

CHURCH OF ENGLAND SCHOOL LANDS.

6° Elizabeth II., No. XLI.

No. 41 of 1957.

AN ACT to amend the Church of England School
Lands Act, 1896.

[Assented to 22nd November, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Church of England School Lands Act Amendment Act, 1957.*

(2) In this Act, the Church of England School Lands Act, 1896,

See p. 301 of
the Vol. of
the Statutes
for 1896, and
No. 34 of
1918, s. 11.

a Private Act assented to on the twenty-seventh day of October, one thousand eight hundred and ninety-six, as affected by Act No. 34 of 1918, is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Church of England School Lands Act, 1896-1957.

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section two of the principal Act is amended— S. 2 amended.

(a) by adding after the word, “appurtenances” in line four the passage, “or make a partition thereof amongst the beneficiaries entitled under subsection (1) of section five of this Act including a partition in consideration of money paid for equality of partition”; and

(b) by adding after the word, “purchaser” in line five the passage, “or the persons interested in the partition”.

4. Section five of the principal Act is repealed and re-enacted amended as follows:— S. 5 repealed and re-enacted with amendments.

5. (1) The proceeds

of the sale or resumption and any other capital proceeds of the said lands and hereditaments or of any part thereof;

and all moneys

raised on mortgage thereof or of any part thereof;

and all rents, issues and profits

received therefrom by the said Diocesan Trustees;

and the interest

of any such proceeds, moneys, rents, issues and profits;

and any present or future accumulations

of any such proceeds, moneys, rents, issues, profits and interest;

after payment

of all rates and taxes payable in respect of the said lands; and

of all costs and expenses of and incidental to the maintenance and repair and insurance of the buildings on the said lands; and of other like outgoings; and

of interest payable under any mortgage of the said lands, whether executed before or after the coming into operation of the Church of England School Lands Act Amendment Act, 1957; and

of such amount of the principal of any such mortgage as the said Diocesan Trustees think fit, and are hereby authorised, to pay in the reduction thereof; and

of the cost of building upon or otherwise improving the said lands; and

of the costs of any sale, partitioning, mortgaging, or leasing, thereof;

shall,

subject to the right hereby conferred on the said Diocesan Trustees to retain such part or parts of such proceeds, moneys, rents, issues, profits and interest for any of the aforesaid purposes as the said Diocesan Trustees may from time to time consider necessary,

be applied and distributed by the said Diocesan Trustees—

- (a) as to nine-sixteenths—in payment in perpetuity to the body corporate registered under the Associations Incorporation Act, 1895, as Guildford Church of England Grammar School or other body whether corporate or unincorporate for the time being managing such school;

- (b) as to five-sixteenths—in payment in perpetuity to the body whether incorporated or unincorporated for the time being managing the School now known as Christ Church Grammar School; and
- (c) as to the remaining two-sixteenths—in payment for twenty-five years from the coming into operation of the Church of England School Lands Act Amendment Act, 1957, of one-half to each of those bodies as hereinbefore provided and thereafter for such purposes of education of boys in the Diocese of Perth, including if the said Diocesan Trustees think fit for the benefit of either or both of the Schools referred to in paragraphs (a) and (b) of subsection (1) of this section, as the said Diocesan Trustees from time to time determine and are hereby authorised to determine.

(2) On the body corporate known as Guildford Church of England Grammar School executing in favour of the said Diocesan Trustees a deed of covenant binding the body to pay to the said Diocesan Trustees in such manner and at such times as may be determined by the said Diocesan Trustees the principal sum of forty-two thousand seven hundred and fifty pounds and interest thereon at the rate of four pounds per centum per annum, the said Diocesan Trustees shall execute and deliver to the body at the cost of the body such instruments as are necessary to vest in the body

- (a) as proprietor in fee simple, the land described in the First Schedule to this Act, free of encumbrances and freed and discharged from the trusts upon which the land was held by the said Diocesan Trustees immediately prior to the coming into operation of the Church of England School Lands Act Amendment Act, 1957; and

First
Schedule.

Second
Schedule.

(b) as absolute owners, the personal property described in the Second Schedule to this Act, free of all liens, charges and trusts.

(3) The amount of that principal sum and interest is hereby secured as a first charge on the capital of the nine-sixteenths interest mentioned in paragraph (a) of subsection (1) of this section.

(4) If and when a deed of covenant referred to in subsection (2) of this section is executed, the moneys receivable by the said Diocesan Trustees under the deed of covenant shall not be subject to the trusts of this Act.

(5) In order to resolve any doubts which, but for the enactment of this subsection may exist or arise as to the proper application thereof by the said Diocesan Trustees, it is hereby expressly enacted that all applications made or caused to be made by the said Diocesan Trustees prior to the coming into operation of the Church of England School Lands Act Amendment Act, 1957, of capital or income moneys which have come to the hands of the said Diocesan Trustees in exercise or purported exercise of their powers under the Act 49 Victoriæ No. 19 or under this Act, whether authorised or not by those Acts, shall be deemed to have been authorised by this Act and the said Diocesan Trustees shall be deemed not to have committed any breach of trust in respect of the application of those moneys.

(6) The said Diocesan Trustees may at any time after the coming into operation of the Church of England School Lands Act Amendment Act, 1957, vest by transfer or other assurance, upon such terms and conditions as they may in their discretion see fit, in any body incorporated after the coming into operation of that Act to take over the management and control of the School known, immediately prior to the coming into operation of that Act, as

Christ Church Grammar School, the whole or any part or parts of the lands and other assets for the time being used for the purposes of that School, freed and discharged from the trusts upon which those lands and assets may then be held by them.

(7) The said Diocesan Trustees may apply any proceeds, moneys, rents, issues, profits and interest mentioned in subsection (1) of this section in building upon and otherwise improving and developing the whole or any part of the land mentioned in subsection (1) of this section; and may invest any such proceeds, moneys, rents, issues, profits and interest in any investments authorised by law for the investment of trust funds and may apply the interest and income of such investments and the capital of such investments in the manner mentioned in subsection (1) of this section.

5. The principal Act is amended by adding after section six the following Schedules:—

FIRST SCHEDULE.

Schedules added.

S. 5 (2) (a).

The land referred to in paragraph (a) of subsection (2) of section five of this Act comprises the pieces of land the subject of the following respective Certificates of Title:—

Certificate of Title,

<i>Volume</i>	<i>Folio</i>	<i>Volume</i>	<i>Folio</i>	<i>Volume</i>	<i>Folio</i>
584	96	674	69	680	138
514	59	675	85	555	170
514	58	692	11	966	171
402	11	621	155	1009	628
569	50	709	159	1100	4
675	153	711	91	1075	366
556	77	720	54	1060	961
550	50	841	5	696	107.
661	131	852	29		

SECOND SCHEDULE.

S. 5 (2) (b).

The personal property referred to in paragraph (b) of subsection (2) of section five of this Act comprises all of the furniture, furnishings, plant, and equipment, in, upon, or about, the premises of the Guildford Church of England Grammar School at the coming into operation of the Church of England School Lands Act Amendment Act, 1957, and used or intended to be used by that School.