ANNO SEXAGESIMO SECUNDO ET SEXAGESIMO TERTIO

VICTORIÆ REGINÆ.

A.D. 1899.

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Private Act.

An Act to regulate the Temporal Affairs of the Presbyterian Church of South Australia, and to confer certain Powers on Trustees and others in relation to Properties held in Trust for or in connection with the said Church, and for other purposes.

[Assented to, December 21st, 1899.]

WHEREAS prior to the month of May, one thousand eight hundred and sixty-five, there existed in the Province of South Australia three sections of the Presbyterian Church known as the Church of Scotland, the United Presbyterian Church, and the Free Church of Scotland: And whereas on the tenth day of May, one thousand eight hundred and sixty-five, the aforesaid three sections of the Presbyterian Church became united, and formed themselves into one Church, under the designation of "The Presbyterian Church of South Australia": And whereas prior to the said union the several congregations of the said three sections of the Presbyterian Church were seized and possessed of real and personal estate, and such real and personal estate was vested in trustees upon trust for the several congregations of the aforesaid three sections of the Presbyterian Church, and trustees were and are seized of hereditaments upon trust for congregations then or to be formed in connection with or under the spiritual and ecclesiastical superintendence of and for other purposes in connection with each of the said sections of the said Presbyterian Church: And whereas it is desirable and expedient that all the real and personal estate which prior to the said union was held upon the respective trusts declared
declared respecting the same should now be held upon trust for the said Presbyterian Church of South Australia and the congregations thereof, as the case may be, and subject only to the jurisdiction of its Supreme Court and other judicatories, and that the other matters and things herein contained should be declared and set forth: And whereas by an indenture made the seventeenth day of March, one thousand eight hundred and seventy-five, between John Davidson, therein described of the one part, and John Gordon, John Robertson, Thomas Fergus McCoull, Thomas Freebairn Monteith, and Henry Brown all therein described of the other part, the trusts were declared of "A fund in aid of ministers of the Presbyterian Church of South Australia who may be aged or infirm" (hereinafter called the "said fund"), and provision therein made for the administration of the said fund: And whereas in order to increase the said fund and to further promote its efficiency and usefulness it is desired to revoke the hereinbefore recited indenture, and the trusts and provisions therein declared and contained, and to make new rules for the regulation and administration of the said fund: And whereas the rules contained and set forth in the Schedule hereto have been approved of by the General Assembly of the Presbyterian Church of South Australia, Incorporated, hereinafter called "the said Assembly," and by the present trustees of the said fund, and it is desired to give them force and render them operative in lieu of the trusts and provisions of the hereinbefore recited indenture: And whereas negotiations are now proceeding for an union of the Presbyterian Churches of New South Wales, Victoria, Queensland, South Australia, and Tasmania—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows:

1. All the members, office-bearers, and congregations from time to time forming The Presbyterian Church of South Australia, and under the spiritual superintendence of the judicatories of the same, shall be recognised as The Presbyterian Church of South Australia, hereinafter called "the said church," unconnected with any other church or ecclesiastical judicature whatever, and all lands, hereditaments, estates, and temporal privileges, and all equitable rights belonging to any of the aforesaid sections of the Presbyterian Church and the congregations thereof, or to any such other congregation or congregations as may be formed in time to come under the spiritual superintendence of the said church and the judicatories thereof, shall belong to the said church and to the several congregations thereof as fully and effectually to all intents and purposes as at the time of the aforesaid union or of the coming into operation of this Act such lands, hereditaments, estates, privileges, and equitable rights were vested in or belonged to the aforesaid sections of the Presbyterian Church and the congregations thereof respectively, and shall, subject to the provisions of this Act, be administered in terms and according to the provisions of the deeds or instruments under which the same lands,
lands, hereditaments, estates, temporal privileges, and equitable rights have accrued to the said sections of the Presbyterian Church and congregations, subject to the decisions and judicatories of the said church only, anything in such deeds or instruments to the contrary notwithstanding.

2. It shall be lawful for trustees of lands belonging to congregations of the said church, or for trustees of vacant lands belonging to the said church or of any congregation thereof to be hereafter formed, and for the said Assembly (in cases where it is a trustee), from time to time to sell, mortgage, or lease the said lands of which they are trustees, or any part or parts thereof, upon such terms and conditions, and with such powers and subject to such covenants and restrictions in all respects as the said Assembly may from time to time authorise and determine, notwithstanding the deeds or instruments declaring such trusts shall expressly forbid such sale, mortgage, or lease: Provided that where lands are held upon trust for any presently existing congregation, the consent of such congregation or such majority thereof, not being less than two-thirds thereof for the time being, as shall be personally present at a public meeting of the said congregation, called and held pursuant to notice on that behalf duly given from the pulpit on at least two consecutive Sundays immediately preceding the holding of such meeting, and also in three successive numbers of the Government Gazette, shall be first obtained to such sale, mortgage, or lease.

