

The Presbyterian Church Act, 1884

WESTERN AUSTRALIA

ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ

No. 20

An Act for the Incorporation of certain Office Bearers of the Presbyterian Church in the Colony of Western Australia as Commissioners for the management of the real and personal Estate of the said Church, and for other purposes. [*Assented to 13th September, 1884.*]

WHEREAS a Presbyterian Church has been established in the Colony of Western Australia; and whereas at a special meeting of the congregation of the said Church the present Minister and Elders, and their successors in office, were appointed Trustees for the purpose of conducting and managing the financial and other affairs of the said Church, and for holding property for the use thereof; and whereas it is expedient that provisions such as are in this Act contained should be made in relation to the said Church, and to such real and personal estate, trust-funds, moneys, and securities as are now belonging to, or may hereafter be devised, or bequeathed, or given, or in any way belong to, or be held for the use of the said Church or of any congregation connected therewith; and whereas, with the view effectually to hold and perpetuate the succession of, and the better to manage all property, real and personal, held, or to be held in trust for, or for the use of, or in connection with the said Church, and in order to regulate and manage the affairs thereof, it is sought to obtain an Act of the Legislative Council of this Colony: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

Preamble

1. The present Minister and Elders of the Presbyterian Church in the city of Perth, to wit, the Reverend David Shearer, Master of Arts, Minister, and Edward Fox Angelo and Francis Arnold Moseley, Esquires, Elders, and the successor in office of the said Reverend David Shearer as such Minister, and such other person or persons as shall from time to time be hereafter duly ordained or inducted as an Elder or Elders of the said Church in Perth while in office shall be and are hereby constituted a body corporate for the better holding and management of the property of the said Church or connected therewith; and for the better regulation and management of the affairs thereof, and under and by the name, style, and title of 'The Commissioners of the Presbyterian Church' (hereinafter called the 'Commissioners') shall have continuance and succession for ever, and may have and use a common seal for the business of the said corporation, and change and alter the same at their will and pleasure, and shall and may be capable in law to have, hold, purchase, receive, take, enjoy, and in the proper execution, and for the better fulfilment of the trusts of

Incorporates
certain persons
as Commissioners

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the said corporation, and for the benefit and advantage thereof, sell, grant, transfer, and otherwise dispose of all manner of real and personal property whatsoever, and every part and parcel thereof, and shall also have power to borrow and take up at interest any sum or sums of money for the purpose of erecting or improving or aiding in erecting or improving churches, mansees, or other buildings, and for that purpose to mortgage by deed or other instrument, under the said corporate seal, such portions of the said lands, tenements, and hereditaments as may be necessary for securing the repayment of such moneys with interest thereon; and the lands, tenements, and hereditaments so to be sold or mortgaged shall thenceforth be held and enjoyed by the purchaser or purchasers, or by the mortgagee or mortgagees thereof, his, her, or their heirs, executors, administrators and assigns, freed and absolutely discharged from the trusts upon which the Commissioners may theretofore have held the same, and shall and may be able and capable in law, by the name, style, and title of 'The Commissioners of the Presbyterian Church in Western Australia,' to sue and implead, be sued and impleaded, answer and be answered unto, in any Court of Record, or elsewhere, in law or equity, in all actions and causes whatsoever for, touching, or concerning any matter or thing appertaining to the said corporation: Provided always, that the Commissioners shall not have power to sell, grant, transfer, mortgage, or otherwise dispose of any of the said lands, tenements, and hereditaments, howsoever the same shall or may have been acquired, or may hereafter be acquired, without first obtaining the approval of a majority of the members of the congregation for the time being in the use, occupation, and enjoyment thereof, or within whose district the same may be situate, present at a meeting of such congregation to be specially called for the purpose by a notice to be made to the congregation by intimation from the pulpit during Divine service on two successive Sabbaths immediately preceding the day of the meeting; and provided also that no lands which shall or may have been acquired, or may hereafter be acquired, from the Crown shall be sold, mortgaged, or otherwise disposed of, except with the consent, in writing, of the Governor for the time being.

