

No. 17 of 1972

AN ORDINANCE

To make provision in relation to the trusts on which property of the Presbyterian Church of Australia is to be held.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1972*.

Dated this ninth day of June, 1972.

PAUL HASLUCK
Governor-General.

By His Excellency's Command,

IVOR J. GREENWOOD
Attorney-General, acting for and on behalf of the
Minister of State for the Interior.

PRESBYTERIAN CHURCH (PROPOSALS FOR UNION WITH OTHER CHURCHES) ORDINANCE 1972

1. This Ordinance may be cited as the *Presbyterian Church (Proposals for Union with other Churches) Ordinance 1972*.^{*} Short title.

2.—(1.) In this Ordinance, unless the contrary intention appears— Interpretation.

“the commission” means the commission referred to in section 7 of this Ordinance;

“the General Assembly” means the General Assembly of the Presbyterian Church of Australia;

“the Trust Property Ordinance” means the *Presbyterian Church Trust Property Ordinance 1971*.

(2.) In this Ordinance, the expressions “church trust property”, “congregation”, “the Church” and “the Trust” have the same respective meanings as they have in the Trust Property Ordinance.

3. Where—

(a) the members of each congregation in the Territory have voted, in accordance with paragraph 2 of the Schedule to this Ordinance, on the questions set out in paragraph 1 of that Schedule relating to a proposed union of the Church with another church or other churches;

Provisions applicable where less than one-third of members of a congregation vote “Yes” to second question.

^{*} Notified in the *Commonwealth Gazette* on 16 June 1972.

- (b) less than one-third of the members of a congregation who voted on the questions voted "Yes" on the second question; and
- (c) the General Assembly has resolved to enter into union with another church or churches,

all property held by the Trust on behalf of that congregation shall, unless an application is made as provided by section 5 of this Ordinance, cease, on the passing of that resolution, to be church trust property within the meaning of the Trust Property Ordinance and shall be held by the Trust for the purposes of the church to be formed as a result of the union specified in the resolution.

Provisions applicable where one-third or more vote "Yes" to second question.

4. Where—

- (a) the members of each congregation in the Territory have voted, in accordance with paragraph 2 of the Schedule to this Ordinance, on the questions set out in paragraph 1 of that Schedule relating to a proposed union of the Church with another church or other churches;
- (b) one-third or more than one-third of the members of a congregation who voted on the questions voted "Yes" on the second of the questions; and
- (c) the General Assembly has resolved to enter into union with another church or churches,

all property held by the Trust on behalf of that congregation shall, unless an application is made as provided by the next succeeding section, continue to be church trust property within the meaning of the Trust Property Ordinance and shall be held by the Trust as if this Ordinance had not been made.

Application for determination of trusts by commission.

5. At any time after the counting of votes cast by members of a congregation and before the General Assembly has resolved to enter into union with other churches, an application signed by not less than one-twentieth of the members of the congregation who were entitled to cast a vote may be made to the General Assembly requesting the General Assembly, in the event of the General Assembly resolving to enter into union with other churches, to refer for hearing and determination by a commission to be constituted by the General Assembly the question on what trusts the property held, on the date of the resolution, by the Trust on behalf of the congregation is thereafter to be held by the Trust.

Dealings with congregational property pending determination by the commission.

6. Where an application is made by members of a congregation in accordance with the last preceding section, property that is, on the day on which the General Assembly resolves to enter into union with the other church or churches, held by the Trust on behalf of the congregation shall continue, after that day and unless the commission makes, under section 8 of this Ordinance a determination to the contrary in relation to that property, to be held by the Trust as if this Ordinance had not been made.

7.—(1.) Where—

Constitution of
commission.

- (a) an application is made under section 5 of this Ordinance; and
- (b) the General Assembly resolves to enter into union with another church or other churches,

the General Assembly shall refer the application to a commission consisting of—

- (c) two groups, each of the same number, one group representing persons who have voted in favour of the union and the other group representing persons who have voted to remain in membership of the Presbyterian Church of Australia; and
- (d) three independent persons acceptable to both of those groups,

who shall be appointed by the General Assembly.

(2.) The General Assembly shall appoint one of the persons referred to in paragraph (d) of the last preceding sub-section to be chairman of the commission.

8. The commission shall, as soon as practicable after an application under section 5 of this Ordinance is referred to it, hear, in accordance with the procedure prescribed by the regulations, the application and shall make, in accordance with the principles specified in the regulations as the principles to be applied by it, a determination specifying the trusts on which the property referred to in the application is to be held.

Hearing and
determination
by commission.

9. Where the commission has determined that property be held by the Trust for the purposes of the church to be formed as a result of the union, that property shall, on and from the date of the determination by the commission, cease to be church trust property within the meaning of the Trust Property Ordinance and shall be held, on and from that date and until other provision is made by law, by the Trust for the purposes of the church to be formed as a result of the the union.

Effect of
determination
by the
commission.

10. The Attorney-General may make regulations, not inconsistent with this Ordinance, prescribing all matters that are required or permitted to be prescribed or are necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.

Regulations.

THE SCHEDULE

Sections 3 (1.)
and 4 (1.).

PROVISIONS RELATING TO VOTING BY MEMBERS OF CONGREGATIONS.

1. The following questions are the questions on which the members of a congregation are to vote:—

- (a) Do you desire this congregation to become a congregation of the church which may result from the proposed union?

- (b) Should the required majority vote for union be obtained in presbyteries, state general assemblies and the general assembly of Australia, do you desire to remain in membership of any Presbyterian Church of Australia continuing to function on the present basis?

2.—(1.) For the purpose of enabling members of congregations to vote upon the questions set out in the last preceding paragraph, all sessions shall have purged their communion roles as at a date specified by a commission of the General Assembly appointed by the General Assembly for the purpose and shall have submitted to the presbytery of the bounds a voting register in duplicate showing all names on the communion roll at the date of the submission to the presbytery.

(2.) Both copies of the voting register shall be certified by the moderator and clerk of the session as being the voting register.

(3.) The presbytery of the bounds shall following the submission to it of the voting register attest both copies and shall return one copy to the session from which it was received and shall retain the other copy.

(4.) Only those persons whose names are on an attested voting register may take part in the vote.

(5.) Sessions shall make available voting papers containing the said questions at least fourteen days before a date fixed by the session for the close of voting, upon which the voters shall indicate whether their answer is "Yes" or "No" to each of the questions.

(6.) Voting papers must be signed by the voter and returned prior to the close of voting.

(7.) The session shall count the votes and transmit the number of "Yes" votes and the number of "No" votes cast with respect of each question to the clerk of the presbytery of the bounds for transmission to the clerk of the assembly through the clerk of the state general assembly.