

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

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 17 November, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. , 1971.

An Act to enable certain arrangements made between the Presbyterian Church of Australia and the State Presbyterian Churches to be carried into effect; to provide for the consequential variation of the trusts upon which certain church property is held and the consequential amendment of certain Acts; and for purposes connected therewith.

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Presbyterian Church of Australia.

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Presbyterian Church of Australia Act, 1971". Short title and commencement.

(2) Sections seven, eight and nine of this Act commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day that is not earlier than the day upon which a certificate referred to in section three of this Act is published in the Gazette.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

"new basis of union" means the Basis of Union set forth in the Schedule to this Act;

"old scheme of union" means the Basis of Union and Articles of Agreement set forth in the Schedule to the Presbyterian Church of Australia Act, 1900;

"State Presbyterian Churches" means the Presbyterian Church of Australia in New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia.

3. (1) The prescribed conditions referred to in sub-sections two and three of this section are complied with if the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that— Federal union.

(a) the Moderator of the General Assembly of the Presbyterian Church of Australia and the respective Moderators of the General Assemblies of the State Presbyterian Churches have signed a deed declaring

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- 5 declaring that those churches have agreed to vary the old scheme of union by substituting the new basis of union for the old scheme of union and have agreed to unite in accordance with the new basis of union; and
- (b) the Parliaments of each of the States of Victoria, Queensland, South Australia, Western Australia and Tasmania have passed an Act enabling effect to be given to the new basis of union.
- 10 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales
15 or the General Assembly thereof shall be held—
- (a) for the same purposes of the synod for the time being having ecclesiastical jurisdiction in New South Wales pursuant to the new basis of union; and
- 20 (b) subject to the new basis of union.
- (3) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of
25 any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be held—
- (a) for the same purposes of the same presbytery, session, board or committee of management, congregation, committee, council, board or fund, as the case may be, in connection with the Presbyterian Church of Australia; and
- 30 (b) subject to the new basis of union.
- 35 (4) Except to the extent provided by subsections two and three of this section, interests in property referred to in those subsections are not affected or varied by this Act.

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4. (1) The prescribed conditions referred to in subsection two of this section are complied with if, before the publication of the certificate referred to in subsection one of section three of this Act, the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

Union with
other
branches
of the
Christian
church.

10 (a) the Moderators referred to in paragraph (a) of subsection one of section three of this Act have signed a deed declaring that the churches so referred to have agreed to implement and give effect to the provisions of Part III of the new basis of union; and

15 (b) the Parliaments referred to in paragraph (b) of subsection one of section three of this Act have passed an Act enabling effect to be given to the new basis of union substantially in the manner provided by this Act without implementing the new basis of union in its entirety.

20 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the
25 General Assembly thereof or any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be so held subject to Part III of the new basis of union.

30 (3) For the purposes of this section—

(a) the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union may exercise all the powers and functions of the General Assembly under Part III of the new
35 basis of union;

(b)

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- (b) a reference in Part III of the new basis of union to synods is a reference to State General Assemblies or, if so required by the context, to State Presbyterian Churches;
- 5 (c) the provisions of Part III of the new basis of union apply, with such modifications as may be necessary, to the Presbyterian Church of Australia constituted under the old scheme of union, the General Assembly thereof, State Presbyterian Churches and
10 the General Assemblies, presbyteries, sessions and congregations thereof;
- (d) decisions of the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union and of any commission
15 appointed by it under clause eighteen of Part III of the new basis of union shall operate with respect to the Presbyterian Church of Australia so constituted, State Presbyterian Churches and the General Assemblies, presbyteries,
20 sessions and congregations thereof as if they were the Presbyterian Church of Australia constituted under the new basis of union and the courts and congregations thereof, as the case may require;
- 25 (e) a reference in Part III of the new basis of union to the new basis of union shall be construed as a reference to the old scheme of union or, as the case may require, to the constitution of the State Presbyterian Churches.

(4) If a union is entered into under Part III of the
30 new basis of union and there is in New South Wales a continuing congregation within the meaning of that Part but a continuing State Presbyterian Church is unable to function in New South Wales, the General Assembly of the Presbyterian Church of Australia may, so far as is necessary, place
35 that congregation under the jurisdiction of the church courts in subordination to that General Assembly for so long as that inability persists.

(5) This section does not prejudice or affect the operation of section three of this Act.

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5. Where—

Gifts, etc.,
subsequent
to union.

- (a) a certificate is published under section three or four of this Act;
- 5 (b) by the operation of a will or other instrument made or executed before or after publication of the certificate a gift, devise, bequest or declaration of trust takes effect after that publication in respect of an interest in property; and
- 10 (c) if the gift, devise, bequest or declaration of trust had taken effect before publication of the certificate, that interest in property would have been an interest in property to which the section under which the certificate was published would apply,

the gift, devise, bequest or declaration of trust shall, for the
15 purposes of the section under which the certificate was published, be deemed to have taken effect immediately before publication of the certificate.

6. The commission referred to in the new basis of union may give effect to its powers out of the property to which this
20 Act applies.

Powers of
commis-
sion.

7. The Act entitled, "An Act to incorporate Saint Andrew's College as a College within the University of Sydney", which received the Royal assent on the twelfth day of December, one thousand eight hundred and sixty-seven is
25 amended—

Amend-
ment
of Act to
incorporate
Saint
Andrew's
College as
a College
within the
University
of Sydney.

- (a) by omitting from section three the words "Presby- Sec. 3.
terian Church of New South Wales" wherever (Constitu-
occurring and by inserting in lieu thereof the word Council.)
"Church";
- 30 (b) by omitting from section six the words "Presby- Sec. 6.
terian Church of New South Wales" and by (Vacancies
inserting in lieu thereof the word "Church"; how filled
up.)

(c)

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- (c) by omitting from section seven the words "General Sec. 7. Assembly of the Presbyterian Church of New (Visitor.) South Wales" and by inserting in lieu thereof the word "Synod";
- 5 (d) by omitting from section eight the words "General Sec. 8. Assembly of the Presbyterian Church of New South (Removal and sus- Wales" and by inserting in lieu thereof the word pension.) "Synod";
- 10 (e) by omitting from section eleven the words "Presby- Sec. 11. terian Church of New South Wales" and by (Deed of grant how inserting in lieu thereof the word "Church"; to be construed.)
- (f) by inserting next after the same section the following New secs. 12 and 13.
new sections :—

15 12. In this Act, except to the extent that the Interpretation.
context or subject-matter otherwise indicates or requires—

"Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

20 "Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

25 13. This Act may be cited as the "Saint Short title.
Andrew's College Incorporation Act, 1867".

8. The Act entitled "An Act to validate certain arrange- Amendment
ments, acts and regulations heretofore entered into, done and of Act
made, relating to the Beneficiary Fund of the Presbyterian relating to
Church of Australia in the State of New South Wales, and the Bene-
30 to confer upon the General Assembly of the said Church ficiary Fund
power to regulate and control the said Fund in all respects, of the Pres-
including membership, basis or rate of contribution, and other byterian
conditions of the same, and to extend the benefits of the said Church of
Fund to persons not resident in the said State; and for other Australia in
New South
Wales.

incidental

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incidental purposes" which received the Royal assent on the fifth day of April, one thousand nine hundred and twenty-nine is amended—

- 5 (a) by omitting from section one the words “, herein- after referred to as the ‘General Assembly,’ ”; Sec. 1. (Amalgama- tion of funds.)
- (b) by omitting from section two the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 2. (Synod empowered to control and administer fund.)
- 10 (c) by omitting from section three the words “General Assembly” wherever occurring and by inserting in lieu thereof the word “Synod”; Sec. 3. (Synod empowered to delegate administra- tion of fund.)
- (d) (i) by omitting from section four the words “Presbyterian Church of Australia in the State of New South Wales” wherever occurring and by inserting in lieu thereof the word “Church”; Sec. 4. (Moneys and securities or invest- ments of fund shall be vested in the corporate trustees.)
- 15 (ii) by omitting from the same section the words “General Assembly” and by inserting in lieu thereof the word “Synod”;
- 20 (e) by omitting from section five the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 5. (Synod enipowered to admit persons to benefit of fund.)
- (f) by inserting next after the same section the following new sections :— New secs. 6 and 7.
- 25 6. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Interpreta- tion.
- 30 “Church” means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;
- “Synod”

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"Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

5 7. This Act may be cited as the "Presbyterian Short title. Beneficiary Fund Act, 1929".

9. The Presbyterian Church (New South Wales) Property Trust Act, 1936, is amended—

Amendment
of the
Presbyterian
Church
(New South
Wales)
Property
Trust Act,
1936.

10 (a) by omitting section three and by inserting in lieu thereof the following section :—

Subst.
sec. 3.

3. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires—

Definitions.

15 "Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

20 "Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church;

"Trustees" or "Trust" means The Presbyterian Church (New South Wales) Property Trust.

25 (b) (i) by omitting from section five the words "Presbyterian Church of Australia in the State of New South Wales" and by inserting in lieu thereof the word "Church";

Sec. 5.
(Number,
appoint-
ment and
retirement
of Trustees.)

(ii)

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- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 5 (c) by inserting in section nine after the word "Wales" Sec. 9.
where secondly occurring the words ", or the (Vesting
Church,"; of property
in trustees.)
- (d) (i) by omitting from section ten the words Sec. 10.
"General Assembly" wherever occurring and (Variation
by inserting in lieu thereof the word "Synod"; of trusts.)
- 10 (ii) by omitting from paragraph (b) of subsection
one of the same section the words "Pres-
byterian Church of Australia in New South
Wales" and by inserting in lieu thereof the
word "Church";
- 15 (e) by inserting at the end of section twelve the Sec. 12.
following new subsection :— (Power to
make regula-
tions.)
- (2) After the commencement of section nine of
the Presbyterian Church of Australia Act, 1971,
regulations may be made under subsection one of
20 this section by the Synod, and a regulation in force
immediately before that commencement may be
rescinded, revoked, altered or varied as if it had
been made after that commencement by the Synod.
- 25 (f) by omitting from section thirteen the words Sec. 13.
"General Assembly" wherever occurring and by (Power of
inserting in lieu thereof the word "Synod"; Synod to
appoint and
grant con-
stitutions,
etc.)
- (g) by omitting from section fourteen the words Sec. 14.
"General Assembly" and by inserting in lieu thereof (Trust
the word "Synod"; property
how held.)
- 30 (h) by omitting from section sixteen the words "Pres- Sec. 16.
byterian Church in New South Wales" and by (Disposition
inserting in lieu thereof the word "Church"; of rents,
etc., of
glebe lands.)
- (i)

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- (i) by omitting from section eighteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 18. (Disposition of rents of pews, etc.)
- 5 (j) by omitting from section twenty the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 20. (Trustees' powers to sell, etc.)
- (k) by inserting at the end of section twenty-three the following new subsection :— Sec. 23. (Construction of wills, etc.)
- 10 (2) Subsection one of this section applies in respect of the Church in the same manner and to the same extent as it applies in respect of the Presbyterian Church of Australia in the State of New South Wales.
- 15 (l) by omitting from section twenty-seven the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 27. (Central Education Fund.)
- (m) (i) by omitting from section twenty-eight the words "Presbyterian Church of Australia in New South Wales" wherever occurring and by inserting in lieu thereof the word "Church"; Sec. 28. (Co-operative use of property.)
- 20 (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 25 (n) by omitting from section thirty the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 30. (Constitution of Committee of Management where scheme of co-operation is in force.)
- 30 (o) by omitting from section thirty-one the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church". Sec. 31. (Certain provisions to apply to property held on behalf of co-operating congregation.)

SCHEDULE.

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SCHEDULE.

Sec. 2.

BASIS OF UNION.

PART I.—CONSTITUTION.

1. The supreme standard of the Presbyterian Church of Australia
5 shall be the Word of God contained in the Scriptures of the Old and
New Testaments.
2. The subordinate standard shall be the Westminster Confession
of Faith read in the light of the declaratory statement.
3. The declaratory statement is as follows:—
 - 10 (1) That in regard to the doctrine of redemption as taught in
the subordinate standard, and in consistency therewith, the
love of God to all mankind, His gift of His Son to be the
propitiation for the sins of the whole world, and the free
15 offer of salvation to men without distinction on the ground
of Christ's all-sufficient sacrifice, are regarded by this church
as vital to the Christian faith. And inasmuch as the Christian
faith rests upon and the Christian consciousness takes hold
of certain objective supernatural historic facts, especially the
20 incarnation the atoning life and death and the resurrection
and ascension of our Lord, and His bestowment of His
Holy Spirit, this church regards those whom it admits to
the office of the holy ministry as pledged to give a chief
place in their teaching to these cardinal facts and to the
25 message of redemption and reconciliation implied and
manifested in them.
 - (2) That the doctrine of God's eternal decree, including the
doctrine of election to eternal life, is held as defined in
the Confession of Faith, chapter III., section I., where it is
30 expressly stated that according to this doctrine "neither is
God the author of sin nor is violence offered to the will of
the creature nor is the liberty or contingency of second
causes taken away, but rather established", and further that
the said doctrine is held in connexion and harmony with the
truth—that God is not willing that any should perish, but
35 that all should come to repentance, that He has provided a
salvation sufficient for all and adapted to all and offered to
all in the Gospel, and that every hearer of the Gospel is
responsible for his dealing with the free and unrestricted
offer of eternal life.
 - 40 (3) That while none are saved except through the mediation
of Christ and by the grace of the Holy Spirit, Who worketh
when and where and how it pleaseth Him, while the duty of
sending the Gospel to the heathen who are sunk in
ignorance, sin, and misery is imperative, and while the

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SCHEDULE—*continued.*

- outward and ordinary means of salvation for those capable of being called by the Word are the ordinances of the Gospel, in accepting the subordinate standard it is not
5 required to be held that any who die in infancy are lost, or that God may not extend His grace to any who are without the pale of ordinary means as it may seem good in His sight.
- (4) That in holding and teaching according to the Confession of Faith, the corruption of man's nature as fallen, this church
10 also maintains that there remain tokens of man's greatness as created in the image of God, that he possesses a knowledge of God and of duty—that he is responsible for compliance with the moral law and the call of the Gospel, and
15 that although unable without the aid of the Holy Spirit to return to God unto salvation he is yet capable of affections and actions which of themselves are virtuous and praiseworthy.
- (5) That liberty of opinion is allowed on matters in the subordinate standard not essential to the doctrine therein
20 taught, the church guarding against the abuse of this liberty to the injury of its unity and peace.
- (6) That with regard to the doctrine of the civil magistrate and his authority and duty in the sphere of religion as taught
25 in the subordinate standard the church holds that the Lord Jesus Christ is the only King and Head of the church, "and Head over all things to the church, which is His body". It disclaims accordingly intolerant or persecuting principles and does not consider its office bearers in subscribing the
30 Confession as committed to any principles inconsistent with the liberty of conscience and the right of private judgment, declaring in the words of the Confession that "God alone is Lord of the conscience".
4. The text of the Westminster Confession of Faith shall be that
35 produced by the Westminster Assembly of Divines amended as follows:—
- (a) In section 4 of Chapter XXIV. there shall be inserted after the words "nearer in blood than of her own", the words
40 "except the case of the deceased wife's sister, or in the case of a deceased husband's brother"; and
- (b) In section 4 of Chapter XXVII. there shall be inserted after the words "lawfully ordained", the words "(saving where the general assembly has made a special provision to the contrary, that the people of God may not be left without
45 sealing ordinances.)".

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SCHEDULE—*continued.*

5 5. The following formula is required to be signed by the ministers at their ordination, induction, or appointment to a ministerial office by the general assembly, a synod or a presbytery, and by probationers on receiving licence :—

10 I own and accept the subordinate standard of this Church, with the explanations given in the articles contained in the declaratory statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith. I further
15 own the purity of worship practised in this Church, and the Presbyterian government thereof, to be founded on the Word of God and agreeable thereto; and I promise that through the grace of God I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the doctrine, worship and government of this Church.

6. The following formula is required to be signed by elders at their ordination and/or induction :—

20 I confess my faith in God, revealed to us in Jesus Christ, His only Son our Lord and Saviour. I own anew the Lord Jesus Christ as my personal Saviour and Lord, and will seek, in dependence on the Holy Spirit, to order my life in accordance with His will. I acknowledge as the supreme standard of faith and duty the revelation of God recorded in the Scriptures of the Old and New Testaments and perfected in Jesus Christ. I declare
25 my loyalty to this Church and to the principles of presbyterian polity.

