

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

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An Act to make provision for the inauguration of The Uniting Church in Australia; to constitute The Uniting Church in Australia Property Trust (Q.); to provide for the vesting of certain property in the said Trust; and for connected purposes

[ASSENTED TO 21ST APRIL, 1977]

Preamble. Whereas the Uniting Churches as defined in section 5 have resolved to unite and form one church, to be called The Uniting Church in Australia, in accordance with the Basis of Union set forth in the Schedule:

And whereas property is held by or on behalf of or in connexion with the said Uniting Churches and it is expedient that a body corporate, called The Uniting Church in Australia Property Trust (Q.), be constituted to hold property in trust for The Uniting Church in Australia on the commencement of that Church:

And whereas it is desirable to make provision to give effect to the foregoing:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as the *Uniting Church in Australia Act 1977*.

2. Commencement. This Act shall commence on a day to be fixed by Proclamation.

3. Arrangement of Act. This Act is arranged as follows:—

- PART I—PRELIMINARY;
- PART II—INAUGURATION OF THE CHURCH;
- PART III—CONSTITUTION OF THE TRUST;
- PART IV—ACQUISITION AND VESTING OF TRUST PROPERTY;
- PART V—GENERAL;
- SCHEDULE.

4. Savings. Nothing contained in this Act shall be construed as operating—

- (a) to divest any property from or prevent the vesting of any property in—
 - (i) Emmanuel College as incorporated on 6 October 1911 pursuant to the provisions of *The Religious Educational and Charitable Institutions Acts, 1861 to 1967*, hereinafter in this section referred to as “the said Acts”;
 - (ii) The Presbyterian and Methodist Schools Association as incorporated on 28 June 1918 pursuant to the provisions of the said Acts;
 - (iii) The John Flynn College as incorporated on 20 January 1966 pursuant to the provisions of the said Acts;
 - (iv) The Presbyterian and Methodist Women’s University College (known as Grace College) as incorporated on 13 June 1968 pursuant to the provisions of the said Acts;
 - (v) St. Andrew’s War Memorial Hospital as incorporated on 17 January 1974 pursuant to the provisions of the said Acts;
 - (vi) King’s College as incorporated on 21 August 1958 pursuant to the provisions of the said Acts;
 - (vii) West Moreton Aged Homes Council as incorporated on 30 October 1969 pursuant to the provisions of the said Acts;
 - (viii) The Marsden Council as incorporated on 28 March 1974 pursuant to the provisions of the said Acts;
 - (ix) Cromwell College as incorporated on 28 January 1960 pursuant to the provisions of the said Acts;
 - (x) Marsden Home for Boys as incorporated on 22 December 1932 pursuant to the provisions of the said Acts;
- (b) to affect the provisions of—
 - (i) *The Ann Street Presbyterian Church Act of 1889*;
 - (ii) *The St. Andrew’s Presbyterian Church of Rockhampton Act of 1891*;
 - (iii) *The Presbyterian Church Property Act of 1909*;
 - (iv) *The Methodist Church Property Acts, 1893 to 1964*.

5. Interpretation. In this Act, unless the contrary intention appears—

- “the appointed day” means the day on which this Act commences;
- “the Assembly” means the Assembly of the Church referred to in paragraph (e) set forth in clause 15 of the Basis of Union. The term includes the Inaugurating Assembly;

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- “ the Basis of Union ” means the Basis of Union set forth in the Schedule;
- “ the Church ” means The Uniting Church in Australia;
- “ the Congregational Church ” means the Congregational Union of Australia, the Congregational Unions in each of the States of the Commonwealth, the individual Congregational Churches that have resolved to enter into union with the Methodist and Presbyterian Churches, and any department, society, auxiliary, activity, fund, service, institution or any interest of the Union or any such Unions or any such individual Congregational Churches;
- “ the Inaugurating Assembly ” means the first Assembly referred to in paragraph (e) set forth in clause 15 of the Basis of Union;
- “ the Methodist Church ” means the Methodist Church of Australasia. The term includes any congregation, circuit, department, society, auxiliary, activity, fund, service, institution or interest of the said Church but does not include the Conferences of Fiji, Samoa and Tonga;
- “ the Presbyterian Church ” means the Presbyterian Church of Australia comprising the Presbyterian Church of Australia in the State of New South Wales, the Presbyterian Church of Victoria, The Presbyterian Church of Queensland, the Presbyterian Church of South Australia, the Presbyterian Church of Tasmania and the Presbyterian Church in Western Australia, subject to the provisions of the *Presbyterian Church of Australia Act 1971*;
- “ the Presbyterian Church continuing to function ” means the Presbyterian Church of Australia continuing to function after the appointed day under the Scheme of Union of 24 July 1901, as amended, within the meaning of Part III of the Schedule to the *Presbyterian Church of Australia Act 1971*;
- “ property ” includes real and personal property and any estate or interest in any property real or personal, and any debt, and any thing in action, and any right to receive income, and any other right or interest;
- “ the Synod ” means the Synod of the Church, referred to in paragraph (d) set forth in clause 15 of the Basis of Union, within Queensland;
- “ the Trust ” means The Uniting Church in Australia Property Trust (Q.) constituted by this Act;
- “ trust property ” means property vested in or acquired by the Trust by or pursuant to this Act;
- “ the Uniting Churches ” means the Congregational Church, the Methodist Church and the Presbyterian Church, save and except those congregations of the Presbyterian Church continuing to function after the appointed day under the Scheme of Union of 24 July 1901, as amended, within the meaning of Part III of the Schedule to the *Presbyterian Church of Australia Act 1971*.

