

[Extract from *Commonwealth of Australia Gazette*, No. 26, dated
3rd May, 1934.]

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 11 of 1934.

AN ORDINANCE

**To provide for the Temporal Affairs of The Salvation
Army in the Territory for the Seat of Government.**

WHEREAS by a Deed Poll (in this Ordinance called the Deed of Preamble.
Constitution) dated the seventh day of August, One thousand
eight hundred and seventy-eight, and under the hand and seal
of William Booth and afterwards enrolled in the Chancery Division
of the High Court of Justice on the thirteenth day of August,
One thousand eight hundred and seventy-eight, the origin and
doctrines of the Christian Mission therein referred to were recited
and stated and it was by the said Deed Poll amongst other things
provided that the said Christian Mission was and should always
be thereafter under the oversight, direction and control of some
one person who should be the General Superintendent thereof
whose duty it should be to determine and enforce the discipline
and laws and superintend the operations of the said Christian
Mission and to conserve the same to and for the objects and
purposes for which it was first originated and that the said General
Superintendent should have the powers therein mentioned that
the said William Booth should continue to be for the term of his
natural life the General Superintendent of the said Christian
Mission unless he should resign such office that the said William
Booth and other General Superintendent who should succeed him
should have power to appoint his successor to the office of General
Superintendent and all the rights powers and authorities should
vest in the person so appointed upon the decease of the said
William Booth or other General Superintendent appointing him or
at such other period as might be named in the document appointing
him and that it should be the duty of every General Super-
intendent to make in writing as soon as conveniently might be after
his appointment a statement as to his successor and as to the
means which were to be taken for the appointment of the successor
on the decease of the General Superintendent or upon his ceasing
to perform the duties of the office such statement to be signed by
the General Superintendent and delivered under seal to the
Solicitor for the time being of the said Christian Mission but such
statement might be altered at will by the General Superintendent
at any time during his continuance in office pending a new
statement being signed by him and delivered as before mentioned
to such Solicitor as aforesaid:

119.—PRICE 8d.

And whereas by the said recited Deed Poll it was provided that the General Superintendent should have power to expend on behalf of the Christian Mission all moneys contributed for the general purposes of the said Christian Mission or for any of the special objects of its operations but he should annually publish a balance-sheet duly audited of all such receipts and expenditure and that the General Superintendent should have power to acquire by gift purchase or otherwise any hall or meeting-house school-room vestry land building and appurtenances and any seats fittings furniture or other property whatsoever which might in his judgment be required for the purposes of the said Christian Mission and to build upon such land or alter or pull down any such buildings and to hire on lease or otherwise any land or buildings and to lend, give away and sell or otherwise dispose of any such properties, lands or buildings as he might deem necessary in the interests of the said Christian Mission, wherein all trustees should render him every assistance and that he might in all such cases as he should deem it expedient so to do nominate trustees or a trustee of any part or parts thereof respectively of any such property and direct the conveyance and transfer thereof to such trustees or trustee with power for the General Superintendent to declare the trusts thereof and from time to time if it should seem expedient to him so to do to revoke any such trusts or the appointment of any such trustees or trustee and pending such revocation the same property should be conveyed or transferred to such persons or person upon such trusts as he might direct but only for the benefit of the said Christian Mission:

And whereas by a further Deed Poll under the hand of the said William Booth bearing date the twenty-sixth day of July, One thousand nine hundred and four, and enrolled in the Supreme Court of Judicature, England on the twenty-seventh day of July, One thousand nine hundred and four, it was recited that on or about the first day of January, One thousand eight hundred and seventy-nine, the name of the said religious society or organization was changed from "The Christian Mission" to "The Salvation Army" as appears by Memorandum under the hand of the said William Booth dated the twenty-fourth day of June, One thousand eight hundred and eighty, and endorsed on the said recited Deed Poll of the seventh day of August, One thousand eight hundred and seventy-eight, and that the said society or organization had since been and was then known as it now is as **The Salvation Army** and that the title of the "General Superintendent" thereof had been altered and shortened into that of "General" and that the said William Booth was then known and designated and it was expected that every successor of his would be thereafter known and designated as the "General" of The Salvation Army:

