

UNITING CHURCH IN AUSTRALIA.

No. 139 of 1976.

AN ACT to make provision for the inauguration of the Uniting Church in Australia in accordance with the Basis of Union and to constitute the Uniting Church in Australia Property Trust (W.A.) and for other and incidental purposes.

[Assented to 13th December, 1976.]

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Uniting Church in Australia Act, 1976.* Short title.

Commence-
ment.

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

Repeal.

3. The following Acts are repealed, namely—

The Congregational Church Lands Act, 1855-1942 comprising—

(a) Ordinance 18 Victoriae No. 16;

(b) Congregational Church (Lands) Amendment Act, 1942 (No. 17 of 1942);

Methodist Church Property Trust Act, 1912 (No. 29 of 1912);

Methodist Church (W.A.) Property Trust Incorporation Act, 1969 (No. 62 of 1969).

Arrangement

4. This Act is arranged as follows—

PART I.—PRELIMINARY, ss. 1 to 5.

PART II.—INAUGURATION OF THE CHURCH, ss. 6 to 11.

PART III.—CONSTITUTION OF THE TRUST, ss. 12 to 19.

PART IV.—ACQUISITION AND VESTING OF TRUST PROPERTY, ss. 20 to 24.

PART V.—VARIATION OF TRUSTS, ss. 25 to 27.

PART VI.—INCORPORATION OF CHURCH INSTRUMENTALITIES, ss. 28 to 36.

PART VII.—GENERAL, ss. 37 to 48.

SCHEDULE.

5. In this Act except in so far as the context or subject matter otherwise indicates or requires—

Interpreta-
tion.

“appointed day” means the day appointed pursuant to section 2 of this Act;

“Assembly” means the Assembly of the Uniting Church in Australia as referred to in the Basis of Union;

“Basis of Union” means the Basis of Union set forth in the Schedule to this Act;

“Church” means the Uniting Church in Australia;

“Church instrumentality” means any school, college, hospital or other religious, charitable, philanthropic, educational, social, commercial or professional institution, organisation, enterprise, undertaking or other activity conducted or controlled by the Church and includes any fund, trust or foundation created and controlled or administered by the Church;

“Congregational Church” means the Congregational Union of Australia, the Congregational Unions in each of the States of the Commonwealth and the individual Congregational churches which have resolved to enter into union with the Methodist and Presbyterian Churches, and any department, society, auxiliary, activity, fund, service, institution or interest of any such individual churches or Unions;

“Methodist Church” means the Methodist Church of Australasia and includes any congregation, circuit, department, society, auxiliary, activity, fund, service, institution or interest thereof save and except the conferences of Fiji, Samoa and Tonga;

“Presbyterian Church” means the Presbyterian Church of Australia comprising the Presbyterian Church of Australia in the State of New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia subject to the Presbyterian Church of Australia Act, 1970-1972;

“property” includes real and personal property and any estate or interest therein;

“Synod” means the Synod of the Church within Western Australia;

“Trust” means Uniting Church in Australia Property Trust (W.A.) constituted by this Act;

“Trust property” means property vested in or acquired by the Trust by or pursuant to this Act;

“Uniting Churches” means the Congregational Church, the Methodist Church and the Presbyterian Church save and except those congregations of the Presbyterian Church continuing to function after the appointed day under the Scheme of Union of the 24th day of July, 1901, as amended, within the meaning of Part III of the Schedule to the Presbyterian Church of Australia Act, 1970-1972.

PART II.—INAUGURATION OF THE CHURCH.

Authority
to unite.

6. The Uniting Churches are hereby empowered to unite in accordance with the Basis of Union, such union to take effect from the appointed day.

Name of
Church.

7. The Church formed by such union shall be denominated the Uniting Church in Australia.

8. The first Assembly of the Church, called the Inaugurating Assembly, convened by the Uniting Churches shall be deemed to have been validly convened.

Inaugurating
Assembly.

9. The Inaugurating Assembly is empowered to adopt a constitution for the Church consistent with the Basis of Union.

Adoption of
Constitution.

10. The Assembly may amend, alter, repeal or replace the Constitution adopted by the Inaugurating Assembly from time to time in accordance with the provisions made by the Constitution in that regard.

Amendment
of
Constitution.

11. Notwithstanding anything in this Act or in the Basis of Union it shall be lawful for the Assembly from time to time to resolve that the Church enter into union with other branches of the Christian Church and to determine, declare or interpret matters of doctrine, worship, government and discipline in the Uniting Church.

Further
Unions, etc.

PART III.—CONSTITUTION OF THE TRUST.

12. (1) There is hereby constituted a corporation under the name of "Uniting Church in Australia Property Trust (W.A.)" which shall, subject to this Act, consist of—

Constitution
of the Trust.

- (a) the Moderator for the time being of the Synod;
- (b) the Property Officer for the time being of the Synod;
- (c) six other persons, who shall be members of the Church, appointed by the Synod.

(2) Subject to this Act, the persons appointed by the Inaugurating Assembly of the Church and whose names and duration of appointment shall be published in the *Gazette*—

- (a) shall be deemed to have been duly appointed pursuant to paragraph (c) of subsection (1) of this section as members of the Trust holding office until the end of the annual Synod specified in the appointment so that three members retire at the end of the annual Synod next succeeding the appointed day and the remaining three members retire at the end of the next following annual Synod; and
- (b) shall be eligible for re-appointment as members of the Trust.

(3) Subject to this Act, the members of the Trust appointed pursuant to paragraph (c) of subsection (1) of this section by a Synod after the appointed day—

- (a) shall take office as members of the Trust immediately after the end of that Synod;
- (b) shall hold office as members of the Trust for a term of two years expiring at the end of the annual Synod; and
- (c) shall be eligible for re-appointment as members of the Trust.

(4) A member of the Trust shall be appointed by the Synod as Chairman of the Trust and until so appointed the Moderator shall act as Chairman of the Trust.

Powers and
duties of
Trust.

13. (1) The Trust shall have perpetual succession and a common seal and may enter into contracts, sue and be sued in its corporate name and may take and hold any real or personal property.

(2) Subject to this Act, the Trust shall hold Trust property in trust for the Church and upon any other trust affecting the property.