PART II—INAUGURATION OF THE CHURCH

6. Authority to unite. The Uniting Churches are hereby empowered to unite in accordance with the Basis of Union, such union to take effect on and from the appointed day.

7. Name of the Church. The Church formed by such union shall be denominated “The Uniting Church in Australia”.

8. Inaugurating Assembly. The Inaugurating Assembly shall be deemed to have been validly convened.

9. Church constitution. (1) The Assembly may adopt a Constitution for the Church.

(2) The Constitution shall be consistent with the provisions of the Basis of Union.

(3) Notwithstanding subsection (2) and notwithstanding any other provision contained in this Act or in the Basis of Union, the Assembly may amend, alter, repeal or replace the Constitution adopted by the Assembly from time to time in accordance with provisions contained in the Constitution in that regard.

10. Determination of doctrine, etc., and provision for further union. Notwithstanding anything contained in this Act or in the Basis of Union, the Assembly may from time to time—

- (a) determine, declare or interpret matters of doctrine, worship, government and discipline in the Church;
- (b) resolve that the Church enter into union with other branches of the Christian Church.

PART III—CONSTITUTION OF THE TRUST

11. Constitution of the Trust. There is hereby constituted a body called “The Uniting Church in Australia Property Trust (Q)”.

12. Trust to be a body corporate. The Trust shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) be capable in law of—
 - (i) suing and being sued;
 - (ii) acquiring, holding, dealing with and disposing of real and personal property; and
 - (iii) doing and suffering all such acts and things as bodies corporate may by law do and suffer.

13. Membership of the Trust. (1) The Trust shall consist of—

- (a) the Moderator of the Synod, the Secretary of the Synod and the Property Officer of the Synod who shall be members *ex officio*; and
- (b) five other persons appointed by the Synod.

(2) If—

- (a) an appointment has not been made to one or more of the offices referred to in subsection (1) (a); or
- (b) fewer than three persons have been appointed to hold all of those offices,

the Trust, notwithstanding the provisions of subsection (1), shall consist of—

- (i) each person who is the holder of one or more of the said offices, who shall be a member whilst he continues to hold at least one such office; and
- (ii) six other persons appointed by the Synod.

14. Initial membership of Trust. (1) Notwithstanding the provisions of section 13, the Trust as first constituted shall consist of five persons appointed by the Inaugurating Assembly who, subject to this Act, shall hold office on and from the appointed day until the end of the meeting of the Synod next occurring after the appointed day and shall be eligible for re-appointment.

(2) Appointment of persons referred to in subsection (1) may be made by the Inaugurating Assembly at any time after the passing of this Act.

15. Duration of term of members of Trust. Subject to this Act, a member of the Trust appointed by the Synod pursuant to section 13 shall hold office for the period commencing at the conclusion of the meeting of the Synod by which he is appointed and concluding at the end of the meeting of the Synod next occurring thereafter and shall be eligible for re-appointment.

16. Chairman and Secretary of Trust. (1) Subject to subsection (2), the Synod shall appoint one member of the Trust to be Chairman of the Trust and another member to be Secretary of the Trust.

(2) The Inaugurating Assembly shall appoint one member of the Trust as first constituted to be Chairman of the Trust and another member to be Secretary of the Trust.

17. Vacation of office. A member of the Trust shall be deemed to have vacated his office—

- (a) if he dies;
- (b) if he resigns his office by notice in writing to the Trust;
- (c) if he becomes physically or mentally incapable of carrying out properly his duties as a member of the Trust;
- (d) if he becomes bankrupt or compounds with his creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
- (e) if he is removed from office by resolution of the Synod or of a committee (by whatever name called) appointed by the Synod to act in its stead between meetings of the Synod.

18. Casual vacancies. (1) In the event of the holder of any of the offices referred to in section 13 (1) (a) ceasing to hold the office in question and thereby ceasing to be a member of the Trust, a person appointed or entitled to act in the office shall be a member of the Trust whilst so acting pursuant to such appointment or entitlement.

(2) Subject to subsection (1), where the number of members of the Trust for the time being is less than five because of the occurrence of casual vacancies, the remaining members of the Trust may appoint as members of the Trust that number of persons necessary to increase the number of members of the Trust to five, and such additional members shall, subject to this Act, hold office until the end of the meeting of the Synod next occurring thereafter.

(3) Subject to the other provisions of this section, a casual vacancy in the membership of the Trust may be filled by the remaining members, and the person appointed to fill the vacancy shall, subject to this Act, hold office until the end of the meeting of the Synod next occurring thereafter.

19. Quorum and proceedings. (1) Three members of the Trust shall constitute a quorum for the purpose of any meeting of the Trust and the decision of a majority of the members present and voting at any meeting of the Trust shall be the decision of the Trust.

(2) The Trust shall regulate and conduct its business and proceedings in such manner as it determines from time to time.

(3) An act or proceeding of the Trust shall not be invalid or ineffectual in consequence only of the number of members of the Trust not being complete at the time of such act or proceeding.

(4) All acts and proceedings of the Trust shall, notwithstanding any defect in the appointment of a member or that any member was disqualified or disentitled to act, be as valid and effectual as if every such member had been duly appointed and was qualified and entitled to act and as if the Trust had been properly and fully constituted.

20. Common seal. (1) The members for the time being of the Trust shall have custody of its common seal and, subject to this section, the form of the common seal and all other matters relating thereto shall be determined by the Trust.

(2) The common seal of the Trust shall not be affixed to any instrument or other writing except in pursuance of a resolution passed at a duly convened meeting of the Trust, and every instrument or other writing to which the common seal is so affixed shall be signed by not less than two members of the Trust.

