

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. 21, 1917.

An Act to consolidate and amend the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of the said dioceses with reference to the said property; and for other purposes. [Assented to, 7th November, 1917.]

WHEREAS the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of

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of the dioceses with reference to the said property are numerous, ambiguous, and discursive, and it is therefore expedient to consolidate and amend the same: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and Parts.

1. This Act may be cited as the "Church of England Trust Property Act, 1917," and is divided into Parts as follows:—

PART I.—REPEAL AND AMENDMENT—ss. 2, 3.

PART II.—INTERPRETATION—s. 4.

PART III.—TRUSTEES CONSTITUTION AND SUCCESSION—ss. 5-18.

PART IV.—VESTING TRUST PROPERTY—ss. 19-23.

PART V.—MANAGEMENT AND INVESTMENT OF TRUST PROPERTY—ss. 24, 25.

PART VI.—SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST PROPERTY—ss. 26-31.

PART VII.—VARIATION OF TRUSTS—s. 32.

PART VIII.—EVIDENCE—ss. 33-36.

PART IX.—GENERAL—ss. 37-43.

PART I.

REPEAL AND AMENDMENT.

Repeal,

2. (1) The Acts mentioned in the Schedule to this Act are hereby repealed, but notwithstanding the said repeal the said Acts shall continue to apply as if unrepealed to the Diocese of Newcastle and to all the trust property matters and things of or pertaining to the said diocese until the synod of the said diocese shall

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shall make an ordinance declaring a desire to have the benefit of this Act, and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette, and immediately upon such notification and thenceforth the provisions of this Act shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

(2) The said repeal shall not affect ordinances passed, trustees constituted as bodies politic and corporate, persons elected or appointed trustees or members of bodies politic and corporate, property vested, acts and things validated, or certificates given under the said Acts, or any of them.

(3) Except so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the said repealed Acts, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of the said repealed Acts as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

3. (1) Sections five and seven of the Church of England Constitutions Act Amendment Act of 1902 and clauses three and six of the Schedule to the said Act and all Acts and parts of Acts relating to church trust property shall, so far as may be necessary for the purposes of this Act, be read as amended and supplemented by this Act.

(2) In the case of the Diocese of Sydney the following subsections shall apply:—

(a) The present members of the council referred to in Saint James' School Compensation Trust Act, assented to the twenty-seventh day of August, one thousand eight hundred and eighty-six, and such persons as shall from time to time be members of the said council, including the Archbishop of Sydney for the time being as ex officio president, shall be and they are hereby constituted a body politic and corporate by the name of "Sydney Church of England

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England Grammar School Council," and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise, any real or personal property, and for any estate or interest therein.

(b) All property real and personal which immediately before the passing of this Act was vested in any person or persons other than the Church of England Property Trust Diocese of Sydney upon any trust for the purposes of the school referred to in the said Saint James' School Compensation Trust Act shall by virtue of this Act and without any other instrument vest in the said body constituted by subsection (a) upon the same trusts respectively for the purposes of the said school upon which the said property was held immediately before the passing of this Act, and it shall be lawful for the Church of England Property Trust Diocese of Sydney by deed or deeds under its corporate seal to assign and transfer to the said body constituted by subsection (a) at one time or from time to time all or any part or parts of other real and personal property now or hereafter to be held by the said church property trust upon any trust for the purposes of the said school.

(c) This Act shall be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School, or The King's School Council Act, or The King's School Council Act Amendment Act of 1894.

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PART II.

INTERPRETATION.

4. In this Act unless inconsistent with the context Definitions.
or subject matter—

“Bishop” includes Archbishop and the Bishop or Archbishop for the time being.

“Church of England” means Church of England within New South Wales.

“Church trust property” includes all or any part of any real and personal property which may for the time being be subject to any trust whether by dedication, consecration, trust instrument, or otherwise, for or for the use, benefit, or purposes of the Church of England in any diocese, and each such diocese is referred to as the diocese for which the church trust property in question is held.

“Corporate trustees” and “Corporate body of trustees” respectively include corporate bodies of trustees now or hereafter to be constituted for any diocese under the provisions of the Church of England Trust Property Incorporation Act, 1881, hereby repealed or of this Act.

“Diocese” includes any diocese now or hereafter to be formed and situated within New South Wales, and the identity of a diocese shall be deemed not to be affected by the formation wholly or partly thereof of a new diocese nor by any other alteration of boundaries or area nor by any change of name.

“Parish” includes any parish or ecclesiastical district now or hereafter to be formed and situated within New South Wales.

“Parish council” means the body of persons, if any, in which the general powers of governing the affairs of a parish are for the time being vested under the provisions of any ordinance of the synod of a diocese.

“Person”

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"Person" includes corporate trustees and a bishop.

"Purposes" includes religious, educational, cemetery, and all other purposes of the Church of England, whether such purposes are within or beyond the diocese or the State.

"Standing committee" includes any general governing council of a diocese created by or under the authority of its synod.

"Synod" includes any synod now or hereafter to be convened or held in pursuance of the provisions of the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same.

"Trust instrument" includes ordinances of synod and Acts of Parliament, though not expressly mentioned herein.

"Trustee," "new trustee," respectively, include corporate trustees and a bishop.

PART III.

TRUSTEES CONSTITUTION AND SUCCESSION.

5. The following bodies, that is to say—

Church of England Property Trust Diocese of Sydney;

Church of England Property Trust Diocese of Goulburn;

The Corporate Trustees of the Diocese of Grafton and Armidale;

Church of England Property Trust Diocese of Bathurst;

Trustees of the Church Property for the Diocese of Riverina;

The Corporate Trustees of the Diocese of Grafton, are hereby declared to have been duly constituted as bodies politic and corporate by the said names respectively, under the provisions of the Church of England Trust

Existing
corporate
bodies.

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Trust Property Incorporation Act, 1881, and notwithstanding the repeal of the said Act they shall remain so constituted as aforesaid, and, except so far as there is anything in this Act inconsistent therewith, this Act shall apply to them as if this Act had been in force at the time they were constituted and they were constituted hereunder.

The bishop of a diocese shall ex officio be a member of the corporate body so constituted as aforesaid for such diocese, and the number of members shall be increased by one for the said purpose.

6. The synod of each diocese, other than the dioceses for which the said bodies in the preceding section mentioned were and remain so constituted as aforesaid, may at any time elect such persons as such synod desires, should together with the bishop of the diocese, ex officio, be incorporated as trustees for such diocese, and the bishop of such diocese shall notify such election in the Gazette, and immediately upon such notification and thenceforth the said persons and such persons as may from time to time be members of such body, together with the bishop of the diocese, ex officio, shall be and they are hereby constituted a body politic and corporate, by the name of incorporation mentioned in such notification, and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise any real or personal property, and for any estate or interest therein.

New
corporate
bodies.

7. The members for the time being of each corporate body of trustees shall have the custody of the common seal of such corporate body, and the form of such seal and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

Common seal
and quorum.

8. Any deed or instrument, executed or signed, and any other act, matter, or thing done by any three members of any such corporate body as aforesaid, in pursuance of a resolution of the said corporate body and under

Authority of
members of
corporate
bodies.

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under the common seal of the said corporate body, shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

Variation by
synod.

9. It shall be lawful for the synod of a diocese from time to time, by ordinance, to vary the provisions of sections seven and eight, in so far as the same relate to such diocese, and the said provisions shall, with reference to the said diocese and to all the church trust property matters and things of or held for or pertaining to the said diocese, be read from time to time as so varied by ordinance as aforesaid.

Change of
name.

10. It shall be lawful for the synod of a diocese from time to time, by ordinance, to change the name of the corporate body of trustees constituted for such diocese.

Alteration of
number of
members of
corporate
body.

11. It shall be lawful for the synod of a diocese from time to time, by ordinance, to declare what shall be the number of members of the corporate body of trustees constituted for such diocese, and in case of increase in the number such increase shall be effected by the synod of such diocese electing an additional member, or additional members, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

Vacancies in
membership
of corporate
bodies.

12. It shall be lawful for the synod of a diocese from time to time, by resolution, to declare the existence of a vacancy, or vacancies, in the office of member of the corporate body of trustees of such diocese by reason of one or more of the members for the time being of such corporate body having died, resigned office, refused or neglected or having become incapable to act in the said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect a person or persons to be, and such person or persons shall thereupon become a member or members of the said body in the place or places of the member or members referred to in the said resolution.

13.

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13. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time, by ordinance, to declare what shall be the number of trustees of such property, and in case of increase in the number such increase shall be effected by the synod of such diocese electing a new trustee, or new trustees, by way of addition, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act. Alteration of number of trustees.

14. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time by resolution to declare the existence of a vacancy or vacancies in the office of trustee of such property, by reason of one or more of the trustees having died, resigned office, refused or neglected, or having become incapable to act in the said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect or by resolution provide for the election of a person or persons to be, and such person or persons shall upon such election become a trustee or trustees in the place or places of the trustee or trustees referred to in the said resolution. Vacancies in office of trustee.

15. It shall be lawful for the synod of a diocese to elect a new trustee or new trustees respectively for church trust property, which may be allocated under the provisions of this Act for such diocese. New trustees for allocated property.

16. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held by ordinance to provide for the election of separate trustees for any part or parts of such property, and to elect such separate trustees. Separate trustees.

17. The provisions contained in section fourteen are in addition to any other provision for the time being applicable to any church trust property. Provision cumulative.

18. Every person for the time being acting and recognised as being the bishop of a diocese, and having been Bishops.

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been consecrated according to the manner and form prescribed and used by the Church of England, shall in the construction of all Statutes, Acts, grants, deeds, and other instruments be deemed to be and shall be the successor of the bishop of such diocese, notwithstanding that such bishop may not have been appointed under letters patent from the Crown, or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration, and shall in all respects within such diocese have and enjoy all and singular the same rights, powers, and privileges, whether created by Statute, Act, grant, deed, or other instrument whatsoever as were enjoyed or possessed therein by the bishops his predecessors, and in the case of the diocese of Sydney the Most Reverend John Charles Wright, D.D., the present Archbishop, and all other persons for the time being acting and recognised and consecrated as aforesaid, shall in the construction of such instruments as aforesaid be deemed to be and shall be the successors from time to time of the Bishop of Australia and the Bishop of Sydney.

PART IV.

VESTING TRUST PROPERTY.

In corporate
trustees by
consent.

19. Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law become vested in the corporate trustees of such diocese: Provided that if in consequence of death or disability the consent of any trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

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20. All church trust property which may at any time belong to or be vested in the bishop of a diocese shall by force of this Act vest from time to time in the person who for the time being is or is deemed to be the successor of the bishop of such diocese as if such property had belonged or had been originally granted or conveyed to the bishop of such diocese and his successors as a body corporate, and notwithstanding that such person may not have been appointed bishop of such diocese under letters patent from the Crown or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration.

Property
vested in
bishops.

21. Upon the election or appointment of a new trustee or new trustees under the provisions of this Act or of any ordinance in force for the time being in any diocese, all the church trust property in respect of which such election or appointment is made shall by virtue of such election or appointment and without other assurance in the law become vested in such new trustee or trustees, either alone or jointly with the surviving or continuing trustee or trustees as the case may require, and every new trustee so elected or appointed as aforesaid shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Property
vested in
new trustee.

22. In each case where, by reason of the formation or proposed formation of a new diocese, or the alteration or proposed alteration of the boundaries or area of a diocese or otherwise, it shall seem expedient to the synod of a diocese for which any church trust property is for the time being held, it shall be lawful for the synod of such diocese by ordinance to allocate such church trust property for any other diocese or proposed diocese, and by virtue of such ordinance and without other assurance in the law such church trust property shall, from the times respectively in such ordinance provided, be held for such other diocese or proposed diocese instead of the diocese making such ordinance and be vested in the new trustee or new trustees respectively then or thereafter to be elected for such church trust property under the provisions

In case of
new dioceses,
&c.

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provisions of this Act, in the place of the trustee or trustees thereof for the time being, and upon the trusts to which the same shall for the time being be subject, but for or for the use, benefit, or purposes of the Church of England in the diocese or proposed diocese for which the same shall have been so allocated as aforesaid in the place of the diocese making such ordinance.

Property
vested in
separate
trustees.

23. Upon the election of separate trustees under the provisions of any ordinance in force for the time being in a diocese, the church trust property mentioned in such ordinance shall, by virtue of such election and without other assurance in the law become vested in such separate trustees in the place of the trustees thereof for the time being, and the said separate trustees shall, with respect to such church trust property, have the same powers, authorities, and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust.

PART V.

MANAGEMENT AND INVESTMENT OF TRUST PROPERTY.

Management.

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding.

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25. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for the investment of such property, and for the pooling of separate church trust properties for the purpose of investment, and for averaging gains, losses, and interests, and for all other matters and things incidental to such investment and pooling. Investment.

PART VI.

SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST PROPERTY.

26. It shall be lawful for the synod of the diocese for which any church trust property is for the time being held if it shall appear to such synod expedient by reason of circumstances subsequent to the creation of the trusts of such property by ordinance to direct that such property be sold, exchanged, mortgaged, or let on mining, building, occupation, or other leases, or otherwise dealt with in manner provided by such ordinance, and to provide for accepting the surrender of any lease thereof and for laying out and dedicating parts thereof for any purpose or purposes, and to provide for the application of the real and personal property arising from any such sale, exchange, mortgage, letting, or other dealing as aforesaid: Provided that in the cases of the dioceses of Sydney and Goulburn no such ordinance in respect of property held for the sole benefit of some particular parish shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same, without the consent in writing of a majority of the members of the parish council (if any) for the time being of the parish, and in the case of property gratuitously granted or assured within twenty years preceding the time being by any private donor without the like consent of such donor if living. Synod may direct sales, &c.

27.

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Deeds of conveyance, &c.

27. It shall be lawful for the synod of a diocese by ordinance to direct what person or persons shall execute the deed or deeds or other instrument or instruments, and do all acts, measures, and things necessary for the purpose of carrying into effect the sale, exchange, mortgage, lease, or other dealing directed by ordinance of the synod of such diocese under the provisions of this Act, and the deed or deeds, or other instrument or instruments executed, and the acts, measures, and things done by such person or persons shall take effect as if the trust instrument relating to the church trust property comprised in the said ordinance had contained a power enabling such person or persons to effect such sale, exchange, mortgage, lease, or other dealing, and so as to operate, if necessary, by way of revocation and appointment of the use or otherwise as the said ordinance shall direct.

Power of corporate trustees to let in certain cases.

28. A corporate body of trustees may let the church trust property vested in such body on lease for such term or terms as shall from time to time be approved of by the synod of the diocese for which such corporate body is constituted, or if the synod be not in session then as shall be approved of by the standing committee of such diocese: Provided, however, that until the first session of such synod after this Act comes into force in such diocese such corporate body may let such church trust property for any term of years not exceeding seven.

