

New Zealand.



ANALYSIS.

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1885, No. 33.

Title. AN ACT to define the position of the Presbyterian Church of New Zealand, and to vest certain Properties held for the Purposes of or in Connection with such Church in Trustees, and to provide for the Management of such Properties.

[14th September, 1885.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act is "The Presbyterian Church Property Act, 1885."

Application of Act.

2. This Act shall only be in force and have general application in the Provincial Districts of Auckland, Hawke's Bay, Taranaki, Wellington, Nelson, Marlborough, Canterbury, and Westland. But it shall also have application in all other parts of New Zealand in

relation to any property which the Presbyterian Church may now have or at any time acquire in such other parts.

3. In this Act, if not inconsistent with the context,—

Interpretation.

“Congregation” means the body of persons now or hereafter from time to time in existence worshipping in connection with, and under the spiritual jurisdiction of, the General Assembly of the Presbyterian Church of New Zealand.

“General Assembly” means the General Assembly of the Presbyterian Church as herein defined.

“Managers” means the Deacons’ Court or committee of persons or other body or authority, however designated, elected or appointed in accordance with the usages and practice of the Presbyterian Church, in whom is vested the control and management of the temporal affairs of the congregation of any church, and includes the minister and elders of such congregation *ex officio*.

“Minister” means a minister or ministers of the congregation in relation to which the expression is used.

“Presbyterian Church” means the Presbyterian Church of New Zealand as recognized by this Act.

“Presbytery” means the ecclesiastical body of the said Church having authority over the congregations within the bounds assigned to it by the General Assembly.

“Property” means real and personal property of every kind, and every interest therein, and includes money.

4. The Presbyterian Church now existing within the provincial districts aforesaid shall, as from the twenty-first day of September, one thousand eight hundred and seventy-five, be deemed to have been and shall henceforth be known as “The Presbyterian Church of New Zealand;” and wherever, in any Act of Parliament now in force, reference is made to the Presbyterian Church of New Zealand, such reference shall extend and apply to the Presbyterian Church herein mentioned and recognized.

Presbyterian Church of New Zealand recognized as from 21st September, 1875.

5. “The New Zealand Presbyterian Church Act, 1875,” and “The New Zealand Presbyterian Church Act, 1875 (No. 2),” are hereby repealed.

Repeal.

6. The General Assembly, at a general meeting held in accordance with the usages of the Presbyterian Church, shall elect not less than seven nor more than thirteen persons, being members of the said Church, of full age and good fame, and resident in New Zealand, to be trustees for the purposes of this Act, and who, with their successors, are hereinafter referred to as “the trustees.”

Election of trustees.

7. The first election of trustees shall be held at the first general meeting of the General Assembly, to be held not later than twelve months after the passing of this Act.

First election when held.

At least two days’ notice of such election shall be given in the General Assembly, and the trustees shall be elected at a meeting at which not less than twenty-five members shall be present.

8. The declaration of the Moderator for the time being of the General Assembly in writing, in the form or to the effect thereof, set forth in the First Schedule hereto, countersigned by the Clerk of the General Assembly, stating the names of the persons who have been

Declaration giving names of trustees to be filed in Supreme Court and to be evidence.

so elected shall (without payment of any fee) be filed of record in the office of the Registrar of the Supreme Court at Wellington within thirty days after such election shall have been made; and every such declaration so made shall be conclusive evidence of the matters and things therein stated without proof of any signature thereto.

In case of new election fresh declaration to be filed.

9. When, under the provisions of this Act, a new election of trustees, or of any trustee, shall be made, the Moderator shall make, and cause to be filed in the office of the Registrar aforesaid, a like declaration, countersigned as aforesaid, stating the names of the newly-elected trustee or trustees; and such declaration shall, in like manner, be filed in lieu of that previously filed.

Copies of declaration to be evidence.

10. Copies of any such declaration, certified under the hand and seal of the Registrar of the Supreme Court at Wellington, shall be evidence in all Courts, or for the purpose of evidencing title to any property and for all other purposes, of the facts stated therein, without any proof of the seal or signature of such Registrar.

Title of trustees.

