IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2011] SGCA 18

Civil Appeal No 126 of 2010/J

Between

1. **DR JEFFREY KHOO**
   (NRIC No. S1647835J)
2. **DR QUEK SUAN YEW**
   (NRIC No. S1315479A)
3. **DR PRABHUDAS KHOSY**
   (NRIC No. S2686004J)
4. **DR TOW SIANG YEOW**
   (Malaysian ID No. S71106-01-5089)
5. **DR TIMOTHY TOW SIANG HUI**
   (NRIC No. S1073136D)
6. **DR BOAZ BOON**
   (NRIC No. 2550198E)
7. **WEE HIAN KOK**
   (NRIC No. S0438219F)
8. **REV KOA KENG WEE**
   (Malaysian ID No. 290512-06-5085)
9. **REV STEPHEN KHOO**
   (NRIC No. S0050228F)

...Appellants

And

1. **LIFE BIBLE PRESBYTERIAN CHURCH (ROS No. 0190/1986)**
2. **KHOO PENG KIAT**
   (NRIC No. S1066740B)
3. **TAN HOCK JIN GEOFFREY**
   (NRIC No. S0347184E)

4. **LOO LAM HUA**
   (NRIC No. S1410329E)
5. **LIM TECH CHYE**
   (NRIC No. S0273345E)
6. **TOW SIANG HUI**
   (NRIC No. S1073136D)
7. **TAY BIN THONG**
   (NRIC No. S0143884J)

...Respondents

JUDGMENT

[Charities]
[Unincorporated Associations and Trade Unions]

Jeffrey Khoo
v
Life Bible Presbyterian Church

[2011] SGCA 18

Court of Appeal — Civil Appeal No 126 of 2010
Chao Hick Tin JA, Andrew Phang Boon Leong JA, V K Rajah JA
3 December 2010

26 April 2011 Judgment reserved.

Chao Hick Tin JA (delivering the judgment of the court):

Introduction

1 The dispute in the present case raises several questions of law relating to the principles that govern the operation of unincorporated associations and religious charitable trusts. In particular, it raises the thorny question of what happens when a religious charity is alleged to have deviated from the fundamental principles upon which it was founded.

2 The Appellants are nine individuals who are the members of the board of directors of the Far Eastern Bible College that was, on 26 January 2004, registered as a charity under the Charities Act (Cap. 37, 2007 Rev Ed) ("Charities Act") ("the 2004 College"). The core of the present dispute relates to the question of whether the 2004 College is the same entity as the bible college that was first established in 1962 ("the College"). The Respondents are the Life Bible-Presbyterian Church ("the Church") and its trustees. Both the Church and the College were until 2004 located at the same premises at 9,

9A, and 10 Gilstead Road ("the Premises"), on which the Church has a lease (held through trustees). From 2007, the Church sought to exclude the 2004 College from functioning at the Premises.The Church is still operating at the Premises.

3 Two suits were instituted following from this purported exclusion. In Suit 648 of 2008 ("Suit 648"), one of the Respondents, the Church, sought the following reliefs:

a) a declaration that the 2004 College was a different entity from the College;

b) an injunction to prevent the Appellants from using the Premises, and to deliver vacant possession of the same to the Church and its trustees; and

c) an account of the moneys held by the College as at the date of the registration of the 2004 College and to pay over the said amount to the Church.

4 Subsequently, the Appellants felt it necessary to institute Suit 278 of 2009 ("Suit 278") where they sought these reliefs:

a) a declaration that the funds donated for the purchase and/or construction of the buildings located on the Premises were impressed with a charitable purpose trust for the construction of buildings for the use of the Church and the 2004 College (which they aver is the same entity as the College), and that consequently, the registered proprietors of the Premises hold them on a charitable purpose trust for the joint benefit and use of the Church and the 2004 College;

b) an order for schemes be settled in respect of the charitable purpose trusts over the moneys donated for the purchase and/or construction of

> the buildings located on the Premises, and that such schemes provide for trust deeds to be executed by the registered proprietors of the said properties to set up the trust over the said properties for the joint benefit and use of the Church and the 2004 College.

5 In essence, by Suit 648 the Church wants the 2004 College to vacate the Premises while by Suit 278 the 2004 College wants recognition that the Premises are trust property and that the latter are held for the joint benefit of the Church and the 2004 College. The trial judge ("the Judge") ruled in favour of the Church and its trustees in both suits. The Judge held that the 2004 College was a different entity from the College, and therefore not entitled to enjoy the property that was for the benefit of the College.

6 Being dissatisfied with the rulings of the Judge, the Appellants have appealed to this Court.

The Background

Formation of the Church and the College

7 In 1955, the Church was formally constituted as a member of the Bible-Presbyterian Church of Singapore. In 1986, it obtained independent registration as a society under the Societies Act (Cap 311, 1985 Rev Ed), and was registered as a charity in 1987.

8 On 19 September 1960, at a meeting of the Presbytery of the Bible-Presbyterian Churches of Singapore, a formal decision was taken to establish a college to train young Christians as evangelists, pastors and teachers. A three-man committee consisting of Rev Timothy Tow, Rev Quek Kiok Chiang and Dr Tow Siang Hwa was elected for the purpose of drafting a constitution and

prospectus for the college. In November 1961, a board of directors ("the Board") for the College was constituted, with Rev Timothy Tow at its helm. The Board unanimously adopted the constitution ("the Constitution") drafted by the three-man committee. The College was duly established the following year.

The close relationship between the Church and the College

9 Right from its inception, the College shared a special relationship with the Church. This was primarily due to two reasons. First, the pastor of the Church, Rev Timothy Tow, was the person who had mooted the idea of setting up the College. He was part of the 3 man committee who drafted the Constitution and who later assumed the chairmanship of the Board when the College was first constituted. He also served as the first principal of the College.

10 Second, the College and the Church had always shared the Premises, over which the Church has a lease held through trustees.

