

PARLIAMENTARY ACTS

Every care has been taken to collate and reproduce the relevant Acts, Regulations and Orders.

However the material contained in this section is for your guidance only and has been included in this Handbook only in the interests of convenience.

Where the material is being relied upon in circumstances which may or may not create a duty of care, reference should always be made to the official published version of the Statutes and all current amending Acts, Regulations and Orders.

Jackie Pearse

**General Secretary
Anglican Church in Aotearoa, New Zealand and Polynesia.
P O Box 87188
Meadowbank
Auckland NZ**

31 December 2008

ANGLICAN CHURCH TRUSTS ACT 1981

1981, No.5 Private

(Reprinted to include amendments made by the Anglican Church Trusts Amendment Act 1989, Statutory Orders 1982/274, 1985/110, 1990/299, 1992/219, 1994/218)

An Act to widen the powers of trustees under trusts in connection with the Church of the Province of New Zealand and the Church of the Province of Melanesia and to provide for the administration of such trusts; and to consolidate and amend the Church of England Trusts Act 1913 and its amendments.

(Royal Assent 23 October 1981)

WHEREAS there is real and personal property in New Zealand held on trusts for and in connection with the Anglican Churches in New Zealand and Melanesia: And whereas the powers of the trustees in relation to the investment of the trust assets are limited by the instruments creating the trusts: And whereas it is desirable to consolidate and extend the powers conferred on trustees by the Church of England Trusts Act 1913 and its amendments and to give greater powers of investment to the major Trust Boards holding property for the said Churches: And whereas there are trusts held for religious or charitable purposes in connection with the Anglican Church where it has become impossible or impracticable or inexpedient to carry out the trust objects or purposes, and by reason of the limited assets of the particular trusts or for reasons of expense it is desirable to provide a means for varying the trusts in addition to the means provided by the Charitable Trusts Act 1957:

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 Anglican Church Trusts Act 1981.

2. Interpretation -

In this Act, unless the context otherwise requires, -

"**Anglican Church**" or "**Church**", means the Church of the Province of New Zealand; and includes the Church of the Province of Melanesia (in this Act separately referred to as the Anglican Church of Melanesia):

"**Aotearoa Council**" means the Aotearoa Council constituted under the Canons of the Anglican Church:

"**Authorised Trust Board**", or "**Board**", means any Board or Trust for the time being specified in the First Schedule to this Act:

"**General Synod**" means the General Synod of the Anglican Church

"**New Zealand Advisory Council**" has the same meaning as in section 2 of the Melanesian Trusts Act 1974.

PART I

AUTHORISED TRUST BOARDS

3. Powers of authorised Trust Boards -

- (1) Notwithstanding anything to the contrary in any other Act, but subject to this section and to section 18 of this Act, where any real or personal property is held by an authorised Trust Board for any religious, charitable, educational, or other purpose in connection with the Anglican Church or any part of it, whether the property was conveyed or given to or vested in the Board before or after the commencement of this Act, the Board shall have the powers set out in the Second Schedule to this Act, and may exercise those powers in such manner as it thinks fit. Those powers are in addition to any powers in, and may be exercised notwithstanding anything to the contrary in, any Act or instrument creating or relating to the trust; and any such Act or instrument shall be read subject to this subsection.
- (2) No land on which there is, or which is held as a future site for, a church, a church hall, a school, a hostel or other building associated with a school, a memorial building or structure, or a burial ground shall by virtue of subsection (1) of this section be sold, exchanged, or mortgaged, or leased for a term (including renewals) of more than 21 years, except with the prior authority in each case of -
 - (a) The General Synod if the land is held on its behalf; or
 - (b) The Aotearoa Council if the land is held on behalf of the Bishopric of Aotearoa; or
 - (c) The New Zealand Advisory Council if the land is held on behalf of the Anglican Church of Melanesia; or
 - (d) The Synod of the diocese in which the land is situated, if it is not held on behalf of the General Synod or of the Bishopric of Aotearoa or of the Anglican Church of Melanesia.

4. Power of Board to act together with other persons -

- (1) In the exercise of its powers an authorised Trust Board may join with, enter into joint ventures with (whether by way of separate incorporation or otherwise), or act in combination or association with any other person, company, corporation, or body of persons in doing any act or thing which it could by itself lawfully do and which in the Board's opinion will be for the benefit of any trust administered by it.
- (2) This section shall apply notwithstanding that the title to the trust property, or to any property in respect of which trust funds are used pursuant to this section, may not be vested in the Board, and notwithstanding any rule of law or practice to the contrary.

5. Transfer of trust property to authorised Trust Board -

- (1) Notwithstanding anything to the contrary in any other Act or in any rule of law or practice or in any instrument creating the trust, any trustee (including any authorised Trust Board) may transfer the whole or any part of any trust funds or

real or personal property held by the trustee for any religious, educational, or other charitable purpose of or in connection with the Anglican Church or any part of the Church to any authorised Trust Board, to be held by that Board either:

- (a) As trustee in substitution for the then existing trustee, with the powers set out in the Second Schedule to this Act; or
 - (b) As custodian trustee on the terms of and with the functions and powers set out in section 50 of the Trustee Act 1956 in addition to the powers set out in the Second Schedule to this Act.
- (2) In any case to which subsection (1) (b) of this section applies, the original trustee or his or its successor may at any time by notice in writing revoke the appointment of the custodian trustee.
- (3) On receipt of a notice of revocation under subsection (2) of this section the custodian trustee shall forthwith do all such things as are necessary to transfer or revest the trust property into the name of the original trustee or his or its successor.

6. Liabilities of trustee on transfer of property -

- (1) Where any funds or property are transferred to an authorised Trust Board under section 5(1)(a) of this Act, -
- (a) The trustee so transferring shall not be liable for the proper application of the capital and income of the funds or property in accordance with the trust:
 - (b) The authorised Trust Board shall be liable for the proper application and administration of the funds.
- (2) Where any funds or property are transferred to an authorised Trust Board as custodian trustee under section 5 or property.
- (1) (b) of this Act, the trustee so transferring -
- (a) Shall remain liable for the proper application of the capital and income of the funds or property in accordance with the trust; but
 - (b) Shall not be liable for any loss of capital or diminution of income in respect of any investment made or retained by the authorised Trust Board.

7. Boards to be leasing authorities -

- (1) Every authorised Trust Board is hereby declared to be a leasing authority for the purpose of the Public Bodies Leases Act 1969.
- (2) Without prejudice to section 4 of the Public Bodies Leases Act 1969, that Act shall, in its application to a Board, be read subject to section 3 (2) of this Act, so far as it is applicable.

8. Alterations to list of authorised Trust Boards -

The Governor-General may from time to time by Order-in-Council, on the advice of the Minister of Justice given at the request of the General Synod, amend the First Schedule to this Act by adding or omitting the name of any Trust Board, or by altering the name of any Board or Trust for the time being specified in that Schedule.

PART II

POWERS OF TRUSTEES (OTHER THAN AUTHORISED TRUST BOARDS) IN RESPECT OF LAND

9. Powers of trustees of land -

- (1) Notwithstanding anything to the contrary in any other Act, but subject to this section and to section 18 of this Act, where any land, whether freehold or leasehold, is held by a trustee, not being an authorised Trust Board, for any religious, charitable, educational, or other purpose in connection with the Anglican Church or any part of it, whether the land was conveyed to or vested in the trustee before or after the commencement of this Act, the trustee shall have in respect of the land the powers set out in the Third Schedule to this Act. Those powers are in addition to any powers in, and may be exercised notwithstanding anything to the contrary in, any Act or instrument creating or relating to the trust; and any such Act or instrument shall be read subject to this subsection.
- (2) No such land shall by virtue of subsection (1) of this section be sold, exchanged, or mortgaged, or leased for a term (including renewals) of more than 21 years, except with the prior authority in each case of -
 - (a) The General Synod if the land is held on its behalf; or
 - (b) The Aotearoa Council if the land is held on behalf of the Bishopric of Aotearoa; or
 - (c) The New Zealand Advisory Council if the land is held on behalf of the Anglican Church of Melanesia; or
 - (d) The Synod of the diocese in which the land is situated, if it is not held on behalf of the General Synod or of the Bishopric of Aotearoa or of the Anglican Church of Melanesia.
- (3) Where the trustee is a leasing authority for the purposes of the Public Bodies Leases Act 1969, that Act shall, without prejudice to section 4 thereof, be read subject to subsection (2) of this section, so far as it is applicable.