11. Upon the first filing of such declaration the persons named therein, and their successors in office, shall for ever thereafter be a body politic and corporate by the name of "The Presbyterian Church Property Trustees."

Trustees may sue and be sued.

12. By that name the trustees may sue, prosecute, and shall be sued, plead and be impleaded, defend and be defended, in any Court of Judicature in New Zealand, or elsewhere, in the same manner and as fully and effectually as any person in New Zealand can or may do.

Trustees may acquire property.

13. By the name aforesaid the trustees shall at all times hereafter be able in law to purchase, acquire, have, take, hold, receive, and enjoy all or any property whatsoever in the most full and ample manner that may be allowed by law.

Common seal.

14. The trustees shall have and use a common seal for the affairs and business of the corporate body, and may from time to time break, change, alter, or make new such seal, as they may think fit.

Property to vest in trustees.

15. Upon the incorporation of the trustees under this Act the following provisions shall have effect:—

(1.) All property whatsoever which may then be held by or vested in any trustees, committee, or other persons or body, upon trust for the use or purposes of any congregation of a Presbyterian Church, or for the residence of any minister of such church, or for any school in connection therewith, or for any other purpose whatsoever in connection with or in relation to such congregation, residence, or school as aforesaid, shall vest in the trustees incorporated by this Act, for the like estate or interest therein as, prior to the coming into operation of this enactment, was vested in or held by such trustees, committee, or other persons or body as aforesaid; and that without any assignment, conveyance, transfer, or other assurance whatsoever, upon the trusts hereinafter mentioned, and under and subject to the provisions of this Act.

(2.) All property held by any trustee or trustees or other person or persons, or under the control or management of the General Assembly, for the objects or purposes following, that is to say—

- (a) Aged and Infirm Ministers Fund,
- (b) Widows and Orphans Fund,
- (c) Foreign Mission Endowment,
- (d) Somervell Bursaries,

and all other property whatsoever (not coming within the terms of the last-preceding subsection) which may at the time of the coming into operation of this enactment be held by or vested in any person or persons as trustees of such property for any general or special purpose connected with or relating to the Presbyterian Church as a whole, or for any educational, charitable, or other purpose or object, or for any person or class of persons that now is, or hereafter may be, connected with or have any relation to the said Church, shall, for the like estate or interest respectively therein as aforesaid, in like manner vest in the trustees incorporated under this Act, without any assignment, conveyance, transfer, or other assurance whatsoever, in the manner hereinafter mentioned, and under and subject to the provisions of this Act.

Nothing in this section contained, or in any other provision of this Act, shall be deemed to affect or interfere with the operation of "The Saint Andrew's Church (Wellington) Trustees Incorporation Act, 1873," or "The Saint Paul's Presbyterian Church (Christchurch) Trustees Incorporation Act, 1881," but this provision shall not affect the ecclesiastical status of such churches, or either of them, as component parts of the Presbyterian Church of New Zealand as recognized by this Act.

16. Every person or persons in whom any property may be in any manner vested upon trust for all or any of the purposes mentioned in the last-preceding section for any estate or interest of any kind, shall be and he or they are hereby required and empowered, upon the request of the trustees incorporated under this Act, in any case where such trustees may deem it necessary or expedient, to assign, convey, or otherwise transfer such property to the trustees for the purposes of this Act, and such first-mentioned person or persons, or his or their legal or personal representatives (as the case may require), may sign, execute, and do all such deeds, instruments, and acts as may be necessary for such purposes or any of them.

Persons in whom property vested to convey same to trustees.

17. Upon production to any District Land Registrar appointed for and acting in any district constituted under "The Land Transfer Act, 1870," or any other Act for the time being in force relating to land transfer, of any certificate or other instrument of title under the said Acts, or any of them, together with a statutory declaration by any three of the trustees incorporated under this Act, to the effect that the land mentioned or referred to in such certificate or instrument is held on behalf of such trustees, such Registrar shall cause such land to be transferred to or vested in the trustees in their corporate name.

Freehold property to be transferred to trustees.

