

CHAPTER 429

CHURCH OF ENGLAND

Ordinances AN ORDINANCE TO ENABLE THE BISHOP, CLERGY, AND LAITY OF THE CHURCH OF
 Nos. 6 of 1885, ENGLAND IN SRI LANKA TO PROVIDE FOR THE REGULATION OF THE AFFAIRS
 32 of 1890, OF THE SAID CHURCH.
 24 of 1892,
 17 of 1910,
 1 of 1930,

Act
 No. 6 of 1972.

[14th February, 1885.]

Preamble. Whereas by the Ordinance No. 14 of 1881*, intituled "An Ordinance to amend the Ordinance No. 1 of 1870, intituled 'An Ordinance relating to the Fixed Civil Establishments of this Colony'", the salaries and allowances payable to the Bishop and other ecclesiastical persons of the Church of England, out of the Colonial Treasury, have been prospectively abolished, and provision has been made for payment from time to time to trustees for the use of the said church until the 1st day of July, 1886, of the salaries and allowances payable in respect of offices which may become vacant before that date:

and over all churches, the salaries and allowances in respect of which had been prospectively withdrawn (save and except as regards the churches of St. Peter, Colombo, and St. Paul, Kandy), were transferred to certain trustees and their successors as a body corporate, pending the appointment of a governing body, to represent the said churches:

And whereas, in consequence of the prospective withdrawal of all State grants to the said church, it has been decided that all the right, title, interest, powers, and control of the Government held and exercised in and over all churches, the salaries and allowances in respect of which have been prospectively withdrawn, shall be transferred to trustees, save and except the right, title, and interest in the two churches hereinafter mentioned, subject nevertheless in all respects to the same uses, conditions, and limitations and for the same purposes as the same are now held and exercised by the said Government:

And whereas it is expedient to repeal the said Ordinance No. 15 of 1881, and to make other provisions in lieu thereof, and to enable the Bishop, clergy, and the laity of the Church of England to make such arrangements for the management of their ecclesiastical property and affairs as they may think fit and necessary:

Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Church of England Ordinance. Short title.

2. From and after the time when this Ordinance shall come into operation[^], it shall be lawful for the Bishop, clergy, and laity, being members of the Church of England in the Diocese of Colombo and in the Diocese of Kurunegala severally, to hold synods, assemblies, or conventions at such places, in such manner, and for such purposes in connexion with their ecclesiastical affairs as to them shall seem fit, and to make and enforce regulations in

Authorization for Bishop, clergy, and laity of Church of England to hold synods. [§ 5, 6 of 1972.]

And whereas by Ordinance No. 15 of 1881f, entitled "An Ordinance for the appointment of Incorporated Trustees of the Church of England in Ceylon", all the right, title, interest, powers, and control held and exercised by the Government in

* Expired.

^T Repealed by Ordinance No. 6 of 1885.

^t Amendments effected by Sections 5 and 7 of Act No. 6 of 1972 are deemed to have had effect only from and after 2nd February, 1950.

connexion therewith, which shall be binding upon such persons as have either directly or indirectly assented thereto:

Provided that nothing herein contained shall authorize the imposition of any rate or tax upon any person or persons whomsoever, whether belonging to the said church or not, nor the infliction of any temporal punishment, fine, or penalty upon any person other than his suspension or removal from an office or privilege in or under the control of the said synod, assembly, or convention, or the making of any rule or regulation contrary to the law of Sri Lanka.

Bishop to fix time and place of first synod. [§ 5, 6 of 1972.]

3. It shall be lawful for the Bishop of Colombo, or his representative duly constituted, and for the Bishop of Kurunegala or his representative duly constituted, to fix the time and place for holding the first synod, assembly, or convention or Council of each Diocese.

Synod, assembly or convention of each Diocese to consist of Bishop, licensed priests, and representatives of the laity. [§ 5, 6 of 1972.]

4. The first synod, assembly, or convention or Council of each Diocese shall consist of the Bishop, the clergy of the Church of England being in priests' orders, and the representatives of the laity.

Baptized laymen of twenty-one years of age and subscribing to declaration to vote for representatives of laity. [§ 5, 6 of 1972.]

5. All baptized laymen of twenty-one years of age and upwards, who shall subscribe to a declaration substantially in the form given in Schedule A, shall, subject to the provisions of section 6 of this Ordinance, have the right of voting at the election of representatives to the first synod, assembly, or convention or Council of each Diocese upon being registered so to vote by the proper authority accordingly.

How laity to be represented. [§ 5, 6 of 1972.]

6. At the first synod, assembly, or convention or Council of each Diocese the laity shall be represented by one representative for every congregation or group of congregations according to the number of members thereof, there being one representative where the persons of over fifteen years of age forming a congregation or group of congregations number over fifty and under one hundred and fifty; two,

where they number over one hundred and fifty and under three hundred; three, where they number over three hundred and under six hundred; four, where the number is above six hundred:

Provided that no congregation or group of congregations shall have more than four representatives. Every representative shall, before performing the duties of such, subscribe to a declaration according to the form contained in Schedule B.