(3) Subject to subsection (2) of this section, the Trust shall hold, manage, administer and otherwise deal with Trust property in accordance with the regulations, directions and resolutions of the Assembly and with the by-laws of the Synod in so far as such by-laws are not inconsistent with the regulations, directions and resolutions of the Assembly.

14. Three members of the Trust shall constitute a quorum for the purpose of any meeting of the Trust and the decision of a majority of the members present and voting at any meeting of the Trust shall be the decision of the Trust. Quorum.

15. A member of the Trust appointed pursuant to paragraph (c) of subsection (1) of section 12 of this Act shall be deemed to have vacated his office, thereby giving rise to a casual vacancy, if he— Vacation of office.

- (a) dies;
- (b) resigns his office by notice in writing to the Trust;
- (c) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (d) becomes, within the meaning of the Mental Health Act, 1962, a person who is suffering from a mental disorder or an incapable person;
- (e) ceases to be a member of the Church;
- (f) is removed by resolution of the Synod or its Standing Committee.

Casual
vacancies.

16. (1) Where there is a casual vacancy in the membership of the Trust, the members of the Trust may appoint a person who is a member of the Church to fill that vacancy until the end of the next succeeding Synod, and the Synod may appoint a person who is a member of the Church to fill such vacancy for the remainder of the term (if any) of the person whose place as aforesaid has been vacated.

(2) Where by reason of the occurrence of casual vacancies the number of members of the Trust is reduced to less than five, those members shall, pursuant to the power contained in subsection (1) of this section, fill a sufficient number of those vacancies to increase to five the number of members of the Trust.

Common
seal.

17. (1) The members for the time being of the Trust shall have the custody of its common seal and, subject to this section, the form of the common seal and all other matters relating thereto shall be determined by the Trust.

(2) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution passed at a duly convened meeting of the Trust and every instrument to which the common seal is so affixed shall be signed by not less than two members of the Trust.

(3) An instrument purporting to have been sealed with the common seal of the Trust and purporting to have been signed by not less than two members of the Trust shall be deemed to have been executed in accordance with subsection (2) of this section.

Form and
execution of
certain
contracts,
etc.

18. (1) Any deed, instrument, contract or agreement relating to any property or matter which if made or executed by an individual would be by

law required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust.

(2) Any instrument, contract or agreement relating to any property or matter which if made by or between individuals would be required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing by any person acting under its authority express or implied.

(3) Any contract relating to any property or matter which if made between individuals would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the Trust by any person acting under its authority express or implied.

(4) Any contract which is entered into or any instrument, contract or agreement which is signed in relation to any Trust property shall be deemed to have been entered into or signed with the express authority of the Trust if it is entered into or signed in accordance with the resolutions of the Synod for the time being in force pursuant to this Act.

19. The Trust may, by writing under its common seal, expressly empower any person, in respect of any specified matter, as its agent or attorney to execute any deed, instrument, contract or agreement on its behalf, and any deed signed by such an agent or attorney on behalf of the Trust and under his seal shall bind the Trust and have the same effect as if it were under its common seal.

Execution under seal by agent, etc.

PART IV.—ACQUISITION AND VESTING OF TRUST PROPERTY.

20. (1) Subject to this Act, all property that, immediately before the appointed day, was vested in the Methodist Church (W.A.) Property Trust or

Vesting of certain property in the Trust.

otherwise in trust for the Methodist Church is hereby divested from that person and is to the extent that it was so vested hereby vested without conveyance in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(2) Subject to this Act, all property that, immediately before the appointed day, was vested in the Union of Congregational Churches in Western Australia or otherwise in trust for the Congregational Church is hereby divested from that person and is to the extent that it was so vested hereby vested without conveyance in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(3) (a) Subject to this Act and to all rights created or conferred by or pursuant to the provisions of the Presbyterian Church of Australia Act, 1970-1972 and, without restricting the generality of the foregoing, to section 4 of the said Act and clause 18 of the Schedule to the said Act, any property that immediately before the appointed day was vested in any person subject to the Presbyterian Church of Australia Act, 1901, and the Presbyterian Church Act, 1908, as amended, or otherwise in trust for the Presbyterian Church or any congregation, board or committee of management, session, presbytery, committee, council, board or other institution, organisation or section thereof is hereby divested from that person and is to the extent that it was so vested hereby vested without conveyance in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(b) Notwithstanding anything contained in this Act, this subsection shall commence on the day specified in that behalf by the Governor and notified by proclamation published in the *Gazette*.

(4) Subject to the provisions of this Act, all property which pursuant to subsections (1), (2) and (3) of this section becomes vested in the Trust is freed and discharged from all of the provisions

and trusts of the Congregational Church Lands Act, 1855-1942 comprising Ordinance 18 Victoriae No. 16 and the Congregational Church (Lands) Amendment Act, 1942, the Methodist Church Property Trust Act, 1912, the Methodist Church (W.A.) Property Trust Incorporation Act, 1969 and the Presbyterian Church of Australia Act, 1901, the Presbyterian Church Act, 1908 as amended by Act No. 50 of 1919, Act No. 6 of 1924 and Act No. 19 of 1964 and the Presbyterian Church of Australia Act, 1970, as amended by Act No. 2 of 1972, respectively.

(5) Except in relation to the trusts declared by the Congregational Church Lands Act, 1855-1942, the Methodist Church Property Trust Act, 1912, the Methodist Church (W.A.) Property Trust Incorporation Act, 1969, the Presbyterian Church of Australia Act, 1901, the Presbyterian Church Act, 1908 as amended and the Presbyterian Church of Australia Act, 1970-1972 the vesting effected by subsections (1), (2) and (3) of this section shall be without prejudice to—

- (a) any special trust;
- (b) any resulting trust;
- (c) any trust in favour of a donor;
- (d) any trust in favour of a person other than the Uniting Churches or any one or more of them; or
- (e) any reservation, mortgage, charge, encumbrance, lien or lease,

that immediately before the appointed day affected the property vested.

(6) No attornment to the Trust by any lessee of land vested in it by this section shall be necessary.