PART III

VARIATION OF CHURCH TRUSTS

10. Application of this Part -

- (1) This Part of this Act shall not apply to any trust property in respect of which, before or after the passing of this Act, a scheme has been approved by the High Court or the Attorney-General under Part III or Part IV of the Charitable Trusts Act 1957 or an application has been made for such approval and not withdrawn.
- (2) Except as provided in subsection (1) of this section, the provisions of this Part are in addition to the provisions of the Charitable Trusts Act 1957, to the intent that a trust may be varied either under this Part or under that Act.
- (3) **(Except as allowed by the provisions of section 16A of this Act)**, if any trust property is held for a charitable purpose within the meaning of Part III of the Charitable Trusts Act 1957, a scheme prepared under this Part of this Act shall provide for the application or disposal of that trust property for a purpose of a kind specified in Section 11 of this Act which is also a charitable purpose, and the trustee in preparing the scheme, and the Chancellor or Legal Adviser in

considering and reporting on it, and the Synod or Council to which it is submitted, shall act in accordance with the rules of law that would be applied by the High Court on an application made to it under Part III of the Charitable Trusts Act 1957 if the scheme were submitted to it under that Act.

The Words "Except as allowed by the provisions of section 16A of this Act," were inserted by section 2 of the Anglican Church Trusts Amendment Act 1989.

11. Meaning of "trust property" -

In this part of this Act, the expression "trust property" means any money raised or given, or any real or personal property devised, bequeathed, or given or in respect of which a trust is created, whether before or after the commencement of this Act, and held on behalf of the Anglican Church or any part of it by a trustee for any object or purpose -

- (a) Directly or indirectly associated with or relating to the Anglican Church or the whole or any part of any diocese, parish, parochial district, mission district, or Maori pastorate of the Church; or
- (b) Of furthering social services, hospital or residential care, or educational needs directly or indirectly associated with or relating to the Church -

Whether or not any such trust property has been invested in real or personal property pending its application for that object or purpose.

12. Scheme for variation of trust -

- (1) If in respect of any trust property it becomes or has become impossible or impracticable or inexpedient to carry out the object or purpose of the trust, or the amount available is inadequate to carry it out, or the object or purpose has been effected already, the trustee may by writing prepare or cause to be prepared a scheme for the application or disposal of the trust property for some other object or purpose of a kind specified in section 11 of this Act.
- (2) The scheme shall be submitted -
 - (a) To the Chancellor of the diocese in which the object or purpose of the trust was to have been carried out; or
 - (b) If the object or purpose of the trust relates to the Bishopric of Aotearoa, to the Legal Adviser to that Bishopric; or
 - (c) If the trust property is held on behalf of the Anglican Church of Melanesia, to the Chancellor of the Province of Melanesia; or
 - (d) If any such Chancellor or Legal Adviser declines to act, or if the object or purpose of the trust was to have been carried out in more than one diocese, or if the trust property is held on behalf of the General Synod, to a Chancellor or Legal Adviser designated from time to time for the purposes of this section by the Primate and Archbishop of New Zealand.
- (3) Every scheme so submitted shall be accompanied by a statement giving full information about the reasons for the proposed application or disposal of the trust property, together with a copy of the trust instrument (if any).

13. Notice of scheme -

- (1) Subject to section 18 of this Act, on receipt of the scheme the Chancellor or Legal Adviser to whom it is submitted shall direct the trustee as to the person or persons (if any) who shall be served with notice of the scheme and in what manner (if any) public notice of it shall be given.
- (2) Any notice so served or given shall state that any person may, in writing, object to or make representations concerning the scheme to the Chancellor or Legal Adviser within 60 days after the receipt or publication of the notice, and shall specify an address to which any such objection or representation may be sent.

14. Powers and duties of Chancellor or legal adviser -

- (1) After considering the scheme and any objections or representations made in respect of it the Chancellor or Legal Adviser may if he thinks fit remit it to the trustee for consideration of any amendments he may suggest.
- (2) Subject to section 15 and section 18 of this Act, the Chancellor or Legal Adviser shall report on the scheme with such amendments (if any) as the trustee may accept, and shall submit the report with the scheme and any objections or representations made in respect of it-
 - (a) To the Synod of the diocese in which the object or purpose of the trust was to have been carried out; or
 - (b) To the General Synod if the object or purpose of the trust was to have been carried out in more than one diocese or if the trust property is held on behalf of the General Synod; or
 - (c) To the Aotearoa Council if the trust property is held on behalf of the Bishopric of Aotearoa; or
 - (d) To the New Zealand Advisory Council if the trust property is held on behalf of the Anglican Church of Melanesia.

15. Notice to Attorney-General where trust is for charitable purpose -

- (1) Where the scheme relates to trust property that is held for a charitable purpose within the meaning of Part III of the Charitable Trusts Act 1957, the Chancellor or Legal Adviser shall, before reporting on the scheme, send to the Attorney-General written notice of the scheme, together with copies of the statement and trust instrument referred to in section 12 (3) of this Act.
- (2) In making his report the Chancellor or Legal Adviser shall have regard to any objections that are made by the Attorney-General within 90 days after the receipt of the notice.
- (3) If the Attorney-General objects on the ground that the scheme is not one that should be approved by the Court under Part III of the Charitable Trusts Act 1957, the scheme shall not be approved under this Part of this Act.

16. Approval of scheme -

Subject to section 15(3) of this Act, if the scheme is approved by the Synod to which it is submitted or, as the case may require, by the Aotearoa Council or the New Zealand Advisory Council, it shall have effect according to its tenor, notwithstanding the terms of any instrument by which the trust was created.

ANGLICAN CHURCH TRUSTS ACT 1981

Section 16A was inserted by section 3 of the Anglican Church Trusts Amendment Act 1989.

(16.A Additional powers of variation of trusts -

- (1) This section is in addition to and not in substitution for the powers of variation contained elsewhere in this Part of this Act, or in Part III of the Charitable Trusts Act 1957.**
- (2) This section applies to land which is trust property and which has been established by General Synod, or by some tribunal authorised by General Synod in that behalf, after due inquiry to have been acquired from Maori for a purpose or purposes narrower or more restrictive than the trusts imposed on that land by Crown Grant or otherwise when the land was vested in the Church or any person on behalf of the Church.**
- (3) If in respect of any land to which this section applies it becomes or has become impossible or impracticable or inexpedient to carry out the object or purpose of the trust upon that land or by using that land (other than by leasing it), or the amount of land available is inadequate to carry it out, or the object or purpose has been effected already, the trustee may, in accordance with the succeeding provisions of this section, prepare or cause to be prepared a scheme for the application or disposal of the land for some other object or purpose of a kind specified in section 11(b) of this act, but not necessarily directly or indirectly associated with or relating to the Church.**
- (4) Such other object or purpose, if not directly or indirectly associated with or relating to the Church, shall be directly or indirectly associated with or relating to the descendants of the original ā alienors or the members of the whanau, hapu, or iwi that the original alienors represented, or to those with Maori ancestry from time to time residing on or near the land, or both of those groups.**
- (5) Such a scheme may provide that section 20 of this Act is no longer to apply to the trustee of the land, and may make other provisions for the selection, appointment, and removal of the trustee of the land.**
- (6) No scheme prepared under this section shall have any effect unless and until it is approved by -**

 - (a) The High Court; or**
 - (b) The appropriate Synod or (as the case may require) the Aotearoa Council or the New Zealand Advisory Council.**
- (7) If a scheme is prepared for the approval of the High Court, the following provisions shall apply:**

 - (a) The provisions of sections 35 to 37, and Part V of the Charitable Trusts Act 1957 shall apply as if the scheme were prepared pursuant to section 34 of that Act:**
 - (b) If the Court is satisfied that the scheme is one properly authorised by this section, it may approve the scheme notwithstanding anything to the contrary in the Charitable Trusts Act 1957 or any other enactment or in any rule of law or in the trust instrument.**
- (8) If a scheme is prepared for the approval of the appropriate Synod or (as the case may require) the Aotearoa Council or the New Zealand Advisory Council, the following provisions shall apply:**

- (a) *The provisions of subsections (2) and (3) of section 12, and sections 13, 14, and 15 (1) of this Act shall apply as if the scheme were prepared pursuant to section 12 (1) of this Act:*
 - (b) *In any case to which section 15 (1) of this Act applies, the Chancellor or legal adviser shall, before reporting on the scheme, send to the Attorney-General written notice of the scheme, together with copies of the statement and trust instrument referred to in section 12 (3) of this Act:*
 - (c) *In reporting on the scheme the Chancellor or legal adviser shall have regard to any objections that are made by the Attorney-General within 90 days after the receipt of the notice, or, if the Attorney-General within that period notifies the Chancellor or legal adviser of the need for more time, within such further period not exceeding 90 days as the Attorney-General may specify in the notice:*
 - (d) *If the Attorney-General objects on the ground that the scheme is not one that should be approved by the High Court pursuant to subsection (7) of this section, the scheme shall not be approved under this subsection:*
 - (e) *Section 16 of this Act shall apply as if for the reference to section 15 (3) of this Act there were substituted a reference to paragraph (d) of this subsection.*
- (9) *The trustee of any land to which this section may apply may in its discretion use any part of the trust property held by it on the same trusts as the land in question, or may charge that land as a contribution in whole or in part to the costs of any inquiry made under subsection (2) of this section, including the costs of research or otherwise of the trustee and of any other persons reasonably made a party to the inquiry irrespective of the outcome of such inquiry, and to the reasonable costs of the preparation, consideration, and approval of the scheme.*
 - (10) *Every trust varied in accordance with the preceding provisions of this section shall be deemed to be a charitable trust for all purposes notwithstanding any other enactment or rule of law to the contrary.)*

17. Trusts for benefit of clergy -

Notwithstanding anything in the foregoing provisions of this Part of this Act, or in the terms of any trust, any real or personal property held on trust for the benefit or use of any clergy for the time being of any parish or area may, at the direction of the Synod of the diocese of which that parish or area forms part, be held for the benefit of that parish or area, or transferred or paid to trustees for the benefit of that parish or area.

