

Mr N. V. Douglas

ST. JOHN'S COLLEGE TRUSTS ACT

[PRIVATE]

ANALYSIS

Title	
Preamble	
1. Short Title	
2. Interpretation	
PART I	
ST. JOHN'S COLLEGE	
3. St. John's College trusts	
4. Rules and regulations	
5. Buildings	
6. Removal of College	
PART II	
SCHOLARSHIP FUNDS	
7. Validations of certain payments	
8. Trust of scholarship funds	
9. Disposition of Income	
PART III	
WIDOWS AND ORPHANS ENDOWMENT	
10. Widows and orphans endowment	
PART IV	
POWERS OF TRUSTEES	
11. Power to accumulate	
12. Powers of Trustees	
13. Leasing powers	
14. Delegation by General Synod	
15. Application of Charitable Trusts Act 1957	
16. Repeals and savings	
17. Private Act Schedules	

A BILL INTITULED

An Act to declare the trusts upon which the St. John's College Trust Board holds certain land and investments and to provide for the administration thereof

- 5 WHEREAS the St. John's College Trust Board, incorporated under the provisions of the Charitable Trusts Act 1957 (hereinafter called the Trustees) had vested in it the land and investments described in the First Schedule to this Act (hereinafter referred to as the college funds), the land and
10 investments described in the Second Schedule to this Act (hereinafter referred to as the scholarship funds), and the land and investments described in the Third Schedule to this Act (hereinafter referred to as the widows and orphans endowment): And whereas some of the said land has been
15 sold and the net proceeds thereof invested in other assets in

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the name of the Trustees: And whereas in the preamble to
 the St. John's College, Auckland, Removal Act 1883 the
 trusts upon which the College Funds are held were therein
 recited which said trusts had pursuant to the provisions of
 the Bishop of New Zealand Trusts Act 1858 been declared 5
 in a deed dated the 18th of August 1859 and made between
 the Right Reverend George Augustus Selwyn, Bishop of New
 Zealand of the one part, the Reverend John Frederick Lloyd,
 the Reverend John Coleridge Patterson, the Honourable Henry
 John Tancred, the Honourable William Kenny, and Theodore 10
 Minet Haultain, Esquire, of the second part: And whereas in
 the said deed it was declared that the College Funds were
 held upon trust, *inter alia*, for the education of candidates
 for holy orders, and for the instruction and training of the
 youth of both races in useful learning, and in moral and 15
 industrious habits, and for the education of all students therein
 in the principles of the Christian religion according to the
 doctrine and discipline of the Church of England: And
 whereas for many years past the St. John's College has been
 and still is a theological college for the education of candidates 20
 for holy orders in the Church of the Province of New Zealand
 commonly called the Anglican Church: And whereas in view
 of the growing co-operation between the churches, the General
 Synod of the said Anglican Church is desirous that the said
 College should not be restricted to the education of candidates 25
 for ordination in the said Anglican Church but should become
 a general theological college for the education of candidates
 for ordination in the principles of the Christian faith: And
 whereas by the provisions of section 3 of the St. John's College
 Trust Act 1923 the Trustees were authorised and empowered 30
 at their discretion from time to time to apply the whole or
 such portion or portions as they thought fit of the income
 from the Scholarship Funds referred to in the First Schedule
 to that Act for the general purposes of St. John's College for
 a period of 20 years from the passing of that Act or for such 35
 longer period as might be directed from time to time by the
 said General Synod: And whereas the said period of 20 years
 expired on the 22nd day of August 1943: And whereas the
 said General Synod did on the 11th day of November 1943
 direct that the period during which the said funds might be 40
 so used be extended until the session of the Synod in 1952:
 And whereas the said General Synod did on the 12th day of
 March 1952 direct that the said period be extended until the
 conclusion of the second ordinary session of the General Synod
 after 1952 which period expired at the conclusion of the 45