(7) In this section "special trust" shall mean any trust other than a trust for the general purposes of the Methodist, Congregational or Presbyterian Churches, or of any congregation, mission or institution thereof.

Construction
of certain
instruments.

21. (1) To the extent to which, by a deed, will or other instrument that takes effect on or after the appointed day, any property—

- (a) is devised, bequeathed, given, granted, released, conveyed or appointed to the Church or to a person (not being the Trust) for, or for the benefit of, or in trust for, the Church or the religious, social, educational or charitable work of the Church, or is declared or directed to be held by any person (not being the Trust) for, or for the benefit of, or in trust for, the Church or the religious, social, educational or charitable work of the Church;
- (b) is recoverable by the Church or by any person (not being the Trust) for the Church; or
- (c) is payable to, or receivable by, the Church or any person (not being the Trust) on behalf of the Church or for the religious, social, educational or charitable work of the Church,

the deed, will or other instrument shall be construed and take effect as if the reference therein to the Church or, as the case may be, to that person, were a reference to the Trust.

(2) Any deed, instrument, document, gift, will or other provision in favour of or relating to the Methodist Church coming into effect on or after the appointed day shall be read and construed as though any reference therein to the Methodist Church was a reference to the Church unless the context otherwise requires.

(3) Any deed, instrument, document, gift, will or other provision in favour of or relating to the Congregational Church coming into effect on or

after the appointed day shall be read and construed as though any reference therein to the Congregational Church was a reference to the Church unless the context otherwise requires.

22. No title to any land vested in the Trust by this Act shall be held bad either at law or in equity by reason of any breach or non-performance before or after the appointed day of any condition, trust or proviso contained in the grant by the Crown of the land and every provision for forfeiture or reverter in respect of any such breach or non-performance shall be deemed to have been released by the Crown as from the date of Crown Grant.

Waiver of certain conditions, etc. in certain Crown Grants.

23. (1) Subject to subsection (2) of this section, a certificate under the common seal of the Trust to the effect that property therein specified is held by it upon trust for the Church shall, in all circumstances and all proceedings whether civil or criminal be *prima facie* evidence that the property so specified is so held.

Evidence.

(2) Subsection (1) of this section shall not apply in relation to any dispute concerning property between the Church and the Presbyterian Church continuing to function after the appointed day pursuant to clause 18 of the Schedule to the Presbyterian Church of Australia Act, 1970-1972.

(3) A certificate under the common seal of the Trust to the effect that the estate or interest of persons therein specified in land so specified is an estate or interest vested in the Trust by this Act shall, for the purposes of any application by the Trust to be registered under the Transfer of Land Act, 1893, the Land Act, 1933 or the Property Law Act, 1969, as the proprietor of that estate or interest pursuant to that vesting, be conclusive evidence of the matters so certified.

Certain
rights
enforceable
by the Trust.

24. Where any property is vested in the Trust pursuant to this Act the Trust shall, in relation to that property, have and be subject to all the rights, powers, remedies, liabilities and obligations and may exercise and discharge, in relation to that property, all or any of the rights, powers and remedies which the person in whom the property was theretofore vested or by whom it was theretofore held, would have had and been subject to and might have exercised and discharged in relation to that property if the property had not been divested from him and vested in the Trust.

PART V.—VARIATION OF TRUSTS.

Variation of
Trusts.

25. Where by virtue of this Act or otherwise Trust property is vested in the Trust upon trust for or to be applied in or for some particular purpose of the Church and the Synod in its absolute discretion resolves that—

- (a) it is impossible, impracticable or inexpedient to carry out the purpose;
- (b) the amount available is inadequate to carry out the purpose;
- (c) the purpose has already been effected;
- (d) the purpose is illegal or useless or uncertain; or
- (e) the trust property or any income that has accrued or will accrue therefrom is more than is necessary for the purpose;

then, notwithstanding any rule of law or equity to the contrary, the Synod may, upon the application of the Trust whether on behalf of the Trust or on behalf of a Church instrumentality made in such manner as the Synod shall from time to time prescribe, resolve that the whole or any part of the Trust property or of the income therefrom or of the proceeds of the sale thereof (as the case may be) be applied to some other purpose of the Church or to a combination of several of such purposes in such manner as it may direct.

26. Where by virtue of this Act or otherwise Trust property is vested in the Trust upon trust for or to be applied in or for any of the purposes of the Church or of a Church instrumentality and the administration of the Trust property or the carrying out of the trust can be facilitated by extending or varying the powers of the Trust as the trustee thereof or by prescribing or varying the mode of administering the trust, the Synod may, upon the application of the Trust whether on behalf of the Trust or on behalf of a Church instrumentality made in such manner as the Synod shall from time to time prescribe, resolve that the powers of the Trust as such trustee be extended or varied or the mode of administering the trust be prescribed or varied, in such manner as it shall direct.

Facilitation
of
performance
of Trust.

27. (1) Where the Synod resolves as provided in section 25 of this Act the property to which the resolution refers shall thereupon be subject to the trusts mentioned in the resolution freed and discharged from the trusts to which it was subject prior to the passing of the resolution.

Effect of
Synod
resolution

(2) Where the Synod resolves as provided in section 26 of this Act the Trust shall, in relation to the property referred to in the resolution, have the powers and authorities and may administer that property in the manner provided for in the resolution.

PART VI.—INCORPORATION OF CHURCH INSTRUMENTALITIES.

28. The Synod may, if it thinks fit, upon the application of a Church instrumentality made in such manner as the Synod may from time to time prescribe, resolve that the instrumentality be separately incorporated as a body corporate under and by virtue of this Act in such manner and upon and subject to such conditions, restrictions, limitations and other provisions as the Synod may determine.

Synod may
incorporate
Church
instrumen-
tality.

Existing
incorpora-
tion
terminated.

29. (1) Subject to subsection (2) of this section, a Church instrumentality which on the appointed day is incorporated under the Associations Incorporation Act, 1895, or the Methodist Church (W.A.) Property Trust Incorporation Act, 1969, or the Presbyterian Church Act, 1908 as amended, shall as from that day cease to be so incorporated.

