



ANNO DECIMO SEPTIMO

GEORGII V REGIS.

A.D. 1926.

No. 1743.

An Act to empower Trustees of Land held in Trust for Churches and the Congregations thereof to Dispose of the said Land, to empower Associations incorporated pursuant to the Associations Incorporation Act, 1890, to dispose of Land held by the said Associations for any Religious Purpose or Purpose for the Advancement of Religion, and for other purposes.

[Assented to, November 11th, 1926.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Trustee (Disposal of Church Land) Act, 1926." Short titles.

(2) The Trustee Acts, 1893 to 1923, and this Act may be cited together as the "Trustee Acts, 1893 to 1926."

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation.

3. (1) In any case where land is held by trustees in trust for any church or the congregation of any church or any purpose thereof then, notwithstanding that the deed or other instrument creating the trust does not contain any power to sell, mortgage, or lease the land, or forbids any such transaction, it shall nevertheless be lawful for the Power of trustees, to dispose of land held in trust for a Church. Cf. The Presbyterian Church of South Australia Act, s. 2.

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the trustees from time to time to sell, mortgage, or lease the land upon such terms and conditions as the trustees think fit, subject, however, to the observance of the following conditions:—

- I. The consent of the congregation of the church in question shall be obtained to every such transaction :
- II. The consent shall be obtained by a vote of the members of the congregation at a meeting of the congregation called and held pursuant to notice in that behalf duly given from the pulpit of the church on at least two consecutive Sundays immediately preceding the holding of the meeting and also duly given in each of two successive issues of two newspapers circulating in the locality in which the church is situated and published at least one week before the holding of the meeting :
- III. The consent of the congregation shall not be deemed to have been given unless two-thirds of the members present and voting at a meeting held as aforesaid consent to the transaction.

(2) At every meeting held as aforesaid the person who by the constitution or rules of the church ordinarily presides at any business meeting of or in connection with the church shall preside at such first-mentioned meeting. In the absence of such person or if the constitution or rules do not make provision as aforesaid then the members present shall elect one of their number to preside at the meeting. The person so elected shall be either the minister or priest in charge of the church or a person who holds some office of or in connection with the church.

(3) The decision of the person presiding at any meeting held as aforesaid as to the right of any person to vote at the meeting shall be final.

(4) A certificate in writing under the hand of the person presiding at any meeting held as aforesaid shall be conclusive evidence that the meeting was duly called and the consent of the congregation to the transaction in question was duly obtained.

(5) No person shall, for the purposes of this section, be deemed to be a member of a congregation of a church or to be entitled to vote at any meeting as aforesaid unless he is such a person as is by or under the constitution or rules of the church entitled to vote at any business meeting of or in connection with the church.

Power to apply
proceeds of sale,
mortgage, or lease.

4. (1) If any land is sold or mortgaged as provided in section 3 the trustees shall stand possessed of the net-proceeds thereof upon trust to apply the said net proceeds for such purpose of the church or the congregation thereof and in such manner as is determined by the vote of the members of the congregation ascertained in manner provided by section 3 at any meeting called and held in manner provided by section 3.

(2) If

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(2) If any land is leased as provided in section 3 the net proceeds thereof shall be applied by the trustees for such purpose of the church or the congregation thereof and in such manner as is determined by the trustees.

5. (1) In any case where land is held by an association for any religious purpose or for any purpose for the advancement of religion, whether upon trust or otherwise, then, notwithstanding that the deed or other instrument creating the trust or the rules or articles of the association do not contain any power to sell, mortgage, lease, transfer, or convey the land, or forbid any such transaction, it shall nevertheless be lawful for the association to sell, mortgage, lease, transfer, or convey the land upon such terms and conditions as the association thinks fit, subject, however, to the observance of the following conditions:—

Power of association holding land in trust for religious purposes to dispose of same.

- I. The consent of the members of the association shall be obtained to every such transaction :
- II. The consent shall be obtained by a vote of the members of the association called and held pursuant to not less than seven days' notice by post in that behalf duly given to every member of the association :
- III. The consent of the association shall not be deemed to have been given unless a majority of the members of the association voting at a meeting held as aforesaid consent to the transaction :
- IV. The consent in writing of the Attorney-General shall be obtained to every such transaction.

(2) If any land is sold, mortgaged, leased, transferred, or conveyed as provided in subsection (1) hereof the association shall stand possessed of the net proceeds thereof (if any) upon trust to apply the said net proceeds for such religious purpose or purpose for the advancement of religion as is determined by a vote of the members of the association ascertained in manner provided by subsection (1) hereof at any meeting called and held in manner provided by subsection (1) hereof.

(3) For the purposes of this section " association " shall mean any association within the meaning of the Associations Incorporation Act, 1890, which is incorporated pursuant to the provisions of that Act.

No. 480 of 1890.

6. Nothing in this Act shall in anywise be construed so as to limit any power to sell, mortgage, or lease, given to any trustees under any deed or other instrument of trust.

Restriction of application of Act.

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

TOM BRIDGES, Governor.