PART IV

MISCELLANEOUS PROVISIONS

18. Consultation with Aotearoa Council in certain cases -

- (1) This section applies to any land that -
 - (a) Was Maori land given for any purpose associated with the Church; and
 - (b) Is of special significance to Maoris or any section of Maoris.
- (2) Where under this Act the authority of a Synod is required to deal with any such land in a manner to which section 3(2) or section 9(2) of this Act applies, no Synod or body authorised by it shall give that authority except after consultation by it with the Aotearoa Council or its Executive Committee or such other body of persons as the Aotearoa Council may authorise, either generally or in any particular case, to act for the purposes of this section.
- (3) Where a scheme for a variation of trust is submitted to a Chancellor or designated person under section 12(2) of this Act, and the scheme affects any land to which this section applies, the Chancellor or designated person -
 - (a) Shall consult with the Legal Adviser to the Bishopric of Aotearoa, and for that purpose shall send to him particulars of the scheme and its accompanying documents; and
 - (b) Shall not give any directions as to the giving of notice under section 13 of this Act except after consultation with that Legal Adviser; and
 - (c) Shall submit with his report under section 14(2) of this Act any representations made by that Legal Adviser on behalf of the Bishopric of Aotearoa.
- (4) If in any case there is doubt whether any land is of special significance for the purposes of this section, that question shall be determined by the Synod of the diocese in which the land or, as the case may require, the greater part of the land is situated, or by the Standing Committee of that Synod.
- (5) This section shall be read subject to the express terms of the trust.
- (6) This section shall not apply to any sale of the freehold reversion in any land to any lessee of that land holding under a perpetually renewable lease.

19. Authority of General and Diocesan Synods and of Aotearoa Council -

- (1) Any Authority required to be given by the General Synod for the purposes of Part I or Part II of this Act may be given either by the General Synod itself or by any body authorised by it in that behalf.
- (2) Any authority required to be given by the Diocesan Synod for the purposes of Part I or Part II of this Act may be given either by the Diocesan Synod itself or by its Standing Committee.
- (3) Any authority required to be given by the Aotearoa Council for the purposes of Part I or Part II of this Act may be given either by the Council itself or by its Executive Committee.

20. Appointment and removal of trustees -

The General Synod or any board or persons authorised by it under the constitution, canons, or statutes for the time being of the Church shall have power to appoint and remove trustees of all property held for any religious, charitable, educational, or other purposes in connection with the Anglican Church of New Zealand.

21. Protection of purchasers, etc.-

It shall not be incumbent on any purchaser, vendor, mortgagee, lessee, or other person to or with whom any sale, exchange, mortgage or lease is made under this Act to inquire whether any trustee or authorised Trust Board has authority or power to enter into the transaction, or whether the transaction is consistent with the trusts on which the property is held, or whether any authority required by this Act to be given has been duly given, or otherwise as to the propriety or regularity of the transaction or as to the application of any money received by the trustee or authorised Trust Board on the transaction.

22. Saving as to Diocese of Christchurch -

- (1) This Act is in addition to and shall be read subject in all respects to any legislation regulating or relating to the trusts of Church lands in the Diocese of Christchurch, or affecting any lands, trusts, or powers heretofore or now vested or hereafter to be vested in the Church Property Trustees of the Diocese of Christchurch.
- (2) Nothing in this Act shall in any way make any land or trustee of land in that diocese subject to the control of the General Synod.

23. Repeals, amendments, and saving -

- (1) The enactments specified in the Fourth Schedule to this Act are hereby repealed.
- (2) Without prejudice to the Acts Interpretation Act 1924, every reference in any trust instrument or in any other document to the Church of England Trusts Act 1913 shall, unless the context otherwise requires, be read as a reference to this Act.
- (3) Notwithstanding the repeal by this section of the Church of England Trusts Act 1913, every body of trustees, and every incorporated Board, referred to in section 9 of that Act shall continue to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

24. Private Act -

This Act is hereby declared to be a private Act.

SCHEDULES

FIRST SCHEDULE

[Sections 2, 8]

AUTHORISED TRUST BOARDS

- The General Trust Board of the Diocese of Auckland
The Waikato Diocesan Trust Board
The Waipapu Board of Diocesan Trustees
The Wellington Diocesan Board of Trustees
The Nelson Diocesan Trust Board
The Dunedin Diocesan Trust Board
The New Zealand Mission Trust Board
The New Zealand Anglican Church Pension Board
The Anglican Investment Trust Board
The Waipapu Bishopric Endowment Trust
The Melanesian Mission Trust Board
The St John's College Trust Board
The Hereworth School Trust Board
The King's College Trustees
The Te Aute Trust Board
The Whanganui College Board of Trustees
***Te Pīhopatanga o Aotearoa Trust Board [20/12/82].**
***The Church Property Trustees Christchurch [10/6/85].**
***The St Stephen's and Queen Victoria Schools' Trust Board [15/10/90].**
***Aotearoa ki te Upoko o te Ika Trust Board [3/8/92].**
***Waipapu Anglican Social Services Trust Board [3/8/92].**
***Te Hui Amorangi ki te Tai Tokerau Trust Board [3 /10/94].**
***Te Hui Amorangi ki te Manawa o te Wheke Trust Board [3/10/94].**
***Te Hui Amorangi ki te Tai Rawhiti Trust Board [3/10/94].**
***Te Hui Amorangi ki te Waipounamu Trust Board [3/10/94].**
***Te Pīhopatanga o Aotearoa Awhiwhanau Trust Board [3/10/94].**
***Te Whare Wananga o Te Waipounamu Trust Board [3/10/94].**
***The Taranaki Church of England Trust Board - also known as the Taranaki Anglican Trust Board [3/10/94].**
***The General Church Trust Board [1/11/96].**
***The Anglican Missions Board of the Church in Aotearoa, New Zealand and Polynesia [1/11/98]**
***Te Whare Wananga o Te Pīhopatanga o Aotearoa Charitable Trust [17/10/02]**
***The Bishop's Action Foundation [16/11/06].**

*** Refers to Amendments to the First Schedule and the date of Royal Assent**

SECOND SCHEDULE

[Sections 3, 5 (1)]

POWERS OF AUTHORISED TRUST BOARDS

1. Power of sale by public auction, tender, or private contract, except where a sale is expressly forbidden by the terms of the trust; but subject to the express terms (if any) of the trust in respect of the exercise of a power of sale.
2. Power of exchange for any other property, whether real or personal, with power to pay or to receive any money for equality of exchange.
3. Power to lend money with or without security, and without limitation whatsoever, and in whatever manner the Board thinks fit; including power to lend without limitation, whether by contributory mortgage or not, on freehold or leasehold land or land held under the Unit Titles Act 1972, notwithstanding any enactment to the contrary.
4. Power to lease in such manner and on such terms or conditions as the Board thinks fit.
5. Power to accept, on such terms and conditions as the Board thinks fit, a surrender of any lease, whether with respect to the whole or to any part of the land comprised in the lease; with power if it thinks fit to expend trust funds in the purchase of any improvements on any such land.
6. Power to invest any money, at the discretion of the Board, in or upon the security of any property of any kind, whether real or personal, and whether or not being investments or property authorised by the general law for the investment of trust funds.
7. Power to borrow, with or without security, and without limitation whatsoever, and in whatever manner the Board thinks fit.
8. Power to combine or intermingle trust funds, including power to form common funds or unit trusts, notwithstanding any rule of law or practice to the contrary.
9. Power to lend money to itself on mortgage, in its capacity as trustee of any other trust property.
10. Power to lease, grant licences over, or let any land vested in it to itself, in its capacity as trustee of any other trust property.
11. Power to enter into bailments.
12. Power to purchase or acquire any real or personal property whatsoever; including power to take up and hold, subscribe for, or acquire shares either with or without liability for uncalled capital.
13. Power to join with any other person, company, corporation, or body of persons in purchasing, acquiring, or erecting buildings or other improvements on or developing any real or personal property whatsoever.
14. Power to build on or develop any property whatsoever.
15. Power in its absolute discretion to receive from any person who is a trustee any money or investment held by that person on trust for any Anglican religious, educational, or other charitable trust.
16. Power to carry on farming, agriculture, horticulture, or silviculture in all or any of their aspects.
17. Power to enter into such contracts and do or perform such things as in the opinion of the Board will be for the benefit of any trust administered by it.
18. Power to act as an advisory trustee in accordance with section 49 of the Trustee Act 1956.