session of the General Synod held in 1958, namely, the 27th of November 1958: And whereas the said General Synod has not further directed that the said period be extended: And whereas by virtue of Section 2 of the St. John's College Trust
5 Amendment Act 1957 the Trustees were empowered at their discretion to apply the whole or such part of the income of the scholarship funds as they thought fit in or towards the maintenance and support of candidates for holy orders of the Church of the Province of New Zealand while taking a course
10 for a degree or diploma at any University or University College within New Zealand: And whereas since the said 27th day of November 1958 the Trustees have applied part of the income of the scholarship funds towards the general purposes of the St. John's College and the said General Synod
15 desires that such past applications of income should be validated: And whereas the said General Synod desires that the ambit of the trusts of the college funds and the scholarship funds be extended having regard to modern social and religious conditions and that the trusts of the college funds and the
20 scholarship funds be consolidated and varied in this Act: And whereas the trusts of the widows and orphans endowment created by the said Right Reverend George Augustus Selwyn have been administered by the Trustees: And whereas the said General Synod is desirous that the St. John's College
25 Trust Board shall hereafter hold the funds of the widows and orphans endowment upon the trusts hereinafter declared in section 10 of this Act: And whereas the said General Synod is desirous that the powers of investment in respect of all the aforesaid trusts be extended: And whereas having regard to
30 the changing social and religious conditions in New Zealand the Trustees have from time to time considered it necessary or desirable that there be a variation or extension of the powers conferred upon them and that the method of administration of the aforesaid trusts be varied and it has been found
35 necessary to promote legislation to that end: And whereas it would be more convenient to provide that any variations or extensions of those powers or the method of administration of the aforesaid trusts, including the widows and orphans endowment, which from time to time may be required should
40 be submitted to the Supreme Court of New Zealand for approval in the form of a scheme prepared pursuant to Part III of the Charitable Trusts Act 1957 rather than that the Trustees should be required to promote from time to time Acts of Parliament for such purposes as aforesaid: And whereas the
45 Charitable Trusts Act 1957 provides adequate safeguards in

that it provides for a report from the Attorney-General on any such scheme and the said Court has power to approve with or without modification or reject any such scheme:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

1. Short Title—This Act may be cited as the St. John's College Trusts Act 1972.

2. Interpretation—In this Act, unless the context otherwise requires,— 10

“Anglican Church” means the Church of the Province of New Zealand, including the Dioceses of Melanesia and Polynesia:

“Candidate for ordination” means a person intending to be ordained into the Ministry of a Christian church: 15

“College” means the College of St. John the Evangelist now situated in Auckland and wheresoever hereafter from time to time the same may be situated:

“College funds” means the land and investments described in the First Schedule to this Act or other assets representing the same: 20

“General Synod” means the General Synod of the Anglican Church:

“Governors” means the body of persons who are from time to time appointed pursuant to the provisions of the Canons of the Anglican Church to be the Governors of the College: 25

“Scholarship funds” mean the land and investments described in the Second Schedule to this Act or other assets representing the same: 30

“The Trustees” means the St. John's College Trust Board incorporated under the Charitable Trusts Act 1957:

“Widows and orphans endowment” means the land and investments described in the Third Schedule to this Act or other assets representing the same. 35

PART I

ST. JOHN'S COLLEGE

3. St. John's College trusts—(1) The college funds shall hereafter be held upon the following trusts:

- 5 (a) For or towards the maintenance and support of the College:
- (b) For the education in the College of candidates for ordination:
- 10 (c) For the costs of the education of students of all races in such manner and in such places as the General Synod shall from time to time direct so long as such education includes instruction in the principles of the Christian faith.

4. Rules and regulations—The Governors may from time to time—

- 15 (a) With the prior authority of the General Synod make rules and regulations for the College relating to the admission of students, the constitution and government of the College, the course or courses of study to be followed therein, for ensuring the good order and efficiency thereof, and otherwise for securing the due execution of the trusts and purposes aforesaid, and may with the like authority revoke in whole or in part or amend any such rule or regulation:
- 20 (b) Delegate any one or more of the powers conferred on them by this Act to a subcommittee or subcommittees appointed by them, consisting of one or more Governors and such other persons (if any) as the Governors think fit, and may rescind any delegation or appointment so made.
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5. Buildings—The Trustees, with the prior authority of the General Synod, may—

- (a) Demolish any existing buildings of the College:
- 35 (b) Add to or extend existing buildings of the College or erect new buildings—

and for such purposes may expend the income as well as the capital of the college funds.

6. Removal of College—The Trustees, with the prior authority of the General Synod, may at any time determine that the College be removed from its existing site to a site elsewhere in New Zealand, and in any such case all endowments of the College shall be available for the benefit of the resited College and shall be held upon the same trusts respectively as if the site of the College for the time being had been the site thereof when such endowments were made. 5

PART II

SCHOLARSHIP FUNDS

7. Validations of certain payments—All payments or applications of income derived from the scholarship funds made by the Trustees since the 27th day of November 1958 for the general purposes of the College are hereby validated and declared to have been lawful. 10 15

8. Trust of scholarship funds—(1) The Trustees shall hold the scholarship funds upon and for the respective trusts and purposes respectively set opposite to the respective lands and investments set forth in the Second Schedule to this Act.