Protection of purchasers, &c.

29. No purchaser, mortgagee, lessee, or other person, or the Registrar-General, upon any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act, shall be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the same, nor be affected by notice that the exercise of the power is unauthorised, irregular, or improper, nor be concerned to see to the application or disposition of any purchase, mortgage, or other money or rent paid by him.

Discharge for purchase moneys, &c.

30. The moneys (if any) arising from any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act shall be paid to the trustee or trustees in whom the property,

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property, the subject matter of such sale, exchange, mortgage, lease, or other dealing immediately theretofore vested, or to such other person or persons as the ordinance (if any) directing such sale, exchange, mortgage, lease, or other dealing may provide. And the receipt of the said trustee or trustees, or other person or persons, as the case may be, shall be an effectual discharge therefor.

31. Pending the application of any moneys to arise as aforesaid, the same may, after payment thereof of all proper costs, charges, and expenses, be invested in Government or real securities in New South Wales or in the Commonwealth of Australia, or on fixed deposit in any bank, or otherwise as the ordinance directing such dealing, or any ordinance of the synod of the said diocese in force for the time being and applicable thereto may provide. Temporary investments.

PART VII.

VARIATION OF TRUSTS.

32. In each case where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England Power of synod to vary trusts, &c.

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England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

PART VIII.

EVIDENCE.

Membership
of corporate
bodies.

33. A certificate signed by the bishop of a diocese for which there is for the time being a corporate body of trustees shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the church trust property therein referred to, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted members of such corporate body of trustees and that they became such members at the date or respective dates mentioned in such certificate.

Trusteeship.

34. A certificate signed by the bishop of a diocese for which any church trust property in such certificate referred to is for the time being held shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring
or

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or possessing any estate or interest in such property, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted trustees of such property, and that they became such trustees at the date or respective dates and in the manner mentioned in such certificate, and in the case of lands under the operation of the Real Property Act, 1900, or any Act amending or taking the place of the same shall entitle such trustees to be registered as the proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer.

35. A document purporting to be a copy ordinance certified and recorded in accordance with this Act or any Act repealed by this Act or a certified or office copy thereof shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing or otherwise acquiring or possessing any estate or interest in the property therein referred to shall be conclusive evidence that an ordinance in terms of such copy was duly made and assented to, and that all necessary consents and directions were duly given, and that all proceedings in connection therewith were regular and in due form, and that such ordinance was not repealed or amended except, if at all, by such ordinance or ordinances as shall for the time being be certified and recorded in accordance with this Act or any such repealed Act. Making of ordinances.

36. A copy of the Gazette containing a notification purporting to be published in pursuance of the provisions or any of the provisions of this Act, or any Act repealed by this Act, shall be prima facie evidence of the matters therein notified and the notification of which is authorised by this Act or any such repealed Act. Notification in Gazette.

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PART IX.

GENERAL.

Repeal or
amendment
of ordinances.

37. Subject and without prejudice to any past operation of any ordinance made or to be made under the provisions of this Act or any Act hereby repealed, and subject and without prejudice to any estate, right, privilege, obligation, or liability vested, acquired, accrued, or incurred under any such ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese.

Delegation of
powers, &c.,
by bishop.

38. During the absence from New South Wales of a bishop of a diocese, a commissary appointed by such bishop may exercise all the powers and functions, and do and make all the things referred to in this Act, or such of them as shall be referred to in such appointment, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
of bishop by
ordinance.

39. During the absence of a bishop as aforesaid and in cases where no commissary is appointed as aforesaid or some only of such powers, functions, and things are referred to in the appointment of such commissary, or during the incapacity of a bishop of a diocese arising from illness or any cause other than such absence as aforesaid, or during a vacancy in the see, the person or persons appointed for the purpose or purposes by ordinance of the synod of such diocese or in default of such ordinance or so far as the same shall not extend to any of such purposes the person next in ecclesiastical rank or degree in such diocese and resident therein may exercise all the powers and functions and do and make all the things referred to in this Act or such of them as are not referred to in any such appointment of a commissary as aforesaid, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
of synod.

40. During the recess of the synod of a diocese such committee, council, or other body of persons (if any) as shall from time to time be constituted or appointed for the purpose by or under ordinance of the synod of such diocese may, in place of the synod of such diocese, exercise

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exercise such of the powers and functions, and do and make such of the things referred to in this Act as shall from time to time be determined by ordinance of the synod of such diocese, and the synod of such diocese may, for the purpose aforesaid, from time to time by ordinance regulate the procedure of such committee, council, or other body of persons: Provided that no ordinance passed by any such committee, council, or other body of persons as aforesaid shall take effect or have any validity unless within one month after the passing thereof the same shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same.

41. The preceding provisions of this Act shall, so far as applicable, apply to all powers, functions, and things so exercised, done, and made in the place of the bishop of the diocese and in the place of the synod of the diocese as in this Part respectively provided for, as if such powers, functions, and things had been validly exercised, done, and made by the bishop of the diocese, or by the synod of the diocese, as the case may be. Validity of Acts, &c., under delegation.

42. Each ordinance made under this Act under sections nine, ten, eleven, thirteen, or sixteen, and each resolution and election made under sections twelve, fourteen, fifteen, or sixteen, and each consent given under section nineteen, shall be forthwith notified in the Gazette under the hand of the bishop of the diocese. Notification as to trustees.

43. Each ordinance made under this Act under sections twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty, may be recorded as follows:— Record of ordinances.

- (a) In case any lands therein referred to are under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance, certified by the bishop of the diocese, shall be deposited with the Registrar-General for safe custody and reference in accordance with the provisions of the Act.

(b)

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- (b) In case any lands therein referred to are not under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance certified by the bishop of the diocese shall be filed in the office of the Registrar-General in accordance with the provisions of the Registration of Deeds Act, 1897, or any Act amending or taking the place of the said Act.

SCHEDULE.

Date of assent.	Title or short title.	Reference to Act.
31st March, 1881 ...	Church of England Trust Property Incorporation Act, 1881.	44th Vic.
22nd June, 1887 ...	Sydney Bishopric and Church Property Act of 1887.	51st Vic.
21st May, 1889 ...	Church of England Property Act of 1889.	52nd Vic.
28th October, 1892...	Church of England Property Act of 1889 Amendment Act of 1892.	56th Vic.
24th July, 1896 ...	Church of England Property Act of 1889 Further Amendment Act of 1896.	60th Vic.
24th November, 1897	Church Acts Repealing Act of 1897.	61st Vic.
11th December, 1906	Bathurst Cathedral Validating Act, 1906.	
15th October, 1913...	Church of England Trust Property Incorporation Act Amendment Act, 1913.	

By Authority :

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[9d.]

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. L. S. COOPER,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 27th October, 1917.*

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. 21, 1917.

An Act to consolidate and amend the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of the said dioceses with reference to the said property; and for other purposes.
[Assented to, 7th November, 1917.]

WHEREAS the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of

Preamble.

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of the dioceses with reference to the said property are numerous, ambiguous, and discursive, and it is therefore expedient to consolidate and amend the same: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and Parts.

1. This Act may be cited as the "Church of England Trust Property Act, 1917," and is divided into Parts as follows:—

PART I.—REPEAL AND AMENDMENT—ss. 2, 3.

PART II.—INTERPRETATION—s. 4.

PART III.—TRUSTEES CONSTITUTION AND SUCCESSION—ss. 5-18.

PART IV.—VESTING TRUST PROPERTY—ss. 19-23.

PART V.—MANAGEMENT AND INVESTMENT OF TRUST PROPERTY—ss. 24, 25.

PART VI.—SALE, EXCHANGE, MORTGAGE, LEASE, &c., OF TRUST PROPERTY—ss. 26-31.

PART VII.—VARIATION OF TRUSTS—s. 32.

PART VIII.—EVIDENCE—ss. 33-36.

PART IX.—GENERAL—ss. 37-43.

PART I.

REPEAL AND AMENDMENT.

Repeal.

2. (1) The Acts mentioned in the Schedule to this Act are hereby repealed, but notwithstanding the said repeal the said Acts shall continue to apply as if unrepealed to the Diocese of Newcastle and to all the trust property matters and things of or pertaining to the said diocese until the synod of the said diocese shall

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shall make an ordinance declaring a desire to have the benefit of this Act, and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette, and immediately upon such notification and thenceforth the provisions of this Act shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

(2) The said repeal shall not affect ordinances passed, trustees constituted as bodies politic and corporate, persons elected or appointed trustees or members of bodies politic and corporate, property vested, acts and things validated, or certificates given under the said Acts, or any of them.

(3) Except so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the said repealed Acts, and at the commencement of this Act of any force or effect or capable of acquiring any force or effect by virtue of the said repealed Acts as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

3. (1) Sections five and seven of the Church of England Constitutions Act Amendment Act of 1902 and clauses three and six of the Schedule to the said Act and all Acts and parts of Acts relating to church trust property shall, so far as may be necessary for the purposes of this Act, be read as amended and supplemented by this Act.

(2) In the case of the Diocese of Sydney the following subsections shall apply:—

- (a) The present members of the council referred to in Saint James' School Compensation Trust Act, assented to the twenty-seventh day of August, one thousand eight hundred and eighty-six, and such persons as shall from time to time be members of the said council, including the Archbishop of Sydney for the time being as ex officio president, shall be and they are hereby constituted a body politic and corporate by the name of "Sydney Church of England

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England Grammar School Council", and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise, any real or personal property, and for any estate or interest therein.

- (b) All property real and personal which immediately before the passing of this Act was vested in any person or persons other than the Church of England Property Trust Diocese of Sydney upon any trust for the purposes of the school referred to in the said Saint James' School Compensation Trust Act shall by virtue of this Act and without any other instrument vest in the said body constituted by subsection (a) upon the same trusts respectively for the purposes of the said school upon which the said property was held immediately before the passing of this Act, and it shall be lawful for the Church of England Property Trust Diocese of Sydney by deed or deeds under its corporate seal to assign and transfer to the said body constituted by subsection (a) at one time or from time to time all or any part or parts of other real and personal property now or hereafter to be held by the said church property trust upon any trust for the purposes of the said school.

- (c) This Act shall be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School, or The King's School Council Act, or The King's School Council Act Amendment Act of 1894.

PART

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PART II.

INTERPRETATION.

4. In this Act unless inconsistent with the context Definitions.
or subject matter—

“Bishop” includes Archbishop and the Bishop or
Archbishop for the time being.

“Church of England” means Church of England
within New South Wales.

“Church trust property” includes all or any part
of any real and personal property which may
for the time being be subject to any trust
whether by dedication, consecration, trust
instrument, or otherwise, for or for the use,
benefit, or purposes of the Church of England
in any diocese, and each such diocese is referred
to as the diocese for which the church trust
property in question is held.

“Corporate trustees” and “Corporate body of
trustees” respectively include corporate bodies
of trustees now or hereafter to be constituted
for any diocese under the provisions of the
Church of England Trust Property Incorpora-
tion Act, 1881, hereby repealed or of this
Act.

“Diocese” includes any diocese now or hereafter
to be formed and situated within New South
Wales, and the identity of a diocese shall be
deemed not to be affected by the formation
wholly or partly thereof of a new diocese nor
by any other alteration of boundaries or area
nor by any change of name.

“Parish” includes any parish or ecclesiastical
district now or hereafter to be formed and
situated within New South Wales.

“Parish council” means the body of persons, if
any, in which the general powers of governing
the affairs of a parish are for the time being
vested under the provisions of any ordinance
of the synod of a diocese.

“Person”

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“Person” includes corporate trustees and a bishop.

“Purposes” includes religious, educational, cemetery, and all other purposes of the Church of England, whether such purposes are within or beyond the diocese or the State.

“Standing committee” includes any general governing council of a diocese created by or under the authority of its synod.

“Synod” includes any synod now or hereafter to be convened or held in pursuance of the provisions of the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same.

“Trust instrument” includes ordinances of synod and Acts of Parliament, though not expressly mentioned herein.

“Trustee,” “new trustee,” respectively, include corporate trustees and a bishop.

PART III.

TRUSTEES CONSTITUTION AND SUCCESSION.

Existing corporate bodies.

5. The following bodies, that is to say—

Church of England Property Trust Diocese of Sydney;

Church of England Property Trust Diocese of Goulburn;

The Corporate Trustees of the Diocese of Grafton and Armidale;

Church of England Property Trust Diocese of Bathurst;

Trustees of the Church Property for the Diocese of Riverina;

The Corporate Trustees of the Diocese of Grafton, are hereby declared to have been duly constituted as bodies politic and corporate by the said names respectively, under the provisions of the Church of England Trust

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Trust Property Incorporation Act, 1881, and notwithstanding the repeal of the said Act they shall remain so constituted as aforesaid, and, except so far as there is anything in this Act inconsistent therewith, this Act shall apply to them as if this Act had been in force at the time they were constituted and they were constituted hereunder.

The bishop of a diocese shall ex officio be a member of the corporate body so constituted as aforesaid for such diocese, and the number of members shall be increased by one for the said purpose.

6. The synod of each diocese, other than the dioceses for which the said bodies in the preceding section mentioned were and remain so constituted as aforesaid, may at any time elect such persons as such synod desires, should together with the bishop of the diocese, ex officio, be incorporated as trustees for such diocese, and the bishop of such diocese shall notify such election in the Gazette, and immediately upon such notification and thenceforth the said persons and such persons as may from time to time be members of such body, together with the bishop of the diocese, ex officio, shall be and they are hereby constituted a body politic and corporate, by the name of incorporation mentioned in such notification, and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise any real or personal property, and for any estate or interest therein.

New corporate bodies.

7. The members for the time being of each corporate body of trustees shall have the custody of the common seal of such corporate body, and the form of such seal and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

Common seal and quorum.

8. Any deed or instrument, executed or signed, and any other act, matter, or thing done by any three members of any such corporate body as aforesaid, in pursuance

Authority of members of corporate bodies.

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pursuance of a resolution of the said corporate body and under the common seal of the said corporate body, shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

Variation by
synod.

9. It shall be lawful for the synod of a diocese from time to time, by ordinance, to vary the provisions of sections seven and eight, in so far as the same relate to such diocese, and the said provisions shall, with reference to the said diocese and to all the church trust property matters and things of or held for or pertaining to the said diocese, be read from time to time as so varied by ordinance as aforesaid.

Change of
name.

10. It shall be lawful for the synod of a diocese from time to time, by ordinance, to change the name of the corporate body of trustees constituted for such diocese.

Alteration of
number of
members of
corporate
body.

11. It shall be lawful for the synod of a diocese from time to time, by ordinance, to declare what shall be the number of members of the corporate body of trustees constituted for such diocese, and in case of increase in the number such increase shall be effected by the synod of such diocese electing an additional member, or additional members, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

Vacancies in
membership
of corporate
bodies.

