

New South Wales.



ANNO QUINQUAGESIMO SECUNDO

VICTORIÆ REGINÆ.

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An Act 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. [Assented to, 21st May, 1889.]

WHEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

Synod may mortgage lands, &c.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

Proviso as to powers given in third and fourth sections.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed

How sale to be carried out.

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

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
paid.

8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since

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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

13. 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. Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.



# New South Wales.



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An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without



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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

Synod may mortgage lands, &c.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

Proviso as to powers given in third and fourth sections.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed

How sale to be carried out.

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

for

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
paid.

8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred

since

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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

13. 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. Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.

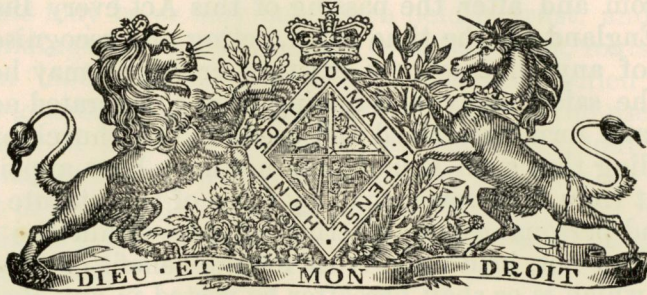


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council Chamber,  
Sydney, 16th May, 1889.* }

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

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# VICTORIÆ REGINÆ.

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An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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ARCHD. H. JACOB,  
*Chairman of Committees of the Legislative Council.*

*Church of England Property.*

their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

Synod may mortgage lands, &c.

Proviso as to powers given in third and fourth sections.

How sale to be carried out.

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

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom paid.

8. 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 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 Commissary, 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.

Application of proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since



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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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.

Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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.

Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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.

Evidence of rule or ordinance.

13. 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.

Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889."

Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.

Church of England Property.

...the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, furnishings or other property are held, it is in the opinion of the Synod, the Synod or responsible to apply the said proceeds to the same or other purposes in which the said proceeds, Bishops or other persons may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purposes than as beforementioned, and in any other manner or ecclesiastical district in any such Diocese.

11. Where any act or deed or conveyance shall have been or shall hereafter be made in any person or persons other than a corporate body of trustees appointed for the purpose of which the same may be held in connection with the provisions of the "Church of England Property Act 1881" upon trust for the benefit of the Church of England in the said Colony, and no sufficient provision shall have been made for filling up vacancies in the trust for the benefit of which the same may be held, to be made by one or more of the trustees having then remained office, resigned, 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, and the Synod shall thereupon or at any time thereafter proceed to fill up such vacancies as the case may require, and the filling up of such vacancies shall be forthwith notified in the Gazette under the hand of the President of the said Synod, and the said trust shall thereupon without further assent, vest in the said trustee or trustees as appointed or appointed either solely or jointly with the surviving or continuing trustee or trustees in the case may be.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 other copy thereof shall, in favour of all persons purchasing, leasing, advancing money on, or otherwise acquiring or possessing any 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 accordance with the provisions of this Act.

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Temporary  
Provision

Appointment of the  
Trustees where no  
provision is made

Trustees of the  
Trust

Provision of the  
Act

Provision of the  
Act

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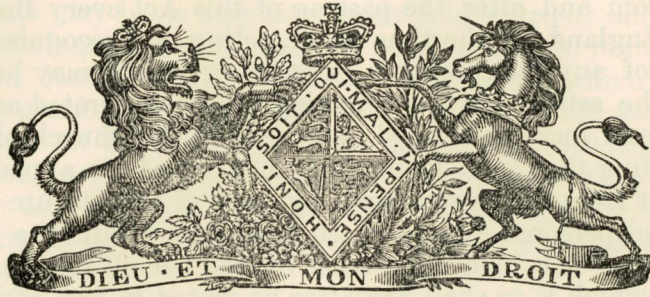
Provision of the  
Act

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

*Legislative Council Chamber,  
Sydney, 16th May, 1889. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

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An Act 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. [Assented to, 21st May, 1889.]