THIRD SCHEDULE

[Section 9]

POWERS OF TRUSTEES (OTHER THAN AUTHORISED
TRUST BOARDS) IN RESPECT OF LAND

1. Power of sale by public auction, tender, or private contract, except where a sale is expressly forbidden by the terms of the trust; but subject to -
 - (a) The express terms (if any) of the trust in respect of the exercise of a power of sale; and
 - (b) The proviso to clause 2 of this Schedule.
2. Power of exchange for freehold land, or land held under the Unit Titles Act 1972, in New Zealand, with power to pay, out of money applicable for that purpose, or to receive, any money for equality of exchange:

Provided that the net sale money received under clause 1 of this Schedule, and the net money received for equality of exchange under this clause, shall be laid out in the purchase of other freehold land, or land held under the Unit Titles Act 1972, in New Zealand, or in effecting permanent improvements to any other land held on the same trusts as affected the land sold or given in exchange, or shall be invested in any securities for the time being permitted by the law of New Zealand for the investment of trust funds; and all land purchased or received in exchange shall be held on the trusts that affected the land sold or given in exchange.
3. Power to mortgage, but so that all money borrowed shall be expended only in effecting permanent improvements to the property mortgaged, or to other property held on the same trusts as that mortgaged, or in paying off any mortgage previously effected over any such property.
4. Power, where not inconsistent with the trust, to lease any land for terms not exceeding 21 years or, if leased for building purposes, not exceeding 60 years. Every such lease shall take effect in possession or within 6 calendar months from its date, and shall reserve such rent and contain such covenants and provisions as the trustee thinks reasonable.
5. Power to use trust funds in the purchase of partitions, carpeting, and other chattels and equipment required for the completion, improvement, or furnishing of a building owned by the trustee and to be leased by him or it.
6. Power, where not expressly forbidden by the trust, to lend any part of the funds of the trustee on first mortgage of any leasehold granted by the trustee, in any case where the following conditions are complied with, namely:
 - (a) That the tenancy is for a term not exceeding 21 years, with successive rights of renewal for the same or any shorter term or terms either in perpetuity or for a period or periods ending not earlier than 40 years from the date of the loan, at a rent or rents to be determined by valuation in accordance with the First Schedule to the Public Bodies Leases Act 1969:
 - (b) That the money so lent shall be used in erecting buildings or other permanent improvements on the land so leased:
 - (c) That the amount to be lent on the security of each such leasehold and permitted by the terms of the mortgage to remain owing at any time during the currency of the mortgage shall not exceed two-thirds of the value of the lessee's interest in the land and buildings and improvements
7. Power to exercise, for any specified purpose, such one or more of the powers set out in the Second Schedule to this Act as the General Synod in each case may authorise the trustee to exercise.

FOURTH SCHEDULE

[Section 23]

ENACTMENTS REPEALED

1913,	No. 6 (Private)	– The Church of England Trusts Act 1913.
1937,	No. 3 (Private)	– The Church of England Trusts Amendment Act 1937.
1945,	No. 2 (Private)	– The Church of England Trusts Amendment Act 1945.
1952,	No. 37	– The Whanganui College Board of Trustees Empowering Act 1952: Subsection (4) of section 2
1960,	No. 2 (Private)	- The Church of England Trusts Amendment Act 1960

ANGLICAN CHURCH TRUSTS AMENDMENT ACT 1989

1989 No.3 Private

An Act to widen the powers of variation of trusts in respect of land sold or given to the Anglican Church by Maori, and to amend the Anglican Church Trusts Act 1981

(Royal Assent 31 July 1989)

WHEREAS in the last century lands were sold or given to the Anglican Church, or people on behalf of the Church, by Maori for a purpose or purposes narrower or more restrictive than the trusts actually imposed on those lands by Crown Grant or otherwise when those lands were vested in the Church, or in people on behalf of the Church:

AND WHEREAS in a number of cases it has become impossible or impracticable or inexpedient to carry out the object or purpose of the trust upon the land so sold or given or by using that land (other than by leasing it), or the amount of land available is inadequate to carry it out, or the object or purpose has been effected already:

AND WHEREAS the powers of variation of trusts in the Charitable Trusts Act 1957 and the powers of variation in the Anglican Church Trusts Act 1981 do not always allow a variation to be made in these cases because of the wider trusts imposed by the Crown Grant or otherwise which might allow the land or the proceeds of the sale or lease of the land to be used elsewhere and outside the narrower or more restrictive purposes originally intended:

AND WHEREAS any variation that might be approved is not likely to include an object or purpose not associated with or relating to the Church:

AND WHEREAS the Maori understanding of Maori gift transactions differs from the principles of the law relating to charitable gifts:

AND WHEREAS it is desirable to enable the High Court and the Anglican Church to have a wider power of variation of trusts in such cases to accommodate the Maori view and for other reasons:

AND WHEREAS the objects of this Act cannot be achieved otherwise than by Legislation:

1. **Short Title –**
This Act may be cited as the Anglican Church Trusts Amendment Act 1989, and shall be read together with and deemed part of the Anglican Church Trusts Act 1981 (hereinafter referred to as the principal Act).
2. **Application Of Part iii**
This section added to s10 (3) of the principal Act the words “Except as allowed by the provisions of section 16A of this Act”.
3. **Additional Powers Of Variation Of Trusts -**
This section inserted a new section 16A in the principal Act.
4. **Private Act –**
This Act is hereby declared to be a Private Act.

CHURCH OF ENGLAND EMPOWERING ACT 1928

1928, No. 3. Private

[Reprinted to include amendments made by the Church of England Empowering Amendment Act of 1966.]

Title

An Act to declare and define the Powers of the General Synod of the Church of the Province of New Zealand, commonly called the Church of England, to alter the Formularies of the said Church and the Authorised Version of the Bible.

[Royal Assent 6th October, 1928]

Preamble

WHEREAS

the Constitution of the Church of the Province of New Zealand, commonly called the Church of England, and hereinafter called "the Church," contains certain fundamental provisions relating to the doctrine, Formularies, and government of the Church, which fundamental provisions are set forth in the First Schedule to this Act: And whereas the framers of the said Constitution drafted the same upon certain assumptions concerning the legal relationship of the Church with the United Church of England and Ireland, the correctness of which assumptions was subsequently questioned: And whereas the Union of the Churches of England and Ireland was dissolved and the Church of Ireland was disestablished by the Act of the Imperial Parliament intituled the Irish Church Act, 1869: And whereas by reason of the matters mentioned in the two last preceding recitals doubts have arisen as to the powers of the Church to make alterations in the Formularies and in the Authorized Version of the Bible, as both are hereinafter defined, and it is expedient, for the removal of such doubts, to declare and define the powers of the Church in that behalf:

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 Church of England Empowering Act, 1928.

2. Interpretation -

Throughout this Act the following terms shall be interpreted as hereinafter mentioned, that is to say:-

"The Church" shall extend to, mean, and include the Church of the Province of New Zealand, commonly called the Church of England, which in the Constitution of such Church is described as "The [or This, or A] Branch of the United Church of England and Ireland in New Zealand," and as "this Branch of the Church of England":

"The Constitution of the Church" and **"The Constitution"** shall extend to, mean, and include the Constitution adopted at a General Conference of the Bishops, Clergy, and Laity held at Auckland on the thirteenth day of June, eighteen hundred and fifty-seven, and revised at the General Synod held at Christchurch in the year eighteen hundred and sixty-five, as published under the authority of the General Synod at Wellington in the year nineteen hundred and twenty-eight:

CHURCH OF ENGLAND EMPOWERING ACT, 1928

The definition of "General Synod" was substituted for the original definition by Section 2 of the Church of England Empowering Amendment Act 1966.

("General Synod" shall, except where inconsistent with the context hereof, mean the representative governing body of the Church, including the representatives of the Missionary Dioceses from time to time declared by Canon or Statute of the General Synod to be associated with the General Synod.)