(2) Notwithstanding the provisions of subsection (1) of this section, it shall be lawful for the Trustees, with the prior authority of the General Synod, from time to time to apply the whole or such portion or portions of the income of the scholarship funds as they think fit in or towards the maintenance and support of candidates for ordination or persons who have been ordained (and their dependents respectively) while taking a course of study for a degree or diploma at any University or University College or any other course of study within New Zealand or elsewhere. 20 25

(3) Notwithstanding the provisions of subsection (1) of this section, the Trustees may, with the prior authority of the General Synod, out of the income or capital of the scholarship funds finance in whole or in part the teaching of theology at any University or University College or other institution within New Zealand. 30 35

- 9. Disposition of Income**—Notwithstanding anything in this Part of this Act, if in any year or years any part of the income of the scholarship funds shall not, in the opinion of the Governors, be required for the purposes of subsection (1) of section 8 of this Act it shall be lawful for the Trustees to apply the whole or such part or parts of the surplus income of the scholarship funds as they think fit for any one or more of the purposes set forth in section 3 of this Act, in such manner as they think fit:
- 10 Provided that, before so applying the same, the Trustees shall give prior notice of their intention so to do to the General Synod and obtain its consent to such application.

PART III

WIDOWS AND ORPHANS ENDOWMENT

- 15 **10. Widows and orphans endowment**—(1) The Trustees shall hereafter hold the widows and orphans endowment upon trust for and towards the support of clergymen who have retired or who are in need of financial assistance and for
20 and towards the support of the widows and orphans of deceased clergymen, and, subject to section 11 of this Act, after deducting costs incurred by the Trustees in connection with the said funds, the Trustees shall pay the net available income to the New Zealand Anglican Church Pension Fund Board established by the General Synod or, if directed by the
25 General Synod, to such other Trustees as shall hereafter be appointed by the General Synod to distribute such income in accordance with the foregoing trusts and in accordance with the rules governing the eligibility of such clergymen or widows or orphans (if any) which the General Synod may from time
30 time to time determine.
- (2) For the purposes of this section the term “clergymen” means persons who have been ordained and who have served in the Anglican Church and, if the General Synod at any time so directs, persons who shall hereafter be ordained in the
35 proposed Church of Christ in New Zealand or who shall hereafter be recognised as ordained Ministers for the purposes of the said proposed Church of Christ in New Zealand.

PART IV

POWERS OF TRUSTEES

11. Power to accumulate—The Trustees may from time to time, with the consent of the New Zealand Anglican Church Pension Fund Board or of such other Trustees as may be appointed by the General Synod pursuant to section 10 of this Act accumulate any part or parts of the income arising from the widows and orphans endowment and add such accumulation to the capital thereof, including any past accumulations, as the Trustees think fit.

12. Powers of Trustees—(1) In addition to and not in substitution for any powers howsoever conferred upon or vested in them, the Trustees may from time to time in respect of any land or investments at any time vested in them pursuant to the trusts of the College or the scholarship funds or the widows and orphans endowment—

- (a) With the prior authority of the General Synod, whether given generally or in respect of any particular area or areas of land, sell any land or any part or parts thereof:
- (b) Borrow money with or without security for any purpose or purposes of the said trusts:
- (c) Invest money held by the Trustees in the securities of any company, whether incorporated in New Zealand or elsewhere, which is officially listed on stock exchanges affiliated to the Stock Exchange Association of New Zealand and which comprise—
 - (i) Ordinary or preference shares, stock or debentures (including debenture stock and bonds and whether constituting a charge on assets or not); or
 - (ii) Secured or unsecured notes, whether registered or unregistered, and whether conveying the right of conversion to shares or not,—but excluding—
 - (iii) Any shares, stock, debentures, or notes, not fully paid up, except such as are, by the terms of issue, required to be fully paid up within 12 months after the date of issue; and
 - (iv) Any notes, or any debentures, under or in respect of which any liability to make further advances or payments will remain after the expiration of 12 months after the date of acquisition:

Provided that an investment under this paragraph shall not be made in the securities of any company—

(i) Unless the company has a paid-up share capital of \$1,000,000 or more; and

5 (ii) If the company has not paid a dividend of at least 5 percent in each complete financial year of the company the last day of which occurred within 5 years before the date of the investment, on all
10 ordinary stock and shares issued in that financial year after the dividend was declared and any stock or shares on which (in terms of their issue) no dividend or dividends of less than 5 percent are payable in the financial year:

15 (d) Delegate any one or more of the powers conferred on them by this Act to a subcommittee or subcommittees appointed by them consisting of one or more of the trustees and may rescind any delegation or appointment so made.

