



Ann Street Presbyterian Church 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

Ann Street Presbyterian Church Act 1889

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Ann Street Presbyterian Church Act 1889

An Act to vest in new trustees the lands comprised in deeds of grant Nos. 2847, 2848 and 2849, being allotments 8, 9, 10 and 11 of section 26, parish of North Brisbane, and to enable the trustees for the time being thereof to sell, mortgage, or lease the same, and for other purposes

Preamble

WHEREAS in or about the year 1858 a certain congregation of persons called Presbyterians (which congregation is now known by the name of ‘the Ann Street Presbyterian Church’ and is hereinafter called *the said Church*), made application to the Government of the colony of New South Wales for a grant to them, for the purposes of the said Church, of the lands respectively comprised in the several deeds of grant hereinafter recited, which lands were then situated within that part of the territory of New South Wales known as the Moreton Bay District, and since erected into the separate colony of Queensland, and the said Government promised and agreed to grant the same to the said Church in accordance with the laws of the said colony.

And whereas by an Act of the Governor and Legislative Council of New South Wales, passed in the 8th year of His late Majesty King William IV, intituled ‘*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,*’ and by another Act of the said Governor and Legislative Council passed in the 4th year of Her present Majesty Queen Victoria, intituled ‘*An Act to Amend an Act intituled ‘An Act to Regulate the Temporal Affairs of the Presbyterian Churches and Chapels connected with the Church of Scotland in the Colony of New South Wales,’*’ certain powers, privileges, and advantages were conferred on the Synod of Australia in connection with the Established Church of Scotland,

and the ministers and congregations subject to the spiritual jurisdiction thereof.

And whereas by deed of grant under the hand of His Excellency Sir George Ferguson Bowen, G.C.M.G., then Captain-General and Governor-in-Chief of the said colony of Queensland, and sealed with the seal of the said colony, and dated 7 September 1861, and numbered 2847, and issued in pursuance and execution of the said promise and agreement of the said Government of New South Wales, all that allotment or parcel of land in the said colony, containing by admeasurement 1rd and 32p, situated in the county of Stanley, parish of North Brisbane and town of Brisbane, being allotments numbers 10 and 11 of section 26, and therein more particularly described, was granted to George Edmonstone, Daniel McAlpine, John Scott, Alexander Anderson, and James Bryden, and the survivors and survivor of them, and their and his heirs for ever, upon trust for the erection thereon of a church, under the superintendence of the said Synod of Australia, in conformity with the provisions of the Act first hereinbefore recited, so far as the same might apply, and for no other purpose whatsoever, subject, however, to such reservation unto Her Majesty, her heirs and successors, of all mines of gold, of silver, and of coal, as therein mentioned.

And whereas by another deed of grant under the hand of the said Sir George Ferguson Bowen and seal of the said colony, and also dated 7 September 1861, and numbered 2848, and issued in further pursuance of the said promise and agreement, all that allotment or parcel of land, in the said colony, containing by admeasurement 36p, more or less, situated in the said county of Stanley, parish of North Brisbane, and town of Brisbane, being allotment number 9 of section 26, and therein more particularly described, was granted to the said George Edmonstone, Daniel McAlpine, John Scott, Alexander Anderson, and James Bryden, and the survivors and survivor of them, and their and his heirs for ever, upon trust for the erection of a schoolhouse, under the superintendence of the said Synod of Australia, and for no other purpose whatsoever, subject, however, to such reservation unto Her Majesty, her heirs and successors, of all mines of gold and silver and of coal as therein mentioned.

And whereas by another deed of grant, under the hand of the said Sir George Ferguson Bowen and the seal of the said colony, and also dated 7 September 1861, and numbered 2849, and issued in further pursuance of the said promise and agreement, all that allotment or parcel of land in the said colony, containing by admeasurement 36p, more or less, situated in the said county of Stanley, parish of North Brisbane, and City of Brisbane, being allotment number 8 of section 26, and therein more particularly described, was granted unto the said George Edmonstone, Daniel McAlpine, John Scott, Alexander Anderson, and James Bryden, and the survivors and survivor of them, and their and his heirs for ever upon trust, for the appropriation thereof as the site of a dwelling house, garden, and other appurtenances for the clergyman duly appointed to officiate in the Church under the superintendence of the said Synod of Australia, erected at Brisbane and known as _____, in conformity with the provisions of the Act first hereinbefore recited, so far as the same might apply, and for no other purposes whatsoever, subject, however, to such reservation unto Her Majesty, her heirs and successors, of all mines of gold, of silver, and of coal as therein mentioned.