7. Any proposed change in the basis of union (including amendment or replacement of the subordinate standard or the declaratory statement) or restatement of the doctrine of the Church contained
30 therein shall, before being adopted, be remitted to synods and presbyteries and no change shall be made without the consent of a majority of synods, three-fifths of the presbyteries of the whole Church, and three-fifths of the members of the general assembly present when the final vote is taken. On any such change being made in the basis of
35 union or restatement of the doctrine of the church, if any congregation thereupon refuses to acquiesce in the change or restatement and determines to adhere to the original basis of union as duly amended prior to such change or restatement, the general assembly is empowered to—

- 40 (a) allow such congregation to retain its congregational property; or
(b) deal in such other way with the said property as to the said assembly shall seem just and equitable :

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SCHEDULE—*continued.*

Notwithstanding anything contained in this section Part II. of the basis of union may be amended or added to in accordance with a like procedure to that laid down in the Barrier Act 1697 of the Church of Scotland.

PART II.—GOVERNMENT.

8. (1) The supreme court of the church is the general assembly which shall have functions legislative, administrative and judicial supreme with regard to the doctrine, worship, discipline and government of the Church.

(2) The membership of the general assembly consists of commissioners elected by presbyteries for each meeting of the general assembly. These commissioners being ministerial members of presbyteries and elders are elected in proportion to the numerical strength of each presbytery on the basis of one ministerial member and one elder for every five charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. The moderator, the immediate past moderator, clerks of assembly, business convener, the procurator and law agent shall be members *ex officio*. Conveners of committees, boards and councils reporting to the assembly who have not been commissioned shall have the right and privilege of membership during the presentation of the report of the respective committee and the deliberations on the proposed deliverance. The assembly shall have the power to seek additional commissions from presbyteries of elders to give parity of representation in the court.

(3) The time and place of the next meeting shall be determined prior to the general assembly being dissolved.

(4) The commission of assembly shall consist of *ex officio* members of the general assembly and one minister and one elder from each presbytery for every fifteen charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. Presbyteries, when commissioning ministers and elders to the general assembly, shall indicate those of the number so commissioned who shall be members of the commission of assembly. The commission of assembly shall meet when appointed by the general assembly and when convened by the moderator for exceptional and urgent business, at a time and place determined by him, upon a requisition being presented to him by at least twelve members representing at least three synods and sustained by the moderator.

SCHEDULE

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SCHEDULE—*continued.*

9. (1) Until the general assembly shall otherwise determine there shall be six synods intituled the Synod of New South Wales, the Synod of Queensland, the Synod of South Australia, the Synod of
5 Tasmania, the Synod of Victoria and the Synod of Western Australia, the bounds of which synods shall be determined by the areas respectively under the jurisdiction of the presbyteries of each of the State Presbyterian churches uniting upon the said basis; but save as aforesaid the general assembly shall have power to erect synods
10 and to determine their bounds.

(2) The membership of synods shall consist of *ex officio* members to be determined by the synods and half the ministerial members of presbyteries within the bounds and an equal number of elders commissioned by the presbyteries except in the case of South
15 Australia, Tasmania and Western Australia where all ministerial members of presbyteries and an equal number of elders shall be commissioned until such time as the general assembly determine otherwise. Synods shall have power to appoint additional elders to give parity of membership.

20 (3) Synods shall meet at least annually at a time and place appointed before adjournment, and meetings *pro re nata* may be convened by the moderator or on a requisition signed by nine members representing at least three presbyteries and sustained by him, provided always that in the case of the Synod of Tasmania it shall suffice if a
25 requisition is signed by five members representing no more than one presbytery.

(4) Synods shall, subject to this constitution, exercise executive administrative pastoral and disciplinary functions over the Church within their bounds.

30 10. (1) Presbyteries shall be erected or dissolved or their boundaries determined or altered only by decision of the general assembly. At the time when this constitution becomes operative the presbyteries and their bounds shall be those recognized by each State assembly.

(2) The membership of presbyteries shall consist of all ministers
35 in pastoral charges or holding other charges under the authority of the general assembly and other ministers and elders to whom seats have been granted by rule, regulation or resolution of the general assembly, one representative elder commissioned by the kirk session of each sanctioned charge, elders who are members of a session
40 granted seats by rule or regulation of the general assembly, and other elders of kirk sessions within the bounds invited and granted seats by the presbyteries to establish parity in the courts.

SCHEDULE

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SCHEDULE—*continued.*

11. Sessions shall be formed with the approval of or by direction of presbyteries. The method of election to sessions and their powers and duties shall continue in each congregation as under the former State codes until such time as the general assembly determine otherwise.
12. The general assembly, synods, presbyteries and sessions in each case appoint from time to time such committees as they think fit, prescribing their membership, purpose and duties and giving other directions usually in the form of regulations.
13. The synod shall be the final court of appeal except in cases of doctrine and/or discipline that carry deposition or excommunication as possible judgments.
14. Until a code of the Presbyterian Church of Australia is enacted the code of each of the former State Presbyterian churches shall, subject to this basis of union, apply to the synod, presbyteries, sessions, and congregations within the area within which that State Presbyterian church functioned, provided always that in the case of the synod the provisions relating to the State general assembly shall apply *mutatis mutandis*.

PART III.—UNION WITH OTHER CHURCHES.

15. The general assembly shall have the right and power to negotiate with other branches of the Christian church with a view to the Presbyterian Church of Australia entering the union with any of them, and the Presbyterian Church of Australia may pursuant to a resolution of the general assembly enter into such union provided that the proposed basis of union with any such church or churches (which shall include a section setting out basic principles of constitutional structure and practice) shall first be remitted to synods and presbyteries under the Barrier Act procedure and may be approved by the general assembly only when approved by a majority of synods and at least three-fifths of the presbyteries of the whole church and three-fifths of the members present when the final vote of the general assembly is taken.
16. Before the final vote is taken in the general assembly communicants aged sixteen years and over whose names are on the roll of a congregation shall be given an opportunity to answer the following questions :—
 - (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

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SCHEDULE—*continued.*

- 5 (b) Should the required majority vote for union be obtained in presbyteries, synods and the general assembly of Australia do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

10 17. (1) For the purpose of enabling communicants to vote upon the questions prescribed in the last preceding section the general assembly shall prescribe a date by which all sessions shall be required to have purged their communion rolls and to have submitted to the presbytery of the bounds a voting register in duplicate consisting of all eligible names on the communion roll at the date of submission to the presbytery.

15 (2) Both copies of the said voting register shall be certified by the moderator and clerk of the session as being the voting register.

(3) The presbytery of the bounds shall at the earliest opportunity following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

20 (4) Only those persons whose names are on an attested voting register may take part in the vote.

25 (5) Sessions shall make available voting papers containing the said questions at least fourteen days before a date to be prescribed by the session for the close of voting, upon which the voters shall indicate whether their answer is "Yes" or "No" to each of the questions.

(6) Voting papers must be signed by the voter and returned prior to the close of voting.

30 (7) The session shall count votes and transmit the number of "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the general assembly through the clerk of synod.

35 (8) The clerk of the general assembly shall advise the commission to be appointed as hereinafter provided of the results.

18. Upon the general assembly resolving to enter a union pursuant to section 15, it shall provide just and equitable safeguards of the rights of minorities who do not concur in the decision to unite, which safeguards shall include the following provisions :—

- 40 (a) The general assembly shall set up a commission consisting of two groups of equal numbers, one representing those approving and one disapproving such union, together with three independent persons acceptable to both groups one of whom shall be chairman;

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 (b) In any case where at least one third of the communicants
of a congregation who participate in the vote in accordance
with the last preceding section (hereinafter called "a
continuing congregation"), shall prior to the date of the
final vote of the general assembly approving such union
have recorded votes indicating their desire to continue in
membership of the Presbyterian Church of Australia, such
communicants shall not become a congregation of the church
10 to result from the union but shall be recognized as a
congregation of the Presbyterian Church of Australia
continuing to function on this basis of union and shall be
entitled to retain the congregational property, unless the
commission appointed pursuant to this section shall for
15 special reasons otherwise determine, in which case the said
commission is required to ensure that what it deems to be
adequate and suitable congregational property is provided
including a due and proper share of any congregational
endowments;
- 20 (c) Where in any district or locality less than one-third of the
communicants who participate in the said vote and whose
names appear on the roll of a congregation purged as afore-
said, shall prior to the date of the final vote of the general
assembly approving such union have recorded votes
25 indicating their desire to remain in membership of the
Presbyterian Church of Australia continuing to function on
this basis of union and—
- (i) the presbytery of the bounds is of the opinion that
such minorities of such congregations are not able
30 to be related in membership with some continuing
congregation or congregations as a charge or charges;
and
- (ii) the said commission is satisfied as to the capacity
35 of the said minorities to continue as such, it shall
have power to arrange in a suitable locality or
localities for such groupings of communicants to be
provided with a church, manse and other necessary
buildings to be used for congregational purposes, or
with sufficient funds to provide such buildings;
- 40 (d) The said commission, upon its being satisfied that the
continuing congregations are capable of functioning as a
continuing Presbyterian Church of Australia under this basis
of union, shall, in addition to the powers functions and
discretions otherwise conferred upon it in this section, have
45 the power to determine what specific items, if any, of the
general property of or held in trust for the purposes of the
Presbyterian Church of Australia and the several State

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 synods shall for the efficient functioning of the said continuing church be retained by or for the purposes of the said church, and what compensation if any for the loss of a just and equitable share of such property should be payable to the said church, which shall have the right to use the name Presbyterian Church of Australia.
- 10 (e) The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, inter alia, provide for the following requirements of a continuing church, including a due and proper share of endowments existing at the date of union and shall include provision for and maintenance of—
- 15 (i) a centre for the theological training of the ministry of the said continuing church, including a centre of residence and staffing, having regard to the aim of the Presbyterian Church of Australia to have theological halls equipped with not fewer than three professors;
- 20 (ii) a centre for the administration of the said continuing church, including provision for a clerk, treasurer and such other staff and buildings deemed necessary by the said commission for continuing the activities of the said church, and also a centre for administration with provision for adequate staff for its requirements
- 25 in any State where the strength of the said continuing church is deemed by the commission to warrant it;
- 30 (iii) at least one school for girls and one school for boys in each State where at the date of the said union there is more than one Presbyterian school for girls and more than one Presbyterian school for boys, and in any State where there is only one Presbyterian school for girls and/or only one Presbyterian school for boys the commission shall determine whether
- 35 ownership of any such school shall be vested in the said continuing church or in the church to result from the said union, or make other adequate provision if the strength of the said continuing church warrants it.

BY AUTHORITYV. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971
[20c]

No. , 1971.

A BILL

To enable certain arrangements made between the Presbyterian Church of Australia and the State Presbyterian Churches to be carried into effect; to provide for the consequential variation of the trusts upon which certain church property is held and the consequential amendment of certain Acts; and for purposes connected therewith.

[MR McCaw—4 November, 1971.]

BE

Presbyterian Church of Australia.

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Presbyterian Church of Australia Act, 1971". Short title and commencement.

(2) Sections seven, eight and nine of this Act commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day that is not earlier than the day upon which a certificate referred to in section three of this Act is published in the Gazette.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

"new basis of union" means the Basis of Union set forth in the Schedule to this Act;

"old scheme of union" means the Basis of Union and Articles of Agreement set forth in the Schedule to the Presbyterian Church of Australia Act, 1900;

"State Presbyterian Churches" means the Presbyterian Church of Australia in New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia.

3. (1) The prescribed conditions referred to in sub-sections two and three of this section are complied with if the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that— Federal union.

(a) the Moderator of the General Assembly of the Presbyterian Church of Australia and the respective Moderators of the General Assemblies of the State Presbyterian Churches have signed a deed declaring

Presbyterian Church of Australia.

5 declaring that those churches have agreed to vary the old scheme of union by substituting the new basis of union for the old scheme of union and have agreed to unite in accordance with the new basis of union; and

- (b) the Parliaments of each of the States of Victoria, Queensland, South Australia, Western Australia and Tasmania have passed an Act enabling effect to be given to the new basis of union.

10 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales
15 or the General Assembly thereof shall be held—

- (a) for the same purposes of the synod for the time being having ecclesiastical jurisdiction in New South Wales pursuant to the new basis of union; and

20 (b) subject to the new basis of union.

(3) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of
25 any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be held—

- 30 (a) for the same purposes of the same presbytery, session, board or committee of management, congregation, committee, council, board or fund, as the case may be, in connection with the Presbyterian Church of Australia; and
- (b) subject to the new basis of union.

35 (4) Except to the extent provided by subsections two and three of this section, interests in property referred to in those subsections are not affected or varied by this Act.

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4. (1) The prescribed conditions referred to in subsection two of this section are complied with if, before the publication of the certificate referred to in subsection one of section three of this Act, the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

Union with
other
branches
of the
Christian
church.

10 (a) the Moderators referred to in paragraph (a) of subsection one of section three of this Act have signed a deed declaring that the churches so referred to have agreed to implement and give effect to the provisions of Part III of the new basis of union; and

15 (b) the Parliaments referred to in paragraph (b) of subsection one of section three of this Act have passed an Act enabling effect to be given to the new basis of union substantially in the manner provided by this Act without implementing the new basis of union in its entirety.

20 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the
25 General Assembly thereof or any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be so held subject to Part III of the new basis of union.

30 (3) For the purposes of this section—

(a) the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union may exercise all the powers and functions of the General Assembly under Part III of the new
35 basis of union;

(b)

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- (b) a reference in Part III of the new basis of union to synods is a reference to State General Assemblies or, if so required by the context, to State Presbyterian Churches;
- 5 (c) the provisions of Part III of the new basis of union apply, with such modifications as may be necessary, to the Presbyterian Church of Australia constituted under the old scheme of union, the General Assembly thereof, State Presbyterian Churches and
- 10 the General Assemblies, presbyteries, sessions and congregations thereof;
- (d) decisions of the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union and of any commission
- 15 appointed by it under clause eighteen of Part III of the new basis of union shall operate with respect to the Presbyterian Church of Australia so constituted, State Presbyterian Churches and the General Assemblies, presbyteries,
- 20 sessions and congregations thereof as if they were the Presbyterian Church of Australia constituted under the new basis of union and the courts and congregations thereof, as the case may require;
- (e) a reference in Part III of the new basis of union
- 25 to the new basis of union shall be construed as a reference to the old scheme of union or, as the case may require, to the constitution of the State Presbyterian Churches.

(4) If a union is entered into under Part III of the

30 new basis of union and there is in New South Wales a continuing congregation within the meaning of that Part but a continuing State Presbyterian Church is unable to function in New South Wales, the General Assembly of the Presbyterian Church of Australia may, so far as is necessary, place

35 that congregation under the jurisdiction of the church courts in subordination to that General Assembly for so long as that inability persists.

(5) This section does not prejudice or affect the operation of section three of this Act.

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5. Where—

Gifts, etc.,
subsequent
to union.

- (a) a certificate is published under section three or four of this Act;
- 5 (b) by the operation of a will or other instrument made or executed before or after publication of the certificate a gift, devise, bequest or declaration of trust takes effect after that publication in respect of an interest in property; and
- 10 (c) if the gift, devise, bequest or declaration of trust had taken effect before publication of the certificate, that interest in property would have been an interest in property to which the section under which the certificate was published would apply,

the gift, devise, bequest or declaration of trust shall, for the
15 purposes of the section under which the certificate was published, be deemed to have taken effect immediately before publication of the certificate.

6. The commission referred to in the new basis of union
may give effect to its powers out of the property to which this
20 Act applies.

Powers of
commis-
sion.

7. The Act entitled, "An Act to incorporate Saint
Andrew's College as a College within the University of
Sydney", which received the Royal assent on the twelfth day
of December, one thousand eight hundred and sixty-seven is
25 amended—

Amend-
ment
of Act to
incorporate
Saint
Andrew's
College as
a College
within the
University
of Sydney.

- (a) by omitting from section three the words "Presby- Sec. 3.
terian Church of New South Wales" wherever (Constitu-
occurring and by inserting in lieu thereof the word Council.)
"Church";
- 30 (b) by omitting from section six the words "Presby- Sec. 6.
terian Church of New South Wales" and by (Vacancies
inserting in lieu thereof the word "Church"; how filled
up.)

(c)

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- (c) by omitting from section seven the words "General Assembly of the Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Synod";
- 5 (d) by omitting from section eight the words "General Assembly of the Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Synod";
- 10 (e) by omitting from section eleven the words "Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Church";
- (f) by inserting next after the same section the following new sections :—

12. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires—

"Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

20 "Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

25 13. This Act may be cited as the "Saint Andrew's College Incorporation Act, 1867".