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their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed for

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Proviso as to powers given in third and fourth sections.

How sale to be carried out.

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

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
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8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since

*Church of England Property.*

since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

13. 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. Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.



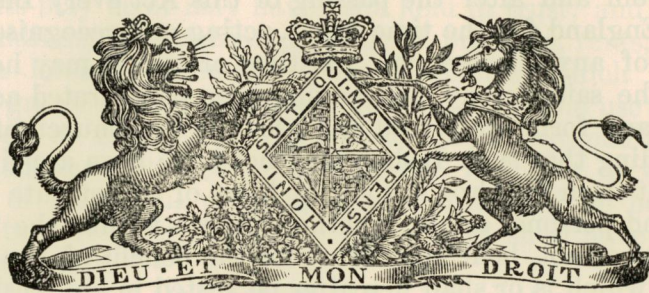


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council Chamber,  
Sydney, 16th May, 1889. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

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An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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

ARCHD. H. JACOB,  
*Chairman of Committees of the Legislative Council.*

*Church of England Property.*

their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

*Church of England Property.*

without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed for

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

Synod may mortgage lands, &c.

Proviso as to powers given in third and fourth sections.

How sale to be carried out.

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

*Church of England Property.*

for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
paid.

8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since

*Church of England Property.*

since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

13. 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. Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.

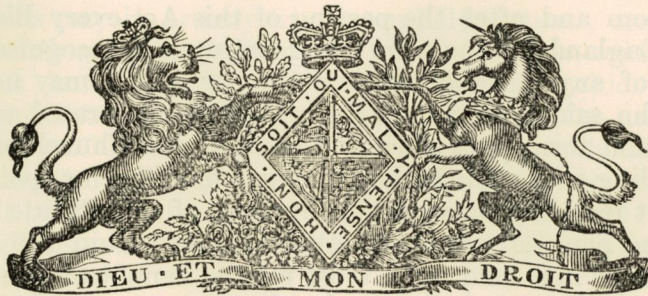


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council Chamber,  
Sydney, 16th May, 1889. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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

ARCHD. H. JACOB,  
*Chairman of Committees of the Legislative Council.*

*Church of England Property.*

their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys

without



*Church of England Property.*

without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

Synod may mortgage lands, &c.

Proviso as to powers given in third and fourth sections.

How sale to be carried out.

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

*Church of England Property.*

for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom paid.

8. 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 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 Commissary, 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.

Application of proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since

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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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.

Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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.

Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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.

Evidence of rule or ordinance.

13. 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.

Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889."

Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.

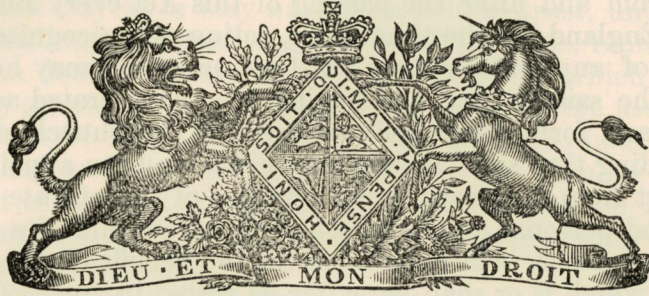


*I Certify that this PRIVATE BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

*Legislative Council Chamber,  
Sydney, 16th May, 1889. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

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An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

Preamble.

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

ARCHD. H. JACOB,  
*Chairman of Committees of the Legislative Council.*

*Church of England Property.*

their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

Synod may mortgage lands, &c.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

Proviso as to powers given in third and fourth sections.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed

How sale to be carried out.

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

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
paid.

8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since



*Church of England Property.*

since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

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

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.

