

[AS REPORTED FROM THE COMMITTEE ON THE BILL]

*House of Representatives, 22 June 1978.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

*Hon. Mr Fraser*

**DUNEDIN ANGLICAN SOCIAL SERVICES  
(CHILD WELFARE)**

[PRIVATE]

ANALYSIS

Title	
Preamble	
1. Short Title	4. Trustees may transfer trust funds and properties to Board
2. Interpretation	5. Board may act with other persons
3. Board may determine alternative application of certain funds	6. Private Act Schedule

**A BILL INTITULED**

WHEREAS there are now diverse and sundry trust funds and properties throughout the Anglican Diocese of Dunedin held by the Dunedin Diocesan Trust Board, a board duly  
5 incorporated under the Religious Charitable and Educational Trust Boards Incorporation Act 1884, upon sundry trusts for the welfare of Anglican children in or from the said Diocese: And whereas the application of certain of those trust funds and properties is limited by the instruments creating the  
10 respective trusts to Anglican residential institutions and to child care work for the benefit of Anglicans from and within such institutions and to child care work for the benefit of Anglicans resident in the Diocese of Dunedin: And whereas it is now impossible imprac-  
15 ticable and inexpedient to apply the said trust funds and properties for those purposes and objects because there are no longer any Anglican child care institutions in the Diocese of Dunedin and because such residential institutions are considered out of keeping with modern concepts of child  
20 care the emphasis today being on small residential units, placing and maintaining of children in private homes (foster

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homes) and the welfare of children in the community; And  
whereas it is desirable that the purposes and objects for  
which the trust funds and properties are presently held be  
varied so as to enable the said Dunedin Diocesan Trust Board  
to apply the funds and properties for the welfare of children  
within the province of Southland as well as the province of  
Otago and further to enable the said Board to engage in joint  
or co-operative enterprises with other denominations and  
with other charitable organisations as the Board thinks fit,  
the primary purpose of such enterprises being to provide for  
the welfare of children in the provinces of Otago and South-  
land: And whereas it is desirable to confer on the said  
Dunedin Diocesan Trust Board similar powers in respect of  
any other trusts funds and properties that may hereafter be  
vested in or transferred to the Board for any special purposes  
relating to child welfare: And whereas because of the  
number of trusts to be affected, the expense likely to be  
involved, and the uncertainty of the outcome it is not  
practicable to seek to vary the trusts by way of an application  
to the Supreme Court under the provisions of the Charitable  
Trusts Act 1957 and the legislation is accordingly preferred:  
And whereas the variation and extension of the trusts relating  
to the trust funds and properties presently held by the said  
Board and the conferment on the Board of similar powers in  
respect of trust funds and properties that may hereafter be  
transferred to or vested in the Board as aforesaid cannot be  
made otherwise than by legislation: And whereas the  
Anglican Synod of the Diocese of Dunedin on the 25th day of  
July 1973 passed a resolution resolving that approval be  
sought for the application of the said trust funds and proper-  
ties for the purposes above described and authorised the said  
Trust Board to seek legislation to authorise the application  
of the said trust funds and properties for the purposes above  
described:

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 Dunedin  
Anglican Social Services (Child Welfare) Act 1977.

2. **Interpretation**—In this Act, “Board” means the Dunedin  
Diocesan Trust Board.

**3. Board may determine alternative application of certain funds—**(1) This section applies to—

5 (a) The trust funds and properties presently held by the Board on sundry trusts for purposes relating to the welfare of children, being more particularly described in the Schedule to this Act; and

(b) Any trust funds and properties that may hereafter be vested in the Board for any *(such purposes as aforesaid)* of the purposes for which any of the said trust funds and properties are presently held, or transferred to the Board pursuant to section 4 of this Act,—

10 and applies whether the instrument creating the relevant trust was executed before the passing of this Act, or is  
15 executed hereafter.

*Struck Out*

(2) If at any time the Board considers, in respect of any trust fund or property to which this section applies, that it has become impossible or impracticable or inexpedient to carry out the purposes or objects of that trust, it may in

*New*

20 (2) If at any time, in respect of any trust fund or property to which this section applies, it becomes impossible or impracticable or inexpedient to carry out the purposes or objects of that trust, the Board may in writing (signified by resolution) approve the application of the funds or properties held subject to that trust to such similar purposes and objects as the Board thinks fit so as to provide for the welfare of children in the provinces of Otago and Southland.

30 (3) In any such case the Board may act alone, or jointly or in co-operation with any religious or charitable association as the Board thinks fit.