(3) An instrument or other writing purporting to have been sealed with the common seal of the Trust and purporting to have been signed by not less than two members of the Trust shall be deemed to have been executed in accordance with subsection (2).

21. Form and execution of certain contracts, etc. (1) Any deed, instrument, contract, agreement or other writing relating to any property or matter that, if made or executed by an individual, would be by law required to be in writing under seal may be made on behalf of the Trust in writing under the common seal of the Trust.

(2) Subject to the requirements of any other Act, any instrument, contract, agreement or other writing relating to any property or matter that, if made by or between individuals, would be required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing by any person acting under its authority express or implied.

(3) Any contract relating to any property or matter that, if made between individuals, would by law be valid although made by parol only (and not reduced to writing) may be made on behalf of the Trust by any person acting under its authority express or implied.

(4) Any contract that is entered into or any instrument, contract, agreement or other writing that is signed in relation to any trust property shall, if it is entered into or signed in accordance with a resolution of the Synod for the time being in force pursuant to this Act, be deemed to have been entered into or signed with the express authority of the Trust.

22. Execution under seal by agent, etc. The Trust, by writing under its common seal, may expressly empower any person, in respect of any specific matter, as its agent or attorney to execute any deed, instrument, contract, agreement or other writing on its behalf, and any deed executed by such an agent or attorney on behalf of the Trust shall bind the Trust and have the same effect as if it were under its common seal.

23. Functions of the Trust. Subject to this Act and without derogating from any other provision of this Act with respect to any power, function or duty of the Trust—

- (a) trust property held by the Trust shall be held in trust for the Church and upon any other trust affecting such property;
- (b) the Trust shall hold, manage, administer and otherwise deal with trust property in accordance with the regulations, directions and resolutions of the Assembly.

PART IV—ACQUISITION AND VESTING OF TRUST PROPERTY

24. Vesting of property in the Trust. (1) Subject to this Act, any property that, immediately before the appointed day, was vested in the Congregational Church or was vested in trust for the Congregational Church is hereby divested from the said Church or from the trustee in question and is, to the extent that it was so vested, hereby vested (without conveyance) in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(2) Subject to this Act, all property that, immediately before the appointed day, was vested in The Corporation of the Methodist Church of Australasia in Queensland or was vested in trust for the Methodist Church is hereby divested from the said Corporation or from the trustee in question and is, to the extent that it was so vested, hereby vested (without conveyance) in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(3) (a) Subject to this Act and to all rights created or conferred by or pursuant to or otherwise by virtue of the operation of the provisions of the *Presbyterian Church of Australia Act 1971* and, without restricting the generality of the foregoing, to section 4 of the said Act and clause 18 of the Schedule to the said Act, any property that, immediately before the appointed day, was vested in The Presbyterian Church of Queensland or in any person upon trust for the Presbyterian Church or any congregation, board or committee of management, session, Presbytery Committee, Council, board or other institution, organization or section thereof is hereby divested from The Presbyterian Church of Queensland

or person as aforesaid and is, to the extent that it was so vested, hereby vested (without conveyance) in the Trust and shall be held by the Trust in accordance with the provisions of this Act.

(b) Notwithstanding any other provision contained in this Act, this subsection shall commence on a day to be fixed in that behalf by Proclamation.

(4) Nothing contained in subsection (3) shall vest in the Trust any property to which the Presbyterian Church continuing to function is or becomes entitled, whether by virtue of the determination of the Commission referred to in clause 18 of the Schedule to the *Presbyterian Church of Australia Act 1971* or otherwise.

(5) Nothing contained in this Act shall deprive the Church or any of the Uniting Churches or the Presbyterian Church continuing to function of any rights it has by virtue of the provisions of the *Presbyterian Church of Australia Act 1971*.

(6) Subject to this Act, all property that pursuant to subsections (1), (2) and (3) becomes vested in the Trust is freed and discharged from all of the provisions and trusts of the Queensland Congregational Union Model Trust Deed as varied by *The Queensland Congregational Union Act of 1967*, *The Methodist Church Property Acts Amendment Act of 1964* or any other Act affecting Methodist Church property in Queensland, and *The Presbyterian Church Property Act of 1909* respectively.

(7) Except in relation to the trusts declared by the Queensland Congregational Union Model Trust Deed as varied by *The Queensland Congregational Union Act of 1967*, *The Methodist Church Property Acts Amendment Act of 1964* or any other Act affecting Methodist Church property in Queensland, and *The Presbyterian Church Property Act of 1909*, the vesting effected by subsections (1), (2) and (3) shall be without prejudice to—

- (a) any special trust;
- (b) any resulting trust;
- (c) any trust in favour of a donor;
- (d) any trust in favour of a person other than the Uniting Churches or any one or more of them; and
- (e) any reservation, easement, mortgage, charge, encumbrance, lien or lease that, immediately before the appointed day, affected the property vested.

(8) No attornment to the Trust by any lessee of land vested in it by this section shall be necessary.

(9) In this section “special trust” means any trust other than a trust for the general purposes of the Congregational, Methodist or Presbyterian Churches.

25. Construction of certain instruments. (1) To the extent to which, by a deed, will or other instrument that takes effect on or after the appointed day, any property—

- (a) is devised, bequeathed, given, granted, released, conveyed or appointed to the Church or to a person (not being the Trust) for, or for the benefit of, or in trust for, the Church for the religious, social, educational or charitable work of the

Church, or is declared or directed to be held by any person (not being the Trust) for, or for the benefit of, or in trust for, the Church or the religious, social, educational or charitable work of the Church;

- (b) is recoverable by the Church or by any person (not being the Trust) for the Church; or
- (c) is payable to, or receivable by, the Church or any person (not being the Trust) on behalf of the Church or for the religious, social, educational or charitable work of the Church,

the deed, will or other instrument shall be construed and take effect as if the reference therein to the Church or, as the case may be, to that person, were a reference to the Trust.

