

No. VII.

An Act to regulate the temporal affairs of Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales. [9th September, 1837.]

SCOTCH
PRESBYTERIAN
CHURCH
TEMPORALITIES.

WHEREAS by an Act of the Governor of New South Wales Preamble. with the advice of the Legislative Council thereof passed in the seventh year of the reign of his present Majesty King William the Fourth intituled “*An Act to promote the building of Churches and Chapels and to provide for the maintenance of Ministers of Religion in New South Wales*” it is among other things provided that “Before any sum of money shall be issued from the Colonial Treasury towards the building of any church or chapel and minister’s dwelling trustees not less than three nor more than five shall be nominated by the persons contributing towards the building of the same for the approval of the Governor and Executive Council and that the real estate in the site of such church chapel or minister’s dwelling and of any lands or hereditaments thereunto belonging shall be conveyed to the said trustees when approved and to the heirs of the survivor of such trustees upon trust for the erection maintenance and repair of the said church or chapel or minister’s dwelling and for the provision out of the revenues belonging to or arising from the use of the said church or chapel in such manner as shall be lawfully appointed of all things necessary for the celebration of Divine worship therein” and whereas with regard to churches chapels and minister’s dwellings of the Presbyterian Church connected with the Church of Scotland it is considered expedient that further provision should be made as well for the mode of their original nomination as for maintaining from time to time by filling up vacancies as hereinafter mentioned a proper number of duly qualified trustees and for defining the manner in which the trusts thereby created shall be fulfilled and otherwise regulating the affairs of churches chapels and minister’s dwellings of the said Presbyterian Church Be it Mode of appointing trustees. therefore enacted by the Governor of New South Wales with the advice of the Legislative Council thereof That the trustees of Presbyterian churches and chapels as aforesaid shall be elected and appointed in the manner following that whenever any person or persons shall at his her or their own cost and expense erect or provide a church or chapel which shall be approved by the Presbytery of the said Colony for the celebration of public worship according to the use of the Established Church of Scotland or any minister’s dwelling burial ground or glebe land or whenever any number of persons shall by subscription contribute any sum not less than three hundred pounds for or towards erecting or providing a church or chapel and minister’s dwelling or burial ground or glebe land as aforesaid it shall and may be lawful for the person or persons so erecting or providing the same at his her or their cost to nominate as trustees of such church or chapel any number of persons not less than three nor more than five to be transmitted to the Presbytery for approval as hereinafter provided and for the subscribers towards erecting or providing such church or chapel and minister’s dwelling burial ground or glebe land as aforesaid to elect by plurality of votes from among themselves any number of trustees within the limits aforesaid in manner following that is to say at a special meeting of subscribers

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Trustees to be elected out of the names of ten persons.

Not less than three nor more than five trustees to be appointed.

The minister for the time-being shall *ex officio* be entitled to be present and vote at all meetings of the trustees.

That every trustee shall be a member of the congregation and free and above the age of twenty-one.

Any trustee being absent from the Colony or in a part of the Colony remote from the church &c. for more than six months or being a confirmed lunatic or otherwise disqualified another to be elected

Notice given and sanction had of Presbytery.

No less than three persons to be named.

Any trustee dying or being removed trustees shall call a meeting for the purpose of nominating a new trustee.

No trustee permitted to resign his office until he shall have accounted for all sums of money.

If surviving or continuing trustees shall not in two months after death &c. give public notice of meeting for filling up vacancy the Presbytery to nominate and send the

subscribers and seat-holders for that purpose to be called the names of ten persons qualified to act as trustees as hereinafter is provided shall be placed on a *leet* or *list* agreeably to such local regulations as the said subscribers may appoint and the chairman of such meeting shall after signing the said *leet* or *list* transmit the same to the Presbytery of the said Colony for the selection and appointment of not less than three nor more than five of the said ten persons and the said Presbytery shall after making such selection transmit the names so selected for the approval of His Excellency the Governor and the Executive Council.

2. And be it further enacted That the minister for the time-being lawfully appointed and recognized by the Presbytery of New South Wales as the ordained minister of the said church shall *ex officio* be entitled to be present at all meetings of the trustees or other meetings concerning the affairs of the church or chapel of which he shall be the officiating minister and shall at all such meetings be privileged to vote upon any question concerning the affairs of the church or chapel of which he is the officiating chaplain as aforesaid or concerning the minister's dwelling thereof and in case there should at any such meeting be an equality of votes the chairman shall have a casting vote.