18. When, under the provisions of this Act, any property shall become vested in the trustees, all the rights, powers, and liabilities of the person or persons in whom the same was theretofore vested shall cease and determine, and he or they shall henceforth be wholly released and discharged from the performance of the trusts or the exercise of the rights, powers, or duties previously exercisable, or that might have been performed by him or them: Provided that nothing

On investment of property in trustees rights of original holders to cease.

herein shall be deemed to prevent any such person from being called on to account for any moneys received or expended, or for the doing or non-performance of any act, matter, or thing in relation to his trust, prior to the vesting or transmission of such property under this Act.

Existing contracts, and rights, remedies, &c., to be exercised and enforced by trustees.

19. All contracts of every kind in existence at the date of the incorporation of the trustees under this Act, and which could be enforced by or against the trustees of any property affected by the operation of this Act, or any committee or other persons or body in whom any such property may have been vested at the date aforesaid, and all rights, remedies, and powers in existence or which may afterwards exist or arise upon or in respect of any such contract or in relation thereto, shall be exercised and enforced only by and against the trustees incorporated under this Act.

Property held in trust for particular congregation, how administered.

20. All property which under or by virtue of this Act shall be vested in or held by the trustees for the purposes of any particular congregation, or which may at any time hereafter be so held or vested, and whether as a church for the purposes of public worship according to the usages and practices of the Presbyterian Church for the time being, or for the purposes of a school or schools, or as a residence for any minister of such church, shall be held and administered by the trustees upon, under, and subject to the trusts affecting the same, and, so far as such trusts shall not extend, or if there shall be no such trusts expressed by any deed or instrument, then upon the trusts and under and subject to the powers declared and set forth in the Second Schedule hereto.

When land not suitable trustees may apply to Supreme Court for order to sell or exchange.

21. (1.) In any case where land has been granted or conveyed as a site for a Presbyterian Church, manse, or school, or for any of such purposes conjointly with any other purpose connected with such church, and whether specifically defined or not, and it shall appear to the trustees that such land is not suitable or is inconvenient for the purposes for which it was originally granted or conveyed, they may apply by petition in a summary way to a Judge of the Supreme Court for an order to sell or exchange such land for other land in a more suitable position.

(2.) If the Judge shall be satisfied that it is for the benefit or convenience of the person or persons or body for whose benefit or in whose behalf such land was originally granted or conveyed, he may order that the said land shall be sold at such time and manner and on such conditions as he thinks fit, and that other land to be mentioned in the order shall be purchased in lieu thereof, or in case of an exchange may order that such exchange shall take effect within a time to be limited in that behalf, and that any money may be given or received by way of equality of exchange.

(3.) The Judge shall have all such jurisdiction and authority to give effect to this Act and any order made by him as he would have in any matter within the ordinary jurisdiction of the Supreme Court, and may require that all or any person or persons shall be represented before him, and may order by and to whom the costs of any persons appearing on such application shall be paid, and may modify or alter any order made by him.

(4.) Subject to the terms of any order made all land purchased

or taken in exchange, or any money received by way of equality of exchange, shall be held by the trustees upon and subject to the like trusts and for the like purposes and objects as the land so originally granted or conveyed was held.

22. Upon a requisition signed by a majority of the managers of any Presbyterian Church, the trustees may from time to time, by writing under their seal, delegate to any three or more of such managers to be named in such writing, all or any of the powers and authorities mentioned in the said Second Schedule upon such terms and conditions as they may think fit; and upon any such delegation being so made all powers and authorities conferred thereby may be exercised by the managers named in such writing in the name and on behalf of the trustees as effectually as such trustees might or could have done. And any such delegation may from time to time be revoked by the said trustees in part or in whole, and a new delegation may be made in lieu thereof.

Trustees' delegation of powers in Second Schedule.

23. All property which by virtue of this Act shall be vested in or held by the trustees for any general or special purposes connected with the Presbyterian Church as a whole or otherwise, as set forth in subsection two of section fifteen of this Act, shall be so held for the same purposes and trusts, and with, under, and subject to the same powers and provisions, as are or at any time may be in force or declared under any deed or instrument affecting such property respectively.

Trusts and purposes on which property to be held.

24. Contracts on behalf of the trustees may be made, varied, or discharged as follows:—

Trustees may enter into contracts.