12. It shall be lawful for the synod of a diocese from time to time, by resolution, to declare the existence of a vacancy, or vacancies, in the office of member of the corporate body of trustees of such diocese by reason of one or more of the members for the time being of such corporate body having died, resigned office, refused or neglected or having become incapable to act in the said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect a person or persons to be, and such person or persons shall thereupon become a member or members of the said body in the place or places of the member or members referred to in the said resolution.

13.

Church of England Trust Property.

13. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time, by ordinance, to declare what shall be the number of trustees of such property, and in case of increase in the number such increase shall be effected by the synod of such diocese electing a new trustee, or new trustees, by way of addition, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

Alteration of
number of
trustees.

14. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time by resolution to declare the existence of a vacancy or vacancies in the office of trustee of such property, by reason of one or more of the trustees having died, resigned office, refused or neglected, or having become incapable to act in the said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect or by resolution provide for the election of a person or persons to be, and such person or persons shall upon such election become a trustee or trustees in the place or places of the trustee or trustees referred to in the said resolution.

Vacancies in
office of
trustee.

15. It shall be lawful for the synod of a diocese to elect a new trustee or new trustees respectively for church trust property, which may be allocated under the provisions of this Act for such diocese.

New trustees
for allocated
property.

16. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held by ordinance to provide for the election of separate trustees for any part or parts of such property, and to elect such separate trustees.

Separate
trustees.

17. The provisions contained in section fourteen are in addition to any other provision for the time being applicable to any church trust property.

Provision
cumulative.

18. Every person for the time being acting and recognised as being the bishop of a diocese, and having been

Bishops.

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been consecrated according to the manner and form prescribed and used by the Church of England, shall in the construction of all Statutes, Acts, grants, deeds, and other instruments be deemed to be and shall be the successor of the bishop of such diocese, notwithstanding that such bishop may not have been appointed under letters patent from the Crown, or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration, and shall in all respects within such diocese have and enjoy all and singular the same rights, powers, and privileges, whether created by Statute, Act, grant, deed, or other instrument whatsoever as were enjoyed or possessed therein by the bishops his predecessors, and in the case of the diocese of Sydney the Most Reverend John Charles Wright, D.D., the present Archbishop, and all other persons for the time being acting and recognised and consecrated as aforesaid, shall in the construction of such instruments as aforesaid be deemed to be and shall be the successors from time to time of the Bishop of Australia and the Bishop of Sydney.

PART IV.

VESTING TRUST PROPERTY.

In corporate
trustees by
consent.

19. Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law, become vested in the corporate trustees of such diocese: Provided that if in consequence of death or disability the consent of any trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

20.

Church of England Trust Property.

20. All church trust property which may at any time belong to or be vested in the bishop of a diocese shall by force of this Act vest from time to time in the person who for the time being is or is deemed to be the successor of the bishop of such diocese as if such property had belonged or had been originally granted or conveyed to the bishop of such diocese and his successors as a body corporate, and notwithstanding that such person may not have been appointed bishop of such diocese under letters patent from the Crown or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration.

Property
vested in
bishops.

21. Upon the election or appointment of a new trustee or new trustees under the provisions of this Act or of any ordinance in force for the time being in any diocese, all the church trust property in respect of which such election or appointment is made shall by virtue of such election or appointment and without other assurance in the law become vested in such new trustee or trustees, either alone or jointly with the surviving or continuing trustee or trustees as the case may require, and every new trustee so elected or appointed as aforesaid shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Property
vested in
new trustee.

22. In each case where, by reason of the formation or proposed formation of a new diocese, or the alteration or proposed alteration of the boundaries or area of a diocese or otherwise, it shall seem expedient to the synod of a diocese for which any church trust property is for the time being held, it shall be lawful for the synod of such diocese by ordinance to allocate such church trust property for any other diocese or proposed diocese, and by virtue of such ordinance and without other assurance in the law such church trust property shall, from the times respectively in such ordinance provided, be held for such other diocese or proposed diocese instead of the diocese making such ordinance and be vested in the new trustee or new trustees respectively then or thereafter to be elected for such church trust property under the provisions

In case of
new dioceses,
&c.

Church of England Trust Property.

provisions of this Act, in the place of the trustee or trustees thereof for the time being, and upon the trusts to which the same shall for the time being be subject, but for or for the use, benefit, or purposes of the Church of England in the diocese or proposed diocese for which the same shall have been so allocated as aforesaid in the place of the diocese making such ordinance.

Property
vested in
separate
trustees.

23. Upon the election of separate trustees under the provisions of any ordinance in force for the time being in a diocese, the church trust property mentioned in such ordinance shall, by virtue of such election and without other assurance in the law become vested in such separate trustees in the place of the trustees thereof for the time being, and the said separate trustees shall, with respect to such church trust property, have the same powers, authorities, and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust.

PART V.

MANAGEMENT AND INVESTMENT OF TRUST PROPERTY.

Management.

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding.

25.

Church of England Trust Property.

25. It shall be lawful for the synod of a diocese for ^{Investment.} which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for the investment of such property, and for the pooling of separate church trust properties for the purpose of investment, and for averaging gains, losses, and interests, and for all other matters and things incidental to such investment and pooling.

PART VI.

SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST
PROPERTY.

26. It shall be lawful for the synod of the diocese for ^{Synod may} which any church trust property is for the time being held ^{direct sales,} if it shall appear to such synod expedient by reason of ^{&c.} circumstances subsequent to the creation of the trusts of such property by ordinance to direct that such property be sold, exchanged, mortgaged, or let on mining, building, occupation, or other leases, or otherwise dealt with in manner provided by such ordinance, and to provide for accepting the surrender of any lease thereof and for laying out and dedicating parts thereof for any purpose or purposes, and to provide for the application of the real and personal property arising from any such sale, exchange, mortgage, letting, or other dealing as aforesaid: Provided that in the cases of the dioceses of Sydney and Goulburn no such ordinance in respect of property held for the sole benefit of some particular parish shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same, without the consent in writing of a majority of the members of the parish council (if any) for the time being of the parish, and in the case of property gratuitously granted or assured within twenty years preceding the time being by any private donor without the like consent of such donor if living.

27.

Church of England Trust Property.

Deeds of conveyance, &c.

27. It shall be lawful for the synod of a diocese by ordinance to direct what person or persons shall execute the deed or deeds or other instrument or instruments, and do all acts, measures, and things necessary for the purpose of carrying into effect the sale, exchange, mortgage, lease, or other dealing directed by ordinance of the synod of such diocese under the provisions of this Act, and the deed or deeds, or other instrument or instruments executed, and the acts, measures, and things done by such person or persons shall take effect as if the trust instrument relating to the church trust property comprised in the said ordinance had contained a power enabling such person or persons to effect such sale, exchange, mortgage, lease, or other dealing, and so as to operate, if necessary, by way of revocation and appointment of the use or otherwise as the said ordinance shall direct.

Power of corporate trustees to let in certain cases.

28. A corporate body of trustees may let the church trust property vested in such body on lease for such term or terms as shall from time to time be approved of by the synod of the diocese for which such corporate body is constituted, or if the synod be not in session then as shall be approved of by the standing committee of such diocese: Provided, however, that until the first session of such synod after this Act comes into force in such diocese such corporate body may let such church trust property for any term of years not exceeding seven.

Protection of purchasers, &c.

29. No purchaser, mortgagee, lessee, or other person, or the Registrar-General, upon any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act, shall be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the same, nor be affected by notice that the exercise of the power is unauthorised, irregular, or improper, nor be concerned to see to the application or disposition of any purchase, mortgage, or other money or rent paid by him.

Discharge for purchase moneys, &c.

30. The moneys (if any) arising from any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act shall be paid to the trustee or trustees in whom the property,

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property, the subject matter of such sale, exchange, mortgage, lease, or other dealing immediately theretofore vested, or to such other person or persons as the ordinance (if any) directing such sale, exchange, mortgage, lease, or other dealing may provide. And the receipt of the said trustee or trustees, or other person or persons, as the case may be, shall be an effectual discharge therefor.

31. Pending the application of any moneys to arise as aforesaid, the same may, after payment thereof of all ^{Temporary investments.} proper costs, charges, and expenses, be invested in Government or real securities in New South Wales or in the Commonwealth of Australia, or on fixed deposit in any bank, or otherwise as the ordinance directing such dealing, or any ordinance of the synod of the said diocese in force for the time being and applicable thereto may provide.

PART VII.**VARIATION OF TRUSTS.**

32. In each case where by reason of circumstances subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England

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England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

PART VIII.

EVIDENCE.

Membership
of corporate
bodies.

33. A certificate signed by the bishop of a diocese for which there is for the time being a corporate body of trustees shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the church trust property therein referred to, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted members of such corporate body of trustees and that they became such members at the date or respective dates mentioned in such certificate.

Trusteeship.

34. A certificate signed by the bishop of a diocese for which any church trust property in such certificate referred to is for the time being held shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring
or

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or possessing any estate or interest in such property, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted trustees of such property, and that they became such trustees at the date or respective dates and in the manner mentioned in such certificate, and in the case of lands under the operation of the Real Property Act, 1900, or any Act amending or taking the place of the same shall entitle such trustees to be registered as the proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer.

35. A document purporting to be a copy ordinance ^{Making of ordinances.} certified and recorded in accordance with this Act or any Act repealed by this Act or a certified or office copy thereof shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the property therein referred to shall be conclusive evidence that an ordinance in terms of such copy was duly made and assented to, and that all necessary consents and directions were duly given, and that all proceedings in connection therewith were regular and in due form, and that such ordinance was not repealed or amended except, if at all, by such ordinance or ordinances as shall for the time being be certified and recorded in accordance with this Act or any such repealed Act.

36. A copy of the Gazette containing a notification ^{Notification in Gazette.} purporting to be published in pursuance of the provisions or any of the provisions of this Act, or any Act repealed by this Act, shall be prima facie evidence of the matters therein notified and the notification of which is authorised by this Act or any such repealed Act.

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PART IX.

GENERAL.

Repeal or
amendment
of ordinances.

37. Subject and without prejudice to any past operation of any ordinance made or to be made under the provisions of this Act or any Act hereby repealed, and subject and without prejudice to any estate, right, privilege, obligation, or liability vested, acquired, accrued, or incurred under any such ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese.

Delegation of
powers, &c.,
by bishop.

38. During the absence from New South Wales of a bishop of a diocese, a commissary appointed by such bishop may exercise all the powers and functions, and do and make all the things referred to in this Act, or such of them as shall be referred to in such appointment, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
of bishop by
ordinance.

39. During the absence of a bishop as aforesaid and in cases where no commissary is appointed as aforesaid or some only of such powers, functions, and things are referred to in the appointment of such commissary, or during the incapacity of a bishop of a diocese arising from illness or any cause other than such absence as aforesaid, or during a vacancy in the see, the person or persons appointed for the purpose or purposes by ordinance of the synod of such diocese or in default of such ordinance or so far as the same shall not extend to any of such purposes the person next in ecclesiastical rank or degree in such diocese and resident therein may exercise all the powers and functions and do and make all the things referred to in this Act or such of them as are not referred to in any such appointment of a commissary as aforesaid, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
of synod.

40. During the recess of the synod of a diocese such committee, council, or other body of persons (if any) as shall from time to time be constituted or appointed for the purpose by or under ordinance of the synod of such diocese may, in place of the synod of such diocese, exercise

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exercise such of the powers and functions, and do and make such of the things referred to in this Act as shall from time to time be determined by ordinance of the synod of such diocese, and the synod of such diocese may, for the purpose aforesaid, from time to time by ordinance regulate the procedure of such committee, council, or other body of persons: Provided that no ordinance passed by any such committee, council, or other body of persons as aforesaid shall take effect or have any validity unless within one month after the passing thereof the same shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same.

41. The preceding provisions of this Act shall, so far as applicable, apply to all powers, functions, and things so exercised, done, and made in the place of the bishop of the diocese and in the place of the synod of the diocese as in this Part respectively provided for, as if such powers, functions, and things had been validly exercised, done, and made by the bishop of the diocese, or by the synod of the diocese, as the case may be.

Validity of
Acts, &c.,
under
delegation.

42. Each ordinance made under this Act under sections nine, ten, eleven, thirteen, or sixteen, and each resolution and election made under sections twelve, fourteen, fifteen, or sixteen, and each consent given under section nineteen, shall be forthwith notified in the Gazette under the hand of the bishop of the diocese.

Notification
as to
trustees.

43. Each ordinance made under this Act under sections twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty, may be recorded as follows:—

Record of
ordinances.

- (a) In case any lands therein referred to are under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance, certified by the bishop of the diocese, shall be deposited with the Registrar-General for safe custody and reference in accordance with the provisions of the Act.

(b)

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- (b) In case any lands therein referred to are not under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance certified by the bishop of the diocese shall be filed in the office of the Registrar-General in accordance with the provisions of the Registration of Deeds Act, 1897, or any Act amending or taking the place of the said Act.

SCHEDULE.

Date of assent.	Title or short title.	Reference to Act.
31st March, 1881 ...	Church of England Trust Property Incorporation Act, 1881.	44th Vic.
22nd June, 1887 ...	Sydney Bishopric and Church Property Act, 1887.	51st Vic.
21st May, 1889 ...	Church of England Property Act of 1889.	52nd Vic.
28th October, 1892...	Church of England Property Act of 1889 Amendment Act of 1892.	56th Vic.
24th July, 1896 ...	Church of England Property Act of 1889 Further Amendment Act of 1896.	60th Vic.
24th November, 1897	Church Acts Repealing Act of 1897.	61st Vic.
11th December, 1906	Bathurst Cathedral Validating Act, 1906.	
15th October, 1913...	Church of England Trust Property Incorporation Act Amendment Act, 1913.	

In the name and on behalf of His Majesty I assent to this Act.

W. P. CULLEN,

Government House,

Lieutenant-Governor.

Sydney, 7th November, 1917.

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*W. L. S. COOPER,
Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, 25th October, 1917.*

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. , 1917.

An Act to consolidate and amend the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of the said dioceses with reference to the said property; and for other purposes.

WHEREAS the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods

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of the dioceses with reference to the said property are numerous, ambiguous, and discursive, and it is therefore expedient to consolidate and amend the same: Be it therefore enacted by the King's Most Excellent Majesty, 5 by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Church of England Trust Property Act, 1917," and is divided into Parts as follows:— Short title and Parts.

PART I.—REPEAL AND AMENDMENT—ss. 2, 3.

PART II.—INTERPRETATION—s. 4.

15 PART III.—TRUSTEES CONSTITUTION AND SUCCESSION—ss. 5-18.

PART IV.—VESTING TRUST PROPERTY—ss. 19-23.

