



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 91 of 1972

An Act to constitute the Methodist Church (S.A.) Property Trust, to define its Powers, Authorities, Duties and Functions, to make Provision for and in relation to the Vesting in the Methodist Church (S.A.) Property Trust of Land held for and on behalf of the Methodist Church in South Australia, to repeal The South Australian Wesleyan Methodists Act, 1887, and The Methodist Union Act, 1900, and for other purposes.

[Assented to 26th October, 1972]

WHEREAS land held in trust for or for the use or benefit of or for the purposes of the Methodist Church of Australasia in South Australia is vested in many different bodies of trustees and owing to deaths appointment of new trustees and other causes frequent changes take place in the personnel of such bodies of trustees: AND WHEREAS for the purpose of simplifying the holding of land by or on behalf of the Methodist Church of Australasia in South Australia and of facilitating and rendering less expensive conveyancing transactions in respect of land so held it is expedient to create a body corporate for the holding managing and dealing with land so held and to make provision for the vesting in the body corporate of all such land: AND WHEREAS it is desirable that provision should be made in respect of certain personal property: AND WHEREAS it is desirable to make provision for land vested in the body corporate to be made available for use in schemes of co-operation between the Methodist Church of Australasia in South Australia and churches of other

Preamble.

denominations: BE IT THEREFORE ENACTED by the Governor of the State of South Australia with the advice and consent of the Parliament thereof as follows:

Short title.

1. This Act may be cited as the "Methodist Church (S.A.) Property Trust Act, 1972".

**Repeal of
Acts.**

2. (1) The South Australian Wesleyan Methodists Act, 1887, and The Methodist Union Act, 1900, are hereby repealed.

(2) The repeal of The Methodist Union Act, 1900, shall not affect the union of the Wesleyan Methodist Church, the Primitive Methodist Church and the Bible Christian Church in the Church known as the Methodist Church of Australasia nor, except as expressly provided, shall it affect any of the consequences of such union as set forth in that Act.

Interpretation.

3. In this Act, unless the context otherwise requires—

"Church" means the Methodist Church of Australasia and includes any congregation, circuit, department, society, auxiliary, activity, fund, service, institution or interest thereof:

"Conference" means the Annual Conference of the Church duly constituted by the General Conference of the Church and embracing within its jurisdiction the State of South Australia whether alone or combined with any other territory:

"the General Fund" means the moneys from time to time received by the Trust or held by it in pursuance of section 16 of this Act:

"land" includes any estate or interest in land:

"Model Deed" means The Methodist Model Deed of South Australia referred to in The Methodist Union Act, 1900, together with any duly authorized alterations or modifications thereof since the commencement of the said Act:

"regulations" mean regulations made pursuant to section 23 of this Act:

"Trust" means the Methodist Church (S.A.) Property Trust constituted under this Act:

"trust property" means any property vested in the Trust by this Act or pursuant to any deed will or other instrument and any property acquired by the Trust.

4. (1) There is hereby constituted a body to be known as the "Methodist Church (S.A.) Property Trust".

Methodist
Church (S.A.)
Property Trust.

(2) The Methodist Church (S.A.) Property Trust shall be a body corporate under that name and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be capable of acquiring, holding, granting, demising, disposing of or otherwise dealing with real and personal property and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

5. (1) The Trust shall consist of—

Members of
the Trust.

- (a) the President of the Conference;
 - (b) the Connexional Secretary of the Conference;
 - (c) the Secretary of the Property Department of the Conference or the Secretary of such other committee of the Conference as is determined by the Conference;
- and
- (d) four other persons, being one minister and three laymen, appointed by the Conference.

(2) If at any time there is a vacancy in an office referred to in paragraphs (a), (b), or (c) of subsection (1) of this section or two of these offices are held by the same person, the Conference shall appoint a further person to be a member of the Trust until the next Conference is held.

(3) Edwin George Croft, Vernon Harold Marchant, John Peters Petherick and Keith Smith shall be deemed to have been appointed pursuant to paragraph (d) of subsection (1) of this section as members of the Trust and shall hold office subject to this Act until the end of the Conference next held after the commencement of this Act.

(4) The members of the Trust appointed pursuant to paragraph (d) of subsection (1) of this section shall take office as members of the Trust immediately after the end of the Conference next held after the commencement of this Act.

(5) At the end of the fourth Conference held after the commencement of this Act and at the end of every third Conference held thereafter one of the members appointed under paragraph (d) of subsection (1) of this section shall retire and shall be replaced by a member appointed by the Conference.