11 At this juncture, it would be necessary for us to set out briefly how the Church came to be in possession of the Premises and how the College came to operate from the same premises. :

a) Soon after its formation, the Church started a building fund in order to purchase its own premises. In August 1957, the trustees of the Church purchased a 99 year lease over 9 and 9A Gilstead Road.

b) Following the decision made by the Bible-Presbyterian Churches of Singapore in 1960 to establish the College, it was also decided that the College would be housed at 9 and 9A Gilstead Road. Thereafter, the building fund of the Church was renamed the Life

Church and Bible College Fund. Donations to the Church and the College were placed into this common fund.

c) The College was the first to move into 9 and 9A Gilstead Road, on 17 September 1962, occupying the annex to the church building ("college annex"). The Church moved into the church building the following year, after a dedication service on 16 February 1963.

d) Originally, it was agreed that in exchange for a contribution of $75,000, the College would own half of the college annex. The College had initially paid $20,000 towards this sum, using a loan from two churches. However, when the two churches asked for the return of the sum paid, a new agreement was reached under which the Church would return the money on behalf of the College and the premises at 9 and 9A Gilstead Road would be legally held by the Church which would also pay for all physical expenses, while the College would be responsible for the maintenance of the same.

e) In 1965, a second fund named the "Church and College Extension Fund" was started for the purpose of building an extension on 9 and 9A Gilstead Road, as the premises were then inadequate for the needs of both the Church and the College. Like the Life Church and Bible College Fund, the moneys collected came mostly from tithes and offerings of the Church members, with a smaller amount originating from other Christians who were mostly from the Bible-Presbyterian community.

f) In 1970, a committee comprising of representatives from the Church and the College was set up to draft an agreement regarding the College's occupation and use of 9 and 9A Gilstead Road. Two representatives each from the Church and the College executed an agreement entitled "Agreement between the [Church] and the

[College] on the sharing of the use of the Church and College Property at 9 and 9A Gilstead Road".

g) In 1989, a third fund – the Extension Building Fund – was initiated for the purpose of acquiring 10 Gilstead Road. Moneys for this Fund were raised in much the same way as they had been for the Church and College Fund ie, from the Church's own members, as well as members of other Bible-Presbyterian churches. The acquisition of 10 Gilstead Road was completed on 30 April 1990 and held, as in the case of 9 and 9A Gilstead Road, by the trustees of the Church.

h) In 2000, a fourth fund- the Beulah House Fund- was set-up for the purpose of developing 10 Gilstead Road into a bible college with hostel facilities ("the Beulah Tower").

The dispute between the Church and the College

12 In 2002, tensions developed between the College and the Church when the College's board endorsed a doctrine known as "Verbal Plenary Preservation" ("VPP") over the "Verbal Plenary Inspiration" ("VPI"), a doctrine accepted by the Church. Within the Church, there was mounting tension between those who believed in VPP and those who believed in VPI.

13 On 20 August 2003, during a session meeting of the Church, certain members of the Church expressed strong views against Rev Timothy Tow's endorsement of the VPP doctrine and he therefore resigned as the pastor of the Church. He and a number of the other members of the Church congregation split from it and founded the True Life Bible-Presbyterian Church ("True Life Church"). On 19 November 2003, the Board of the College informed the Church of its intention to register the College itself as a charity.

14 On 26 January 2004, the members constituting the board of the College obtained registration of a charity called "Far Eastern Bible College" pursuant to the *Charities Act* under a new constitution ("the 2004 Constitution") as they could not then locate the Constitution. We should at this juncture observe that subsequent to the registration of the Far Eastern Bible College, the Constitution was found.

15 Matters came to a head on 17 July 2004 when the Church wrote to the 2004 College stating that it would no longer allow the 2004 College to use its properties as the 2004 College had been registered as a separate and independent entity and, therefore, ceased to be a ministry of the Church. Further letters were sent out by the Church on 28 January and 1 March 2008 stating that the 2004 College could only continue to occupy the Premises if it gave an undertaking not to teach the VPP doctrine. When efforts at reconciliation between the 2004 College and the Church failed, Suit 648 was instituted, followed shortly by Suit 278.

The Judge's decision

16 Contrary to the assertion of the Church, the Judge held that the College was not a ministry of the Church and had never been operated as such. In her opinion, the College was an unincorporated association that was independent of the Church. Furthermore, the Premises had been acquired and renovated with donations that were solicited in the names of and specified to be for the joint benefit of both the College and the Church. Therefore, they were impressed with a charitable purpose trust in favour of both the College and the Church.

17 However, the Judge held that the 2004 College was a different entity from the College. She observed that the 2004 Constitution was materially different from the Constitution, and that the effect of the Appellants adopting the 2004 Constitution was to create a new unincorporated association. In her opinion, the 2004 College was not a beneficiary of the charitable purpose trust impressed on the Premises and had no right to occupy the same. In any event, the Judge held that the Appellants had not proven that they were the directors of the Board of the College and thus had no locus standi to bring an application for a declaration of trust on behalf of the College.

Our analysis of the Judge's decision

18 We will now turn to examine the issues on which the Judge had made her rulings. To recap, they are the following:

a) Is the College a ministry of the Church?

b) Is the College an unincorporated association or a charitable trust?

c) Are the Premises impressed with a charitable trust in favour of the joint use of the College and the Church?

d) Are the Appellants the current directors of the Board of the College?

e) What is the legal effect arising from the Appellants' act of registering a college in the College's name but with a different constitution?

A. Is the College a ministry of the Church?

19 It is eminently clear that the Judge was correct to have held that the College is not a ministry of the Church. We will now examine the main reasons why she so held.

20 First, although the Church, through Rev Timothy Tow, was the proponent of setting up the College, the final decision rested with the Presbytery of the Bible-Presbyterian Churches of Singapore, of which the Church was a member. This explains why the intended purpose of the College, as stated in Art II of the Constitution, was a general one, namely, to "train consecrated men and women and thoroughly furnish them to meet the need of the Church of Jesus Christ, particularly in Singapore, Malaysia and other Far Eastern countries, for church pastors, missionaries and other Christian workers." This undoubtedly suggests that the College was intended to be a joint enterprise between the churches that belonged to the Presbytery of the Bible-Presbyterian Churches of Singapore, rather than a ministry of any particular church.

