



Anglican Church of Australia (Diocese of Brisbane) Property Act 1889

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Reprint note

Powers under the *Reprints Act 1992* have been used in this reprint to bring the legislation into line with current drafting practice.

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Queensland

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Anglican Church of Australia (Diocese of Brisbane) Property Act 1889

An Act to define the trusts upon which certain lands of the Anglican Church in Queensland are and shall be held by the Corporation of the Synod of the Diocese of Brisbane

Preamble

WHEREAS by articles of agreement entered into by the bishop, clergy, and laity of the Church of England (then called the Church of England and Ireland), in the diocese of Brisbane, in the colony of Queensland, at an assembly or conference assembled in the City of Brisbane, on 18 June 1868, a constitution was agreed to and declared for associating together the members thereof by voluntary compact as a branch of the said Church in the said diocese, and for establishing a governing body for the ordering of the affairs and the management of the property of the Church in such diocese, to be called ‘The Synod of the Branch of the United Church of England and Ireland, in the Diocese of Brisbane, in the colony of Queensland’.

And whereas the expression ‘The branch of the United Church of England and Ireland’ is no longer applicable in Queensland, and the said governing body is now called ‘The Synod of the Branch of the Church of England, in the Diocese of Brisbane, in the colony of Queensland’.

And whereas by letters patent, dated 2 November 1870, issued under the hand of the then Governor, under the seal of the said colony, by virtue of the provisions of the *Religious Educational and Charitable Institutions Act 1861*, certain persons holding and exercising the offices of President, Chairman of Committees, and Treasurer of the Synod, and their successors, were respectively created and declared to be a body corporate by the name and style of the Corporation of the Synod of the Diocese of Brisbane.

And whereas by virtue of the said letters patent, and of the provisions of the said Act, the said corporation acquired certain corporate rights, and became capable of receiving, purchasing, acquiring, and possessing to and for the uses and purposes of the said corporation and of the Church any messuages, lands, tenements, and hereditaments of what nature, kind, or quality soever within the said colony, and also of receiving, purchasing, acquiring, and possessing to and for the same uses and purposes any goods, chattels, gifts, or benefactions whatsoever, and of mortgaging, charging, or alienating all or any of the said messages, lands, tenements, hereditaments, gifts, chattels, gifts, or benefactions, provided such a mortgage charge or alienation were not contrary to the gift, grant, or dedication of the original donor, and that the moneys to be raised thereby should be applied to the same uses and purposes.

And whereas the said corporation has since acquired, and now holds, divers, lands upon certain trusts declared in and by an indenture hereinafter called the model trust deed.

And certain mortgage securities have been executed by the corporation over lands vested in it upon the trusts of the model trust deed to secure the repayment of moneys advanced and lent to the synod.

And whereas doubts have arisen as to the validity of the said mortgage securities, and it is expedient to remove such doubts, and to declare more particularly the trusts and purposes upon and for which lands of the Church are now held and shall hereafter be held by the said corporation.

1 Interpretation

In the interpretation of this Act—

Bishop means the Right Reverend William Thomas Thornhill Webber, Doctor of Divinity, the present Bishop of the Church of England, in the diocese of Brisbane, and his successors in that office, and, in his absence, the commissary appointed by him.

Bishop in Council means the Bishop acting by and with the advice and consent of the diocesan council, or any other

standing committee for the time being, appointed by the synod to assist the Bishop in the conduct of the business of the Church, or of the synod, at such times as the synod shall not be sitting.

Church means the Church now known as and forming the branch of the Anglican Church in the diocese of Brisbane.

corporation means the corporate body incorporated by the before-recited letters patent.

diocese of Brisbane means the whole of Queensland situated to the south of the twenty-second parallel of north latitude, until the same shall be divided into new dioceses, and thereafter means the area to which the diocese shall be from time to time limited by the creation of such new dioceses.

model trust deed means a certain indenture dated 7 March 1871, purporting to be made between the Right Reverend William Tyrrell, Doctor of Divinity, Lord Bishop of Newcastle, of the one part, and the corporation of the other part, adopted by the synod on 13 July 1870, and registered in the office of the registrar general in Brisbane as No. 225, book 6.

property means and includes all property, real or personal, including money or securities for money.

synod means the synod of the branch of the Anglican Church in the diocese of Brisbane, in the before-recited constitution styled the synod of the branch of the United Church of England and Ireland in the diocese of Brisbane in the colony of Queensland, or any committee to which the synod may delegate any of its functions.

trusts of the model trust deed means the trusts or the like trusts to those declared in and by the model trust deed.

3 Property vested in corporation under model trust deed to be held freed from trusts thereof

Any property which at the time of the passing of this Act shall be vested in or held by the corporation upon the trusts of the model trust deed shall thereafter be deemed to be so vested

and held completely freed and discharged from the said lastmentioned trusts, but subject to the provisions of this Act.

4 Securities given over land held under model trust deed declared to be valid

Every bill of mortgage, indenture, or deed of mortgage or other security heretofore made, given, or executed by the corporation affecting lands vested in it upon the trusts of the model trust deed, and so made, given, or executed to secure the repayment to any person of moneys lent, advanced, or paid to the corporation or the synod, or to any person in trust for the Church, shall be and the same is hereby declared to be valid and effectual for all intents and purposes.

9 Provision as to the Religious Educational and Charitable Institutions Act 1861

- (1) All powers and authorities conferred by this Act shall be deemed to be in addition to and not in substitution for the powers and authorities created by the *Religious Educational and Charitable Institutions Act 1861*.

Editor's note—

The *Religious Educational and Charitable Institutions Act 1861* has been repealed by 1981 No. 74 section 4 schedule 1.

- (2) But in case of conflict between the provisions of the said Act and of this Act, the provisions of this Act shall prevail.

11 How proceeds of sale to be applied

The trustees for the time being of suburban allotment 249, in the parish of North Brisbane and county of Stanley, being the allotment referred to in the said lastmentioned Act, shall apply the moneys to arise from any sale made in pursuance of the powers in that Act contained in the following order so far as the same shall extend, that is to say, in payment of—

- (a) the reasonable expenses of and attending such sale;
- (b) the cost of the erection of a parsonage on some part of the land comprised in the government portions 197, 198,

and 199, in the county of Stanley, parish of North Brisbane, and colony of Queensland;

- (c) the cost of the erection of a schoolhouse on some part of the said portions;
- (d) the cost of all necessary fittings and furniture for the said schoolhouse;
- (e) if there shall thereafter be any surplus, the said trustees shall transfer the same to the corporation, and such surplus shall be applied by the said corporation to such uses and purposes, and in such manner for promoting the work of the Church within the area at present comprised in the parish of Fortitude Valley as the Bishop in Council shall direct.

12 Short title

This Act shall be styled and may be cited the *Anglican Church of Australia (Diocese of Brisbane) Property Act 1889*.