PART V.—MANAGEMENT AND INVESTMENT OF TRUST PROPERTY—ss. 24, 25.

20 PART VI.—SALE, EXCHANGE, MORTGAGE, LEASE, &c., OF TRUST PROPERTY—ss. 26-31.

PART VII.—VARIATION OF TRUSTS—s. 32.

PART VIII.—EVIDENCE—ss. 33-36.

PART IX.—GENERAL—ss. 37-43.

PART I.

REPEAL AND AMENDMENT.

25 2. (1) The Acts mentioned in the Schedule to Repeal this Act are hereby repealed, but notwithstanding the said repeal the said Acts shall continue to apply as if unrepealed to the Diocese of Newcastle and to all the 30 trust property matters and things of or pertaining to the said diocese until the synod of the said diocese shall

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shall make an ordinance declaring a desire to have the benefit of this Act, and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette, and immediately upon such
5 notification and thenceforth the provisions of this Act shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

(2) The said repeal shall not affect ordinances
10 passed, trustees constituted as bodies politic and corporate, persons elected or appointed trustees or members of bodies politic and corporate, property vested, acts and things validated, or certificates given under the said Acts, or any of them.

15 (3) Except so far as there is anything in this Act inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the said repealed Acts, and at the commencement of this Act of any force or effect or capable of acquiring any force or
20 effect by virtue of the said repealed Acts as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

3. (1) Sections five and seven of the Church of England
25 Constitutions Act Amendment Act of 1902 and clauses three and six of the Schedule to the said Act and all Acts and parts of Acts relating to church trust property shall, so far as may be necessary for the purposes of this Act, be read as amended and supplemented by this Act.

30 (2) In the case of the Diocese of Sydney the following subsections shall apply :—

(a) The present members of the council referred to
35 in Saint James' School Compensation Trust Act, assented to the twenty-seventh day of August, one thousand eight hundred and eighty-six, and such persons as shall from time to time be members of the said council, including the Archbishop of Sydney for the time being as ex officio president, shall be and
40 they are hereby constituted a body politic and corporate by the name of "Sydney Church of England

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- 5 England Grammar School Council", and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise, any real or personal property, and for any estate or interest therein.
- 10 (b) All property real and personal which immediately before the passing of this Act was vested in any person or persons other than the Church of England Property Trust Diocese of Sydney upon any trust for the purposes of the school referred to in the said Saint James' School Compensation Trust Act shall by virtue of this
- 15 Act and without any other instrument vest in the said body constituted by subsection (a) upon the same trusts respectively for the purposes of the said school upon which the said property was held immediately before the
- 20 passing of this Act, and it shall be lawful for the Church of England Property Trust Diocese of Sydney by deed or deeds under its corporate seal to assign and transfer to the said body constituted by subsection (a) at one time or
- 25 from time to time all or any part or parts of other real and personal property now or hereafter to be held by the said church property trust upon any trust for the purposes of the said school.
- 30 (c) This Act shall be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School, or The King's School Council Act, or The King's School Council Act
- 35 Amendment Act of 1894.
-

PART

Church of England Trust Property.

PART II.

INTERPRETATION.

4. In this Act unless inconsistent with the context Definitions,
or subject matter—
- 5 “Bishop” includes Archbishop and the Bishop or
 Archbishop for the time being.
- “Church of England” means Church of England
 within New South Wales.
- 10 “Church trust property” includes all or any part
 of any real and personal property which may
 for the time being be subject to any trust
 whether by dedication, consecration, trust
 instrument, or otherwise, for or for the use,
 benefit, or purposes of the Church of England
15 in any diocese, and each such diocese is referred
 to as the diocese for which the church trust
 property in question is held.
- “Corporate trustees” and “Corporate body of
20 trustees” respectively include corporate bodies
 of trustees now or hereafter to be constituted
 for any diocese under the provisions of the
 Church of England Trust Property Incorpora-
 tion Act, 1881, hereby repealed or of this
 Act.
- 25 “Diocese” includes any diocese now or hereafter
 to be formed and situated within New South
 Wales, and the identity of a diocese shall be
 deemed not to be affected by the formation
 wholly or partly thereof of a new diocese nor
30 by any other alteration of boundaries or area
 nor by any change of name.
- “Parish” includes any parish or ecclesiastical
 district now or hereafter to be formed and
 situated within New South Wales.
- 35 “Parish council” means the body of persons, if
 any, in which the general powers of governing
 the affairs of a parish are for the time being
 vested under the provisions of any ordinance
 of the synod of a diocese.

“Person”

Church of England Trust Property.

- “Person” includes corporate trustees and a bishop.
 “Purposes” includes religious, educational, cemetery, and all other purposes of the Church of England, whether such purposes are within or beyond the diocese or the State.
 “Standing committee” includes any general governing council of a diocese created by or under the authority of its synod.
 “Synod” includes any synod now or hereafter to be convened or held in pursuance of the provisions of the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same.
 “Trust instrument” includes ordinances of synod and Acts of Parliament, though not expressly mentioned herein.
 “Trustee,” “new trustee,” respectively, include corporate trustees and a bishop.

PART III.

TRUSTEES CONSTITUTION AND SUCCESSION.

5. The following bodies, that is to say—
 Church of England Property Trust Diocese of Sydney;
 Church of England Property Trust Diocese of Goulburn;
 The Corporate Trustees of the Diocese of Grafton and Armidale;
 Church of England Property Trust Diocese of Bathurst;
 Trustees of the Church Property for the Diocese of Riverina;
 The Corporate Trustees of the Diocese of Grafton, are hereby declared to have been duly constituted as bodies politic and corporate by the said names respectively, under the provisions of the Church of England Trust

Existing corporate bodies.

Church of England Trust Property.

Trust Property Incorporation Act, 1881, and notwithstanding the repeal of the said Act they shall remain so constituted as aforesaid, and, except so far as there is anything in this Act inconsistent therewith, this Act shall apply to them as if this Act had been in force at the time they were constituted and they were constituted hereunder.

The bishop of a diocese shall ex officio be a member of the corporate body so constituted as aforesaid for such diocese, and the number of members shall be increased by one for the said purpose.

6. The synod of each diocese, other than the dioceses for which the said bodies in the preceding section mentioned were and remain so constituted as aforesaid, may at any time elect such persons as such synod desires, should together with the bishop of the diocese, ex officio, be incorporated as trustees for such diocese, and the bishop of such diocese shall notify such election in the Gazette, and immediately upon such notification and thenceforth the said persons and such persons as may from time to time be members of such body, together with the bishop of the diocese, ex officio, shall be and they are hereby constituted a body politic and corporate, by the name of incorporation mentioned in such notification, and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise any real or personal property, and for any estate or interest therein.

7. The members for the time being of each corporate body of trustees shall have the custody of the common seal of such corporate body, and the form of such seal and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

8. Any deed or instrument, executed or signed, and any other act, matter, or thing done by any three members of any such corporate body as aforesaid, in pursuance

Church of England Trust Property.

pursuance of a resolution of the said corporate body and under the common seal of the said corporate body, shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

- 5 **9.** It shall be lawful for the synod of a diocese from time to time, by ordinance, to vary the provisions of sections seven and eight, in so far as the same relate to such diocese, and the said provisions shall, with reference to the said diocese and to all the church trust
10 property matters and things of or held for or pertaining to the said diocese, be read from time to time as so varied by ordinance as aforesaid.

- 10.** It shall be lawful for the synod of a diocese from time to time, by ordinance, to change the name of
15 the corporate body of trustees constituted for such diocese.

- 11.** It shall be lawful for the synod of a diocese from time to time, by ordinance, to declare what shall be the number of members of the corporate body of trustees
20 constituted for such diocese, and in case of increase in the number such increase shall be effected by the synod of such diocese electing an additional member, or additional members, and in case of decrease in the number such decrease shall be effected by the synod of
25 such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

- 12.** It shall be lawful for the synod of a diocese from time to time, by resolution, to declare the existence
30 of a vacancy, or vacancies, in the office of member of the corporate body of trustees of such diocese by reason of one or more of the members for the time being of such corporate body having died, resigned office, refused or neglected or having become incapable to act in the
35 said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect a person or persons to be, and
40 such person or persons shall thereupon become a member or members of the said body in the place or places of the member or members referred to in the said resolution.

13.

Church of England Trust Property.

- 13.** It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time, by ordinance, to declare what shall be the number of trustees of such property, and in
5 case of increase in the number such increase shall be effected by the synod of such diocese electing a new trustee, or new trustees, by way of addition, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or
10 persons, to fill a vacancy, or vacancies, declared under the provisions of this Act. Alteration of number of trustees.
- 14.** It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time by resolution to declare the
15 existence of a vacancy or vacancies in the office of trustee of such property, by reason of one or more of the trustees having died, resigned office, refused or neglected, or having become incapable to act in the said office, or having for the space of six months ceased to
20 reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect or by resolution provide for the election of a person or persons to be, and such person or persons shall
25 upon such election become a trustee or trustees in the place or places of the trustee or trustees referred to in the said resolution. Vacancies in office of trustee.
- 15.** It shall be lawful for the synod of a diocese to elect a new trustee or new trustees respectively for
30 church trust property, which may be allocated under the provisions of this Act for such diocese. New trustees for allocated property.
- 16.** It shall be lawful for the synod of a diocese for which any church trust property is for the time being held by ordinance to provide for the election of separate
35 trustees for any part or parts of such property, and to elect such separate trustees. Separate trustees.
- 17.** The provisions contained in section fourteen are in addition to any other provision for the time being applicable to any church trust property. Provision cumulative.
- 40 **18.** Every person for the time being acting and recognised as being the bishop of a diocese, and having been
been Bishops.

Church of England Trust Property.

been consecrated according to the manner and form prescribed and used by the Church of England, shall in the construction of all Statutes, Acts, grants, deeds, and other instruments be deemed to be and shall be the
5 successor of the bishop of such diocese, notwithstanding that such bishop may not have been appointed under letters patent from the Crown, or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such
10 consecration, and shall in all respects within such diocese have and enjoy all and singular the same rights, powers, and privileges, whether created by Statute, Act, grant, deed, or other instrument whatsoever as were enjoyed or possessed therein by the bishops his prede-
15 cessors, and in the case of the diocese of Sydney the Most Reverend John Charles Wright, D.D., the present Archbishop, and all other persons for the time being acting and recognised and consecrated as aforesaid, shall in the construction of such instruments as aforesaid be
20 deemed to be and shall be the successors from time to time of the Bishop of Australia and the Bishop of Sydney.

PART IV.

VESTING TRUST PROPERTY.

25 **19.** Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is
30 held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law, become vested in the corporate trustees of such diocese: Provided that if in consequence of death or disability the consent of any
35 trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

Church of England Trust Property.

20. All church trust property which may at any time belong to or be vested in the bishop of a diocese shall by force of this Act vest from time to time in the person who for the time being is or is deemed to be the successor of the bishop of such diocese as if such property had belonged or had been originally granted or conveyed to the bishop of such diocese and his successors as a body corporate, and notwithstanding that such person may not have been appointed bishop of such diocese under letters patent from the Crown or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration.

Property
vested in
bishops.

21. Upon the election or appointment of a new trustee or new trustees under the provisions of this Act or of any ordinance in force for the time being in any diocese, all the church trust property in respect of which such election or appointment is made shall by virtue of such election or appointment and without other assurance in the law become vested in such new trustee or trustees, either alone or jointly with the surviving or continuing trustee or trustees as the case may require, and every new trustee so elected or appointed as aforesaid shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Property
vested in
new trustee.

22. In each case where, by reason of the formation or proposed formation of a new diocese, or the alteration or proposed alteration of the boundaries or area of a diocese or otherwise, it shall seem expedient to the synod of a diocese for which any church trust property is for the time being held, it shall be lawful for the synod of such diocese by ordinance to allocate such church trust property for any other diocese or proposed diocese, and by virtue of such ordinance and without other assurance in the law such church trust property shall, from the times respectively in such ordinance provided, be held for such other diocese or proposed diocese instead of the diocese making such ordinance and be vested in the new trustee or new trustees respectively then or thereafter to be elected for such church trust property under the provisions

In case of
new dioceses,
&c.

Church of England Trust Property.

provisions of this Act, in the place of the trustee or trustees thereof for the time being, and upon the trusts to which the same shall for the time being be subject, but for or for the use, benefit, or purposes of the Church of England in the diocese or proposed diocese for which the same shall have been so allocated as aforesaid in the place of the diocese making such ordinance.

23. Upon the election of separate trustees under the provisions of any ordinance in force for the time being in a diocese, the church trust property mentioned in such ordinance shall, by virtue of such election and without other assurance in the law become vested in such separate trustees in the place of the trustees thereof for the time being, and the said separate trustees shall, with respect to such church trust property, have the same powers, authorities, and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust.

Property
vested in
separate
trustees.

PART V.

20 MANAGEMENT AND INVESTMENT OF TRUST PROPERTY.

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding.

Management.

25.

Church of England Trust Property.

25. It shall be lawful for the synod of a diocese for Investment.
 which any church trust property is for the time being
 held, from time to time by ordinance, to provide and to
 vary any provision now or hereafter to be made for the
 5 investment of such property, and for the pooling of
 separate church trust properties for the purpose of
 investment, and for averaging gains, losses, and interests,
 and for all other matters and things incidental to such
 investment and pooling.

10

PART VI.

SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST
PROPERTY.

26. It shall be lawful for the synod of the diocese for Synod may direct sales, &c.
 which any church trust property is for the time being held
 15 if it shall appear to such synod expedient by reason of
 circumstances subsequent to the creation of the trusts
 of such property by ordinance to direct that such pro-
 perty be sold, exchanged, mortgaged, or let on mining,
 building, occupation, or other leases, or otherwise dealt
 20 with in manner provided by such ordinance, and to
 provide for accepting the surrender of any lease thereof
 and for laying out and dedicating parts thereof for any
 purpose or purposes, and to provide for the application
 of the real and personal property arising from any such
 25 sale, exchange, mortgage, letting, or other dealing as
 aforesaid: Provided that in the cases of the dioceses of
 Sydney and Goulburn no such ordinance in respect of
 property held for the sole benefit of some particular
 parish shall be assented to under the Church of England
 30 Constitutions Act Amendment Act of 1902, or any Act
 amending or taking the place of the same, without the
 consent in writing of a majority of the members of the
 parish council (if any) for the time being of the parish,
 and in the case of property gratuitously granted or
 36 assured within twenty years preceding the time being
 by any private donor without the like consent of such
 donor if living.

27.

Church of England Trust Property.