7. And after the first meeting, the synod, assembly, or convention or Council of each Diocese shall have the power of determining the time when and place where its subsequent meetings shall be held, and the qualifications necessary to entitle the clerical and lay members of the Church of England to vote thereat.

First synod to determine when subsequent synod to be held. [§ 5, 6 of 1972.]

8. It shall be in the power of the synod, assembly, convention or Council of the Diocese of Colombo and of the Diocese of Kurunegala, respectively to alter their constitutions in any way, so, however, that no change be made except with the consent of the Bishop of Colombo or the Bishop of Kurunegala for the time being, as the case may be, and also of two-thirds of the whole order of clergy, and two-thirds of the whole order of lay representatives as above described.

Synods may, subject to certain conditions, change their constitutions. [§ 5, 6 of 1972.]

9. It shall be lawful for the first or any subsequent synod, assembly, or convention held under the authority of this Ordinance, by any statute, ordinance, or resolution to be passed for such purpose, to nominate any number of persons, not less than five, being members of the Church of England, to act as a corporation, for the purposes hereinafter mentioned, and upon such statute, ordinance, or resolution being recorded in the Registry of the Supreme Court such persons and their successors, to be appointed as hereinafter provided for, shall become a corporation, with continuance for ever, under the style of "The Incorporated Trustees of the Church of England in Ceylon", with full power and authority to have and use a common seal, and as trustees for the said church to receive, take, hold, or otherwise dispose of all descriptions of property, both real and

First synod to appoint Incorporated Trustees

personal, and shall and may be able and capable in the law to sue and be sued, answer and be answered, in any court or courts or elsewhere, in all actions or causes whatsoever for, touching, or concerning the same:

Provided that the seal of the said corporation shall not be affixed to any instrument except in the presence of three at least of the members of such corporation, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness;

[§ 6,6 of 1972.] Provided, further, that the change, succession and removal of the members of the said corporation and the constitution and government thereof, and the beneficial uses and disposal of the property to be held in trust by them as aforesaid, shall be regulated, decided and declared from time to time by the Diocesan Council of the Diocese of Colombo with the concurrence of the Diocesan Council of the Diocese of Kurunegala, and shall be made subject to such regulations as may from time to time be made by the Diocesan Council of the Diocese of Colombo with the concurrence of the Diocesan Council of the Diocese of Kurunegala.

Right, title, interest, power, and control over all churches with appurtenances to be absolutely vested in Incorporated Trustees of the Church of England.

10. All the right, title, interest, powers, and control in and over all churches with their appurtenances (save and except the churches of St. Peter, Colombo, and St. Paul, Kandy) which by Ordinance No. 15 of 1881* were proposed to be transferred to "The Incorporated Trustees of the Church of England", as referred to in that Ordinance, shall, upon such a body corporate as is referred to in this Ordinance coming into existence, forthwith become absolutely vested in such body corporate, as well as any other property which may in any manner or at any time hereafter devolve upon the said trustees in their capacity of the Incorporated Trustees of the Church of England.

Repealed by Ordinance No. 6 of 1885.

11. Until the first of such synods, assemblies, or conventions as are referred to in the previous provisions of this Ordinance shall have appointed the Incorporated Trustees of the Church of England in Ceylon in terms of section 9 of this Ordinance, the properties, rights, and powers to be vested in the said Incorporated Trustees of the Church of England in Ceylon as hereinbefore provided shall, in the meantime, be vested as follows :—

Provisions for vesting of property of Church of England pending appointment of Incorporated Trustees.

- (a) relating to churches or congregations having trustees lawfully appointed thereto : in such trustees ;
- (b) relating to the churches of Kelaniya and Kohilawatta: in the trustees of St. Thomas' College, Colombo;
- (c) relating to the churches of Mannar and Kalpitiya: in the Bishop of Colombo; and
- (d) relating to any other churches than those mentioned in subsections (a), (b) and (c): in the Bishop of Colombo:

Provided, however, that nothing herein contained shall prevent or delay such properties, rights, and powers vesting in the Incorporated Trustees of the Church of England in Ceylon so soon as they shall have been appointed; and

Provided that no right, title, interest, power, and control which by the Episcopal Churches Ordinance is or may hereafter be vested in trustees appointed thereunder, save and except such right, title, interest, power, and control as by Ordinance No. 15 of 1881* it was purported to convey to the Incorporated Trustees as therein bound, nor any right, title, interest, power, and control which by any deed or other instrument is or may hereafter be vested in the Bishop of Colombo, or his successors, or in the Bishop of Kurunegala or his successors, or in any other trustees, for the benefit of the said church, shall vest in such Incorporated Trustees of the Church of England in Ceylon.

[§ 7,6 of 1972.]

Power to make regulations enabling congregations to pass a resolution to vest the church in the Incorporated Trustees. [§ 7, 6 of 1972.]

