHICK
 F. McDONOUGH, A.C.A. } Joint Hon. Treasurers.

ST. VINCENT'S HOSPITAL, SYDNEY, N.S.W.
BALANCE SHEET AS AT 30th JUNE, 1964

Exhibit "7"

ASSETS

	£	s.	d.	£	s.	d.
LAND AND BUILDINGS (Valuation, less Depreciation)	1,172,877	5	3			
PLANT, EQUIPMENT AND FURNITURE (Valuation, less Depreciation)	252,879	19	11	1,425,757	5	2
STOCK ON HAND (at Cost)				27,991	15	7
SUNDRY DEBTORS (less Provision for Doubtful Debts)				443,663	17	7
SUPERANNUATION -				25,205	6	1
Employees' Contributions Outstanding						
SPECIAL PURPOSES FUNDS (as per Contra)						
INVESTMENTS						
Commonwealth Government Special Bonds - Series "A" - at Cost	5,000	0	0			
Interest Bearing Deposit	36,000	0	0			
Commonwealth Government Stock (Stock held on behalf of						
St. Vincent's Hospital by A.P.A. Nominees Limited, which						
company credits interest at the rate of 4½% per annum)	88,000	0	0			
Commercial Banking Company of Sydney Limited - Credit						
Balance at Bank	2,012	18	3			
Bank of New South Wales Special Account	2,549	8	0			
Bank of New South Wales Babworth House Account	1,668	1	0	135,230	7	3
THE COMMERCIAL BANKING COMPANY OF SYDNEY LTD. -						
WORKING ACCOUNT - Credit Balance				56,892	8	2
CASH IN HAND				654	0	0
				<u>£1,716,094</u>	<u>19</u>	<u>10</u>

We have examined the Books and Accounts of St. Vincent's Hospital, Sydney, for the year ended 30th June 1964, and have obtained all the information and explanations we have required, and report that in our opinion the attached Balance Sheet is properly drawn up so as to exhibit a true and fair view of the state of the Hospital's affairs according to the best of our information and the explanations given to us, and as shown by the books of the Hospital. The transactions in connection with the acquisition of the Garvan Institute for Medical Research, 384-392 Victoria Street, Darlinghurst and Art Unions conducted by the Hospital have not been incorporated in the Hospital Accounts as at 30th June, 1964. We understand that a contingent liability of £6,948 existed at 30th June, 1964 against the Special Purposes Funds and arose in connection with construction of the Cameron Wing Building.

SYDNEY, 14th September, 1964 F.J. RUWALD & EVANS,

Chartered Accountants, Auditors,

Registered under the Public Accountants' Registration Act, 1945 as amended.

Exhibit "8"

SEE POCKET AT END OF BOOK

Exhibit 10.

FACTS STATED

Referring to the sum of £7,302.11.10. mentioned in paragraph 5 of the Affidavit of A. N. Elphick 8th September, 1965, this relates to fees not charged during the years mentioned to 24 patients at the private hospital.

12 of these were members of the Order including the Mother General and the others were patients of doctor's not Honoraries of the general hospital or were in need of a private room for psychiatric treatment or other reasons.

10

1 was a nun of another Order.

2 were priests.

1 was a member of the lay staff of the general hospital.

2 were doctors formerly on the staff of the general hospital.

1 was a benefactor of the hospital.

20

5 were not connected with the hospital.

Private Hospital is registered under the Private Hospitals Act.

General Hospital is registered under the Public Hospitals Act.

IN THE SUPREME COURT)
OF NEW SOUTH WALES)
IN EQUITY)

No. 754 of 1964.

IN THE MATTER of the Trusts of the
Will of EDMUND RICHARD EMIL RESCH
deceased.

A. BETWEEN

VERA CAROLINE LE CRAS

(Defendant) Appellant

AND

10

PERPETUAL TRUSTEE COMPANY LIMITED

(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF CHARITY
OF AUSTRALIA

EDNA MAVIS SKEWES

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

FAR WEST CHILDREN'S HEALTH SCHEME

THE SPASTIC CENTRE

ROYAL NEW SOUTH WALES INSTITUTION

20

FOR DEAF AND BLIND CHILDREN

THE SALESIAN SOCIETY INCORPORATED

STEPHEN deBONO

BRIAN deBONO and

THE ATTORNEY GENERAL FOR NEW SOUTH
WALES

(Defendants) Respondents

AND

B. BETWEEN

FAR WEST CHILDREN'S HEALTH SCHEME

30

THE SPASTIC CENTRE

ROYAL NEW SOUTH WALES INSTITUTION FOR

DEAF AND BLIND CHILDREN

(Defendants) Appellants

AND

PERPETUAL TRUSTEE COMPANY LIMITED

(Plaintiff) Respondent

TRUSTEES OF THE SISTERS OF CHARITY
OF AUSTRALIA

EDNA MAVIS SKEWES

40

ALICE NOLAN ELPHICK

FREDERICK McDONOUGH

THE SALESIAN SOCIETY INCORPORATED

VERA CAROLINE LE CRAS

STEPHEN deBONO

BRIAN deBONO and

THE ATTORNEY GENERAL FOR NEW SOUTH
WALES

(Defendants) Respondents

I, EDWARD NAASSON DAWES of the City of Sydney in

50

the State of New South Wales Commonwealth of

Certificate of Master
in Equity

Australia Master in Equity of the Supreme Court
of the said State do hereby certify that the
numbered sheets hereunto annexed and contained in
pages numbered one to 226 inclusive contain a
true copy of all the documents relevant to the
Appeal by the Appellant Vera Caroline Le Cras and
the Appellants Far West Children's Health Scheme
The Spastic Centre Royal New South Wales Institu-
tion for Deaf and Blind Children to Her Majesty
in Her Majesty's Privy Council from the Decree 10
made in Suit instituted by Originating Summons
No. 754 of 1964 by the said Supreme Court in its
Equitable Jurisdiction on the Twenty-seventh day
of July One thousand nine hundred and sixty-six
so far as the same have relation to the matters
of the said Appeal together with the reasons for
the said Decree given by the Honourable Kenneth
Sydney Jacobs a Judge of the said Supreme Court
sitting in Equity and that the sheets hereunto
annexed and contained in pages one to 226 20
contain an Index of all the papers documents and
exhibits in the said Suit included in the annexed
Transcript Record and of all the papers documents
and exhibits in the said Suit not reproduced in the
annexed Transcript Record which true copy and Index
are remitted to the Privy Council pursuant to the
Order of His late Majesty King Edward VII in His
Late Majesty's Privy Council of the Second day of
April in the year of our Lord One thousand nine
hundred and nine. 30

Certificate of Master
in Equity

IN FAITH AND TESTIMONY whereof I

have hereunto set my hand and caused
the seal of the said Supreme Court
in its Equitable Jurisdiction to be
affixed this day of
 in the year of Our
Lord One thousand nine hundred and
sixty-seven.

Master in Equity of the Supreme
Court of New South Wales

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Certificate of
Chief Justice

I the Honourable Leslie James Herron Chief Justice
of the Supreme Court of New South do HEREBY CERTIFY
that Edward Naasson Dawes who has signed the
Certificate above written is the Master in Equity
of the said Supreme Court and that he has the
custody of the records of the said Supreme Court
in its Equitable Jurisdiction.

IN FAITH AND TESTIMONY whereof I
have hereunto set my hand and caused
the seal of the said Supreme Court 10
to be affixed this day
of in the year of
Our Lord One thousand nine hundred
and sixty-seven.

CHIEF JUSTICE OF THE SUPREME
COURT OF NEW SOUTH WALES