And whereas the said Church has not in fact ever been subject to the spiritual jurisdiction of the said synod, and now forms a part of and is subject to the jurisdiction of the Presbyterian Church of Queensland.

And whereas the said several deeds of grant were respectively framed in their present form under the belief on the part of the officers of the Government of Queensland that the said Church was subject to the spiritual jurisdiction of the said synod, but the intention of the said Government was that the said lands should be granted to the said trustees for the purposes of the said Church.

And whereas the said George Edmonstone died on or about 23 February 1883.

And whereas the said Daniel McAlpine is desirous of being discharged from his office of trustee.

And whereas the said John Scott has for some time resided out of Brisbane and has ceased to be a member of the said Church.

And whereas the said James Bryden has ceased to be a member of the said Church.

And whereas the said Church is desirous of appointing William Jones, John McLennan, Alexander Muir, and Thomas Cochrane, all of Brisbane, in the said colony, and all respectively members of the said Church, to be trustees of the said lands in place of the said George Edmonstone, deceased, Daniel McAlpine, John Scott, and James Bryden, and together with the said Alexander Anderson, but doubts have arisen as to whether such trustees can be duly appointed by the said Church as aforesaid.

And whereas prior to the issue of the said several deeds of grant, the said Church had purchased other land and erected a church and minister's dwelling house thereon, by reason whereof the said lands were no longer required for the purposes for which they were originally promised to be granted as aforesaid, and the said lands have since been used and occupied for other purposes than those expressly limited and appointed in and by the said several deeds of grant, but the income and profits thereof have always been appropriated for the purposes of the said Church.

And whereas it has now become expedient to erect a new Church, schoolhouse, and minister's dwelling house suitable to the present requirements of the said Church, but the said lands are not conveniently situated as a site for the same.

And whereas it is desirable under the circumstances aforesaid, and for the purpose of rectifying such mistakes in the said several deeds of grant, and of removing such doubts as aforesaid, that the said lands should be vested in the said Alexander Anderson, William Jones, John McLennan, Alexander Muir, and Thomas Cochrane, and their successors, upon trust for the purposes of the said Church, but otherwise freed and absolutely discharged from the trusts limited and appointed in and by the said several deeds of grant, and that the trustees for the time being of the said lands should have the powers hereinafter conferred upon them, and that provision should be made for creating a succession of properly qualified trustees according to the usages and regulations of the said Church.

1 Lands vested in new trustees

From and after the passing of this Act all the said lands described in the said several deeds of grant, and thereby

vested in the said George Edmonstone, deceased, Daniel McAlpine, John Scott, Alexander Anderson, and James Bryden, shall be and the same are hereby vested in the said Alexander Anderson, William Jones, John McLennan, Alexander Muir, and Thomas Cochrane, for all the estate therein of the said Daniel McAlpine, John Scott, Alexander Anderson, and James Bryden, upon trust for the purposes of the said Church, but otherwise freed and absolutely discharged from the trusts hereinbefore recited and respectively contained and declared in and by the said several deeds of grant.

2 Meaning of *trustees*

In this Act—

trustees means said Alexander Anderson, William Jones, John McLennan, Alexander Muir, and Thomas Cochrane, and their successors in office who for the time being are trustees for the purposes of this Act.

3 Trustees may sell or mortgage

From and after the passing of this Act it shall be lawful for the trustees in whom the said lands for the time being are vested to sell or mortgage the whole or any portion or portions of the said lands, with the consent of the Presbyterian Church of Queensland in General Assembly constituted, hereinafter styled the *corporation*.

4 How sales may be made—trustees may convey

- (1) Every sale made in pursuance of the powers aforesaid may be in 1 or more lot or lots, and either by public auction or private contract, and upon payment of the purchase money to the trustees so selling as aforesaid they shall convey the land so sold to the purchaser or purchasers thereof, and such conveyance shall be valid and effectual in law and equity for all purposes whatsoever.

- (2) However, such land shall be first offered for sale by public auction, and if not sold, any lot may at any time within 3 months thereafter be sold by private contract at a price not less than the highest price offered for the same at the auction, or if no price was offered, then not less than the reserve subject to which the same was so offered.

