

ANNO QUINQUAGESIMO PRIMO

VICTORIÆ REGINÆ.

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An Act to regulate in certain particulars dealings with the property of the Church of England in the Diocese of Sydney by extending to the present and future Bishops of the said Diocese the provisions of all acts and instruments having reference to the Bishop of Sydney and his successors and by enabling the Synod of the said Diocese to deal with Church property which by reason of consecration or other express trust is devoted to some purpose which it has become impossible or inexpedient to carry out or observe. [22nd June, 1887.]

SYDNEY BISHOPRIC  
AND CHURCH  
PROPERTY.

WHEREAS his late Majesty King William the Fourth did by Preamble. letters patent dated the eighteenth day of January one thousand eight hundred and thirty-six erect found make ordain and constitute all the territories and islands comprised within or dependent upon the Colonies of New South Wales Van Diemen's Land and Western Australia into a Bishop's See or Diocese and did declare and ordain that the same should be styled the Bishopric of Australia and did by the said letters patent ordain make and constitute the Right Reverend William Grant Broughton Doctor in Divinity to be the first Bishop of the said See of Australia And whereas by virtue of certain powers of revocation contained in the said letters patent Her Majesty Queen Victoria by letters patent dated the eighteenth day of August one thousand eight hundred and forty-two and by certain other letters patent dated the twenty-fifth day of June one thousand eight hundred and forty-seven did divide the said Diocese of Australia into several distinct dioceses and did constitute certain parts of the Colony of New South Wales to be a Bishop's See and Diocese and to be called the Bishopric of Sydney And did ordain make and constitute the said William Grant Broughton to be Bishop of the said See of Sydney And whereas by letters patent dated the nineteenth day of October one thousand eight hundred and fifty-four after reciting that the said William Grant Broughton had departed this life Her Majesty did duly constitute and appoint the Right Reverend Frederic Barker Doctor in Divinity Bishop of the said See and Diocese of Sydney as successor to the said William Grant Broughton And whereas the limits of the said Diocese

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Diocese of Sydney have been from time to time altered by divers letters patent And whereas the lands tenements and hereditaments situate within the present limits of the said Diocese of Sydney and which were originally vested in the Bishop of the said Diocese of Australia have become and are now legally vested in the Bishop of Sydney and the Bishop of Australia when mentioned in any Act or Statute now in force in this Colony is in all matters connected with the said Diocese of Sydney taken to mean the Bishop of Sydney as if such Bishop were expressly mentioned in that Act or Statute And whereas the said Frederic Barker died in the year one thousand eight hundred and eighty-two and a vacancy thereby occurred in the Sec of Sydney And whereas the Lord Archbishop of Canterbury having been duly informed of the desire of the members of the Church of England in the Diocese of Sydney in that behalf applied for and obtained Her Majesty's license or mandate by warrant under the royal sign manual and signet and on the first day of January one thousand eight hundred and eighty-four with other Bishops of the Church of England assisting him duly consecrated the Reverend Alfred Barry Doctor in Divinity to be a Bishop of the Church of England And whereas the intent and purpose of such consecration was that the said Alfred Barry should exercise episcopal functions in the said Diocese of Sydney as Bishop of Sydney and successor to the said Frederic Barker deceased And whereas the said Alfred Barry has been duly installed as Bishop of the said diocese and has entered upon the exercise of his episcopal functions in the said diocese as Bishop of Sydney and successor to the said Frederic Barker deceased And whereas in the circumstances hereinbefore mentioned and in consequence of the said Alfred Barry not having been appointed Bishop of the Diocese of Sydney by letters patent doubts may arise respecting the rights powers and privileges of the said Alfred Barry under Imperial Statutes in force in this Colony Acts of Council grants deeds and other instruments in which the Bishop of Sydney and his successors are mentioned and it is expedient for the better regulation and management of the property of the Church of England within the said Diocese of Sydney that such doubts should be set at rest And whereas there are vested in the Bishop of Sydney and in divers bodies of Trustees upon trust for or for the use and benefit of the Church of England various parcels of land situate within the limits of the Diocese of Sydney some of which lands are vacant and upon others of them churches schools and other buildings have been erected And whereas certain of the said lands and buildings have been devoted by consecration or other express trust to some particular purpose which by reason of circumstances occurring since such consecration or the creation of other such express trust it has become impossible or inexpedient to carry out or observe and it is expedient in the interest of the said church that power should be vested in the Synod of the Diocese of Sydney of selling or otherwise dealing with the said lands and buildings freed from such consecration or other express trust Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows:—

Meaning of Bishop  
of Sydney and  
successors.

1. In construing all Statutes Acts grants deeds and other instruments the said Alfred Barry as such Bishop of the said diocese as hereinbefore mentioned and every other Bishop for the time being acting and recognized as being the Bishop of the said diocese and having been consecrated according to the manner and form prescribed and used by the Church of England shall in all matters connected with the Diocese of Sydney be deemed to be the successors of the said Bishop of Australia and Bishop of Sydney respectively and as such successors

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successors shall be entitled to all real and personal property which the said Bishop of Australia and Bishop of Sydney respectively were seized of or entitled unto either at law or in equity but subject to the trusts affecting the same respectively.