(2) In the case of an incorporated body which before the day referred to in paragraph (b) of subsection (3) of section 20 of this Act is an institution of the Presbyterian Church in Western Australia, the provisions of subsection (1) of this section shall have no operation if before that day the Commission appointed in accordance with clause 18 of the Schedule to the Presbyterian Church of Australia Act, 1970-1972 determines that such institution is to vest in or be retained by the Presbyterian Church continuing to function after the appointed day pursuant to clause 18 of the said Schedule.

(3) As soon as practicable after the appointed day, or the day referred to in paragraph (b) of subsection (3) of section 20 of this Act, as the case may be, the Moderator for the time being of the Synod shall cause notice to be given to the Commissioner for Corporate Affairs of the names of all incorporated associations which by operation of this section have ceased to be incorporated under the Associations Incorporation Act, 1895.

Purposes of
incorpora-
tion.

30. Upon the Synod resolving that a Church instrumentality be incorporated under this Act, such instrumentality shall be deemed to be incorporated for the following purposes, subject always to any conditions, restrictions, limitations or provisions determined by the Synod under section 28 of this Act

- (a) of using as its designation (but not necessarily as part of its name) the words "a body corporate incorporated under the provisions of the Uniting Church in Australia Act, 1976";

- (b) of having and using a common seal on which shall be inscribed the name of the Church instrumentality;
- (c) of suing and being sued in its own name in respect of any claim by or upon it by any person whomsoever whether interested in it or not;
- (d) of holding, purchasing or in any other manner acquiring any property and of selling, mortgaging, disposing of or otherwise dealing with the same.

31. A certificate under the hand of the Moderator for the time being of the Synod that a Church instrumentality is a body corporate by reason of its being duly incorporated under and by virtue of this Act shall be sufficient evidence of such fact for all purposes.

Evidence of
incorpora-
tion.

32. (1) Upon the Synod resolving that a Church instrumentality shall be incorporated under and by virtue of this Act, all property which by virtue of this Act is, or would have become hereafter, but for the provisions of this section, vested in the Trust (not being property held by the Trust as Trustee under a will or deed) and which is used, occupied or controlled by such Church instrumentality shall be vested without conveyance in the Church instrumentality in its corporate name, and the Church instrumentality shall thereafter have all the rights, powers and authorities and undertake all the liabilities and obligations which, but for the provisions of this section the Trust would have had or been obliged to undertake.

Vesting of
property in
incorporated
body.

(2) A certificate under the common seal of a Church instrumentality to the effect that the estate or interest of persons therein specified is an estate or interest vested in the instrumentality by this Act shall for the purposes of any application by the instrumentality to be registered under the

Transfer of Land Act, 1893, the Land Act, 1933 or the Property Law Act, 1969, as the proprietor of an estate or interest pursuant to that vesting, be conclusive evidence of the matters as certified.

Constitution
of
incorporated
body.

33. A Church instrumentality incorporated under and by virtue of this Act shall operate according to a constitution granted and approved by the Synod in the same manner as it may make by-laws, and any amendment, alteration, variation, deletion or addition to the said constitution shall be made and approved by the Synod in the manner prescribed in the said constitution, provided always that a Church instrumentality which is a University College within the meaning of the University Colleges Act, 1926, shall be constituted in accordance with the provisions of that Act and the Trust created under section 5 of that Act.

Incorporation
of
certain
bodies.

34. (1) As from the appointed day, the following Church instrumentalities shall be deemed to be incorporated under and by virtue of this Act—

Kingswood College

Methodist Ladies' College

Penrhos College

St. Columba College

Wesley College

Good Samaritan Industries.

(2) As from the day referred to in paragraph (b) of subsection (3) of section 20 of this Act if the Commission appointed in accordance with clause 18 of the Schedule to the Presbyterian Church of Australia Act, 1970-1972, determines that either or both Presbyterian Ladies' College and Scotch College are to vest in the Church, the College or Colleges shall be deemed to be incorporated under and by virtue of this Act.

(3) In the case of each of the Church instrumentalities deemed to be incorporated pursuant to subsections (1) and (2) of this section, the provisions of section 32 of this Act shall, as from the appointed day or the day referred to in paragraph (b) of subsection (3) of section 20 of this Act as the case may be, apply as if each such instrumentality had been duly incorporated by a resolution of the Synod pursuant to an application made under section 28 of this Act.

(4) The existing constitution of each such Church instrumentality shall continue *mutatis mutandis* in full force and effect provided that the Synod may grant and approve a new constitution for any such instrumentality in the manner prescribed in section 33 of this Act.

35. The incorporation of a Church instrumentality incorporated under and by virtue of this Act shall terminate—

Termination
of incorpora-
tion.

- (a) if and when the Church instrumentality shall be dissolved in the manner provided in its constitution;
- (b) if at any time before its dissolution the Church instrumentality shall apply to the Synod in the prescribed manner for the termination of its incorporation and the Synod shall resolve that it be terminated;
- (c) if the Synod shall for any sufficient reason consider it fit and proper that the incorporation of the Church instrumentality should be terminated and upon its own motion shall so resolve provided that any such motion shall require at least fourteen days' notice to the members of the Synod and shall not be passed unless two-thirds of those members present and voting shall approve such motion.

Effect of
termination.

36. Where the incorporation of a Church instrumentality incorporated under and by virtue of this Act is terminated, the Church instrumentality shall thereupon cease to be a body corporate and all land and other property held by or belonging to, or vested in it, whether in its corporate name or otherwise, shall without conveyance vest in the Trust and henceforth shall be held by the Trust for the purposes of the Church instrumentality if it be not then dissolved and is still functioning but otherwise, subject to the provisions of the University Colleges Act, 1926, for such purposes and upon such trusts as the Synod shall direct.

PART VII.—GENERAL.

Claims for
compensa-
tion upon
compulsory
acquisi-
tion, etc.

37. Subject to any resolution or direction of the Synod or of any Committee appointed by it for the purpose, the Trust may act in relation to the exchange, dedication or compulsory acquisition of any property vested in it, may make claims for compensation in respect thereof and may agree to and settle any such claims, for such considerations, and on and subject to such terms and conditions, as may appear advisable to it.

Receipt for
certain
moneys.