(2) Any deed, instrument, document, gift, will or other provision in favour of or relating to the Congregational Church coming into effect on or after the appointed day shall be read and construed as though any reference therein to the Congregational Church were a reference to the Church unless the context otherwise provides, provided that—

- (a) any deed, instrument, document, gift, will or other provision in favour of or relating to an individual Congregational Church that has been admitted to membership of the Church after the appointed day shall if it comes into effect after the date of admission to membership be read and construed as though any reference therein to the said individual Congregational Church were a reference to the Church unless the context otherwise provides;
- (b) any deed, instrument, document, gift, will or other provision pursuant to which provision is made in favour of the Congregational Church by a member of an individual Congregational Church which did not resolve to enter into union with the Methodist and Presbyterian Churches and which has not pursuant to this Act been admitted to membership of the Church shall be read and construed as though any reference therein to the Congregational Church were a reference to the individual Congregational Church of which the donor was or claimed to be a member at the time of the making of such provision;
- (c) notwithstanding paragraph (b), any special trust for a particular purpose of or relating to the Congregational Church shall, where that purpose is at the time of the trust coming into effect being carried on solely by the Church, be read and construed as vesting the trust property in the Trust for the said purpose.

(3) Any deed, instrument, document, gift, will or other provision in favour of or relating to the Methodist Church coming into effect on or after the appointed day shall be read and construed as though any reference therein to the Methodist Church were a reference to the Church unless the context otherwise provides.

26. Evidentiary matters and amendment of registers. (1) Subject to subsection (2), a certificate under the common seal of the Trust to the effect that property therein specified is held by it upon trust for the Church shall, in all circumstances and in all proceedings whether civil or criminal be prima facie evidence that the property so specified is so held.

(2) Subsection (1) shall not apply in relation to any dispute concerning property between the Church and the Presbyterian Church continuing to function.

(3) A certificate under the common seal of the Trust to the effect that the estate or interest of any person therein specified in land so specified is an estate or interest vested in the Trust by this Act shall, for the purposes of any application by the Trust to be registered under the *Real Property Act 1861-1976* or the *Land Act 1962-1975*, or under any other Act or law providing for registration of an estate or interest in land, as the proprietor of that estate or interest pursuant to the vesting (the Trust being hereby authorized to make such an application), be conclusive evidence of the matters so certified; and the Registrar of Titles, Registrar of Dealings or other person required by the Act or law in question to make or enter any note or memorial on any instrument of title to or interest in land on receiving notice thereof shall, on application being made as aforesaid and on being furnished with a certificate as aforesaid, register the Trust for or with respect to the estate or interest in the land without reference to its holding as trustee or to any trusts upon which or trust instrument under which the estate or interest was previously held, and for the purpose of registration may make every entry, cancellation and correction in any register, record or book in his custody or under his control and do and execute such other acts, matters and things as shall to him appear necessary and proper.

27. Certain rights enforceable by the Trust. Where any property is vested in the Trust pursuant to this Act, the Trust shall, in relation to that property, have and be subject to all the rights, powers, remedies, liabilities and obligations and may exercise and discharge, in relation to that property, all or any of the rights, powers and remedies that the person in whom the property was theretofore vested or by whom it was theretofore held would have had and been subject to and might have exercised and discharged in relation to that property if the property had not been divested from him and vested in the Trust.

PART V—GENERAL

28. Claims for compensation upon compulsory acquisition, etc. Subject to any resolution or direction of the Assembly or of any Committee appointed by it for the purpose, the Trust may act in relation to the exchange, dedication or compulsory acquisition of any property vested in it, may make claims for compensation in respect thereof and may agree to and settle any such claims, for such considerations, and on and subject to any terms and conditions, as may appear advisable to it.

29. Receipt for certain moneys. A receipt for moneys payable to the Trust shall exonerate the mortgagee, purchaser or other person by or on whose behalf the moneys are so payable from any liability to see to the application thereof, and from any liability for the loss, misapplication or non-application thereof, if the receipt—

- (a) is executed in accordance with this Act under the common seal of the Trust;
- (b) is in writing signed by two members of the Trust; or
- (c) is in writing signed by a person or persons duly authorized for the purpose by the Trust or two members thereof.

30. Exoneration from enquiry. No purchaser, mortgagee, lessee or other person dealing with the Trust, and none of them the Registrar of Titles, the Registrar of Dealings or any other person or instrumentality whomsoever or whatsoever registering or certifying title or interest shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be entered into by the Trust, be concerned to see or enquire into the necessity for or the propriety of the exercise by the Trust of its powers or the mode of exercising them or be affected by notice that the exercise of any such power is unauthorized, irregular or improper.

31. Service of documents. The service of any writ, statement of claim, summons or other legal process on the Trust may be effected by serving it on the Moderator of the Synod, Secretary of the Synod, Property Officer of the Synod or on any person appearing to be authorized by the Trust to accept service thereof.

32. Trust may hold property jointly. The Trust may hold or acquire any real or personal property either alone or jointly with another or others as joint tenants or tenants-in-common.

33. Regulations, etc. (1) The Assembly may make regulations, give directions and pass resolutions, not inconsistent with this Act, for the control, management and administration of, and dealings with, trust property.

(2) A certificate signed by the President or Secretary for the time being of the Assembly or by the Moderator or Secretary for the time being of the Synod that specifies in the certificate or an annexure thereto the form of a regulation under subsection (1) and in force on a day specified in the certificate shall be conclusive evidence that the regulation was in force in that form on that day.