21 Second, the founders of the College took special care to ensure that the College was to be an independent association. This is clearly reflected in Article V(1) of the Constitution which provided for the College to be "an independent body not subject to ecclesiastical control", and which further specified that the relationship between the College and the various bodies sponsoring it was only "one of wholehearted co-operation and desire to see consecrated men and women well trained". While it is true that Article V(2) of the Constitution also stated that the College is "closely connected" to the Church, this is hardly sufficient to establish that the College was meant to be a ministry of the Church.

22 Third, the Constitution contained specific rules on how the members of the Board of the College was to be elected, and in turn on how the executive committee that run the College was to be elected from the Board. There is no provision that allows the Church to have any say at all in the running of the College. Factually, the management of the College might have been in the hands of Rev Timothy Tow, who was both the president of the Board and principal of the College, as well as the founding and controlling pastor of the Church. However, this does not mean that the College and the Church were in law a single organisation.

23 Fourth, the College was not funded exclusively by the Church. Consistent with its character as a joint enterprise of the churches belonging to the Presbytery of the Bible-Presbyterian Churches of Singapore, it was also funded by donations from other churches and well wishers. Furthermore, the financial accounts of the Church and the College were carefully kept separate and distinct. All financial transactions which took place between the Church and the College were described as "gifts" or "loans" rather than internal transfers which would have been the case if the Church and the College were part of the same entity.

24 Fifth, the sharing of the Premises by the Church and the College was done in a formal manner by way of an agreement signed by representatives of both parties (see [11] above). This again unequivocably suggests that the representatives of both the Church and the College regarded themselves as representing different organisations.

25 In the light of the foregoing considerations, we do not think that there is any basis to seriously argue that the College is a ministry of the Church.

B. Is the College an unincorporated association or a charitable trust

26 Counsel for the Appellants, Mr Ang Cheng Hock, argued that the Judge was wrong in finding that the College was an unincorporated association. Instead, Mr Ang contended that the College was a charitable trust with its board of directors acting as the charity trustees. Mr Ang gave three reasons as to why the College could not be an unincorporated association. First, he pointed out that all members of an unincorporated association would have the right to attend its general meeting. He then referred to the Judge's conclusion that the College's members consisted of its directors, its executive committee and the faculty members, and observed that the Constitution did not give the faculty members the right to attend any general meetings or to elect members to the College's Board. Based on this, he argued that the College could not be an association because the faculty members did not have the right that would ordinarily accrue to members of an association. Second, Mr Ang pointed out that Article IV, section 1(6) of the Constitution required one third of the College's board of directors to retire annually in rotation, and this was inconsistent with the principle that an unincorporated association is an organisation where members can join or leave at will. Finally, Mr Ang argued that none of the College's faculty members were ever asked to affirm their consent to the Constitution, and this was inconsistent with the principle that an unincorporated association is based on a contract with all its members.

27 In our view, in the context of the critical issues in this case, this is hardly a matter of any consequence. Let us explain. A charity may exist in one of several legal structures, with the three most basic forms being the trust, the unincorporated association and an incorporated entity (see Peter Luxton, *The Law of Charities* (Oxford University Press, 2001) at 255). A charitable trust, or for that matter any trust, can only be validly constituted if the three

certainties (certainty of intention, object matter and subject matter) are fulfilled. Even if we assume that the Constitution fulfils the requirements of certainty of intention and object matter, there is nothing in it that states what property is meant to be held by this purported trust. Indeed, at the point in time at which the College was established pursuant to the written Constitution, there was no property that was owned by the College (or its trustees) at all. Of all the criticisms raised by Mr Ang against the Judge's finding that the College is an unincorporated association, he is correct in one respect, *i.e.*, the Judge was wrong in regarding the faculty members as members of the unincorporated association. The faculty members were simply staff hired by the College to carry out its objects, just as any unincorporated association can hire non-members, or even members, as its employees. This is borne out by Article IV section 4(b) of the Constitution which provided that the Board would have the power "to appoint the Principal and other members of the teaching staff ... and to determine their terms of employment". Being employees, the faculty members would not, *per se*, be entitled to attend general meetings, or elect the management of the College, unless they should also happen to be a member of the Board. However, with regard to Mr Ang's contention that an unincorporated association must necessarily be an organisation that a member could join or leave at will, while that may ordinarily be the case it does not follow that an unincorporated association ceases to be so when its rules provide otherwise. There is no principle of law which preclude an association's constitution from stipulating that some of its current members should leave the association annually for renewal purposes. Moreover, Mr Ang's third argument falls apart once we accept that the College's members consisted of its Board of directors, because the Board members were required to affirm their consent to the Constitution under Article IV, section 1(2).

28 In our judgment, the College is really an unincorporated association, the members of which are delegates from other separate organisations (primarily the representatives of the Bible-Presyterian Churches in Singapore), which have decided to cooperate to establish the College in order to achieve a common purpose.

29 Finally, we wish to say that even if Mr Ang is right that the College is a charitable trust with its board of directors as the charity trustees, it will not make any real difference to the outcome in relation to the other issues which will be decisive *vis-a-vis* the action. Whether a charitable trust has arisen depends not on how it came into being but its objects. As mentioned in [27] above, a charity can take the form of an unincorporated association.

C. Are the Premises impressed with a charitable trust for the joint use of the Church and the College

30 The facts outlined above clearly show that the Premises were acquired/renovated through fund raising events which were undertaken in the names of both the Church and the College (see above at [11]). As the Judge correctly pointed out, where the purpose of a fund raising effort is charitable, the funds raised will be impressed with a charitable purpose trust for that purpose: see *Attorney General of Queensland v Cathedral Church of Brisbane* (1977) 136 CLR 353, *Neville Estates v Madden and Ors* [1962] Ch 832.

