

Presbyterian Church Property Management Amendment.

PRESBYTERIAN
CHURCH PROPERTY
MANAGEMENT
AMENDMENT.

An Act to amend the “Presbyterian Church Property Management Act of 1881,” and to declare certain mortgages valid. [22nd December, 1894.]

Preamble.

WHEREAS by an Act passed on the eighth day of November, one thousand eight hundred and eighty-one, in the forty-fifth year of the reign of Her Majesty Queen Victoria, intituled “*An Act to make better provisions 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 might be vested, and to make further provisions in reference thereto,*” it was provided that any real or personal property held in trust for the use and benefit of any congregation of the Presbyterian Church of New South Wales or of any body of Presbyterians included in that church should be held under the provisions of the said Act, and that every congregation under the spiritual superintendence of or in connection with the General Assembly of the Presbyterian Church of New South Wales might as occasion should require elect trustees for the purposes therein mentioned, and that on the election of such trustees and the publication in the New South Wales *Government Gazette* of a memorandum in writing, signed by the Moderator for the time being of the said General Assembly, setting forth the names in full of every person so elected, all the real and personal estate belonging to or held in trust for the church or congregation therein mentioned should from time to time vest in the trustees therein mentioned, together with the Moderator and Clerk of the said General Assembly, and the minister for the time being lawfully appointed and recognised by any presbytery of the said church and the said General Assembly as the ordained minister of any such congregation: And whereas by the said Act power was given to any body of the said trustees with the consent of a majority of the congregation and with the concurrence of the General Assembly to sell any real or personal property vested in them: And whereas by the said Act it was provided that the proceeds of any property sold under the provisions of the said Act should, 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 minister’s dwelling-house or a school-house for the use of the congregation for which the lands 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 whereas it is desirable that the said powers should be extended so as to enable the said trustees to mortgage the said lands, and to apply the moneys arising from the mortgage of the said lands in and towards the erection or improvement of or addition to the church, minister’s dwelling-house, or school-house upon the said lands, and also to apply the moneys arising from the sale or mortgage of the said lands in erecting, improving, or adding to the church, minister’s dwelling-house, or school-house on other lands held by the said trustees in trust for the said congregation, where in the opinion of the said congregation and of the said General Assembly, such first-mentioned lands shall not be required for the purposes for which they were held in trust: And whereas mortgages have been executed and delivered by trustees with the consent of the respective congregations, and with the concurrence of the General Assembly of lands which such trustees had

Presbyterian Church Property Management Amendment.

had power, as provided by the said Act, to sell with the consent and concurrence of such congregations and General Assembly respectively, and the said mortgages were so executed and delivered for better carrying out the purposes of the trusts upon which the lands so mortgaged were held, and it is thought proper that such mortgages should be valid and effectual for all purposes: And whereas it is also desirable to provide trustees to hold, manage, and deal with all real and personal property belonging to or held for or on behalf of the Presbyterian Church of New South Wales generally, and also all real and personal property conveyed, demised, devised or given to or in favour of the Presbyterian Church of New South Wales generally or to any presbytery, congregation, or committee connected with the same church generally: And whereas it is also desirable to define more clearly the rights, powers, and duties of the said trustees, and otherwise to amend the said recited Act: 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. From and after the passing of this Act it shall be lawful for the trustees of any land held by them in trust for any congregation under the spiritual superintendence of or in connection with the General Assembly of the Presbyterian Church of New South Wales, upon the sale by them under the provisions of the said recited Act, or under the provisions hereinafter contained of any lands held by them as aforesaid, when in the opinion of a majority of the said congregation obtained at a meeting held according to the rules and regulations of the said General Assembly, and also in the opinion of the said General Assembly it shall not be necessary or advisable to purchase other lands, to apply, with the consent of the said congregation obtained as aforesaid, and with the approval of the said General Assembly, the proceeds arising from such sale in and towards the erection, improvement, or maintenance of a church, minister's dwelling-house, or school-house upon other lands vested in the said trustees in trust for the said congregation, or upon the unsold portion of any of the said first-mentioned lands.

Application of moneys arising from sale of lands held by trustees.