(3) A regulation under subsection (1) may from time to time be rescinded, revoked, altered or varied by the Assembly but no such rescission, revocation, alteration or variation shall take effect unless it is approved in the same manner as a regulation.

(4) Section 28A of the *Acts Interpretation Act* 1954-1971 does not apply to regulations made under this section.

34. Co-operative use of property. (1) Where it has been decided in accordance with the laws of the Church to enter into a scheme of co-operation with or involving a church of another denomination or any congregation or activity of such a church, being a scheme that involves the use of property vested in the Trust, the Trust may, while the scheme of co-operation continues in force, permit that property to be used, managed and administered in connexion with that scheme in such manner and upon such conditions as the Synod, or any committee appointed by it for the purpose, determines or prescribes, and the proceeds of sale or mortgage or any other dealing with such property and all moneys collected or held in respect of such scheme of co-operation may be paid and applied in such manner as may be determined or prescribed by the Synod or such committee.

(2) The conditions that the Synod may determine or prescribe under subsection (1) may include conditions with respect to the making of contributions of money for the acquisition, construction, alteration,

maintenance or repair of assets vested in or held on behalf of a co-operating church or congregation and the giving or taking of such security or charge as may be prescribed by any such scheme of co-operation over any property in respect of any contributions of money or in money's worth made or received pursuant to that scheme, and any property of the Trust involved in any scheme is, to the extent prescribed therein, hereby charged.

(3) None of them the Registrar of Titles; the Registrar of Dealings, any other person or instrumentality registering or certifying title or interest or any person dealing bona fide and for value with any property vested in the Trust shall be bound to enquire whether any security or charge referred to in subsection (2) exists or be deemed to have notice thereof or be bound thereby by virtue only of this Act or the existence of any scheme of co-operation under this section, and—

- (a) a conveyance, transfer or other assurance to any person dealing bona fide and for value as aforesaid shall operate as a discharge of any security or charge so referred to, in so far as the property conveyed, transferred or assured would, but for this subsection, be subject thereto; and
- (b) a mortgage or charge in favour of any person dealing bona fide and for value as aforesaid shall have priority over any security or charge so referred to that affects the property mortgaged or charged in favour of any such person.

35. Limitation on application of section 34. (1) The provisions of section 34 shall apply to and in relation to all property at any time held by the Trust except to the extent that any such property is held subject to any express trust expressly forbidding its use in any manner referred to in that section.

(2) Subsection (1) shall not prevent the use of property in a manner referred to in section 34 if the property was merely directed to be held on trust for the worship or purposes of the Church.

36. Indemnification of certain persons. A member of the Trust, and any other person, exercising a power or performing a duty in relation to trust property pursuant to this Act or pursuant to any resolution or direction of the Assembly, and his executors and administrators, shall be entitled to be indemnified out of trust property against all expenses or liabilities incurred by him in connexion with the exercise by him of the power and the performance by him of the duty unless incurred in the course of fraudulent or negligent breach of trust.

37. Blending of trust funds. (1) Where the Trust holds moneys on trust for different purposes or activities, it shall be lawful for the Trust from time to time to invest such moneys or any part or parts thereof as one fund and to distribute income arising therefrom rateably among the several purposes for which the moneys so invested are held, and any loss arising from any such investment shall likewise be borne rateably.

(2) (a) The Trust may make advances out of the moneys referred to in subsection (1) for any purpose of or relating to the Church.

(b) Any sum so advanced shall be deemed an investment of such moneys and shall bear interest at a rate fixed by the Trust, and the sum advanced and the interest thereon shall be deemed to be a charge on the assets of the Church.

38. Powers of investment. The Trust, unless expressly forbidden by any instrument creating any special trust, may invest any funds in its hands, whether at the time in a state of investment or not, in any form of investment authorized by statute or by the Assembly either by itself or by delegation to the Synod.

39. Certain debts to be debts of the Church. On and from the appointed day, the Congregational Church, the Methodist Church and the Presbyterian Church and their congregations and activities shall be released from all denominational and congregational debts in so far as they relate to property, congregations or activities of such of them as shall become part of the Church, and all such debts shall be and be deemed to be debts or liabilities of the Church.

40. Stamp duty, etc., not payable in certain cases. Stamp duty is not payable on any instrument, agreement or other document used to give effect to any of the provisions of section 24, and registration fees are not payable with respect to the registration of any instrument, agreement or other document used to give effect to any of the provisions of the said section 24.

41. Gifts of property. Each of them the Church and the Trust may accept any gift (whether by will or *inter vivos*) of any property, irrespective of the kind of property or its situation, and whether in possession, reversion or remainder.

SCHEDULE

[ss. 5, 6, 9]

BASIS OF UNION

1. The Congregational Union of Australia, the Methodist Church of Australasia and the Presbyterian Church of Australia, in fellowship with the whole Church Catholic, and seeking to bear witness to that unity which is both Christ's gift and his will for the Church, hereby enter into union under the name of the Uniting Church in Australia. They pray that this act may be to the glory of God the Father, the Son and the Holy Spirit. They praise God for his gifts of grace to each of them in years past; they acknowledge that none of them has responded to God's love with a full obedience; they look for a continuing renewal in which God will use their common worship, witness and service to set forth the word of salvation for all mankind. To this end they declare their readiness to go forward together in sole loyalty to Christ the living Head of the Church; they remain open to constant reform under his Word; and they seek a wider unity in the power of the Holy Spirit. In this union these Churches commit their members to acknowledge one another in love and joy as believers in our Lord Jesus Christ, to hear anew the commission of the Risen Lord to make disciples of all nations, and daily to seek to obey his will. In entering into this union the Churches concerned are mindful that the Church of God is committed to serve the world for which Christ died, and that she awaits with hope the day of the Lord Jesus Christ on which it will be clear that the kingdom of this world has become the kingdom of our Lord and of his Christ, and he shall reign for ever and ever.