2. In any case in which lands churches schools or other buildings and hereditaments situate within the limits of the Diocese of Sydney are now or may hereafter be vested in the Bishop of Sydney or other Trustee or Trustees (including corporate Trustees appointed by or under the "Church of England Trust Property Incorporation Act of 1881") and are held upon any express trust (whether by consecration or otherwise) for the use and benefit of the Church of England and by reason of circumstances which have occurred since such consecration or the creation of other such express trust it has in the opinion of the Synod of the said Diocese become impossible or inexpedient to carry out or observe the particular purpose or purposes to which such lands buildings and hereditaments or any of them are by such consecration or other trust devoted it shall be lawful for the Synod from time to time by rule or ordinance (passed on the third reading thereof by a majority of the said Synod voting by orders according to the regulations of the said Synod) to declare such their opinion and by the same or any subsequent rule or ordinance (passed in manner aforesaid) to direct that any such lands buildings or hereditaments be sold demised or otherwise dealt with in manner in such rule or ordinance to be specified freed from such consecration or trust as the case may be and such consecration or trust shall thereupon by force of the said rule or ordinance cease and determine.

3. Whenever and so often as the Synod shall in manner aforesaid have directed any such lands buildings or hereditaments as aforesaid to be sold demised or otherwise dealt with the Bishop of Sydney for the time being may and he is hereby authorized to sell demise or otherwise deal with the same in his own name and in his own name to execute and do all necessary assurances leases instruments acts and things for giving full and complete effect to such direction according to the true intent of the rule or ordinance by which such direction shall be given And every assurance lease instrument act or thing executed or done by the Bishop of Sydney for the time being in exercise of the authority by this section conferred upon him shall be as operative and effectual both at law and in equity as if the same had been executed or done by the Trustees or Trustee (including such corporate Trustees as aforesaid) in whom the same lands buildings or hereditaments shall immediately prior to such exercise of authority be vested.

4. It shall be lawful for the Synod by any such rule or ordinance as aforesaid or by any subsequent rule or ordinance passed in like manner and from time to time to direct how and in what manner any proceeds rents or other moneys arising from any such sale demise or dealing as aforesaid shall be dealt with and applied and the same shall be dealt with and applied accordingly Provided that such proceeds rents and other moneys shall (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in the parish or ecclesiastical district in which the lands buildings or hereditaments from which such proceeds rents or other moneys shall have arisen are situate unless the Synod shall by any such rule or ordinance as aforesaid or by any subsequent rule or ordinance passed in like manner declare that by reason of circumstances which have occurred since the creation of the express trust (whether by consecration or otherwise) upon which the said lands buildings or hereditaments are held it is in the opinion of the Synod inexpedient to apply the said proceeds rents or other moneys in such parish or ecclesiastical district in which case the said proceeds rents or other

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other moneys may (after payment thereof of all proper expenses) be dealt with and applied for the use and benefit of the Church of England in any other parish or ecclesiastical district in the said Diocese of Sydney.

Consent required.

5. Provided always and it is hereby enacted that it shall not be lawful for the Synod to pass any rule or ordinance in the second or fourth sections of this Act mentioned without the consent in writing of the Incumbent and a majority of the churchwardens for the time being of the parish or ecclesiastical district in which such lands buildings or hereditaments are situate and in the case of lands buildings or hereditaments or of proceeds rents or moneys arising from lands buildings or hereditaments which have been within twenty years gratuitously granted or assured upon trust for or for the use and benefit of the Church of England by any private donor without the consent previously had and obtained of such donor his heirs or assigns.

Temporary investment.

6. It shall be lawful for the Synod by rule or ordinance to direct that any proceeds rents or other moneys arising from any such sale demise or dealing as aforesaid and not immediately required to be dealt with and applied as aforesaid be invested in the names of not fewer than two persons to be for that purpose nominated in such rule or ordinance in or upon freehold securities in the Colony of New South Wales or be deposited in the like names at interest with any joint stock company carrying on the business of bankers in Sydney and the interest arising from such investment or deposit shall be dealt with and applied in the manner prescribed in the fourth section of this Act with regard to the proceeds rents or other moneys as therein mentioned.

Evidence of rule or ordinance.

7. A certified copy under the hand of the President of the Synod of any rule or ordinance passed in pursuance or by virtue of the second section of this Act shall within three months after the passing thereof be recorded in the Supreme Court in the office of the Master in Equity and a duly certified or office copy of such recorded copy shall in favour of all persons purchasing or otherwise acquiring any interest in any lands buildings or hereditaments by such rule or ordinance directed to be sold demised or otherwise dealt with be deemed conclusive evidence that such rule or ordinance was duly passed as required by this Act and was in the terms appearing by such certified or office copy and that all consents necessary to be had and obtained under the fifth section of this Act had been duly had and obtained.

Discharge to purchasers and others.

8. The receipt of any person or persons for that purpose named in any such rule or ordinance as aforesaid shall completely discharge all persons purchasing or acquiring any interest in any such lands buildings or hereditaments as aforesaid from all such proceeds rents or other moneys as aforesaid as shall in such receipt be expressed to have been received And no such person or persons shall be concerned or entitled to see to the application of any such proceeds rents or other moneys.

Partial repeal of "Church of England Trust Property Incorporation Act 1881."

Short title.

9. So much of the "Church of England Trust Property Incorporation Act 1881" as is inconsistent with this Act is hereby repealed.

10. This Act may be cited for all purposes as the "Sydney Bishopric and Church Property Act 1887."