(6) A member appointed under subsection (5) of this section shall take office immediately after the end of the Conference at which he is appointed.

(7) The Conference shall determine the order in which members of the Trust appointed under paragraph (d) of subsection (1) of this section shall retire.

(8) Subject to subsection (10) of this section, the appointed members of the Trust shall be eligible for re-appointment as members of the Trust.

(9) In appointing members of the Trust pursuant to this section or section 9 of this Act, the proportion of one minister to three laymen shall at all times be retained.

(10) No person who—

(a) is under the age of eighteen years or over the age of seventy years shall be eligible to be appointed a member of the Trust;

or

(b) is over the age of seventy years shall be eligible to be re-appointed a member of the Trust, but a member of the Trust who attains that age shall not, by reason thereof, cease to be a member.

Chairman.

6. (1) The Conference shall appoint the chairman of the Trust from among the members of the Trust for such term as the Conference may prescribe.

(2) Samuel Keith Wiseman shall be deemed to have been appointed pursuant to subsection (1) of this section as the chairman of the Trust and shall hold office subject to this Act until the end of the Conference next held after the commencement of this Act.

Quorum.

7. Four members of the Trust shall constitute a quorum and all decisions of the Trust shall be made by a simple majority of those members present and voting.

Vacation of office.

8. The office of an appointed member shall become vacant if the member—

(a) dies;

(b) resigns his office by notice in writing to the Trust;

(c) becomes bankrupt or makes any arrangement or composition with his creditors generally;

or

(d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law for the time being relating to mental health.

9. (1) The continuing members of the Trust may act notwithstanding any vacancy or vacancies in their number.

Continuing members may act notwithstanding vacancy.

(2) The continuing members shall have power at any time and from time to time to appoint a person to fill a vacancy in the membership of the Trust arising pursuant to section 8 of this Act.

(3) A person appointed under subsection (2) of this section shall hold office until the end of the Conference next held after his appointment.

(4) The continuing members of the Trust shall not be under any obligation to exercise the power of appointment conferred by subsection (2) of this section unless the number of members falls below four.

10. (1) The Connexional Secretary of the Conference shall be the secretary of the Trust and shall have custody of all documents of title and other documents of the Trust.

Connexional Secretary to be secretary of the Trust.

(2) Any person having custody of any title deed, certificate of title, document or writing relating to property vested in the Trust pursuant to this Act shall deliver such title deed, certificate of title, document or writing to the Connexional Secretary of the Conference.

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

Common seal.

(2) The common seal of the Trust shall not be affixed to any instrument except in pursuance of a resolution passed at a meeting of members of the Trust.

(3) Every instrument to which the common seal is so affixed shall be signed by not less than two members of the Trust.

(4) A document which purports to be executed in accordance with the requirements of this section shall in all cases in favour of the Crown and the Registrar-General be *prima facie* evidence and in all cases in favour of every person who deals for value with the Trust be conclusive evidence that such document was executed in accordance with the requirements of this section.

12. (1) Any deed, instrument, contract or agreement relating to any property or matter which, if made or executed by a private person, 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.

Instruments to be executed under the common seal.

(2) A contract which if made between private persons would be by law required to be in writing signed by the parties to be charged therewith may be made on behalf of the Trust in writing signed by any person acting under its authority express or implied.

(3) A contract which if made between private persons would by law be valid although made by parol only (and not reduced into writing) may be made by parol on behalf of the Trust by any person acting under its authority express or implied.

(4) Any contract which is entered into, or any instrument, contract or agreement which is signed, in relation to any trust property shall, if the same is entered into or signed in accordance with the regulations, be deemed to have been entered into or signed with the express authority of the Trust.

Trust may empower person to act as agent.

13. (1) The Trust may by writing under its common seal expressly empower any person in respect of any specified matter as its agent or attorney to execute any deed, instrument, contract or agreement on its behalf.

(2) Any deed signed by such an agent or attorney on behalf of the Trust and under his seal or under the appropriate official seal of the Trust shall bind the Trust and have the same effect as if it were under its common seal.

Property held on the Trusts of the Model Deed to vest in the Trust.

14. Subject to this Act, all real and personal property situate in South Australia which is at the commencement of this Act held upon the trusts of the Model Deed shall without any conveyance or transfer vest in the Trust freed from the provisions and trusts of the Model Deed.

Land held for the Church to vest in the Trust.