3. And be it further enacted That every person who shall be nominated or appointed as trustee for any Presbyterian church or chapel in connection with the Church of Scotland as aforesaid shall be a member of the congregation of the church or chapel for which he shall be so nominated or appointed either as a seat-holder or a communicant being free and above the age of twenty-one years.

4. And be enacted That if any trustee shall be absent from the said Colony or be in a part of the said Colony remote from the church or chapel for which he is such trustee for more than six months in succession or shall be a confirmed lunatic or shall be or shall become disqualified by reason of improper conduct or otherwise within the meaning of this Act of which disqualification so far as regards spiritual matters the Presbytery at the suit of the other trustees or of the kirk session shall be the judge it shall and may be lawful after notice given to the Presbytery and the sanction of the said Presbytery having been obtained for the subscribers to such church or chapel and the seat-holders therein to proceed to the selection in manner as aforesaid of the names of not less than three persons qualified as aforesaid one of whom shall be selected by the Presbytery and the person so selected shall be the new trustee for such church or chapel.

5. And be it enacted That whenever and so often as any trustee nominated and appointed to any church or chapel under the provisions of this Act shall die or shall resign his office with the consent of his co-trustees or shall be removed as aforesaid the survivors or continuing trustees shall forthwith call a meeting of the subscribers to and seat-holders in such church or chapel for the purpose of nominating a new trustee and the same proceedings shall be observed in all respects as to such nomination and selection as upon the original appointment of trustees Provided however that no trustee shall be permitted to resign his office until he shall duly have accounted to the satisfaction of his co-trustees for all sums of money at any time received by him in his said trust.

6. And be it enacted That if the surviving or continuing trustees of any such church or chapel shall not within two months after the death resignation absence infirmity or removal from office as aforesaid give public notice of a meeting to be held for filling up the vacancy as aforesaid it shall and may be lawful for the Presbytery of said Colony by writing under their hands and seals to nominate from the congregation

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congregation a person duly qualified as aforesaid and transmit the name for approval to the Governor and Executive Council. name for approval to the Governor and Executive Council.

7. And be it enacted That the new trustee to be nominated or selected as aforesaid pursuant to this Act shall become jointly with the continuing or surviving trustees or trustee a trustee of the site of the church or chapel minister's dwelling burial ground or glebe land in respect whereof he shall be appointed and all such deeds and assurances shall be made and executed as shall be necessary legally to effectuate and complete his appointment as such new trustee as aforesaid.

8. And whereas for the more effective discharge of the duties of trustees of Presbyterian churches or chapels it is expedient that their powers and duties should be defined Be it declared and enacted That the duties of the said trustees shall be solely confined to the temporal concerns of said churches and chapels such as the collection of pew rents receiving subscriptions donations devises or bequeathments of lands or other property for the erection maintenance and repair of the church chapel or minister's dwelling for which they shall be appointed or for a burial ground or glebe thereunto annexed also the payment of stipends or salaries of church officers expenses attending the dispensation of divine ordinances and the faithful performance of ministerial clerical and parochial duty connected therewith and it is also hereby declared that the said trustees shall have no power or authority to appoint or dismiss the minister of any such church or chapel to which they are or shall be appointed.

9. And be it enacted That it shall and may be lawful for the clergyman duly inducted by the Presbytery into any church or chapel under this Act so long as he shall be recognized as such minister by the Presbytery to have free access and admission to and in such church or chapel and the burial ground belonging thereto and every part thereof respectively at all times as he shall think fit and freely to exercise his spiritual functions therein respectively without any hindrance or disturbance of the trustees of the same or any person whatever and such officiating minister shall or may during such times as aforesaid freely use have possess and enjoy the minister's dwelling-house garden appurtenances and glebe belonging to such church or chapel and receive have and take the rents profits and issues thereof respectively Provided that no such liberty of access and admission to such house of residence as aforesaid nor occupation of the same for any length of time whatever shall be construed to confer any right of property in the same upon the clergyman or other parties by whom such house of residence and the appurtenances may have been so occupied nor any right or title to retain possession of the same after such clergyman shall have been removed from his office by the decision of the Presbytery nor shall the same be pleaded in bar of any ejectment which may be brought by or on behalf of the trustees of any church or chapel as aforesaid for recovering possession of such house of residence and the appurtenances thereof.