And whereas it was also recited by the lastly herein recited Deed Poll of the twenty-sixth day of July, One thousand nine hundred and four, that in order to minimise the possibility of

doubt, dispute or litigation it was considered desirable to provide more fully and specifically than was done by the Deed of Constitution for the events in which the General for the time being should cease to perform the duties of his office and also for the nomination and appointment of a successor to the General for the time being on his dying or ceasing to perform the duties of office and that the said William Booth had accordingly determined to execute the said recited Deed Poll of the twenty-sixth day of July, One thousand nine hundred and four:

And whereas the said Deed Poll now in recital sets forth more fully and effectually such events and makes provision *inter alia* that every General for the time being of The Salvation Army should be deemed to cease to perform the duties of his office within the meaning of clause six of the said Deed of Constitution and to vacate such office upon the happening of any of the events therein referred to, that is to say, if *inter alia* the Commissioners of The Salvation Army or a majority of such Commissioners amounting to at least four in five should declare in writing under their hands that they are satisfied that the General is *inter alia* permanently incapacitated by mental or physical infirmity from the adequate performance of the duties of his office or if a resolution adjudicating the General unfit for office and removing him therefrom should be passed by a majority of not less than three-fourths of the members present and voting at a meeting of the High Council of The Salvation Army as thereafter provided for:

And whereas by a Deed Poll under the hand and seal of William Bramwell Booth bearing date the first day of June, One thousand nine hundred and twenty, it was recited that the said William Booth had died on the twentieth day of August, One thousand nine hundred and twelve, having by Deed Poll under his hand and seal dated the twenty-first day of August, One thousand eight hundred and ninety, in exercise of the power in that behalf vested in him by the said Deed of Constitution as aforesaid appointed the said William Bramwell Booth to be his successor in the office of General of The Salvation Army and that the said William Bramwell Booth had by Deed Poll under his hand and seal dated the twenty-third day of August, One thousand nine hundred and twelve, duly accepted the said office:

And whereas it was recited by the said recited Deed Poll of the first day of June, One thousand nine hundred and twenty, that in connexion with and as the outcome of the work teaching and experience of The Salvation Army in the United Kingdom and in Australia and other countries of the world the said William Booth and the said William Bramwell Booth had evolved and promulgated various operations for the social temporal and moral welfare of the poorer and more needy classes of society and all persons who are destitute feeble-minded or vicious or suffering from injuries or sickness or ill-health or orphans or for children

needing care in orphanages or reformatories and for other charitable purposes which operations are generally known and described as the Social Work of The Salvation Army and which in relation to the Commonwealth of Australia (hereinafter called "the Commonwealth") are sometimes referred to as the Social Work and that in connexion with the carrying out of the Social Work in the Commonwealth the said William Booth and the said William Bramwell Booth as his successor in office had acquired certain real and personal property particularized in the schedule thereto and other real and personal property would thereafter be acquired for the purposes of the Social Work and that it was thought desirable that the same respectively should be kept distinct from the other or proper real and personal property of The Salvation Army and be used and devoted exclusively in and to the Social Work in and connected with the Commonwealth and that the Social Work should be confined and regulated and the trusts of the said real and personal property already acquired and thereafter to be acquired for or in connexion therewith declared as thereinafter appearing:

And whereas by the said recited Deed Poll of the first day of June, One thousand nine hundred and twenty, the said William Bramwell Booth declared that the real and personal property particularized in the said schedule and all property, real and personal, which might thereafter be acquired by gift grant purchase or in any manner whatsoever for the purposes of the Social Work in or in connexion with the Commonwealth and all real and personal property for the time being representing the same or any part thereof respectively and all which are sometimes thereafter collectively referred to as the trust property should at all times thereafter be held upon trust to use and apply the same and the income thereof for the social, temporal and moral welfare and the improvement of the poorer and more needy classes of society and all persons who were destitute or vicious or feeble-minded or suffering from injuries or sickness or ill-health or orphans or for children needing care in orphanages or reformatories in the Commonwealth and for other charitable purposes in connexion with the Commonwealth in such ways and by such means as the said William Bramwell Booth or other the Director as thereinafter defined for the time being of the Social Work should at any time or from time to time think fit subject nevertheless to the provisoes therein contained:

And whereas by the said Deed Poll now in recital it was provided that the said Social Work should at all times thereafter be under the oversight, direction and control of the person who should for the time being be General of The Salvation Army and he should be called in relation to the Social Work the Director of the Social Work (hereinafter referred to as "the said Director") and that it should be his duty to determine and enforce

the laws and to superintend the operations of the Social Work and to conserve the same and the trust property for the purpose of the trusts thereby declared:

And whereas it was provided that for the purpose of identifying or ear-marking the trust property and the income thereof and of keeping the same distinct from all property of The Salvation Army full accounts of all moneys contributed, collected or received for the Social Work and of the application thereof should be kept in such manner as to keep the same always distinct and separate from the property of The Salvation Army and that all conveyances, leases, transfers, assignments and assurances made to the Director for the time being for the purposes of the Social Work should be expressed to be made to him as such Director and should thereupon become subject to the trusts of the presents now in recital and that whenever any property real or personal required for the purposes of the Social Work should be conveyed, leased, assigned, transferred or assured to any trustees or trustee other than the Director for the time being such trustees or trustee should in each case execute a sufficient declaration of trust so as in every case to enable the property so conveyed, leased, assigned, transferred or assured to be sufficiently identified or ear-marked as being property devoted to the purposes of the Social Work:

And whereas the said recited Deed Poll of the first day of June, One thousand nine hundred and twenty, set forth the powers which the Director should have over and on and concerning the said trust property:

And whereas at a duly convened meeting of the High Council of The Salvation Army held at Sunbury in the United Kingdom on the thirteenth day of February, One thousand nine hundred and twenty-nine, the High Council of The Salvation Army referred to in the said recited Deed Poll of the twenty-sixth day of July, One thousand nine hundred and four, duly and in accordance with the said Deed Poll adjudicated the said William Bramwell Booth unfit for office and removed him therefrom and by way of record declared that the said adjudication was based upon the state of health of the said William Bramwell Booth and the said High Council in pursuance of the power vested in it by the said Deed Poll of the twenty-sixth day of July, One thousand nine hundred and four, elected Edward John Higgins, a Commissioner of The Salvation Army, as successor in the office of General of The Salvation Army to the said William Bramwell Booth:

And whereas by Deed Poll under his hand and seal dated the thirteenth day of February, One thousand nine hundred and twenty-nine, the said Edward John Higgins duly accepted the said office upon and subject to the terms of the said recited Deeds Poll dated the seventh day of August, One thousand eight hundred and seventy-eight, and the twenty-sixth day of July, One thousand nine hundred and four, respectively:

And whereas the said William Bramwell Booth died on the sixteenth day of June, One thousand nine hundred and twenty-nine:

And whereas it is expedient to provide that the whole of the property real and personal of The Salvation Army in the Territory which was at the time of his death held and now stands in the name of the said William Bramwell Booth upon the trusts of the hereinbefore recited Deeds Poll of the seventh day of August, One thousand eight hundred and seventy-eight, and the twenty-sixth day of July, One thousand nine hundred and four, and the first day of June, One thousand nine hundred and twenty, respectively, and also that all other property real and personal of or to which The Salvation Army in the Territory is entitled held by and standing in the name of the said William Bramwell Booth at the time of his death or now standing in the name or names of any other person or persons and which the General for the time being of The Salvation Army as such General and as Director of the said Social Work of The Salvation Army respectively is entitled to have vested in him upon the trusts of the said recited Deeds Poll according to the nature of the same shall vest in The Salvation Army (New South Wales) Property Trust incorporated under *The Salvation Army (New South Wales) Property Trust Act 1929* of the State of New South Wales with the powers and authorities in this Ordinance set forth:

Be it therefore ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1933*, as follows:—

Short title.

1. This Ordinance may be cited as the *Salvation Army Property Trust Ordinance 1934*.

Definitions.

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

“Deeds Poll” means the Deed of Constitution, the Deed Poll under the hand of William Booth bearing date the twenty-sixth day of July, One thousand nine hundred and four, and the Deed Poll under the hand and seal of William Bramwell Booth bearing date the first day of June, One thousand nine hundred and twenty;

“General” or “The General” means the General of The Salvation Army under its Constitution, or his attorney for the time being in the State of New South Wales duly authorized in that behalf, or such other person as for the time being has vested in him under that Constitution general control and authority over the property in England of The Salvation Army, or the attorney for the time being in the State of New South Wales of that person duly authorized in that behalf;

“the Trust” or “the Trustees” means “The Salvation Army (New South Wales) Property Trust”, constituted under *The Salvation Army (New South Wales) Property Trust Act 1929* of the State of New South Wales,

and any reference to a majority of the Trustees shall be read as a reference to a majority of the persons for the time being constituting the Trust.