Any contract which, if made between private persons,

Firstly, must be in writing under seal;

Secondly, must be in writing signed by the parties thereto;

Thirdly, may be made verbally without writing;

When made with the trustees,

In the first case, shall be in writing under seal;

In the second case, shall be signed by at least three of the trustees on behalf of or by direction of the trustees;

In the third case, may be made verbally without writing by the trustees or by any of them on behalf of and by direction of the trustees.

25. All acts done by any person purporting to act as a trustee under this Act shall be valid, notwithstanding any defect that may exist or be afterwards discovered in his election or qualification.

Saving of acts done by trustee.

26. If any trustee shall die or resign his office, or refuse or neglect to act, or shall cease to reside in New Zealand for more than six months in succession, or shall become bankrupt or a confirmed lunatic, or shall cease to be a member of the Presbyterian Church of New Zealand, or be suspended from membership therein, he shall be deemed to have resigned his office as trustee; and the General Assembly may at any time, by resolution passed by such Assembly, remove any trustee from his office, and without alleging any cause for such removal.

When trustee deemed to have resigned.

27. The General Assembly shall be the sole judge as to whether

Who to judge when trustee resigned.

any trustee has become disqualified or ceased to be a trustee within the meaning of the last-preceding section.

Casual vacancies,
how filled up.

28. In case of a casual vacancy in the number of trustees elected at any time under this Act, it shall not be necessary to elect another trustee until the next general meeting of the General Assembly, when such election shall be held in the manner hereinbefore provided; but if by any means the number of trustees shall be reduced to or below the number fixed for a quorum under the powers hereinafter contained, the Moderator of the General Assembly may nominate so many eligible persons as shall be necessary to make up the original number of trustees.

Confirmation of elec-
tion of new trustee.

29. Every such nomination shall be as effectual for all purposes as if the persons nominated had been elected at a meeting of the General Assembly, and the Moderator shall do all things necessary to perfect the status of such nominated trustees accordingly as hereinbefore prescribed, and every declaration made by the Moderator in respect of such nominated trustees shall be filed in the same manner as the declaration of original trustees is filed; but the person or persons so nominated shall only hold office till the next meeting of the General Assembly, when such nomination may be confirmed by the said Assembly or a new election held in the manner hereinbefore provided.

Trustees may make,
&c., by-laws.

30. The trustees may from time to time make, alter, or revoke by-laws for all or any of the following purposes:—

For the use and custody of the common seal;

For the conduct of business at their meetings, whether general or special meetings, and fixing the quorum thereat;

For prescribing the functions and duties of any officer or person employed by them;

And generally for the purpose of giving effect to this Act, so long as such by-laws are not inconsistent with this Act or any trust or duty vested in or imposed on such trustees.

Trustees to appoint
chairman and office-
bearers. Salaries.

31. The trustees may from time to time appoint a Chairman, who shall preside at all meetings; and also a treasurer, secretary, or other officers necessary for carrying on the business of the trustees, and who shall be paid such salaries or remuneration as the General Assembly may from time to time determine.

In case of the absence of the Chairman from any meeting, the trustees then present shall elect a chairman for that meeting.

Meetings.

Meetings may be held at such place or places and at such dates or times as may be decided by the trustees from time to time.

Minutes and ac-
counts to be kept.

32. The trustees shall keep proper minutes of all their proceedings, and also full and sufficient separate accounts of every trust property vested in them under or by virtue of this Act, and of the several purposes for which all moneys have been received or paid in respect of every such property; and such accounts shall be kept in such form and shall be rendered to such bodies or persons as the General Assembly may from time to time determine; and, in case the General Assembly shall not so determine, then any congregation or its managers may from time to time require copies of all such accounts so far as the same relate to any property in which such congregation shall have any interest or right,

33. The General Assembly may from time to time appoint an auditor or auditors of the accounts of the trustees generally, or may appoint a special auditor in any particular case; and such auditor or auditors, whether general or special, shall report to the General Assembly in such manner as that body directs.

Auditor of accounts of trustees.

34. At least once in each year, or oftener if so required by the General Assembly, the trustees shall report to such Assembly upon the state and condition of every property or trust fund vested in or held by them for the purposes of any congregation, and of every other property or trust fund vested in or held by them in any other manner for the purposes of or under the provisions of this Act; and such report shall be made in such form and contain such particulars as the General Assembly may from time to time prescribe.

