

PRESBYTERIAN  
CHURCH PROPERTY  
MANAGEMENT.

An Act to make better provision for the Management of the Property of the Presbyterian Church of New South Wales and to provide for the Election and Appointment of Trustees in whom such Property may be vested and to make further provisions in reference thereto. [8th November, 1881.]

Preamble.  
8 W. IV No. 7.

WHEREAS by an Act of the Governor and Legislative Council of New South Wales passed in the eighth year of the Reign of His late Majesty King William the Fourth number seven certain powers privileges and advantages were conferred upon the Presbytery of New South Wales and upon the ministers of the Churches and congregations under its spiritual superintendence And whereas by an Act of the

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the Governor and Legislative Council of New South Wales passed in the fourth year of the Reign of Her Majesty Queen Victoria number 4 Vict. No. 18. eighteen the several powers privileges and advantages conferred upon the Presbytery of New South Wales and the ministers of the congregations under its spiritual superintendence by the said Act eighth William the Fourth number seven were vested in the Synod of Australia in connection with the established Church of Scotland and the ministers of the congregations under its spiritual superintendence as fully and effectually to all intents and purposes as if the said Synod had been specially named and mentioned therein And whereas the Synod of Eastern Australia and the Synod of New South Wales and certain separate congregations united together in the year one thousand eight hundred and sixty-four and formed another Presbyterian Synod known as the General Synod of the Presbyterian Church in New South Wales And whereas the said General Synod of the Presbyterian Church in New South Wales and the said Synod of Australia and the congregation in Phillip-street in the City of Sydney known as the United Presbyterian Church in Sydney united together in the year one thousand eight hundred and sixty-five and formed the Presbyterian Church of New South Wales under a supreme governing body called the General Assembly of the Presbyterian Church of New South Wales And whereas by the "Presbyterian Church Act 1865" "Presbyterian Church Act 1865." all and every the several powers privileges and advantages vested in and belonging to the said Synod of Australia in connection with the Established Church of Scotland and the ministers and congregations under its spiritual superintendence under and by virtue of the hereinbefore recited Act fourth Victoria number eighteen were transferred from the said Synod of Australia to the said General Assembly of the Presbyterian Church of New South Wales to vest in and belong to the said General Assembly with respect to all the ministers and congregations comprehended in the same and under the spiritual superintendence thereof as fully and effectually to all intents and purposes as if the said Presbyterian Church of New South Wales and the General Assembly of the said Church had been named and mentioned in the said recited Act And whereas by the same Presbyterian Church Act it is provided that all properties held by any Trustee for or on behalf of any ministers or congregations under the spiritual superintendence of or in connection with the said Synod of Australia or with the said General Synod of the Presbyterian Church in New South Wales or for or on behalf of the United Presbyterian Church in Sydney or the Minister thereof at the time of the passing of the said Act shall continue to be held by the same Trustees or their successors subject to the trusts then affecting the same on behalf of the same ministers and congregations under the spiritual superintendence of or in connection with the said General Assembly of the Presbyterian Church of New South Wales And whereas it is expedient that the aforesaid Acts should be amended and better provision made as hereinafter respectively mentioned for the management of the property of the Presbyterian Church of New South Wales and for the election and appointment of Trustees in whom such property may be vested Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

1. Every person now seized of or entitled to any real or personal Property now vested in trustees to be held. property in trust for the use and benefit of any congregation of the Presbyterian Church of New South Wales or any body of Presbyterians included in that Church shall hold such real and personal property under the provisions of this Act but nevertheless upon the several trusts now affecting the same anything in the said recited Acts contained notwithstanding.

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- Election of Trustees. 2. Every congregation under the spiritual superintendence of or in connection with the General Assembly of the Presbyterian Church of New South Wales may as occasion shall require elect in accordance with the rules and regulations in force for the time being in that behalf made and authorized by the said General Assembly not less than three nor more than five Trustees for the purposes hereinafter mentioned. And every Trustee elected under the provisions of this Act shall be a male above the age of twenty-one years and a communicant or seat-holder of the congregation in respect of which he is elected Trustee.
- Qualification of Trustees. 3. Every such congregation may elect in manner hereinbefore provided a Trustee in the place of any Trustee who shall have died or resigned or shall have been removed from the Trusteeship by the said General Assembly.
- Filling up vacancies. 4. The said General Assembly may at the suit of the other Trustees or of the Kirk Session or of the Deacon's Court or Managing Committee of any such congregation remove any Trustee or Trustees.
- Removal of Trustees by General Assembly. 5. In addition to the Trustees elected as aforesaid the Moderator and clerk of the said General Assembly for the time being respectively and the minister for the time being lawfully appointed and recognized by any presbytery of the said Church and the said General Assembly as the ordained minister of any such congregation shall be *ex officio* Trustees of such property.
- Ex officio* Trustees. 6. Within thirty days after every election of Trustees as aforesaid a memorandum in writing signed by the Moderator for the time being of the said General Assembly and setting forth the names in full of every person so elected as aforesaid shall be published in the New South Wales *Government Gazette* and the production of a copy of such *Gazette* shall be conclusive evidence that the persons named in such memorandum together with the *ex officio* Trustees as aforesaid are for the time being the duly constituted Trustees of the Church or congregation named therein.
- Memorandum of names of Trustees to be published in *Gazette*. 7. Upon the publication of every such memorandum as aforesaid all the real and personal estate belonging to or held in trust for the church or congregation therein mentioned shall from time to time be vested in the Trustees named in such memorandum together with the *ex officio* Trustees as aforesaid for the purposes of this Act without any conveyance assignment or other assurance whatever and shall be held by the said Trustees subject to any express trusts affecting the same upon trust for the use and benefit of the Church or congregation entitled thereto as the said General Assembly may from time to time direct.
- Vesting of property in the Trustees. 8. Notwithstanding anything to the contrary contained in the said recited Act eighth William the Fourth number seven the Deacon's Court or Managing Committee of any such church or congregation is hereby authorized to fix the annual or other rent of each pew or sitting in such church and to collect all rents and moneys which may be or become due and payable in respect of such pews and sittings and to sue for and recover the same from all persons refusing or neglecting to pay the same and to receive and hold all moneys raised or received on behalf of such congregation and apply the same according to the rules and regulations in that behalf made from time to time by the said General Assembly.
- Power to rent pews and sittings and application of rents &c. of same. 9. The minister lawfully appointed and recognised as aforesaid shall have free access and admission to and into the church of which he is the officiating minister and the burial-ground belonging thereto and every part thereof respectively at all times as he shall think fit and freely exercise his spiritual functions therein respectively without interruption or disturbance by his co-trustees or any person whomsoever
- Rights and privileges of officiating minister.