3. All lands, tenements, and hereditaments, including chattels real situate in the Territory, together with all rights, easements, and appurtenances relating thereto and all personal property which were at the time of his death held by and now stand in the name of William Bramwell Booth, as General of The Salvation Army or Director of the Social Work of The Salvation Army respectively, upon the trusts of the Deeds Poll, and all other lands, tenements, and hereditaments whatsoever, including chattels real situate in the Territory, which at the commencement of this Ordinance stand in the name of William Bramwell Booth or in the name or names of any other person or persons in trust for The Salvation Army in the Territory, or for any of its funds or any auxiliary or department of its work or any corps or institution of The Salvation Army in the Territory, or to which The Salvation Army in the Territory is otherwise entitled, save and except any property held by The Salvation Army Auxiliary Company of Australia Proprietary Limited, shall without any conveyance or transfer vest in the Trustees upon the trusts and with the powers, authorities, and discretions and subject to the terms, provisions, and conditions of this Ordinance and the Deeds Poll, according to the particular trusts in each case upon which the same shall be held at the commencement of this Ordinance, but subject and without prejudice to any special trusts, if any, upon which the same may be held, and subject also to any reservation, mortgage, charge, encumbrance, lien, or lease affecting the same respectively, and subject and without prejudice to any resulting trust or any trust of any such lands, tenements, or hereditaments in favour of the donor or any person or corporation other than The Salvation Army, but upon and subject to no other trusts or provisions whatsoever.

Vesting of
property in
Trustees.

4. The Trustees may exercise all the powers relating to the lands, tenements, and hereditaments and personal property hereby vested in them, and in respect of all lands, tenements, and hereditaments and personal property which may after the commencement of this Ordinance be acquired by them or which may become vested in them under this Ordinance which are now exercisable by the General of The Salvation Army and the Director of the Social Work of The Salvation Army for the time being respectively under the Deeds Poll, according as they shall and may hold

Powers of
Trustees.

the same upon one or the other of the trusts of the Deeds Poll, and may exercise such powers and all or any of the powers by this Ordinance conferred upon them, notwithstanding there shall be for the time being any vacancy in the office of General of The Salvation Army or the office of Director of the Social Work of The Salvation Army.

Trust property:
how held.

5. All property held by the Trustees shall, so far as the same is not subject to any express trust, be held and dealt with by them in accordance with and subject to the powers and provisions of the Deeds Poll, according to the trusts upon which the property is held, and no person dealing with the Trustees shall be bound to inquire into the propriety or necessity of any such dealing.

Power to
mortgage.

6. The Trustees may, for the purpose of securing such sums of money as they deem requisite or necessary for the purposes of The Salvation Army or the Social Work of The Salvation Army, mortgage to any person any land or interest in land vested in the Trustees:

Provided nevertheless that any moneys raised on any land or interest in land which shall for the time being be held upon trust for the Social Work of The Salvation Army shall only be used for the purposes of the Social Work of The Salvation Army.

Power to sell.

7. The Trustees may sell by public auction or private contract as they deem expedient, at such price as can be reasonably obtained for the same, any real and personal estate vested in them and when sold convey the same or any part thereof, and thereupon the same shall vest in the purchasers, their heirs, executors, administrators, or assigns according to the estate and interest of the Trustees therein absolutely freed and discharged from the trusts affecting the same.

Receipts for
mortgage
and purchase
moneys, &c.

8. The receipt in writing of a majority of the Trustees or of any person thereto authorized by such majority in writing to receive the same for the mortgage moneys raised on any property mortgaged by the Trustees, or for the purchase money of any property sold under this Ordinance, or for any moneys payable to them when exercising any of the powers by this Ordinance conferred upon them, or when exercising any of the powers for the time being vested in the General or the Director of the Social Work, as the case may be, under and by virtue of the Deeds Poll, shall exonerate the mortgagee and the purchaser and all other persons for the time being paying such moneys to the Trustees, or the person authorized to receive the moneys from seeing to the application of the same, 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.