Church of England Property

...the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, endowments or other moneys are held, it is in the opinion of the Synod, possible or expedient to apply the said proceeds, rents, Dividend or other moneys in such parish or ecclesiastical district for the same or other purposes in which case the said proceeds, rents, Dividend or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as before mentioned, and in any other parish or ecclesiastical district in any such Diocese...

Appointed by the

...the funding the application of any moneys to arise as aforesaid, 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.

Appointment of new

...11. 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 situated, or for the benefit of which the same may be held in accordance with the provisions of the "Church of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 situated, 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 office, refused or neglected, or having become incapable to act in the trust, or having for the space of six months ceased to reside within the same Diocese, 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 Gazette under the hand of the President of the said Synod, and the said trustee or trustees so appointed as aforesaid, either jointly or jointly with the surviving or continuing trustee or trustees as the case may be...

of the

...A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 in, or otherwise acquiring or possessing any estate or interest in the lands or buildings therein mentioned, be deemed conclusive evidence that a title, not subject to any reservation or exception in favour of any person, has been duly passed, and that all proceedings in connection therewith were regular and in due form.

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...12. This Act shall not repeal, or in any way cut down or amend, the provisions of the "Bishopric and Church Property Act of 1852," and shall be read as supplemental to and enlarging the provisions of that Act in like manner as if it had been enacted at the same time as that Act.

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...13. This Act may be cited for all purposes as the "Church of England Property Act of 1889," and shall be read as if it had been enacted at the same time as that Act.

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...17. This Act may be cited for all purposes as the "Church of England Property Act of 1889," and shall be read as if it had been enacted at the same time as that Act.

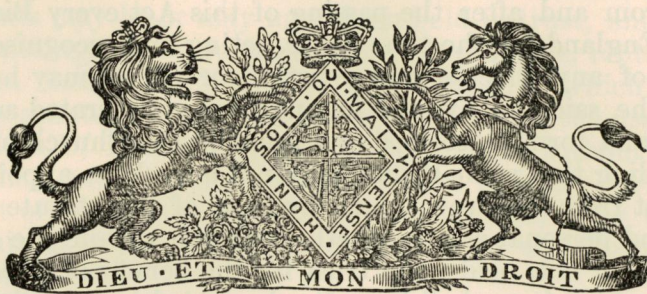
CARRINGTON

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

*Legislative Council Chamber,  
Sydney, 16th May, 1889. }*

JOHN J. CALVERT,  
*Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO SECUNDO

# VICTORIÆ REGINÆ.

\*\*\*\*\*

An Act 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. [Assented to, 21st May, 1889.]

**W**HEREAS lands in various parts of the Colony of New South 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, clergymen'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 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 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 respecting the rights, powers, and privileges of such Bishops and their successors under Imperial statutes in force in the said Colony, Acts of Council, grants, deeds, or other instruments, in which the said Bishops and their

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

ARCHD. H. JACOB,  
*Chairman of Committees of the Legislative Council.*

*Church of England Property.*

their successors are mentioned. And it is also desirable to provide for the other contingencies hereinafter mentioned. Be it 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 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 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 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 real and personal estate shall, by force of this statute, but subject to the trusts affecting the same, respectively vest in such Bishop accordingly, as if the same had been originally granted or conveyed to him and his successors as a body corporate. And every such Bishop 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 enjoyed or possessed therein by the Bishops his predecessors.

Act 1881 where such exists.

Synod may direct disposal of money, and sale, lease, &c., of lands, &c., held on express trusts.

