

ROMAN CATHOLIC (MISSION OF THE DIVINE WORD) PROPERTY ORDINANCE 1937.⁽¹⁾

No. 33 of 1937.

An Ordinance to incorporate the Catholic Mission Society of the Divine Word in Central New Guinea, and for other purposes.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1935*, as follows:—

1. This Ordinance may be cited as the *Roman Catholic (Mission of the Divine Word) Property Ordinance 1937.*⁽¹⁾ Short title.

2. In this Ordinance, unless the contrary intention appears— Definitions.

“the Head of the Mission” means the person for the time being holding the office of Bishop of the Vicariate of the Mission in the Territory and his successors in that office and in the absence of such person includes the person for the time being administering, in accordance with canon law, the ecclesiastical affairs of the Mission in the Territory;

“the Mission” means the Mission known as the Catholic Mission Society of the Divine Word in Central New Guinea, the headquarters of which in the Territory are at Kariru;

“the Trust” means “The Mission of the Divine Word (Central New Guinea) Property Trust” constituted under this Ordinance;

“trustees” means the persons for the time being constituting the Trust.

(1) Particulars of this Ordinance are as follows:—

Date of reservation by Administrator.	Date on which assent of Governor-General in Council published in <i>N.G. Gaz.</i>	Date on which came into operation.
25.8.1937	23.12.1937	23.12.1937 (<i>N.G. Gaz.</i> of 23.12.1937)

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Incorporation.

3.—(1.) The Head of the Mission and, subject to the next succeeding section, the persons named in the Schedule to this Ordinance shall be a body corporate by the name of “The Mission of the Divine Word (Central New Guinea) Property Trust” with perpetual succession and a common seal, with power to acquire, hold, manage, control, and, subject to this Ordinance, grant, transfer, mortgage, charge, demise, sell, dispose of, exchange, create or reserve easements over, or otherwise deal with, any real or personal property, and capable of suing and being sued in its corporate name and doing and suffering all such acts and things as bodies corporate may by law do or suffer.

(2.) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the Trust affixed to any document or notice and shall deem that it was duly affixed.

Removal and appointment of trustee, &c.

4.—(1.) The Head of the Mission may, by writing, remove any of the trustees from the office of trustee.

(2.) Where a trustee, either original or substituted, dies or is removed from office under the last preceding sub-section, or declares in writing that he is desirous of being removed from office, or his office has for any other reason become vacant, the Head of the Mission may appoint another person to be a trustee in place of that trustee.

(3.) The continuing trustees may, provided that there are not less than three trustees, act notwithstanding any vacancy in the number of trustees, but each vacancy shall be filled as soon as possible after it occurs.

(4.) At any meeting of the trustees, three trustees shall form a quorum.

Execution of deed, &c.

5.—(1.) Any deed or instrument executed or signed, and any other act, matter, or thing done, by any three trustees and in pursuance of a resolution of the Trust and under its common seal, shall be as effectual as if it had been executed, signed, or done by all the trustees.

(2.) The Trust may, by instrument executed in accordance with the last preceding sub-section, appoint any person as its attorney either generally or in respect of any specified matters and to act in any place.

Trust property, how held.

6. All property from time to time vested in the Trust shall, so far as it is not subject to any express trust, be held upon trust and dealt with for the purpose of carrying on or benefiting or advancing or extending or making more effectual the work and objects of Roman Catholic Missions wheresoever carried on, and no person dealing with the trustees shall be bound to inquire into the propriety or necessity of any such dealing.

7.—(1.) The Trust may, for the purpose of securing such sums of money as it deems requisite or necessary for the purposes of the Trust, mortgage or charge any real or personal property vested in the Trust.

Power to mortgage or sell.

(2.) The Trust may sell by public auction or private contract as the trustees deem expedient, at such price as can be reasonably obtained for it, any real or personal property vested in the Trust and, when sold, transfer or convey it, and thereupon it shall vest in the purchasers their heirs, executors, administrators, or assigns according to the estate and interest of the Trust therein absolutely freed and discharged from the trusts affecting it.