8. The Act entitled "An Act to validate certain arrangements, acts and regulations heretofore entered into, done and made, relating to the Beneficiary Fund of the Presbyterian Church of Australia in the State of New South Wales, and to confer upon the General Assembly of the said Church power to regulate and control the said Fund in all respects, including membership, basis or rate of contribution, and other conditions of the same, and to extend the benefits of the said Fund to persons not resident in the said State; and for other

incidental

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incidental purposes" which received the Royal assent on the fifth day of April, one thousand nine hundred and twenty-nine is amended—

- 5 (a) by omitting from section one the words “, herein- after referred to as the ‘General Assembly,’ ”; Sec. 1. (Amalgama- tion of funds.)
- (b) by omitting from section two the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 2. (Synod empowered to control and administer fund.)
- 10 (c) by omitting from section three the words “General Assembly” wherever occurring and by inserting in lieu thereof the word “Synod”; Sec. 3. (Synod empowered to delegate administra- tion of fund.)
- 15 (d) (i) by omitting from section four the words “Presbyterian Church of Australia in the State of New South Wales” wherever occurring and by inserting in lieu thereof the word “Church”; Sec. 4. (Moneys and securities or invest- ments of fund shall be vested in the corporate trustees.)
- (ii) by omitting from the same section the words “General Assembly” and by inserting in lieu thereof the word “Synod”;
- 20 (e) by omitting from section five the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 5. (Synod empowered to admit persons to benefit of fund.)
- (f) by inserting next after the same section the following new sections :— New secs. 6 and 7.
- 25 6. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Interpreta- tion.
- 30 “Church” means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;
- “Synod”

Presbyterian Church of Australia.

“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

5 7. This Act may be cited as the “Presbyterian Short title.
Beneficiary Fund Act, 1929”.

9. The Presbyterian Church (New South Wales) Amendment
Property Trust Act, 1936, is amended— of the
Presbyterian
Church
(New South
Wales)
Property
Trust Act,
1936.

10 (a) by omitting section three and by inserting in lieu Subst.
thereof the following section :— sec. 3.

3. In this Act, except to the extent that the Definitions.
context or subject-matter otherwise indicates or
requires—

15 “Church” means the Presbyterian Church of
Australia in so far as the Synod has
jurisdiction in respect thereof;

20 “Synod” means the Synod of New South Wales
of the Presbyterian Church of Australia
convened in accordance with the rules,
practice and usages of the Church;

“Trustees” or “Trust” means The Presbyterian
Church (New South Wales) Property Trust.

25 (b) (i) by omitting from section five the words Sec. 5.
“Presbyterian Church of Australia in the State (Number,
of New South Wales” and by inserting in lieu appoint-
thereof the word “Church”; ment and
retirement
of Trustees.)

(ii)

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- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 5 (c) by inserting in section nine after the word "Wales" where secondly occurring the words ", or the Church,"; Sec. 9. (Vesting of property in trustees.)
- (d) (i) by omitting from section ten the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 10. (Variation of trusts.)
- 10 (ii) by omitting from paragraph (b) of subsection one of the same section the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church";
- 15 (e) by inserting at the end of section twelve the following new subsection :— Sec. 12. (Power to make regulations.)
- (2) After the commencement of section nine of the Presbyterian Church of Australia Act, 1971, regulations may be made under subsection one of this section by the Synod, and a regulation in force immediately before that commencement may be rescinded, revoked, altered or varied as if it had been made after that commencement by the Synod.
- 20
- 25 (f) by omitting from section thirteen the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 13. (Power of Synod to appoint and grant constitutions, etc.)
- (g) by omitting from section fourteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 14. (Trust property how held.)
- 30 (h) by omitting from section sixteen the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 16. (Disposition of rents, etc., of glebe lands.)
- (i)

Presbyterian Church of Australia.

- (i) by omitting from section eighteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 18.
(Disposition of rents of pews, etc.)
- 5 (j) by omitting from section twenty the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 20.
(Trustees' powers to sell, etc.)
- (k) by inserting at the end of section twenty-three the following new subsection :— Sec. 23.
(Construction of wills, etc.)
- 10 (2) Subsection one of this section applies in respect of the Church in the same manner and to the same extent as it applies in respect of the Presbyterian Church of Australia in the State of New South Wales.
- 15 (l) by omitting from section twenty-seven the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 27.
(Central Education Fund.)
- 20 (m) (i) by omitting from section twenty-eight the words "Presbyterian Church of Australia in New South Wales" wherever occurring and by inserting in lieu thereof the word "Church"; Sec. 28.
(Co-operative use of property.)
- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 25 (n) by omitting from section thirty the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 30.
(Constitution of Committee of Management where scheme of co-operation is in force.)
- 30 (o) by omitting from section thirty-one the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church". Sec. 31.
(Certain provisions to apply to property held on behalf of co-operating congregation.)

SCHEDULE.

Presbyterian Church of Australia.

SCHEDULE.

Sec. 2.

BASIS OF UNION.

PART I.—CONSTITUTION.

1. The supreme standard of the Presbyterian Church of Australia
5 shall be the Word of God contained in the Scriptures of the Old and New Testaments.
2. The subordinate standard shall be the Westminster Confession of Faith read in the light of the declaratory statement.
3. The declaratory statement is as follows:—
 - 10 (1) That in regard to the doctrine of redemption as taught in the subordinate standard, and in consistency therewith, the love of God to all mankind, His gift of His Son to be the propitiation for the sins of the whole world, and the free offer of salvation to men without distinction on the ground
15 of Christ's all-sufficient sacrifice, are regarded by this church as vital to the Christian faith. And inasmuch as the Christian faith rests upon and the Christian consciousness takes hold of certain objective supernatural historic facts, especially the incarnation the atoning life and death and the resurrection and ascension of our Lord, and His bestowment of His Holy Spirit, this church regards those whom it admits to the office of the holy ministry as pledged to give a chief place in their teaching to these cardinal facts and to the message of redemption and reconciliation implied and
20 manifested in them.
 - 25 (2) That the doctrine of God's eternal decree, including the doctrine of election to eternal life, is held as defined in the Confession of Faith, chapter III., section I., where it is expressly stated that according to this doctrine "neither is God the author of sin nor is violence offered to the will of the creature nor is the liberty or contingency of second causes taken away, but rather established", and further that the said doctrine is held in connexion and harmony with the truth—that God is not willing that any should perish, but that all should come to repentance, that He has provided a
30 salvation sufficient for all and adapted to all and offered to all in the Gospel, and that every hearer of the Gospel is responsible for his dealing with the free and unrestricted offer of eternal life.
 - 35 (3) That while none are saved except through the mediation of Christ and by the grace of the Holy Spirit, Who worketh when and where and how it pleaseth Him, while the duty of sending the Gospel to the heathen who are sunk in ignorance, sin, and misery is imperative, and while the
40

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

5 outward and ordinary means of salvation for those capable of being called by the Word are the ordinances of the Gospel, in accepting the subordinate standard it is not required to be held that any who die in infancy are lost, or that God may not extend His grace to any who are without the pale of ordinary means as it may seem good in His sight.

10 (4) That in holding and teaching according to the Confession of Faith, the corruption of man's nature as fallen, this church also maintains that there remain tokens of man's greatness as created in the image of God, that he possesses a knowledge of God and of duty—that he is responsible for compliance with the moral law and the call of the Gospel, and
15 that although unable without the aid of the Holy Spirit to return to God unto salvation he is yet capable of affections and actions which of themselves are virtuous and praiseworthy.

20 (5) That liberty of opinion is allowed on matters in the subordinate standard not essential to the doctrine therein taught, the church guarding against the abuse of this liberty to the injury of its unity and peace.

25 (6) That with regard to the doctrine of the civil magistrate and his authority and duty in the sphere of religion as taught in the subordinate standard the church holds that the Lord Jesus Christ is the only King and Head of the church, "and Head over all things to the church, which is His body". It disclaims accordingly intolerant or persecuting principles and does not consider its office bearers in subscribing the
30 Confession as committed to any principles inconsistent with the liberty of conscience and the right of private judgment, declaring in the words of the Confession that "God alone is Lord of the conscience".

35 4. The text of the Westminster Confession of Faith shall be that produced by the Westminster Assembly of Divines amended as follows:—

(a) In section 4 of Chapter XXIV. there shall be inserted after the words "nearer in blood than of her own", the words "except the case of the deceased wife's sister, or in the case of a deceased husband's brother"; and
40

(b) In section 4 of Chapter XXVII. there shall be inserted after the words "lawfully ordained", the words "(saving where the general assembly has made a special provision to the contrary, that the people of God may not be left without sealing ordinances.)".
45

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

5 5. The following formula is required to be signed by the ministers at their ordination, induction, or appointment to a ministerial office by the general assembly, a synod or a presbytery, and by probationers on receiving licence :—

10 I own and accept the subordinate standard of this Church, with the explanations given in the articles contained in the declaratory statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith. I further
15 own the purity of worship practised in this Church, and the Presbyterian government thereof, to be founded on the Word of God and agreeable thereto; and I promise that through the grace of God I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the doctrine, worship and government of this Church.

6. The following formula is required to be signed by elders at their ordination and/or induction :—

20 I confess my faith in God, revealed to us in Jesus Christ, His only Son our Lord and Saviour. I own anew the Lord Jesus Christ as my personal Saviour and Lord, and will seek, in dependence on the Holy Spirit, to order my life in accordance with His will. I acknowledge as the supreme standard of faith and duty the revelation of God recorded in the Scriptures of the Old and New Testaments and perfected in Jesus Christ. I declare
25 my loyalty to this Church and to the principles of presbyterian polity.

7. Any proposed change in the basis of union (including amendment or replacement of the subordinate standard or the declaratory statement) or restatement of the doctrine of the Church contained
30 therein shall, before being adopted, be remitted to synods and presbyteries and no change shall be made without the consent of a majority of synods, three-fifths of the presbyteries of the whole Church, and three-fifths of the members of the general assembly present when the final vote is taken. On any such change being made in the basis of
35 union or restatement of the doctrine of the church, if any congregation thereupon refuses to acquiesce in the change or restatement and determines to adhere to the original basis of union as duly amended prior to such change or restatement, the general assembly is empowered to—

- 40 (a) allow such congregation to retain its congregational property; or
(b) deal in such other way with the said property as to the said assembly shall seem just and equitable :

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

Notwithstanding anything contained in this section Part II. of the basis of union may be amended or added to in accordance with a like procedure to that laid down in the Barrier Act 1697 of the Church of Scotland.

PART II.—GOVERNMENT.

8. (1) The supreme court of the church is the general assembly which shall have functions legislative, administrative and judicial supreme with regard to the doctrine, worship, discipline and government of the Church.

(2) The membership of the general assembly consists of commissioners elected by presbyteries for each meeting of the general assembly. These commissioners being ministerial members of presbyteries and elders are elected in proportion to the numerical strength of each presbytery on the basis of one ministerial member and one elder for every five charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. The moderator, the immediate past moderator, clerks of assembly, business convener, the procurator and law agent shall be members *ex officio*. Conveners of committees, boards and councils reporting to the assembly who have not been commissioned shall have the right and privilege of membership during the presentation of the report of the respective committee and the deliberations on the proposed deliverance. The assembly shall have the power to seek additional commissions from presbyteries of elders to give parity of representation in the court.

(3) The time and place of the next meeting shall be determined prior to the general assembly being dissolved.

(4) The commission of assembly shall consist of *ex officio* members of the general assembly and one minister and one elder from each presbytery for every fifteen charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. Presbyteries, when commissioning ministers and elders to the general assembly, shall indicate those of the number so commissioned who shall be members of the commission of assembly. The commission of assembly shall meet when appointed by the general assembly and when convened by the moderator for exceptional and urgent business, at a time and place determined by him, upon a requisition being presented to him by at least twelve members representing at least three synods and sustained by the moderator.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

9. (1) Until the general assembly shall otherwise determine there shall be six synods intituled the Synod of New South Wales, the Synod of Queensland, the Synod of South Australia, the Synod of
5 Tasmania, the Synod of Victoria and the Synod of Western Australia, the bounds of which synods shall be determined by the areas respectively under the jurisdiction of the presbyteries of each of the State Presbyterian churches uniting upon the said basis; but save as aforesaid the general assembly shall have power to erect synods
10 and to determine their bounds.

(2) The membership of synods shall consist of *ex officio* members to be determined by the synods and half the ministerial members of presbyteries within the bounds and an equal number of elders commissioned by the presbyteries except in the case of South
15 Australia, Tasmania and Western Australia where all ministerial members of presbyteries and an equal number of elders shall be commissioned until such time as the general assembly determine otherwise. Synods shall have power to appoint additional elders to give parity of membership.

20 (3) Synods shall meet at least annually at a time and place appointed before adjournment, and meetings *pro re nata* may be convened by the moderator or on a requisition signed by nine members representing at least three presbyteries and sustained by him, provided always that in the case of the Synod of Tasmania it shall suffice if a
25 requisition is signed by five members representing no more than one presbytery.

(4) Synods shall, subject to this constitution, exercise executive administrative pastoral and disciplinary functions over the Church within their bounds.

30 10. (1) Presbyteries shall be erected or dissolved or their boundaries determined or altered only by decision of the general assembly. At the time when this constitution becomes operative the presbyteries and their bounds shall be those recognized by each State assembly.

(2) The membership of presbyteries shall consist of all ministers
35 in pastoral charges or holding other charges under the authority of the general assembly and other ministers and elders to whom seats have been granted by rule, regulation or resolution of the general assembly, one representative elder commissioned by the kirk session of each sanctioned charge, elders who are members of a session
40 granted seats by rule or regulation of the general assembly, and other elders of kirk sessions within the bounds invited and granted seats by the presbyteries to establish parity in the courts.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

11. Sessions shall be formed with the approval of or by direction of presbyteries. The method of election to sessions and their powers and duties shall continue in each congregation as under the former State codes until such time as the general assembly determine otherwise.
- 5 Until otherwise determined sessions and congregations subsisting at the time the basis of union comes into operation shall be sessions of the Presbyterian Church of Australia.
12. The general assembly, synods, presbyteries and sessions in each
- 10 case appoint from time to time such committees as they think fit, prescribing their membership, purpose and duties and giving other directions usually in the form of regulations.
13. The synod shall be the final court of appeal except in cases of doctrine and/or discipline that carry deposition or excommunication
- 15 as possible judgments.
14. Until a code of the Presbyterian Church of Australia is enacted the code of each of the former State Presbyterian churches shall, subject to this basis of union, apply to the synod, presbyteries, sessions, and congregations within the area within which that State Presbyterian
- 20 church functioned, provided always that in the case of the synod the provisions relating to the State general assembly shall apply *mutatis mutandis*.

PART III.—UNION WITH OTHER CHURCHES.

15. The general assembly shall have the right and power to negotiate
- 25 with other branches of the Christian church with a view to the Presbyterian Church of Australia entering the union with any of them, and the Presbyterian Church of Australia may pursuant to a resolution of the general assembly enter into such union provided that the proposed basis of union with any such church or churches (which
- 30 shall include a section setting out basic principles of constitutional structure and practice) shall first be remitted to synods and presbyteries under the Barrier Act procedure and may be approved by the general assembly only when approved by a majority of synods and at least three-fifths of the presbyteries of the whole church and three-fifths
- 35 of the members present when the final vote of the general assembly is taken.
16. Before the final vote is taken in the general assembly communicants aged sixteen years and over whose names are on the roll of a congregation shall be given an opportunity to answer the following
- 40 questions :—
 - (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 (b) Should the required majority vote for union be obtained in presbyteries, synods and the general assembly of Australia do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

10 17. (1) For the purpose of enabling communicants to vote upon the questions prescribed in the last preceding section the general assembly shall prescribe a date by which all sessions shall be required to have purged their communion rolls and to have submitted to the presbytery of the bounds a voting register in duplicate consisting of all eligible names on the communion roll at the date of submission to the presbytery.

15 (2) Both copies of the said voting register shall be certified by the moderator and clerk of the session as being the voting register.

(3) The presbytery of the bounds shall at the earliest opportunity following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

20 (4) Only those persons whose names are on an attested voting register may take part in the vote.

25 (5) Sessions shall make available voting papers containing the said questions at least fourteen days before a date to be prescribed by the session for the close of voting, upon which the voters shall indicate whether their answer is "Yes" or "No" to each of the questions.

(6) Voting papers must be signed by the voter and returned prior to the close of voting.

30 (7) The session shall count votes and transmit the number of "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the general assembly through the clerk of synod.

35 (8) The clerk of the general assembly shall advise the commission to be appointed as hereinafter provided of the results.