2. The Uniting Church lives and works within the faith and unity of the One Holy Catholic and Apostolic Church. She recognises that she is related to other Churches in ways which give expression, however

partially, to that unity in faith and mission. Recalling the Ecumenical Councils of the early centuries, she looks forward to a time when the faith will be further elucidated, and the Church's unity expressed, in similar Councils. She thankfully acknowledges that the uniting Churches were members of the World Council of Churches and other ecumenical bodies, and she will seek to maintain such membership. She remembers the special relationship which obtained between the several uniting Churches and other Churches of similar traditions, and will continue to learn from their witness and be strengthened by their fellowship. She is encouraged by the existence of United Churches in which these and other traditions have been incorporated, and wishes to learn from their experience. She believes that Christians in Australia are called to bear witness to a unity of faith and life in Christ which transcends cultural and economic, national and racial boundaries, and to this end she commits herself to seek special relationships with Churches in Asia and the Pacific. She declares her desire to enter more deeply into the faith and mission of the Church in Australia, by working together and seeking union with other Churches.

3. The Uniting Church acknowledges that the faith and unity of the Holy Catholic and Apostolic Church are built upon the one Lord Jesus Christ. The Church preaches Christ the risen crucified One and confesses him as Lord to the glory of God the Father. In Jesus Christ God was reconciling the world to himself. In love for the world, God gave his Son to take away the world's sin.

Jesus of Nazareth announced the sovereign grace of God whereby the poor in spirit could receive the Father's love. He himself, in his life and death, made the response of humility, obedience and trust which God had long sought in vain. In raising him to live and reign, God confirmed and completed the witness which Jesus bore to him on earth, he reasserted his claim over the whole of his creation, he pardoned sinners, and made in Jesus a representative beginning of a new order of righteousness and love. To God in Christ men are called to respond in faith. To this end God has sent forth his Spirit that men may trust him as their Father, and acknowledge Jesus as Lord. The whole work of man's salvation is effected by the sovereign grace of God alone.

The Church as the fellowship of the Holy Spirit confesses Jesus as Lord over her own life, she also confesses that he is Head over all things, the beginning of a new creation, of a new mankind. God in Christ has given to men in the Church the Holy Spirit as a pledge and foretaste of that coming reconciliation and renewal which is the end in view for the whole creation. The Church's call is to serve that end: to be a fellowship of reconciliation, a body within which the diverse gifts of its members are used for the building up of the whole, an instrument through which Christ may work and bear witness to himself. The Church lives between the time of Christ's death and resurrection and the final consummation of all things which he will bring; she is a pilgrim people, always on the way towards a promised goal; here she does not have a continuing city but seeks one to come. On the way Christ feeds her with Word and Sacraments, and she has the gift of the Spirit in order that she may not lose the way.

4. The Uniting Church acknowledges that the Church is able to live and endure through the changes of history only because her Lord comes, addresses, and deals with men in and through the news of his completed work. Christ who is present when he is preached among

men is the Word of the God who acquits the guilty, who gives life to the dead and who brings into being what otherwise could not exist. Through human witness in word and action, and in the power of the Holy Spirit, Christ reaches out to command men's attention and awaken their faith; he calls them into the fellowship of his sufferings, to be the disciples of a crucified Lord; in his own strange way he constitutes, rules and renews them as his Church.

5. The Uniting Church acknowledges that the Church has received the books of the Old and New Testaments as unique prophetic and apostolic testimony, in which she hears the Word of God and by which her faith and obedience are nourished and regulated. When the Church preaches Jesus Christ, her message is controlled by the Biblical witnesses. The Word of God on whom man's salvation depends is to be heard and known from Scripture appropriated in the worshipping and witnessing life of the Church. The Uniting Church lays upon her members the serious duty of reading the Scriptures, commits her ministers to preach from these and to administer the sacraments of Baptism and the Lord's Supper as effective signs of the Gospel set forth in the Scriptures.

6. The Uniting Church acknowledges that Christ has commanded his Church to proclaim the Gospel both in words and in the two visible acts of Baptism and the Lord's Supper. He himself acts in and through everything that the Church does in obedience to his commandment: it is he who by the gift of the Spirit confers upon men the forgiveness, the fellowship, the new life and the freedom which the proclamation and actions promise; and it is he who awakens, purifies and advances in men the faith and hope in which alone such benefits can be accepted.

7. The Uniting Church acknowledges that Christ incorporates men into his body by Baptism. In this way he enables them to participate in his own baptism, which was accomplished once on behalf of all in his death and burial, and which was made available to all when, risen and ascended, he poured out the Holy Spirit at Pentecost. Baptism into Christ's body initiates men into his life and mission in the world, so that they are united in one fellowship of love, service, suffering and joy, in one family of the Father of all in heaven and earth, and in the power of the one Spirit. The Uniting Church will baptize those who confess the Christian faith, and children who are presented for baptism and for whose instruction and nourishment in the faith the Church takes responsibility.

8. The Uniting Church acknowledges that Christ signifies and seals his continuing presence with his people in the Lord's Supper or the Holy Communion, constantly repeated in the life of the Church. In this sacrament of his broken body and outpoured blood the risen Lord feeds his baptized people on their way to the final inheritance of the Kingdom. Thus the people of God, through faith and the gift and power of the Holy Spirit, have communion with their Saviour, make their sacrifice of praise and thanksgiving, proclaim the Lord's death, grow together into Christ, are strengthened for their participation in the mission of Christ in the world, and rejoice in the foretaste of the Kingdom which he will bring to consummation.

