



ANNO DECIMO SEXTO

## ELIZABETHAE II REGINAE

A.D. 1967

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### No. 59 of 1967

An Act to vest certain land situate in Mount Gambier held upon certain trusts in St. Martin's Lutheran Church, Mount Gambier, Incorporated and for purposes incidental thereto.

*[Assented to 9th November, 1967]*

**Preamble.**

WHEREAS by a Deed (hereinafter called "the Original Trust Deed") made on the first day of October One thousand eight hundred and sixty-three between Heinrich Boldt, Traugott Lindner, Johann Plate, Wilhelm Vorwerk and Friedrich Unger it was declared that a certain piece of land (hereinafter called "the land") should thenceforth be held upon certain trusts set out in the Original Trust Deed on behalf of the congregation of the Evangelical Lutheran Church of Mount Gambier AND WHEREAS the said congregation was at that time a branch of the Evangelical Lutheran Synod of Australia (hereinafter referred to together with its successor the Evangelical Lutheran Church of Australia as "the E.L.C.A.") AND WHEREAS in the course of time the said congregation dissolved and the remaining members of the said congregation joined the congregation of St. Martin's Lutheran Church of Mount Gambier which was a branch of the United Evangelical Lutheran Church in Australia (hereinafter referred to as "the U.E.L.C.A.") AND WHEREAS an Indenture was made on the 25th day of January Nineteen hundred and two between C. T. Lindner, C. Kannenberg and H. H. Schleter being certain of the then trustees of the land having been properly appointed as trustees of the land pursuant to the terms of the Original Trust Deed, of the first part and E. G. Lindner, B. Kannenberg, J. Vorwerk and E. Unger of the other part whereby the parties of the first part exercising the power in that behalf given to them by the Trustee Act 1893

and of every other power them thereunto enabling duly appointed the parties of the other part (the then trustees of the property held on behalf of the congregation of the said St. Martin's Lutheran Church of Mount Gambier) trustees to hold the land upon the trusts set forth in the Original Trust Deed AND WHEREAS the land continued to be held by the trustees for the time being of the property held on behalf of the said St. Martin's Lutheran Church of Mount Gambier AND WHEREAS a dispute arose between the E.L.C.A. and the U.E.L.C.A. as to who was beneficially entitled to the land by the terms of the trusts created by the Original Trust Deed AND WHEREAS application was made to have the land brought under the provisions of the Real Property Act 1886-1945 AND WHEREAS on the sixth day of July Nineteen hundred and forty nine a limited Certificate of Title Register Book Volume A Folio 122 for the land and in which the land is more particularly described was issued pursuant to the Real Property (Registration of Titles) Act 1945 in the names of Erdman Gottlieb Lindner, Edward Hermann Gladigau, Alfred Joseph Lindner, Norman Henry Whitehead, Eric Bernhard Peucker, Reinhold Benno Muller, Colin Engel Gladigau, William Alfred Johnson and Franklin Albert Spehr the then trustees of the land AND WHEREAS the Registrar General registered a caveat Number 158 0139 dated the seventh day of July Nineteen hundred and forty-nine on the said limited Certificate of Title by the terms of which the registration of any instrument affecting the land was prohibited because the power of sale under the Deed was vested in a congregation which was no longer existent AND WHEREAS the original copy of the Original Trust Deed has been lost AND this loss has precluded the Supreme Court of South Australia from making any *cy-près* order as to the disposition of the land AND WHEREAS the E.L.C.A. and the U.E.L.C.A. have now amalgamated to form The Lutheran Church of Australia and have agreed that an unencumbered estate in fee simple in the land should be vested in St. Martin's Lutheran Church, Mount Gambier, Incorporated an association duly incorporated under the Associations Incorporation Act 1956-1965.

BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "St. Martin's Lutheran Church, Mount Gambier, Incorporated Act, 1967". Short title.

2. In this Act, unless the context otherwise requires— Interpretation.  
"the Association" means St. Martin's Lutheran Church,  
Mount Gambier, Incorporated :

“the Original Trust Deed” means the Deed dated the first day of October, 1863, more particularly described in the preamble to this Act :

“trust land” means the whole of the land comprised and described in Limited Certificate of Title Register Book Volume A Folio 122 :

Vesting of trust land in St. Martin's Lutheran Church, Mount Gambier, Incorporated.

**3.** The trust land is by virtue of this Act without any further or other assurance vested in the Association for an estate in fee simple. The Registrar-General shall make such entries in the Register Book as are necessary to evidence the title of the Association to the trust land.

Land to be held and dealt with for purposes and objects of Association.

**4.** The Association shall hold and deal with the trust land for the purposes and objects of the Association as set forth in the rules of incorporation thereof.

Trustees freed from trusts and obligations.

**5.** From and after the commencement of this Act all persons who at the time of such commencement were or at any time had been trustees of the trust land shall be freed and discharged from all the trusts and conditions in the Original Trust Deed contained and from all their obligations in relation to the trust land.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

J. M. NAPIER, Governor's Deputy.