2. In any case in which Diocesan or other moneys, lands, churches, schools, or other buildings and hereditaments belonging to and situate within the limits of any Diocese in this Colony now existing, or which may hereafter be created, are now, or may hereafter be vested in the Bishop of any such Diocese, or other trustee or trustees (including corporate trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881"), and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England, and by reason of circumstances which have occurred since such consecration or the creation of other such express trust, it has, in the opinion of the Synod of any such Diocese, become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such Diocesan or other moneys, lands, buildings, and hereditaments, or any of them, are, by such consecration or other trust, devoted, it shall be lawful for any such Synod, from time to time, by rule or ordinance (passed on the third reading thereof by a majority of the said Synod according to the regulations of the said Synod), to declare such their opinion, and by the same or any subsequent rule or ordinance to direct that any such lands, buildings, or hereditaments shall be sold, demised, mortgaged, or let on mining, building, or occupation leases, including the laying out and dedicating of streets, or otherwise dealt with, and that such Diocesan and other moneys be applied in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be, and such consecration or trust shall thereupon, by force of the said rule or ordinance, cease and determine. Provided always, and it is hereby enacted that it shall not be lawful for the Synod to pass any such rule or ordinance in respect of extra parochial lands and Diocesan moneys without

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without the consent in writing of the Bishop of any such Diocese, or of his Commissary duly appointed under his Episcopal seal, and in the case of other lands and moneys, buildings or hereditaments, without the like consent of the Incumbent and a majority of the Churchwardens and Parochial Council if any for the time being of the parish or ecclesiastical district for the benefit of which such lands, buildings, or hereditaments may be or may have been held in trust, and in the case of lands, buildings, or hereditaments, or of proceeds, rents, or moneys arising from lands, buildings, or hereditaments which have been gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor, without the consent previously had and obtained of such donor, if living, or without the like consent of his lawful personal representatives, if he be dead, and if his gratuitous grant or assurance upon trust shall have been made within twenty years.

3. Whenever it shall appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to let on building, mining, or occupation leases any such lands, buildings, and hereditaments as hereinbefore mentioned for the purpose of obtaining income therefrom in furtherance or aid of the trusts attached to the same, or in furtherance or aid of some substituted purposes to which the said Synod shall have determined to apply the same in cases wherein it shall in the declared opinion of the said Synod be or have become impossible or inexpedient to carry out the particular purpose or purposes to which the said lands, buildings, and hereditaments were devoted by consecration or other trust, it shall be lawful for the said Synod from time to time, by rule or ordinance passed in like manner as hereinbefore mentioned, to direct that the said lands, buildings, and hereditaments shall be let on mining, building, or occupation leases, including the laying-out and dedicating of streets and public places, or be otherwise dealt with for procuring income therefrom as aforesaid, and that the income to be derived therefrom shall be applied in furtherance or aid of the said trust or substituted purposes in such manner as shall in such rule or ordinance be specified, freed from such consecration or trusts, as the case may be, if the said Synod shall have so required; and in that case such consecration or trust shall by force of such rule or ordinance cease and determine.

4. If it shall at any time appear to the Synod of any such Diocese, and the Synod shall so declare, that it is expedient to obtain an advance of money upon the security of any such lands, buildings, and hereditaments (other than consecrated churches and the lands on which the same shall have been erected or which shall be immediately appurtenant thereto), for the purpose of carrying out and giving effect to the trusts or substituted purposes attached to the same, it shall be lawful for the said Synod, by ordinance or rule as aforesaid, to direct that such lands, buildings, or hereditaments shall or may be mortgaged for such amount as it shall thereby authorize to be obtained by way of advance on the security of the same, and that the amount to be raised shall be applied for or towards the purposes in this section mentioned.

5. Provided that the powers given in and by the last two preceding sections shall be subject to the proviso contained in the second section of this Act.

6. 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 provisions of the "Church of England Trust Property Incorporation Act, 1881," and in all other cases the corporate body of trustees appointed for

Synod may let on building, mining, or occupation leases, lands, &c., for purpose of income, &c.

Synod may mortgage lands, &c.

Proviso as to powers given in third and fourth sections.

How sale to be carried out.

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

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for such Diocese in accordance with the provisions of the said Act shall forthwith carry out such direction, and in his own name, and as his 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 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 the said body 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 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.

Non-liability of  
purchasers.