15. Subject to this Act, all land which is situate in South Australia and which at the commencement of this Act is held by any person or persons for the Church shall without any conveyance or transfer vest in the Trust.

Payment of moneys into the General Fund.

16. The Trust may receive and hold in the General Fund moneys from any Department, College, Property Board, Circuit or other institution of the Church or from any person or persons or other sources on such terms and subject to such conditions (if any) as to the payment of interest or otherwise as may from time to time be determined by the Trust.

Administration of the General Fund.

17. The Trust shall hold, manage, administer and otherwise deal with the General Fund subject to the control and in accordance with the directions of the Conference.

18. Notwithstanding the provisions of section 15 of this Act, nothing contained therein shall cause to vest in the Trust any lands the property of Prince Alfred College, Methodist Ladies College or The Spicer Cottages Trust or the property of any association of the Church incorporated, whether before or after the passing of this Act, under the provisions of the Associations Incorporation Act, 1956.

Certain lands not to vest in the Trust.

19. Except in relation to the trusts of the Model Deed, the real or personal property (as the case may be) referred to in sections 14 and 15 of this Act shall vest, subject to—

Property to vest subject to any special trusts.

- (a) any special trusts upon which the same may be held;
- (b) any reservation, mortgage, charge, encumbrance, lien or lease affecting the property;
- and
- (c) any resulting trust or any trust over the property in favour of a donor or any person or corporation other than the Church.

20. (1) Subject to this Act, whenever by any will, deed or other instrument any land situate in South Australia—

Certain wills, deeds, etc., to take effect as if Trust named therein as devisee donee or beneficiary.

- (a) is devised, given, or granted to the Church;
- (b) is devised, given, granted, released, conveyed or appointed or is declared or directed to be held upon trust for or for the benefit of the Church;
- (c) is recoverable by the Church or any person on behalf of the Church;
- or
- (d) is devised, given, granted, released, conveyed or appointed or is declared or directed to be held for or upon trust for the religious, social, educational or charitable work of the Church,

that will, deed or instrument shall be construed and operate and take effect as though the Trust had been named therein as the devisee, donee or beneficiary.

(2) All such land shall be held and dealt with by the Trust subject to the provisions of this Act and the regulations and subject to the trusts concerning the land declared in the will, deed or other instrument insofar as those trusts are capable of taking effect.

Trust to hold
property on
behalf of the
Church.

21. (1) The Trust shall hold the trust property on behalf of the Church and shall hold, manage, administer and otherwise deal with the same in accordance with this Act and the regulations and subject to the control and directions of the Conference.

(2) Subject to subsection (1) of this section, the Trust may demise the trust property for any term (whether upon building leases or other leases or tenancies), borrow moneys on the security of the trust property, and give easements over, alienate, exchange, partition or sell the trust property as fully and effectually as if the Trust were the beneficial owner thereof.

Trust to have
power to act
in relation to
resumption,
etc., of
property vested
in it.

22. The Trust shall, subject to any regulation or any direction from the Conference, have full power to act in relation to the exchange, dedication or resumption of any property vested in it under this Act and to make claims for compensation in respect of the same and agree to and settle such claims for such considerations and on and subject to such terms and conditions as may appear advisable to it.

Regulations.

23. (1) For the purposes of regulating or controlling any matter which by virtue of this Act it is empowered to regulate or control, the Conference may, with the approval of the General Conference of the Church, make regulations and may revoke or amend those regulations.

(2) A certificate signed by the President of the Conference certifying that any regulation or regulations attached to such certificate is a regulation or are regulations made by the Conference pursuant to this Act and in force on a day specified in the certificate, shall for all purposes be conclusive evidence that the regulation or regulations was or were duly made and was or were in force on that day.

Rights of
trustees, etc.,
to vest in
Trust.

24. Any rights (including choses in action) arising out of contract or tort relating in any way to real and personal property which was immediately prior to the commencement of this Act vested in any trustees pursuant to the Model Deed or in any other person or persons divested of property by this Act and which relate to that property are hereby vested in the Trust and may be enforced by it.

Receipt for
moneys
received by
the Trust.

25. A receipt for moneys paid to the Trust shall exonerate the mortgagee, purchaser or other person by or on whose behalf the moneys are so paid from any liability to see to the application thereof and from any liability, loss, mis-application 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 purporting to be duly authorized for the purpose by the Trust or two members thereof.