27. It shall be lawful for the synod of a diocese by ordinance to direct what person or persons shall execute the deed or deeds or other instrument or instruments, and do all acts, measures, and things necessary for the purpose of carrying into effect the sale, exchange, mortgage, lease, or other dealing directed by ordinance of the synod of such diocese under the provisions of this Act, and the deed or deeds, or other instrument or instruments executed, and the acts, measures, and things done by such person or persons shall take effect as if the trust instrument relating to the church trust property comprised in the said ordinance had contained a power enabling such person or persons to effect such sale, exchange, mortgage, lease, or other dealing, and so as to operate, if necessary, by way of revocation and appointment of the use or otherwise as the said ordinance shall direct.

Deeds of conveyance, &c.

28. A corporate body of trustees may let the church trust property vested in such body on lease for such term or terms as shall from time to time be approved of by the synod of the diocese for which such corporate body is constituted, or if the synod be not in session then as shall be approved of by the standing committee of such diocese: Provided, however, that until the first session of such synod after this Act comes into force in such diocese such corporate body may let such church trust property for any term of years not exceeding seven.

Power of corporate trustees to let in certain cases.

29. No purchaser, mortgagee, lessee, or other person, or the Registrar-General, upon any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act, shall be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the same, nor be affected by notice that the exercise of the power is unauthorised, irregular, or improper, nor be concerned to see to the application or disposition of any purchase, mortgage, or other money or rent paid by him.

Protection of purchasers, &c.

30. The moneys (if any) arising from any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act shall be paid to the trustee or trustees in whom the property,

Discharge for purchase moneys, &c.

Church of England Trust Property.

property, the subject matter of such sale, exchange, mortgage, lease, or other dealing immediately theretofore vested, or to such other person or persons as the ordinance (if any) directing such sale, exchange, mortgage, 5 lease, or other dealing may provide. And the receipt of the said trustee or trustees, or other person or persons, as the case may be, shall be an effectual discharge therefor.

- 31.** Pending the application of any moneys to arise ^{Temporary investments.} as aforesaid, the same may, after payment thereof of all proper costs, charges, and expenses, be invested in Government or real securities in New South Wales or in the Commonwealth of Australia, or on fixed deposit in any bank, or otherwise as the ordinance directing such 15 dealing, or any ordinance of the synod of the said diocese in force for the time being and applicable thereto may provide.

PART VII.

VARIATION OF TRUSTS.

- 20 **32.** In each case where by reason of circumstances ^{Power of synod to vary trusts, &c.} subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such 25 property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, 30 or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts 35 accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England

Church of England Trust Property.

- England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property
- 5 was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply
- 10 such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes
- 15 and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

PART VIII.

EVIDENCE.

- 20 **33.** A certificate signed by the bishop of a diocese for which there is for the time being a corporate body of trustees shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or
- 25 interest in the church trust property therein referred to, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted members of such corporate body of trustees and that they became such members at the date or
- 30 respective dates mentioned in such certificate.
- 34.** A certificate signed by the bishop of a diocese for which any church trust property in such certificate referred to is for the time being held shall be prima facie evidence and in favour of all persons purchasing,
- 35 advancing moneys on, leasing, or otherwise acquiring
or

Church of England Trust Property.

or possessing any estate or interest in such property, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted trustees of such property, and that they
5 became such trustees at the date or respective dates and in the manner mentioned in such certificate, and in the case of lands under the operation of the Real Property Act, 1900, or any Act amending or taking the place of the same shall entitle such trustees to be registered as the
10 proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer.

35. A document purporting to be a copy ordinance Making of ordinances. certified and recorded in accordance with this Act or any Act repealed by this Act or a certified or office copy
15 thereof shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the property therein referred to shall be conclusive evidence that an ordinance in terms of such copy was
20 duly made and assented to, and that all necessary consents and directions were duly given, and that all proceedings in connection therewith were regular and in due form, and that such ordinance was not repealed or amended except, if at all, by such ordinance or ordin-
25 ances as shall for the time being be certified and recorded in accordance with this Act or any such repealed Act.

36. A copy of the Gazette containing a notification Notification in Gazette. purporting to be published in pursuance of the provisions or any of the provisions of this Act, or any Act
30 repealed by this Act, shall be prima facie evidence of the matters therein notified and the notification of which is authorised by this Act or any such repealed Act.

Church of England Trust Property.

PART IX.

GENERAL.

37. Subject and without prejudice to any past operation of any ordinance made or to be made under the provisions of this Act or any Act hereby repealed, and subject and without prejudice to any estate, right, privilege, obligation, or liability vested, acquired, accrued, or incurred under any such ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese.

Repeal or amendment of ordinances.

38. During the absence from New South Wales of a bishop of a diocese, a commissary appointed by such bishop may exercise all the powers and functions, and do and make all the things referred to in this Act, or such of them as shall be referred to in such appointment, as the case may be, in the place of such bishop.

Delegation of powers, &c., by bishop.

39. During the absence of a bishop as aforesaid and in cases where no commissary is appointed as aforesaid or some only of such powers, functions, and things are referred to in the appointment of such commissary, or during the incapacity of a bishop of a diocese arising from illness or any cause other than such absence as aforesaid, or during a vacancy in the see, the person or persons appointed for the purpose or purposes by ordinance of the synod of such diocese or in default of such ordinance or so far as the same shall not extend to any of such purposes the person next in ecclesiastical rank or degree in such diocese and resident therein may exercise all the powers and functions and do and make all the things referred to in this Act or such of them as are not referred to in any such appointment of a commissary as aforesaid, as the case may be, in the place of such bishop.

Delegation of powers, &c., of bishop by ordinance.

40. During the recess of the synod of a diocese such committee, council, or other body of persons (if any) as shall from time to time be constituted or appointed for the purpose by or under ordinance of the synod of such diocese may, in place of the synod of such diocese, exercise

Delegation of powers, &c., of synod.

Church of England Trust Property.

exercise such of the powers and functions, and do and make such of the things referred to in this Act as shall from time to time be determined by ordinance of the synod of such diocese, and the synod of such diocese 5 may, for the purpose aforesaid, from time to time by ordinance regulate the procedure of such committee, council, or other body of persons: Provided that no ordinance passed by any such committee, council, or other body of persons as aforesaid shall take effect or 10 have any validity unless within one month after the passing thereof the same shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same.

15 **41.** The preceding provisions of this Act shall, so far as applicable, apply to all powers, functions, and things so exercised, done, and made in the place of the bishop of the diocese and in the place of the synod of the diocese as in this Part respectively provided for, as 20 if such powers, functions, and things had been validly exercised, done, and made by the bishop of the diocese, or by the synod of the diocese, as the case may be.

Validity of
Acts, &c.,
under
delegation.

42. Each ordinance made under this Act under sections nine, ten, eleven, thirteen, or sixteen, and each 25 resolution and election made under sections twelve, fourteen, fifteen, or sixteen, and each consent given under section nineteen, shall be forthwith notified in the Gazette under the hand of the bishop of the diocese.

Notification
as to
trustees.

43. Each ordinance made under this Act under 30 sections twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty, may be recorded as follows:—

Record of
ordinances.

(a) In case any lands therein referred to are under
— the provisions of the Real Property Act, 1900,
35 or any Act amending or taking the place of the said Act, a copy of such ordinance, certified by the bishop of the diocese, shall be deposited with the Registrar-General for safe custody and reference in accordance with the provisions
40 of the Act.

(b)

Church of England Trust Property.

- 5 (b) In case any lands therein referred to are not under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance certified by the bishop of the diocese shall be filed in the office of the Registrar-General in accordance with the provisions of the Registration of Deeds Act, 1897, or any Act amending or taking the place of the said Act.

10

SCHEDULE.

	Date of assent.	Title or short title.	Reference to Act.
	31st March, 1881 ...	Church of England Trust Property Incorporation Act, 1881.	44th Vic.
15	22nd June, 1887 ...	Sydney Bishopric and Church Property Act, 1887.	51st Vic.
	21st May, 1889 ...	Church of England Property Act of 1889.	52nd Vic.
	28th October, 1892...	Church of England Property Act of 1889 Amendment Act of 1892.	56th Vic.
20	24th July, 1896 ...	Church of England Property Act of 1889 Further Amendment Act of 1896.	60th Vic.
25	24th November, 1897	Church Acts Repealing Act of 1897.	61st Vic.
	11th December, 1906	Bathurst Cathedral Validating Act, 1906.	
30	15th October, 1913...	Church of England Trust Property Incorporation Act Amendment Act, 1913.	

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Clerk of the Parliaments.
Legislative Council Chamber,
Sydney, October, 1917.

New South Wales.



ANNO OCTAVO

GEORGII V REGIS.

Act No. , 1917.

An Act to consolidate and amend the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of the said dioceses with reference to the said property ; and for other purposes.

WHEREAS the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods

Church of England Trust Property.

of the dioceses with reference to the said property are numerous, ambiguous, and discursive, and it is therefore expedient to consolidate and amend the same: Be it therefore enacted by the King's Most Excellent Majesty, 5 by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the “Church of England Trust Property Act, 1917,” and is divided into Parts as follows:—

Short title
and Parts.

PART I.—REPEAL AND AMENDMENT—ss. 2, 3.

PART II.—INTERPRETATION—s. 4.

15 PART III.—TRUSTEES CONSTITUTION AND SUC-
CESSION—ss. 5-18.

PART IV.—VESTING TRUST PROPERTY—ss. 19-23.

PART V.—MANAGEMENT AND INVESTMENT OF
TRUST PROPERTY—ss. 24, 25.

20 PART VI.—SALE, EXCHANGE, MORTGAGE, LEASE,
&c., OF TRUST PROPERTY—ss. 26-31.

PART VII.—VARIATION OF TRUSTS—s. 32.

PART VIII.—EVIDENCE—ss. 33-36.

PART IX.—GENERAL—ss. 37-43.

PART I.

25 REPEAL AND AMENDMENT.

2. (1) The Acts mentioned in the Schedule to Repeal. this Act are hereby repealed, but notwithstanding the said repeal the said Acts shall continue to apply as if unrepealed to the Diocese of Newcastle and to all the 30 trust property matters and things of or pertaining to the said diocese until the synod of the said diocese shall

Church of England Trust Property.

shall make an ordinance declaring a desire to have the benefit of this Act, and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette, and immediately upon such
5 notification and thenceforth the provisions of this Act shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

(2) The said repeal shall not affect ordinances
10 passed, trustees constituted as bodies politic and corporate, persons elected or appointed trustees or members of bodies politic and corporate, property vested, acts and things validated, or certificates given under the said Acts, or any of them.

(3) Except so far as there is anything in this Act
15 inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the said repealed Acts, and at the commencement of this Act of any force or effect or capable of acquiring any force or
20 effect by virtue of the said repealed Acts as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

3. (1) Sections five and seven of the Church of England
25 Constitutions Act Amendment Act of 1902 and clauses three and six of the Schedule to the said Act and all Acts and parts of Acts relating to church trust property shall, so far as may be necessary for the purposes of this Act, be read as amended and supplemented by this Act.

(2) In the case of the Diocese of Sydney the
30 following subsections shall apply:—

(a) The present members of the council referred to
in Saint James' School Compensation Trust
35 Act, assented to the twenty-seventh day of August, one thousand eight hundred and eighty-six, and such persons as shall from time to time be members of the said council, including the Archbishop of Sydney for the time being as ex officio president, shall be and
40 they are hereby constituted a body politic and corporate by the name of "Sydney Church of England

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5 England Grammar School Council", and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise, any real or personal property, and for any estate or interest therein.

10 (b) All property real and personal which immediately before the passing of this Act was vested in any person or persons other than the Church of England Property Trust Diocese of Sydney upon any trust for the purposes of the school referred to in the said Saint James' School Compensation Trust Act shall by virtue of this Act and without any other instrument vest in the said body constituted by subsection (a) upon the same trusts respectively for the purposes of the said school upon which the said property was held immediately before the passing of this Act, and it shall be lawful for the Church of England Property Trust Diocese of Sydney by deed or deeds under its corporate seal to assign and transfer to the said body constituted by subsection (a) at one time or from time to time all or any part or parts of other real and personal property now or hereafter to be held by the said church property trust upon any trust for the purposes of the said school.

25 (c) This Act shall be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School, or The King's School Council Act, or The King's School Council Act Amendment Act of 1894.

PART

Church of England Trust Property.

PART II.

INTERPRETATION.

4. In this Act unless inconsistent with the context Definitions.
or subject matter—

5 "Bishop" includes Archbishop and the Bishop or
Archbishop for the time being.

"Church of England" means Church of England
within New South Wales.

10 "Church trust property" includes all or any part
of any real and personal property which may
for the time being be subject to any trust
whether by dedication, consecration, trust
instrument, or otherwise, for or for the use,
benefit, or purposes of the Church of England
15 in any diocese, and each such diocese is referred
to as the diocese for which the church trust
property in question is held.

20 "Corporate trustees" and "Corporate body of
trustees" respectively include corporate bodies
of trustees now or hereafter to be constituted
for any diocese under the provisions of the
Church of England Trust Property Incorpora-
tion Act, 1881, hereby repealed or of this
Act.

25 "Diocese" includes any diocese now or hereafter
to be formed and situated within New South
Wales, and the identity of a diocese shall be
deemed not to be affected by the formation
wholly or partly thereof of a new diocese nor
30 by any other alteration of boundaries or area
nor by any change of name.

"Parish" includes any parish or ecclesiastical
district now or hereafter to be formed and
situated within New South Wales.

35 "Parish council" means the body of persons, if
any, in which the general powers of governing
the affairs of a parish are for the time being
vested under the provisions of any ordinance
of the synod of a diocese.

"Person"

Church of England Trust Property.

- “Person” includes corporate trustees and a bishop.
 “Purposes” includes religious, educational, cemetery, and all other purposes of the Church of England, whether such purposes are within or beyond the diocese or the State.
 “Standing committee” includes any general governing council of a diocese created by or under the authority of its synod.
 “Synod” includes any synod now or hereafter to be convened or held in pursuance of the provisions of the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same.
 “Trust instrument” includes ordinances of synod and Acts of Parliament, though not expressly mentioned herein.
 “Trustee,” “new trustee,” respectively, include corporate trustees and a bishop.

PART III.

20 TRUSTEES CONSTITUTION AND SUCCESSION.

5. The following bodies, that is to say—
 Church of England Property Trust Diocese of Sydney;
 Church of England Property Trust Diocese of Goulburn;
 The Corporate Trustees of the Diocese of Grafton and Armidale;
 Church of England Property Trust Diocese of Bathurst;
 Trustees of the Church Property for the Diocese of Riverina;
 The Corporate Trustees of the Diocese of Grafton, are hereby declared to have been duly constituted as bodies politic and corporate by the said names respectively, under the provisions of the Church of England Trust

Existing corporate bodies.

Church of England Trust Property.