D. Are the Appellants the current members of the Board

Significance of the issue

31 We turn now to the question as to whether the Appellants are the current members of the Board, an issue which was only cursorily raised and argued by the respective parties during the trial. The Judge merely held at [81]

of the GD that "[t]hey [the Appellants] have not shown that they are the directors of the College." Essentially, the Judge decided this issue by treating it as a matter of burden of proof which the Appellants had failed to discharge.

32 In this regard, we would point out that even if the Judge was correct to have found that the Appellants were not the members of the Board, and therefore not entitled to use the Premises in the name of the College, she should not have granted the Respondents' third prayer in their Statement of Claim, which required the Appellants to give the Respondents an account of the money held in the accounts of the College as at the date of the registration of the 2004 College. The Respondents' entire case was premised on the basis that the College was a ministry of the Church and was thus entitled to the accounts of the College. However, as shown above (at [19] to [25]), this argument was soundly rejected by the Judge, who found that the Church and the College were two different entities. Given that none of the Respondents had claimed to be a member of the Board, there is no reason why they should be entitled to an account of the property that is held on behalf of the College.

33 A distinction must be drawn between a charitable purpose and the institutional form (be it an unincorporated association, individuals, or a company) through which the charitable purpose is effected or administered. The dissolution of the institutional form does not terminate the charitable purpose as long as that purpose is still capable of being carried out: *Re Vernon's Will Trusts* [1972] 1 Ch 300. If the Judge was of the opinion that the members of the Board (who are the members of the College as an unincorporated association) cannot be ascertained, she should have ordered that the College be dissolved under the equitable jurisdiction of the High Court: *Re Lead Workmen's Fund Society* [1904] 2 Ch 196. The property that is held for the purpose of the College (ie, that part of the Premises that is

impressed with a charitable trust in favour of the College, and the money in the College's accounts) should then either be applied cy-pres, handed to the Public Trustee, or turned over to the Commissioner of Charities (sections 21, 23 and 26B of the *Charities Act* respectively).

Was the College's board dissolved in 1989

34 Counsel for the Respondents, Mr Quek Mong Hua ("Mr Quek"), had argued during the trial that the Appellants could not be the directors of the Board because it had been dissolved in 1989, following the resignation of Mr Tow Siang Hwa as President. Mr Quek based this argument on a statement contained in the minutes of the Church's Session meeting on 20 December 1989 stating that:

> Rev Tow mentioned that the College's Board of Directors had been dissolved after Dr Tow S.H. resigned as President. Rev Tow said that he had been trying to revive the Board of Directors and in the future years he envisaged that the dual role of the Pastor of our Church as principal of FEBC would be maintained.

35 There are two observations we would like to make on these minutes. First, it is far from clear what this statement actually meant. Second, these minutes should be viewed in the light of the testimonies of the individuals who were the members of the College's Board in 1989. Mr Tow Siang Hwa, who was the President of the Board until his resignation in 1989, testified on behalf of the Appellants that the Board was not dissolved following his resignation[1]:

> Court — Do you remember any incident in 1988 to 1999 when the board of the College was dissolved?

---

[1] ROA, Vol 3 Part 7, p 2389-2390.

Witness	The board of the College was never dissolved. Your honour
Court	Yes
Witness	I am speaking from knowledge and experience. I resigned, the College carried on with a new president.
Court	When you resigned, who took over as president?
Witness	My younger brother.
...	
Court	So you resigned and the College---the board carried on---
Witness	Yes
...	
Court	Right. So when you resigned, nobody---
Witness	No
Court	--also resigned along with you?
Witness	No, no. No one else was involved in the, er, discussions that we went before the resignation.

36 On the other hand, the Respondents' own witness, Mr Khoo Peng Kiat, was ambivalent as to whether the College's Board had in fact been dissolved in 1989. During cross examination, Mr Khoo Peng Kiat stated that he had been a director of the College for 24 years from 1979 to 2003 and that the College's Board had never been dissolved.[2]

Q	Right. And you were a director of FEBC [the college] for 24 years, right?
A	That's correct, your honour.
...	

[2] ROA Vol III, Part 7, p 2290-2293.

Q	And you were continuously a member of the board of directors until you resigned in 2003, correct?
A	Correct, that's correct.
...	
Q	Yes. And do you recall that when Tow Siang Haw stepped down from the board, it was sometime in nineteen---1989 or so?
A	1989, that's correct.
Q	And then when he stepped down, there were a few other board members that also stepped down and new board members were elected and brought in to replace them, correct?
A	Correct, your honour.
...	
Court	And you remember it was 1989 when there was quite a big change.
Witness	Er, I think 1988, this I—I remember clearly, there was the dissolution of the senate. Then, one year later, I think, Dr Tow stepped down as president of FEBC—
Court	Yes.
Witness	--after which, the baton was passed on to Dr Tow Siang Yeow, his younger brother.
Court	But the board,--any—the board continued?
Witness	The board continues.

37 However, during re-examination by Mr Quek, Mr Khoo Peng Kiat gave a different version of events. Essentially, he testified that the Board was "dissolved" following the resignation of Mr Tow Siang Hwa but it was later reconstituted.[3]

---

[3] ROA Vol III, Part 7, p 2337-2339.

Q	Were you aware that your membership in the board of directors was dissolved?
A	Yes you honour.
Q	When were you aware?
A	I can't recall that...
Q	So when were you re-appointed?
A	Er, its not easy for me to answer that. I—can't—now I can't recall this—
...	
Court	How was it[the board] dissolved? Did everyone resign?
Witness	It was not, you know---because it couldn't carry on without the president. So I think the best is to, er, re---
...	
Court	So the new board, what was the difference between the new board and the dissolved board? Were they the same people or mostly the same people?
Witness	Er, not all the people are the same if I can recall.
Court	Mostly same.
Witness	Mm, I think mostly the same, to the best of my knowledge, sorry.

