

**Church Property Trust
Amendment Ordinance 1867
(C)**

Provincial Act 12
Date of assent 17 July 1867

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Anno Tricesimo Primo Victoriae Reginae

Preamble

WHEREAS by an Ordinance of the Superintendent and Provincial Council of the Province of Canterbury intituled the Church Property Trust Ordinance, Session II, No. 3, it was by the second section of the said Ordinance enacted that the Bishop together with all the Clergy of the Church officiating within the Settlement in the said Ordinance mentioned together with certain other persons in the said Ordinance respectively named and all such other persons as should be thereafter appointed Trustees under the provisions of the said Ordinance and their successors should be and they were thereby constituted a body politic and corporate by the name of the “Church Property Trustees” and by that name they should leave perpetual succession and a common Seal with full power and authority to alter, vary, break and renew the same at their discretion and by the same name and style to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all Courts of Law and Equity whatsoever and to be for ever capable in the law to purchase, receive, possess and enjoy to them and their successors any goods and chattels whatsoever and wheresoever and any messuages, lands, tenements and hereditaments in the Province of Canterbury: AND also to lease, let, sell, alienate, mortgage, charge of otherwise dispose of such property as well real as personal as they should think proper: AND also to act in the concerns of the said body politic and corporate as effectually as any person or persons might or could do in his or their respective concerns for the purpose and object of establishing and maintaining ecclesiastical and educational institutions within the Province of Canterbury in connection with the Church: AND by the 9th and 10th sections of the said Ordinance now in recital it was enacted that the Trustees should from time to time constitute and define certain districts within the Settlement therein mentioned for the purposes of the Ordinance now in recital and might alter the limits of every such district and might make new

and fresh districts and every such district should for the purposes of the said Ordinance now in recital be deemed a Parish:

Provided that no alteration of the limits of any existing Parish should be made without the consent of the Bishop: AND that the members of the Church residing within every such Parish should once in each year by a majority of votes to be ascertained as thereinafter mentioned elect a lay person being a member of the Church to be Trustee for the purposes of the said Ordinance now, in recital and at such election every male person of the age of 21 years being a member of the Church should be entitled to vote and the incumbent of every such Parish should likewise once in every year nominate another lay person being a member of the Church to be a Trustee for the purposes of the said Ordinance now in recital and the manner in which the majority of such votes should be ascertained and the time, place and mode of such election and nomination respectively should be determined by the said trustees by bylaws to be made in manner in the said Ordinance now in recital provided and the Trustees so elected and nominated should continue to hold office until the next Annual Election and Nomination:

Provided that if it should at any time appear to the Trustees desirable to increase the number of Trustees in and for any Parish it should be lawful for them to increase the number of such Trustees accordingly and, by any bylaw to declare and ordain that such additional number of Trustees should be elected and nominated as they should think-fit in and for such Parish but so nevertheless that in every Parish the incumbent should at all times have the right of nominating a number of Trustees equal to the number of elected Trustees: AND WHEREAS by an Ordinance of the Superintendent and Provincial Council of the Province of Canterbury intituled the Church Property Trust Amendment Ordinance Session XI, No 6, certain powers were vested in the said body politic and corporate called the "Church Property Trustees" enabling them to sell, dispose of and lease certain lands therein mentioned: AND WHEREAS the number of persons elected and appointed and the frequent appointment of fresh persons under the provisions of the said recited Ordinance intituled the Church Property Trust Ordinance, Session II, No 3, to act in the concerns of the said body politic and corporate called the "Church Property Trustees" interfere with the effective management of the property and concerns of the said body politic and corporate: AND

WHEREAS it is expedient for the more effective management of the property and concerns of the said body politic and corporate that the number of persons acting therein should be limited and that certain portions of the said recited Ordinance intituled the Church Property Trust Ordinance, Session II, No 3, should be repealed and other provisions in lieu thereof.

1 Repeal

So much of the second section of the said recited Ordinance intituled the Church Property Trust Ordinance, Session II, No 3, as relates to the appointment of the Clergy of the Church officiating within the Settlement under the licence of the Bishop to act in the concerns of the said body politic and corporate called the “Church Property Trustees” and the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 12th sections of the same Ordinance shall be and they are hereby repealed and from and after the passing of this Ordinance, save as hereinafter mentioned, the Clergy aforesaid and the several lay persons acting in the concerns of the said body politic and corporate shall cease to be members thereof.

2 The Bishop and 8 other persons to be members of the Corporation

The members of the said body politic and corporate called the “Church Property Trustees” shall be the Bishop ex officio and 8 other persons being members of the Church to be appointed as hereinafter mentioned.