38. A receipt for moneys payable to the Trust shall exonerate the mortgagee, purchaser or other person by or on whose behalf the moneys are so payable from any liability to see to the application thereof, and from any liability for the loss, misapplication or non-application thereof, if the receipt—

- (a) is executed in accordance with this Act under the common seal of the Trust;
- (b) is in writing signed by two members of the Trust; or
- (c) is in writing signed by a person or persons duly authorized for the purpose by the Trust or two members thereof.

39. No purchaser, mortgagee, lessee or other person dealing with the Trust, and neither the Registrar of Titles nor any other person registering or certifying title shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be entered into by the Trust, be concerned to see or enquire into the necessity for or the propriety of the exercise by the Trust of its powers or the mode of exercising them or be affected by notice that the exercise of any such power is unauthorized, irregular or improper.

Exoneration from enquiry.

40. The service of any writ, statement of claim, summons or other legal process on the Trust may be effected by serving it on the Moderator, Property Officer of the Synod or on any person appearing to be authorized by the Trust to accept service thereof.

Service of documents.

41. (1) The Trust may—

Trust may act as executor, etc.

- (a) apply for and obtain, or join in applying for and obtaining, probate of the will, or letters of administration of the estate of a deceased person where the Church has a beneficial interest, vested or contingent, in the estate of that person; or
- (b) accept appointment, and act, as trustee or co-trustee under and in pursuance of any trust where the Trust property is not vested in the Trust by, or pursuant to, this Act, and the trust was created wholly or partly for the benefit of the Church,

and may do all things necessary for the exercise or performance of its powers, authorities, duties or functions as executor, administrator or trustee, as the case may be.

(2) On behalf of the Trust, a member of the Trust or a person employed by the Trust may, if authorized by the Trust for the purpose, swear an affidavit, make a declaration or statement, give security and

do any other act or thing that is by any charter, Act or rule of court, required to be done by a person applying for or granted probate or letters of administration, or administering a trust, as the case may be.

(3) The Trust may—

- (a) renounce executorship;
- (b) decline to act as administrator of an estate;
- (c) retire, or decline to act, as trustee of property (not being property vested in it by or pursuant to this Act).

(4) Any commission or other remuneration earned by the Trust as an executor, administrator or trustee appointed under the authority of this section shall belong to the Trust and shall be used and applied by it for or towards any object or purpose specified or approved by the Synod in respect thereof.

Trust
may hold
property
jointly.

42. The Trust may hold or acquire any real or personal property either alone or jointly with another or others as joint tenants or tenants-in-common.

Co-oper-
ative use of
property.

43. (1) Where it has been decided in accordance with the laws of the Church to enter into a scheme of co-operation with or involving a church of another denomination or any congregation or activity of such a church, being a scheme that involves the use of property vested in the Trust, the Trust may, while the scheme of co-operation continues in force—

- (a) permit that property or property subsequently vested in the Trust to be used, managed and administered in connection

with that scheme in such manner and upon such conditions as the Synod or any committee appointed by it for the purpose, determines and the proceeds of sale or mortgage or any other dealing with such property and all moneys collected or held in respect of such scheme of co-operation may be paid and applied in such manner as may be determined by the Synod or such committee;

- (b) join with any such other church or churches in acquiring the absolute or any limited estate or interest in any land or other property required for the purposes of any such scheme and to hold it as co-owner with or otherwise in conjunction with such other church or churches in such manner as may be agreed between it and such other church or churches and to do all such acts and to enter into or complete all such contracts, transfers, leases, deeds or other documents as may be necessary or desirable to give effect to such acquisition; and
- (c) be a member of any association or organisation of churches or church representatives or other body (whether incorporated or unincorporated) the object or one of the objects of which is the acquiring, holding, using, managing or administering of land or other property for the purposes of any such scheme.

(2) The conditions that the Synod may determine or prescribe under subsection (1) of this section include conditions with respect to the making of contributions of money for the acquisition, construction, alteration, maintenance or repair of assets vested in or held on behalf of a co-operating church or congregation and the giving or taking of such

security or charge as may be required by any such scheme of co-operation over any property in respect of any contributions of money or in money's worth made or received pursuant to that scheme and any property of the Trust involved in any scheme is, to the extent provided therein, hereby charged.

(3) Neither the Registrar of Titles nor any person dealing *bona fide* and for value with any property vested in the Trust shall be bound to enquire whether any security or charge referred to in subsection (2) of this section exists or be deemed to have notice thereof or be bound thereby by virtue only of this Act or the existence of any scheme of co-operation under this section and—

- (a) a conveyance, transfer or other assurance to such a person shall operate as a discharge of any security or charge so referred to, in so far as the property conveyed, transferred or assured would, but for this subsection, be subject thereto; and
- (b) a mortgage or charge in favour of such a person shall have priority over any security or charge so referred to that affects the property mortgaged or charged in favour of that person.

Property available for co-operative use.

44. (1) The provisions of section 43 of this Act shall apply to and in relation to all property at any time held by the Trust except to the extent that any such property is held subject to any express trust expressly forbidding its use in any manner referred to in that section.

(2) Subsection (1) of this section shall not prevent the use of property in a manner referred to in section 43 of this Act if the property was merely directed to be held on trust for the worship or purposes of the Church.

Indemnifications of certain persons.

45. A member of the Trust, and any other person, exercising a power or performing a duty in relation to Trust property pursuant to this Act or pursuant

to any resolution or direction of the Assembly or Synod and his executors and administrators, shall be entitled to be indemnified out of trust property against all expenses or liabilities incurred by him in connection with the exercise by him of the power or the performance by him of the duty unless incurred in the course of fraudulent or negligent breach of trust.

46. (1) Where the Trust holds moneys on trust for different purposes or activities it shall be lawful for the Trust from time to time to invest such moneys or any part or parts thereof as one fund and to distribute income arising therefrom rateably among the several purposes for which the moneys so invested are held and any loss arising from any such investment shall likewise be borne rateably.

Blending of
Trust
funds.

(2) (a) The Trust may make advances out of the moneys referred to in subsection (1) of this section for any purpose of or relating to the Church.

(b) Any sum so advanced shall be deemed an investment of such moneys and shall bear interest at a rate fixed by the Trust and the sum advanced and the interest thereon shall be deemed to be a charge on the assets of the Church.