9. The Uniting Church enters into unity with the Church throughout the ages by her use of the confessions known as the Apostles' Creed and the Nicene Creed. She receives these as authoritative statements of the Catholic Faith, framed in the language of their day and used by

Christians in many days, to declare and to guard the right understanding of that faith. She commits her ministers and instructors to careful study of these creeds and to the discipline of interpreting their teaching in a later age. She commends to ministers and congregations their use for instruction in the faith, and their use in worship as acts of allegiance to the Holy Trinity.

10. The Uniting Church continues to learn of the teaching of the Holy Scriptures in the obedience and freedom of faith, and in the power of the promised gift of the Holy Spirit, from the witness of reformation fathers as expressed in various ways in the Scots Confession of Faith (1560), the Heidelberg Catechism (1563), the Westminster Confession of Faith (1647), and the Savoy Declaration (1658). In like manner she will listen to the preaching of John Wesley in his Forty-Four Sermons (1793). She will commit her ministers and instructors to study these statements, so that the congregation of Christ's people may again and again be reminded of the grace which justifies them through faith, of the centrality of the person and work of Christ the justifier, and of the need for a constant appeal to Holy Scripture.

11. The Uniting Church acknowledges that God has never left his Church without faithful and scholarly interpreters of Scripture, or without those who have reflected deeply upon, and acted trustingly in obedience to, his living Word. In particular she enters into the inheritance of literary, historical and scientific enquiry which has characterised recent centuries, and thanks God for the knowledge of his ways with men which are open to an informed faith. She lives within a world-wide fellowship of Churches in which she will learn to sharpen her understanding of the will and purpose of God by contact with contemporary thought. Within that fellowship she also stands in relation to contemporary societies in ways which will help her to understand her own nature and mission. She thanks God for the continuing witness and service of evangelist, of scholar, of prophet and of martyr. She prays that she may be ready when occasion demands to confess her Lord in fresh words and deeds.

12. The Uniting Church recognises and accepts as her members all who are recognised as members of the uniting Churches at the time of union. Thereafter membership is open to all who are baptized into the Holy Catholic Church in the name of the Father and of the Son and of the Holy Spirit. The Uniting Church will seek ways in which the baptized may have confirmed to them the promises of God, and be led to deeper commitment to the faith and service into which they have been baptized. To this end she commits herself to undertake, with other Christians, to explore and develop the relation of baptism to confirmation and to participation in the Holy Communion.

13. The Uniting Church affirms that every member of the Church is engaged to confess the faith of Christ crucified and to be his faithful servant. She acknowledges with thanksgiving that the one Spirit has endowed the members of his Church with a diversity of gifts, and that there is no gift without its corresponding service: all ministries have a part in the ministry of Christ. The Uniting Church, at the time of union, will recognise and accept the ministries of those who have been called to any task or responsibility in the uniting Churches. The Uniting Church will thereafter provide for the exercise by men and women of the gifts God bestows upon them, and will order her life in response to his call to enter more fully into her mission.

14. The Uniting Church, from inception, will seek the guidance of the Holy Spirit to recognise among her members men and women called of God to preach the Gospel, to lead the people in worship, to care for the flock, to share in government and to serve those in need in the world.

To this end:

- (a) The Uniting Church recognises and accepts as ministers of the Word all who have held such office in any of the uniting Churches, and who, being in good standing in one of those Churches at the time of union, adhere to the Basis of Union. This adherence and acceptance may take place at the time of union or at a later date. Since the Church lives by the power of the Word, she is assured that God, who has never left himself without witness to that Word, will, through Christ and in the power of the Holy Spirit, call and set apart members of the Church to be ministers of the Word. These will preach the Gospel, administer the sacraments and exercise pastoral care so that all may be equipped for their particular ministries, thus maintaining the apostolic witness to Christ in the Church. Such members will be called Ministers and their setting apart will be known as Ordination.

The Presbytery will ordain by prayer and the laying on of hands in the presence of a worshipping congregation. In this act of ordination the Church praises the ascended Christ for conferring gifts upon men. She recognises his call of the individual to be his minister; she prays for the enabling power of the Holy Spirit to equip him for that service. By the participation in the act of ordination of those already ordained, the Church bears witness to God's faithfulness and declares the hope by which she lives. In company with other Christians the Uniting Church will seek for a renewed understanding of the way in which the congregation participates in ordination and of the significance of ordination in the life of the Church.

- (b) The Uniting Church recognises and accepts as elders or leaders those who at the time of union hold the office of elder, deacon or leader appointed to exercise spiritual oversight, and who, being in good standing in any of the uniting Churches at the time of union, adhere to the Basis of Union. She will seek to recognise in the congregation those endowed by the Spirit with gifts fitting them for rule and oversight. Such members will be called Elders or Leaders.
- (c) The Uniting Church recognises and accepts as deaconesses those who at the time of union are deaconesses in good standing in any of the uniting Churches and who adhere to the Basis of Union. She believes that the Holy Spirit will continue to call women to share in this way in the varied services and witness of the Church, and she will make provision for this. Such members will be called Deaconesses.

The Uniting Church recognises that at the time of union many seek a renewal of the diaconate in which men and women offer their time and talents, representatively and on behalf of God's people, in the service of mankind in the face of changing needs. She will so order her life that she remains open to the possibility that God may call men and women

into such a renewed diaconate: in these circumstances she may decide to call them Deacons and Deaconesses, whether the service is within or beyond the life of the congregation.