5 Mortgage may contain power of sale etc.

Every mortgage made or given in pursuance of the powers aforesaid may contain a power of sale by the mortgagee, the mortgagee's executors, administrators, or assigns, in case of default in payment of any principal or interest moneys secured by such mortgage, or of breach of any of the conditions therein contained.

6 Trustees may lease

From and after the passing of this Act it shall be lawful for the trustees in whom the said lands shall for the time being be vested, to lease the said lands, or any portion or portions thereof, for any term not exceeding 21 years, at the best rent that can be obtained for the same without any premium, and otherwise upon such terms and conditions as they may deem proper.

7 Leases may be surrendered

Every lease granted in pursuance of the powers aforesaid may be surrendered, and a new lease of the whole or any portion or portions of the property comprised in any surrendered lease may be granted subject to the provisions of this Act with regard to the granting of a lease.

8 Application of proceeds of sale, mortgage etc.

- (1) All moneys to arise from any sale or mortgage made in pursuance of the powers aforesaid shall be expended in the following order so far as the same shall extend, that is to say in payment of—

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- (a) the reasonable expenses of and attending such sale or mortgage;
 - (b) the cost of applying for, obtaining, and passing this Act;
 - (c) the purchase of another site, or other sites, in a more convenient situation;
 - (d) the cost of the erection of a church on some part of the said land so purchased as aforesaid;
 - (e) the cost of all necessary fittings and furniture for the said church;
 - (f) the cost of the erection of a schoolhouse on the land so purchased;
 - (g) the cost of all necessary fittings and furniture for the said schoolhouse;
 - (h) the cost of the erection of a dwelling house for the minister duly appointed in accordance with the rules and practice of the Presbyterian Church of Queensland to officiate in the said church;
 - (i) the cost of all necessary fittings and furniture for the said dwelling house.
- (2) If there shall thereafter be any surplus the said trustees shall transfer the same to the said corporation and such surplus shall be applied by the said corporation to such uses and purposes and in such manner for promoting the spiritual and temporal welfare of the said Church as the said Church shall in its discretion think fit to direct in accordance with the rules and practice thereof.

9 Application of income and profits

The income and profits of the said lands until any such sale as aforesaid shall be applied by the trustees to and for such uses and purposes of the said Church as the said Church shall in its discretion think fit to direct by any direction made in accordance with the rules and practice thereof.

10 Appropriation of site for church etc.

- (1) The trustees shall cause any site or sites to be by them purchased as aforesaid to be forthwith conveyed to and become vested in the said corporation, to be held by the said corporation, upon trust for the said Church, and to be transferred, mortgaged, leased, or otherwise dealt with for the benefit of the said Church, as the said Church shall from time to time direct, subject to any rules or regulations of the said corporation in force, and which for the time being are applicable thereto.
- (2) And all moneys received or raised by or from any sale, mortgage, or lease, shall be applied for such purposes and generally in such manner for the benefit of the said Church as shall be prescribed by any rules of the said corporation, as applicable to all lands held by the said corporation upon trust for particular congregations.

11 How new trustees are to be appointed

- (1) Whenever and as often as the trustees, or any of them, shall die, or be desirous of being discharged from, or refuse or become incapable to act in, the said trust, or shall leave the State, or cease to be a member of the said Church, then, and in every such case, another person or other persons shall be appointed as trustees or trustee in the place of the trustees or trustee so dying, desiring to be discharged, or refusing or becoming incapable to act, or leaving the State, or ceasing to be a member of the said Church as aforesaid, jointly with the surviving or continuing trustees or trustee.
- (2) Every such appointment shall be made in the manner prescribed by the rules of the said Presbyterian Church of Queensland, in force for the time being, relating to the appointment of trustees of Church property.

12 Trustees' receipts to be good discharges

The receipts in writing of the trustees exercising any of the powers conferred by sections 3 or 6 for any moneys paid or advanced to them in respect of any sale, mortgage, or lease,

made, given, or granted in pursuance of the powers aforesaid, shall be a good and sufficient discharge for such moneys to the person or persons paying or advancing the same, and the person or persons shall not be bound or required to see to the application nor be affected by the misapplication or non-application thereof.

13 Short title

This Act may be cited as the *Ann Street Presbyterian Church Act 1889*.