Trustees to make annual report.

35. Every trustee shall be chargeable only for such money as he shall actually have received, although he may have joined in any receipt for money received by any other of them, and shall not be answerable for the acts of any other trustee, nor for any loss which may arise by reason of any trust funds being deposited in the hands of any banker, society, or agent, or for the sufficiency or insufficiency or deficiency of any security upon which any trust money, or any part thereof, may be invested, or for any loss in the execution of any trust, unless the same shall happen through his own wilful neglect or default.

Trustee liable only for his own acts.

36. The receipt in writing of any treasurer, secretary, or agent of the trustees, duly authorized in that behalf, shall be a good and effectual discharge for all money paid to him on their behalf under or by virtue of any trust reposed in them, and shall exonerate the person or persons paying such money from seeing to the application thereof; and it shall not be necessary for any purchaser or any person to or with whom any sale, exchange, or lease shall be made, or other transaction entered into under the powers conferred by this Act, to inquire into the necessity therefor or the propriety thereof.

Receipts by treasurer, &c., sufficient discharge.

37. Any person may give, devise, or bequeath to the trustees any property for any purposes connected with a congregation of the Presbyterian Church, and whether for the purposes of a site for such Church, or any school or schools connected therewith, or as a residence for the minister or ministers of such Church, or to use and apply any moneys, funds, or income derived from such property upon or for all or any of such purposes, or upon or for such other purposes as may be declared by the donor or testator respecting the same for the objects aforesaid.

Bequests to trustee.

38. If any property shall be so given, devised, or bequeathed, or if any property shall be purchased or acquired by the trustees or any other person or persons for all or any such purposes or objects as aforesaid, without defining or declaring the trusts thereof, then such property shall be held, managed, and dealt with upon and for the purposes mentioned and set forth in the Second Schedule hereto, or such of them as the trustees shall deem to be applicable. And a statement or declaration in any instrument that such property is, or is to be, held for the purposes of a Presbyterian church (and naming such church) shall be sufficient authority to the trustees to exercise the powers conferred by this Act in respect of such property or any part thereof.

If trusts not defined property to be held for purposes in Second Schedule.

Provision in case of congregation ceasing to exist.

39. The provisions of this and the next two succeeding sections shall take effect with regard to every congregation of the Presbyterian Church affected by this Act under the following circumstances:—

- (1.) In the event of any congregation ceasing to exist; or,
- (2.) The members of any congregation becoming so divided as to render the existence of such congregation in the opinion of the Presbytery undesirable; or,
- (3.) In case the trustees shall refuse or neglect to obey the directions of the General Assembly in respect to any property in any case where they ought lawfully so to do.

Then, and in any such case, all property held by the trustees shall be disposed of and may be dealt with in such manner as the Presbytery shall by resolution direct.

Transfer of property.

40. The Moderator for the time being of the Presbytery, by a deed-poll setting forth such resolution or the effect thereof, and attested by the clerk for the time being of such Presbytery, shall assure, convey, assign, or otherwise deal with the said property and the income or proceeds thereof as the said Presbytery may by any such resolution have directed.

Such deed, if purporting to be signed and attested as aforesaid, shall be evidence of the facts therein respectively stated, and shall effectually convey and assign the whole property and premises thereby purporting to be conveyed, assigned, or otherwise dealt with.

Deed of transfer to be evidence.

41. Any such resolution or deed purporting to be signed and attested as aforesaid shall be conclusive evidence of the existence of such Presbytery, and of the happening of all conditions precedent:

Provided that it shall be lawful for the trustees to assure, convey, assign, or deal with the same property, in terms of any such resolution, in lieu of the said Moderator.

Right of appeal.

42. Nothing in this Act shall be deemed to control or affect any right of appeal to any ecclesiastical authority which any congregation, or any member or adherent thereof, may have or be entitled to in accordance with the laws or rules for the time being of the Presbyterian Church, so far as respects the exercise of any right, power, duty, or function by this Act given to, or imposed upon, the trustees or any of them, or any other person or authority whomsoever.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

DECLARATION OF MODERATOR OF THE GENERAL ASSEMBLY AS TO ELECTION OF TRUSTEES.