Trust Property Incorporation Act, 1881, and notwithstanding the repeal of the said Act they shall remain so constituted as aforesaid, and, except so far as there is anything in this Act inconsistent therewith, this Act shall apply to them as if this Act had been in force at the time they were constituted and they were constituted hereunder.

The bishop of a diocese shall ex officio be a member of the corporate body so constituted as aforesaid for such diocese, and the number of members shall be increased by one for the said purpose.

6. The synod of each diocese, other than the dioceses for which the said bodies in the preceding section mentioned were and remain so constituted as aforesaid, may at any time elect such persons as such synod desires, should together with the bishop of the diocese, ex officio, be incorporated as trustees for such diocese, and the bishop of such diocese shall notify such election in the Gazette, and immediately upon such notification and thenceforth the said persons and such persons as may from time to time be members of such body, together with the bishop of the diocese, ex officio, shall be and they are hereby constituted a body politic and corporate, by the name of incorporation mentioned in such notification, and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise any real or personal property, and for any estate or interest therein.

New corporate bodies.

7. The members for the time being of each corporate body of trustees shall have the custody of the common seal of such corporate body, and the form of such seal and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

Common seal and quorum.

8. Any deed or instrument, executed or signed, and any other act, matter, or thing done by any three members of any such corporate body as aforesaid, in pursuance

Authority of members of corporate bodies.

Church of England Trust Property.

pursuance of a resolution of the said corporate body and under the common seal of the said corporate body, shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

5 **9.** It shall be lawful for the synod of a diocese from time to time, by ordinance, to vary the provisions of sections seven and eight, in so far as the same relate to such diocese, and the said provisions shall, with reference to the said diocese and to all the church trust
10 property matters and things of or held for or pertaining to the said diocese, be read from time to time as so varied by ordinance as aforesaid.

10. It shall be lawful for the synod of a diocese from time to time, by ordinance, to change the name of
15 the corporate body of trustees constituted for such diocese.

11. It shall be lawful for the synod of a diocese from time to time, by ordinance, to declare what shall be the number of members of the corporate body of trustees
20 constituted for such diocese, and in case of increase in the number such increase shall be effected by the synod of such diocese electing an additional member, or additional members, and in case of decrease in the number such decrease shall be effected by the synod of
25 such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

12. It shall be lawful for the synod of a diocese from time to time, by resolution, to declare the existence
30 of a vacancy, or vacancies, in the office of member of the corporate body of trustees of such diocese by reason of one or more of the members for the time being of such corporate body having died, resigned office, refused or neglected or having become incapable to act in the
35 said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect a person or persons to be, and
40 such person or persons shall thereupon become a member or members of the said body in the place or places of the member or members referred to in the said resolution.

13.

Church of England Trust Property.

13. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time, by ordinance, to declare what shall be the number of trustees of such property, and in case of increase in the number such increase shall be effected by the synod of such diocese electing a new trustee, or new trustees, by way of addition, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

Alteration of number of trustees.

14. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time by resolution to declare the existence of a vacancy or vacancies in the office of trustee of such property, by reason of one or more of the trustees having died, resigned office, refused or neglected, or having become incapable to act in the said office, or having for the space of six months ceased to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect or by resolution provide for the election of a person or persons to be, and such person or persons shall upon such election become a trustee or trustees in the place or places of the trustee or trustees referred to in the said resolution.

Vacancies in office of trustee.

15. It shall be lawful for the synod of a diocese to elect a new trustee or new trustees respectively for church trust property, which may be allocated under the provisions of this Act for such diocese.

New trustees for allocated property.

16. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held by ordinance to provide for the election of separate trustees for any part or parts of such property, and to elect such separate trustees.

Separate trustees.

17. The provisions contained in section fourteen are in addition to any other provision for the time being applicable to any church trust property.

Provision cumulative.

18. Every person for the time being acting and recognised as being the bishop of a diocese, and having been

Bishops.

Church of England Trust Property.

been consecrated according to the manner and form prescribed and used by the Church of England, shall in the construction of all Statutes, Acts, grants, deeds, and other instruments be deemed to be and shall be the
5 successor of the bishop of such diocese, notwithstanding that such bishop may not have been appointed under letters patent from the Crown, or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such
10 consecration, and shall in all respects within such diocese have and enjoy all and singular the same rights, powers, and privileges, whether created by Statute, Act, grant, deed, or other instrument whatsoever as were enjoyed or possessed therein by the bishops his prede-
15 cessors, and in the case of the diocese of Sydney the Most Reverend John Charles Wright, D.D., the present Archbishop, and all other persons for the time being acting and recognised and consecrated as aforesaid, shall in the construction of such instruments as aforesaid be
20 deemed to be and shall be the successors from time to time of the Bishop of Australia and the Bishop of Sydney.

PART IV.

VESTING TRUST PROPERTY.

25 **19.** Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is
30 held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law, become vested in the corporate trustees of such diocese : Provided that if in consequence of death or disability the consent of any
35 trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

In corporate
trustees by
consent.

Church of England Trust Property.

20. All church trust property which may at any time belong to or be vested in the bishop of a diocese shall by force of this Act vest from time to time in the person who for the time being is or is deemed to be the successor of the bishop of such diocese as if such property had belonged or had been originally granted or conveyed to the bishop of such diocese and his successors as a body corporate, and notwithstanding that such person may not have been appointed bishop of such diocese under letters patent from the Crown or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration.

Property
vested in
bishops.

21. Upon the election or appointment of a new trustee or new trustees under the provisions of this Act or of any ordinance in force for the time being in any diocese, all the church trust property in respect of which such election or appointment is made shall by virtue of such election or appointment and without other assurance in the law become vested in such new trustee or trustees, either alone or jointly with the surviving or continuing trustee or trustees as the case may require, and every new trustee so elected or appointed as aforesaid shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Property
vested in
new trustee.

22. In each case where, by reason of the formation or proposed formation of a new diocese, or the alteration or proposed alteration of the boundaries or area of a diocese or otherwise, it shall seem expedient to the synod of a diocese for which any church trust property is for the time being held, it shall be lawful for the synod of such diocese by ordinance to allocate such church trust property for any other diocese or proposed diocese, and by virtue of such ordinance and without other assurance in the law such church trust property shall, from the times respectively in such ordinance provided, be held for such other diocese or proposed diocese instead of the diocese making such ordinance and be vested in the new trustee or new trustees respectively then or thereafter to be elected for such church trust property under the provisions

In case of
new dioceses,
&c.

Church of England Trust Property.

provisions of this Act, in the place of the trustee or trustees thereof for the time being, and upon the trusts to which the same shall for the time being be subject, but for or for the use, benefit, or purposes of the Church of England in the diocese or proposed diocese for which the same shall have been so allocated as aforesaid in the place of the diocese making such ordinance.

23. Upon the election of separate trustees under the provisions of any ordinance in force for the time being in a diocese, the church trust property mentioned in such ordinance shall, by virtue of such election and without other assurance in the law become vested in such separate trustees in the place of the trustees thereof for the time being, and the said separate trustees shall, with respect to such church trust property, have the same powers, authorities, and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust.

Property
vested in
separate
trustees.

PART V.

20 MANAGEMENT AND INVESTMENT OF TRUST PROPERTY.

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding.

Management.

25.

Church of England Trust Property.

25. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for the investment of such property, and for the pooling of separate church trust properties for the purpose of investment, and for averaging gains, losses, and interests, and for all other matters and things incidental to such investment and pooling.

10

PART VI.

SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST PROPERTY.

26. It shall be lawful for the synod of the diocese for which any church trust property is for the time being held if it shall appear to such synod expedient by reason of circumstances subsequent to the creation of the trusts of such property by ordinance to direct that such property be sold, exchanged, mortgaged, or let on mining, building, occupation, or other leases, or otherwise dealt with in manner provided by such ordinance, and to provide for accepting the surrender of any lease thereof and for laying out and dedicating parts thereof for any purpose or purposes, and to provide for the application of the real and personal property arising from any such sale, exchange, mortgage, letting, or other dealing as aforesaid: Provided that in the cases of the dioceses of Sydney and Goulburn no such ordinance in respect of property held for the sole benefit of some particular parish shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same, without the consent in writing of a majority of the members of the parish council (if any) for the time being of the parish, and in the case of property gratuitously granted or assured within twenty years preceding the time being by any private donor without the like consent of such donor if living.

Synod may
direct sales,
&c.

27.

Church of England Trust Property.

27. It shall be lawful for the synod of a diocese by ordinance to direct what person or persons shall execute the deed or deeds or other instrument or instruments, and do all acts, measures, and things necessary for the purpose of carrying into effect the sale, exchange, mortgage, lease, or other dealing directed by ordinance of the synod of such diocese under the provisions of this Act, and the deed or deeds, or other instrument or instruments executed, and the acts, measures, and things done by such person or persons shall take effect as if the trust instrument relating to the church trust property comprised in the said ordinance had contained a power enabling such person or persons to effect such sale, exchange, mortgage, lease, or other dealing, and so as to operate, if necessary, by way of revocation and appointment of the use or otherwise as the said ordinance shall direct.

Deeds of conveyance, &c.

28. A corporate body of trustees may let the church trust property vested in such body on lease for such term or terms as shall from time to time be approved of by the synod of the diocese for which such corporate body is constituted, or if the synod be not in session then as shall be approved of by the standing committee of such diocese: Provided, however, that until the first session of such synod after this Act comes into force in such diocese such corporate body may let such church trust property for any term of years not exceeding seven.

Power of corporate trustees to let in certain cases.

29. No purchaser, mortgagee, lessee, or other person, or the Registrar-General, upon any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act, shall be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the same, nor be affected by notice that the exercise of the power is unauthorised, irregular, or improper, nor be concerned to see to the application or disposition of any purchase, mortgage, or other money or rent paid by him.

Protection of purchasers, &c.

30. The moneys (if any) arising from any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act shall be paid to the trustee or trustees in whom the property,

Discharge for purchase moneys, &c.

Church of England Trust Property.

property, the subject matter of such sale, exchange, mortgage, lease, or other dealing immediately theretofore vested, or to such other person or persons as the ordinance (if any) directing such sale, exchange, mortgage, lease, or other dealing may provide. And the receipt of the said trustee or trustees, or other person or persons, as the case may be, shall be an effectual discharge therefor.

31. Pending the application of any moneys to arise Temporary investments. as aforesaid, the same may, after payment thereof of all proper costs, charges, and expenses, be invested in Government or real securities in New South Wales or in the Commonwealth of Australia, or on fixed deposit in any bank, or otherwise as the ordinance directing such dealing, or any ordinance of the synod of the said diocese in force for the time being and applicable thereto may provide.

PART VII.

VARIATION OF TRUSTS.

32. In each case where by reason of circumstances Power of synod to vary trusts, &c. subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit, or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England

Church of England Trust Property.

England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

PART VIII.

EVIDENCE.

- 20 **33.** A certificate signed by the bishop of a diocese for which there is for the time being a corporate body of trustees shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or
 25 interest in the church trust property therein referred to, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted members of such corporate body of trustees and that they became such members at the date or
 30 respective dates mentioned in such certificate.
- 34.** A certificate signed by the bishop of a diocese for which any church trust property in such certificate referred to is for the time being held shall be prima facie evidence and in favour of all persons purchasing,
 35 advancing moneys on, leasing, or otherwise acquiring
 or

Church of England Trust Property.

or possessing any estate or interest in such property, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted trustees of such property, and that they
5 became such trustees at the date or respective dates and in the manner mentioned in such certificate, and in the case of lands under the operation of the Real Property Act, 1900, or any Act amending or taking the place of the same shall entitle such trustees to be registered as the
10 proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer.

35. A document purporting to be a copy ordinance Making of ordinances. certified and recorded in accordance with this Act or any Act repealed by this Act or a certified or office copy
15 thereof shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the property therein referred to shall be conclusive evidence that an ordinance in terms of such copy was
20 duly made and assented to, and that all necessary consents and directions were duly given, and that all proceedings in connection therewith were regular and in due form, and that such ordinance was not repealed or amended except, if at all, by such ordinance or ordin-
25 ances as shall for the time being be certified and recorded in accordance with this Act or any such repealed Act.

36. A copy of the Gazette containing a notification Notification in Gazette. purporting to be published in pursuance of the provisions or any of the provisions of this Act, or any Act
30 repealed by this Act, shall be prima facie evidence of the matters therein notified and the notification of which is authorised by this Act or any such repealed Act.

Church of England Trust Property.

PART IX.

GENERAL.

37. Subject and without prejudice to any past operation of any ordinance made or to be made under the provisions of this Act or any Act hereby repealed, and subject and without prejudice to any estate, right, privilege, obligation, or liability vested, acquired, accrued, or incurred under any such ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese.

Repeal or
amendment
of ordinances.

38. During the absence from New South Wales of a bishop of a diocese, a commissary appointed by such bishop may exercise all the powers and functions, and do and make all the things referred to in this Act, or such of them as shall be referred to in such appointment, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
by bishop.

39. During the absence of a bishop as aforesaid and in cases where no commissary is appointed as aforesaid or some only of such powers, functions, and things are referred to in the appointment of such commissary, or during the incapacity of a bishop of a diocese arising from illness or any cause other than such absence as aforesaid, or during a vacancy in the see, the person or persons appointed for the purpose or purposes by ordinance of the synod of such diocese or in default of such ordinance or so far as the same shall not extend to any of such purposes the person next in ecclesiastical rank or degree in such diocese and resident therein may exercise all the powers and functions and do and make all the things referred to in this Act or such of them as are not referred to in any such appointment of a commissary as aforesaid, as the case may be, in the place of such bishop.

Delegation of
powers, &c.,
of bishop by
ordinance.

40. During the recess of the synod of a diocese such committee, council, or other body of persons (if any) as shall from time to time be constituted or appointed for the purpose by or under ordinance of the synod of such diocese may, in place of the synod of such diocese, exercise

Delegation of
powers, &c.,
of synod.

Church of England Trust Property.

exercise such of the powers and functions, and do and make such of the things referred to in this Act as shall from time to time be determined by ordinance of the synod of such diocese, and the synod of such diocese
 5 may, for the purpose aforesaid, from time to time by ordinance regulate the procedure of such committee, council, or other body of persons: Provided that no ordinance passed by any such committee, council, or other body of persons as aforesaid shall take effect or
 10 have any validity unless within one month after the passing thereof the same shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same.

15 **41.** The preceding provisions of this Act shall, so far as applicable, apply to all powers, functions, and things so exercised, done, and made in the place of the bishop of the diocese and in the place of the synod of the diocese as in this Part respectively provided for, as
 20 if such powers, functions, and things had been validly exercised, done, and made by the bishop of the diocese, or by the synod of the diocese, as the case may be.

Validity of
Acts, &c.,
under
delegation.