10. And be it enacted That whenever and as often as it shall happen that the glebe or other land belonging to any church or chapel under this Act not being in possession or occupation of any clergyman inducted by the Presbytery into such church or chapel or with the consent of the clergyman being in such possession or occupation may be improved by building upon the same or otherwise so as to admit a greater yearly profit than one hundred and fifty pounds and security being given for payment to the clergyman who shall next be inducted by the Presbytery to officiate in such church or chapel and also to the present officiating clergyman of the said

said sum of one hundred and fifty pounds annually it shall and may be lawful for the trustees of such church or chapel with the consent of the Presbytery to enter into and upon the said glebe or other land belonging to the said church or chapel and to let the same upon leases for any term not exceeding twenty-eight years reserving the said issues and profits to the said trustee or trustees for the time-being upon trust in the first place to pay to the officiating minister of the said church or chapel one hundred and fifty pounds out of the profits and issues as and for an allowance for the said glebe or other land and in the next place with the consent of the Presbytery to apply the remainder of the said rents issues and profits or any part thereof in or towards building or enlarging the church or chapel or minister's dwelling or for religious or educational purposes Provided nevertheless that in cases where the residence appropriated for the clergyman officiating in any church or chapel shall be situated upon the glebe pertaining to the same it shall and may be lawful for the trustees of such church or chapel and they are hereby required to reserve any portion of such glebe or other land not exceeding one-fifth of the whole which shall be approved by the Presbytery to be appropriated to the personal use and occupation of the said clergyman in addition to the sum of one hundred and fifty pounds per annum to be secured to him as aforesaid from the rents and proceeds of such glebe or other lands.

Residence of officiating clergyman being upon glebe pertaining to his church trustees may reserve not more than one-fifth thereof for the personal use of such clergyman.

Trustees to collect all sums of money due for pews &c. and to sue for same.

Trustees to furnish accounts annually.

The time for the appointment of trustees of Presbyterian churches already built to be extended to six months after the passing of this Act.

11. And be it further enacted That it shall and may be lawful for the trustees appointed or to be appointed according to the provisions of this Act to collect and gather all and every sum or sums of money which may be due and payable for pews or sittings in such church or chapel for which they have been so appointed according to the rent or rate assessed for the same or any other sum or sums of money due on account of the said church or chapel or of the minister's dwelling burial ground or glebe land annexed thereto and to sue for the recovery of the same from all persons who shall fail or refuse to pay the same according to the terms of their engagement and the said trustees out of the monies so received or recovered as far as the same will extend shall regularly apply the same for the purposes before mentioned.

12. And be it further enacted That the said trustees shall if required to do so furnish to the Presbytery before the first day of May in every year a true and correct account to the close of the preceding year of all receipts and disbursements of money belonging to the church or chapel of which they may be trustees.

13. And whereas by the said recited Act it is amongst other things enacted That with regard to churches or chapels already built and repaired or maintained at the public expense or for the ministers wherof stipends were issued from the Colonial Treasury it shall and may be lawful for the Governor with the advice of the Executive Council within six months after the passing of that Act to nominate not less than three nor more than five of the pewholders of the said church or chapel belonging to the religious denomination for whose use the said church or chapel is maintained to be trustees thereof and to whom and the heirs of the survivor of such trustees shall be conveyed as soon as conveniently may be the real estate in the said church or chapel and minister's dwelling upon trust for the maintenance and repair of such church and minister's dwelling and for the provision out of the revenues belonging to or arising from the use of the said church or chapel in such manner as shall be lawfully appointed of all things necessary for the celebration of divine worship therein and whereas the trustees for Presbyterian churches and chapels as aforesaid were appointed without the selection of the Presbytery of New South Wales and it is expedient to appoint trustees for

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for such churches or chapels conformably to the provisions of this Act Be it therefore enacted That the former appointment of trustees under the provisions of the said recited Act is hereby declared null and void and that the election and appointment of trustees for Presbyterian churches and chapels already built shall and may be made as in this Act is directed within six months from the passing thereof.