"Property" shall extend to, mean, and include real and personal property of every description, whether situated in the Dominion of New Zealand or elsewhere:

"The Formularies" shall extend to, mean, and include the Book of Common Prayer, the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons, and the Thirty-nine Articles of Religion, all referred to in clause one of the Constitution of the Church:

"Authorized Version of the Bible" shall extend to, mean, and include the version of the Holy Bible first published in England in the year Sixteen hundred and eleven, and also referred to in clause one of the Constitution of the Church.

Section 3 was substituted for the original section 3 by Section 3 of the Church of England Empowering Amendment Act 1966.

3. Formularies and Authorised Version of the Bible -

(It shall be lawful for the Bishops, Clergy and Laity of the Church, in General Synod assembled, from time to time in such way and to such extent as may to them seem expedient, but subject to the provisions in this Act contained, to alter, add to, or diminish the Formularies, or any one or more of them, or any part or parts thereof, or to frame or adopt for use in the church or in any part of the Province or in any Associated Missionary Diocese new Formularies in lieu thereof or as alternative thereto or of or to any part or parts thereof and to order or permit the use in public worship of a version or versions other than the Authorised Version of the Bible or of any part or parts thereof

Provided that the provisions of this section shall not empower or be deemed to empower the General Synod to depart from the Doctrine and Sacraments of Christ as defined in clause one of the Constitution.)

4. Procedure to effect alterations -

Such alteration, addition, diminution, framing, adoption, ordering, or permitting shall be deemed to be duly and validly made and to be authorised by section three of this Act only if-

- (a) The General Synod shall at any session have adopted a specific proposal for such alteration, addition, diminution, framing, adoption, ordering, or permitting with a view to making the same known to the several Diocesan Synods; and thereafter
- (b) A majority of the Diocesan Synods in New Zealand shall have assented to the proposal so made known to them; and thereafter

CHURCH OF ENGLAND EMPOWERING ACT, 1928

Sub paragraph (c) was substituted for the original sub paragraph (c) by section 4 of the Church of England Empowering Amendment Act 1966.

- (c) ***(The General Synod, at a session after there shall have been a fresh General Election of its members subsequent to such proposal having been assented to by a majority of the Diocesan Synods in New Zealand, shall have confirmed the same by a majority of two-thirds of the members in each order:***

PROVIDED THAT not less than one year nor more than five years shall have elapsed between the first adoption of the proposal in the General Synod and its final confirmation therein; and)

- (d) Such of the provisions of Title C, Canon I, of the Canons of the General Synod now in force (or any provisions hereafter made by the General Synod in amendment thereof or in substitution therefor) as are applicable to the circumstances, *mutatis mutandis*, shall have been observed; and

- (e) Either-

(i) A period of one year (from the day on which the General Synod shall under paragraph (c) of this section have confirmed the proposal) shall have elapsed without an appeal from the said proposal having been made in accordance with the provisions of section five of this Act to the Tribunal referred to in that section upon the ground that the proposal involves a departure from the Doctrine and Sacraments of Christ as defined in clause one of the Constitution; or

(ii) If such an appeal shall have been made within such period, the same shall have been dismissed.

This Section was inserted by section 5 of the Church of England Empowering Amendment Act 1966.

- 4A. ***(Where a proposal to add to or alter the Formularies has been approved by the General Synod with a view to its being made known to the several Diocesan Synods, the General Synod may by resolution determine that, after the proposal has received the assent of a majority of the Diocesan Synods, the experimental use of the new or amended form of service be permitted under such conditions and for such period (terminating not later than the last day of the next ensuing ordinary session of the General Synod) as the General Synod shall determine.)***

5. **Constitution of Tribunal -**

- (1) The Tribunal referred to in paragraph (e) of section four of this Act shall consist of -
- (a) The bishops of the several dioceses in New Zealand for the time being;
- (b) Persons in priests' orders equal in number to the number of such dioceses;
- (c) Laymen being communicants of the Church (duly qualified as parishioners under Title B, Canon V, of the Canons of the General Synod, or any canon amending the same or in substitution therefor) equal in number to the number of such dioceses.

- (2) The priests and laymen shall be elected by General Synod, the priests being elected by the clerical members other than the bishops, and the laymen by the lay members. The first election shall take place at the first session of General Synod after the passing of this Act; and thereafter at the first session of General Synod following after each general election of synodsmen two priests and two laymen shall retire, their places being filled by priests and laymen elected by General Synod in manner aforesaid (the retiring members being eligible for re-election), the order of retirement of those first elected being determined by lot, and of those subsequently elected by the length of their tenure of office since their last election, or by lot where the number who have held office for the greatest length of time exceeds the number of those required to retire. The General Synod shall at its session when it shall create any new diocese elect the necessary additional priests and laymen as members of the Tribunal, but the bishop who has been newly appointed by reason of the creation of such new diocese shall not, nor shall the additional members of the Tribunal appointed in consequence of the creation of such new diocese, take part as such in any appeal already commenced at the date of his or their consecration or election (as the case may be). If any casual vacancy shall occur by the death or resignation in writing of any priest or layman or other cause, such vacancy shall be filled by a member elected by General Synod or by the Standing Committee of General Synod, whichever shall next meet (in either case the priests being elected by the clerical members other than the bishops, and the laymen by the lay members), and such member shall retire at the time when his predecessor in office would have retired.
- (3) The elected members of the Tribunal holding office at the commencement of an appeal shall continue to hold office for the purposes of such appeal until the same has been disposed of.
- (4) No person shall sit as a member of the said Tribunal when it is hearing and determining an appeal in which he is one of the appellants.
- (5) A quorum of the said Tribunal shall be a majority of the members entitled to sit of each order.
- (6) No appeal to the said Tribunal shall be dismissed except with the concurrence in writing of at least two-thirds of the persons hearing the appeal.
- (7) No member of the said Tribunal shall take part in the decision on any appeal unless he has been present throughout the hearing thereof.
- (8) No appeal to the said Tribunal shall be made except by at least five persons, each of whom must be either a bishop of a diocese of the Church in New Zealand, or a clergyman holding the licence of a bishop of such a diocese, or a communicant lay member of the Church duly qualified as a parishioner under Title B, Canon V of the Canons of the General Synod (or any canon amending the same or in substitution therefor).

6. Tribunal not bound by its previous decisions -

In any appeal the Tribunal may follow, but shall not be bound to follow, any judgement of the Tribunal in any prior appeal.

7. Inherent jurisdiction of the Civil Court not excluded -

Nothing in this Act contained shall annul, limit, or abridge the inherent power of the Supreme Court to prohibit anything purporting to be done under this Act on the ground that it is not a *bona fide* exercise of the powers conferred by this Act.

8. Rules of Court of Appeal to apply in certain matters -

In matters not provided for in this Act, or in the regulations hereunder, the Rules of the Court of Appeal of New Zealand for the time being shall, so far as applicable and where not inconsistent with any provision of this Act or of any regulation hereunder for the time being in force, apply to proceedings in appeals under this Act.

9. Power to make regulations -

The General Synod shall have full power to make such regulations as it shall think fit (not being inconsistent with the provisions of this Act) for the conduct of the proceedings of such Tribunal, and in and by such regulations may provide for payment by or to appellants of costs and expenses, and require appellants to give security for any costs and expenses they may be ordered to pay. The regulations set out in the Second Schedule to this Act shall, until the General Synod shall otherwise order, govern the proceedings of such Tribunal.

10. Validation of Canon and of authorisation of Table of Lessons -

Title G, Canon I, of the Canons of the General Synod as set forth in the Third Schedule to this Act shall be deemed to be in all respects as valid and effectual as if the provisions thereof had been duly made and enacted under the authority of this Act, and the Table of Lessons adopted by the Church of England in the year eighteen hundred and seventy-one shall hereafter be, and shall be deemed ever since the year eighteen hundred and seventy-four to have been, lawfully authorised for use in the Church.

11. Identity of Church secured and title to property not to be affected -

None of the alterations, revocations, additions, diminutions, orderings, or permittings referred to in section ten of this Act, nor any alteration, addition, diminution, framing, adoption, ordering, or permitting duly made and completed under the authority of this Act, shall affect or impair, or be deemed to have affected or impaired the identity of the Church, or affect, jeopardise, or impair, or be deemed to have affected, jeopardised, or impaired, the title of any property from time to time held by or in trust for the Church, or by or in trust for the General Synod or any Diocesan Synod thereof, or by or in trust for any parish, parochial mission, or cathedral district, or other local organisation thereof, or by or in trust for any missionary diocese associated or connected with the Church, or by or in trust for any purpose whatsoever, general, local, or particular, connected with the Church or any organisation thereof.