20 (2) For the purposes of subparagraph (ii) of the proviso to paragraph (c) of subsection (1) of this section, a company formed to take over the whole of the business of another company or other companies shall be deemed to have paid the requisite dividend in any financial year, if such a dividend was paid by each such other company in each financial year
25 of that company any part of which fell within the relevant financial year of the company taking over the business.

13. Leasing powers—(1) The Trustees are hereby declared to be a leasing authority within the meaning of the Public Bodies Leases Act 1969.

30 (2) The Trustees may, on such terms and conditions as they think fit, grant a lease of any area or areas of land for any period not exceeding 21 years at a nominal rent of a peppercorn, on payment to the Trustees of a premium by the proposed lessee, and the Trustees may include in any such
35 lease a provision for payment of the premium by instalments and may confer on the lessee an option to require at the end of the term the grant of a new lease under the provisions of the Public Bodies Leases Act 1969.

40 (3) The Trustees may at any time accept a surrender of any lease whensoever and howsoever granted upon such terms and conditions as they think fit.

14. Delegation by General Synod—The General Synod may at any time delegate the functions, powers, and duties conferred or imposed on it by this Act to any person or body of persons, whether incorporated or not, and may at any time rescind any delegation so made.

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15. Application of Charitable Trusts Act 1957—(1) In the event of the Trustees at any time finding it necessary or expedient for their powers to be extended or varied, or that the mode of administration of any of the said trusts be prescribed or varied, or if any of the charitable purposes prescribed by this Act become impossible, impracticable, or inexpedient, the Trustees may prepare a scheme under the provisions of Part III of the Charitable Trusts Act 1957, and make application to the Court for approval thereof in terms of the provisions of that Act.

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(2) The Court shall have jurisdiction under the Charitable Trusts Act 1957 to consider any scheme referred to it pursuant to subsection (1) of this section and may approve the scheme with or without modification and, notwithstanding that anything in the scheme so approved is at variance with or conflicts with any of the provisions of this Act (other than section 7 and this section) the terms of any scheme so approved shall be valid to all intents and purposes notwithstanding anything in such scheme as though the scheme had been contained in an Act.

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16. Repeals and savings—(1) The enactments specified in the Fourth Schedule to this Act are hereby repealed.

(2) Any act or thing made or done by the Trustees pursuant to any of the provisions of the enactments specified in the said Fourth Schedule insofar as the same are capable of taking effect at the time of the passing of this Act shall be deemed to have been made or done by the Trustees or the Governors under the provisions of this Act.

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17. Private Act—This Act is hereby declared to be a Private Act.

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SCHEDULES

FIRST SCHEDULE

Name of Trust, and Lands and Funds affected	Trusts upon which Lands and Funds held
<p>Allot. 38a. Crown Grant to Bishop, 30 September 1845 62a.0r.7p.</p> <p>Allot. 39a. Crown Grant to Bishop, 30 September 1845 32a.0r.0p.</p> <p>Allot. 33 Pt. Conveyance from John McRitchie, 21 October 1845 . . . 35a.0r.0p.</p> <p>Allot. 33 Pt. Conveyance from Frederick Whitaker, 17 October 1844 63a.0r.6p.</p> <p>Allot. 34. Pt. Conveyance from Frederick Whitaker, 17 October 1844 97a.3r.16p.</p> <p>Allot. 35. Pt. Conveyance from Frederick Whitaker, 17 October 1844 106a.2r.31p.</p> <p>Allot. 36. Pt. Conveyance from Frederick Whitaker, 17 October 1844 102a.2r.10p.</p> <p>Allot. 37 Pt. Conveyance from David Rough, 30 July 1850 1a.0r.05p.</p> <p>Allot. 37 Pt. Conveyance from David Rough, 30 July 1850 1a.1r.14p.</p> <p>Allot. 2. Conveyance, Watts, 9 September 1845 60a.3r.23.5p.</p>	<p>Upon trust for the College of St. John the Evangelist near Auckland.</p>