12. It shall be lawful for the synod, assembly, convention or Council held under the authority of this Ordinance, by any statute, ordinance, or resolution to be passed for such purpose, to make regulations for enabling the majority of the members of the congregation of any church, present and voting at a meeting to be held and convened in manner by the said regulations provided, to declare by resolution their desire that such church and all immovable property belonging or appertaining to such church shall absolutely vest in the Incorporated Trustees of the Church of England in Ceylon.

Church to vest in Incorporated Trustees on such resolution being passed.

13. (1) On the passing of such resolution by the congregation under section 12 of this Ordinance, the church and all the immovable property belonging or appertaining to such church shall forthwith absolutely vest in the Incorporated Trustees of the Church of England in Ceylon in trust, and to and for the use of the Church of England in Sri Lanka, in the same and in the like manner as the same has heretofore been held, exercised, and enjoyed; subject, nevertheless, in all respects to the provisions and conditions contained in section 9 of this Ordinance, whereby the constitution of the said Incorporated Trustees and the beneficial enjoyment of all property which shall vest in them are to be regulated or controlled by the said synods, assemblies, conventions or Councils.

[§ 7,6 of 1972.]

Resolution to be published in the Gazette.

(2) Every resolution passed by a congregation under section 12 of this Ordinance shall be published in the Gazette within one month of the passing thereof.

Interpretation.

14. In sections 12 and 13—

" church " shall be construed to mean any Episcopal church not governed by the provisions of the Episcopal Churches Ordinance, which has not been brought under the operation of the provisions of the Non-Episcopal Churches Ordinance, and any church not vested in any person or body corporate or originally vested in any trustee or trustees where the deed or instrument creating the trust contains no adequate provisions for

the appointment of a new trustee or trustees, and the trustee or one or more of the trustees originally appointed may have died, or may have left Sri Lanka and be residing elsewhere, or may be desirous of being relieved from the duties thereof;

" members of the congregation" shall mean all persons entitled to vote at the election of lay representatives of the church under the rules and regulations for the time being of the synod, assembly, or convention held under the authority of this Ordinance.

15. It shall be lawful for the synod, assembly, convention or Council of the Diocese of Colombo and of the Diocese of Kurunegala respectively to make provision for the appointment and resignation of Bishops, and to admit any persons to be Bishop of Colombo or Bishop of Kurunegala, as the case may be, and when vacancies in the see occur, generally to regulate their tenure of office and their retirement or removal therefrom, and the persons so admitted shall be Bishops of Colombo or Bishops of Kurunegala, as the case may be, for the purpose of this Ordinance, the Kandy Church Ordinance and of the Episcopal Churches Ordinance :

Appointment and resignation of Bishops and vacancies in the see. [§ 7, 6 of 1972.]

[§ 7, 6 of 1972.]

[§ 7, 6 of 1972.]

Provided always that nothing be done at variance with the rights of the Bishop or Archbishop, exercising for the time being Metropolitan functions over the Church of Ceylon. [§ 7,6 of 1972.]

16. (1) Every person admitted to be a Bishop of Colombo under this Ordinance shall be a corporate body, and by the name of the Bishop of Colombo shall have perpetual succession and full power to acquire, purchase, take, hold, or enjoy movable and immovable property of every description, and to sell and otherwise dispose of the same, and may" sue and be sued in all Courts of Justice.

Incorporation « of Bishop of Colombo and devolution of property vested in Bishop of Colombo and his successors.

(2) All property, whether movable or immovable, which by virtue of any deed or instrument or otherwise was, or is now, or shall hereafter be vested in any Bishop of

Colombo and his successors, whether appointed by Royal Letters Patent under the Great Seal of the United Kingdom of Great Britain and Northern Ireland, or admitted under the provisions of this Ordinance or any other enactment, shall, subject to any trusts or conditions affecting the same, devolve on and be vested in the Bishop of Colombo for the time being admitted under this Ordinance and his successors as such Bishop.

acquire, purchase, take, hold or enjoy movable and immovable property of every description, and to sell and otherwise dispose of the same and may sue and be sued in all Courts of Justice.

(2) All property, whether movable or immovable, which by virtue of any deed or instrument or otherwise was, or is now, or shall hereafter be vested in the Bishop of Kurunegala and his successors shall, subject to any trusts or conditions affecting the same, devolve on and be vested in the Bishop of Kurunegala for the time being admitted or deemed to be admitted under this Ordinance and his successors as such Bishop.

17. (1) Every person admitted to be a Bishop of Kurunegala under this Ordinance shall be a corporate body and by the name of the Bishop of Kurunegala shall have perpetual succession and full power to

Incorporation of Bishop of Kurunegala and devolution of property vested in Bishop of Kurunegala and his successors.
[§ 7, 6 of 1972.]

[Section 5.]

SCHEDULE A

I, do hereby solemnly declare that I am a member of the Church of England, and that I have for three calendar months last past been an accustomed member of the congregation of and that I am not registered as an elector of any other congregation.

[Section 6.]

SCHEDULE B

I, of , do solemnly declare that I am a member of the Church of England and a communicant of the said church.