7. No purchaser, mortgagee, lessee, or other person, upon any sale, mortgage, demise, or other proceeding purporting to be made under the powers granted by 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 other money or rent paid by him.

Moneys, to whom  
paid.

8. 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 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 Commissary, 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.

Application of  
proceeds.

9. It shall be lawful for the Synod of any such Diocese, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, and from time to time, but subject to the proviso contained in the second section of the Act, to direct how and in what manner any Diocesan moneys and any proceeds, rents, and other moneys arising from any such sale, demise, or dealing as aforesaid, shall be dealt with and applied, and the same shall be dealt with and applied accordingly. Provided that such Diocesan moneys, proceeds, rents, and other moneys, shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district for the benefit of which the land, buildings, or hereditaments from which such proceeds, rents, or other moneys shall have arisen, may be or may have been held in trust, or for which such Diocesan and other moneys are held in trust, and for the same purposes as nearly as may be for which the said lands, hereditaments, and moneys had been previously held, unless the Synod shall, by any such rule or ordinance as aforesaid, or by any subsequent rule or ordinance passed in like manner, declare that, by reason of circumstances which have occurred since

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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, hereditaments or Diocesan and other moneys are held, it is, in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Diocesan or other moneys in such parish or ecclesiastical district for the same or like purposes, in which case the said proceeds, rents, Diocesan or other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as beforementioned, and in any other parish or ecclesiastical district in any such Diocese.

10. Pending the application of any moneys to arise as aforesaid, 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. Temporary investments.

11. 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 of England Trust Property Incorporation Act, 1881," upon trust for the benefit of the Church of England in 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 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 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, 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 *Gazette*, under the hand of the President of the said Synod, and the said trust property shall thereupon, without further 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. Appointment of new trustees where not otherwise provided for.

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 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. Evidence of rule or ordinance.

13. 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. Not to affect the "Sydney Bishopric and Church property Act of 1887."

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889." Short title.

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

CARRINGTON.

Government House,  
Sydney, 21st May, 1889.

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since the creation of the express trust (whether by consecration or otherwise) upon which the said lands, buildings, investments or monies and other monies are held, it is in the opinion of the Synod, impossible or inexpedient to apply the said proceeds, rents, Dividend or other monies in such parish or ecclesiastical district for the same or other purposes, in which case the said proceeds, rents, Dividend or other monies may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England for some other purpose than as before mentioned, and in any other parish or ecclesiastical district in any such Diocese.

Temporary Investments

10. For the application of any monies to raise as aforesaid, 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, at the rate may be, in Government or real securities in the said Colony, or on fixed deposit in any bank.

Appointment of new Trustees where the provisions provided for

11. 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 situated or for the benefit of which the same may be held in accordance with the provisions of the Church of England Trust Property Incorporation Act 1881, upon trust for the benefit of the Church of England in 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 situated, 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 office, refused to act, or having become incapable to act in the said trust, or having neglected or having become incapable to act in the said trust, or having for the space of six months ceased to reside within the said Diocese, 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 Gazette, and the trust of the said property shall be forthwith notified in the Gazette, and the said trustee or trustees so appointed, either solely or jointly with the surviving or continuing trustee or trustees of the trust, may be

Validity of powers

Power of Synod

Enforcement of rules or ordinances

Enforcement of rules or ordinances

12. A copy of every act, rule, resolution, or ordinance of the Synod passed in pursuance of this Act, certified by the President or Acting President of the said Synod 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 money on, or otherwise acquiring or possessing any 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.

Not to affect the provisions of the Synod and Church Property Act of 1887

13. This Act shall not repeal, or in any way cut down or amend the provisions of the Synod and Church Property Act of 1887, and shall be read as supplementary to and enlarging the provisions of the said Act.

Enforcement of rules or ordinances

14. This Act may be cited for all purposes as the "Church of England Property Act of 1889", and shall be read as supplementary to and enlarging the provisions of the said Act.

GARRINGTON  
Sydney, 21st May, 1889.