3. It shall be lawful for any incorporated congregation of the said church, and for the trustees of any congregation of the said church, or of any property held upon trust for the said church, or of any congregation thereof now or hereafter to be formed, to revoke any existing trusts, and hold the said lands and hereditaments or other property the subject of such trusts upon the trusts set forth and declared in the model trust deed authorised and adopted by the said Assembly, or any amendment or amendments of such model trust deed, or upon such other trusts as the said Assembly may approve. A copy of the said model trust deed, or as the same may be amended by the said Assembly, certified under the hand of the Moderator for the time being of the said Assembly to be a copy, shall be deposited in the General Registry Office of the said province within three calendar months after the first meeting of the said Assembly which shall be held after the coming into operation of this Act. A copy of any amendment or amendments of the said model trust deed which may be made after such deposit as aforesaid, certified as aforesaid, shall be deposited in the said General Registry Office within one calendar month after such amendment or amendments shall have been approved by the said Assembly.

4. The hereinbefore recited indenture of the seventeenth day of March, one thousand eight hundred and seventy-five, and the trusts and provisions therein declared and contained, is and are hereby revoked, annulled, and made void. The trustees of the said indenture
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ture shall forthwith after the coming into operation of this Act pay
and transfer all the moneys and securities held by them under the
said indenture and in connection with the said fund to the said
Assembly, and, upon such payment and transfer, shall be absolutely
freed and discharged from the trusts of the said indenture, and
from all liabilities, duties, and obligations thereunder: Provided
that nothing herein contained shall take away, alter, or prejudice
the rights of any present beneficiary of the said fund or under the
said indenture, nor any existing rights.

5. The rules contained and set forth in the Schedule hereto shall
forthwith after the coming into operation of this Act be the rules for
the regulation and administration of the said fund.

6. Adherence to the basis of union and formula of the said
church, or, in the event of the Presbyterian Churches of Austral-
asia and Tasmania, or any of them, becoming united, and the said
church forming part of such union, then adherence to the basis of
union formula and articles of agreement of such united church, shall
be required as entitling the said church and the congregations and
office-bearers of the same respectively to continued possession in
all time coming of the said lands, hereditaments, estates, temporal
privileges, and equitable rights whatsoever, and such as in time
coming may accrue to the said church or to all or any of the
several congregations and office bearers respectively forming the
said church or such united church, as the case may be.

7. It shall be lawful for the said Assembly at any time to effect
an union of the said church with any one or more of the Presby-
terian Churches in any one or more of the Australasian colonies
and Tasmania, upon such terms and conditions as the said Assembly
shall determine, and notice of the consummation of such union
published in the South Australian Government Gazette, and purport-
ing to be signed by the Moderator of the said Assembly, shall be
prima facie evidence of such union having been effected, and of
all other facts therein stated.

8. This Act may be cited as "The Presbyterian Church of South
Australia Act."

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

TENNYSON, Governor.
THE SCHEDULE HEREBEFOR'[ REFERRED TO.

Preamble.—Name and design of the fund.

The Presbyterian Church of South Australia has a fund called "The Aged and Infirm Ministers' Fund." It is instituted for the benefit of ministers incapacitated by old age or confirmed ill health who have connected themselves with the fund and maintained their connection in terms of the following rules.

Interpretation clause.

1. The term "minister" includes missionaries to the heathen. The term "contributor" means a minister or missionary who contributes to the fund by paying the rates prescribed under these rules. The term "beneficiary" means either annuitant or recipient of temporary aid. The term "General Assembly" or "Assembly" means "The Supreme Court of the Presbyterian Church of South Australia," "This Church" means "Presbyterian Church of South Australia."

Capital—how held, how invested.

2. The capital is held by the General Assembly of the Presbyterian Church of South Australia, Incorporated, and is invested by the Committee of Investment and Finance.

Capital—how derived.

3. The capital consists of the sum of Two Thousand Five Hundred and Fifteen Pounds Six Shillings and Four Pence (£2,515 6s. 4d.), as at the sixteenth day of August, one thousand eight hundred and ninety-nine, and all other moneys that come into the hands of the Assembly for the purposes of the capital fund as donations, bequests, additions, entrance rates, unapplied income, or any other source.

Annual rate.—Entrance rate.—When due.—Failure to pay.

4. All ministers at present in office in a settled charge shall pay an annual rate of Two Pounds; and all ministers who are inducted after the first day of April, one thousand nine hundred, shall, before being admitted as contributors, submit to be examined by a medical practitioner appointed by the Committee, and, if approved, shall, in addition to the annual rate, pay an entrance rate during the first five years in equal yearly instalments, as follows:—At the age of twenty-five or under, Twenty-Five Pounds, and Two Pounds additional for each year above twenty-five till the age of fifty be reached. After fifty a minister can only be admitted on such terms as the Assembly may decide. All rates are payable on the first day of April preceding induction, and must be paid within one month after induction. If not so paid ten per centum is charged on all arrears for any portion of time over one month. Should any contributor fail to pay his rates and interest on arrears for two years he forfeits all claim to benefit from the fund, but may be restored on such terms as the Assembly may determine. No minister shall be admitted as a beneficiary unless he is a contributor. If any minister refuses to become a contributor when called upon by the committee his refusal is reported to his presbytery: Provided that nothing herein shall prejudice existing annuitants or any minister who at the date of the passing of these rules shall have been a minister of the Church for at least ten years from participating in the fund as established by the trust deed of one thousand eight hundred and seventy-five, nor any existing rights.

