



Bishopsbourne Estate and See Endowment Trusts Act 1898

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Reprint note—

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Queensland

Bishopsbourne Estate and See Endowment Trusts Act 1898

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Bishopsbourne Estate and See Endowment Trusts Act 1898

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

- 1 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.
- 4 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.
- 9 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, to such trusts, conditions, charges, and 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.

2 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*.