- (d) The Uniting Church recognises and accepts as lay preachers those who at the time of union are accredited lay preachers (local preachers) in any of the uniting Churches and who adhere to the Basis of Union. She will seek to recognise those endowed with the gift of the Spirit for this task, will provide for their training, and will gladly wait upon that fuller understanding of the obedience of the Christian man which should flow from their ministry. Such members will be called Lay Preachers.

In the above sub-paragraphs the phrase "adhere to the Basis of Union" is understood as willingness to live and work within the faith and unity of the One Holy Catholic and Apostolic Church as that way is described in this Basis. Such adherence allows for difference of opinion in matters which do not enter into the substance of the faith.

The Uniting Church recognises that the type and duration of ministries to which men and women are called vary from time to time and place to place, and that in particular she comes into being in a period of reconsideration of traditional forms of the ministry, and of renewed participation of all the people of God in the preaching of the Word, the administration of the sacraments, the building up of the fellowship in mutual love, in commitment to Christ's mission, and in service of the world for which he died.

15. The Uniting Church recognises that responsibility for government in the Church belongs to the people of God by virtue of the gifts and tasks which God has laid upon them. The Uniting Church therefore so organises her life that locally, regionally and nationally government will be entrusted to representatives, men and women, bearing the gifts and graces with which God has endowed them for the building up of his Church. The Uniting Church is governed by a series of inter-related councils, each of which has its tasks and responsibilities in relation both to the Church and the world.

The Uniting Church acknowledges that Christ alone is supreme in his Church, and that he may speak to her through any of her councils. It is the task of every council to wait upon God's Word, and to obey his will in the matters allocated to its oversight. Each council will recognise the limits of its own authority and give heed to other councils of the Church, so that the whole body of believers may be united by mutual submission in the service of the Gospel.

To this end the Uniting Church makes provision in her constitution for the following:

- (a) **The Congregation** is the embodiment in one place of the One Holy Catholic and Apostolic Church, worshipping, witnessing and serving as a fellowship of the Spirit in Christ. Its members meet regularly to hear God's Word, to celebrate the sacraments, to build one another up in love, to share in the wider responsibilities of the Church, and to serve the world. The congregation will recognise the need for a diversity of agencies for the better ordering of her life in such matters as education, administration and finance.
- (b) **The Elders' or Leaders' Meeting** (the council within a congregation or group of congregations) consists of the minister and those who are called to share with him in oversight. It

is responsible for building up the congregation in faith and love, sustaining its members in hope, and leading them into a fuller participation in Christ's mission in the world.

- (c) **The Presbytery** (the district council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority of elders/leaders and Church members being appointed by Elders'/Leaders' Meetings and/or congregations, on a basis determined by the Synod. Its function is to perform all the acts of oversight necessary to the life and mission of the Church in the area for which it is responsible, except over those agencies which are directly responsible to the Synod or Assembly. It will in particular exercise oversight over the congregations within its bounds, encouraging them to strengthen one another's faith, to bear one another's burdens, and exhorting them to fulfil their high calling in Christ Jesus. It will promote those wider aspects of the work of the Church committed to it by the Synod or Assembly.
- (d) **The Synod** (the regional council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority being appointed by Presbyteries, Elders'/Leaders' Meetings or congregations, on a basis determined by the Assembly. It has responsibility for the general oversight, direction and administration of the Church's worship, witness and service in the region allotted to it, with such powers and authorities as may from time to time be determined by the Assembly.
- (e) **The Assembly** (the national council) consists of such ministers, elders/leaders and other Church members as are appointed thereto, the majority being appointed by the Presbyteries and Synods. It has determining responsibility for matters of doctrine, worship, government and discipline, including the promotion of the Church's mission, the establishment of standards of theological training and reception of ministers from other communions, and the taking of further measures towards the wider union of the Church. It makes the guiding decisions on the tasks and authority to be exercised by other councils. It is obligatory for it to seek the concurrence of other councils, and on occasion of the congregations of the Church, on matters of vital importance to the life of the Church.

The first Assembly, however, will consist of members of the uniting Churches, appointed in equal numbers by them in such manner as they may determine, and is vested with such powers as may be necessary to establish the Uniting Church according to the provisions of the Basis of Union.

Until such time as councils other than the Assembly can be established, the Uniting Church recognises and accepts the various agencies for the discharge of responsibility which are in existence in the uniting Churches. She invites any such continuing bodies immediately to enter into a period of self-examination in which members are asked to consider afresh their common commitment to the Church's mission and their demonstration of her unity. She prays that God will enable them to order their lives for these purposes.

16. The Uniting Church recognises the responsibility and freedom which belong to councils to acknowledge gifts among members for the fulfilment of particular functions. She sees in pastoral care exercised personally on behalf of the Church an expression of the fact that God always deals with men personally: he would have his fatherly care known among men; he would have individual members take upon themselves the form of a servant.

17. The Uniting Church acknowledges that the demand of the Gospel, the response of the Church to the Gospel, and the discipline which it requires are partly expressed in the formulation by the Church of her law. The aim of such law is to confess God's will for the life of his Church; but since law is received by man and framed by him, it is always subject to revision in order that it may better serve the Gospel. The Uniting Church will keep her law under constant review so that her life may increasingly be directed to the service of God and man, and her worship to a true and faithful setting forth of, and response to, the Gospel of Christ. The law of the Church will speak of the free obedience of the children of God, and will look to the final reconciliation of mankind under God's sovereign grace.

18. The Uniting Church affirms that she belongs to the people of God on the way to the promised end. She prays God that, through the gift of the Spirit, he will constantly correct that which is erroneous in her life, will bring her into deeper unity with other Churches, and will use her worship, witness and service to his eternal glory through Jesus Christ the Lord. Amen.