

Church Property Trust Ordinance 1854 (C)

Provincial Act 3
Date of assent 16 March 1854

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**In the 17th year of the reign of Her Majesty Queen Victoria
An Ordinance for establishing a trust for the management of
property held for ecclesiastical and educational purposes by the
Canterbury Association, and for other purposes**

Preamble

WHEREAS by letters patent under the Great Seal bearing date the 13th day of November 1849, certain persons therein named were constituted a body corporate with perpetual succession and a common seal by the name of the Canterbury Association for founding a Settlement in New Zealand; and by such letters patent the said Association were made able and capable in law to purchase, receive, possess, and enjoy to them and their successors any goods and chattels whatsoever and wheresoever, and any messuages, lands, tenements or hereditaments in New Zealand and its dependencies, and also to sell, alienate, mortgage, charge or otherwise dispose of such property as they should think proper, and also to act in all the concerns of the said body corporate for the purposes and objects

mentioned in the said letters patent as fully and effectually to all intents and purposes whatsoever as any other of Her Majesty's subjects could or might do in their respective concerns: and the purposes and objects of the said Association were in such letters patent declared to be (amongst other things) for the establishment and maintenance of ecclesiastical and educational institutions in the Settlement so to be founded as aforesaid in connection with the Church of England as by law established; AND WHEREAS in pursuance of the said letters patent the said Association founded a settlement in New Zealand called the Canterbury Settlement within the Province of Canterbury; AND WHEREAS under and by virtue of the said letters patent and of an Act of Parliament made and passed in the 13th and 14th year of the reign of her present Majesty intituled "An Act Empowering the Canterbury Association to dispose of certain lands in New Zealand" and of a certain other Act of Parliament made and passed in the 14th and 15th year of the reign of Her said Majesty, intituled "An Act to alter and amend an Act empowering the Canterbury Association to dispose of certain lands in New Zealand", and under and by virtue of divers acts, deeds and things made, done and executed in pursuance of the said letters patent and Acts of Parliament, the said Association, or some person or persons in trust for them, has or have become possessed of or entitled to divers goods, chattels and personal estate, and divers messuages, buildings, lands, tenements, hereditaments, and real estate for the ecclesiastical and educational purposes mentioned in the said letters patent; AND WHEREAS the said Association are desirous that Trustees should be appointed within the said Settlement for the management of the said real and personal property, and that such property should be transferred to and vested in such Trustees accordingly for the ecclesiastical and educational purposes mentioned in the said letters patent in the manner hereinafter mentioned AND it is expedient that such property should be so transferred and vested accordingly, but such objects cannot be effected without the aid of some competent legislative authority.

1 Interpretation

In interpreting this Ordinance the term **Bishop** shall be held to mean the Bishop of the Church of England for the time being of the Diocese in which the Canterbury Settlement may

be from time to time included, the term **Incumbent** shall be held to mean the principal clergyman for the time being officiating under the licence of the said Bishop at or in the principal church, chapel or place used for Divine worship within any parish to be created under this Ordinance, the term **parish** shall be held to mean a district formed under the authority of this Ordinance for ecclesiastical and educational purposes, the term **Trustees** shall be held to mean the body of Trustees intended to be constituted by this Ordinance, the term **Canterbury Settlement** shall be held to include the territory or block of land set apart for the purposes of the said Canterbury Association under the authority of the said referred to Act of Parliament of the 13th and 14th year of her present Majesty, and set forth and described in the Schedule to the said Act, together with all lands comprised within the limits of such block, the term **Church** shall mean the branch of the Reformed Catholic Church planted in the said Settlement in communion with the Church of England as by law established, the term **member of the Church** shall mean and include any person who shall have received the Holy Communion according to the rites of the Church at least 3 times in the preceding year.