26. No purchaser, mortgagee, lessee or other person dealing with the Trust and neither the Registrar-General nor any other person registering or certifying title shall, upon any sale, exchange, mortgage, lease or other dealing purporting to be entered into by the Trust, be concerned to see or inquire into the necessity for such a transaction or the propriety thereof or the mode of effectuating the same or to inquire whether that sale, exchange, mortgage, lease or other dealing is in accordance with this Act or the regulations or the directions of the Conference or is prohibited by any subsisting trust and such a person shall not be affected by notice that the exercise of the power is unauthorized, irregular or improper.

Persons dealing with the Trust not required to inquire into propriety of Trust's actions.

27. Nothing that is contained in or may be done under this Act shall be deemed prejudicially to affect or to deprive any person of any right arising out of contract or tort and any such right which was at the time of the passing of this Act enforceable against any trustees under the Model Deed or against any other person or persons in respect of any property vested in the Trust pursuant to this Act may be enforced against the Trust.

Nothing in Act to deprive any person of any right arising out of contract or tort.

28. Each member of the Trust and any person exercising any powers or duties in relation to the trust property pursuant to this Act or pursuant to any regulation or direction of the Conference and the executors and administrators of that member or person shall be entitled to be indemnified out of the trust property against all expenses and liabilities incurred by that member or person in connection with the performance by him of those powers and duties.

Persons exercising powers or duties in relation to Trust property entitled to be indemnified against all expenses and liabilities.

29. (1) The Trust may bring or defend in its own name any legal proceedings and the service of any writ, statement of claim, summons or other legal process on the Trust may be effected by serving the document on—

Legal proceedings.

- (a) the President of the Conference;
- (b) the Connexional Secretary of the Conference;
- or

(c) any other person authorized by the President of the Conference to accept service of legal process.

(2) Legal proceedings for ejectment or eviction or otherwise relating to any trust property or to any contract or other matter arising out of the management or administration or development of any trust property may be brought in the name of the Trust or, in his own name on behalf of the Trust, by any person authorized so to do in accordance with the regulations of the Conference.

(3) In any action or proceeding affecting the rights or interests of the Church in respect of any property real or personal, the President of the Conference shall (if the Church or its members ought to be a party or parties as distinct from the Trust) represent the Church or the members thereof as plaintiff or as defendant as the case may require.

Registrar-
General to
give effect to
vesting.

30. (1) Where the Registrar-General is satisfied that land registered under the Real Property Act, 1886, as amended, has vested in the Trust by virtue of this Act he shall without fee give effect in the register book to that vesting by registering the Trust as proprietor of that land.

(2) A certificate, duly signed by the Connexional Secretary of the Conference, that any property or land described in the certificate was, at the commencement of this Act, held on the trusts of the Model Deed or that any land is, or was at the commencement of this Act, held by any person or persons for the Church, shall be *prima facie* evidence that the property or land is or was so held in any action suit or other proceeding, whether civil or criminal and for the purpose of any dealing or application relating to any land which comes before the Registrar-General, including any application to the Registrar-General that any land be registered in the name of the Trust pursuant to the provisions of the Real Property Act, 1886, as amended, and the Registrar-General on receipt of such a certificate shall not be bound to inquire further as to the trusts upon which the land described in the certificate is held.

Co-operation
with other
Churches.

31. 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 any other denomination, or any congregation or activity thereof, involving the use of any land vested in the Trust by virtue of this Act, then so long as the scheme of co-operation continues the Trust may permit such land to be used, managed and administered in connection with the scheme in such manner and upon such conditions as the Conference or any committee appointed by the Conference in that behalf may determine or prescribe and the

proceeds of the sale or mortgage of or any other dealing with that land 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 Conference or by such committee with the approval of the Trust.

32. The provisions of section 31 of this Act shall apply to and in regard to all land at any time held by the Trust save and except to the extent only that any such land be held subject to provisions expressly forbidding its use in any of the ways therein set forth and the fact that any such land be directed to be held on trust for Methodist worship or purposes shall not in itself be such a provision.

Section 31 not
to apply to
certain land.

33. The Conference may from time to time delegate to the Standing Committee of the Conference all or any of the authorities, powers and discretions vested in the Conference under and by virtue of this Act and the exercise by the Standing Committee of any of the authorities, powers and discretions so delegated shall be as valid and effectual as if such authorities, powers or discretions had been exercised by the Conference.

Delegation by
Conference to
Standing
Committee.

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

M. L. OLIPHANT, Governor