35 (4) Without limiting the generality of subsection (2) of this section, the Board may apply any trust funds and properties to which this section applies to any of the following purposes and objects:

- 40 (a) To buy, sell, rent or lease property;
- (b) To provide for the welfare of children in family homes, in foster homes, or elsewhere, and to provide assistance to families where the welfare of the parents bears on the welfare of their children;
- (c) To administer residential homes, day-care centres, or other institutions for the care of children:

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- (d) To provide for counselling and related services:
  - (e) To appoint, employ, pay, instruct, and dismiss such persons as may be necessary to accomplish any such purposes:
  - (f) To meet the costs and expenses of administration of any such trust funds or property: 5
  - (g) To provide accommodation, goods, and services:
  - (h) To do all such other things as seems necessary or desirable to the Board to further the welfare of children in the provinces of Otago and Southland. 10
- (5) Every such application of trust funds and properties shall have effect according to its tenor.

**4. Trustees may transfer trust funds and properties to Board—**(1) Subject to any direction to the contrary in any instrument creating the trust, any trustees or other persons, whether incorporated or not, now or hereafter holding funds or properties on trust for the use or purposes of Anglican orphanages, or orphans in the Diocese of Dunedin, or for child care work for the benefit of Anglicans from or in Anglican institutions, or for child care work for the benefit of Anglicans resident in the Diocese of Dunedin, may transfer the whole or any part of such trust funds or properties to the Board to be held by it as trustee thereof. 15 20

(2) Except so far as any contrary intention is expressed in any instrument creating the trust, the Board may apply any funds transferred to it under subsection (1) of this section in accordance with and subject to the provisions of this Act, notwithstanding that the powers of application of those funds and properties conferred on the Board by this Act are wider than the powers conferred on the trustees or other persons by any instrument creating the trust. 25 30

(3) The Board may invest and amalgamate such trust funds or properties transferred to it with other trust funds or properties in its Common Investment Fund.

(4) No such trustees or persons so transferring the whole or any part of any trust funds or properties to the Board shall remain liable for the proper application of the capital and income of those funds or properties in accordance with any instrument creating the trusts, but the Board shall (*remain*) become liable for the proper application of the capital and income of those funds or properties in accordance with any instrument creating the trusts, and the Board shall be liable for the proper application and administration thereof in accordance with the provisions of this Act. 35 40

5. Board may act with other persons—In the exercise of its powers under sections 3 and 4 of this Act the Board may join or act in association with ~~(or delegate its powers to)~~ any other persons or bodies of persons in doing any act or thing which, in the opinion of the Board, will be for the benefit of the welfare of children in the provinces of Otago and Southland.

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

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Section 3 (1) (a)

SCHEDULE

*Struck Out*

CAPITAL HELD BY OTHER AGENCIES		
	\$	\$
Ernest Price Bequest No. 2	28,396.00	
F. E. F. McLean Estate	8,000.00	
		36,396.00

CAPITAL INVESTED IN THE DUNEDIN DIOCESAN TRUST BOARD'S  
COMMON FUND

	\$	\$
W. T. Talboys Bequest ( $\frac{1}{3}$ rd share)	400.00	
Deaconess Institute	466.28	
St. Mary's Orphanage Trust	5,831.33	
Mrs M. C. Nevill's Trust	845.20	
E. Macdonald Bequest	611.49	
Mrs I. A. Ure Bequest	535.36	
Greenslade Trust No. 2 (a)	2,203.73	
Greenslade Trust No. 2 (b)	2,203.73	
Miss E. M. Stevens Trust No. 2	1,700.00	
John Scott Bequest	974.20	
Anglican Memorial Home for Boys	5,731.79	
Anglican Memorial Home for Boys (property account)	5,400.00	
William Tayles Bequest	201.88	
Sir James Mills Bequest	412.00	
Anglican Orphanages General Trust	64,063.42	
W. M. Wade Bequest	600.00	
Anglican Orphanages Reconstruction Fund	902.73	
Anglican Orphanages Sale of Sections	72,289.30	
Child Care Vehicle Account	5,683.33	
Estate E. Willett	50.00	
H. H. Nicholls Trust No. 1	2,213.46	
J. C. Nicholls Endowment No. 1 ( $\frac{1}{4}$ th share)	1,015.00	
Livingstone Fund	4,416.92	
W. C. Owen Bequest	450.08	
William Woollet Bequest ( $\frac{1}{3}$ rd share)	472.04	
Dr C. C. Anderson's Trust	200.00	
Rev. Duncan Rankin Trust No. 2	5,672.19	
Estate A. J. Gall ( $\frac{1}{4}$ th share)	1,794.85	
St. Mary's Orphanage Income Reserve	17,888.45	
Anglican Orphanage Composite Income Account	38,048.80	
		243,277.56
		<u>\$279,673.56</u>

PROPERTY HELD

Four sections at Waverley, Dunedin—Lots 5, 6, 7, and 8, Deposited Plan 15426 comprising 2488 square metres. 1976 Government Valuation—improvements \$500.00, land value \$41,000.00, Capital \$41,500.00.  
Residential property at 7 Thesis Street, Dunedin—Lot 270, Deposited Plan 8272 comprising 678 square metres. 1976 Government Valuation—improvements \$19,000.00, land value \$5,000.00, Capital \$24,000.00.