

Legislative Council.

51<sup>o</sup> VICTORIÆ, 1888.

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## A BILL

To provide for the vesting of properties held on trusts for the benefit of the Church of England, and to grant powers of dealing with the same discharged from trust or consecration in certain events.

*(As amended and agreed to in Select Committee.)*

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**W**HEREAS lands in various parts of ~~this~~ **the Colony of New South** Preamble.  
**Wales** are vested or purport to be vested in Bishops of the Church  
of England, and in bodies of trustees corporate and individual, upon  
express trusts that the same should be used as sites for Churches, clergy-  
5 men's dwellings, or for other purposes, for the benefit of the said Church,  
and on some of such lands, Churches, schools, clergymen's residences, or  
other buildings have been erected, and certain of the said lands and  
buildings have been consecrated. And whereas by reason of change of  
circumstances, unsuitability of site, and other causes, it is or may be  
10 impossible or undesirable to carry out or continue to carry out the trusts  
declared concerning some of the said lands or buildings, or of moneys  
held in trust for the said Church; and it is also desirable that powers  
should be given for the beneficial use of others of the said lands or  
buildings until the same shall be required for the purposes for which the  
15 same have been or may be granted. And it is also desirable to set at  
rest doubts that may arise in consequence of the Crown having ceased  
to grant letters patent constituting and appointing Bishops of the  
Church of England for dioceses within the ~~said Colony of New South~~  
c 43— ~~Wales~~ **Wales**

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in **black letter**.

Wales, respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in ~~this~~ **the said** Colony, acts of council, grants, deeds, or other instruments, in which the said Bishops and their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it **5** therefore 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:—

Lands vested in Bishops in trust to vest in Bishops of diocese.

1. From and after the passing of this Act every Bishop of the **10** Church of England for the time being, acting and recognised as being the Bishop of any diocese now existing or which may hereafter be created in the said Colony, and having been consecrated according to the manner and form prescribed and used by the Church of England, notwithstanding that such Bishop may not have been appointed under **15** letters patent from the Crown, shall by force of this statute be entitled to all real and personal estate, whether situate within the boundaries of his diocese or not, held upon trust for the benefit of the church in his diocese, which is or shall hereafter be vested in any Bishop of the Church of England in the said Colony, or which was vested at the time **20** of his death in any Bishop since deceased of the said Church, unless the same shall have been subsequently vested in the corporate body of trustees appointed for such diocese, in accordance with the provisions of the "Church of England Trust Property Incorporation Act, 1881," where such **corporate body** exists, or other trustees or trustee, and such **25** real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, ~~who shall have and be subject to such and the like estate, trusts, and powers,~~ as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop **30** shall in all respects, within his diocese, have and enjoy all and singular the same rights, powers, and privileges, whether created by statute, act, grant, deed, or other instrument whatsoever as were originally enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synods may direct sale, lease, &c., of certain lands held on express trusts.

2. It shall be lawful for the Synod of the Church of England in **35** any diocese in ~~this~~ **the said** Colony now existing, or which may hereafter be created, at the request in writing of the Bishop of such diocese or his commissary duly appointed under his episcopal seal in the case of extra parochial lands, **buildings**, or diocesan moneys, and in the case of other **buildings**, lands, and moneys, at the request in writing of the **40** incumbent, and a majority of the churchwardens and parochial council (if any) of any parish or ecclesiastical district ~~in which any lands or buildings held on trust for the benefit of the said church or parish are situated, or for the benefit of which any such lands, buildings, or moneys~~ may be held on trust, but with the consent of the donor **during his life** **45** or of his representatives, if the same shall have been the subject of a private donation or grant, within twenty years then next preceding, by any act, resolution, or ordinance, to direct that any such land or building shall be sold, mortgaged, or let, on mining, building, or occupation leases, or otherwise dealt with, or such moneys be applied in such manner **50** and on such terms and conditions as may be directed by the rules, standing orders, acts, or ordinances of the said Synod, or by the act, resolution, or ordinance directing such sale, mortgage, lease or other dealing, and to authorize the laying out and dedicating of streets upon **any such lands.** **55**

How sale to be carried out.

3. Whenever any such direction as aforesaid shall have been given, the Bishop for the time being of the diocese or his Commissary duly appointed under his episcopal seal, where such Bishop is sole trustee, or **where** the said lands and buildings are not vested in the corporate body of trustees appointed for the same diocese in accordance with the **60** provisions of the "Church of England Trust Property Incorporation Act, 1881,"

In the "Church of England Trust Property Incorporation Act, 1881."

1881," and in all other cases the corporate body of trustees appointed for such diocese in accordance with the provisions of the "~~Church of England Trust Property Incorporation Act, 1881,~~" said Act shall forthwith carry out such direction, and in his own name, and as his  
 5 act and deed, or in the name of such corporate body of trustees, and as its own act and deed, execute and do all necessary deeds, conveyances, assurances, mortgages, leases, or other instruments, acts and things for giving full and complete effect to such direction in accordance with the true intent and meaning of the act, resolution, or ordinance by  
 10 which such direction shall have been given. And every such deed, conveyance, assurance, mortgage, lease, and other instrument, act or thing so executed or done by the said Bishop or his Commissary duly appointed as aforesaid, or corporate body of trustees in exercise of the authority of this section conferred upon him or ~~them,~~ **the said body**  
 15 shall fully and effectually vest such real and personal property, both at law and in equity, for the estate and interest mentioned in and purporting to be granted and assured by such deed, conveyance, assurance, mortgage, lease or other instrument, act, or thing, in and upon the person or persons accepting the same, to all intents and  
 20 purposes whatsoever. And that freed and absolutely discharged from the trusts upon which such real and personal property had theretofore been held, and if consecrated, free from all consecration.

4. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under  
 25 the powers granted by ~~the lastly preceding sections~~ **this Act** shall be concerned to see or enquire into the necessity or propriety thereof, or the mode of exercising the same, or be affected by notice that the exercise of the power is unauthorized, irregular, or improper, nor to see to the application or disposition of any purchase, mortgage, or  
 30 other money or rent paid by him.

5. The moneys arising from any such sale, mortgage, lease, or other dealing as aforesaid, and all money mentioned in such direction, shall be paid to the said Bishop or his Commissary duly appointed as aforesaid, or to the corporate body of trustees appointed for such  
 35 diocese in accordance with the provisions of the "Church of England Trust Property Incorporation Act, 1881," where such **body** exists, or to such other person or persons as the act, resolution, or ordinance by which such sale, mortgage, lease, or other dealing may have been authorized may direct. And the receipt of the said Bishop or his Com-  
 40 missary, duly appointed as aforesaid, or corporate body of trustees or other person or persons, as the case may be, shall be an effectual discharge therefor.

6. All moneys so arising in respect of extra parochial lands, and such diocesan moneys as may be mentioned in any such direction, shall  
 45 be applied for the use and benefit of the Church of England in any parish or ecclesiastical district of the diocese for the benefit of which such real or personal estate shall have been held upon trust, or generally for the benefit of the said Church in such diocese in such manner as the rule, resolution, act, or ordinance directing such  
 50 dealing, or any rule, act, or ordinance passed subsequently thereto shall provide. And all other moneys so arising, and other money, if any, mentioned in any such direction, shall be applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which such real estate or moneys may have  
 55 been held in trust in such manner as the rule, resolution, act, or ordinance directing such dealing, or any rule, act, or ordinance passed subsequently thereto at the request in writing of the Incumbent and a majority of the churchwardens and parochial council (if any) of any such parish or ecclesiastical district shall provide. Provided  
 always

Non-liability of purchasers.

Moneys, to whom paid.

Application of proceeds.

always that if it shall at any time appear to the said Synod inexpedient that such moneys should be so applied, the same may, with the consent of the Incumbent and a majority of the churchwardens and parochial council (if any) of such parish or ecclesiastical district for the benefit of which such real estate or moneys may have been held, be applied 5 for the use and benefit of the Church of England in any other parish or ecclesiastical district in the same diocese, or generally for the benefit of the said church in such diocese as the said Synod may from time to time direct.

Temporary investments.

7. Pending the application of any moneys to arise as aforesaid, 10 the same may be invested by the said Bishop, or his Commissary duly appointed as aforesaid, or corporate body of trustees, or such other person or persons authorized to receive the same as aforesaid, as the case may be, in Government or real securities in the said Colony, or on fixed deposit in any bank. 15

Appointment of new trustees where not otherwise provided for.

8. Where any real or personal property shall have been or shall hereafter be vested in any person or persons other than a corporate body of trustees appointed for the diocese wherein such real or personal estate shall be situate, or for the benefit of which the same may be held in accordance with the provisions of the "Church 20 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in ~~this~~ the said Colony, and no sufficient provision shall have been made for filling up vacancies in the trust occasioned by death, resignation, or any other cause, it shall be lawful for the Synod of the diocese in which such property shall be 25 situate, or for the benefit of which the same may be held, to declare by resolution that a vacancy or vacancies exist in the trust by reason of one or more of the trustees having died, resigned ~~his~~ office, refused, or neglected, or having become incapable to act in the said trust, or having for the space of six months ceased to reside within the same diocese, 30 and the Synod shall thereupon, or at any time thereafter, proceed to elect a new trustee or trustees as the case may require, and the filling up of such vacancy shall be forthwith notified in the ~~Government Gazette of the said Colony,~~ under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 35 assurance, vest in the said trustee or trustees so appointed as aforesaid, either solely or jointly with the surviving or continuing trustee or trustees as the case may be.

Evidence of rule or ordinance.

9. A copy of every act, rule, resolution, or ordinance of the **Synod** passed in pursuance of ~~the third section of this Act,~~ certified by 40 the President or Acting President of the said Synod ~~or other such body as aforesaid,~~ shall within three months from the passing thereof be recorded in the office of the Master in Equity, and such copy, or a certified or office copy thereof shall, in favour of all persons purchasing, leasing, advancing moneys on, or otherwise acquiring or possessing any 45 estate, or interest in the lands or buildings therein mentioned, be deemed conclusive evidence that a rule, act, resolution, or ordinance in terms of such recorded copy had been duly passed, and that all necessary consents or directions had been given, and that all proceedings in connection therewith were regular and in due form. 50

Not to affect the "Sydney Bishopric and Church Property Act of 1887." Short title.

10. This Act shall not repeal, or in any way cut down or abridge, the provisions of the "Sydney Bishopric and Church Property Act of 1887," and shall be read as supplementary to and enlarging the provisions of the said Act.

11. This Act may be cited for all purposes, as the "Church of 55 England Property Act of 18878."