

Religious Bodies (Independents)

WESTERN AUSTRALIA

ANNO OCTAVO DECIMO

VICTORIÆ REGINÆ

No. 16

An Ordinance to enable the Denomination of Christians called Congregationalists or Independents in the Colony of Western Australia to hold Lands, to raise a sum or sums of Money on the security of such Lands, and for other purposes therein mentioned.

[Assented to 24th April, 1855.]

WHEREAS certain religious societies have been established in the Colony of Western Australia, called 'Congregationalists or Independents,' having for their object the diffusion of Christian Faith and Worship; and whereas the said religious societies have from time to time purchased and otherwise become seized of lands in the said Colony, and are desirous of selling, exchanging or raising money on such lands, for the purpose of erecting places of worship thereon, and otherwise promoting the objects of such societies; and whereas it is expedient that the said societies should receive all reasonable encouragement: 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:—

Land to be taken
and held by
trustees

1. That the said societies shall be, and they are hereby authorised and enabled by and in the name of their respective trustees or trustee for the time being, to accept, take or hold by purchase or lease, any estate or estates in lands, tenements or hereditaments of inheritance or for lives or years or for years determinable on the death of any life or lives, and also to accept, take and hold all voluntary grants and donations of lands, tenements or hereditaments, or of any estate or interest therein: Provided that the same be, and be made by deeds twelve calendar months at least before the death of such grantor or devisor, including the days of the transfer and death, and of any personal property or effects whatsoever, which shall be made to them or their said trustees or trustee for the time being, for the purpose of promoting the objects of the said societies.

Proviso

Trustees may sell
or exchange
lands

2. That the said societies shall be, and they are hereby authorised and enabled by and in the name of their respective trustees or trustee for the time being, in whom any estate or estates in lands may be vested at any time or times, with the consent in writing of the trustees or trustee for the time being in whom such lands may be vested, to dispose of either by way of sale or in exchange for other lands in Western Australia, all or any of the said lands and premises not being or having been used for the purposes of a cemetery, for such price or prices, upon such terms, and under such conditions as the said trustees or trustee

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for the time being shall think fit, with power to buy in or rescind any contract for sale or exchange of all or any of the said lands and premises, and to resell or exchange the same without being responsible for any loss which may be occasioned thereby; and the receipt of the said trustees or trustee for the time being for any moneys paid to them or him upon any sale or for equality of exchange, shall effectually discharge the person or persons paying the same, from seeing to the application thereof or being accountable for the non-application or misapplication thereof.

3. That the said trustees or trustee, for the time being, with such consent as aforesaid, shall and may lay out the money received upon any sale or for equality of exchange in the purchase of freehold hereditaments of inheritance in Western Australia, and shall accept and take the same hereditaments upon trust for promoting the objects of the said societies.

Trustees to invest proceeds of land in purchase of freeholds of inheritance

4. That it shall be lawful for the respective trustees or trustee for the time being, in whom any estate or estates in any lands or premises of such societies may be vested respectively at any time or times, or from time to time to borrow and take up at interest or otherwise, any sum or sums of money upon any such lands and premises not being nor having been used for the purposes of a cemetery, as they shall think proper, and by a deed or deeds by them or him executed, to mortgage all or any part of the said lands and premises respectively, as a security to any person or persons or their trustees who shall advance such sum or sums of money, and to give any mortgagee or mortgagees any power of sale, power of distress, or any other usual and reasonable powers, and by his or their receipt or receipts in writing for any mortgage money to discharge the person or persons paying the same from responsibility for the application thereof, or for any irregularity attending any mortgage, and from the duty of inquiring whether any such mortgage is authorised, necessary or proper.

Trustees may mortgage

5. That all actions and suits whatever against any person or persons, whether a member or members of any of the said societies or otherwise, and all other proceedings whatsoever, whether at law or in equity, to be commenced or prosecuted by or in behalf of any of the said societies, or wherein any of the said societies are or shall be in anywise interested or concerned against any person or persons, body or bodies, corporate or politic, shall and may be lawfully commenced and prosecuted in the name of the person who shall be the treasurer of such society at the time any such action, suit, or other proceeding shall be instituted as the nominal plaintiff, complainant or petitioner, for and on behalf of such society, and finally terminated in the name of such treasurer, notwithstanding any change may have been made in the said office of treasurer during the progress of such suit, action or other proceeding.

Actions to be brought in name of treasurer

6. That all actions, suits, and other proceedings at law or equity, to be commenced and prosecuted against any of the said societies, shall be commenced and prosecuted against the treasurer thereof respectively for the time being, as the nominal defendant for and on behalf of the said societies respectively, and that the death, resignation, or other act of the treasurer of such societies respectively shall not abate any such

Actions to be brought against treasurer

Non-abatement

*Religious Bodies (Independents)*Indemnity of
treasurer

action, suit, or other proceedings, but the same may be continued where it left off and be prosecuted and carried on against the said societies respectively in the name of such person who was treasurer when such action, suit or other proceeding was instituted or commenced : Provided always that every such treasurer in whose name any such action, suit or other proceeding shall be commenced, prosecuted, carried on or defended shall in all cases be reimbursed and paid out of the funds of the said societies respectively.

Appointment of
new trustees

7. And whereas it is expedient to remedy the inconvenience which may be experienced from trustees dying, resigning or being absent from the Colony : Be it therefore enacted that if any present or future trustee or trustees in whom any estate in and to any lands of the said societies may be vested shall depart this life, be absent from the said Colony more than three months, or be desirous of resigning his or their said trust, it shall be lawful for the surviving resident or remaining trustee or trustees to nominate, by a writing under his or their hand or hands, a new trustee or new trustees, and the estate in such lands of such deceased, absent or resigning trustee or trustees shall, by such nomination in writing, when filed in the Colonial Secretary's office, immediately vest in such new trustee or trustees without any formal conveyance or deed for that purpose.

Ordinance to be
a ' Public
Ordinance '

8. That this Ordinance shall be deemed and taken to be a ' Public Ordinance,' and shall be judicially taken notice of as such by the Judge or Commissioner of the Civil Court of Western Australia, and by all other Judges, Justices and others within the Colony of Western Australia and its Dependencies without being specially pleaded.

CHARLES FITZGERALD,
GOVERNOR AND COMMANDER-IN-CHIEF.