Provides for
additional Com-
missioners on
formation of new
Congregations

2. In addition to the Minister and Elders for the time being officiating as Commissioners as aforesaid, the Minister for the time being of each and every congregation which shall be formed in connection with the said Church in any place within the said Colony of Western Australia, and one Elder to be from time to time selected as occasion may require by the session of such congregation, shall be deemed Commissioners for the purposes aforesaid, and each and every additional Commissioner shall be invested with the same right of property and with all and every the same rights, powers, and privileges as any Commissioner actually named herein.

Application of
funds

3. The Commissioners shall receive all moneys raised for or in any way contributed towards a Sustentation Fund for the maintenance of such Church or any other in connection therewith, and also all sums given, subscribed, or bequeathed thereto or in support thereof, or which shall be payable to them in their capacity as trustees, or be liable to their control; and shall pay and apply such moneys and sums as they shall from time to time think fit and determine, with and

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subject, however, to the approval of a majority of the congregation present at a special meeting as aforesaid, from whom or on whose behalf such moneys or sums shall have been received.

4. The Commissioners may, from time to time, invest the Sustentation Fund, and all other moneys that shall come to their hands for the purposes of, or in connection with, the trusts vested in them, in any of the Public Stocks or Government Securities of the United Kingdom, or of this Colony, or of any other colony or dependency of the United Kingdom, or upon mortgage of real securities; and no Commissioner shall be liable for any loss occasioned by the depreciation or failure of any such investment or otherwise, save by his own wilful default; and the Commissioners from time to time, at their discretion, may vary or transfer such stocks, funds, and securities into or for others of the same or a like nature.

Investment of funds

5. It shall be lawful for the Commissioners from time to time to appoint a Treasurer, who shall hold his office on such terms as they may determine; and the receipt in writing of the Treasurer, or any of the Commissioners authorised in that behalf by by-law, for any moneys paid, and for any stocks, funds, shares, or securities transferred, shall effectually discharge the person or persons paying or transferring the same therefrom, and from being bound to see to the application, or being answerable for the loss or misapplication thereof.

Appointment of Treasurer

6. Any order, resolution, or proceeding of the Commissioners, or any power by this Act conferred, or any gift, devise, or bequest to them, or otherwise, for the benefit of the said Church, or any congregation, mission, or charity connected therewith, shall not be invalidated by reason only of there being a vacancy in the office of Minister, or in that of Elder, of the said Church, or of any congregation connected therewith.

Vacancies not to invalidate gifts, &c.

7. The corporate seal of the Commissioners shall be affixed to every deed or instrument executed in exercise of the powers conferred by this Act, at a general meeting of the Commissioners, by the chairman of such meeting, and every such deed or instrument shall also be signed by two of the Commissioners.

Corporate Seal to be affixed to deeds

8. It shall not be necessary for any purchaser or mortgagee to inquire whether the Commissioners, or any, or either of them signing any deed or instrument, or affixing the said seal as aforesaid, were or was duly or regularly appointed, or whether the approval of the majority of the congregation present at a special meeting as aforesaid has been duly or properly obtained to the sale, transfer, conveyance, or mortgage of the lands, tenements, or hereditaments purporting to be sold, transferred, conveyed, or mortgaged by such deed or instrument, or whether the said power of sale or mortgage was duly or regularly exercised, or in anywise to see to the application of any moneys raised under authority of this Act, or to inquire into the necessity, regularity, or propriety of any such conveyance or conveyances, transfer or transfers, mortgage or mortgages; nor shall any purchaser or mortgagee be affected by notice that the Commissioners, or any of them, have not been regularly appointed, or that such approval as aforesaid has not been obtained, or that any such conveyance, transfer, or mortgage

Purchasers and mortgagees protected

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is in anywise irregular, unnecessary, or improper; and any such conveyance, transfer, or mortgage, duly executed in manner aforesaid (and endorsed with the Governor's consent, in writing, in the case of the sale, mortgage, or other disposition of lands acquired from the Crown), shall be valid and effectual to all intents and purposes whatsoever.

Lands vested in
Trustees
transferred to
Commissioners

9. All lands now vested in the Reverend David Shearer, Francis Arnold Moseley, and Edward Fox Angelo, as trustees for the said Church, shall be, and the same are hereby vested in the Commissioners of the Presbyterian Church in Western Australia, their successors and assigns for ever, for an estate in fee simple upon and for the trusts aforesaid.

Short title

10. This Act may be cited as 'The Presbyterian Church Act, 1884.'

F. NAPIER BROOME,
GOVERNOR.