Income —how derived.—Alone available.

5. The income is derived from interest on invested capital, annual rates, church collections, and such other means as the Committee see fit to adopt; and, after all expenses of administration have been paid, is available for the payment of permanent or temporary aid to aged or infirm ministers. Any excess of income above what is required for such aid in each year is added to capital. No aid shall at any time be given out of the capital.

Committee of management.—Quorum.—Annual report.

6. The affairs of the fund shall be administered by a committee of not less than seven persons (three of whom shall form a quorum), to be appointed annually by the General Assembly.
General Assembly; such Committee to be subject to the control of the General Assembly, and to furnish an annual report of the state of the fund and of matters incident thereto.

7. The Committee of Investment and Finance, to whom the investment of the capital is entrusted, shall, whenever requested by the convener of the Committee of this fund, certify to him in writing the amount of the capital and of the income and the nature of the investments.

Applications.

8. A contributor seeking to become a beneficiary applies in writing to the Committee through his presbytery. The Committee, after due consideration and inquiry, forward their decision to the General Assembly for final approval. In the case of missionaries, applications pass through the Foreign Missions Committee to the presbytery of Adelaide.

Medical referee.

9. A contributor applying to become an annuitant shall, if called upon to do so, produce a certificate from a medical practitioner appointed by the Committee of his being permanently incapacitated for the discharge of his official duties.

Treasurer to be notified of new beneficiaries.

10. When a contributor has been admitted as a beneficiary, the convener shall in writing notify the Church treasurer thereof and of the amount from time to time payable. A beneficiary ceases to be a contributor.

Amount of annuity.—When income insufficient.—Increment.

11. The annuity is Fifty Pounds per annum, but should the income fall short of the amount required it is divided among the annuitants _pro rata_. As soon as the income in the judgment of the Assembly warrants it, an increment of a given amount, to be from time to time determined, shall be allowed to annuitants for each year of service over seven years.

No annuity till after seven years' service.

12. No contributor shall be awarded an annuity unless he has served the Church for seven years in a settled charge or charges.

Return of rates.

13. A contributor who becomes permanently infirm before serving this Church for seven years in a settled charge or charges receives back all he has paid into the fund, without interest, and has no further claim.

Contributor joining another Presbyterian Church before seven years' service.

14. A contributor placing himself under the jurisdiction of another Presbyterian Church before he has served this Church for seven years receives back three-fourths of the amount of rates he has paid, without interest, and has no further claim.

After seven years' service.

15. A contributor placing himself under the jurisdiction of any other Presbyterian Church may, if he has served this Church for seven years in a settled charge or charges, continue his connection with the fund by paying the annual rate; but the increment to which he may be entitled under Rule 11 shall be allowed only for the years during which he has served this Church. If he desires to relinquish his claim upon the fund he shall receive back the amount of rates he has paid, without interest.

16. A contributor, whose ministerial connection with this Church ceases in any other way than by transference to the service of another Presbyterian Church, has no claim whatever upon the fund.

Reduction or withdrawal of annuity.

17. The General Assembly may reduce the amount of the annuity, or withdraw the annuity, if the recipient _a_ shall undertake any other ministerial charge or _b_ enter upon or derive pecuniary benefit from any secular occupation, or _c_ cease to be subject to the discipline of this Church, or _d_ by deposition be deprived of any office in this Church, or _e_ be suspended from any such office or from the privileges of full communion with this Church, or _f_ continue out of the colony for eighteen months without having received the permission of the Assembly.

Notice of reduction, &c., to be sent by Moderator.

18. When an annuity has been reduced or withdrawn the Moderator of the General Assembly shall by writing notify the Committee that such reduction or withdrawal has been made.
Temporary aid.

19. When the income exceeds the amount paid in annuities in any one year, the Committee may out of such excess of income award temporary aid in cases of pressing necessity to any minister not being an annuitant. Temporary aid consists of the payment of a single sum of money awarded at any one time for some particular occasion.

No claim against officials.

20. Contributors or beneficiaries have no claim against the officials of the Assembly personally; nor against the Committee of Management; nor against the Committee of Investment and Finance, individually or collectively; nor is there any personal liability incurred in administering the fund.

Alterations.

21. Except as to the proviso to Rule 4, the General Assembly has the power of making any changes in these rules which it may think meet.