

ACTS AMENDMENT (ROMAN CATHOLIC CHURCH LANDS).

No. 67 of 1972.

AN ACT to amend certain Acts relating to Lands of, and other matters in connection with, the Roman Catholic Church in the State.

[Assented to 16th November, 1972.]

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 *Acts Amendment (Roman Catholic Church Lands) Act, 1972.* Short title.

PART I.—ROMAN CATHOLIC CHURCH LANDS AMENDMENT ACT, 1902.

2. (1) In this Part the Roman Catholic Church Lands Amendment Act, 1902, is referred to as the principal Act. Short title and citation.

(2) The principal Act as amended by this Act may be cited as the Roman Catholic Church Lands Amendment Act, 1902-1972.

Amendment
to section 3.
(Lands in
any new
diocese to
vest in
the bishop
thereof.)

3. Section 3 of the principal Act is amended—

- (a) by adding after the section number “3.” the subsection designation “(1)”;
- (b) by adding after the passage “thereof,” in line two the passage “or an alteration of the boundaries of any diocese by adding an area thereto, whether the alteration is made before or after the coming into operation of the Acts Amendment (Roman Catholic Church Lands) Act, 1972,”;
- (c) by adding after the word “diocese” in line four the words “or within the area added to a diocese”;
- (d) by adding after the word “office” in line six the words “or in the bishop of the diocese to which the area has been added and his successors in office”; and
- (e) by adding a subsection as follows—

(2) Where a question arises as to the diocese in which any buildings, land and premises belonging to the Roman Catholic Church are situated, a certificate under the hand and seal of The Roman Catholic Archbishop of Perth certifying that the buildings, land or premises are situate in the diocese specified in the certificate shall for the purposes of this Act be conclusive evidence of the fact.

PART II.—ROMAN CATHOLIC CHURCH PROPERTY
ACT, 1911.

Short title
and
citation.

4. (1) In this Part the Roman Catholic Church Property Act, 1911, is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Roman Catholic Church Property Act, 1911-1972.

5. Section 4 of the principal Act is amended—
- (a) by adding after the section number “4.” the subsection designation “(1)”;
 - (b) by substituting for the passage “The Roman Catholic Bishop of Perth” in lines three and four the passage “The Roman Catholic Archbishop of Perth”; and
 - (c) by adding a subsection as follows—

(2) The said Bishop shall have an official seal and all courts, judges and persons acting judicially shall take notice of that official seal affixed to a document and shall presume that it was duly affixed.

Amendment to section 4. (Bishop to be corporation sole.)

6. Sections 5, 6, 7, 8 and 9 of the principal Act are repealed.

Repeal of sections 5, 6, 7, 8 and 9.

7. Section 10 of the principal Act is repealed and re-enacted as follows—

Section 10 repealed and re-enacted. (Execution of documents.)

10. All documents required to be executed by the said Bishop for the purpose of giving effect to any transaction or dealing with property shall be signed by the said Bishop and his official seal shall be affixed thereto.

8. The principal Act is amended by adding after section 11 a section as follows—

Addition of section 12.

12. On the coming into operation of the Acts Amendment (Roman Catholic Church Lands) Act, 1972, all land vested, by this Act or otherwise, in “The Roman Catholic Bishop of Perth” shall vest in “The Roman Catholic Archbishop of Perth” without the necessity of any change of name to that effect in the Register Book kept under the Transfer of Land Act, 1893 or in the Book of Registry kept under the Registration of Deeds Ordinance, 1856, as the case may be.

Corporate name on land records.

PART III.—ROMAN CATHOLIC CHURCH PROPERTY
ACT AMENDMENT ACT, 1912.

Short title
and
citation.

9. (1) In this Part the Roman Catholic Church Property Act Amendment Act, 1912, is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Roman Catholic Church Property Act Amendment Act, 1912-1972.

Amendment
to section 2.
(Power to
appoint
attorneys.)

10. Section 2 of the principal Act is amended—

- (a) by substituting for the words “Vicar General” in line three the words “Vicar Capitular”;
- (b) by adding after the word “Perth” in line three the words “duly elected by the consultors of the said Diocese”; and
- (c) by deleting the passage “subject to the provisions of sections six and seven of the principal Act,” in lines eight and nine.