38 It seems to us that the apparent difference over the question whether the Board was dissolved in 1989 stems from the different senses in which Mr Quek and Mr Khoo Peng Kiat had used the word "dissolve". Mr Quek, perhaps because of his legal training, used the word "dissolve" in a formal sense to mean that the Board was legally dissolved in accordance with the College's Constitution such that thereafter the Board no longer existed. On the other hand, Mr Khoo Peng Kiat seemed to have been using the word "dissolve" in a loose manner to describe a situation where, following the resignation of Mr Tow Siang Hwa, many of the board members resigned and

new members had to be appointed/elected to replace them. This explains why Mr Khoo could confidently state that the Board continued after the resignation of Mr Tow Siang Hwa. In all probability, this was also what Rev Timothy Tow meant when he mentioned at the Respondent's Session meeting on 20 December 1989 that the College's Board had been dissolved after the resignation of Tow Siang Hwa and some other members.

39 We are fortified in our perception of the situation by the further fact that the Constitution does not have any provision for the dissolution of the Board. Under the Constitution, the Board was intended to be a self-perpetuating body whereby the current members would elect new individuals to fill any vacancies on the Board. This is apparent from Article IV, section 1(6) of the Constitution which provides that:

> About one-third of the members of the Board of Directors shall retire annually in rotation. In the first instance, however, terms of office of one, two and three years shall be allotted by the Board in its discretion. Retiring members shall be eligible for re-election. Election by the Board of new members shall take place at the Annual General Meeting, except for vacancies occurring in the Board before the expiring of a term of office when such vacancies may be filed as soon as possible by the Board until the end of the term. Any member absent from three consecutive regular meetings without the presentation of reasons acceptable to the Board shall be deemed to have resigned

40 Given that since 1989 new members have been elected to replace retiring members or members who had resigned, and given further that there is no provision in the Constitution which permit the dissolution of the Board, one should be slow, barring an express resolution adopted by the Board to bring its existence permanently to an end, to conclude that the Board had been so dissolved. Indeed the incontrovertible fact is that the Church had always regarded the Board as being in existence until 2002/2003 when the differences

relating to doctrine surfaced. Accordingly, we find that the Board was not dissolved, and continued to exist with the election of new members, following the resignation of Mr Tow Siang Hwa as president in 1989.

The practice of the Board from its inception to date

41 At the trial, Mr Quek pointed to the fact that the Appellants were unable to produce any board minutes to show that the Appellants had been validly appointed/elected as the current directors of the Board. According to him, this would mean that the Appellants could not be the current members of the Board. At best, they were only the directors of the 2004 College.

42 Admittedly, if there were minutes which recorded the elections or appointments to the Board, those minutes would have been the best evidence. However, many unincorporated associations, and the Board would appear to be one such association, operate in an informal manner and do not keep proper records of what actually transpire during their meetings. As will be seen later, the Board has been operating in such an informal manner for a long time and no one had taken issue with that until the emergence of the current dispute due to doctrinal differences. In this regard, two further circumstances must be borne in mind. First, as mentioned above at [39], the Board's members are not chosen by a fixed institution or from a pre-determined pool of people. Rather, it is a self perpetuating body where the current members have the right to elect new members, either to replace members who have retired/resigned or as additional members. Hence, in order to determine whether the Appellants are the current members of the Board, we have to trace the history of the Board's proceedings to see if they were properly elected by the Board's members at the relevant time.

43 Second, based on the testimonies of the witnesses at the trial, it is clear that the rotation policy mandated in Article IV, section 1(6) of the Constitution was never scrupulously observed by the Board. Even the Respondent's own witness, Mr Khoo Peng Kiat, testified that he had been a member of the Board for 24 years from 1979 to 2003 without having to go through the process of retirement and re-election. Accordingly to him, Rev Timothy Tow would simply ask the members whose term had expired if they would like to continue serving as a board member. If the answer was yes, those members would automatically be "re-elected" (or appointed). The same informal procedure was used when a vacancy on the Board had to be filled. Rev Timothy Tow would simply find a replacement who would be appointed as a board member as long as the other board members did not object.[4]

Q	Right. And you were a director of FEBC [the college] for 24 years, right?
A	That's correct, your honour.
...	
Q	And you were continuously a member of the board of directors until you resigned in 2003, correct?
A	Correct, that's correct.
Q	Right. And there was no break or interruption in your appoint---in your position as a director of the board of FEBC, right?
A	I think there was a sort of, er, renewal process and each time when your term is up, er, Rev Dr Timothy Tow would say. "Would you like to continue?"
...	

[4] ROA Vol III, Part 7, p 2290-2294.

Court	When—as a member of the board, when somebody wanted to resign and you had to fill the vacancy in the board, what was the procedure?
A	Er, Rev Timothy Tow, I think, would, er, say, you know, if someone has resigned then he would be looking for another person or persons to fill in the gap.
Court	Would the other directors have a vote as to who should take the position?
A	He would consult us.
Court	So who made the decision?
A	I think, er, usually there is this, er, sort of consensus, yah.
Court	Theres no formal meeting and---
A	No
Court	--discussion and vote?
A	No you honour.
Court	So he would talk to a few of you—to—to the board members and if—if—if everybody was agreed—
A	Agreed
Court	--the new person would be invited, is that what happens?

44 Mr Khoo Peng Kiat's version of how board members were elected was corroborated by another witness who testified for the Respondents, Mr Joshua Lim Heong Wee, who had served as a board member from the 1960s till 1987. Mr Joshua Lim Heong Wee testified that he was selected by Rev Timothy Tow to be a member of the Board.[5]

Q Can you remember who appointed you as a director?

---

[5] ROA Vol III, Part 7, p 2239-2294.

> A Who appointed me? In the early days, the late Rev Tow was the man who direct the College. He just pick whoever he thinks right to be there. And being a session member of Life Church, and I was involved right from day 1, so he pick me and a few others from Life Church, like his brother who was then Elder Tow.