12. Substitution of powers conferred by this Act for powers in certain clauses of Constitution -

The powers conferred by this Act shall be in substitution for the powers purporting to be conferred by clauses two, three and four of the Constitution.

SCHEDULES

FIRST SCHEDULE

THE FUNDAMENTAL PROVISIONS OF THE CONSTITUTION OF THE CHURCH.

1. This Branch of the United Church of England and Ireland in New Zealand doth hold and maintain the Doctrine and Sacraments of Christ as the Lord hath commanded in His Holy Word, and as the United Church of England and Ireland hath received and explained the same in the Book of Common Prayer, in the Form and Manner of Making, Ordaining, and Consecrating of Bishops, Priests, and Deacons, and in the Thirty-nine Articles of Religion. And the General Synod hereinafter constituted for the government of this Branch of the said Church shall also hold and maintain the said Doctrine and Sacraments of Christ, and shall have no power to make any alteration in the authorised version of the Holy Scriptures, or in the above-named Formularies of the Church.
2. Provided that nothing herein contained shall prevent the General Synod from accepting any alteration of the above-mentioned Formularies and Version of the Bible as may from time to time be adopted by the United Church of England and Ireland, with the consent of the Crown and Convocation.
3. Provided also that in case a licence be granted by the Crown to this Branch of the Church of England to frame new and modify existing rules (not affecting doctrine) with the view of meeting the peculiar circumstances of this colony and native people, it shall be lawful for this Branch of the said Church to avail itself of that liberty.
4. And whereas opinions have been expressed by eminent legal authorities in England that the property of the Church in New Zealand might be placed in jeopardy unless provision were made for the contingency of a separation of New Zealand from the Mother-country, and for that of an alteration in the existing relations between Church and State: It is hereby further declared that, in the event of a separation of the Colony of New Zealand from the Mother-country, or of a separation of the Church from the State in England and Ireland, the General Synod shall have full power to make such alterations in the articles, services, and ceremonies of this Branch of the United Church of England and Ireland in New Zealand as its altered circumstances may require, or to make such alterations as it may think fit in the Authorised Version of the Bible.
5. There shall be a representative governing body for the management of the affairs of the Church, to be called the General Synod of the Branch of the United Church of England and Ireland in the Colony of New Zealand, which shall consist of three distinct orders - viz., the Bishops, the Clergy and the Laity, the consent of all of which orders shall be necessary to all acts binding upon the Synod, and upon all persons recognizing its authority.
6. The above provisions shall be deemed fundamental, and it shall not be within the power of the General Synod, or of any Diocesan Synod, to alter, revoke, add to, or diminish any of the same.

CHURCH OF ENGLAND EMPOWERING ACT, 1928

SECOND SCHEDULE

REGULATIONS FOR THE CONDUCT OF THE PROCEEDINGS OF THE TRIBUNAL CONSTITUTED UNDER SECTION 5 OF THIS ACT.

1. Every appeal under this Act shall be instituted by a notice of appeal, which shall be signed by each of the appellants, and shall set forth the following matters:-
 - (1) The full name, address, and occupation of each of the appellants:
 - (2) The qualification of each appellant under subsection (8) of section five of this Act, including, in the case of a licensed clergyman, a statement as to the office to which he is licensed, and, in the case of a lay member of the Church, a statement as to the parish or parochial district in which his name is registered in the Churchwardens' Book, and of the church or churches in which he is a communicant:
 - (3) An address, within two miles of the office of the Provincial Secretary, at which notices intended for the appellants in connection with their appeal may be delivered:
 - (4) The names, addresses, and occupations of the persons (if any), not being more than three, appointed by the appellants to represent them in all proceedings connected with their appeal; no such person need be one of the appellants or have any qualifications under subsection (8) of section five of this Act:
 - (5) A concise statement as to the part or parts of the alteration of, addition to, or diminution of the Formularies, or of the new Formularies, or of the Version of the Bible (as the case may be) which the appellants allege to involve a departure from the Doctrine and Sacraments referred to in subparagraph (i) of paragraph (e) of section four of this Act, and as to the nature of the said alleged departure.
2. Such notice of appeal shall be delivered at the office of the Provincial Secretary within the time prescribed by this Act for making the appeal, and he shall forthwith send a copy thereof to each member of the committee appointed under subclause (1) of clause three hereof.
3. (1) At the session referred to in paragraph (c) of section four of this Act the General Synod shall appoint three members of that Synod, one being a Bishop, the second a clergyman, and the third a layman (each member being elected by the members of his own order), to form a committee to be charged with the duty of presenting to the Tribunal the case in support of the alteration to, addition to, or diminution of, the said Formularies, or of the new Formularies, or of the Version of the Bible, as the case may be, in the event of an appeal being made under this Act. The said committee may appoint three persons to represent it in all proceedings connected with the appeal and to advocate its case before the said Tribunal. No such person need be a member of the said committee or of the General Synod, or have a qualification under subsection (8) of section five of this Act. If any member of the said committee shall die, or become incapable of acting or unwilling to act, or be absent from New Zealand at the time of the giving of a notice of appeal, his place on the said committee shall become vacant, and shall be filled by another member of his own order to be elected by the members of that order in the General Synod if it shall be in session when the vacancy occurs, or by the members of that order in the Standing Committee of the General Synod if the General Synod shall not then be in session: Provided that the said committee may act notwithstanding any casual vacancy in their number.

This proviso was inserted in 1978 by General Synod pursuant to clause 9 of the Act

(Provided that if the General Synod shall fail to appoint the said Committee the Standing Committee shall appoint three members of the General Synod to form the Committee each member being elected by members of his own order in the Standing Committee.)

- (2) All notices and other documents in connection with the appeal may be served upon the said committee by being delivered at the office of the Provincial Secretary, who shall immediately forward a copy of the same to each member of such committee.
4. Within a period of two calendar months after service of a notice of appeal, the said committee shall cause to be served upon the appellants at their address for service a concise statement of their case in reply to the allegations contained in the notice of appeal, and shall deliver a copy of such statement at the office of the Provincial Secretary.
5. The Chancellor of the Diocese of which the Primate is Bishop may, upon application in that behalf made by the said committee within one calendar month after the service of the statement referred to in clause four hereof, and after giving the appellants an opportunity of being heard, order the appellants to give security to his satisfaction, within two calendar months after the making of such order, in a sum not exceeding 250 pounds for the payment of such costs and expenses of the appeal as the Tribunal may order the appellants to pay to the said committee in the event of the appeal being dismissed. Until such order for security shall have been complied with, all proceedings by the appellants upon the said appeal shall be deemed to be stayed, and if such security shall not be given within three calendar months after the making of such order, or such extended time (if any) as the said Chancellor may grant in that behalf, the said appeal shall stand dismissed, and the Chancellor may order the appellants to pay to the said committee such sum as he shall think fit for the costs and expenses of the appeal.
6. The Provincial Secretary shall, as soon as conveniently may be after the delivery of the statement by the said committee of its case, forward to each member of the Tribunal a copy of the notice of appeal and of the said statement.
7. The Primate shall then fix such time and place as he shall think to be convenient for the hearing of the appeal, and the Provincial Secretary shall forthwith give notice thereof to every member of the Tribunal and to each of the appellants and to each member of the said committee. The time fixed for the hearing of the appeal shall be not less than two or more than four calendar months after the delivery by the said committee of its statement of its case.
8. If at the time and place fixed for the hearing of the appeal a quorum of the said Tribunal shall not be present, the hearing shall be adjourned for a period of not less than fourteen days or more than two calendar months, and so on from time to time until the appeal can be heard.
9. The Tribunal may inquire into the qualification of all or any of the appellants under subsection (8) of section five of this Act, and if any appellant shall, after being given an opportunity of being heard in support of his qualification, be found by the Tribunal not to be so qualified, his name shall be struck out from the appeal. If as the result of such striking out less than five appellants shall remain, the remaining appellants shall be given an opportunity of adding sufficient qualified persons to make up at least five appellants within one calendar month after the number of appellants shall have been reduced below five, and if they shall fail to do so the appeal shall stand dismissed. If the appeal shall be dismissed under this clause, the Chancellor may order the appellants to pay to the said committee a sum for the costs and expenses of the appeal in the same manner as if the appeal had been dismissed after hearing under clause ten hereof.