47. The Trust, unless expressly forbidden by any instrument creating any special trust, may invest any funds in its hands, whether at the time in a state of investment or not, in any form of investment authorized by statute or by the Assembly either by itself or by delegation to the Synod.

Powers of
investment.

48. No conveyance or other instrument whereby property is vested in the Trust or in a body corporate pursuant to this Act shall be chargeable with any stamp duty imposed by the Stamp Act, 1921, and no conveyance or other instrument in relation to land so vesting shall be chargeable with fees under the Transfer of Land Act, 1893.

Exemption
from stamp
duty, etc.

SCHEDULE.

Basis of Union.

1. The Congregational Union of Australia, the Methodist Church of Australasia and the Presbyterian Church of Australia, in fellowship with the whole Church Catholic, and seeking to bear witness to that unity which is both Christ's gift and his will for the Church, hereby enter into union under the name of the Uniting Church in Australia. They pray that this act may be to the glory of God the Father, the Son and the Holy Spirit. They praise God for his gifts of grace to each of them in years past; they acknowledge that none of them has responded to God's love with a full obedience; they look for a continuing renewal in which God will use their common worship, witness and service to set forth the word of salvation for all mankind. To this end they declare their readiness to go forward together in sole loyalty to Christ the living Head of the Church; they remain open to constant reform under his Word; and they seek a wider unity in the power of the Holy Spirit. In this union these Churches commit their members to acknowledge one another in love and joy as believers in our Lord Jesus Christ, to hear anew the commission of the Risen Lord to make disciples of all nations, and daily to seek to obey his will. In entering into this union the Churches concerned are mindful that the Church of God is committed to serve the world for which Christ died, and that she awaits with hope the day of the Lord Jesus Christ on which it will be clear that the kingdom of this world has become the kingdom of our Lord and of his Christ, and he shall reign for ever and ever.

2. The Uniting Church lives and works within the faith and unity of the One Holy Catholic and Apostolic Church. She recognises that she is related to other Churches in ways which give expression, however partially, to that unity in faith and mission. Recalling the Ecumenical Councils of the early centuries, she looks forward to a time when the faith will be further elucidated, and the Church's unity expressed, in similar Councils. She thankfully acknowledges that the uniting Churches were members of the World Council of Churches and other ecumenical bodies, and she will seek to maintain such membership. She remembers the special relationship which obtained between the several uniting Churches and other Churches of similar traditions, and will continue to learn from their witness and be strengthened by their fellowship. She is encouraged by the existence of United Churches in which these and other traditions have been incorporated, and wishes to learn from their experience. She believes that Christians in Australia

are called to bear witness to a unity of faith and life in Christ which transcends cultural and economic, national and racial boundaries, and to this end she commits herself to seek special relationships with Churches in Asia and the Pacific. She declares her desire to enter more deeply into the faith and mission of the Church in Australia, by working together and seeking union with other Churches.

3. The Uniting Church acknowledges that the faith and unity of the Holy Catholic and Apostolic Church are built upon the one Lord Jesus Christ. The Church preaches Christ the risen crucified One and confesses him as Lord to the glory of God the Father. In Jesus Christ God was reconciling the world to himself. In love for the world, God gave his Son to take away the world's sin.

Jesus of Nazareth announced the sovereign grace of God whereby the poor in spirit could receive the Father's love. He himself, in his life and death, made the response of humility, obedience and trust which God had long sought in vain. In raising him to live and reign, God confirmed and completed the witness which Jesus bore to him on earth, he reasserted his claim over the whole of his creation, he pardoned sinners, and made in Jesus a representative beginning of a new order of righteousness and love. To God in Christ men are called to respond in faith. To this end God has sent forth his Spirit that men may trust him as their Father, and acknowledge Jesus as Lord. The whole work of man's salvation is effected by the sovereign grace of God alone.

The Church as the fellowship of the Holy Spirit confesses Jesus as Lord over her own life, she also confesses that he is Head over all things, the beginning of a new creation, of a new mankind. God in Christ has given to men in the Church the Holy Spirit as a pledge and foretaste of that coming reconciliation and renewal which is the end in view for the whole creation. The Church's call is to serve that end: to be a fellowship of reconciliation, a body within which the diverse gifts of its members are used for the building up of the whole, an instrument through which Christ may work and bear witness to himself. The Church lives between the time of Christ's death and resurrection and the final consummation of all things which he will bring; she is a pilgrim people, always on the way towards a promised goal; here she does not have a continuing city but seeks one to come. On the way Christ feeds her with Word and Sacraments, and she has the gift of the Spirit in order that she may not lose the way.

4. The Uniting Church acknowledges that the Church is able to live and endure through the changes of history only because her Lord comes, addresses, and deals with men in and through the news of his completed work. Christ who is present when he is preached among men is the Word of the God who acquits the guilty, who gives life to the dead and who brings into being what otherwise could not exist. Through human witness in word and action, and in the power of the Holy Spirit, Christ reaches out to command men's attention and awaken their faith; he calls them into the fellowship of his sufferings, to be the disciples of a crucified Lord; in his own strange way he constitutes, rules and renews them as his Church.

5. The Uniting Church acknowledges that the Church has received the books of the Old and New Testaments as unique prophetic and apostolic testimony, in which she hears the Word of God and by which her faith and obedience are nourished and regulated. When the Church preaches Jesus Christ, her message is controlled by the Biblical witnesses. The Word of God on whom man's salvation depends is to be heard and known from Scripture appropriated in the worshipping and witnessing life of the Church. The Uniting Church lays upon her members the serious duty of reading the Scriptures, commits her ministers to preach from these and to administer the sacraments of Baptism and the Lord's Supper as effective signs of the Gospel set forth in the Scriptures.

6. The Uniting Church acknowledges that Christ has commanded his Church to proclaim the Gospel both in words and in the two visible acts of Baptism and the Lord's Supper. He himself acts in and through everything that the Church does in obedience to his commandment: it is he who by the gift of the Spirit confers upon men the forgiveness, the fellowship, the new life and the freedom which the proclamation and actions promise; and it is he who awakens, purifies and advances in men the faith and hope in which alone such benefits can be accepted.