18. Upon the general assembly resolving to enter a union pursuant to section 15, it shall provide just and equitable safeguards of the rights of minorities who do not concur in the decision to unite, which safeguards shall include the following provisions :—

- 40 (a) The general assembly shall set up a commission consisting of two groups of equal numbers, one representing those approving and one disapproving such union, together with three independent persons acceptable to both groups one of whom shall be chairman;

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 (b) In any case where at least one third of the communicants
of a congregation who participate in the vote in accordance
with the last preceding section (hereinafter called "a
continuing congregation"), shall prior to the date of the
final vote of the general assembly approving such union
have recorded votes indicating their desire to continue in
membership of the Presbyterian Church of Australia, such
communicants shall not become a congregation of the church
to result from the union but shall be recognized as a
10 congregation of the Presbyterian Church of Australia
continuing to function on this basis of union and shall be
entitled to retain the congregational property, unless the
commission appointed pursuant to this section shall for
special reasons otherwise determine, in which case the said
15 commission is required to ensure that what it deems to be
adequate and suitable congregational property is provided
including a due and proper share of any congregational
endowments;
- 20 (c) Where in any district or locality less than one-third of the
communicants who participate in the said vote and whose
names appear on the roll of a congregation purged as afore-
said, shall prior to the date of the final vote of the general
assembly approving such union have recorded votes
25 indicating their desire to remain in membership of the
Presbyterian Church of Australia continuing to function on
this basis of union and—
- (i) the presbytery of the bounds is of the opinion that
such minorities of such congregations are not able
30 to be related in membership with some continuing
congregation or congregations as a charge or charges;
and
- (ii) the said commission is satisfied as to the capacity
35 of the said minorities to continue as such, it shall
have power to arrange in a suitable locality or
localities for such groupings of communicants to be
provided with a church, manse and other necessary
buildings to be used for congregational purposes, or
with sufficient funds to provide such buildings;
- 40 (d) The said commission, upon its being satisfied that the
continuing congregations are capable of functioning as a
continuing Presbyterian Church of Australia under this basis
of union, shall, in addition to the powers functions and
discretions otherwise conferred upon it in this section, have
45 the power to determine what specific items, if any, of the
general property of or held in trust for the purposes of the
Presbyterian Church of Australia and the several State

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

synods shall for the efficient functioning of the said continuing church be retained by or for the purposes of the said church, and what compensation if any for the loss of a just and equitable share of such property should be payable to the said church, which shall have the right to use the name Presbyterian Church of Australia.

- (e) The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, inter alia, provide for the following requirements of a continuing church, including a due and proper share of endowments existing at the date of union and shall include provision for and maintenance of—

(i) a centre for the theological training of the ministry of the said continuing church, including a centre of residence and staffing, having regard to the aim of the Presbyterian Church of Australia to have theological halls equipped with not fewer than three professors;

(ii) a centre for the administration of the said continuing church, including provision for a clerk, treasurer and such other staff and buildings deemed necessary by the said commission for continuing the activities of the said church, and also a centre for administration with provision for adequate staff for its requirements in any State where the strength of the said continuing church is deemed by the commission to warrant it;

(iii) at least one school for girls and one school for boys in each State where at the date of the said union there is more than one Presbyterian school for girls and more than one Presbyterian school for boys, and in any State where there is only one Presbyterian school for girls and/or only one Presbyterian school for boys the commission shall determine whether ownership of any such school shall be vested in the said continuing church or in the church to result from the said union, or make other adequate provision if the strength of the said continuing church warrants it.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971.

[20c]

PRESBYTERIAN CHURCH OF AUSTRALIA BILL, 1971

EXPLANATORY NOTE

THE objects of this Bill are—

- (a) to enable the Presbyterian Church of Australia in New South Wales to unite with the Presbyterian Churches of the other States as one Presbyterian Church of Australia;
- (b) to enable the Presbyterian Church of Australia in New South Wales, if thought fit, to unite with other branches of the Christian church before uniting as referred to in paragraph (a);
- (c) to provide for consequential variations in the trusts upon which church property is held;
- (d) to make provisions consequential upon and ancillary to the foregoing.

PROOF

No. , 1971.

A BILL

To enable certain arrangements made between the Presbyterian Church of Australia and the State Presbyterian Churches to be carried into effect; to provide for the consequential variation of the trusts upon which certain church property is held and the consequential amendment of certain Acts; and for purposes connected therewith.

[MR McCaw—4 November, 1971.]

BE

Presbyterian Church of Australia.

BE it enacted by the Queen'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 :—

1. (1) This Act may be cited as the "Presbyterian Church of Australia Act, 1971". Short title and commencement.

(2) Sections seven, eight and nine of this Act commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day that is not earlier than the day upon which a certificate referred to in section three of this Act is published in the Gazette.

2. In this Act, except in so far as the context or subject-matter otherwise indicates or requires— Interpretation.

"new basis of union" means the Basis of Union set forth in the Schedule to this Act;

"old scheme of union" means the Basis of Union and Articles of Agreement set forth in the Schedule to the Presbyterian Church of Australia Act, 1900;

"State Presbyterian Churches" means the Presbyterian Church of Australia in New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia.

3. (1) The prescribed conditions referred to in sub-sections two and three of this section are complied with if the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that— Federal union.

(a) the Moderator of the General Assembly of the Presbyterian Church of Australia and the respective Moderators of the General Assemblies of the State Presbyterian Churches have signed a deed declaring

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- 5 declaring that those churches have agreed to vary the old scheme of union by substituting the new basis of union for the old scheme of union and have agreed to unite in accordance with the new basis of union; and
- (b) the Parliaments of each of the States of Victoria, Queensland, South Australia, Western Australia and Tasmania have passed an Act enabling effect to be given to the new basis of union.
- 10 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales
- 15 or the General Assembly thereof shall be held—
- (a) for the same purposes of the synod for the time being having ecclesiastical jurisdiction in New South Wales pursuant to the new basis of union; and
- 20 (b) subject to the new basis of union.
- (3) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of
- 25 any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be held—
- (a) for the same purposes of the same presbytery, session, board or committee of management, congregation, committee, council, board or fund, as the case may be, in connection with the Presbyterian Church of Australia; and
- 30 (b) subject to the new basis of union.
- 35 (4) Except to the extent provided by subsections two and three of this section, interests in property referred to in those subsections are not affected or varied by this Act.

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4. (1) The prescribed conditions referred to in subsection two of this section are complied with if, before the publication of the certificate referred to in subsection one of section three of this Act, the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

Union with
other
branches
of the
Christian
church.

10 (a) the Moderators referred to in paragraph (a) of subsection one of section three of this Act have signed a deed declaring that the churches so referred to have agreed to implement and give effect to the provisions of Part III of the new basis of union; and

15 (b) the Parliaments referred to in paragraph (b) of subsection one of section three of this Act have passed an Act enabling effect to be given to the new basis of union substantially in the manner provided by this Act without implementing the new basis of union in its entirety.

20 (2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the
25 General Assembly thereof or any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be so held subject to Part III of the new basis of union.

30 (3) For the purposes of this section—

(a) the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union may exercise all the powers and functions of the General Assembly under Part III of the new
35 basis of union;

(b)

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- (b) a reference in Part III of the new basis of union to synods is a reference to State General Assemblies or, if so required by the context, to State Presbyterian Churches;
- 5 (c) the provisions of Part III of the new basis of union apply, with such modifications as may be necessary, to the Presbyterian Church of Australia constituted under the old scheme of union, the General Assembly thereof, State Presbyterian Churches and
- 10 the General Assemblies, presbyteries, sessions and congregations thereof;
- (d) decisions of the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union and of any commission
- 15 appointed by it under clause eighteen of Part III of the new basis of union shall operate with respect to the Presbyterian Church of Australia so constituted, State Presbyterian Churches and the General Assemblies, presbyteries,
- 20 sessions and congregations thereof as if they were the Presbyterian Church of Australia constituted under the new basis of union and the courts and congregations thereof, as the case may require;
- (e) a reference in Part III of the new basis of union
- 25 to the new basis of union shall be construed as a reference to the old scheme of union or, as the case may require, to the constitution of the State Presbyterian Churches.

(4) If a union is entered into under Part III of the

30 new basis of union and there is in New South Wales a continuing congregation within the meaning of that Part but a continuing State Presbyterian Church is unable to function in New South Wales, the General Assembly of the Presbyterian Church of Australia may, so far as is necessary, place

35 that congregation under the jurisdiction of the church courts in subordination to that General Assembly for so long as that inability persists.

(5) This section does not prejudice or affect the operation of section three of this Act.

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5. Where—

Gifts, etc.,
subsequent
to union.

- (a) a certificate is published under section three or four of this Act;
- 5 (b) by the operation of a will or other instrument made or executed before or after publication of the certificate a gift, devise, bequest or declaration of trust takes effect after that publication in respect of an interest in property; and
- 10 (c) if the gift, devise, bequest or declaration of trust had taken effect before publication of the certificate, that interest in property would have been an interest in property to which the section under which the certificate was published would apply,

the gift, devise, bequest or declaration of trust shall, for the
15 purposes of the section under which the certificate was published, be deemed to have taken effect immediately before publication of the certificate.

6. The commission referred to in the new basis of union
may give effect to its powers out of the property to which this
20 Act applies.

Powers of
commis-
sion.

7. The Act entitled, "An Act to incorporate Saint
Andrew's College as a College within the University of
Sydney", which received the Royal assent on the twelfth day
of December, one thousand eight hundred and sixty-seven is
25 amended—

Amend-
ment
of Act to
incorporate
Saint
Andrew's
College as
a College
within the
University
of Sydney.

- (a) by omitting from section three the words "Presby- Sec. 3.
terian Church of New South Wales" wherever (Constitu-
occurring and by inserting in lieu thereof the word tion of
"Church"; Council.)
- 30 (b) by omitting from section six the words "Presby- Sec. 6.
terian Church of New South Wales" and by (Vacancies
inserting in lieu thereof the word "Church"; how filled
up.)

(c)

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- (c) by omitting from section seven the words "General Sec. 7. Assembly of the Presbyterian Church of New (Visitor.) South Wales" and by inserting in lieu thereof the word "Synod";
- 5 (d) by omitting from section eight the words "General Sec. 8. Assembly of the Presbyterian Church of New South (Removal and sus- Wales" and by inserting in lieu thereof the word pension.) "Synod";
- 10 (e) by omitting from section eleven the words "Presby- Sec. 11. terian Church of New South Wales" and by (Deed of grant how inserting in lieu thereof the word "Church"; to be construed.)
- (f) by inserting next after the same section the following New secs. 12 and 13.
new sections :—
12. In this Act, except to the extent that the Interpretation.
context or subject-matter otherwise indicates or requires—
- "Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;
- 20 "Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.
13. This Act may be cited as the "Saint Short title.
Andrew's College Incorporation Act, 1867".

8. The Act entitled "An Act to validate certain arrange- Amendment of Act relating to the Beneficiary Fund of the Pres- byterian Church of Australia in the State of New South Wales, and to confer upon the General Assembly of the said Church power to regulate and control the said Fund in all respects, including membership, basis or rate of contribution, and other conditions of the same, and to extend the benefits of the said Fund to persons not resident in the said State; and for other incidental

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incidental purposes" which received the Royal assent on the fifth day of April, one thousand nine hundred and twenty-nine is amended—

- 5 (a) by omitting from section one the words “, herein- after referred to as the ‘General Assembly,’ ”; Sec. 1. (Amalgama- tion of funds.)
- (b) by omitting from section two the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 2. (Synod empowered to control and administer fund.)
- 10 (c) by omitting from section three the words “General Assembly” wherever occurring and by inserting in lieu thereof the word “Synod”; Sec. 3. (Synod empowered to delegate administra- tion of fund.)
- (d) (i) by omitting from section four the words “Presbyterian Church of Australia in the State of New South Wales” wherever occurring and by inserting in lieu thereof the word “Church”; Sec. 4. (Moneys and securities or invest- ments of fund shall be vested in the corporate trustees.)
- 15 (ii) by omitting from the same section the words “General Assembly” and by inserting in lieu thereof the word “Synod”;
- 20 (e) by omitting from section five the words “General Assembly” and by inserting in lieu thereof the word “Synod”; Sec. 5. (Synod empowered to admit persons to benefit of fund.)
- (f) by inserting next after the same section the following new sections :— New secs. 6 and 7.
- 25 6. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Interpreta- tion.
- 30 “Church” means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;
- “Synod”

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“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

5 7. This Act may be cited as the “Presbyterian Short title.
Beneficiary Fund Act, 1929”.

9. The Presbyterian Church (New South Wales) Amendment
Property Trust Act, 1936, is amended— of the
Presbyterian
Church
(New South
Wales)
Property
Trust Act,
1936.

10 (a) by omitting section three and by inserting in lieu Subst.
thereof the following section :— sec. 3.

3. In this Act, except to the extent that the Definitions.
context or subject-matter otherwise indicates or
requires—

15 “Church” means the Presbyterian Church of
Australia in so far as the Synod has
jurisdiction in respect thereof;

20 “Synod” means the Synod of New South Wales
of the Presbyterian Church of Australia
convened in accordance with the rules,
practice and usages of the Church;

“Trustees” or “Trust” means The Presbyterian
Church (New South Wales) Property Trust.

25 (b) (i) by omitting from section five the words Sec. 5.
“Presbyterian Church of Australia in the State (Number,
of New South Wales” and by inserting in lieu appoint-
thereof the word “Church”; ment and
retirement
of Trustees.)

(ii)

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- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 5 (c) by inserting in section nine after the word "Wales" where secondly occurring the words ", or the Church,"; Sec. 9.
(Vesting of property in trustees.)
- (d) (i) by omitting from section ten the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 10.
(Variation of trusts.)
- 10 (ii) by omitting from paragraph (b) of subsection one of the same section the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church";
- 15 (e) by inserting at the end of section twelve the following new subsection :— Sec. 12.
(Power to make regulations.)
 - (2) After the commencement of section nine of the Presbyterian Church of Australia Act, 1971, regulations may be made under subsection one of this section by the Synod, and a regulation in force immediately before that commencement may be rescinded, revoked, altered or varied as if it had been made after that commencement by the Synod.
- 20
- 25 (f) by omitting from section thirteen the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 13.
(Power of Synod to appoint and grant constitutions, etc.)
- (g) by omitting from section fourteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 14.
(Trust property how held.)
- 30 (h) by omitting from section sixteen the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 16.
(Disposition of rents, etc., of glebe lands.)
 - (i)

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- (i) by omitting from section eighteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 18.
(Disposition of rents of pews, etc.)
- 5 (j) by omitting from section twenty the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 20.
(Trustees' powers to sell, etc.)
- (k) by inserting at the end of section twenty-three the following new subsection :— Sec. 23.
(Construction of wills, etc.)
- 10 (2) Subsection one of this section applies in respect of the Church in the same manner and to the same extent as it applies in respect of the Presbyterian Church of Australia in the State of New South Wales.
- 15 (l) by omitting from section twenty-seven the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 27.
(Central Education Fund.)
- 20 (m) (i) by omitting from section twenty-eight the words "Presbyterian Church of Australia in New South Wales" wherever occurring and by inserting in lieu thereof the word "Church"; Sec. 28.
(Co-operative use of property.)
- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- 25 (n) by omitting from section thirty the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 30.
(Constitution of Committee of Management where scheme of co-operation is in force.)
- 30 (o) by omitting from section thirty-one the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church". Sec. 31.
(Certain provisions to apply to property held on behalf of co-operating congregation.)

SCHEDULE.

Presbyterian Church of Australia.

SCHEDULE.

Sec. 2.

BASIS OF UNION.

PART I.—CONSTITUTION.