45 The minutes of the meetings of the Board from 1989 to 2001 indicate that no Board member was ever asked to retire from the Board pursuant to Article IV, section 1(6) of the Constitution. Neither was there any formal process of appointment when new members joined the Board. The following was what happened:

a) Following the resignation of nine board members in 1989, seven new members (including the new President Tow Siang Yeow) joined the Board in 1990. However, there is no evidence that any official letter of appointment was given to the new members. Instead, the minutes of the 1990 Board meeting merely indicated that the new members were welcomed by the new president.

b) In 1993, four new members (Bob Phee, Sng Teck Leong, Siow Chai Sheng and Han Soon Juan) were added to the Board. No letters of appointment were given and the minutes of the 1993 Board meeting merely state that "the following new members were proposed and approved by the Board."

c) In 2001, Jeffrey Khoo was added to the Board. The 2000 minutes suggest that there was no election and what happened was that "all present approved the addition of Jeffrey Khoo as a member of the Board of Directors of FEBC".

46 The evidence shows that the members of the Board did not abide by Article IV, section 1(6) of the Constitution in relation to either the election of new members or the mandatory retirement policy. Practically, the members of

the Board just carried on indefinitely, as long as they wished to do so. New members were admitted to the Board not by formal election, but by consensus.

47 As a rule, acts taken by an entity's board of directors in breach of that entity's constitution would, if challenged, be null and void. However, the position here is that the members of the College's Board are the **only** members of the College as an unincorporated association and they have collectively acted in breach of the association's constitutional rules in relation to the election and retirement of members. Given that, in law, the Constitution is a contract to which all the current members are parties, the failure of the members, whose terms had expired, to retire constituted a breach of the Constitution. The remaining members of the Board whose terms had not expired should then have taken action to ensure the enforcement of the Constitution. In our opinion, their failure to do so would amount to a waiver of the breach, as well as acquiescence by them to the members whose terms had expired to remaining on the Board: *Abbatt v Treasury Solicitor* [1969] 1 W.L.R. 1575. Alternatively, the current members could also be regarded as having re-elected those members (whose terms had expired) to the Board.

Is there sufficient evidence to show that the Appellants are the current members of the Board

48 It seems to us that in determining the question of whether the Appellants have adduced sufficient evidence to show that they are the current members of the Board, it is important to bear in mind the circumstances alluded to above at [45]. In addition, we would underscore the following points. First, none of the Respondents' witnesses who claimed to be past members of the Board (Mr Khoo Peng Kiat, Mr Quek Kiok Chiang, Mr Joshua Lim, *etc*) have managed to produce any documentation as proof of their membership. What is sauce for the goose must certainly be sauce for the

gander. It is hardly fair for Mr Quek to challenge the Appellants' claim to membership of the Board merely because they could not produce any letters of appointment, while conveniently ignoring the same problem that affects his own witnesses.

49 Second, it appeared from Mr Quek's submissions made during the trial that he did not challenge the composition of the Board as reflected by the minutes of the Board meetings before 1989. Taking the position of the Board as in 1989, there were four members of the 1989 Board who survived the leadership change in that year and continued to serve on the Board in and after 1990. These four members were Rev Timothy Tan, Patrick Tan, Cheng Wei Nien and Khoo Peng Kiat. In accordance with Article IV, section 1(6) of the Constitution, these four members would have the right to elect new members to the Board.

50 Third, the 1990 minutes show that four out of the nine Appellants (Tow Siang Yeow, Wee Hian Kok, Stephen Khoo and Koa Keng Woo) were "welcomed' to the Board in 1990. The addition of the four Appellants to the Board met with no objection from the existing members, and it would be reasonable to infer that they had agreed to it. We note that the Respondent's witness, Khoo Peng Kiat, who was a member of the Board in 1990 and also present at the 1990 meeting, did not voice any objection to the addition of these four Appellants to the Board. Similarly, the 2001 minutes show that Jeffrey Khoo joined the Board in 2001 without any objection from the then Board members.

51 Fourth, it is true that no minutes were produced indicating that Quek Suan Yew, Prabhudas Koshy and Boaz Boon were elected to the Board. Indeed, no minutes of meetings after 2000 were tendered to court. While this

is unfortunate, the critical fact remains that the six existing Board members (Rev Timothy Tow, Tow Siang Yeow, Wee Hian Kok, Stephen Khoo, Koa Keng Woo and Jeffrey Khoo) in the 2000 Board had recognized Quek Suan Yew, Prabhudas Koshy and Boaz Boon as current members of the Board. In the circumstances, the most likely and reasonable inference that should be drawn from the circumstances is that they must have been elected onto the Board sometime between 2001 and 2010.

52 Fifth, despite the widespread publicity which this case has engendered, no one has tried to intervene in this litigation on the basis that they are the true current members of the Board of the College. Neither have any of the Respondents claimed that they, instead of the Appellants, are the true current members of the Board. On the other hand, it is not disputed that the Appellants have been in control of the College and running it since 1990. The correspondence between the Respondents and the Appellants show that they dealt with the Appellants in their capacities as members of the Board, and it was only until the commencement of the present litigation did they start to deny the Appellants' capacities.

53 In light of these considerations, we are unable, with respect, to agree with the Judge, that the Appellants have not established, on a balance of probabilities, that they are the members of the Board. On the contrary, we find that the Appellants have discharged that burden.

E. The legal effect of the Appellants' act of registering a college in the College's name but under the 2004 Constitution

54 We now turn to the fifth issue (see [18] above) where the Judge held that the Appellants' act of registering a charity with the 2004 Constitution and under the name of "Far Eastern Bible College" pursuant to the *Charities Act*

on 26 January 2004 had the effect of creating a new entity that was separate and distinct from the College. Her decision was greatly influenced by the fact that Article VII of the Constitution provided that any amendments to the Constitution could only be made with the support of at least two-thirds of the Board at the annual general meeting. As the Appellants could not show that the 2004 Constitution had been adopted in accordance with the procedure laid down in Article VII of the Constitution, the Judge held that this could only mean that the Appellants had failed to amend the Constitution, and had, instead, created a new entity governed by the 2004 Constitution.

