

THE PERTH DIOCESAN TRUSTEES (SPECIAL FUND).

8° and 9° GEO. VI., No. XXV.

No. 25 of 1944.

AN ACT relating to a certain trust fund vested in The Perth Diocesan Trustees and to the disposition of the income derived therefrom.

[*Assented to 23rd December, 1944.*]

WHEREAS Samuel Evans Burges of Perth in the State of Western Australia, Esquire, died on the twenty-fifth day of May, one thousand eight hundred and eighty-five, having made and duly executed his last will and testament and a codicil thereto dated respectively the third day of October, one thousand eight hundred and eighty-three, and the fourteenth day of July, one thousand eight hundred and eighty-four; and probate of the said will and the said codicil was duly granted by the Supreme Court of Western Australia to the executors therein named; and whereas by his said will the said Samuel Evans Burges charged all his real property at York devised to his son Richard Goldsmith Burges with the payment by the said Richard Goldsmith Burges, his heirs and assigns, to the Standing Committee of the Synod of the West Australian Branch of the Church of England for or towards the support of the Church of England clergyman from time to time stationed at York in the said State, of an annual sum of Ten pounds during the life of the said Richard Goldsmith Burges and after

Preamble.

the decease of the said Richard Goldsmith Burges with the payment to such Committee for the like purpose, of an annual sum of Twenty pounds for ever; and whereas the said Richard Goldsmith Burges died on the twenty-fifth day of September, one thousand nine hundred and five and by an Order of His Honour, Mr. Justice McMillan, made the nineteenth day of April, one thousand nine hundred and ten, pursuant to the provisions of the Redemption of Annuities Act, 1909, it was ordered (*inter alia*) that the cash surrender value of the perpetual charge of the annual sum of Twenty pounds aforesaid as created by the abovementioned will of the late Samuel Evans Burges, deceased, over the lands therein charged be fixed at Five Hundred pounds and that on payment of such sum to the Diocesan Trustees of the Church of England in Western Australia within the time fixed in the said Order the said perpetual charge should be discharged and the said lands should thereupon be freed and discharged from the said perpetual charge; and whereas by the said Order it was further ordered that the said Diocesan Trustees should invest the said sum of Five Hundred pounds in the securities mentioned in the said Order and that the income accruing therefrom to the extent of Twenty pounds per annum should be applied for the benefit of the Church of England clergyman for the time being stationed at York and that any surplus income over Twenty pounds per annum be capitalised with power for the Trustees from time to time to draw thereon to make good any deficiency; and whereas the said sum of Five Hundred pounds was duly paid as directed by the said Order and the said sum of Twenty pounds per annum has been regularly paid and the surplus income capitalised, with the result that the annual income from the capital sum is in excess of the amount required to pay the said sum of Twenty pounds per annum; and whereas by Act 52 Victoria No. 2 it was enacted that all land and other property vested in the Standing Committee of the Synod of the West Australian Branch of the Church of England should be vested in the corporation to be known as "The Diocesan Trustees of the Church of England in Western Australia for the time being" and by the Church of England Diocesan Trustees and Lands Act, 1918, it was enacted

that the name and style of the corporation constituted by the said Act, 52 Victoria No. 2, should thenceforth be "The Perth Diocesan Trustees" and whereas the said The Perth Diocesan Trustees is desirous that it be empowered at its discretion to capitalise the surplus income arising from the said capital sum or to pay such surplus income to the Church of England clergyman for the time being stationed at York: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as *The Perth Diocesan Trustees (Special Fund) Act, 1944.* Short title.

2. In this Act, unless the context otherwise requires— Interpretation:

"The Special Fund" means the capital sum with accretions thereof vested in the Perth Diocesan Trustees for or towards the support of the Church of England clergyman from time to time stationed at York pursuant to the provisions in that behalf created by the Will of Samuel Evans Burges, deceased, mentioned in the Preamble.

"The Trustees" means The Perth Diocesan Trustees.

3. The surplus income arising from the special fund remaining in the hands of the Trustees in any year after payment to the Church of England clergyman for the time being stationed at York of the sum of Twenty pounds may, at the discretion of the Trustees, be capitalised or paid to the Church of England clergyman for the time being stationed at York. Capitalisation or payment of surplus income.