7. The Uniting Church acknowledges that Christ incorporates men into his body by Baptism. In this way he enables them to participate in his own baptism, which was accomplished once on behalf of all in his death and burial, and which was made available to all when, risen and ascended, he poured out the Holy Spirit at Pentecost. Baptism into Christ's body initiates men into his life and mission in the world, so that they are united in one fellowship of love, service, suffering and joy, in one family of the Father of all in heaven and earth, and in the power of the one Spirit. The Uniting Church will baptize those

who confess the Christian faith, and children who are presented for baptism and for whose instruction and nourishment in the faith the Church takes responsibility.

8. The Uniting Church acknowledges that Christ signifies and seals his continuing presence with his people in the Lord's Supper or the Holy Communion, constantly repeated in the life of the Church. In this sacrament of his broken body and outpoured blood the risen Lord feeds his baptized people on their way to the final inheritance of the Kingdom. Thus the people of God, through faith and the gift and power of the Holy Spirit, have communion with their Saviour, make their sacrifice of praise and thanksgiving, proclaim the Lord's death, grow together into Christ, are strengthened for their participation in the mission of Christ in the world, and rejoice in the foretaste of the Kingdom which he will bring to consummation.

9. The Uniting Church enters into unity with the Church throughout the ages by her use of the confessions known as the Apostles' Creed and the Nicene Creed. She receives these as authoritative statements of the Catholic Faith, framed in the language of their day and used by Christians in many days, to declare and to guard the right understanding of that faith. She commits her ministers and instructors to careful study of these creeds and to the discipline of interpreting their teaching in a later age. She commends to ministers and congregations their use for instruction in the faith, and their use in worship as acts of allegiance to the Holy Trinity.

10. The Uniting Church continues to learn of the teaching of the Holy Scriptures in the obedience and freedom of faith, and in the power of the promised gift of the Holy Spirit, from the witness of reformation fathers as expressed in various ways in the Scots Confession of Faith (1560), the Heidelberg Catechism (1563), the Westminster Confession of Faith (1647), and the Savoy Declaration (1658). In like manner she will listen to the preaching of John Wesley in his *Forty-Four Sermons* (1793). She will commit her ministers and instructors to study these statements, so that the congregation of Christ's people may again and again be reminded of the grace which justifies them through faith, of the centrality of the person and work of Christ the justifier, and of the need for a constant appeal to Holy Scripture.

11. The Uniting Church acknowledges that God has never left his Church without faithful and scholarly interpreters of Scripture, or without those who have reflected deeply

upon, and acted trustingly in obedience to, his living Word. In particular she enters into the inheritance of literary, historical and scientific enquiry which has characterised recent centuries, and thanks God for the knowledge of his ways with men which are open to and informed faith. She lives within a world-wide fellowship of Churches in which she will learn to sharpen her understanding of the will and purpose of God by contact with contemporary thought. Within that fellowship she also stands in relation to contemporary societies in ways which will help her to understand her own nature and mission. She thanks God for the continuing witness and service of evangelist, of scholar, of prophet and of martyr. She prays that she may be ready when occasion demands to confess her Lord in fresh words and deeds.

12. The Uniting Church recognises and accepts as her members all who are recognised as members of the uniting Churches at the time of union. Thereafter membership is open to all who are baptized into the Holy Catholic Church in the name of the Father and of the Son and of the Holy Spirit. The Uniting Church will seek ways in which the baptized may have confirmed to them the promises of God, and be led to deeper commitment to the faith and service into which they have been baptized. To this end she commits herself to undertake, with other Christians, to explore and develop the relation of baptism to confirmation and to participation in the Holy Communion.

13. The Uniting Church affirms that every member of the Church is engaged to confess the faith of Christ crucified and to be his faithful servant. She acknowledges with thanksgiving that the one Spirit has endowed the members of his Church with a diversity of gifts, and that there is no gift without its corresponding service: all ministries have a part in the ministry of Christ. The Uniting Church, at the time of union, will recognise and accept the ministries of those who have been called to any task or responsibility in the uniting Churches. The Uniting Church will thereafter provide for the exercise by men and women of the gifts God bestows upon them, and will order her life in response to his call to enter more fully into her mission.

14. The Uniting Church, from inception, will seek the guidance of the Holy Spirit to recognise among her members men and women called of God to preach the Gospel, to lead the people in worship, to care for the flock, to share in government and to serve those in need in the world.

To this end:

- (a) The Uniting Church recognises and accepts as ministers of the Word all who have held such office in any of the uniting Churches, and who,

being in good standing in one of those Churches at the time of union, adhere to the Basis of Union. This adherence and acceptance may take place at the time of union or at a later date. Since the Church lives by the power of the Word, she is assured that God, who has never left himself without witness to that Word, will, through Christ and in the power of the Holy Spirit, call and set apart members of the Church to be ministers of the Word. These will preach the Gospel, administer the sacraments and exercise pastoral care so that all may be equipped for their particular ministries, thus maintaining the apostolic witness to Christ in the Church. Such members will be called Ministers and their setting apart will be known as Ordination.

The Presbytery will ordain by prayer and the laying on of hands in the presence of a worshipping congregation. In this act of ordination the Church praises the ascended Christ for conferring gifts upon men. She recognises his call of the individual to be his minister; she prays for the enabling power of the Holy Spirit to equip him for that service. By the participation in the act of ordination of those already ordained, the Church bears witness to God's faithfulness and declares the hope by which she lives. In company with other Christians the Uniting Church will seek for a renewed understanding of the way in which the congregation participates in ordination and of the significance of ordination in the life of the Church.

- (b) The Uniting Church recognises and accepts as elders or leaders those who at the time of union hold the office of elder, deacon or leader appointed to exercise spiritual oversight, and who, being in good standing in any of the uniting Churches at the time of union, adhere to the Basis of Union. She will seek to recognise in the congregation those endowed by the Spirit with gifts fitting them for rule and oversight. Such members will be called Elders or Leaders.
- (c) The Uniting Church recognises and accepts as deaconesses those who at the time of union are deaconesses in good standing in any of the uniting Churches and who adhere to the Basis of Union. She believes that the Holy Spirit

will continue to call women to share in this way in the varied services and witness of the Church, and she will make provision for this. Such members will be called Deaconesses.