3 Members to exercise their functions until they shall have ceased to be members under the provisions of this Ordinance

The Very Reverend Henry Jacobs, Master of Arts, Dean The Reverend James Wilson, Master of Arts, Canon The Reverend William Wellington Willock, Master of Arts, The Reverend John Charles Bagshaw, Master of Arts, William Donald, Esquire, Doctor of Medicine, Richard James Strachan Harman, Esquire, Richard Packer, Esquire, and Cyrus Davie, Esquire, shall be the persons who shall act together with the Bishop in the concerns and shall be the members of the

said body politic and corporate called the “Church Property Trustees” until they shall respectively have retired therefrom and ceased to be members thereof in manner hereinafter mentioned.

4 Synod to appoint succeeding members

At the next and every subsequent Annual Session of the Synod 2 of the persons acting with the Bishop in the concerns of the said body politic and corporate called the “Church Property Trustees” to be ascertained by a ballot shall retire in rotation from acting in the concerns of the said body politic and corporate and the Synod shall appoint 2 persons members of the Church to act in the concerns and be members of the said body politic and corporate in the place or stead of the persons so retiring aforesaid.

5 Members retiring to be eligible for reappointment

Every person who shall retire from acting in the concerns of the said body politic and corporate called the “Church Property Trustees” shall be eligible to be again appointed to act therein.

6 Members becoming bankrupt shall cease to be members

If any person appointed to act in the concerns of the said body politic and corporate called the “Church Property Trustees” under the provisions herein contained shall become bankrupt or insolvent or shall become insane or shall be convicted of an infamous offence or shall cease to be a member of the Church or shall cease to reside in or shall be absent from the Province of Canterbury for the space of 6 calendar months he shall cease to be a member of the said body politic and corporate.

7 Indemnity of members

No person acting in any matter under the provisions of this Ordinance shall be answerable for any other than his own acts, deeds, receipts, neglects or defaults.

8 Members may retire on giving notice, in writing, to the Bishop

Any member of the said body politic and corporate called the “Church Property Trustees” under the provisions herein contained may, by writing addressed to the Bishop and left at the office or place of business of the said body politic and corporate or some place appointed for this purpose expressing such his desire, cease to be a member of the said body politic and corporate.

9 Synod to appoint new members in place of those retiring

Whenever any vacancies shall occur in the said body politic and corporate called the “Church Property Trustees” under the provisions herein contained the Synod if in session or the Standing Committee appointed by the Synod at its Annual Session if the Synod be not in session subject to the confirmation of Synod shall appoint another person to act in the place or stead of the member who shall therein for the remainder of the period during which the person in whose place he shall have been appointed would have acted.

10 The Bishop to be Chairman of meetings

The Bishop if present shall be the Chairman of every meeting of the members of the said body politic and corporate called the “Church Property Trustees”, and in his absence a chairman shall be elected from amongst those present:

Provided that it shall be competent for the members of the said body politic and corporate at any meeting to appoint some one of themselves to be the Chairman of such meetings in the absence of the Bishop until the next Annual Session of Synod and the Chairman of every such meeting shall have an original and also a casting vote thereat. Unless 5 members are present no meeting shall be constituted for the transaction of business and all acts to be done by them and all questions of adjournment or other questions may be decided by a majority of members present provided 5 at least be present.

11 The Bishop may reserve questions for the decision of Synod

The Bishop shall have the power of reserving for the decision of Synod any act or proceeding of the members of the said body politic and corporate called the “Church Property Trustees” of what kind soever but this power shall not extend to authorise the Bishop or the Synod to annul or disallow any contract or agreement or any sale, mortgage, lease or other disposition of any part of the any sale, of the said body politic and corporate which shall be actually entered into, made, completed and executed.

12 Members may frame bylaws

The members of the said body politic and corporate called the “Church Property Trustees” may frame and establish such bylaws, rules, orders, regulations and resolutions as may be expedient for the government of the said body politic and corporate and the management of the property and concerns hereof and for regulating the times and places of meeting of the members of the said body politic and corporate and for settling the appointment of agents, officers, clerks and servants and generally for the management and carrying on of all and singular the affairs and business of the said body politic and corporate and the members aforesaid may from time to time alter, vary or revoke such bylaws, orders, rules, regulations or resolutions or any of them and may make others in their stead:

Provided that any such bylaw, rule, order, regulation or resolution which shall be repugnant to the provisions herein contained or to the laws of the Colony of New Zealand or of the Province of Canterbury or to any Canon or Ecclesiastical Law or Regulation now in force or which shall at any time be in force within the said Canterbury Settlement under the authority of the Synod shall be and the same is hereby declared to be absolutely null and void. The members of the said body politic and corporate shall in all their acts and proceedings, laws, regulations and resolutions conform to and obey all Canons and Ecclesiastical Laws and Regulations now, or which shall at any time hereafter be in force under the authority of the Synod within the said

Canterbury Settlement touching or relating to the administration of the property of the said body politic and corporate.