2. Any body of trustees as aforesaid may, from time to time, with the consent of a majority of the congregation obtained at a meeting held as aforesaid and with the concurrence of the said General Assembly, mortgage any real or personal property vested in them or any part thereof upon the best terms that can be obtained for the same, or sell the same as aforesaid subject to such mortgage, and in every such case of sale or mortgage to convey and assure the same accordingly, free from all the trusts upon which the same were held, and to give valid receipts for all moneys received by them, and such receipts shall absolutely discharge the purchaser or purchasers, mortgagee or mortgagees thereof, from the money payable by him or them respectively, and shall exonerate him or them from seeing to the application of the said money and from all liability as to the mis-application or non-application thereof, and shall be conclusive evidence that such consent and concurrence to sell, convey, or mortgage as aforesaid shall have been given by the said congregation and the said General Assembly respectively, anything in the said recited Act to the contrary notwithstanding.

Trustees may mortgage lands and sell lands subject to mortgage.

3. The said trustees shall stand possessed of all moneys arising from any and every mortgage as aforesaid upon trust in the first place to pay and satisfy any existing mortgage or mortgages for the time being of any real or personal property being mortgaged as aforesaid and as to the balance of the said moneys (if any) or in case there is no such existing mortgage then as to the whole of the said moneys upon trust

Moneys arising from mortgage to be held on certain trusts.

Presbyterian Church Property Management Amendment.

trust to apply the same with the approval of the said General Assembly in and towards the erection, improvement, or maintenance of any church, minister's dwelling-house, or school-house, upon any land so mortgaged as aforesaid, or upon any other land held by the said trustees in trust for the said congregation.

Validating mortgages executed before passing of this Act.

4. All mortgages which have been executed and delivered after the eighth day of November, one thousand eight hundred and eighty-one, and prior to the passing of this Act by the trustees, in each case with the consent of a majority of the congregation obtained at a meeting held according to the rules and regulations of the said General Assembly, and with the concurrence of the said General Assembly, of lands, whether freehold or leasehold, which such trustees had power to sell under section twelve of the "Presbyterian Church Property Management Act of 1881," are hereby declared to have been and to be valid and effectual in law.

Certain property to vest from time to time in certain persons holding office in the Presbyterian Church, and to be dealt with in conformity with express trusts and under the direction of the General Assembly.

5. After the passing of this Act all property, real or personal, now held or which shall hereafter be held by any person or persons for or on behalf of the Presbyterian Church of New South Wales generally, other than property which is or shall be held in trust for the use and benefit of any congregation of the said church shall, without any further conveyance or transfer, vest in the Moderator and Clerk for the time being of the said General Assembly, the Chairman for the time being of the treasurership committee of the said General Assembly, the Convener for the time being of the sustentation fund committee of the said General Assembly, and the Convener for the time being of the church property, law, and documents committee of the said General Assembly and their successors. And every donation, gift, and disposition of property, real or personal, heretofore lawfully made (but not having actually taken effect) or hereafter lawfully made by deed, will, or otherwise, to or in favour of the Presbyterian Church of New South Wales generally, or to any person for or on behalf of such church generally, or to any presbytery, congregation, or committee connected with the same church generally, other than donations, gifts, or dispositions of any property, heretofore or hereafter made to trustees for the use and benefit of any such presbytery, congregation, or committee, shall take effect as if the same had been made to or in favour of the said Moderator, Clerk, Chairman, and Conveners, and their successors: Provided that all property, real or personal, becoming vested in the said Moderator, Clerk, Chairman, and Conveners as aforesaid, or which shall otherwise be acquired by them shall, so far as the same is subjected to any express trust, be held, managed, and dealt with by the said Moderator, Clerk, Chairman, and Conveners, and their successors in conformity with such express trust, and shall, so far as the same is not subject to any express trust, be held, managed, and dealt with in such manner as the said General Assembly may from time to time direct, and such property shall be subject, as to the management thereof, to the rules and regulations of the said General Assembly in force for the time being which are applicable thereto.

Short title.

6. This Act may be cited as the "Presbyterian Church Property Management Amendment Act of 1894."