10. Upon the hearing of the appeal the Primate shall preside, and the Tribunal shall hear first the case presented by or on behalf of the appellants, then the case presented by or on behalf of the said committee, and then the reply of the appellants. The Tribunal may thereupon deliver its judgment, or it may adjourn to consider the appeal. If there shall be more than one appeal, the Primate may, at his discretion, direct that any two or more appeals be heard together.
11. At the hearing of the appeal the case on either side may be presented by any one or more of the appellants or of the said committee, or of the persons appointed to represent the appellants or the committee. If there shall be no appearance either by or on behalf of the appellants or by or on behalf of the committee, or no appearance on each side, the Tribunal may decide the appeal notwithstanding any such non-appearance.
12. If the appeal shall be allowed, the Tribunal shall specify in its judgment the matters in respect of which it finds that the alteration of, addition to, or diminution of the Formularies, or the new Formularies, or the Version of the Bible, involves a departure from the said Doctrine and Sacraments.
13. The Tribunal may award to the successful party such sum as it shall think fit towards its costs and expenses of the appeal, and if the appeal be dismissed such sum shall constitute a debt due by the appellants jointly and severally to the said committee; or if the appeal be allowed, the General Synod, or, if it be not in session, the Standing Committee thereof, shall make provision for the payment of such sum out of any funds under its control available for the general purposes of the Church in the Province.

The words in brackets were inserted in 1980 by General Synod pursuant to clause 9 of the Act.

14. If the Primate shall himself be an appellant, or from any cause be absent or be unable to act, every reference to the Primate, or to the Chancellor of the Diocese of which he is Bishop, in these regulations shall be deemed to be a reference to the senior **(of the Diocesan Bishops and the Bishop of Aotearoa)** who is not an appellant, and who is present and able to act, or to the Chancellor of the diocese of such bishop.

THIRD SCHEDULE

TITLE G - CANON I.

Of Certain Necessary Alterations.

1. Those parts of the Service for the Consecration of Bishops which relate to the King's Mandate shall be omitted and discontinued.
2. Those parts of the Services for the Consecration of Bishops and for the Ordering of Priests and Deacons which refer specially to the parent Church and State may be omitted and changed so as to adapt them to the circumstances of the colony.
3. The following explanatory words shall be appended to the twenty-first of the Thirty-nine Articles, viz.: "It is not to be inferred from this article that the Church in the colony is hindered from meeting in council without the authority of the Civil power."
4. The following explanatory words shall be appended to the thirty-seventh of the Thirty-nine Articles, viz.: "It is not to be inferred from this article that the Civil power has authority in this colony to determine purely spiritual questions, or to hinder the Church in the colony from finally determining such questions by its own authority, or by tribunals constituted under its authority".
5. In future, in all cases in which it may be necessary to refer to the Church in the colony (which is in the Constitution designated as a branch of the United Church of England and Ireland), it shall be sufficient if it be referred to or designated as the Church of the Province of New Zealand, commonly called the Church of England.

CHURCH OF ENGLAND EMPOWERING AMENDMENT ACT 1966

1966 No. 1 Private

An Act to amend the Church of England Empowering Act 1928

(Royal Assent 28 September 1966)

WHEREAS it is expedient to remove any doubts as to whether the General Synod of the Church of the Province of New Zealand (commonly called the Church of England) may authorise the use of different forms of service in different parts of the Province: Because the said General Synod now meets biennially and not triennially as heretofore it is desirable to vary the period within which any alteration to the formularies shall be confirmed by the said General Synod: The said General Synod has resolved to permit the experimental use of new or amended forms of service under such conditions and for such period as it shall determine: It is requisite to amend the Church of England Empowering Act 1928 to give effect to the said recited objects

1. **Short Title –**
This Act may be cited as the Church of England Empowering Amendment Act 1966.
2. **This Section**
substituted a new definition for “General Synod” for the original definition in section 2 of the principal Act
3. **This Section**
substituted a new section 3 for the original section 3 in the principal Act.
4. **This Section**
substituted a new sub paragraph (c) for the original sub paragraph (c) in section 4 of the principal Act.
5. **(1) This Sub Section**
inserted section 4A in the principal Act.
(2) Any
resolution expressly stated to be passed by the General Synod in anticipation of the passing of this Act shall be deemed to have been as valid as if this Act had been passed immediately before and been in operation at the time of the passing of such resolution
6. **Private Act –**
This Act is hereby declared to be a Private Act.

CHURCH OF ENGLAND (MISSIONARY DIOCESES)
ACT, 1955

1955. No.1 Private

Title

An Act to declare the powers of the General Synod of the Church of the Province of New Zealand, commonly called the Church of England, to define the extent, nature, and terms of the Association of Missionary Dioceses formed and to be formed among the other islands of the Pacific Ocean with the General Synod of the said Church.

(Royal Assent 5 September 1955)

Preamble

WHEREAS

by clause five of the Constitution of the Church of the Province of New Zealand, commonly called the Church of England, and hereinafter referred to as the Church, it is provided that there shall be a representative governing body for the management of the affairs of the Church (therein described as the Branch of the United Church of England and Ireland, in the Colony of New Zealand) which shall consist of three distinct orders, viz., the Bishops, the clergy, and the laity, the consent of all of which orders shall be necessary to all acts binding upon the Synod, and upon all persons recognising its authority:

AND WHEREAS

by clause eighteen of the said Constitution it is provided "That the General Synod of this Branch of the United Church of England and Ireland may associate with itself with any missionary dioceses which may be formed among the other islands of the Pacific Ocean":

AND WHEREAS

doubts have from time to time arisen as to the meaning of the word "associate" as used in the said clause eighteen and certain interpretations have been given to it by the Standing Commission established by the General Synod pursuant to clause twenty-seven of the said Constitution as the tribunal to which any doubts arising in the interpretation of the Constitution for the time being of the Church are to be submitted for final decision:

AND WHEREAS

further doubts have arisen and may from time to time arise as to the interpretation of the said clause eighteen and as to its application to particular existing and future circumstances:

AND WHEREAS

the General Synod has already in exercise of the power conferred upon it by the said clause eighteen associated with itself the Missionary Dioceses of Melanesia and Polynesia and the Bishops and representatives of the clergy and laity of the said dioceses have attended meetings of the General Synod and on some occasions have voted and on other occasions have not voted at those meetings:

AND WHEREAS

it is desirable to empower the General Synod to define from time to time the extent, nature and terms of association under the said clause eighteen:

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 Church of England (Missionary Dioceses) Act 1955.

2. Interpretation

For the purposes of this Act:

- (a) The expression "**the Church**" shall be deemed to extend to, mean, and include the Church of the Province of New Zealand, commonly called the Church of England, which in the Constitution of such Church is described as "the (or this, or a) Branch of the United Church of England and Ireland in New Zealand" and as "this branch of the Church of England":
- (b) The expression "**the General Synod**" shall, except where inconsistent with the context thereof, mean the representative governing body of the Church, including the Bishops and clerical and lay representatives of the missionary dioceses from time to time declared by canon or statute of the General Synod to be associated with the General Synod:
- (c) The expression "**missionary diocese**" shall mean the Bishop, clergy, and laity in a missionary diocese constituted or to be constituted, or recognised or to be recognised, or the boundaries of which may have been or may from time to time be defined or varied, by a canon or statute, or with the concurrence of the General Synod, among the islands of the Pacific Ocean other than New Zealand, and shall be deemed and taken to include the mission field among those islands of any Missionary Bishop in communion with the Church, whether such mission field shall be formally defined by territorial limits or not.

3. Power of General Synod to declare extent, etc. of association of missionary dioceses

It shall be lawful for the General Synod, by statute or canon thereof, from time to time to declare what shall be the extent, nature, and conditions of the association of the missionary dioceses with itself, both as to dioceses already so associated and as to dioceses which may in future be so associated. It shall not be necessary that the extent, nature, and conditions of association of all such dioceses be identical or that they shall remain unchanged in respect of any such diocese.

4. Further powers of General Synod

In defining the extent, nature, and conditions of such association the General Synod shall not be bound to adhere to the interpretations placed upon the said clause eighteen by the said Standing Commission. In particular, and without limiting the generality of the power hereby conferred upon it, the General Synod may declare -

- (a) That any particular missionary diocese, or missionary dioceses in general, while so associated with the General Synod, shall or shall not be an integral part of the Ecclesiastical Province of New Zealand;
- (b) That any particular statute, canon, resolution, or decision of the General Synod or of any person or persons or body lawfully acting under its authority, or such statutes, canons, resolutions, or decisions in general, shall or shall not wholly or in part apply to any missionary diocese or dioceses, or to real or personal property held upon trust for the benefit of the work of such missionary diocese or dioceses, whether or not locally situated therein;

- (c) That on any matter or matters the Bishops and the clerical and lay representatives or any of them of any particular missionary diocese or dioceses, or of missionary dioceses in general, shall have or shall not have the right to vote or the right to speak in the General Synod or in any body established by it or under its authority;
- (d) In what manner the association of any particular missionary diocese or dioceses, or of missionary dioceses in general, with the General Synod may be terminated.