The Uniting Church recognises that at the time of union many seek a renewal of the diaconate in which men and women offer their time and talents, representatively and on behalf of God's people, in the service of mankind in the face of changing needs. She will so order her life that she remains open to the possibility that God may call men and women into such a renewed diaconate: in these circumstances she may decide to call them Deacons and Deaconesses, whether the service is within or beyond the life of the congregation.

- (d) The Uniting Church recognises and accepts as lay preachers those who at the time of union are accredited lay preachers (local preachers) in any of the uniting Churches and who adhere to the Basis of Union. She will seek to recognise those endowed with the gift of the Spirit for this task, will provide for their training, and will gladly wait upon that fuller understanding of the obedience of the Christian man which should flow from their ministry. Such members will be called Lay Preachers.

In the above sub-paragraphs the phrase "adhere to the Basis of Union" is understood as willingness to live and work within the faith and unity of the One Holy Catholic and Apostolic Church as that way is described in this Basis. Such adherence allows for difference of opinion in matters which do not enter into the substance of the faith.

The Uniting Church recognises that the type and duration of ministries to which men and women are called vary from time to time and place to place, and that in particular she comes into being in a period of reconsideration of traditional forms of the ministry, and of renewed participation of all the people of God in the preaching of the Word, the administration of the sacraments, the building up of the fellowship in mutual love, in commitment to Christ's mission, and in service of the world for which he died.

15. The Uniting Church recognises that responsibility for government in the Church belongs to the people of God by virtue of the gifts and tasks which God has laid upon

them. The Uniting Church therefore so organises her life that locally, regionally and nationally government will be entrusted to representatives, men and women, bearing the gifts and graces with which God has endowed them for the building up of his Church. The Uniting Church is governed by a series of inter-related councils, each of which has its tasks and responsibilities in relation both to the Church and the world.

The Uniting Church acknowledges that Christ alone is supreme in his Church, and that he may speak to her through any of her councils. It is the task of every council to wait upon God's Word, and to obey his will in the matters allocated to its oversight. Each council will recognise the limits of its own authority and give heed to other councils of the Church, so that the whole body of believers may be united by mutual submission in the service of the Gospel.

To this end the Uniting Church makes provision in her constitution for the following:

- (a) The Congregation is the embodiment in one place of the One Holy Catholic and Apostolic Church, worshipping, witnessing and serving as a fellowship of the Spirit in Christ. Its members meet regularly to hear God's Word, to celebrate the sacraments, to build one another up in love, to share in the wider responsibilities of the Church, and to serve the world. The congregation will recognise the need for a diversity of agencies for the better ordering of her life in such matters as education, administration and finance.
- (b) The Elders' or Leaders' Meeting (the council within a congregation or group of congregations) consists of the minister and those who are called to share with him in oversight. It is responsible for building up the congregation in faith and love, sustaining its members in hope, and leading them into a fuller participation in Christ's mission in the world.
- (c) The Presbytery (the district council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority of elders/leaders and Church members being appointed by Elders'/Leaders' Meetings and/or congregations, on a basis determined by the Synod. Its function is to perform all the acts of oversight necessary to the life and mission of the Church in the area for which it is responsible, except over those agencies which are directly responsible to the Synod or

Assembly. It will in particular exercise oversight over the congregations within its bounds, encouraging them to strengthen one another's faith, to bear one another's burdens, and exhorting them to fulfil their high calling in Christ Jesus. It will promote those wider aspects of the work of the Church committed to it by the Synod or Assembly.

- (d) The Synod (the regional council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority being appointed by Presbyteries, Elders'/Leaders' Meetings or congregations, on a basis determined by the Assembly. It has responsibility for the general oversight, direction and administration of the Church's worship, witness and service in the region allotted to it, with such powers and authorities as may from time to time be determined by the Assembly.
- (e) The Assembly (the national council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority being appointed by the Presbyteries and Synods. It has determining responsibility for matters of doctrine, worship, government and discipline, including the promotion of the Church's mission, the establishment of standards of theological training and reception of ministers from other communions, and the taking of further measures towards the wider union of the Church. It makes the guiding decisions on the tasks and authority to be exercised by other councils. It is obligatory for it to seek the concurrence of other councils, and on occasion of the congregations of the Church, on matters of vital importance to the life of the Church.

The first Assembly, however, will consist of members of the uniting Churches, appointed in equal numbers by them in such manner as they may determine, and is vested with such powers as may be necessary to establish the Uniting Church according to the provisions of the Basis of Union.

Until such time as councils other than the Assembly can be established, the Uniting Church recognises and accepts the various agencies for the discharge of responsibility which are in existence in the uniting Churches. She invites any such continuing bodies immediately to enter into a period of self-examination in which members are asked

to consider afresh their common commitment to the Church's mission and their demonstration of her unity. She prays that God will enable them to order their lives for these purposes.

16. The Uniting Church recognises the responsibility and freedom which belong to councils to acknowledge gifts among members for the fulfilment of particular functions. She sees in pastoral care exercised personally on behalf of the Church an expression of the fact that God always deals with men personally: he would have his fatherly care known among men; he would have individual members take upon themselves the form of a servant.

17. The Uniting Church acknowledges that the demand of the Gospel, the response of the Church to the Gospel, and the discipline which it requires are partly expressed in the formulation by the Church of her law. The aim of such law is to confess God's will for the life of his Church; but since law is received by man and framed by him, it is always subject to revision in order that it may better serve the Gospel. The Uniting Church will keep her law under constant review so that her life may increasingly be directed to the service of God and man, and her worship to a true and faithful setting forth of, and response to, the Gospel of Christ. The law of the Church will speak of the free obedience of the children of God, and will look to the final reconciliation of mankind under God's sovereign grace.

18. The Uniting Church affirms that she belongs to the people of God on the way to the promised end. She prays God that, through the gift of the Spirit, he will constantly correct that which is erroneous in her life, will bring her into deeper unity with other Churches, and will use her worship, witness and service to his eternal glory through Jesus Christ the Lord. Amen.