1. The supreme standard of the Presbyterian Church of Australia shall be the Word of God contained in the Scriptures of the Old and New Testaments.
2. The subordinate standard shall be the Westminster Confession of Faith read in the light of the declaratory statement.
3. The declaratory statement is as follows:—
 - (1) That in regard to the doctrine of redemption as taught in the subordinate standard, and in consistency therewith, the love of God to all mankind, His gift of His Son to be the propitiation for the sins of the whole world, and the free offer of salvation to men without distinction on the ground of Christ's all-sufficient sacrifice, are regarded by this church as vital to the Christian faith. And inasmuch as the Christian faith rests upon and the Christian consciousness takes hold of certain objective supernatural historic facts, especially the incarnation the atoning life and death and the resurrection and ascension of our Lord, and His bestowment of His Holy Spirit, this church regards those whom it admits to the office of the holy ministry as pledged to give a chief place in their teaching to these cardinal facts and to the message of redemption and reconciliation implied and manifested in them.
 - (2) That the doctrine of God's eternal decree, including the doctrine of election to eternal life, is held as defined in the Confession of Faith, chapter III., section I., where it is expressly stated that according to this doctrine "neither is God the author of sin nor is violence offered to the will of the creature nor is the liberty or contingency of second causes taken away, but rather established", and further that the said doctrine is held in connexion and harmony with the truth—that God is not willing that any should perish, but that all should come to repentance, that He has provided a salvation sufficient for all and adapted to all and offered to all in the Gospel, and that every hearer of the Gospel is responsible for his dealing with the free and unrestricted offer of eternal life.
 - (3) That while none are saved except through the mediation of Christ and by the grace of the Holy Spirit, Who worketh when and where and how it pleaseth Him, while the duty of sending the Gospel to the heathen who are sunk in ignorance, sin, and misery is imperative, and while the

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- outward and ordinary means of salvation for those capable of being called by the Word are the ordinances of the Gospel, in accepting the subordinate standard it is not required to be held that any who die in infancy are lost, or that God may not extend His grace to any who are without the pale of ordinary means as it may seem good in His sight.
- 5
- (4) That in holding and teaching according to the Confession of Faith, the corruption of man's nature as fallen, this church also maintains that there remain tokens of man's greatness as created in the image of God, that he possesses a knowledge of God and of duty—that he is responsible for compliance with the moral law and the call of the Gospel, and that although unable without the aid of the Holy Spirit to return to God unto salvation he is yet capable of affections and actions which of themselves are virtuous and praiseworthy.
- 10
- 15
- (5) That liberty of opinion is allowed on matters in the subordinate standard not essential to the doctrine therein taught, the church guarding against the abuse of this liberty to the injury of its unity and peace.
- 20
- (6) That with regard to the doctrine of the civil magistrate and his authority and duty in the sphere of religion as taught in the subordinate standard the church holds that the Lord Jesus Christ is the only King and Head of the church, "and Head over all things to the church, which is His body". It disclaims accordingly intolerant or persecuting principles and does not consider its office bearers in subscribing the Confession as committed to any principles inconsistent with the liberty of conscience and the right of private judgment, declaring in the words of the Confession that "God alone is Lord of the conscience".
- 25
- 30
4. The text of the Westminster Confession of Faith shall be that produced by the Westminster Assembly of Divines amended as follows:—
- 35
- (a) In section 4 of Chapter XXIV. there shall be inserted after the words "nearer in blood than of her own", the words "except the case of the deceased wife's sister, or in the case of a deceased husband's brother"; and
- 40
- (b) In section 4 of Chapter XXVII. there shall be inserted after the words "lawfully ordained", the words "(saving where the general assembly has made a special provision to the contrary, that the people of God may not be left without sealing ordinances.)".
- 45

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

5 The following formula is required to be signed by the ministers at their ordination, induction, or appointment to a ministerial office by the general assembly, a synod or a presbytery, and by probationers on receiving licence :—

10 I own and accept the subordinate standard of this Church, with the explanations given in the articles contained in the declaratory statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith. I further own the purity of worship practised in this Church, and the Presbyterian government thereof, to be founded on the Word of God and agreeable thereto; and I promise that through the grace of God I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the doctrine, worship and government of this Church.

6. The following formula is required to be signed by elders at their ordination and/or induction :—

20 I confess my faith in God, revealed to us in Jesus Christ, His only Son our Lord and Saviour. I own anew the Lord Jesus Christ as my personal Saviour and Lord, and will seek, in dependence on the Holy Spirit, to order my life in accordance with His will. I acknowledge as the supreme standard of faith and duty the revelation of God recorded in the Scriptures of the Old and New Testaments and perfected in Jesus Christ. I declare my loyalty to this Church and to the principles of presbyterian polity.

30 7. Any proposed change in the basis of union (including amendment or replacement of the subordinate standard or the declaratory statement) or restatement of the doctrine of the Church contained therein shall, before being adopted, be remitted to synods and presbyteries and no change shall be made without the consent of a majority of synods, three-fifths of the presbyteries of the whole Church, and three-fifths of the members of the general assembly present when the final vote is taken. On any such change being made in the basis of union or restatement of the doctrine of the church, if any congregation thereupon refuses to acquiesce in the change or restatement and determines to adhere to the original basis of union as duly amended prior to such change or restatement, the general assembly is empowered to—

- 40 (a) allow such congregation to retain its congregational property; or
(b) deal in such other way with the said property as to the said assembly shall seem just and equitable :

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

Notwithstanding anything contained in this section Part II. of the basis of union may be amended or added to in accordance with a like procedure to that laid down in the Barrier Act 1697 of the Church of Scotland.

PART II.—GOVERNMENT.

8. (1) The supreme court of the church is the general assembly which shall have functions legislative, administrative and judicial supreme with regard to the doctrine, worship, discipline and government of the Church.

(2) The membership of the general assembly consists of commissioners elected by presbyteries for each meeting of the general assembly. These commissioners being ministerial members of presbyteries and elders are elected in proportion to the numerical strength of each presbytery on the basis of one ministerial member and one elder for every five charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. The moderator, the immediate past moderator, clerks of assembly, business convener, the procurator and law agent shall be members *ex officio*. Conveners of committees, boards and councils reporting to the assembly who have not been commissioned shall have the right and privilege of membership during the presentation of the report of the respective committee and the deliberations on the proposed deliverance. The assembly shall have the power to seek additional commissions from presbyteries of elders to give parity of representation in the court.

(3) The time and place of the next meeting shall be determined prior to the general assembly being dissolved.

(4) The commission of assembly shall consist of *ex officio* members of the general assembly and one minister and one elder from each presbytery for every fifteen charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. Presbyteries, when commissioning ministers and elders to the general assembly, shall indicate those of the number so commissioned who shall be members of the commission of assembly. The commission of assembly shall meet when appointed by the general assembly and when convened by the moderator for exceptional and urgent business, at a time and place determined by him, upon a requisition being presented to him by at least twelve members representing at least three synods and sustained by the moderator.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

9. (1) Until the general assembly shall otherwise determine there shall be six synods intituled the Synod of New South Wales, the Synod of Queensland, the Synod of South Australia, the Synod of
5 Tasmania, the Synod of Victoria and the Synod of Western Australia, the bounds of which synods shall be determined by the areas respectively under the jurisdiction of the presbyteries of each of the State Presbyterian churches uniting upon the said basis; but save as aforesaid the general assembly shall have power to erect synods
10 and to determine their bounds.

(2) The membership of synods shall consist of *ex officio* members to be determined by the synods and half the ministerial members of presbyteries within the bounds and an equal number of elders commissioned by the presbyteries except in the case of South
15 Australia, Tasmania and Western Australia where all ministerial members of presbyteries and an equal number of elders shall be commissioned until such time as the general assembly determine otherwise. Synods shall have power to appoint additional elders to give parity of membership.

20 (3) Synods shall meet at least annually at a time and place appointed before adjournment, and meetings *pro re nata* may be convened by the moderator or on a requisition signed by nine members representing at least three presbyteries and sustained by him, provided always that in the case of the Synod of Tasmania it shall suffice if a
25 requisition is signed by five members representing no more than one presbytery.

(4) Synods shall, subject to this constitution, exercise executive administrative pastoral and disciplinary functions over the Church within their bounds.

30 10. (1) Presbyteries shall be erected or dissolved or their boundaries determined or altered only by decision of the general assembly. At the time when this constitution becomes operative the presbyteries and their bounds shall be those recognized by each State assembly.

(2) The membership of presbyteries shall consist of all ministers
35 in pastoral charges or holding other charges under the authority of the general assembly and other ministers and elders to whom seats have been granted by rule, regulation or resolution of the general assembly, one representative elder commissioned by the kirk session of each sanctioned charge, elders who are members of a session
40 granted seats by rule or regulation of the general assembly, and other elders of kirk sessions within the bounds invited and granted seats by the presbyteries to establish parity in the courts.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

11. Sessions shall be formed with the approval of or by direction of presbyteries. The method of election to sessions and their powers and duties shall continue in each congregation as under the former State codes until such time as the general assembly determine otherwise.
5 Until otherwise determined sessions and congregations subsisting at the time the basis of union comes into operation shall be sessions of the Presbyterian Church of Australia.
12. The general assembly, synods, presbyteries and sessions in each
10 case appoint from time to time such committees as they think fit, prescribing their membership, purpose and duties and giving other directions usually in the form of regulations.
13. The synod shall be the final court of appeal except in cases of doctrine and/or discipline that carry deposition or excommunication
15 as possible judgments.
14. Until a code of the Presbyterian Church of Australia is enacted the code of each of the former State Presbyterian churches shall, subject to this basis of union, apply to the synod, presbyteries, sessions, and congregations within the area within which that State Presbyterian
20 church functioned, provided always that in the case of the synod the provisions relating to the State general assembly shall apply *mutatis mutandis*.

PART III.—UNION WITH OTHER CHURCHES.

15. The general assembly shall have the right and power to negotiate
25 with other branches of the Christian church with a view to the Presbyterian Church of Australia entering the union with any of them, and the Presbyterian Church of Australia may pursuant to a resolution of the general assembly enter into such union provided that the proposed basis of union with any such church or churches (which
30 shall include a section setting out basic principles of constitutional structure and practice) shall first be remitted to synods and presbyteries under the Barrier Act procedure and may be approved by the general assembly only when approved by a majority of synods and at least three-fifths of the presbyteries of the whole church and three-fifths
35 of the members present when the final vote of the general assembly is taken.

16. Before the final vote is taken in the general assembly communicants aged sixteen years and over whose names are on the roll of a congregation shall be given an opportunity to answer the following
40 questions :—

- (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 (b) Should the required majority vote for union be obtained in presbyteries, synods and the general assembly of Australia do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

17. (1) For the purpose of enabling communicants to vote upon the questions prescribed in the last preceding section the general assembly shall prescribe a date by which all sessions shall be required
10 to have purged their communion rolls and to have submitted to the presbytery of the bounds a voting register in duplicate consisting of all eligible names on the communion roll at the date of submission to the presbytery.

(2) Both copies of the said voting register shall be certified
15 by the moderator and clerk of the session as being the voting register.

(3) The presbytery of the bounds shall at the earliest opportunity following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

20 (4) Only those persons whose names are on an attested voting register may take part in the vote.

(5) Sessions shall make available voting papers containing the said questions at least fourteen days before a date to be prescribed by the session for the close of voting, upon which the voters shall
25 indicate whether their answer is "Yes" or "No" to each of the questions.

(6) Voting papers must be signed by the voter and returned prior to the close of voting.

(7) The session shall count votes and transmit the number of
30 "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the general assembly through the clerk of synod.

(8) The clerk of the general assembly shall advise the
35 commission to be appointed as hereinafter provided of the results.

18. Upon the general assembly resolving to enter a union pursuant to section 15, it shall provide just and equitable safeguards of the rights of minorities who do not concur in the decision to unite, which safeguards shall include the following provisions :—

- 40 (a) The general assembly shall set up a commission consisting of two groups of equal numbers, one representing those approving and one disapproving such union, together with three independent persons acceptable to both groups one of whom shall be chairman;

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- 5 (b) In any case where at least one third of the communicants
of a congregation who participate in the vote in accordance
with the last preceding section (hereinafter called "a
continuing congregation"), shall prior to the date of the
final vote of the general assembly approving such union
have recorded votes indicating their desire to continue in
membership of the Presbyterian Church of Australia, such
communicants shall not become a congregation of the church
to result from the union but shall be recognized as a
10 congregation of the Presbyterian Church of Australia
continuing to function on this basis of union and shall be
entitled to retain the congregational property, unless the
commission appointed pursuant to this section shall for
special reasons otherwise determine, in which case the said
15 commission is required to ensure that what it deems to be
adequate and suitable congregational property is provided
including a due and proper share of any congregational
endowments;
- 20 (c) Where in any district or locality less than one-third of the
communicants who participate in the said vote and whose
names appear on the roll of a congregation purged as afore-
said, shall prior to the date of the final vote of the general
assembly approving such union have recorded votes
25 indicating their desire to remain in membership of the
Presbyterian Church of Australia continuing to function on
this basis of union and—
- (i) the presbytery of the bounds is of the opinion that
such minorities of such congregations are not able
30 to be related in membership with some continuing
congregation or congregations as a charge or charges;
and
- (ii) the said commission is satisfied as to the capacity
35 of the said minorities to continue as such, it shall
have power to arrange in a suitable locality or
localities for such groupings of communicants to be
provided with a church, manse and other necessary
buildings to be used for congregational purposes, or
with sufficient funds to provide such buildings;
- 40 (d) The said commission, upon its being satisfied that the
continuing congregations are capable of functioning as a
continuing Presbyterian Church of Australia under this basis
of union, shall, in addition to the powers functions and
discretions otherwise conferred upon it in this section, have
45 the power to determine what specific items, if any, of the
general property of or held in trust for the purposes of the
Presbyterian Church of Australia and the several State

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

synods shall for the efficient functioning of the said continuing church be retained by or for the purposes of the said church, and what compensation if any for the loss of a just and equitable share of such property should be payable to the said church, which shall have the right to use the name Presbyterian Church of Australia.

- (e) The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, inter alia, provide for the following requirements of a continuing church, including a due and proper share of endowments existing at the date of union and shall include provision for and maintenance of—

(i) a centre for the theological training of the ministry of the said continuing church, including a centre of residence and staffing, having regard to the aim of the Presbyterian Church of Australia to have theological halls equipped with not fewer than three professors;

(ii) a centre for the administration of the said continuing church, including provision for a clerk, treasurer and such other staff and buildings deemed necessary by the said commission for continuing the activities of the said church, and also a centre for administration with provision for adequate staff for its requirements in any State where the strength of the said continuing church is deemed by the commission to warrant it;

(iii) at least one school for girls and one school for boys in each State where at the date of the said union there is more than one Presbyterian school for girls and more than one Presbyterian school for boys, and in any State where there is only one Presbyterian school for girls and/or only one Presbyterian school for boys the commission shall determine whether ownership of any such school shall be vested in the said continuing church or in the church to result from the said union, or make other adequate provision if the strength of the said continuing church warrants it.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1971

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1971.

An Act to enable certain arrangements made between the Presbyterian Church of Australia and the State Presbyterian Churches to be carried into effect; to provide for the consequential variation of the trusts upon which certain church property is held and the consequential amendment of certain Acts; and for purposes connected therewith. [Assented to, 29th November, 1971.]

BE

Presbyterian Church of Australia.

BE it enacted by the Queen'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 com-
mencement.

1. (1) This Act may be cited as the "Presbyterian Church of Australia Act, 1971".

(2) Sections seven, eight and nine of this Act commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day that is not earlier than the day upon which a certificate referred to in section three of this Act is published in the Gazette.

Interpre-
tation.

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

"new basis of union" means the Basis of Union set forth in the Schedule to this Act;

"old scheme of union" means the Basis of Union and Articles of Agreement set forth in the Schedule to the Presbyterian Church of Australia Act, 1900;

"State Presbyterian Churches" means the Presbyterian Church of Australia in New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia.

Federal
union.

3. (1) The prescribed conditions referred to in subsections two and three of this section are complied with if the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

(a) the Moderator of the General Assembly of the Presbyterian Church of Australia and the respective Moderators of the General Assemblies of the State Presbyterian Churches have signed a deed declaring

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declaring that those churches have agreed to vary the old scheme of union by substituting the new basis of union for the old scheme of union and have agreed to unite in accordance with the new basis of union; and

- (b) the Parliaments of each of the States of Victoria, Queensland, South Australia, Western Australia and Tasmania have passed an Act enabling effect to be given to the new basis of union.

(2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the General Assembly thereof shall be held—

- (a) for the same purposes of the synod for the time being having ecclesiastical jurisdiction in New South Wales pursuant to the new basis of union; and
- (b) subject to the new basis of union.

(3) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be held—

- (a) for the same purposes of the same presbytery, session, board or committee of management, congregation, committee, council, board or fund, as the case may be, in connection with the Presbyterian Church of Australia; and
- (b) subject to the new basis of union.

(4) Except to the extent provided by subsections two and three of this section, interests in property referred to in those subsections are not affected or varied by this Act.

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Union with
other
branches
of the
Christian
church.

4. (1) The prescribed conditions referred to in subsection two of this section are complied with if, before the publication of the certificate referred to in subsection one of section three of this Act, the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

- (a) the Moderators referred to in paragraph (a) of subsection one of section three of this Act have signed a deed declaring that the churches so referred to have agreed to implement and give effect to the provisions of Part III of the new basis of union; and
- (b) the Parliaments referred to in paragraph (b) of subsection one of section three of this Act have passed an Act enabling effect to be given to the new basis of union substantially in the manner provided by this Act without implementing the new basis of union in its entirety.

(2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the General Assembly thereof or any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be so held subject to Part III of the new basis of union.

(3) For the purposes of this section—

- (a) the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union may exercise all the powers and functions of the General Assembly under Part III of the new basis of union;

(b)

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- (b) a reference in Part III of the new basis of union to synods is a reference to State General Assemblies or, if so required by the context, to State Presbyterian Churches;
- (c) the provisions of Part III of the new basis of union apply, with such modifications as may be necessary, to the Presbyterian Church of Australia constituted under the old scheme of union, the General Assembly thereof, State Presbyterian Churches and the General Assemblies, presbyteries, sessions and congregations thereof;
- (d) decisions of the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union and of any commission appointed by it under clause eighteen of Part III of the new basis of union shall operate with respect to the Presbyterian Church of Australia so constituted, State Presbyterian Churches and the General Assemblies, presbyteries, sessions and congregations thereof as if they were the Presbyterian Church of Australia constituted under the new basis of union and the courts and congregations thereof, as the case may require;
- (e) a reference in Part III of the new basis of union to the new basis of union shall be construed as a reference to the old scheme of union or, as the case may require, to the constitution of the State Presbyterian Churches.