5. Declaration that nothing in Act shall derogate from existing powers

Nothing in this Act shall derogate from the power conferred by clause twenty-seven of the Constitution upon the General Synod or some tribunal to be established by it in that behalf to give final decisions upon doubts arising in the interpretation of the Constitution, or any power which the General Synod may have conferred, or may in future confer, upon any tribunal or may have exercised, or may in future exercise, to interpret any of its canons or statutes, or any trust deeds of property held on its behalf, but any determination of such tribunal relating to the extent, nature, and conditions of the association of any missionary diocese or missionary dioceses shall be liable at any time or times to be subject to subsequent legislation by canon or statute of the General Synod pursuant to this Act, and such legislation shall not be regarded as an alteration of any fundamental or non-fundamental clause of the Constitution.

6. Declaration that nothing done previously shall be liable to be called in question

- (1) No statute, canon, or resolution or other act of the General Synod, or of any person or persons or body acting under its authority, enacted, passed, or done before the passing of this Act, nor the title to any property to which the same may relate, shall be liable to be called in question on the ground that the Bishops and the clerical and lay representatives or any of them of any missionary dioceses did or did not vote upon, or otherwise participate in the same; nor shall any such statute, canon, or resolution or other act after the passing of this Act, or any such title, be for any of those reasons liable to be called in question unless so voting or not voting, or so participating or not participating, shall be contrary to any canon or statute hereafter passed by the General Synod in exercise of the power conferred upon it by this Act.
- (2) The Missionary Diocese of Melanesia since the year eighteen hundred and sixty-two and the Diocese of Polynesia since the year nineteen hundred and twenty-five shall for all purposes be deemed to have been and now to be validly associated with the General Synod in accordance with the said clause eighteen of the said Constitution.
- (3) The continuous identity of the Church shall not be deemed to have been or to be affected by any past or future association of any missionary diocese or dioceses with the General Synod.

7. Statute or canon passed in anticipation deemed valid

Any statute or canon passed by the General Synod in anticipation of the passing of this Act and in accordance with its provisions shall be deemed to have been as valid as if this Act had been passed immediately before and been in operation at the time of the passing of such statute or canon.

8. Private Act

This Act is hereby declared to be a Private Act.

**NEW ZEALAND ANGLICAN CHURCH PENSION
FUND ACT 1972**

1972, No. 7 - Private

An Act to provide for the amalgamation and administration of New Zealand Anglican Church Pension Funds

(Royal Assent 20 October 1972)

WHEREAS there now exist separate pension funds to provide pensions for retired or incapacitated clergy of the Church of the Province of New Zealand (commonly called the Anglican Church) and their dependants in accordance with their respective rules and with the trusts declared respectively concerning the same: And whereas the General Synod of the Anglican Church is desirous that the trustees of the several pension funds should be able to amalgamate their respective funds, should they so desire, in order that there should be one pension fund to provide pensions for retired or incapacitated clergy of the Anglican Church and their dependants: And whereas the said General Synod has passed a Canon of the Anglican Church intituled "The New Zealand Anglican Church Pension Board Statute 1972" setting up the New Zealand Anglican Pension Board to administer a general pension fund in accordance therewith:

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 New Zealand Anglican Church Pension Fund Act 1972.

2. Interpretation -

In this Act, unless the context otherwise requires, - "**Anglican Church**" means the Church of the Province of New Zealand:

"**Board**" means the Anglican Church Pension Trust Board set up pursuant to the New Zealand Anglican Church Pension Board Statute 1972 passed by General Synod:

"**General pension fund**" means the assets held by the Board upon trust to apply the income arising therefrom in accordance with the provisions of The New Zealand Anglican Church Pension Board Statute 1972 for the benefit of Anglican clergy who have retired or who are needy or indigent, and of the widows or children of deceased Anglican clergy who are or have been resident anywhere in New Zealand or Polynesia or Melanesia, and of such other persons in full-time employment of the Anglican Church as the Board may decide from time to time:

"**General Synod**" means the General Synod of the Anglican Church or any other persons, whether incorporated or not, from time to time appointed pursuant to a resolution of the General Synod for the purpose of exercising all or any of the powers vested in the General Synod by virtue of this Act:

"**Pension fund**" means any fund, in existence immediately before the passing of this Act, for the purpose of providing benefits for retired, sick, needy, or indigent Anglican clergy and the dependants of such clergy or deceased clergy or other persons in the full-time employment of the Anglican Church, whether or not the objects of the Fund are limited to any particular geographical area or are otherwise limited howsoever:

NEW ZEALAND ANGLICAN CHURCH PENSION FUND ACT, 1972

"Trustees" mean the persons, whether incorporated or unincorporated, who hold any pension fund.

3. Transfer of assets to Board -

Any trustees may in their absolute discretion assign and transfer the assets of any pension fund to the Board, notwithstanding that the trusts upon which such pension fund and any of the assets thereof are held differ from the trusts declared in respect of the general pension fund for administration by the Board, -

- (a) For the purposes of amalgamation with the general pension fund and for administration in accordance with the trusts of the general pension fund; or
- (b) For the purposes of administration by the Board in accordance with the trusts upon which the same were held by such trustees immediately prior to such assignment and transfer to the Board, but subject to the powers of investment conferred upon the Board in relation to the investment of the assets of the general pension fund and, in addition, the Board may invest the whole or any part or parts of such assets on any contributory investment.

4. Powers of General Synod -

The General Synod may from time to time, by direction in writing to the Board, direct that new rules, containing such provisions relating to the application of the income of the general pension fund as may be specified by the General Synod, be made, or that all or any of such rules be revoked in whole or in part or amended.

5. Delegation by General Synod -

The General Synod may from time to time appoint any body of persons, whether incorporated or not, to exercise all or any of the powers conferred on the General Synod by this Act and, without derogating from the generality hereof, in particular may so appoint the standing committee of the General Synod, and may at any time revoke in whole or in part any such appointment.

6. Public Bodies Leases Act 1969 applied -

The Board is hereby declared to be a leasing authority for the purposes of the Public Bodies Leases Act 1969.

7. Private Act -

This Act is hereby declared to be a Private Act.

ST. JOHN'S COLLEGE TRUSTS ACT 1972

1972, No.6 - Private

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

(Royal Assent 20 October 1972)

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 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 sold and the net proceeds thereof invested in other assets in 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 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 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 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 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 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 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 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 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 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:

ST JOHN'S COLLEGE TRUSTS ACT, 1972

And whereas by virtue of Section 2 of the St. John's College Trust 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 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 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 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 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 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 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 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 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:

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, -

"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 such Christian church as may from time to time be nominated by General Synod:

"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:

"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:

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

"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.

PART I

ST. JOHN'S COLLEGE

3. St. John's College trusts -

(1) The college funds shall hereafter be held upon the following trusts:

- (a) For or towards the maintenance and support of the College:
- (b) For the education in the College of candidates for ordination:
- (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 -

- (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:
- (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.

5. Buildings -

The Trustees, with the prior authority of the General Synod, may-

- (a) Demolish any existing buildings of the College:
- (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.

PART II

SCHOLARSHIP FUNDS

6. 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.

7. 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.
- (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 (including accumulated income, whether it was accumulated before or after the passing of this Act) 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.

8. 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 7 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:

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

9. 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 and towards the support of the widows and orphans of deceased clergymen, and, subject to section 10 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 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 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.

PART IV

POWERS OF TRUSTEES

10. 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 9 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.

11. 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

- (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 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:
- (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.
- (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 of that company any part of which fell within the relevant financial year of the company taking over the business.
- (3) Before making any investment pursuant to paragraph (c) of subsection (1) of this section, the Trustees shall first obtain and consider proper advice in writing as to the suitability of the proposed investment from a person -
 - (a) Who is reasonably believed by the Trustees to be qualified by his ability in and practical experience of financial matters; and
 - (b) Who is not a member of the St. John's College Trust Board, or an officer or employee of that Board or of the company in which it is proposed to make such investment.

12. Leasing powers -

- (1) The Trustees are hereby declared to be a leasing authority within the meaning of the Public Bodies Leases Act 1969.
- (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 lease a provision for payment of the premium by installments 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.
- (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.

13. 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.

14. 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.

15. Private Act -

This Act is hereby declared to be a Private Act.

The legal description of the lands and funds affected have not been reproduced and can be found on pages 1401 to 1403 of 'New Zealand Statutes 1972 Vol 2.

FIRST SCHEDULE

Upon trust for the College of St. John the Evangelist near Auckland.

SECOND SCHEDULE

1. Consolidated Scholarships

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.

2. Lady Margaret Scholarships

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.

3. Griffin Laing Scholarship

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.

4. Maria Blckett Scholarships

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 Blckett, or otherwise towards the support and maintenance of the said college.

THIRD SCHEDULE

Widows' and Orphans' Endowment

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.