

Queensland

Bishopsbourne Estate and See Endowment Trusts Act 1898

Current as at 18 March 1996—revised version

Reprint note—

This reprint has been reformatted to reflect current drafting styles. This version was updated on 12 February 2014.

Information about this reprint

This reprint shows the legislation current as at the date on the cover and is authorised by the Parliamentary Counsel.

A new reprint of the legislation will be prepared by the Office of the Queensland Parliamentary Counsel when any change to the legislation takes effect. This change may be because a provision of the original legislation, or an amendment to it, commences or because a particular provision of the legislation expires or is repealed.

When a new reprint is prepared, this reprint will become a historical reprint. Also, if it is necessary to replace this reprint before a new reprint is prepared, for example, to include amendments with a retrospective commencement, an appropriate note would be included on the cover of the replacement reprint and on the copy of this reprint at www.legislation.qld.gov.au.

The endnotes to this reprint contain detailed information about the legislation and reprint. For example—

- The table of reprints endnote lists any previous reprints and, for this reprint, gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it.
- The list of legislation endnote gives historical information about the original legislation and the legislation which amended it. It also gives details of uncommenced amendments to this legislation. For information about possible amendments to the legislation by Bills introduced in Parliament, see the Queensland Legislation Current Annotations at www.legislation.qld.gov.au/Leg_Info/information.htm.
- The list of annotations endnote gives historical information at section level.

All Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints are not continued.



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Bishopsbourne Estate and See Endowment Trusts Act 1898

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Bishopsbourne Estate and See Endowment Trusts Act 1898

[reprinted as in force on 18 March 1996]

An Act to enable the Corporation of the Synod of the Diocese of Brisbane to apply any moneys vested in them upon the trusts of a certain indenture, dated 17 September 1872, in the repayment of any moneys owing upon the security of certain lands situated in the county of Stanley, parish of Enoggera; and also vested in the said corporation upon the trusts of the schedule of trusts to a certain nomination of trustees, dated 11 March 1872, and numbered 27135; and in the payment of certain moneys which have been, and of any moneys which may hereafter be, expended for the maintenance, conservation, insurance, or repair, of the buildings and improvements upon the said lands, and for other purposes

Preamble

By a nomination of trustees, dated 11 March 1872, and duly registered under the provisions of the *Real Property Act 1861* as no. 27135, Edward Wyndham Tufnell, then Bishop of the Church of England in the Diocese of Brisbane, being registered under the provisions of the *Real Property Act 1861* as proprietor of an estate in fee simple in certain lands situated in the county of Stanley and parish of North Brisbane, and being the whole of the lands comprised in certificates of title nos. 373 and 374, register book volume 5, folios 196 and 197 respectively (which lands are called the *Bishopsbourne Estate*), thereby transferred all his estate or interest in the Bishopsbourne Estate to the Corporation of the Synod of the Diocese of Brisbane, a body corporate, theretofore duly constituted by letters patent dated 2 November 1870, and issued under the provisions of the *Religious Educational and*

- Charitable Institutions Act 1861 (called the **old corporation**), as trustees of the same.
- 2 By the schedule of trusts to the said nomination of trustees it was agreed that the Bishopsbourne Estate should be held by the old corporation upon the trusts following—
 - (a) in perpetual trust for the use, benefit, and enjoyment of the Bishop of Brisbane and his successors;
 - (b) in furtherance of that object in trust for the said the Right Reverend Edward Wyndham Tufnell, Bishop of Brisbane, and his assigns, during his life if he so long continued to be Bishop of Brisbane, and from and after his decease, or from and after the determination by other means of his office of Bishop, whichever should first happen, then during the vacancy of the See in trust for the uses and purposes of the old corporation, so as to be held until the day of the consecration of a successor to the said the Right Reverend Edward Wyndham Tufnell, then Bishop of Brisbane, and from and after the day of the consecration of such successor then in trust for such successor and his assigns during his life, if he so long continued to be Bishop of Brisbane;
 - (c) from and after his decease, or from and after the determination by other means of his office of Bishop, whichever should first happen, then during the vacancy of the See in trust for the uses and purposes of the old corporation, so to be held until the day of the consecration of the next succeeding Bishop of Brisbane;
 - (d) from and after the day of the consecration of such Bishop, in trust for him and his assigns during his life, if he so long continued to be Bishop of Brisbane;
 - (e) in like manner from and after the day of the consecration of each successive Bishop of Brisbane, in trust for each such Bishop and his assigns during his life, if he so long continued to be Bishop of Brisbane;
 - (f) in like manner during each successive vacancy of the See, in trust for the uses and purposes of the old

