



ANALYSIS

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1974, No. 4—*Private*

An Act to declare the trusts upon which the Melanesian Trust Board holds certain land and the income therefrom and to provide for the administration thereof

[9 August 1974

WHEREAS the Missionary Diocese of Melanesia has been associated since 1862 with the General Synod of the Church of the Province of New Zealand, commonly called the Church of England, pursuant to clause 18 of the constitution of the said Church, the validity of which association was confirmed by section 6 (2) of the Church of England (Missionary Dioceses) Act 1955: And whereas the association of the said Missionary Diocese of Melanesia with the said General Synod is about to be terminated pursuant to a resolution of the said General Synod at its biennial meeting in March 1974 passed in anticipation of the establishment of the Province of Melanesia and acting pursuant to the powers vested in it by section 4 (d) of the Church of England (Missionary Dioceses) Act 1955 and by its Canons: And whereas at a Diocesan Conference held at Honiara in the British Solomon Islands on the 7th day of January 1973 the Bishops and representatives of the other clergy and laity of the said Missionary Diocese of Melanesia agreed to the setting up of the Province of Melanesia, and a constitution for the Province which provides for the estab-

lishment of a Provincial Synod for the management of the affairs of the said Province, such Province to come into being on the 26th day of January 1975 or such other date as may be agreed between the Primate and Archbishop of New Zealand and the Bishop of Melanesia, not being a date earlier than the date of the passing of this Act: And whereas certain real property and income arising therefrom in New Zealand is held by the Melanesian Mission Trust Board, a Board duly incorporated in New Zealand pursuant to the Charitable Trusts Act 1957, in trust for charitable and religious purposes in the Missionary Diocese of Melanesia on certain trusts set out in a deed of conveyance dated the 19th day of April 1862 made pursuant to the Bishop of New Zealand Trusts Act 1858, which deed makes reference in divers places to the said Trusts being applicable for purposes in the South Seas: And whereas doubts have from time to time arisen as to the meaning of the words "in the South Seas" as used in the said deed of conveyance and in particular whether such expression includes any area or areas outside the boundaries of the said Missionary Diocese of Melanesia: And whereas the said Melanesian Mission Trust Board is presently under the control of the General Synod of the Church of the Province of New Zealand and the Members of the same are appointed by the said General Synod: And whereas it is provided in the said constitution of the Province of Melanesia that the Council of Bishops shall appoint a New Zealand Advisory Council consisting of 4 or more New Zealand citizens resident in or within 50 miles of the City of Auckland: And whereas pursuant to the pending establishment of the said Province of Melanesia it is necessary and desirable that the doubts relating to the words "in the South Seas" be resolved and that the said Melanesian Mission Trust Board should hold the said property and income in New Zealand henceforth for the Province of Melanesia, and that the Members of the said Board be appointed by and be under the control and direction of the New Zealand Advisory Council:

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

1. Short Title—This Act may be cited as the Melanesian Trusts Act 1974.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Area of the Province of Melanesia” means the British Solomon Islands Protectorate, the New Hebrides Condominium, and New Caledonia:

“Commencement date” means the 26th day of January 1975 or such other date as may be agreed upon between the Primate and Archbishop of New Zealand and the Bishop of Melanesia for the coming into being of the Province of Melanesia, not being a date earlier than the passing of this Act:

“New Zealand Advisory Council” means the 4 or more New Zealand citizens residing in or within 50 miles of the City of Auckland appointed by the Council of Bishops of the Province of Melanesia pursuant to the Constitution of the said Province:

“Trust Board” means the Melanesian Mission Trust Board, a Board duly incorporated in New Zealand pursuant to the Charitable Trusts Act 1957.

3. Control of Trust Board—On and after the commencement date the Trust Board shall be subject to the control and direction of, and its members shall be appointed by, the New Zealand Advisory Council to the same extent as the said Board and its Members were, before that date, appointed by and subject to the control and direction of the General Synod of the Church of the Province of New Zealand.

4. Trust property—On and after the commencement date, the Trust Board shall hold all the property and income of the Board in trust for the said Province of Melanesia, and the expression “in the South Seas” in the trusts applicable shall henceforth be taken to mean and be deemed always to have meant “in the area of the Province of Melanesia”.

5. Same trusts, etc., to apply—(1) In all other respects the Trust Board shall hold such real property and the income therefrom upon and subject to the same trusts, powers, contract, and equities *mutatis mutandis* as affected the same immediately before the commencement date.

(2) Without limiting the generality of subsection (1) of this section, the provisions of the Church of England Trusts Act 1913 shall, so far as they are applicable, apply to the Trust Board and the trust property, and the provisions in the said Trusts that the assets to be held by the Board shall be real property in New Zealand and administered in New Zealand shall remain in full force and effect.

6. Private Act—This Act is hereby declared to be a private Act.