“*The Presbyterian Church Property Act, 1885.*”

I, the undersigned, Moderator for the time being of the General Assembly of the Presbyterian Church, do hereby certify and declare that at a general meeting of the said Assembly held at _____, on the _____ day of _____, 18 [Here insert names, residences, and occupations of trustees], and _____, of _____, were duly elected trustees for the purposes of the above-mentioned Act.

_____, Moderator.

Countersigned:

Clerk of the General Assembly of
the Presbyterian Church of
New Zealand. }

SECOND SCHEDULE.

1. ALL property which now is or which may at any time hereafter be or become in any manner vested in the trustees for the purposes of a Presbyterian congregation, or any of such purposes, shall be held by such trustees upon the several trusts affecting the same, and so far as such trusts shall not be inconsistent with those hereinafter set forth, upon trust for the following purposes :—

- (a.) That every place of worship erected upon any land held by or vested in the trustees, or that may hereafter be erected thereon, shall from time to time and at all times be used, occupied, and enjoyed as and for a place of religious worship by the congregation thereof in the way and manner in which by the usages of the Presbyterian Church places of religious worship may be used, occupied, or enjoyed, and to the end that at all times the Holy Scriptures may be preached and expounded therein, that ordinances may be administered, and that the usual acts of religious worship may be performed by such person or persons as may from time to time be authorized or appointed to do so by the Presbyterian Church acting through the medium of its Kirk Sessions, Presbyteries, Synods, and the General Assembly of the said Church, or according to the forms in use by the said Church for the time being.
- (b.) That schoolhouses and buildings erected or used for school purposes upon any land vested in the trustees, or that may hereafter be erected thereon, shall be used and occupied for the purposes for which they have been so erected.
- (c.) That any land, and the dwelling-house thereon used or occupied as a manse or residence for the minister for the time being of the church, together with the glebe (if any) attached thereto, shall be held and used for such purposes and so long as such minister shall be recognized as such by the Presbytery; and such minister shall and may during such time as aforesaid freely have, use, possess, and enjoy the said land and dwelling-house, and the glebe (if any), and take and receive the rents and profits of such glebe for his own use.
- (d.) That if any other property shall be vested in the trustees for any special object or purpose in connection with the congregation of any such church, or relating thereto, the same, or the income or profits thereof, shall be held or applied for such special object or purpose, with power to the trustees (subject to such trusts and the provisions herein contained) to invest the same if consisting of money or personal property in real or Government securities in New Zealand for such time and in such manner as they may think fit, with full power to vary and change such securities from time to time.
- (e.) That, if any such property shall be vested in or held by the trustees which shall not be affected by any special trusts, but shall be for any general purpose connected with the congregation of any such church as aforesaid, the trustees may manage and deal with such property, or the whole or any part of the income thereof respectively, as the congregation, with the consent of the Presbytery, shall direct, or otherwise as they think fit, for all or any of the purposes mentioned in this Schedule.

2. Subject to this Act, every place of worship and every schoolhouse or building used for school purposes shall be in the immediate possession, charge, and control of the managers, and they shall have full power to make any alteration in, or addition to, any place of worship, manse, or schoolhouse, or to re-erect the same when necessary :

Provided that no new building shall be so erected until the plans thereof have been approved by the Presbytery within whose jurisdiction the proposed building is to be erected.

3. Any place of worship or any schoolhouse may be used for any purpose hereinbefore stated, or for any other purpose upon such occasions or for such temporary purposes as the managers may, with the consent of the Session of such church, from time to time authorize.

4. The trustees shall not be entitled to take possession of the manse for the purpose of removing the minister therefrom without the written authority of the Presbytery having jurisdiction where such manse is situated: Provided that no liberty of access and admission to such manse and glebe (if any) as aforesaid, nor any occupation thereof for any length of time whatever, shall be construed to confer any

right of property in the same upon the minister or any other person by whom the same or any part thereof may have been so occupied, nor shall any such occupation confer any right or title to retain possession of the same after such minister shall have been removed from his office by the Presbytery or the General Assembly, or shall have ceased to exercise his functions as minister of such church, nor shall the same be pleaded in bar of any ejection or other process for the recovery of land or the possession thereof which may be brought by or on behalf of the trustees.