- corporation, so to be held until the day of the consecration of the next succeeding Bishop.
- 3 Since the date of the said nomination of trustees the Bishopsbourne Estate and the buildings erected thereon have always been and still are used for the purpose of providing a residence for the Bishop of Brisbane for the time being.
- By an indenture dated 17 September 1872, and made between the said Edward Wyndham Tufnell of the one part and the old corporation of the other part, the said Edward Wyndham Tufnell thereby gave, granted, made over, and transferred unto the old corporation, their successors, and assigns all that capital sum of £6000 therein mentioned, and all the estate, right, title, interest, claim, and demand whatsoever of the said Edward Wyndham Tufnell in and to the same and every part thereof; to hold the same unto and to the use of the old corporation, their successors and assigns upon trust to lay out and invest the said sum of £6000 in the name of the old corporation upon fixed deposit at interest in such bank in Queensland or in such of the government securities of Queensland or in such of the government securities of any of the other Australasian colonies, or upon such real securities in Queensland as the synod, by any resolution duly passed and recorded, should direct, and to stand possessed of such securities upon trust, to pay the interest and annual produce arising therefrom unto the Bishop of Brisbane for the time being, or as he might from time to time direct.
- 5 It was thereby declared that the old corporation might at any time or times call in, sell, transfer, and dispose of all or any of the aforesaid securities, and might lay out and invest the moneys to arise thereby upon other government or real securities of the nature above described, to be from time to time in like manner altered or varied, sold, transferred, and disposed of when and as often as occasion should require, and that all such new and other securities and the interest and annual produce thereof should be held upon such and the same trusts as were thereinbefore expressed and declared concerning the securities so called in, sold, transferred, and disposed of as aforesaid, and the interest and annual produce thereof.

- 6 By a bill of mortgage dated 25 March 1889, and registered under the provisions of the *Real Property Act 1861* and the *Real Property Act 1877*, as no. 203602, the old corporation mortgaged the Bishopsbourne Estate to Edward North Buxton for the purpose of securing the repayment, on 15 January 1892, of the principal sum of £3500 then lent and advanced by the said Edward North Buxton to the old corporation together with interest thereon at the rate of £4 per centum per annum payable half-yearly.
- 7 The said sum of £3500 so lent and advanced on the security of the said bill of mortgage was applied by the old corporation in the repayment, satisfaction, and discharge of moneys theretofore borrowed upon the security of the Bishopsbourne Estate, and expended in erecting additional buildings and making improvements upon the Bishopsbourne Estate suitable to the requirements of the Bishop of Brisbane for the time being.
- 8 There is now due and owing to the said Edward North Buxton, upon the security of the said bill of mortgage, the sum of £3500, or thereabouts.
- By the Anglican Church of Australia Act 1895, passed in the fifty-ninth year of the reign of Her Majesty, it was enacted (inter alia) that from and after the passing of that Act the old corporation should be dissolved, and that thereupon the synod of the Diocese of Brisbane (The Corporation) should be constituted a corporation under the provisions of that Act by the name of 'The Corporation of the Synod of the Diocese of Brisbane,' and that all property which at the time of the passing of that Act was vested in the old corporation should from and immediately after the passing of that Act and without any conveyance, transfer, assignment, or other assurance thereof, be vested in The Corporation, subject, however, such trusts. conditions. encumbrances as the same was subject to immediately before such vesting as aforesaid.
- 10 That all mortgages, liens, securities, bonds, guarantees, agreements, contracts, wills, deeds, documents, instruments, canons, and writings whatsoever relating to any property, or affecting any rights or interests therein, and giving a right to

or against any person, and in which the name of the old corporation appeared, and which were in existence at the time of the passing of that Act, should immediately upon the passing of that Act be read and construed as if the name of The Corporation appeared therein in the place of the name of the old corporation, and should operate and take effect accordingly.

- 11 The Corporation have expended moneys or incurred liabilities amounting in the aggregate to a sum of £279, or thereabouts, in and about the necessary maintenance and repair of the buildings and improvements so erected and made upon the Bishopsbourne Estate as aforesaid.
- 12 The trusts in and by the said hereinbefore recited indenture contained and declared concerning the said sum of £6000 and the investments for the time being representing the same are inadequate for the attainment of the objects intended to be secured thereby in manner most beneficial for that purpose.
- 13 It is desirable that The Corporation should have the powers hereinafter conferred upon them.

1 Interpretation

In this Act—

Bishopsbourne Estate means the lands mentioned and comprised in the said hereinbefore recited nomination of trustees.

corporation means the Corporation of the Synod of the Diocese of Brisbane constituted under the provisions of the *Anglican Church of Australia Act 1895*.

See Endowment Fund means the said sum of £6000 and all other moneys which are for the time being subject to the trusts of the said hereinbefore recited indenture of 17 September 1872.