(4) If a union is entered into under Part III of the new basis of union and there is in New South Wales a continuing congregation within the meaning of that Part but a continuing State Presbyterian Church is unable to function in New South Wales, the General Assembly of the Presbyterian Church of Australia may, so far as is necessary, place that congregation under the jurisdiction of the church courts in subordination to that General Assembly for so long as that inability persists.

(5) This section does not prejudice or affect the operation of section three of this Act.

Presbyterian Church of Australia.

Gifts, etc.,
subsequent
to union.

5. Where—

- (a) a certificate is published under section three or four of this Act;
- (b) by the operation of a will or other instrument made or executed before or after publication of the certificate a gift, devise, bequest or declaration of trust takes effect after that publication in respect of an interest in property; and
- (c) if the gift, devise, bequest or declaration of trust had taken effect before publication of the certificate, that interest in property would have been an interest in property to which the section under which the certificate was published would apply,

the gift, devise, bequest or declaration of trust shall, for the purposes of the section under which the certificate was published, be deemed to have taken effect immediately before publication of the certificate.

Powers of
commis-
sion.

6. The commission referred to in the new basis of union may give effect to its powers out of the property to which this Act applies.

Amend-
ment
of Act to
incorporate
Saint
Andrew's
College as
a College
within the
University
of Sydney.

7. The Act entitled, "An Act to incorporate Saint Andrew's College as a College within the University of Sydney", which received the Royal assent on the twelfth day of December, one thousand eight hundred and sixty-seven is amended—

Sec. 3.
(Constitu-
tion of
Council.)

- (a) by omitting from section three the words "Presbyterian Church of New South Wales" wherever occurring and by inserting in lieu thereof the word "Church";

Sec. 6.
(Vacancies
how filled
up.)

- (b) by omitting from section six the words "Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Church";

(c)

Presbyterian Church of Australia.

- (c) by omitting from section seven the words "General Assembly of the Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Synod"; Sec. 7. (Visitor.)
- (d) by omitting from section eight the words "General Assembly of the Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Synod"; Sec. 8. (Removal and suspension.)
- (e) by omitting from section eleven the words "Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 11. (Deed of grant how to be construed.)
- (f) by inserting next after the same section the following new sections :— New secs. 12 and 13.

12. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Interpretation.

"Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

"Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

13. This Act may be cited as the "Saint Andrew's College Incorporation Act, 1867". Short title.

8. The Act entitled "An Act to validate certain arrangements, acts and regulations heretofore entered into, done and made, relating to the Beneficiary Fund of the Presbyterian Church of Australia in the State of New South Wales, and to confer upon the General Assembly of the said Church power to regulate and control the said Fund in all respects, including membership, basis or rate of contribution, and other conditions of the same, and to extend the benefits of the said Fund to persons not resident in the said State; and for other

Amendment of Act relating to the Beneficiary Fund of the Presbyterian Church of Australia in New South Wales.

incidental

Presbyterian Church of Australia.

incidental purposes" which received the Royal assent on the fifth day of April, one thousand nine hundred and twenty-nine is amended—

Sec. 1.
(Amalgama-
tion of
funds.)

(a) by omitting from section one the words ", herein-
after referred to as the 'General Assembly,'";

Sec. 2.
(Synod
empowered
to control
and
administer
fund.)

(b) by omitting from section two the words "General
Assembly" and by inserting in lieu thereof the
word "Synod";

Sec. 3.
(Synod
empowered
to delegate
administra-
tion of
fund.)

(c) by omitting from section three the words "General
Assembly" wherever occurring and by inserting in
lieu thereof the word "Synod";

Sec. 4.
(Moneys
and
securities
or invest-
ments of
fund shall
be vested
in the
corporate
trustees.)

(d) (i) by omitting from section four the words
"Presbyterian Church of Australia in the
State of New South Wales" wherever occurring
and by inserting in lieu thereof the word
"Church";

(ii) by omitting from the same section the words
"General Assembly" and by inserting in lieu
thereof the word "Synod";

Sec. 5.
(Synod
empowered
to admit
persons to
benefit of
fund.)

(e) by omitting from section five the words "General
Assembly" and by inserting in lieu thereof the
word "Synod";

New secs.
6 and 7.

(f) by inserting next after the same section the
following new sections :—

Interpreta-
tion.

6. In this Act, except to the extent that the
context or subject-matter otherwise indicates or
requires—

"Church" means the Presbyterian Church of
Australia in so far as the Synod has
jurisdiction in respect thereof;

"Synod"

Presbyterian Church of Australia.

“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

7. This Act may be cited as the “Presbyterian Short title. Beneficiary Fund Act, 1929”.

9. The Presbyterian Church (New South Wales) Property Trust Act, 1936, is amended—

Amendment
of the
Presbyterian
Church
(New South
Wales)
Property
Trust Act,
1936.

(a) by omitting section three and by inserting in lieu thereof the following section :—

Subst.
sec. 3.

3. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires—

Definitions.

“Church” means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church;

“Trustees” or “Trust” means The Presbyterian Church (New South Wales) Property Trust.

(b) (i) by omitting from section five the words

Sec. 5.

“Presbyterian Church of Australia in the State of New South Wales” and by inserting in lieu thereof the word “Church”;

(Number,
appoint-
ment and
retirement
of Trustees.)

(ii)

Presbyterian Church of Australia.

- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- Sec. 9.
(Vesting of property in trustees.) (c) by inserting in section nine after the word "Wales" where secondly occurring the words ", or the Church,";
- Sec. 10.
(Variation of trusts.) (d) (i) by omitting from section ten the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- (ii) by omitting from paragraph (b) of subsection one of the same section the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church";
- Sec. 12.
(Power to make regulations.) (e) by inserting at the end of section twelve the following new subsection :—
- (2) After the commencement of section nine of the Presbyterian Church of Australia Act, 1971, regulations may be made under subsection one of this section by the Synod, and a regulation in force immediately before that commencement may be rescinded, revoked, altered or varied as if it had been made after that commencement by the Synod.
- Sec. 13.
(Power of Synod to appoint and grant constitutions, etc.) (f) by omitting from section thirteen the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- Sec. 14.
(Trust property how held.) (g) by omitting from section fourteen the words "General Assembly" and by inserting in lieu thereof the word "Synod";
- Sec. 16.
(Disposition of rents, etc., of glebe lands.) (h) by omitting from section sixteen the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church";
- (i)

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- (i) by omitting from section eighteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 18.
(Disposition of rents of pews, etc.)
 - (j) by omitting from section twenty the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 20.
(Trustees' powers to sell, etc.)
 - (k) by inserting at the end of section twenty-three the following new subsection :— Sec. 23.
(Construction of wills, etc.)
 - (2) Subsection one of this section applies in respect of the Church in the same manner and to the same extent as it applies in respect of the Presbyterian Church of Australia in the State of New South Wales.
 - (l) by omitting from section twenty-seven the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 27.
(Central Education Fund.)
 - (m) (i) by omitting from section twenty-eight the words "Presbyterian Church of Australia in New South Wales" wherever occurring and by inserting in lieu thereof the word "Church"; Sec. 28.
(Co-operative use of property.)
 - (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
 - (n) by omitting from section thirty the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 30.
(Constitution of Committee of Management where scheme of co-operation is in force.)
 - (o) by omitting from section thirty-one the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church". Sec. 31.
(Certain provisions to apply to property held on behalf of co-operating congregation.)
-

SCHEDULE.

Presbyterian Church of Australia.

Sec. 2.

SCHEDULE.

BASIS OF UNION.

PART I.—CONSTITUTION.

1. The supreme standard of the Presbyterian Church of Australia shall be the Word of God contained in the Scriptures of the Old and New Testaments.

2. The subordinate standard shall be the Westminster Confession of Faith read in the light of the declaratory statement.

3. The declaratory statement is as follows:—

- (1) That in regard to the doctrine of redemption as taught in the subordinate standard, and in consistency therewith, the love of God to all mankind, His gift of His Son to be the propitiation for the sins of the whole world, and the free offer of salvation to men without distinction on the ground of Christ's all-sufficient sacrifice, are regarded by this church as vital to the Christian faith. And inasmuch as the Christian faith rests upon and the Christian consciousness takes hold of certain objective supernatural historic facts, especially the incarnation the atoning life and death and the resurrection and ascension of our Lord, and His bestowment of His Holy Spirit, this church regards those whom it admits to the office of the holy ministry as pledged to give a chief place in their teaching to these cardinal facts and to the message of redemption and reconciliation implied and manifested in them.
- (2) That the doctrine of God's eternal decree, including the doctrine of election to eternal life, is held as defined in the Confession of Faith, chapter III., section I., where it is expressly stated that according to this doctrine "neither is God the author of sin nor is violence offered to the will of the creature nor is the liberty or contingency of second causes taken away, but rather established", and further that the said doctrine is held in connexion and harmony with the truth—that God is not willing that any should perish, but that all should come to repentance, that He has provided a salvation sufficient for all and adapted to all and offered to all in the Gospel, and that every hearer of the Gospel is responsible for his dealing with the free and unrestricted offer of eternal life.
- (3) That while none are saved except through the mediation of Christ and by the grace of the Holy Spirit, Who worketh when and where and how it pleaseth Him, while the duty of sending the Gospel to the heathen who are sunk in ignorance, sin, and misery is imperative, and while the

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

outward and ordinary means of salvation for those capable of being called by the Word are the ordinances of the Gospel, in accepting the subordinate standard it is not required to be held that any who die in infancy are lost, or that God may not extend His grace to any who are without the pale of ordinary means as it may seem good in His sight.

- (4) That in holding and teaching according to the Confession of Faith, the corruption of man's nature as fallen, this church also maintains that there remain tokens of man's greatness as created in the image of God, that he possesses a knowledge of God and of duty—that he is responsible for compliance with the moral law and the call of the Gospel, and that although unable without the aid of the Holy Spirit to return to God unto salvation he is yet capable of affections and actions which of themselves are virtuous and praiseworthy.
- (5) That liberty of opinion is allowed on matters in the subordinate standard not essential to the doctrine therein taught, the church guarding against the abuse of this liberty to the injury of its unity and peace.
- (6) That with regard to the doctrine of the civil magistrate and his authority and duty in the sphere of religion as taught in the subordinate standard the church holds that the Lord Jesus Christ is the only King and Head of the church, "and Head over all things to the church, which is His body". It disclaims accordingly intolerant or persecuting principles and does not consider its office bearers in subscribing the Confession as committed to any principles inconsistent with the liberty of conscience and the right of private judgment, declaring in the words of the Confession that "God alone is Lord of the conscience".

4. The text of the Westminster Confession of Faith shall be that produced by the Westminster Assembly of Divines amended as follows:—

- (a) In section 4 of Chapter XXIV. there shall be inserted after the words "nearer in blood than of her own", the words "except the case of the deceased wife's sister, or in the case of a deceased husband's brother"; and
- (b) In section 4 of Chapter XXVII. there shall be inserted after the words "lawfully ordained", the words "(saving where the general assembly has made a special provision to the contrary, that the people of God may not be left without sealing ordinances.)".

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

5. The following formula is required to be signed by the ministers at their ordination, induction, or appointment to a ministerial office by the general assembly, a synod or a presbytery, and by probationers on receiving licence :—

I own and accept the subordinate standard of this Church, with the explanations given in the articles contained in the declaratory statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith. I further own the purity of worship practised in this Church, and the Presbyterian government thereof, to be founded on the Word of God and agreeable thereto; and I promise that through the grace of God I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the doctrine, worship and government of this Church.

6. The following formula is required to be signed by elders at their ordination and/or induction :—

I confess my faith in God, revealed to us in Jesus Christ, His only Son our Lord and Saviour. I own anew the Lord Jesus Christ as my personal Saviour and Lord, and will seek, in dependence on the Holy Spirit, to order my life in accordance with His will. I acknowledge as the supreme standard of faith and duty the revelation of God recorded in the Scriptures of the Old and New Testaments and perfected in Jesus Christ. I declare my loyalty to this Church and to the principles of presbyterian polity.

7. Any proposed change in the basis of union (including amendment or replacement of the subordinate standard or the declaratory statement) or restatement of the doctrine of the Church contained therein shall, before being adopted, be remitted to synods and presbyteries and no change shall be made without the consent of a majority of synods, three-fifths of the presbyteries of the whole Church, and three-fifths of the members of the general assembly present when the final vote is taken. On any such change being made in the basis of union or restatement of the doctrine of the church, if any congregation thereupon refuses to acquiesce in the change or restatement and determines to adhere to the original basis of union as duly amended prior to such change or restatement, the general assembly is empowered to—

- (a) allow such congregation to retain its congregational property;
or
- (b) deal in such other way with the said property as to the said assembly shall seem just and equitable :

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

Notwithstanding anything contained in this section Part II. of the basis of union may be amended or added to in accordance with a like procedure to that laid down in the Barrier Act 1697 of the Church of Scotland.

PART II.—GOVERNMENT.

8. (1) The supreme court of the church is the general assembly which shall have functions legislative, administrative and judicial supreme with regard to the doctrine, worship, discipline and government of the Church.

(2) The membership of the general assembly consists of commissioners elected by presbyteries for each meeting of the general assembly. These commissioners being ministerial members of presbyteries and elders are elected in proportion to the numerical strength of each presbytery on the basis of one ministerial member and one elder for every five charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. The moderator, the immediate past moderator, clerks of assembly, business convener, the procurator and law agent shall be members *ex officio*. Conveners of committees, boards and councils reporting to the assembly who have not been commissioned shall have the right and privilege of membership during the presentation of the report of the respective committee and the deliberations on the proposed deliverance. The assembly shall have the power to seek additional commissions from presbyteries of elders to give parity of representation in the court.

(3) The time and place of the next meeting shall be determined prior to the general assembly being dissolved.

(4) The commission of assembly shall consist of *ex officio* members of the general assembly and one minister and one elder from each presbytery for every fifteen charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. Presbyteries, when commissioning ministers and elders to the general assembly, shall indicate those of the number so commissioned who shall be members of the commission of assembly. The commission of assembly shall meet when appointed by the general assembly and when convened by the moderator for exceptional and urgent business, at a time and place determined by him, upon a requisition being presented to him by at least twelve members representing at least three synods and sustained by the moderator.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

9. (1) Until the general assembly shall otherwise determine there shall be six synods intituled the Synod of New South Wales, the Synod of Queensland, the Synod of South Australia, the Synod of Tasmania, the Synod of Victoria and the Synod of Western Australia, the bounds of which synods shall be determined by the areas respectively under the jurisdiction of the presbyteries of each of the State Presbyterian churches uniting upon the said basis; but save as aforesaid the general assembly shall have power to erect synods and to determine their bounds.

(2) The membership of synods shall consist of *ex officio* members to be determined by the synods and half the ministerial members of presbyteries within the bounds and an equal number of elders commissioned by the presbyteries except in the case of South Australia, Tasmania and Western Australia where all ministerial members of presbyteries and an equal number of elders shall be commissioned until such time as the general assembly determine otherwise. Synods shall have power to appoint additional elders to give parity of membership.

(3) Synods shall meet at least annually at a time and place appointed before adjournment, and meetings *pro re nata* may be convened by the moderator or on a requisition signed by nine members representing at least three presbyteries and sustained by him, provided always that in the case of the Synod of Tasmania it shall suffice if a requisition is signed by five members representing no more than one presbytery.

(4) Synods shall, subject to this constitution, exercise executive administrative pastoral and disciplinary functions over the Church within their bounds.

10. (1) Presbyteries shall be erected or dissolved or their boundaries determined or altered only by decision of the general assembly. At the time when this constitution becomes operative the presbyteries and their bounds shall be those recognized by each State assembly.

(2) The membership of presbyteries shall consist of all ministers in pastoral charges or holding other charges under the authority of the general assembly and other ministers and elders to whom seats have been granted by rule, regulation or resolution of the general assembly, one representative elder commissioned by the kirk session of each sanctioned charge, elders who are members of a session granted seats by rule or regulation of the general assembly, and other elders of kirk sessions within the bounds invited and granted seats by the presbyteries to establish parity in the courts.

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

11. Sessions shall be formed with the approval of or by direction of presbyteries. The method of election to sessions and their powers and duties shall continue in each congregation as under the former State codes until such time as the general assembly determine otherwise. Until otherwise determined sessions and congregations subsisting at the time the basis of union comes into operation shall be sessions of the Presbyterian Church of Australia.