8. The receipt in writing of a majority of the trustees or of any person thereto authorized by them in writing to receive such moneys for the mortgage moneys raised on any property mortgaged by the Trust, or for the purchase money of any property sold by the Trust, or for any other moneys payable to the trustees or the Trust, shall exonerate the mortgagee and the purchaser and all other persons for the time being paying such moneys to the trustees, or to the person authorized to receive the moneys, from seeing to the application of the moneys, and from all liability as to the misapplication or non-application thereof, and from inquiring into the propriety or necessity of any mortgage or sale, lease, or other dealing whatsoever.

Receipt for mortgage and purchase moneys, &c.

9.—(1.) A notification⁽²⁾ in the *New Guinea Gazette*, purporting to be signed by the Head of the Mission, of the appointment of a secretary of the Trust or other officer shall be *prima facie* evidence, and, in favour of the Administrator and the Registrar of Titles and every person who deals for value with the Trust, conclusive evidence, of his or their due appointment.

Evidence of resolutions. &c.

(2.) A certificate signed by the secretary for the time being of the Trust as to who are the persons for the time being constituting the Trust, and a certificate of such secretary certifying to any resolution of the trustees shall be *prima facie* evidence, and, in favour of the Administrator and the Registrar of Titles and every person who deals for value with the trustees, conclusive evidence, as to who are the trustees for the time being, and of any such resolution, as the case may be, and judicial notice shall be taken of the signature of the secretary for the time being on every such certificate.

10. Whenever by any will, deed, or other instrument any property, real or personal, has been or is devised, bequeathed, given, granted, released, transferred, conveyed, or appointed or has been or is declared or directed to be held upon trust to or for the benefit of the Mission or of any fund, institution, branch, or auxiliary

Construction of wills, &c.

(2) No notice has been published in *N.G. Gaz.*

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thereof or is recoverable by or payable to the Mission or by or to any fund, institution, branch, or auxiliary thereof or is receivable by or payable to any officer thereof for the benefit of the Mission or any fund, institution, branch, or auxiliary thereof, the will, deed, or instrument shall be construed and operate and take effect as though the Trust were named therein, and the acknowledgment or receipt of the trustees or a majority of them or of any person or persons thereto authorized in writing by the trustees, or a majority of them, for any such property shall be a sufficient discharge to the person liable to deliver or transfer any such property under the will, deed, or instrument, and all property, real or personal, so devised, bequeathed, given, granted, released, transferred, conveyed, or appointed, or declared or directed to be held upon trust, shall, subject to the trusts of the will, deed, or other instrument, and subject to any direction to the contrary therein contained so far as it is capable of taking effect, be under the direction and control of the trustees, and they may call for the transfer, conveyance, or delivery thereof to the Trust.

Vesting in
Trust of
property
given or
devised, &c.,
for benefit of
the Mission.

11.—(1.) Whenever by any will, deed, or other instrument, or by any gift or disposition of property made before but not taking effect until after the commencement of this Ordinance, or by any will or other instrument or by any gift or other disposition of property made after the commencement of this Ordinance, any real or personal property has been or is devised, bequeathed, or given to or for the benefit of the Mission or to or for the benefit of any fund, institution, branch, or auxiliary thereof, other than real or personal property devised, bequeathed, or given to specific trustees upon trust for the Mission or for any such fund, institution, branch, or auxiliary thereof, all such real and personal property shall vest in the Trust.

(2.) The Trust shall hold any such real or personal property upon the trusts, if any, declared in respect thereof, and if no such trusts have been declared then subject to the provisions of section six of this Ordinance.

THE SCHEDULE.

Arthur Manion, of Kariru.
Otto May, of Boikin.
Andrew Gerstner, of But.
Andrew Puff, of Marui.