55 When the members of an unincorporated association seek to amend its constitution in a way that does not comply with the prescribed procedure, the purported amendment would be invalid, and any acts that are done pursuant to that invalid amendment are in consequence also void. In *Re Tobacco Trade Benevolent Association Charitable Trusts* [1958] 1 W.L.R. 1113, an unincorporated association tried to change its constitution by a majority vote although there was no provision for alteration of the constitution. The English Court held that in that situation the members of the association could only have changed the constitution with the concurrence of every member. Accordingly, the purported amendment of the constitution was held to be a nullity. Similarly, in *Baldry v Feintuck and Others* [1972] 1 W.L.R. 552, the members of an educational charitable association tried to adopt a new constitution in order to apply the association's funds for non charitable purposes. The English court held that the members of a charitable association did not have the power to change its constitution in a way that allowed its funds to be used for non-charitable purposes. Therefore, the members' purported adoption of the new constitution was a nullity.

56 The principle that any purported amendment of an association's constitution by its members that does not follow the prescribed procedure is void is well settled. As mentioned before, Article VII provided that the Constitution could be amended by two-thirds majority of the Board. The evidence before the court shows that the only reason why the Board then decided to adopt a new constitution was because it wanted to register itself as a charity under the Charities Act and could not find a copy of the Constitution. Thus, they adopted a new constitution to effect the registration. If the Board then had a copy of the Constitution, there would have been no necessity to adopt a new constitution. They could have amended the Constitution by two-third majority as the Board members are all now before the court as Appellants, arguing that the 2004 College is the same as the College. It is clear that the Board in adopting the 2004 Constitution for the purpose of effecting registration had no intention to create a new college, distinct from the College.

57 We are fortified in that view by the fact that in seeking registration of the College with the Commissioner of Charities ("the Commissioner"), the Appellants had informed the Commissioner that the college they were registering was formed in 1962. Neither is there any doubt that the Appellants had submitted copies of the College's audited accounts for the years 2000, 2001 and 2002 to the Commissioner as part of the application form to register the College. Clearly, both the subjective and objective intentions of the Appellants were to register the College as a charity, and not to create a new entity. Granted that the Appellants did not adopt the new 2004 Constitution in compliance with the rules in the Constitution, this should only mean that their act of registering the College with the 2004 Constitution was wrongful, and perhaps the registration is a nullity, but we cannot see how the Appellants could be considered to have created a new entity, which was the last thing in

their mind. For these reasons, we are unable to agree with the Judge's conclusion that the Appellants' act of registering a college in the same name as the College, but with the 2004 Constitution, had the effect of creating a new entity.

F. The doctrinal matter

58 The Judge's decision in favour of the Respondents was based entirely on her finding that the 2004 College was a different entity from the College. Given that we do not share her views on that issue, her judgment in favour of the Respondents therefore cannot stand. However, there is a need for us to consider the very issue which caused the Church and the College to be estranged. As stated in [12] above, the College has now adopted the VPP doctrine whereas the Church maintained its stand of adhering to the VPI doctrine. It is not in dispute that prior to the College adopting the VPP doctrine, it was a religious charitable entity with the object of training people to be "church pastors, missionaries and other Christian workers". We do not see how the fact that the College has now embraced the VPP doctrine makes it any less of a religious charitable entity. The College continues to pursue its object of training "consecrated men and women" for the aforesaid purposes. What the Respondents seem to be arguing is that as the donations were received for the purpose of acquiring the Premises for the use of the College which then subscribed to the VPI, this change by the College to adopting the VPP doctrine is so fundamental that the College ceases to be entitled to use the Premises. In short, the Respondents' contention is that the Premises are impressed with such a purpose trust and the trustee holding the Premises must ensure that only persons/entities pursuing objects of the trust will be allowed to enjoy the benefits under it, and what the College is now pursuing falls outside the objects of the trust.

59 At the hearing before us, both counsel focused very much on the contrast between the VPI doctrine (that was accepted by both the Church and the College) and the VPP doctrine (that is now accepted only by the College). Mr Quek argued that the VPP doctrine was a deviation from the fundamental doctrine of the College because it was an entirely different creature from the VPI doctrine. On the other hand, Mr Ang stressed that the VPP doctrine was really an extension of the VPI doctrine, and that the College continued to fulfill its object of training Christians for Christian work notwithstanding its adoption of the VPP doctrine.

60 Thus the question here is whether the College's adoption of the VPP doctrine constitute such a fundamental shift that it should be regarded as pursuing something so different from the original objects of the College. Article III of the Constitution, which sets out the basic doctrines that would inform and guide the work of the College, reads:

> The system of doctrine contained in the Scriptures and expounded in the historic Westminster Confession of Faith and Catechisms shall form the basis of instruction in the College. The great fundamentals, including the pre-millenial return of Christ, shall be faithfully taught. True piety is to be nurtured, and an attitude of devotion and constant prayerfulness inculcated. Christian doctrine is never to be divorced from Christian life, and Biblical separation from all that is unclean is both to be taught and exemplified. The College is to test all things by the Word of God, as carefully and prayerfully studied. It is to stress those matters that the Bible clearly and repeatedly presents, and to avoid giving undue importance to matters of doubtful interpretations. Fellowship with all who are loyal to the Scripture is to be maintained, but compromise with any who reject its clear teachings is to be avoided.

61 There is nothing in this Article which could even remotely be of assistance to resolving the very problem now before us. However, there are

precedents from other jurisdictions which provide some guidance on the approach which this court should adopt in such cases.

Survey of cases

62 We now turn to consider some of these cases. In *Craigdallie v. Aikman* (1813) 1 Dow 1, H.L. (Sc.) and *Craigdallie v. Aikman (No. 2)* (1820) 2 Bli. 529, H.L. (Sc.) ("*Craigdallie*") a group of seceders from the church of Scotland had contributed money and resources towards the acquisition of a meeting house for worship for their congregation. The members of this congregation established a synod as the constituted authority. The congregation also established a confession of faith for its members, as well as a formula by which candidates for admission into the congregation were interrogated. In 1797, a committee of the congregation adopted a preamble as an explanation to the formula, and this was approved by the synod in 1799. A minister in the congregation protested against the adoption of the preamble and expressed his unwillingness to accept the authority of the synod until the preamble was removed. In response, the synod expelled the minister from the congregation and excluded him from the pulpit of the meeting house. Thereafter, the expelled minister and his supporters ("the petitioners") brought an action seeking a declaration that the meeting house belonged to them, as they were the members of the congregation who had adhered to its original principles. The synod brought a counter action seeking a declaration that the petitioners, by declining the jurisdiction of the synod, had lost any interest in the property of the congregation.