- Power for the corporation to apply the See Endowment Fund and all moneys arising from the calling in, sale, or disposal of the investments representing the same in the repayment of any moneys owing on the security of the Bishopsbourne Estate, and in the payment of moneys expended or which may hereafter be expended on the maintenance, conservation, insurance, and repair of the buildings or improvements upon the Bishopsbourne Estate, and for other purposes
 - (1) Notwithstanding anything in the said hereinbefore recited indenture to the contrary contained the See Endowment Fund, and all moneys arising from the calling in, sale, transfer, or disposal of all or any of the properties and investments for the time being representing the same or any part thereof, may from time to time be applied by the corporation for all or any of the following purposes—
 - (a) in the payment of the costs, charges, and expenses of and attending the applying for, obtaining, and passing of this Act;
 - (b) in or towards the payment, satisfaction, and discharge of the said hereinbefore recited bill of mortgage, and of any moneys for the time being owing on the security thereof;

- (c) in or towards the payment and discharge of the said sum of £279 or other moneys expended or liabilities incurred by the corporation in and about the necessary maintenance and repair of the said buildings and improvements so erected and made upon the Bishopsbourne Estate as hereinbefore recited;
- (d) in or towards the payment of any moneys which may from time to time and at any time be required for the proper maintenance, conservation, insurance, or repair of the buildings or improvements for the time being erected or made upon the Bishopsbourne Estate.
- (2) However, unless and until the See Endowment Fund or the moneys arising from the calling in, sale, transfer, or disposal of the properties or investments for the time being representing the same are applied for the purposes hereby authorised, and so far as such application shall not extend, the same shall be held by the corporation upon the trusts, and with, under, and subject to the powers and provisions in and by the said hereinbefore recited indenture contained and declared concerning the same.

3 Short title

This Act may be cited as the *Bishopsbourne Estate and See Endowment Trusts Act 1898*.

Endnotes

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2 Key

Key to abbreviations in list of legislation and annotations

Key		Explanation	Key		Explanation
Key AIA amd amdt ch def div exp gaz hdg ins lap notfd num o in c om orig p para prec		Explanation Acts Interpretation Act 1954 amended amendment chapter definition division expires/expired gazette heading inserted lapsed notified numbered order in council omitted original page paragraph preceding	(prev) proc prov pt pubd R[X] RA reloc renum rep (retro) rv s sch sdiv SIA SIR SL sub		Explanation previously proclamation provision part published Reprint No. [X] Reprints Act 1992 relocated renumbered repealed retrospectively revised version section schedule subdivision Statutory Instruments Act 1992 Statutory Instruments Regulation 2012 subordinate legislation substituted
pres prev	=	present previous	unnum	=	unnumbered

3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the *Reprints Act 1992* used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email legislation.queries@oqpc.qld.gov.au.

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

Reprint No.	Amendments to	Effective	Reprint date
1	none	22 December 1898	18 March 1996
Current a		Amendments included none	Notes RA s 35

4 List of legislation

Bishopsbourne Estate and See Endowment Trusts Act 1898 62 Vic date of assent 22 December 1898 commenced on date of assent

5 Table of changed citations and remade laws

under the Reprints Act 1992 ss 21A and 22

Old	New	Reference provision
Church of England	Anglican Church of	Anglican Church of Australia
Act 1895	Australia Act 1895	Act 1977 s 4

6 Table of obsolete and redundant provisions

under the Reprints Act 1992 s 39

Omitted provision	Provision making omitted provision obsolete/redundant
definitions to be read in context	Acts Interpretation Act 1954 s 32A

7 Table of renumbered provisions

under the Reprints Act 1992 s 43 [Reprint No. 1]

Previous R	lenumbered as
Preamble	
1st unnum sentence from 'WHEREAS by a' to	
'trustees of the same'	
1st unnum para from 'AND by the Schedule' to	
'that is to say:—'	
2nd unnum sentence from 'In perpetual trust' to	
'and his successors'	2(a)
'to be Bishop of Brisbane'	2(0)
'succeeding Bishop of Brisbane'	
5th unnum sentence from 'And from and after' to	
'to be Bishop of Brisbane'	2(d)
6th unnum sentence from 'And in like manner' t	
'to be Bishop of Brisbane'	
2nd unnum para from 'And in like manner'	(0)
to 'next succeeding Bishop'	2(f)
3rd unnum para from 'And whereas since' to	()
'for the time being'	3
7th unnum sentence from 'And whereas by' to	
'time to time direct'	4
4th unnum para from 'And it was thereby' to	
'annual produce thereof'	5
5th unnum para from 'And whereas by' to	
'payable half-yearly'	6
6th unnum para from 'And whereas the' to	_
'for the time being'	7
7th unnum para from 'And whereas there' to	0
'or thereabouts'	8
8th unnum sentence from 'And whereas by' to	0
'such vesting as aforesaid'	9
'take effect accordingly'	10
8th unnum para from 'And whereas the' to	10
'Estate as aforesaid'	11
9th unnum para from 'And whereas the' to	11
'for that purpose'	12
10th unnum para from 'And it is desirable' to	2
'conferred upon them'	13
2, 1st sentence	2(1)
2(1)	
2(2)	

Endnotes

Previous	Renumbered as
	2(1)(c)
2(4)	

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