42. Each ordinance made under this Act under sections nine, ten, eleven, thirteen, or sixteen, and each
 25 resolution and election made under sections twelve, fourteen, fifteen, or sixteen, and each consent given under section nineteen, shall be forthwith notified in the Gazette under the hand of the bishop of the diocese.

Notification
as to
trustees.

43. Each ordinance made under this Act under
 30 sections twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty, may be recorded as follows:—

Record of
ordinances.

(a) In case any lands therein referred to are under the provisions of the Real Property Act, 1900,
 35 or any Act amending or taking the place of the said Act, a copy of such ordinance, certified by the bishop of the diocese, shall be deposited with the Registrar-General for safe custody and reference in accordance with the provisions
 40 of the Act.

(b)

Church of England Trust Property.

- (b) In case any lands therein referred to are not under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance certified by the bishop of the diocese shall be filed in the office of the Registrar-General in accordance with the provisions of the Registration of Deeds Act, 1897, or any Act amending or taking the place of the said Act.

10

SCHEDULE.

	Date of assent.	Title or short title.	Reference to Act.
	31st March, 1881 ...	Church of England Trust Property Incorporation Act, 1881.	44th Vic.
15	22nd June, 1887 ...	Sydney Bishopric and Church Property Act, 1887.	51st Vic.
	21st May, 1889 ...	Church of England Property Act of 1889.	52nd Vic.
	28th October, 1892...	Church of England Property Act of 1889 Amendment Act of 1892.	56th Vic.
20	24th July, 1896 ...	Church of England Property Act of 1889 Further Amendment Act of 1896.	60th Vic.
25	24th November, 1897	Church Acts Repealing Act of 1897.	61st Vic.
	11th December, 1906	Bathurst Cathedral Validating Act, 1906.	
30	15th October, 1913...	Church of England Trust Property Incorporation Act Amendment Act, 1913.	

Legislative Council

No. , 1917.

A BILL

To consolidate and amend the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of the said dioceses with reference to the said property ; and for other purposes.

[MR. GARLAND ;—24 *October*, 1917.]

WHEREAS the Acts relating to property held upon any trust for or for the use, benefit, or purposes of the Church of England in dioceses within New South Wales, and the Acts conferring powers upon the synods of

Preamble.

of the dioceses with reference to the said property are numerous, ambiguous, and discursive, and it is therefore expedient to consolidate and amend the same: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative 5 Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and Parts.

1. This Act may be cited as the "Church of England Trust Property Act, 1917," and is divided into Parts as 10 follows:—

PART I.—REPEAL AND AMENDMENT—ss. 2, 3.

PART II.—INTERPRETATION—s. 4.

PART III.—TRUSTEES CONSTITUTION AND SUC-
CESSION—ss. 5-18. 15

PART IV.—VESTING TRUST PROPERTY—ss. 19-23.

PART V.—MANAGEMENT AND INVESTMENT OF
TRUST PROPERTY—ss. 24, 25.

PART VI.—SALE, EXCHANGE, MORTGAGE, LEASE,
&c., OF TRUST PROPERTY—ss. 26-31. 20

PART VII.—VARIATION OF TRUSTS—s. 32.

PART VIII.—EVIDENCE—ss. 33-36.

PART IX.—GENERAL—ss. 37-43.

PART I.

REPEAL AND AMENDMENT. 25

Repeal.

2. (1) The Acts mentioned in the Schedule to this Act are hereby repealed, but notwithstanding the said repeal the said Acts shall continue to apply as if unrepealed to the Diocese of Newcastle and to all the trust property matters and things of or pertaining to 30 the said diocese until the synod of the said diocese shall

shall make an ordinance declaring a desire to have the benefit of this Act, and shall in the name and under the hand of the Bishop of the said diocese notify such ordinance in the Gazette, and immediately upon such
5 notification and thenceforth the provisions of this Act shall apply to the said diocese and to all the trust property matters and things of or pertaining to the said diocese.

(2) The said repeal shall not affect ordinances
10 passed, trustees constituted as bodies politic and corporate, persons elected or appointed trustees or members of bodies politic and corporate, property vested, acts and things validated, or certificates given under the said Acts, or any of them.

(3) Except so far as there is anything in this Act
15 inconsistent therewith, this Act shall apply to all matters and things made, done, or commenced under the said repealed Acts, and at the commencement of this Act of any force or effect or capable of acquiring any force or
20 effect by virtue of the said repealed Acts as if this Act had been in force at the time they were made, done, or commenced, and they were made, done, or commenced hereunder.

3. (1) Sections five and seven of the Church of England
25 Constitutions Act Amendment Act of 1902 and clauses three and six of the Schedule to the said Act and all Acts and parts of Acts relating to church trust property shall, so far as may be necessary for the purposes of this Act, be read as amended and supplemented by this Act.

(2) In the case of the Diocese of Sydney the
30 following subsections shall apply:—

(a) The present members of the council referred to
35 in Saint James' School Compensation Trust Act, assented to the twenty-seventh day of August, one thousand eight hundred and eighty-six, and such persons as shall from time to time be members of the said council, including the Archbishop of Sydney for the time being as ex officio president, shall be and they are hereby constituted a body politic and
40 corporate by the name of "Sydney Church of England

England Grammar School Council", and by such name they shall have perpetual succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them 5 and their successors by grant, will, or otherwise, any real or personal property, and for any estate or interest therein.

(b) All property real and personal which immediately before the passing of this Act was vested 10 in any person or persons other than the Church of England Property Trust Diocese of Sydney upon any trust for the purposes of the school referred to in the said Saint James' School Compensation Trust Act shall by virtue of this 15 Act and without any other instrument vest in the said body constituted by subsection (a) upon the same trusts respectively for the purposes of the said school upon which the said property was held immediately before the 20 passing of this Act, and it shall be lawful for the Church of England Property Trust Diocese of Sydney by deed or deeds under its corporate seal to assign and transfer to the said body constituted by subsection (a) at one time or 25 from time to time all or any part or parts of other real and personal property now or hereafter to be held by the said church property trust upon any trust for the purposes of the said school. 30

(c) This Act shall be deemed not to apply to nor to affect any property real or personal held or to be held upon any trust for the purposes of The King's School, or The King's School Council Act, or The King's School Council Act 35 Amendment Act of 1894.

PART II.

INTERPRETATION.

4. In this Act unless inconsistent with the context Definitions.
or subject matter—

5 “Bishop” includes Archbishop and the Bishop or
Archbishop for the time being.

“Church of England” means Church of England
within New South Wales.

10 “Church trust property” includes all or any part
of any real and personal property which may
for the time being be subject to any trust
whether by dedication, consecration, trust
instrument, or otherwise, for or for the use,
benefit, or purposes of the Church of England
15 in any diocese, and each such diocese is referred
to as the diocese for which the church trust
property in question is held.

20 “Corporate trustees” and “Corporate body of
trustees” respectively include corporate bodies
of trustees now or hereafter to be constituted
for any diocese under the provisions of the
Church of England Trust Property Incorpora-
tion Act, 1881, hereby repealed or of this
Act.

25 “Diocese” includes any diocese now or hereafter
to be formed and situated within New South
Wales, and the identity of a diocese shall be
deemed not to be affected by the formation
wholly or partly thereof of a new diocese nor
30 by any other alteration of boundaries or area
nor by any change of name.

“Parish” includes any parish or ecclesiastical
district now or hereafter to be formed and
situated within New South Wales.

35 “Parish council” means the body of persons, if
any, in which the general powers of governing
the affairs of a parish are for the time being
vested under the provisions of any ordinance
of the synod of a diocese.

“Person”

"Person" includes corporate trustees and a bishop.

"Purposes" includes religious, educational, cemetery, and all other purposes of the Church of England, whether such purposes are within or beyond the diocese or the State. 5

"Standing committee" includes any general governing council of a diocese created by or under the authority of its synod.

"Synod" includes any synod now or hereafter to be convened or held in pursuance of the provisions of the Church of England Constitutions Act Amendment Act of 1902, or any Act amending or taking the place of the same. 10

"Trust instrument" includes ordinances of synod and Acts of Parliament, though not expressly mentioned herein. 15

"Trustee," "new trustee," respectively, include corporate trustees and a bishop.

PART III.

TRUSTEES CONSTITUTION AND SUCCESSION. 20

Existing corporate bodies.

5. The following bodies, that is to say—

Church of England Property Trust Diocese of Sydney;

Church of England Property Trust Diocese of Goulburn; 25

The Corporate Trustees of the Diocese of Grafton and Armidale;

Church of England Property Trust Diocese of Bathurst;

Trustees of the Church Property for the Diocese of Riverina; 30

The Corporate Trustees of the Diocese of Grafton, are hereby declared to have been duly constituted as bodies politic and corporate by the said names respectively, under the provisions of the Church of England Trust 35

Trust

Trust Property Incorporation Act, 1881, and notwithstanding the repeal of the said Act they shall remain so constituted as aforesaid, and, except so far as there is anything in this Act inconsistent therewith, this Act
5 shall apply to them as if this Act had been in force at the time they were constituted and they were constituted hereunder.

The bishop of a diocese shall ex officio be a member of the corporate body so constituted as aforesaid for such
10 diocese, and the number of members shall be increased by one for the said purpose.

6. The synod of each diocese, other than the dioceses for which the said bodies in the preceding section mentioned were and remain so constituted as aforesaid, may
15 at any time elect such persons as such synod desires, should together with the bishop of the diocese, ex officio, be incorporated as trustees for such diocese, and the bishop of such diocese shall notify such election in the Gazette, and immediately upon such notification and
20 thenceforth the said persons and such persons as may from time to time be members of such body, together with the bishop of the diocese, ex officio, shall be and they are hereby constituted a body politic and corporate, by the name of incorporation mentioned in such notification, and by such name they shall have perpetual
25 succession and a common seal, and shall sue and be sued, or shall otherwise appear and answer and be answered, and may take and hold to them and their successors by grant, will, or otherwise any real or
30 personal property, and for any estate or interest therein.

7. The members for the time being of each corporate body of trustees shall have the custody of the common seal of such corporate body, and the form of such seal
35 and all other matters relating thereto shall from time to time be determined at a meeting of the said corporate body, and three members for the time being of the said corporate body shall constitute a quorum.

8. Any deed or instrument, executed or signed, and
40 any other act, matter, or thing done by any three members of any such corporate body as aforesaid, in pursuance

New corporate bodies.

Common seal and quorum.

Authority of members of corporate bodies.

pursuance of a resolution of the said corporate body and under the common seal of the said corporate body, shall be as effectual as if the same had been executed, signed, or done by all the members of the said corporate body.

Variation by
synod.

9. It shall be lawful for the synod of a diocese from 5 time to time, by ordinance, to vary the provisions of sections seven and eight, in so far as the same relate to such diocese, and the said provisions shall, with reference to the said diocese and to all the church trust property matters and things of or held for or pertaining 10 to the said diocese, be read from time to time as so varied by ordinance as aforesaid.

Change of
name.

10. It shall be lawful for the synod of a diocese from time to time, by ordinance, to change the name of the corporate body of trustees constituted for such 15 diocese.

Alteration of
number of
members of
corporate
body.

11. It shall be lawful for the synod of a diocese from time to time, by ordinance, to declare what shall be the number of members of the corporate body of trustees constituted for such diocese, and in case of increase in 20 the number such increase shall be effected by the synod of such diocese electing an additional member, or additional members, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or persons, to fill a 25 vacancy, or vacancies, declared under the provisions of this Act.

Vacancies in
membership
of corporate
bodies.

12. It shall be lawful for the synod of a diocese from time to time, by resolution, to declare the existence of a vacancy, or vacancies, in the office of member of 30 the corporate body of trustees of such diocese by reason of one or more of the members for the time being of such corporate body having died, resigned office, refused or neglected or having become incapable to act in the said office, or having for the space of six months ceased 35 to reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect a person or persons to be, and such person or persons shall thereupon become a 40 member or members of the said body in the place or places of the member or members referred to in the said resolution.

13.

13. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time, by ordinance, to declare what shall be the number of trustees of such property, and in
5 case of increase in the number such increase shall be effected by the synod of such diocese electing a new trustee, or new trustees, by way of addition, and in case of decrease in the number such decrease shall be effected by the synod of such diocese not electing a person, or
10 persons, to fill a vacancy, or vacancies, declared under the provisions of this Act.

Alteration of
number of
trustees.

14. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held from time to time by resolution to declare the
15 existence of a vacancy or vacancies in the office of trustee of such property, by reason of one or more of the trustees having died, resigned office, refused or neglected, or having become incapable to act in the said office, or having for the space of six months ceased to
20 reside within the said diocese, or by reason of some other matter to be specified in such resolution, and thereupon or at any time thereafter the synod of the said diocese may elect or by resolution provide for the election of a person or persons to be, and such person or persons shall
25 upon such election become a trustee or trustees in the place or places of the trustee or trustees referred to in the said resolution.

Vacancies in
office of
trustee.

15. It shall be lawful for the synod of a diocese to elect a new trustee or new trustees respectively for
30 church trust property, which may be allocated under the provisions of this Act for such diocese.

New trustees
for allocated
property.

16. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held by ordinance to provide for the election of separate
35 trustees for any part or parts of such property, and to elect such separate trustees.

Separate
trustees.

17. The provisions contained in section fourteen are in addition to any other provision for the time being applicable to any church trust property.

Provision
cumulative.

18. Every person for the time being acting and recognised as being the bishop of a diocese, and having
40 been

Bishops.

been consecrated according to the manner and form prescribed and used by the Church of England, shall in the construction of all Statutes, Acts, grants, deeds, and other instruments be deemed to be and shall be the successor of the bishop of such diocese, notwithstanding that such bishop may not have been appointed under letters patent from the Crown, or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration, and shall in all respects within such diocese have and enjoy all and singular the same rights, powers, and privileges, whether created by Statute, Act, grant, deed, or other instrument whatsoever as were enjoyed or possessed therein by the bishops his predecessors, and in the case of the diocese of Sydney the Most Reverend John Charles Wright, D.D., the present Archbishop, and all other persons for the time being acting and recognised and consecrated as aforesaid, shall in the construction of such instruments as aforesaid be deemed to be and shall be the successors from time to time of the Bishop of Australia and the Bishop of Sydney.

PART IV.

VESTING TRUST PROPERTY.

In corporate
trustees by
consent.

19. Any church trust property which may at any time belong to or be vested in any trustee or trustees shall upon the consent of such trustee or trustees, or the majority of them given in writing, or upon the consent of the synod of the diocese for which such property is held, given by or under an ordinance of the synod of such diocese by virtue of such consent and without other assurance in the law, become vested in the corporate trustees of such diocese: Provided that if in consequence of death or disability the consent of any trustee or trustees cannot be obtained it shall be lawful for the bishop of the diocese to consent in the place of any such trustee.