SECOND SCHEDULE

Name of Trust, and Lands and Funds affected	Trusts upon which Lands and Funds held
<p>1. Consolidated Scholarships—Allotments 45, 46, 47, and 12A of Section 12, District of Tamaki, containing 160 acres 3 roods 6 perches; Allotment 26A of Section 12, District of Tamaki, containing 17 acres and 16 perches; part Allotment 37, District of Tamaki, containing 45 acres 1 rood 31 perches; part Allotment 37, District of Tamaki, containing 13 acres; Allotment 48, District of Tamaki, containing 21 acres; part Allotment 11, District of Tamaki, containing 20 acres; part Section 1, District of Tamaki, containing 5 acres 3 roods 20 perches; capital sum of £2,500 invested at interest.</p>	<p>Upon trust for and towards the maintenance and support of scholars of the College of St. John the Evangelist, near Auckland, to be called after the names of the benefactors in such manner that the first elected of such scholars shall be called a Whytehead Scholar, the second an Appleyard Scholar, the third a Meyrick Scholar, the fourth an Abraham Scholar, the fifth an Eton Scholar, and again the sixth a Whytehead Scholar, and so on in succession in the order before stated, subject to all such rules and regulations as may from time to time be made by or by authority of the said General Synod concerning the election of such scholars, the number of such scholars to be maintained, the yearly sum to be allowed to each and otherwise for securing the due execution of the trusts and purposes aforesaid; and until such rules and regulations shall be made concerning the matters aforesaid, subject to all such rules and regulations as may from time to time be made concerning the same by the trustees for the time being; and, in case the rents, issues, and profits of the said lands shall exceed the amount needed for the support and maintenance of such scholars, or in case there shall be no such scholar, then upon trust to pay and apply the same towards the support and maintenance of the said College of St. John, and for the general purposes thereof.</p>
<p>2. Lady Margaret Scholarships—Part of Farm Section No. 2, District of Tamaki, containing 60 acres 3 roods 8 perches.</p>	<p>Upon trust for and towards the endowment of scholarships in the College of St. John the Evangelist, near Auckland, to be called by the name of Lady Margaret.</p>
<p>3. Griffin Laing Scholarship—Part of Allotment 37, District of Tamaki, containing 69 acres and 19 perches; Allotment 56, District of Tamaki, containing 8 perches.</p>	<p>Upon trust for and towards the maintenance of a scholar or scholars of the College of St. John the Evangelist, near Auckland, to be called Griffin Laing Scholars; and, in case the rents, issues, and profits of the said lands shall exceed the amount needed for the support and maintenance of such scholars, or in case there shall be no such scholar, then upon trust to pay and apply the same for and towards the support and maintenance of the said college.</p>
<p>4. Maria Blackett Scholarships—Part of Allotment 1 of Section 1 of the City of Auckland, containing 8.13 perches.</p>	<p>Upon trust for the endowment of scholarships in the College of St. John the Evangelist, in Auckland, to be called by the name of Maria Blackett, or otherwise towards the support and maintenance of the said college.</p>

THIRD SCHEDULE

Name of Trust, and Lands and Funds affected	Trusts upon which Lands and Funds held
Widows' and Orphans' Endowment —Part of Farm Section 5, District of Tamaki, containing 111 acres 1 rood 5 perches; capital sum of £1,712 ls. 9d. invested at interest.	Upon trust for and towards the support and maintenance of superannuated and invalid clergymen of the Branch of the United Church of England and Ireland in New Zealand, and the widows and orphans of deceased clergymen—preference being given to those clergymen and widows who shall have been in connection with the College of Saint John the Evangelist, near Auckland, or shall be willing to reside within the college estate and to discharge such duties as may be assigned to them by the governing body of the said college—to pay and apply the said rents, issues, and profits to the purposes and subject to the preference aforesaid and in such proportion, under such conditions, and in such manner as to the Board shall seem fit; and, in case the rents, issues, and profits shall exceed the amount needed for the support and maintenance of such persons as aforesaid, or in case there shall be no such person entitled thereto, then upon trust for the support and maintenance of the said College of Saint John, and for the general purposes thereof.

FOURTH SCHEDULE
ENACTMENTS REPEALED

- 1883, No. 1 (Private)—The St. John's College Auckland Removal Act 1883.
- 1923, No. 1 (Private)—The St. John's College Trust Act 1923.
- 1957, No. 3 (Private)—The St. John's College Trust Amendment Act 1957.