Proceeds of
sale of land
held for the
Social Work.

9. The proceeds of the sale of any lands held for the purpose of the Social Work shall be devoted to the purposes of the Social Work, and the Trustees may for such purposes acquire therewith other lands and buildings for the purposes of such Work.

10. A notification in the *Gazette*, purporting to be signed by the attorney for the time being of the General, of the appointment of a secretary or other officer shall be *prima facie* evidence, and, in favour of the Crown and the Registrar of Titles and every person who deals for value with the Trustees, conclusive evidence, of his or their due appointment, and 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 the secretary certifying to any resolution of the Trustees shall be *prima facie* evidence, and, in favour of the Crown 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.

Evidence of resolutions.

11. Whenever by any will, deed, or other instrument any property, real or personal, has been or is devised, bequeathed, given, granted, released, conveyed, or appointed or has been or is declared or directed to be held upon trust to or for the benefit of The Salvation Army or of any fund, institution, branch, or corps thereof or is recoverable by or payable to The Salvation Army or by or to any fund, institution, branch, or corps thereof or be receivable by or payable to any officer thereof for the benefit of The Salvation Army or any of its funds, institutions, branches, or corps, or for its Social Work, the will, deed, or instrument shall be construed and operate and take effect as though the Trustees were named therein, and the acknowledgment or receipt of the Trustees or a majority of them or of any person thereto authorized in writing by the Trustees, or a majority of them, for any such gift shall be a sufficient discharge to the person liable to deliver or transfer any such money or property under the will, deed, or instrument, and all property, real or personal, so devised, bequeathed, given, granted, released, 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 the same are capable of taking effect, be under the direction and control of the Trustees, and they may call for the transfer, conveyance, or delivery thereof.

Construction of wills, &c.

12.—(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 Salvation Army or to or for the benefit of any fund, corps, institution, branch, or auxiliary thereof, other than real or personal property devised, bequeathed or given to

Vesting in trustees of property given or devised, &c., for benefit of The Salvation Army.

specific trustees upon trust for The Salvation Army or for any such fund, corps, institution, branch, or auxiliary thereof, all such real and personal property shall vest in the Trustees.

(2.) The Trustees shall hold any such real and personal property upon the trusts, if any, declared in respect thereof, and if no such trusts have been declared shall hold and deal with such real and personal property and the proceeds thereof in trust for The Salvation Army for such purposes and in such manner as they deem expedient, and may convey, transfer, or deliver any such real or personal property to such person and upon such trusts as they think fit, and the Trustees and any person to whom any such real or personal property is so conveyed, transferred, or delivered may sell, lease, mortgage, or otherwise deal with any such real or personal property:

Provided that the receipt in writing of the Trustees or a majority of them or of any person thereto authorized in writing by the Trustees or a majority of them of any moneys receivable by them in the exercise of those powers shall exonerate the person paying the same to them from seeing to the application thereof and all liability as to the misapplication or non-application thereof, and no person shall be bound to inquire into the validity of any such sale, conveyance, lease, or mortgage.

Preservation of
rights of
claimants.

13. Nothing in this Ordinance contained or that may be done under this Ordinance shall be deemed prejudicially to affect or to deprive any person of any right whatsoever which he now has arising out of contract or tort, and any such right which may at the commencement of this Ordinance have been enforceable against the General or his predecessor in the office of General of The Salvation Army and in respect of which right the property by this Ordinance vested in the Trustees was liable may be enforced against the Trustees.

Vesting of
rights of the
General in the
Trustees.

14. Any rights, including choses in action, arising out of contract or tort relating to the real and personal property by this Ordinance vested in the Trustees which were at the time of his death in the said William Bramwell Booth or at the commencement of this Ordinance are in the General are hereby vested in the Trustees and may be enforced by them.

Dated this second day of May, 1934.

ISAAC A. ISAACS
Governor-General.

By His Excellency's Command,

A. J. McLACHLAN
for Minister of State for the Interior.

By Authority: L. F. JOHNSTON, Commonwealth Government Printer Canberra.