20.

20. All church trust property which may at any time belong to or be vested in the bishop of a diocese shall by force of this Act vest from time to time in the person who for the time being is or is deemed to be the
5 successor of the bishop of such diocese as if such property had belonged or had been originally granted or conveyed to the bishop of such diocese and his successors as a body corporate, and notwithstanding that such person may not have been appointed bishop of such diocese under
10 letters patent from the Crown or may have been consecrated in New South Wales or elsewhere without any mandate or license being issued by the Crown for such consecration.

Property
vested in
bishops.

21. Upon the election or appointment of a new
15 trustee or new trustees under the provisions of this Act or of any ordinance in force for the time being in any diocese, all the church trust property in respect of which such election or appointment is made shall by virtue of such election or appointment and without other as-
20 surance in the law become vested in such new trustee or trustees, either alone or jointly with the surviving or continuing trustee or trustees as the case may require, and every new trustee so elected or appointed as afore-
25 said shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally made a trustee on the creation of the trust.

Property
vested in
new trustee.

22. In each case where, by reason of the formation
or proposed formation of a new diocese, or the alteration
or proposed alteration of the boundaries or area of a
30 diocese or otherwise, it shall seem expedient to the synod of a diocese for which any church trust property is for the time being held, it shall be lawful for the synod of such diocese by ordinance to allocate such church trust property for any other diocese or proposed diocese, and
35 by virtue of such ordinance and without other assurance in the law such church trust property shall, from the times respectively in such ordinance provided, be held for such other diocese or proposed diocese instead of the diocese making such ordinance and be vested in the new
40 trustee or new trustees respectively then or thereafter to be elected for such church trust property under the

In case of
new dioceses,
&c.

provisions

provisions of this Act, in the place of the trustee or trustees thereof for the time being, and upon the trusts to which the same shall for the time being be subject, but for or for the use, benefit, or purposes of the Church of England in the diocese or proposed diocese for which the same shall have been so allocated as aforesaid in the place of the diocese making such ordinance. 5

Property
vested in
separate
trustees.

23. Upon the election of separate trustees under the provisions of any ordinance in force for the time being in a diocese, the church trust property mentioned in such ordinance shall, by virtue of such election and without other assurance in the law become vested in such separate trustees in the place of the trustees thereof for the time being, and the said separate trustees shall, with respect to such church trust property, have the same powers, authorities, and discretions, and shall in all respects act as if they had been originally made trustees on the creation of the trust. 10 15

PART V.

MANAGEMENT AND INVESTMENT OF TRUST PROPERTY. 20

Management.

24. It shall be lawful for the synod of a diocese for which any church trust property is for the time being held, from time to time by ordinance, to provide and to vary any provision now or hereafter to be made for governing and controlling the management and user of such property for the purposes for which the same is for the time being held in trust, and for all things incidental to such government and control, including constitutions of councils, committees, and other bodies, whether incorporated or not, and such property shall be held, managed, and used under and in accordance with such ordinance accordingly, the provisions of the trust instrument or instruments (if any) to the contrary notwithstanding. 25

25.

25. It shall be lawful for the synod of a diocese for Investment.
which any church trust property is for the time being
held, from time to time by ordinance, to provide and to
vary any provision now or hereafter to be made for the
5 investment of such property, and for the pooling of
separate church trust properties for the purpose of
investment, and for averaging gains, losses, and interests,
and for all other matters and things incidental to such
investment and pooling.

10

PART VI.

SALE, EXCHANGE, MORTGAGE, LEASE, &C., OF TRUST
PROPERTY.

26. It shall be lawful for the synod of the diocese for Synod may
direct sales,
&c.
which any church trust property is for the time being held
15 if it shall appear to such synod expedient by reason of
circumstances subsequent to the creation of the trusts
of such property by ordinance to direct that such pro-
perty be sold, exchanged, mortgaged, or let on mining,
building, occupation, or other leases, or otherwise dealt
20 with in manner provided by such ordinance, and to
provide for accepting the surrender of any lease thereof
and for laying out and dedicating parts thereof for any
purpose or purposes, and to provide for the application
of the real and personal property arising from any such
25 sale, exchange, mortgage, letting, or other dealing as
aforesaid: Provided that in the cases of the dioceses of
Sydney and Goulburn no such ordinance in respect of
property held for the sole benefit of some particular
parish shall be assented to under the Church of England
30 Constitutions Act Amendment Act of 1902, or any Act
amending or taking the place of the same, without the
consent in writing of a majority of the members of the
parish council (if any) for the time being of the parish,
and in the case of property gratuitously granted or
36 assured within twenty years preceding the time being
by any private donor without the like consent of such
donor if living.

27.

Deeds of conveyance, &c.

27. It shall be lawful for the synod of a diocese by ordinance to direct what person or persons shall execute the deed or deeds or other instrument or instruments, and do all acts, measures, and things necessary for the purpose of carrying into effect the sale, exchange, mortgage, lease, or other dealing directed by ordinance of the synod of such diocese under the provisions of this Act, and the deed or deeds, or other instrument or instruments executed, and the acts, measures, and things done by such person or persons shall take effect as if the trust instrument relating to the church trust property comprised in the said ordinance had contained a power enabling such person or persons to effect such sale, exchange, mortgage, lease, or other dealing, and so as to operate, if necessary, by way of revocation and appointment of the use or otherwise as the said ordinance shall direct.

Power of corporate trustees to let in certain cases.

28. A corporate body of trustees may let the church trust property vested in such body on lease for such term or terms as shall from time to time be approved of by the synod of the diocese for which such corporate body is constituted, or if the synod be not in session then as shall be approved of by the standing committee of such diocese: Provided, however, that until the first session of such synod after this Act comes into force in such diocese such corporate body may let such church trust property for any term of years not exceeding seven.

Protection of purchasers, &c.

29. No purchaser, mortgagee, lessee, or other person, or the Registrar-General, upon any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act, shall be concerned to see or inquire into the necessity or propriety thereof, or the mode of exercising the same, nor be affected by notice that the exercise of the power is unauthorised, irregular, or improper, nor be concerned to see to the application or disposition of any purchase, mortgage, or other money or rent paid by him.

Discharge for purchase moneys, &c.

30. The moneys (if any) arising from any sale, exchange, mortgage, lease, or other dealing purporting to be made under the powers granted by or under this Act shall be paid to the trustee or trustees in whom the property,

property, the subject matter of such sale, exchange, mortgage, lease, or other dealing immediately theretofore vested, or to such other person or persons as the ordinance (if any) directing such sale, exchange, mortgage, lease, or other dealing may provide. And the receipt of the said trustee or trustees, or other person or persons, as the case may be, shall be an effectual discharge therefor.

- 31.** Pending the application of any moneys to arise Temporary investments.
10 as aforesaid, the same may, after payment thereof of all proper costs, charges, and expenses, be invested in Government or real securities in New South Wales or in the Commonwealth of Australia, or on fixed deposit in any bank, or otherwise as the ordinance directing such
15 dealing, or any ordinance of the synod of the said diocese in force for the time being and applicable thereto may provide.

PART VII.

VARIATION OF TRUSTS.

- 20 **32.** In each case where by reason of circumstances Power of synod to vary trusts, &c.
subsequent to the creation of the trusts, including trusts declared under this section, to which any church trust property is for the time being subject, it has in the opinion of the synod of the diocese for which such
25 property is held become impossible or inexpedient to carry out or observe such trusts, it shall be lawful for the synod of such diocese by ordinance to declare such their opinion, and by the same or any subsequent ordinance to declare other trusts for or for the use, benefit,
30 or purposes of the Church of England within the said diocese instead of such first-mentioned trusts, and such first-mentioned trusts shall thereupon by force of the said ordinance cease and determine, and such property shall thereupon be held upon such other trusts
35 accordingly: Provided that such property shall be dealt with and applied for the benefit of the Church of England

England in the parish or parishes (if any) for the benefit of which such property was immediately before such ordinance held in trust, and for the same purposes as nearly as may be as the purposes for which such property was immediately before such ordinance held unless the synod of such diocese shall by ordinance declare that by reason of circumstances, subsequent to the creation of the first-mentioned trusts, it is, in the opinion of the synod, impossible or inexpedient to deal with or apply such property or some part thereof for the use or benefit of such parish or parishes or for the same or the like purposes, in which case such property or such part thereof may be dealt with and applied for the use and benefit of the Church of England for such other purposes and in such other parish or parishes in the said diocese or otherwise as shall be declared by ordinance of the synod of the said diocese.

PART VIII.

EVIDENCE.

Membership
of corporate
bodies.

33. A certificate signed by the bishop of a diocese for which there is for the time being a corporate body of trustees shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the church trust property therein referred to, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted members of such corporate body of trustees and that they became such members at the date or respective dates mentioned in such certificate.

Trusteeship.

34. A certificate signed by the bishop of a diocese for which any church trust property in such certificate referred to is for the time being held shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring

or

or possessing any estate or interest in such property, and the Registrar-General shall be conclusive evidence that the persons named in such certificate are the duly constituted trustees of such property, and that they
5 became such trustees at the date or respective dates and in the manner mentioned in such certificate, and in the case of lands under the operation of the Real Property Act, 1900, or any Act amending or taking the place of the same shall entitle such trustees to be registered as the
10 proprietors thereof accordingly, and to have a certificate of title issued to them without any formal transfer.

35. A document purporting to be a copy ordinance Making of ordinances. certified and recorded in accordance with this Act or any Act repealed by this Act or a certified or office copy
15 thereof shall be prima facie evidence and in favour of all persons purchasing, advancing moneys on, leasing, or otherwise acquiring or possessing any estate or interest in the property therein referred to shall be conclusive evidence that an ordinance in terms of such copy was
20 duly made and assented to, and that all necessary consents and directions were duly given, and that all proceedings in connection therewith were regular and in due form, and that such ordinance was not repealed or amended except, if at all, by such ordinance or ordin-
25 ances as shall for the time being be certified and recorded in accordance with this Act or any such repealed Act.

36. A copy of the Gazette containing a notification Notification in Gazette. purporting to be published in pursuance of the provisions or any of the provisions of this Act, or any Act
30 repealed by this Act, shall be prima facie evidence of the matters therein notified and the notification of which is authorised by this Act or any such repealed Act.

PART IX.

GENERAL.

Repeal or
amendment
of ordinances.

37. Subject and without prejudice to any past operation of any ordinance made or to be made under the provisions of this Act or any Act hereby repealed, and subject and without prejudice to any estate, right, privilege, obligation, or liability vested, acquired, accrued, or incurred under any such ordinance, the synod of a diocese may repeal or from time to time amend any ordinance made or to be made by the synod of such diocese. 5 10

Delegation of
powers, &c.,
by bishop.

38. During the absence from New South Wales of a bishop of a diocese, a commissary appointed by such bishop may exercise all the powers and functions, and do and make all the things referred to in this Act, or such of them as shall be referred to in such appointment, as the case may be, in the place of such bishop. 15

Delegation of
powers, &c.,
of bishop by
ordinance.

39. During the absence of a bishop as aforesaid and in cases where no commissary is appointed as aforesaid or some only of such powers, functions, and things are referred to in the appointment of such commissary, or during the incapacity of a bishop of a diocese arising from illness or any cause other than such absence as aforesaid, or during a vacancy in the see, the person or persons appointed for the purpose or purposes by ordinance of the synod of such diocese or in default of such ordinance or so far as the same shall not extend to any of such purposes the person next in ecclesiastical rank or degree in such diocese and resident therein may exercise all the powers and functions and do and make all the things referred to in this Act or such of them as are not referred to in any such appointment of a commissary as aforesaid, as the case may be, in the place of such bishop. 20 25 30

Delegation of
powers, &c.,
of synod.

40. During the recess of the synod of a diocese such committee, council, or other body of persons (if any) as shall from time to time be constituted or appointed for the purpose by or under ordinance of the synod of such diocese may, in place of the synod of such diocese, exercise 35

exercise such of the powers and functions, and do and make such of the things referred to in this Act as shall from time to time be determined by ordinance of the synod of such diocese, and the synod of such diocese
 5 may, for the purpose aforesaid, from time to time by ordinance regulate the procedure of such committee, council, or other body of persons: Provided that no ordinance passed by any such committee, council, or other body of persons as aforesaid shall take effect or
 10 have any validity unless within one month after the passing thereof the same shall be assented to under the Church of England Constitutions Act Amendment Act of 1902, or some Act amending or taking the place of the same.

15 **41.** The preceding provisions of this Act shall, so far as applicable, apply to all powers, functions, and things so exercised, done, and made in the place of the bishop of the diocese and in the place of the synod of the diocese as in this Part respectively provided for, as
 20 if such powers, functions, and things had been validly exercised, done, and made by the bishop of the diocese, or by the synod of the diocese, as the case may be.

Validity of
 Acts, &c.,
 under
 delegation.

42. Each ordinance made under this Act under sections nine, ten, eleven, thirteen, or sixteen, and each
 25 resolution and election made under sections twelve, fourteen, fifteen, or sixteen, and each consent given under section nineteen, shall be forthwith notified in the Gazette under the hand of the bishop of the diocese.

Notification
 as to
 trustees.

43. Each ordinance made under this Act under
 30 sections twenty-two, twenty-four, twenty-five, twenty-six, twenty-seven, thirty-two, thirty-seven, thirty-nine, or forty, may be recorded as follows:—

Record of
 ordinances.

(a) In case any lands therein referred to are under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance, certified by the bishop of the diocese, shall be deposited with the Registrar-General for safe custody and reference in accordance with the provisions
 35
 40 of the Act.

(b)

- (b) In case any lands therein referred to are not under the provisions of the Real Property Act, 1900, or any Act amending or taking the place of the said Act, a copy of such ordinance certified by the bishop of the diocese shall be filed in the office of the Registrar-General in accordance with the provisions of the Registration of Deeds Act, 1897, or any Act amending or taking the place of the said Act. 5

SCHEDULE.

10

Date of assent.	Title or short title.	Reference to Act.	
31st March, 1881 ...	Church of England Trust Property Incorporation Act, 1881.	44th Vic.	
22nd June, 1887 ...	Sydney Bishopric and Church Property Act, 1887.	51st Vic.	15
21st May, 1889 ...	Church of England Property Act of 1889.	52nd Vic	
28th October, 1892...	Church of England Property Act of 1889 Amendment Act of 1892.	56th Vic.	20
24th July, 1896 ...	Church of England Property Act of 1889 Further Amendment Act of 1896.	60th Vic.	
24th November, 1897	Church Acts Repealing Act of 1897.	61st Vic.	25
11th December, 1906	Bathurst Cathedral Validating Act, 1906.		
15th October, 1913...	Church of England Trust Property Incorporation Act Amendment Act, 1913.		30