13 Members shall keep minutes of their proceedings

The members of the said body politic and corporate called the “Church Property Trustees” shall keep proper books for containing minutes and particulars of their proceedings and full and true accounts of their receipts and expenditure and all such books and accounts together with all vouchers and, other documents relating to the same shall be open to inspection by any member of the Church resident within the said Canterbury Settlement at such reasonable times and places and in such manner as shall be fixed by the members aforesaid and minutes of proceedings so kept and signed by the Chairman shall be sufficient evidence of such proceedings and such accounts of receipts and expenditure shall be audited at least once in the year by some person to be appointed by the bishop and shall be laid before the Synod at its Annual Session and shall be published as the Synod shall from time to time direct.

14 Application of property of the Corporation may be extended to the whole of the Province of Canterbury

It shall be lawful for the members of the said body politic and corporate called the “Church Property Trustees” at any, meeting of which 4 weeks’ previous notice specifying the object thereof shall be given by advertisement published for 4 successive weeks in some newspaper within the Province of Canterbury at which meeting all the members of the said body politic and corporate under the provisions herein contained shall be present by the votes of at least 6 of the members present at such meeting to ordain a bylaw for extending to any part of the Province of Canterbury beyond the limits of the said Canterbury Settlement the application and benefit of the whole or any part of the property of the said body politic and corporate and any such bylaw shall be good and effectual in the law and may thereafter at any meeting of the persons acting as aforesaid convened in like manner and by alike majority be altered, revoked and re-ordained and such property shall be held, administered and applied according to

and in pursuance of any such bylaw anything herein contained to the contrary notwithstanding.

15 Proceedings under recited Ordinances to be valid

All transactions and proceedings whatsoever taken, made and done under the provisions of the said recited Ordinances intituled respectively, the Church Property Trust Ordinance, Session II, No. 3, and the Church Property Trust Amendment Ordinance, Session XI, No. 6 before the coming into operation of this Ordinance shall be valid to all intents and purposes and may be continued, executed and enforced after this Ordinance shall come into operation by the persons appointed to act in the concerns of the said body politic and corporate called the “Church Property Trustees” under the provisions herein contained.

16 Persons appointed members of the Corporation under the provisions of this Ordinance to be deemed the successors of the persons appointed under the provisions of the recited Ordinances

The persons acting in the concerns of the said body politic and corporate called the “Church Property Trustees” under the provisions herein contained shall be and be deemed to be successors of the persons appointed and elected under the provisions of the said Ordinance intituled the Church Property Trust Ordinance, Session II, No. 3, to act in the concerns of the said body politic and corporate called the “Church Property Trustees” and shall be members of the same body politic and corporate called the “Church Property Trustees” and by that name shall have the like perpetual succession and common seal as provided by the same Ordinance.

17 Interpretation

In interpreting this Ordinance the term **Bishop** shall be held to mean the Bishop of Christchurch for the time being within the Canterbury Settlement being the same Bishop as is mentioned in the said Ordinance intituled the Church Property Trust Ordinance, Session II, No. 3. The term **Canterbury Settlement** shall be held to include the territory or block of

land set apart for the purposes of the Canterbury Association under the authority of an Act of the Imperial Parliament made and passed in the 13th and 14th years of the reign of Her present Majesty intituled “An Act empowering the Canterbury Association to dispose of certain lands in New Zealand” and set forth and described in the Schedule to the said Act together with all lands comprised within the limits of the said Block. The term **Church** shall mean the Church as defined by the Church Property Trust Ordinance, Session II, No 3. The term **member of the Church** shall mean and include any communicant according to the rites of the Church. The term **Synod** shall mean the Synod of the Diocese of Christchurch organised according to the provisions of a statute intituled A statute for Organising Diocesan Synods and passed by the General Synod of the Church constituted under the provisions of a certain Deed agreed to at a General Conference of Bishops, Clergy and Laity of the Church; held at Auckland on the 13th day of June 1857 and revised at the session of the General Synod held at Christchurch in the year of our Lord 1865.

18 Title

This Ordinance shall be intituled the Church Property Trust Amendment Ordinance 1867 and may be cited by such title.

Passed the Provincial Council this 16th day of July 1867.

HENRY JOHN TANCRED

SPEAKER

HENRY BACON QUIN

CLERK OF COUNCIL

Assented to on behalf of His Excellency the Governor at Christchurch this 17th day of July 1867.

WILLIAM SEFTON MOORHOUSE
SUPERINTENDENT OF THE PROVINCE OF CANTERBURY