



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 44 of 1971

An Act to provide for the administration of trust property and affairs of any church or other institution or organization within any diocese of the Church of England in Australia situated within South Australia.

[Assented to 26th August, 1971]

WHEREAS it is expedient that trust property vested in any trustees or trustee on behalf of or for the purposes of any church or other institution or organization within any diocese of the Church of England situated within South Australia be vested without any other conveyance transfer assignment or assurance in the synod of the diocese in which such church or other institution or organization is situated and for such synod to declare the trusts upon which the trust property is held: AND WHEREAS it is also expedient to provide for the alteration addition or revocation of trusts applicable to such trust property and the power to mortgage the same: BE IT THEREFORE ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Preamble.

1. This Act may be cited as "The Church of England Trust Property Act, 1971".

Short title.

2. The Synod of any diocese of the Church of England in Australia situated within South Australia may pass a resolution declaring a desire to have the benefit of this Act and may in the name and under

Application of this Act to a diocese.

the hand of the Bishop of such diocese notify the passing of such resolution in the *Gazette* and immediately upon such notification and thenceforth the provisions of this Act shall apply to the said diocese.

Application of
this Act
to churches,
institutions
and organiza-
tions.

3. The Vestry or other the governing body appointed by virtue of any Act of Parliament rules and regulations of an incorporated association or trust instrument to administer the trust property and affairs of any church or other institution or organization within any diocese to which this Act applies may with the approval of the trustees (if any) of such trust property pass a resolution declaring a desire to have the benefit of this Act and may notify the synod of the said diocese of the passing of the said resolution and if such synod or if it is not in session the standing committee of such synod shall assent thereto then immediately upon such assent and thenceforth the provisions of this Act shall apply to the said church or other institution or organization. Provided that where the trustees or any of them either original or substituted and whether approved by the Court or not are dead or remain out of the State of South Australia or desire to be discharged from all or any of the trusts or powers reposed in or conferred on them or refuse or are unfit to act therein or are incapable of acting therein and in consequence of any such happening the trustees or any of them shall not be able to approve of such resolution it shall be lawful for the Bishop of the Diocese to approve of the same in place of such trustees or trustee.

Vesting
of property in
the Synod.

4. Notwithstanding the provisions of any Act of Parliament or trust instrument affecting any trust property which from and after the date of assent referred to in Section 3 may belong to or be or at any time become vested in any trustees or trustee on behalf of or for the purposes of any church or other institution or organization to which this Act applies all such trust property shall by force and virtue of this Act and without any other conveyance transfer assignment or assurance vest (or if already so vested continue to be vested) in the synod of the diocese in which the church or other institution or organization is situated and upon the production to the Registrar-General of an application of such synod to note upon the title to any such property as shall consist of land or any interest in land subject to the provisions of The Real Property Act 1886 as amended accompanied by such evidence as the Registrar-General may require the Registrar-General may make such notations and entries in the register book as he thinks necessary or expedient for the purpose of evidencing the estate or interest of such synod in any property in consequence of the provisions of this section. If any such land or interest in land is not under the said Real Property Act the synod

may register a memorial of such vesting in the General Registry Office provided that with every memorial there shall be supplied such particulars as the Registrar-General shall require.

5. It shall be lawful for the Synod in which any trust property is vested or continues to be vested pursuant to section 4 to declare that such property is held upon the trusts of any model trust deed adopted by such synod or subject to the provisions of any particular instrument or of any instrument generally in use in such diocese for governing and controlling the management and user of such property and thereupon and thenceforth any former trusts applicable to such property or any former provisions for governing and controlling the management and user of such property shall cease to be applicable and the trusts or provisions so declared shall apply to such property in their stead.

Power to declare that trust property is to be held subject to model trust deed.

6. It shall be lawful for the Synod in which any trust property is vested or continues to be vested pursuant to section 4 from time to time to alter add to or revoke the trusts of any model trust deed or the provisions of any instrument by section 5 declared to be applicable to any trust property provided that such alteration addition or revocation is effected in conformity with the provisions in that behalf contained in the model trust deed or instrument whose trusts or provisions as the case may be are to be altered added to or revoked.

Power to vary trusts, etc.

7. Where any trust property is held by the synod of any diocese to which this Act applies or by any other trustees on behalf of or for the purposes of any church or other institution or organization within such diocese then notwithstanding that any Act of Parliament or trust instrument affecting such trust property does not contain any power to mortgage the trust property and to apply the amount raised on mortgage thereof for any of the purposes hereinafter appearing or forbids any such transaction it shall nevertheless be lawful for the synod or other the trustees as the case may be with the consent of the vestry or other the governing body appointed to administer the trust property and affairs of such church or other institution or organization from time to time to mortgage the trust property for such amount and upon such terms and conditions as such synod or other the trustees shall think fit and to apply the amount so raised on mortgage for any purpose either of the said church or other institution or organization or in connection with the extension and development of the work of the Church of England in Australia within such diocese: Provided however that nothing herein contained shall authorize or empower the mortgaging of any trust property for the time being set apart for use as a cemetery or upon which any consecrated church shall have been erected.

Power to Mortgage.

Investment.

8. It shall be lawful for the synod of any diocese holding church trust property either invested or requiring to be invested to pool any separate church trust properties for the purposes of investment and to average gains losses and interest and to do all such other matters and things incidental to such pooling and averaging as may be requisite.

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

J. W. HARRISON, Governor.