

ANGLICAN CHURCH
OF AUSTRALIA
(SWANLEIGH LAND
AND ENDOWMENTS).

No. 101 of 1979.

AN ACT to make provision in relation to certain property at Swanleigh belonging to or held in trust for and on behalf of The Perth Diocesan Trustees, as to the use or disposal of such property and related endowments, and for other related purposes.

[Assented to 17th December, 1979.]

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:—

1. This Act may be cited as the *Anglican Church of Australia (Swanleigh land and endowments) Act, 1979.*

Short title.

Objects of
this Act.

2. (1) Pursuant to the provisions of the Church of England Lands Vesting Act, 1892, the proceeds of sale of certain lands affected by that Act were applied by the Diocesan Trustees to the erection of buildings and other improvements on portion of Swan Location 12 then vested in the Trustees and the purchase of certain other lots portion of Swan Location 12, all of which said lands are referred to in the Schedule to this Act, and by virtue of that Act the said lands are held by The Perth Diocesan Trustees upon and subject to trusts and uses relating to the establishment and conduct of an orphanage that are, by reason of changed circumstances, impossible, impracticable or inexpedient to carry out.

(2) Pursuant to certain bequests and endowments, the investment of certain personal estate, and at the request of the Synod of the Diocese of Perth, The Perth Diocesan Trustees hold on trust certain moneys bequeathed for orphanage purposes, for the purposes of the trusts and uses relating to the orphanage referred to in subsection (1) of this section, bequeathed specifically to the Swan Boys' Orphanage or the Swan Girls' Orphanage (being names by which the said orphanage was known), and for purposes related thereto, all such purposes being purposes that are, by reason of changed circumstances, impossible, impracticable or inexpedient to carry out.

(3) The Perth Diocesan Trustees, and the Synod of the Diocese of Perth, being desirous that the land, buildings and other improvements and the moneys, referred to in subsection (1) and subsection (2) of this section should be utilised in a manner not inconsistent with the intent of the purposes of the trusts and uses which were intended to relate thereto, and the children for whose benefit such trusts and uses were intended to operate being provided for in other ways so that such land, buildings and improvements are no longer required for or deemed suitable for an orphanage, the said lands, buildings, improvements and moneys are by virtue of this provision of this Act freed and

absolutely discharged from any trust, use, or condition affecting the same prior to the coming into operation of this Act and on and from the coming into operation of this Act shall be held by The Perth Diocesan Trustees subject to the provisions of section 3 of this Act.

3. (1) On and from the coming into operation of this Act— Effect of this Act.

- (a) The Perth Diocesan Trustees is authorised to use the land referred to in the First Part of the Schedule to this Act, or such of that land as may be comprised within those boundaries after the operation of the provisions of paragraph (b) of this subsection, and the buildings or improvements erected thereon for the purposes of a hostel to be utilised for the accommodation of students attending a government educational institution;
- (b) The Perth Diocesan Trustees and the Diocesan Council of the Diocese of Perth are authorised, in so far as that may be required by any town planning or other relevant authority, to adjust the boundary of the land referred to in the First Part of the Schedule to this Act, or the boundary of any part or subdivision of that land;
- (c) The Perth Diocesan Trustees is authorised, should at any time such land not be used for the purpose referred to in paragraph (a) of this subsection, to sell the whole or any part of the land referred to in the First Part of the Schedule to this Act, and to transfer or otherwise assure the same to a purchaser freed and absolutely discharged from any trust, use, condition or obligation affecting the use of that land or any moneys derived therefrom, the proceeds of any such sale to be applied by the Trustees, after payment of all expenses of and

incidental to the sale, as part of and for the purposes of the trust fund referred to in paragraph (e) of this subsection;

- (d) The Perth Diocesan Trustees is authorised to hold and use the land referred to in the Second Part of the Schedule to this Act, and the proceeds of any sale thereof or of any part thereof, for general ecclesiastical purposes; and
- (e) The Perth Diocesan Trustees is authorised and required to hold as a trust fund the moneys referred to in subsection (2) of section 2 of this Act, and such moneys as may accrue thereto pursuant to paragraph (c) of this subsection, upon trust for use within the State for general child and family care purposes, including—
 - (i) the care, maintenance, education and benefit of children orphaned, neglected, unwanted, destitute, socially deprived, or otherwise disadvantaged, in particular by means, where practicable, of arranging for and assisting in the care of such children in family homes as distinct from institutions; and
 - (ii) the counselling, help and care of families who have difficulties, whether financial, social, or otherwise, in the proper maintenance, nurture, education and care generally of their children.

(2) No purchaser of any lands sold under the provisions of this section is bound or concerned to inquire whether the power of sale was duly and regularly exercised, or to see to the application of any purchase moneys, or to inquire into the necessity, regularity or propriety of any sale or be affected by a notice that a sale is irregular, unnecessary or improper.

1979.] *Anglican Church of Australia* [No. 101.
(*Swanleigh land and endowments*).

ss. 2 and 3.

SCHEDULE.

First Part.

(Description of the land which is to be used for the Hostel).

Those portions of Swan Locations 11 and 12 the subject of Certificate of Title Volume 1479 Folio 867, together comprising an area of 25.67 hectares, contained within the boundaries delineated by red and green lines respectively on the Plan marked "F.B. No. 150/1 File No. 59/28 Date 13.4.73." prepared by P.G.S. Hope and Partners and tabled in Synod on 4th October, 1976.

Second Part.

(Description of land which, or the proceeds of sale of which, is to be held and used for general ecclesiastical purposes).

1. Those portions of Swan Locations 11 and 12 the subject of Certificate of Title Volume 1479 Folio 867 together with that portion of Swan Location 13 the subject of Certificate of Title Volume 1392 Folio 663, comprising an area of 12.72 hectares, contained within the boundaries delineated by blue lines on the Plan marked "F.B. No. 150/1 File No. 59/28 Date 13.4.73." prepared by P.G.S. Hope and Partners and Tabled in Synod on 4th October, 1976.

2. Portion of Swan Location 12 and being Lot 1 the subject of Diagram 52804, being the whole of the land comprised in Certificate of Title Volume 1479 Folio 866.