Amendment
to section 3.
(Power to
appoint an
adminis-
trator to
act from
the death
of Bishop
until
appoint-
ment of
successor.)

11. Section 3 of the principal Act is amended—

- (a) by adding after the section number “3.” the subsection designation “(1)”;
- (b) by substituting for the word “General” in line two the word “Capitular”;
- (c) by deleting the passage “, subject to the provisions of sections six and seven of the principal Act,” in lines seven and eight; and
- (d) by adding a subsection as follows—

(2) When the Roman Catholic Archbishop of Perth fails to make any such appointment the Vicar Capitular shall be deemed to have been so appointed and he may exercise the powers and perform the duties referred to in subsection (1) of this section in accordance therewith. .

PART IV.—ROMAN CATHOLIC CHURCH PROPERTY
ACTS AMENDMENT ACT, 1916.

12. (1) In this Part the Roman Catholic Church Property Acts Amendment Act, 1916, is referred to as the principal Act. Short title and citation.

(2) The principal Act as amended by this Act may be cited as the Roman Catholic Church Property Acts Amendment Act, 1916-1972.

13. Section 3 of the principal Act is amended by substituting for the passage "The Roman Catholic Bishop of Perth" in lines seven and eight the passage "The Roman Catholic Archbishop of Perth". Amendment to section 3. (Powers vested in the Roman Catholic Bishop of Perth to be exercised by Archbishop.)

14. Section 4 of the principal Act is repealed and re-enacted as follows— Section 4 repealed and re-enacted. (Power to sell, lease, and mortgage lands.)

4. (1) Notwithstanding anything contained in the Acts mentioned in The Schedule to this Act, The Archbishop of the Archdiocese of Perth in his corporate name of "The Roman Catholic Archbishop of Perth" may, subject to this section, acquire, hold and dispose of real and personal property as if he were a natural person beneficially entitled to such property.

(2) Without limiting the generality of subsection (1) of this section The Archbishop of the Archdiocese of Perth in his corporate name may—

- (a) purchase or acquire by exchange or in any other manner and whether subject to or free from any conditions, any interest in any property;
- (b) sell, give, exchange, lease or dispose of in any other manner whether subject to, or free from, any condition, any interest in any property;

- (c) mortgage whether legally or equitably, or otherwise encumber in any manner any interest in any property whether or not the property is vested in him upon any trust or otherwise, by way of security for—
 - (i) the advance of moneys to be used for any purpose; or
 - (ii) the performance of any other obligation undertaken by him in his corporate name,including the granting of any fixed or floating legal or equitable charge over any or all of such property;
- (d) covenant or agree to pay any money or to perform any other obligation or guarantee the payment of money or the performance of any other obligation without giving security in respect thereof;
- (e) enter alone or with another or others into any partnership, syndicate, joint venture or other transaction whether for the purpose of profit or otherwise;
- (f) become a member of a company whether incorporated in the State or otherwise, or any other body corporate and may become or nominate a director or any officer of such a company or other body corporate;
- (g) compound, release or settle claims by or against him in his corporate name, whether in contract or tort, including agreeing the amount of any compensation payable in respect of the compulsory acquisition under the Public Works Act, 1902, or otherwise of any property vested in him in his corporate name, or agreeing to exchange any such property in lieu of such compensation or part thereof.

(3) Any land mortgaged or otherwise encumbered pursuant to paragraph (c) of subsection (2) of this section shall, if such land is sold, or if the mortgagee or encumbrancee exercises his power of foreclosure pursuant to the mortgage or encumbrance, be freed and absolutely discharged from the trusts upon which the land may, for the time being, be held by the Archbishop.

(4) None of the powers conferred by paragraphs (a), (b) or (c) of subsection (2) of this section shall be exercised in respect of any lands which have been granted by the Crown to or for the use of the Roman Catholic Church and which are vested in the Archbishop, except with the prior approval of the Governor.

(5) Subject to subsection (4) of this section, no purchaser, mortgagee or lessee of any such lands shall be bound or concerned to inquire whether any power of sale, mortgage, or lease was duly and regularly made or exercised, or in anywise to see to the application of any purchase, mortgage or other moneys, or to inquire into the necessity, regularity, or propriety of the sale, mortgage, or lease, or be affected by notice that it is irregular, unnecessary or improper. .