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whomsoever and shall while he shall continue to be such minister as aforesaid freely use possess and enjoy the minister's dwelling-house garden and appurtenances belonging to the said church and shall be entitled to receive for his own use and benefit out of the rents issues and profits of any glebe or other lands belonging thereto a sum not exceeding one hundred and fifty pounds a year exclusive of stipend from other sources Provided that no such liberty of access admission or possession as aforesaid for any length of time whatever shall confer any right of possession or property in such minister after he shall have ceased to be such officiating minister as aforesaid or after he shall have been removed from his office by the decision of the Presbytery or the said General Assembly nor shall be set up in defence in any action of ejection which may be brought by the Trustees for the time being of such church or congregation as aforesaid for recovering possession of such dwelling-house garden glebe and appurtenances or any part thereof.

10. Where any land has been or may hereafter be granted or demised either by the Crown or any private person to any person or persons upon trust for a church minister's dwelling school burial-ground or any other purpose for or on behalf of the said Synod of Australia or for any body of Presbyterians now included in or which may hereafter join and be included in the said Presbyterian Church of New South Wales in any place where a congregation has not been formed the Presbytery of the bounds within which such land is situate shall at any ordinary meeting thereof of which not less than three calendar months notice shall have been given elect by majority of votes of the members present at such meeting not less than three nor more than five Trustees qualified as hereinbefore provided And such land shall be vested in the Moderator and Clerk of the said General Assembly for the time being respectively and the Trustees so elected as aforesaid and held by them in trust and managed until a congregation shall be formed and the rents issues and profits thereof shall be applied as the said Presbytery shall direct.

Election of Trustees where a congregation has not been formed.

Application of rents &c.

11. The Trustees in whom any land is or may be vested in trust for the Presbyterian Church of New South Wales or for any congregation thereof may from time to time by any deed lease for any term not exceeding fifty years from the time of making the same such lands as by the said recited Act eighth William the Fourth number seven are authorized to be let upon leases for any term not exceeding twenty-eight years reserving in every such lease the best rent that can be reasonably obtained for the same notwithstanding anything to the contrary contained in the said Act.

Trustees may grant leases.

12. Any body of Trustees as aforesaid may with the consent of a majority of the congregation obtained at a meeting held according to the rules and regulations of the General Assembly and with the concurrence of such General Assembly sell any real or personal property vested in them by public auction or private contract and either in one lot or several lots as they shall deem most expedient for such price or prices as can be reasonably obtained for the same and when sold convey the same or any part or parts thereof and thereupon the same shall vest respectively in the purchaser or purchasers thereof his or their heirs executors administrators or assigns according to the estate or interest of the said Trustees therein absolutely freed and discharged from the trusts affecting the same and the receipt in writing of the said Trustees for the purchase money of any property sold under this Act shall absolutely discharge the purchaser or purchasers thereof from the purchase money payable by him or them respectively and shall exonerate him or them from seeing to the application of the said purchase money and from all liability as to the misapplication or non-

Trustees may sell and convey lands &c.

application

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application thereof and shall be conclusive evidence that such consent and concurrence to sell and convey as aforesaid has been given by the said congregation and General Assembly respectively.

Application of  
proceeds of sale.

13. The proceeds of any property sold under the provisions of this Act shall subject to the approval of the said General Assembly be applied by the Trustees selling the same in the purchase of other lands as a site for a church or a minister's dwelling-house or a school-house for the use of the congregation for which the land so sold had been held in trust and in and towards the erection and maintaining a church or a minister's dwelling-house or a school-house upon the said site and the receipt of any person or persons to whom any money shall be paid under the provisions of this section shall be a valid and complete discharge to the person or persons paying the same for such moneys.

Powers &c. of  
Trustees under 8  
William 4 No. 7  
4 Victoria No. 18  
and "Presbyterian  
Church Act of 1865"  
vested in Trustees  
elected and appointed  
under this Act.

14. Except as herein otherwise provided the several powers authorities privileges and rights vested in and conferred upon the Trustees elected or appointed by virtue and in pursuance of the several Acts of Council eighth William the Fourth number seven fourth Victoria number eighteen and the "Presbyterian Church Act of 1865" shall be vested in and enjoyed by the several bodies of Trustees respectively constituted under the provisions of this Act Provided always that the several powers privileges and advantages conferred upon the said General Assembly by the "Presbyterian Church Act of 1865" and confirmed by this Act shall cease and determine unless the said General Assembly shall continue its adherence to the doctrines of the Westminster Confession of Faith and to the constitution government and discipline of the Presbyterian Church.

Short title.

15. This Act may be cited for all purposes as the "Presbyterian Church Property Management Act of 1881."