2 Constitution of Trustees

The Bishop, together with Alfred Charles Barker, William Guise Brittan, William Donald, James Edward Fitz Gerald, William John Warburton Hamilton, John Hall, Charles Edward Prichard, Charles Simeon, Henry John Tancred, Sir Thomas Tancred Baronet, Conway Lucas Rose, Belfield Woolcombe and all such other persons as shall be hereafter elected or appointed Trustees under the provisions of this Ordinance and their successors shall be and they are hereby constituted a body politic and corporate by the name of the “Church Property Trustees” and by that name they shall have perpetual succession, and a common seal with full power and authority to alter, vary, break and renew the same at their discretion and by the same name and style to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of law and equity whatsoever and

to be forever capable in the law to purchase, receive, possess and enjoy to them and their successors any goods and chattels whatsoever and wheresoever and any messuages, lands, tenements and hereditaments in the Province of Canterbury and also to lease, let, sell, alienate, mortgage, charge or otherwise dispose of such property as well real as personal as they shall think proper and also to act in the concerns of the said body politic and corporate as effectually as any person or persons might or could do in his or their respective concerns for the purpose and object of establishing and maintaining ecclesiastical and educational institutions within the Province of Canterbury in connection with the Church. And the said Alfred Charles Barker, William Guise Brittan, William Donald, James Edward Fitz Gerald, William John Warburton Hamilton, John Hall, Charles Edward Prichard, Charles Simeon, Henry John Tancred, Sir Thomas Tancred Baronet, Conway Lucas Rose, and Belfield Woolcombe shall hold office until the election of the first Trustees under the provisions of this Ordinance from and after which time they shall cease to be Trustees but shall notwithstanding be eligible to be elected or nominated as Trustees under the provisions hereinafter contained: Provided always, that if any Trustee shall become bankrupt or insolvent or shall become insane or shall be convicted of any infamous offence or shall leave and cease to reside in the said Province of Canterbury he shall cease to be a Trustee for the purposes of this Ordinance. No Trustee acting in any matter under the provision of this Ordinance shall be answerable for any other than his own acts, deeds, receipts or defaults. Any Trustee herein named, and any Trustee elected or nominated under the provisions of this Ordinance may by writing addressed to the Bishop and left at the office or place of business of the Trustees or some place appointed for this purpose resign his office of Trustee and shall thereupon cease to be a Trustee.

The words “together with all the Clergy of the Church officiating within the said Settlement under the licence of the Bishop” were omitted pursuant to and subject to section 1 Church Property Trust Amendment Ordinance 1867, and by section 3 Provincial Ordinances Act 1892.

3

Sections 3 to 10 were repealed by section 1 Church Property Trust Amendment Ordinance 1867 (C), and by section 3 Provincial Ordinances Act 1892.

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Sections 3 to 10 were repealed by section 1 Church Property Trust Amendment Ordinance 1867 (C), and by section 3 Provincial Ordinances Act 1892.

11 Canterbury Association may convey property to Trustees, and receive releases from them

It shall be lawful for the said Canterbury Association, and to any other person or persons holding in trust for them, or his, or their agent or agents duly authorised in that behalf to convey and assign to the said Trustees and their successors, in trust for ecclesiastical and educational purposes within the said Settlement all or any part of the real or personal property applicable to ecclesiastical or educational purposes vested in the said Association, or in any other person or persons in trust for there four ecclesiastical or educational purposes subject to any terms or conditions which may be agreed on between the Trustees and the said Association or their agent or agents on their behalf, and such other person or persons in trust for them, and it shall be lawful to the Trustees to execute and give to the

said Association such releases or indemnities as may be agreed on between the said Trustees and the said Association and such agent or agents as aforesaid, and such releases or indemnities shall be effectual to all intents and purposes.

12

Section 12 was repealed by section 1 Church Property Trust Amendment Ordinance 1867 (C), and by section 3 Provincial Ordinances Act 1892.

13 Title

This Ordinance shall be intituled the Church Property Trust Ordinance, Sess II, No 3, and may be cited by such title.

JAMES EDWARD FITZ GERALD

SUPERINTEDENT

Passed the Provincial Council, on the 9th day of March, and assented to by His Honour the Superintendent, on behalf of His Excellency the Governor, on the 16th day of March, in the year of our Lord, 1854.

CHARLES SIMEON

SPEAKER

GEORGE A E ROSS

CLERK TO THE COUNCIL