5. The trustees, on being so required by a meeting of the congregation of the church, and with the consent of the Presbytery of the bounds, may sell and absolutely dispose of any lands or any interest therein at any time vested in the trustees for the purposes and on behalf of such congregation. Such sale may be either by public auction or private contract, and either together or in parcels, and at one time or at different times; or they may, upon a like request and consent as aforesaid, exchange any of the said lands, or any part thereof, for any other lands of a like tenure in or near the place where the same are situated, and out of any moneys in their hands applicable for such a purpose may give or receive any money by way of equality of exchange.

But the powers hereby conferred shall not be exercised in respect of any such lands, or any part thereof, if the deed or instrument under which such lands or any of them were originally granted or set apart for the purposes of such church contains an express prohibition of such sale or any trust inconsistent with the exercise of the power of sale aforesaid, unless the consent of the donor or his legal representatives is first obtained to such exercise of powers.

6. All money arising from such sale, or received by the trustees for equality of exchange, after payment of the costs and expenses payable by them in relation to such sale or exchange, shall be expended in the absolute purchase of other lands of like tenure and interest to those disposed of, or for the purchase of such other lands in fee-simple, or the erection or purchase of buildings for church purposes.

7. All lands which shall be so purchased or received in exchange as aforesaid shall be held by the trustees upon the like trusts as the property so to be sold or given in exchange was held subject to, so far as the same are capable of taking effect.

8. The trustees may from time to time borrow and take up at interest upon the security of any property vested in them any sum or sums of money for the purpose of building, rebuilding, repairing, altering, or enlarging any place of worship, school-house, manse, or other building upon the lands at any time vested in them for the purposes of any congregation of the Presbyterian Church, or for paying off any existing debt at any time incurred for all or any of the purposes aforesaid, and, for the purpose of securing payment of any money so borrowed and the interest to become due thereon, may execute such mortgage or other security as may be necessary, with a power of sale and all usual and necessary powers to the person or persons lending the money: Provided that no such money shall be borrowed or any security given for the same, except on the request of the managers of the congregation for the purposes of which the money to be raised is required, such request to be signified by a resolution passed by the said managers at a meeting held according to their usages and practice.

9. The trustees may also, with the consent of the managers, to be signified in the manner aforesaid, lease any lands which shall not be immediately required for the use of the congregation, or in the occupation of the minister thereof, and in respect of which no trust has been created inconsistent with this power, for any term not exceeding forty-two years in possession and not in reversion, at such rent and on such terms and conditions as the trustees with such consent as aforesaid may require or approve.

10. The trustees shall permit the managers to receive the rents and profits of any lands so leased, and such managers may apply the same at their discretion in or towards all or any of the purposes hereinafter particularly mentioned.

11. Nothing herein contained shall be deemed to authorize the trustees to interfere with or control the general duties of the managers of the congregation, who shall have charge and management of its temporal affairs according to the usages of the Presbyterian Church; and, subject thereto and to the terms of this Schedule, the general duties of such managers shall be:

- (1.) The collection of pew rents, receiving subscriptions, donations, devises and bequests for the purposes of the congregation of which they are managers;
- (2.) The expenditure and control of all moneys borrowed or raised under the powers hereinbefore contained, for the building, repairing, altering, or

enlarging the church, or any school or manse used or occupied in connection therewith ;

- (3.) The payment of stipends or salaries of the minister or ministers of the congregation, and of all church officers or attendants, and of all expenses attending the dispensation of Divine ordinances, and the performance of ministerial and clerical duties connected therewith, such payments to be made out of moneys received by such managers from all or any of the sources mentioned in this Schedule and applicable to such purposes ;
- (4.) And generally the payment of all charges and expenses incurred by them in the performance of their duties as such managers.

12. This Schedule shall be read and construed as a part of the Act to which it is a Schedule, and for the purposes thereof any words or expressions relating to a congregation or a church, or the managers, minister, or ministers thereof respectively, shall be construed distributively as referring to each congregation or church, or body of managers, or minister or ministers, to which, or to whom, the provision is applicable.