



ANALYSIS

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1971, No. 2—*Private*

An Act to amend the Methodist Charitable and Educational Trusts Act 1911
[27 September 1971]

WHEREAS the Board of the Wesley Training College is a body corporate established by the Methodist Charitable and Educational Trusts Act 1911 for the purposes of administering property for the support and upkeep of an institution or school, subject nevertheless to the general control and superintendence of what is now the Conference of the Methodist Church of New Zealand: And whereas under section 28 of the Act (as amended by section 4 of the Methodist Charitable and Educational Trusts Act Amendment Act 1914) the Board, with the prior sanction of a resolution passed by the Conference, may sell by way of auction or by public tender certain land held by it but must expend the net proceeds of any such sale in the purchase of other land or in making permanent improvements to or upon land held by the Board upon the same trusts as that from which the sale-money has been derived: And whereas it is desirable and expedient that the Board should have a general

power of sale in respect of all or any part of the land held by it and should not be limited to sales by way of auction and public tender: And whereas it is desirable that the Board should be authorised to invest the net proceeds of the sale of any such land in any mode of investment authorised by the law of New Zealand for the investment of trust funds and certain other modes of investment as hereinafter provided: And whereas the Board is required, by section 19 of the Act, to keep full and accurate accounts to be made up to the last day of December in each year and to present, at a meeting of the Board to be held in the last week of January in each year, a statement of such accounts signed by the auditors of the Board, together with other reports: And whereas the Board desires to alter the requirements of section 19 so that it may make up its accounts and compile its reports as at the 31st day of January in each year and present the reports and the audited accounts at a meeting of the Board to be held within 3 months after the 31st day of January in each year: And whereas the Board of the Wesley Training College has unanimously resolved that legislation be promoted to enable the objects of this Act to be attained: And whereas those objects have the approval of the Conference of the Methodist Church of New Zealand:

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 Methodist Charitable and Educational Trusts Amendment Act 1971, and shall be read together with and deemed part of the Methodist Charitable and Educational Trusts Act 1911 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by omitting from the definition of the term “The Conference” the words “Australasia in”.

3. Keeping of minutes and accounts—Section 19 of the principal Act is hereby amended—

- (a) By omitting the words “in the month of January”, and substituting the words “within 3 months after the 31st day of January”:

- (b) By omitting the words “last day of December preceding”, and substituting the words “31st day of January”:
- (c) By omitting the words “in the last week”, and substituting the words “within 3 months after the 31st day”.

4. Sale and purchase of land—(1) The principal Act is hereby further amended by repealing section 28 (as amended by section 4 of the Methodist Charitable and Educational Trusts Act Amendment Act 1914), and substituting the following section:

“28. (1) Notwithstanding anything hereinbefore contained, the Board, with the prior sanction of a resolution passed by the Conference, may sell, in such manner and on such terms as it thinks fit, any part or parts of any land held by it under any trust imposed on it by this or any other enactment or any instrument.

“(2) Where any land is sold pursuant to subsection (1) of this section, the net proceeds of the sale shall be—

“(a) Expended in the purchase or acquisition in the name of the Board of other land in New Zealand or in making permanent improvements to or upon other land held by the Board on the same trusts as that from which the sale-money has been derived including any buildings or other improvements on any such land or in the execution of any works connected with the subdivision, development, improvement, or maintenance of any such land held by the Board including (without in any way limiting the generality of the foregoing) the construction, alteration, repair, renovation, demolition, or reconstruction of or addition to any buildings or other improvements erected or intended to be erected thereon; or

“(b) Invested in the name of the Board in any investments authorised by section 30 of this Act:

“Provided that all land so purchased and any such investments shall be held by the Board on the same trusts that affected the land sold.

“(3) Nothing in this section shall authorise the sale of any land held by the Board in trust for any particular purpose, if the sale of the land is prohibited by the instrument creating the trust.”

(2) Section 4 of the Methodist Charitable and Educational Trusts Act Amendment Act 1914 is hereby repealed.

5. New sections substituted—The principal Act is hereby amended by repealing section 30, and substituting the following sections:

“30. Investment of money—(1) All money held by the Board for and on behalf of the said institution and which they may think proper to invest shall be invested in the name of the Board in all or any of the following modes of investment:

“(a) In investments authorised for the investment of trust funds by the provisions of Part II of the Trustee Act 1956:

“(b) In the securities of any company, whether incorporated in New Zealand or elsewhere, which are 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 of 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 from the date of acquisition.

“(2) An investment under paragraph (b) of subsection (1) of this section shall not be made in the securities of any company—

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

“(b) 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 by the company, excluding (in respect of the financial year of issue) any stock or 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.

“(3) For the purposes of paragraph (b) of subsection (2) 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.

“(4) Before making any investment pursuant to paragraph (b) of subsection (1) of this section, the Board 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 Board to be qualified by his ability in and practical experience of financial matters; and

“(b) Who is not a member of the Board, or an officer or employee of the Board or of the company in which it is proposed to make such investment.

“(5) The Board shall have power to exercise all of the options and other rights to which the Board may become entitled as the holder of any ordinary or preference shares, stock, debentures, or notes and to sell, exchange, vary, or transpose any investments from time to time held by the Board.

“(6) Nothing contained or implied in this section shall authorise the investment of any part of the said money in the shares or other securities of any company whose business and objects, in the judgment of the Board, conflict with the general rules and usage of the Methodist Church of New Zealand and which are likely to bring reproach upon the Church.

“30A. Application of income from investments—The income from investments authorised under section 30 of this Act shall be available and be used in aid of the said institution and otherwise in the administration of the trusts and purposes aforesaid, but upon or for no other trust or purpose.”

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