12. The general assembly, synods, presbyteries and sessions in each case appoint from time to time such committees as they think fit, prescribing their membership, purpose and duties and giving other directions usually in the form of regulations.

13. The synod shall be the final court of appeal except in cases of doctrine and/or discipline that carry deposition or excommunication as possible judgments.

14. Until a code of the Presbyterian Church of Australia is enacted the code of each of the former State Presbyterian churches shall, subject to this basis of union, apply to the synod, presbyteries, sessions, and congregations within the area within which that State Presbyterian church functioned, provided always that in the case of the synod the provisions relating to the State general assembly shall apply *mutatis mutandis*.

PART III.—UNION WITH OTHER CHURCHES.

15. The general assembly shall have the right and power to negotiate with other branches of the Christian church with a view to the Presbyterian Church of Australia entering the union with any of them, and the Presbyterian Church of Australia may pursuant to a resolution of the general assembly enter into such union provided that the proposed basis of union with any such church or churches (which shall include a section setting out basic principles of constitutional structure and practice) shall first be remitted to synods and presbyteries under the Barrier Act procedure and may be approved by the general assembly only when approved by a majority of synods and at least three-fifths of the presbyteries of the whole church and three-fifths of the members present when the final vote of the general assembly is taken.

16. Before the final vote is taken in the general assembly communicants aged sixteen years and over whose names are on the roll of a congregation shall be given an opportunity to answer the following questions :—

- (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

B

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—continued.

- (b) Should the required majority vote for union be obtained in presbyteries, synods and the general assembly of Australia do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

17. (1) For the purpose of enabling communicants to vote upon the questions prescribed in the last preceding section the general assembly shall prescribe a date by which all sessions shall be required to have purged their communion rolls and to have submitted to the presbytery of the bounds a voting register in duplicate consisting of all eligible names on the communion roll at the date of submission to the presbytery.

(2) Both copies of the said voting register shall be certified by the moderator and clerk of the session as being the voting register.

(3) The presbytery of the bounds shall at the earliest opportunity following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

(4) Only those persons whose names are on an attested voting register may take part in the vote.

(5) Sessions shall make available voting papers containing the said questions at least fourteen days before a date to be prescribed by the session for the close of voting, upon which the voters shall indicate whether their answer is "Yes" or "No" to each of the questions.

(6) Voting papers must be signed by the voter and returned prior to the close of voting.

(7) The session shall count votes and transmit the number of "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the general assembly through the clerk of synod.

(8) The clerk of the general assembly shall advise the commission to be appointed as hereinafter provided of the results.

18. Upon the general assembly resolving to enter a union pursuant to section 15, it shall provide just and equitable safeguards of the rights of minorities who do not concur in the decision to unite, which safeguards shall include the following provisions :—

- (a) The general assembly shall set up a commission consisting of two groups of equal numbers, one representing those approving and one disapproving such union, together with three independent persons acceptable to both groups one of whom shall be chairman;

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

- (b) In any case where at least one third of the communicants of a congregation who participate in the vote in accordance with the last preceding section (hereinafter called "a continuing congregation"), shall prior to the date of the final vote of the general assembly approving such union have recorded votes indicating their desire to continue in membership of the Presbyterian Church of Australia, such communicants shall not become a congregation of the church to result from the union but shall be recognized as a congregation of the Presbyterian Church of Australia continuing to function on this basis of union and shall be entitled to retain the congregational property, unless the commission appointed pursuant to this section shall for special reasons otherwise determine, in which case the said commission is required to ensure that what it deems to be adequate and suitable congregational property is provided including a due and proper share of any congregational endowments;
- (c) Where in any district or locality less than one-third of the communicants who participate in the said vote and whose names appear on the roll of a congregation purged as afore-said, shall prior to the date of the final vote of the general assembly approving such union have recorded votes indicating their desire to remain in membership of the Presbyterian Church of Australia continuing to function on this basis of union and—
 - (i) the presbytery of the bounds is of the opinion that such minorities of such congregations are not able to be related in membership with some continuing congregation or congregations as a charge or charges; and
 - (ii) the said commission is satisfied as to the capacity of the said minorities to continue as such, it shall have power to arrange in a suitable locality or localities for such groupings of communicants to be provided with a church, manse and other necessary buildings to be used for congregational purposes, or with sufficient funds to provide such buildings;
- (d) The said commission, upon its being satisfied that the continuing congregations are capable of functioning as a continuing Presbyterian Church of Australia under this basis of union, shall, in addition to the powers functions and discretions otherwise conferred upon it in this section, have the power to determine what specific items, if any, of the general property of or held in trust for the purposes of the Presbyterian Church of Australia and the several State

SCHEDULE

Presbyterian Church of Australia.

SCHEDULE—*continued.*

synods shall for the efficient functioning of the said continuing church be retained by or for the purposes of the said church, and what compensation if any for the loss of a just and equitable share of such property should be payable to the said church, which shall have the right to use the name Presbyterian Church of Australia.

- (e) The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, inter alia, provide for the following requirements of a continuing church, including a due and proper share of endowments existing at the date of union and shall include provision for and maintenance of—
- (i) a centre for the theological training of the ministry of the said continuing church, including a centre of residence and staffing, having regard to the aim of the Presbyterian Church of Australia to have theological halls equipped with not fewer than three professors;
 - (ii) a centre for the administration of the said continuing church, including provision for a clerk, treasurer and such other staff and buildings deemed necessary by the said commission for continuing the activities of the said church, and also a centre for administration with provision for adequate staff for its requirements in any State where the strength of the said continuing church is deemed by the commission to warrant it;
 - (iii) at least one school for girls and one school for boys in each State where at the date of the said union there is more than one Presbyterian school for girls and more than one Presbyterian school for boys, and in any State where there is only one Presbyterian school for girls and/or only one Presbyterian school for boys the commission shall determine whether ownership of any such school shall be vested in the said continuing church or in the church to result from the said union, or make other adequate provision if the strength of the said continuing church warrants it.

BY AUTHORITY

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1972

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

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 November, 1971.*

New South Wales



ANNO VICESIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1971.

An Act to enable certain arrangements made between the Presbyterian Church of Australia and the State Presbyterian Churches to be carried into effect; to provide for the consequential variation of the trusts upon which certain church property is held and the consequential amendment of certain Acts; and for purposes connected therewith. [Assented to, 29th November, 1971.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Presbyterian Church of Australia.

BE it enacted by the Queen'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 com-
mencement.

1. (1) This Act may be cited as the "Presbyterian Church of Australia Act, 1971".

(2) Sections seven, eight and nine of this Act commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette, being a day that is not earlier than the day upon which a certificate referred to in section three of this Act is published in the Gazette.

Interpre-
tation.

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

"new basis of union" means the Basis of Union set forth in the Schedule to this Act;

"old scheme of union" means the Basis of Union and Articles of Agreement set forth in the Schedule to the Presbyterian Church of Australia Act, 1900;

"State Presbyterian Churches" means the Presbyterian Church of Australia in New South Wales, the Presbyterian Church of Victoria, the Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia.

Federal
union.

3. (1) The prescribed conditions referred to in subsections two and three of this section are complied with if the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

(a) the Moderator of the General Assembly of the Presbyterian Church of Australia and the respective Moderators of the General Assemblies of the State Presbyterian Churches have signed a deed declaring

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declaring that those churches have agreed to vary the old scheme of union by substituting the new basis of union for the old scheme of union and have agreed to unite in accordance with the new basis of union; and

- (b) the Parliaments of each of the States of Victoria, Queensland, South Australia, Western Australia and Tasmania have passed an Act enabling effect to be given to the new basis of union.

(2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the General Assembly thereof shall be held—

- (a) for the same purposes of the synod for the time being having ecclesiastical jurisdiction in New South Wales pursuant to the new basis of union; and
- (b) subject to the new basis of union.

(3) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section, were held by or in trust for some or all of the purposes of any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be held—

- (a) for the same purposes of the same presbytery, session, board or committee of management, congregation, committee, council, board or fund, as the case may be, in connection with the Presbyterian Church of Australia; and
- (b) subject to the new basis of union.

(4) Except to the extent provided by subsections two and three of this section, interests in property referred to in those subsections are not affected or varied by this Act.

Presbyterian Church of Australia.

Union with
other
branches
of the
Christian
church.

4. (1) The prescribed conditions referred to in subsection two of this section are complied with if, before the publication of the certificate referred to in subsection one of section three of this Act, the Moderator of the General Assembly of the Presbyterian Church of Australia in New South Wales signs and publishes in the Gazette a certificate to the effect that—

(a) the Moderators referred to in paragraph (a) of subsection one of section three of this Act have signed a deed declaring that the churches so referred to have agreed to implement and give effect to the provisions of Part III of the new basis of union; and

(b) the Parliaments referred to in paragraph (b) of subsection one of section three of this Act have passed an Act enabling effect to be given to the new basis of union substantially in the manner provided by this Act without implementing the new basis of union in its entirety.

(2) Upon compliance with the prescribed conditions, all interests in property that, immediately before publication of the certificate referred to in subsection one of this section were held by or in trust for some or all of the purposes of the Presbyterian Church of Australia in New South Wales or the General Assembly thereof or any presbytery, session, board or committee of management, congregation, committee, council, board or fund in connection with the Presbyterian Church of Australia in New South Wales shall be so held subject to Part III of the new basis of union.

(3) For the purposes of this section—

(a) the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union may exercise all the powers and functions of the General Assembly under Part III of the new basis of union;

(b)

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- (b) a reference in Part III of the new basis of union to synods is a reference to State General Assemblies or, if so required by the context, to State Presbyterian Churches;
- (c) the provisions of Part III of the new basis of union apply, with such modifications as may be necessary, to the Presbyterian Church of Australia constituted under the old scheme of union, the General Assembly thereof, State Presbyterian Churches and the General Assemblies, presbyteries, sessions and congregations thereof;
- (d) decisions of the General Assembly of the Presbyterian Church of Australia constituted under the old scheme of union and of any commission appointed by it under clause eighteen of Part III of the new basis of union shall operate with respect to the Presbyterian Church of Australia so constituted, State Presbyterian Churches and the General Assemblies, presbyteries, sessions and congregations thereof as if they were the Presbyterian Church of Australia constituted under the new basis of union and the courts and congregations thereof, as the case may require;
- (e) a reference in Part III of the new basis of union to the new basis of union shall be construed as a reference to the old scheme of union or, as the case may require, to the constitution of the State Presbyterian Churches.

(4) If a union is entered into under Part III of the new basis of union and there is in New South Wales a continuing congregation within the meaning of that Part but a continuing State Presbyterian Church is unable to function in New South Wales, the General Assembly of the Presbyterian Church of Australia may, so far as is necessary, place that congregation under the jurisdiction of the church courts in subordination to that General Assembly for so long as that inability persists.

(5) This section does not prejudice or affect the operation of section three of this Act.

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Gifts, etc.,
subsequent
to union.

5. Where—

- (a) a certificate is published under section three or four of this Act;
- (b) by the operation of a will or other instrument made or executed before or after publication of the certificate a gift, devise, bequest or declaration of trust takes effect after that publication in respect of an interest in property; and
- (c) if the gift, devise, bequest or declaration of trust had taken effect before publication of the certificate, that interest in property would have been an interest in property to which the section under which the certificate was published would apply,

the gift, devise, bequest or declaration of trust shall, for the purposes of the section under which the certificate was published, be deemed to have taken effect immediately before publication of the certificate.

Powers of
commission.

6. The commission referred to in the new basis of union may give effect to its powers out of the property to which this Act applies.

Amend-
ment
of Act to
incorporate
Saint
Andrew's
College as
a College
within the
University
of Sydney.

7. The Act entitled, "An Act to incorporate Saint Andrew's College as a College within the University of Sydney", which received the Royal assent on the twelfth day of December, one thousand eight hundred and sixty-seven is amended—

Sec. 3.
(Constitu-
tion of
Council.)

- (a) by omitting from section three the words "Presbyterian Church of New South Wales" wherever occurring and by inserting in lieu thereof the word "Church";

Sec. 6.
(Vacancies
how filled
up.)

- (b) by omitting from section six the words "Presbyterian Church of New South Wales" and by inserting in lieu thereof the word "Church";

(c)

Presbyterian Church of Australia.

- (c) by omitting from section seven the words "General Sec. 7. Assembly of the Presbyterian Church of New (Visitor.) South Wales" and by inserting in lieu thereof the word "Synod";
- (d) by omitting from section eight the words "General Sec. 8. Assembly of the Presbyterian Church of New South (Removal and sus- Wales) and by inserting in lieu thereof the word pension.) "Synod";
- (e) by omitting from section eleven the words "Presby- Sec. 11. terian Church of New South Wales" and by (Deed of grant how inserting in lieu thereof the word "Church"; to be construed.)
- (f) by inserting next after the same section the following New secs. 12 and 13.
new sections :—

12. In this Act, except to the extent that the Interpretation. context or subject-matter otherwise indicates or requires—

"Church" means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

"Synod" means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

13. This Act may be cited as the "Saint Short title. Andrew's College Incorporation Act, 1867".

8. The Act entitled "An Act to validate certain arrange- Amendment of Act relating to the Beneficiary Fund of the Presbyterian Church of Australia in the State of New South Wales, and to confer upon the General Assembly of the said Church power to regulate and control the said Fund in all respects, including membership, basis or rate of contribution, and other conditions of the same, and to extend the benefits of the said Fund to persons not resident in the said State; and for other

incidental

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incidental purposes" which received the Royal assent on the fifth day of April, one thousand nine hundred and twenty-nine is amended—

- | | |
|---|---|
| Sec. 1.
(Amalgama-
tion of
funds.) | (a) by omitting from section one the words “, herein-
after referred to as the ‘General Assembly,’ ”; |
| Sec. 2.
(Synod
empowered
to control
and
administer
fund.) | (b) by omitting from section two the words “General
Assembly” and by inserting in lieu thereof the
word “Synod”; |
| Sec. 3.
(Synod
empowered
to delegate
administra-
tion of
fund.) | (c) by omitting from section three the words “General
Assembly” wherever occurring and by inserting in
lieu thereof the word “Synod”; |
| Sec. 4.
(Moneys
and
securities
or invest-
ments of
fund shall
be vested
in the
corporate
trustees.) | (d) (i) by omitting from section four the words
“Presbyterian Church of Australia in the
State of New South Wales” wherever occurring
and by inserting in lieu thereof the word
“Church”;
(ii) by omitting from the same section the words
“General Assembly” and by inserting in lieu
thereof the word “Synod”; |
| Sec. 5.
(Synod
empowered
to admit
persons to
benefit of
fund.) | (e) by omitting from section five the words “General
Assembly” and by inserting in lieu thereof the
word “Synod”; |
| New secs.
6 and 7. | (f) by inserting next after the same section the
following new sections :— |

Interpreta-
tion.

6. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires—

“Church” means the Presbyterian Church of
Australia in so far as the Synod has
jurisdiction in respect thereof;

“Synod”

Presbyterian Church of Australia.

“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church.

7. This Act may be cited as the “Presbyterian Beneficiary Fund Act, 1929”. Short title.

9. The Presbyterian Church (New South Wales) Property Trust Act, 1936, is amended— Amendment of the Presbyterian Church (New South Wales) Property Trust Act, 1936.

(a) by omitting section three and by inserting in lieu thereof the following section :— Subst. sec. 3.

3. In this Act, except to the extent that the context or subject-matter otherwise indicates or requires— Definitions.

“Church” means the Presbyterian Church of Australia in so far as the Synod has jurisdiction in respect thereof;

“Synod” means the Synod of New South Wales of the Presbyterian Church of Australia convened in accordance with the rules, practice and usages of the Church;

“Trustees” or “Trust” means The Presbyterian Church (New South Wales) Property Trust.

(b) (i) by omitting from section five the words “Presbyterian Church of Australia in the State of New South Wales” and by inserting in lieu thereof the word “Church”; Sec. 5. (Number, appointment and retirement of Trustees.)

(ii)

Presbyterian Church of Australia.

- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- Sec. 9.
(Vesting of property in trustees.) (c) by inserting in section nine after the word "Wales" where secondly occurring the words ", or the Church,";
- Sec. 10.
(Variation of trusts.) (d) (i) by omitting from section ten the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- (ii) by omitting from paragraph (b) of subsection one of the same section the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church";
- Sec. 12.
(Power to make regulations.) (e) by inserting at the end of section twelve the following new subsection :—
- (2) After the commencement of section nine of the Presbyterian Church of Australia Act, 1971, regulations may be made under subsection one of this section by the Synod, and a regulation in force immediately before that commencement may be rescinded, revoked, altered or varied as if it had been made after that commencement by the Synod.
- Sec. 13.
(Power of Synod to appoint and grant constitutions, etc.) (f) by omitting from section thirteen the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- Sec. 14.
(Trust property how held.) (g) by omitting from section fourteen the words "General Assembly" and by inserting in lieu thereof the word "Synod";
- Sec. 16.
(Disposition of rents, etc., of glebe lands.) (h) by omitting from section sixteen the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church";
- (i)

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- (i) by omitting from section eighteen the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 18.
(Disposition of rents of pews, etc.)
- (j) by omitting from section twenty the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod"; Sec. 20.
(Trustees' powers to sell, etc.)
- (k) by inserting at the end of section twenty-three the following new subsection :— Sec. 23.
(Construction of wills, etc.)
- (2) Subsection one of this section applies in respect of the Church in the same manner and to the same extent as it applies in respect of the Presbyterian Church of Australia in the State of New South Wales.
- (l) by omitting from section twenty-seven the words "General Assembly" and by inserting in lieu thereof the word "Synod"; Sec. 27.
(Central Education Fund.)
- (m) (i) by omitting from section twenty-eight the words "Presbyterian Church of Australia in New South Wales" wherever occurring and by inserting in lieu thereof the word "Church"; Sec. 28.
(Co-operative use of property.)
- (ii) by omitting from the same section the words "General Assembly" wherever occurring and by inserting in lieu thereof the word "Synod";
- (n) by omitting from section thirty the words "Presbyterian Church in New South Wales" and by inserting in lieu thereof the word "Church"; Sec. 30.
(Constitution of Committee of Management where scheme of co-operation is in force.)
- (o) by omitting from section thirty-one the words "Presbyterian Church of Australia in New South Wales" and by inserting in lieu thereof the word "Church". Sec. 31.
(Certain provisions to apply to property held on behalf of co-operating congregation.)

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Sec. 2.

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BASIS OF UNION.

PART I.—CONSTITUTION.

1. The supreme standard of the Presbyterian Church of Australia shall be the Word of God contained in the Scriptures of the Old and New Testaments.

2. The subordinate standard shall be the Westminster Confession of Faith read in the light of the declaratory statement.

3. The declaratory statement is as follows:—

(1) That in regard to the doctrine of redemption as taught in the subordinate standard, and in consistency therewith, the love of God to all mankind, His gift of His Son to be the propitiation for the sins of the whole world, and the free offer of salvation to men without distinction on the ground of Christ's all-sufficient sacrifice, are regarded by this church as vital to the Christian faith. And inasmuch as the Christian faith rests upon and the Christian consciousness takes hold of certain objective supernatural historic facts, especially the incarnation the atoning life and death and the resurrection and ascension of our Lord, and His bestowment of His Holy Spirit, this church regards those whom it admits to the office of the holy ministry as pledged to give a chief place in their teaching to these cardinal facts and to the message of redemption and reconciliation implied and manifested in them.

(2) That the doctrine of God's eternal decree, including the doctrine of election to eternal life, is held as defined in the Confession of Faith, chapter III., section I., where it is expressly stated that according to this doctrine "neither is God the author of sin nor is violence offered to the will of the creature nor is the liberty or contingency of second causes taken away, but rather established", and further that the said doctrine is held in connexion and harmony with the truth—that God is not willing that any should perish, but that all should come to repentance, that He has provided a salvation sufficient for all and adapted to all and offered to all in the Gospel, and that every hearer of the Gospel is responsible for his dealing with the free and unrestricted offer of eternal life.

(3) That while none are saved except through the mediation of Christ and by the grace of the Holy Spirit, Who worketh when and where and how it pleaseth Him, while the duty of sending the Gospel to the heathen who are sunk in ignorance, sin, and misery is imperative, and while the

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outward and ordinary means of salvation for those capable of being called by the Word are the ordinances of the Gospel, in accepting the subordinate standard it is not required to be held that any who die in infancy are lost, or that God may not extend His grace to any who are without the pale of ordinary means as it may seem good in His sight.

(4) That in holding and teaching according to the Confession of Faith, the corruption of man's nature as fallen, this church also maintains that there remain tokens of man's greatness as created in the image of God, that he possesses a knowledge of God and of duty—that he is responsible for compliance with the moral law and the call of the Gospel, and that although unable without the aid of the Holy Spirit to return to God unto salvation he is yet capable of affections and actions which of themselves are virtuous and praiseworthy.

(5) That liberty of opinion is allowed on matters in the subordinate standard not essential to the doctrine therein taught, the church guarding against the abuse of this liberty to the injury of its unity and peace.

(6) That with regard to the doctrine of the civil magistrate and his authority and duty in the sphere of religion as taught in the subordinate standard the church holds that the Lord Jesus Christ is the only King and Head of the church, "and Head over all things to the church, which is His body". It disclaims accordingly intolerant or persecuting principles and does not consider its office bearers in subscribing the Confession as committed to any principles inconsistent with the liberty of conscience and the right of private judgment, declaring in the words of the Confession that "God alone is Lord of the conscience".

4. The text of the Westminster Confession of Faith shall be that produced by the Westminster Assembly of Divines amended as follows:—

(a) In section 4 of Chapter XXIV. there shall be inserted after the words "nearer in blood than of her own", the words "except the case of the deceased wife's sister, or in the case of a deceased husband's brother"; and

(b) In section 4 of Chapter XXVII. there shall be inserted after the words "lawfully ordained", the words "(saving where the general assembly has made a special provision to the contrary, that the people of God may not be left without sealing ordinances.)".

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5. The following formula is required to be signed by the ministers at their ordination, induction, or appointment to a ministerial office by the general assembly, a synod or a presbytery, and by probationers on receiving licence :—

I own and accept the subordinate standard of this Church, with the explanations given in the articles contained in the declaratory statement, as an exhibition of the sense in which I understand the Holy Scriptures, and as a confession of my faith. I further own the purity of worship practised in this Church, and the Presbyterian government thereof, to be founded on the Word of God and agreeable thereto; and I promise that through the grace of God I shall firmly and constantly adhere to the same, and to the utmost of my power shall, in my station, assert, maintain, and defend the doctrine, worship and government of this Church.

6. The following formula is required to be signed by elders at their ordination and/or induction :—

I confess my faith in God, revealed to us in Jesus Christ, His only Son our Lord and Saviour. I own anew the Lord Jesus Christ as my personal Saviour and Lord, and will seek, in dependence on the Holy Spirit, to order my life in accordance with His will. I acknowledge as the supreme standard of faith and duty the revelation of God recorded in the Scriptures of the Old and New Testaments and perfected in Jesus Christ. I declare my loyalty to this Church and to the principles of presbyterian polity.

7. Any proposed change in the basis of union (including amendment or replacement of the subordinate standard or the declaratory statement) or restatement of the doctrine of the Church contained therein shall, before being adopted, be remitted to synods and presbyteries and no change shall be made without the consent of a majority of synods, three-fifths of the presbyteries of the whole Church, and three-fifths of the members of the general assembly present when the final vote is taken. On any such change being made in the basis of union or restatement of the doctrine of the church, if any congregation thereupon refuses to acquiesce in the change or restatement and determines to adhere to the original basis of union as duly amended prior to such change or restatement, the general assembly is empowered to—

- (a) allow such congregation to retain its congregational property; or
- (b) deal in such other way with the said property as to the said assembly shall seem just and equitable :

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SCHEDULE—*continued.*

Notwithstanding anything contained in this section Part II. of the basis of union may be amended or added to in accordance with a like procedure to that laid down in the Barrier Act 1697 of the Church of Scotland.

PART II.—GOVERNMENT.

8. (1) The supreme court of the church is the general assembly which shall have functions legislative, administrative and judicial supreme with regard to the doctrine, worship, discipline and government of the Church.

(2) The membership of the general assembly consists of commissioners elected by presbyteries for each meeting of the general assembly. These commissioners being ministerial members of presbyteries and elders are elected in proportion to the numerical strength of each presbytery on the basis of one ministerial member and one elder for every five charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. The moderator, the immediate past moderator, clerks of assembly, business convener, the procurator and law agent shall be members *ex officio*. Conveners of committees, boards and councils reporting to the assembly who have not been commissioned shall have the right and privilege of membership during the presentation of the report of the respective committee and the deliberations on the proposed deliverance. The assembly shall have the power to seek additional commissions from presbyteries of elders to give parity of representation in the court.

(3) The time and place of the next meeting shall be determined prior to the general assembly being dissolved.

(4) The commission of assembly shall consist of *ex officio* members of the general assembly and one minister and one elder from each presbytery for every fifteen charges or portion thereof within its bounds served by an ordained minister either inducted or appointed by or with the sanction of the presbytery. Presbyteries, when commissioning ministers and elders to the general assembly, shall indicate those of the number so commissioned who shall be members of the commission of assembly. The commission of assembly shall meet when appointed by the general assembly and when convened by the moderator for exceptional and urgent business, at a time and place determined by him, upon a requisition being presented to him by at least twelve members representing at least three synods and sustained by the moderator.

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9. (1) Until the general assembly shall otherwise determine there shall be six synods intituled the Synod of New South Wales, the Synod of Queensland, the Synod of South Australia, the Synod of Tasmania, the Synod of Victoria and the Synod of Western Australia, the bounds of which synods shall be determined by the areas respectively under the jurisdiction of the presbyteries of each of the State Presbyterian churches uniting upon the said basis; but save as aforesaid the general assembly shall have power to erect synods and to determine their bounds.

(2) The membership of synods shall consist of *ex officio* members to be determined by the synods and half the ministerial members of presbyteries within the bounds and an equal number of elders commissioned by the presbyteries except in the case of South Australia, Tasmania and Western Australia where all ministerial members of presbyteries and an equal number of elders shall be commissioned until such time as the general assembly determine otherwise. Synods shall have power to appoint additional elders to give parity of membership.

(3) Synods shall meet at least annually at a time and place appointed before adjournment, and meetings *pro re nata* may be convened by the moderator or on a requisition signed by nine members representing at least three presbyteries and sustained by him, provided always that in the case of the Synod of Tasmania it shall suffice if a requisition is signed by five members representing no more than one presbytery.

(4) Synods shall, subject to this constitution, exercise executive administrative pastoral and disciplinary functions over the Church within their bounds.

10. (1) Presbyteries shall be erected or dissolved or their boundaries determined or altered only by decision of the general assembly. At the time when this constitution becomes operative the presbyteries and their bounds shall be those recognized by each State assembly.

(2) The membership of presbyteries shall consist of all ministers in pastoral charges or holding other charges under the authority of the general assembly and other ministers and elders to whom seats have been granted by rule, regulation or resolution of the general assembly, one representative elder commissioned by the kirk session of each sanctioned charge, elders who are members of a session granted seats by rule or regulation of the general assembly, and other elders of kirk sessions within the bounds invited and granted seats by the presbyteries to establish parity in the courts.

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11. Sessions shall be formed with the approval of or by direction of presbyteries. The method of election to sessions and their powers and duties shall continue in each congregation as under the former State codes until such time as the general assembly determine otherwise. Until otherwise determined sessions and congregations subsisting at the time the basis of union comes into operation shall be sessions of the Presbyterian Church of Australia.

12. The general assembly, synods, presbyteries and sessions in each case appoint from time to time such committees as they think fit, prescribing their membership, purpose and duties and giving other directions usually in the form of regulations.

13. The synod shall be the final court of appeal except in cases of doctrine and/or discipline that carry deposition or excommunication as possible judgments.

14. Until a code of the Presbyterian Church of Australia is enacted the code of each of the former State Presbyterian churches shall, subject to this basis of union, apply to the synod, presbyteries, sessions, and congregations within the area within which that State Presbyterian church functioned, provided always that in the case of the synod the provisions relating to the State general assembly shall apply *mutatis mutandis*.

PART III.—UNION WITH OTHER CHURCHES.

15. The general assembly shall have the right and power to negotiate with other branches of the Christian church with a view to the Presbyterian Church of Australia entering the union with any of them, and the Presbyterian Church of Australia may pursuant to a resolution of the general assembly enter into such union provided that the proposed basis of union with any such church or churches (which shall include a section setting out basic principles of constitutional structure and practice) shall first be remitted to synods and presbyteries under the Barrier Act procedure and may be approved by the general assembly only when approved by a majority of synods and at least three-fifths of the presbyteries of the whole church and three-fifths of the members present when the final vote of the general assembly is taken.

16. Before the final vote is taken in the general assembly communicants aged sixteen years and over whose names are on the roll of a congregation shall be given an opportunity to answer the following questions :—

- (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

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- (b) Should the required majority vote for union be obtained in presbyteries, synods and the general assembly of Australia do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

17. (1) For the purpose of enabling communicants to vote upon the questions prescribed in the last preceding section the general assembly shall prescribe a date by which all sessions shall be required to have purged their communion rolls and to have submitted to the presbytery of the bounds a voting register in duplicate consisting of all eligible names on the communion roll at the date of submission to the presbytery.

(2) Both copies of the said voting register shall be certified by the moderator and clerk of the session as being the voting register.

(3) The presbytery of the bounds shall at the earliest opportunity following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

(4) Only those persons whose names are on an attested voting register may take part in the vote.

(5) Sessions shall make available voting papers containing the said questions at least fourteen days before a date to be prescribed by the session for the close of voting, upon which the voters shall indicate whether their answer is "Yes" or "No" to each of the questions.

(6) Voting papers must be signed by the voter and returned prior to the close of voting.

(7) The session shall count votes and transmit the number of "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the general assembly through the clerk of synod.

(8) The clerk of the general assembly shall advise the commission to be appointed as hereinafter provided of the results.

18. Upon the general assembly resolving to enter a union pursuant to section 15, it shall provide just and equitable safeguards of the rights of minorities who do not concur in the decision to unite, which safeguards shall include the following provisions :—

- (a) The general assembly shall set up a commission consisting of two groups of equal numbers, one representing those approving and one disapproving such union, together with three independent persons acceptable to both groups one of whom shall be chairman;

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- (b) In any case where at least one third of the communicants of a congregation who participate in the vote in accordance with the last preceding section (hereinafter called "a continuing congregation"), shall prior to the date of the final vote of the general assembly approving such union have recorded votes indicating their desire to continue in membership of the Presbyterian Church of Australia, such communicants shall not become a congregation of the church to result from the union but shall be recognized as a congregation of the Presbyterian Church of Australia continuing to function on this basis of union and shall be entitled to retain the congregational property, unless the commission appointed pursuant to this section shall for special reasons otherwise determine, in which case the said commission is required to ensure that what it deems to be adequate and suitable congregational property is provided including a due and proper share of any congregational endowments;
- (c) Where in any district or locality less than one-third of the communicants who participate in the said vote and whose names appear on the roll of a congregation purged as afore-said, shall prior to the date of the final vote of the general assembly approving such union have recorded votes indicating their desire to remain in membership of the Presbyterian Church of Australia continuing to function on this basis of union and—
 - (i) the presbytery of the bounds is of the opinion that such minorities of such congregations are not able to be related in membership with some continuing congregation or congregations as a charge or charges; and
 - (ii) the said commission is satisfied as to the capacity of the said minorities to continue as such, it shall have power to arrange in a suitable locality or localities for such groupings of communicants to be provided with a church, manse and other necessary buildings to be used for congregational purposes, or with sufficient funds to provide such buildings;
- (d) The said commission, upon its being satisfied that the continuing congregations are capable of functioning as a continuing Presbyterian Church of Australia under this basis of union, shall, in addition to the powers functions and discretions otherwise conferred upon it in this section, have the power to determine what specific items, if any, of the general property of or held in trust for the purposes of the Presbyterian Church of Australia and the several State

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synods shall for the efficient functioning of the said continuing church be retained by or for the purposes of the said church, and what compensation if any for the loss of a just and equitable share of such property should be payable to the said church, which shall have the right to use the name Presbyterian Church of Australia.

- (e) The said commission in making its determinations as aforesaid shall have regard to the just and equitable rights of minorities and shall, inter alia, provide for the following requirements of a continuing church, including a due and proper share of endowments existing at the date of union and shall include provision for and maintenance of—
- (i) a centre for the theological training of the ministry of the said continuing church, including a centre of residence and staffing, having regard to the aim of the Presbyterian Church of Australia to have theological halls equipped with not fewer than three professors;
 - (ii) a centre for the administration of the said continuing church, including provision for a clerk, treasurer and such other staff and buildings deemed necessary by the said commission for continuing the activities of the said church, and also a centre for administration with provision for adequate staff for its requirements in any State where the strength of the said continuing church is deemed by the commission to warrant it;
 - (iii) at least one school for girls and one school for boys in each State where at the date of the said union there is more than one Presbyterian school for girls and more than one Presbyterian school for boys, and in any State where there is only one Presbyterian school for girls and/or only one Presbyterian school for boys the commission shall determine whether ownership of any such school shall be vested in the said continuing church or in the church to result from the said union, or make other adequate provision if the strength of the said continuing church warrants it.

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

A. R. CUTLER,
Governor.

Government House,
Sydney, 29th November, 1971.