63 After almost 10 years of hearings, the suit finally came before the House of Lords in 1813. The court remitted the case back to the Scottish Court of Session with the finding that:

a) the meeting house had been acquired by the members of the congregation with the intent that it should be used for the purpose of religious worship by members who agreed in their religious opinion, and intended to continue in communion with each other; and

b) the meeting house belonged to the members of the congregation who adhered to the religious principles of those who were the original members of the congregation

64 Upon remission, the Court of Session found that the alleged differences between the preamble and the religious principles of those who were the original members of the congregation were non-intelligible, and that the petitioners had failed to prove that the current members of the congregation had departed from the religious principles of the original members. Based on this finding, the House of Lords held in 1820 that the petitioners had voluntarily disassociated themselves from the congregation, and that their claim that the meeting house belonged to them solely was not founded.

65 *Craigdallie* has been interpreted as standing for the proposition that in the event of a dispute between opposing factions of a religious institution, the court would favour the faction that adhered to the practices of the original members, over the faction that had altered the institution's doctrines/practices. However, the House of Lords seemed to have qualified this broad principle somewhat with the caveat that the alteration should, objectively, be of material importance to that religious institution. Therefore, even though the petitioners were undoubtedly the faction that had adhered most faithfully to the original practices of the congregation (in contrast to the synod which added the preamble), the court found for the synod because the addition of the preamble

did not create any "intelligible" difference with the original doctrines/practices of the congregation.

66 Next is the case of *Attorney-General v Pearson* (1817) 36 E.R. 135 ("*Pearson*") which raised the question of whether a trust deed that was set up to provide a meeting house for "the worship and service of God" had been breached when the trustees started to engage in unitarian worship. The trustees claimed that the purpose of the trust, as expressed in the trust deed, was to provide a meeting place for the worship and service of God, without any mention of the doctrine to be preached. Accordingly, they were entitled to engage in unitarian worship, as well as to eject the plaintiffs for their continued insistence on trinitarian worship. On the other hand, the plaintiffs claimed that the teaching of unitarianism was against the original intentions of the founders who had believed in trinitarianism. Accordingly, they argued that the meeting house should continue to be used only for trinitarian worship.

67 Eldon LC, who had written the judgment in *Craigdallie*, held that the key issue in the case was whether the original intentions of the founders were for the meeting house to be a place for exclusively trinitarian purposes, or whether the meeting house was merely to be a place for general Christian worship. Accordingly, it directed an inquiry for the original intentions of the founders to be ascertained. At the same time, having regard to the fact that the plaintiffs had clearly not breached the purposes of the trust, the court also ordered that the trustees undertake not to eject the plaintiffs from the meeting house until the inquiry was over.

68 *Pearson* reiterated the proposition in *Craigdallie* that the court would not allow the members of a religious institution from promulgating a different doctrine if doing so would deviate from the purpose of the trust. It is

significant to note that the court did not restrict its inquiry regarding the purpose of the trust to the terms of the trust deed itself. Indeed, the Solicitor General in that case had argued that the general words in the trust deed ("for the worship and service of Almighty God") did not prescribe the form of worship or the doctrines to be inculcated, and that it would be wrong for the court to impose a certain doctrine on the trust. The Court rejected this argument and held that the absence of any restriction on doctrine did not necessarily mean that there were no limits on doctrine at all. Having regard to factors such as unitarianism being illegal at the time the trust was established, and clauses in the trust deed suggesting that the founders did not intend to allow an illegal form of worship, the court concluded that the founders did intend that the meeting house be used for a certain type of worship.

69 The third case we will consider is *Attorney General v Aust* (1865) 13 LT 235 ("*Aust*") where the issue was whether any persons, other than the denomination of Nonconformists termed "Independents", were eligible to occupy a chapel endowed under a trust. The trust deed provided that the chapel was:

> to be used and enjoyed as a place of public religious worship for the service of God by the society of Protestant Dissenters of the denomination of Independents, and professing the doctrines contained in the Catechism of the Assembly of Divines held at Westminster, and commonly called the Assembly's Catechism,' and also by such other persons as shall hereafter be united to the said society, and attend the worship of God in the said meeting house.

70 The result in *Aust* is not important for our purposes. What is significant about *Aust* is that it qualifies the principle laid down in *Pearson* as to the propriety of using extrinsic evidence to determine the fundamental tenets of a religious institution when there is a trust deed (or its equivalent) in existence. Kindersley VC held that resort to extrinsic evidence was appropriate if the

trust deed did not reveal what were the fundamental tenets. However, if the trust deed had already laid down the original doctrines and form of worship, the use of extrinsic evidence should not be resorted to. This can be seen from the following extract of the judgment (at 236):

> [I]t is the duty of the court to ascertain in the first instance the nature of the religious worship intended at the time of the origin of the chapel, and as it is very often impossible to ascertain this with certainty from the absence of any instrument of endowment, or from the words of such instrument being ambiguous, that the court must then resort to the usage of the congregation in order to discover what those doctrines were. But if, on the other hand, from there being an actual deed of endowment, or from the fact that such a deed had existed being proved, the court has discovered the nature of the original doctrines and worship, it will maintain the worship prescribed by the endowment.

71 We now move to consider perhaps the most famous case in the 20th century which raised the question of schism in a religious institution. In *General Assembly of Free Church of Scotland v Lord Overtoun* [1904] A.C. 515 ("*Overtoun*") (also known as *Bannatyne v Overtoun* [1904] AC 515) a majority of a denomination of Christians which called itself the Free Church of Scotland ("Free Church") decided to merge with the United Presbyterian Church under the name of the United Free Church. The Free Church property was conveyed to new trustees to hold on behalf of the new Church. A minority of the members of the Free Church opposed the merger on the grounds that the merged institution had departed from two fundamental doctrines of the Free Church, which were the Establishment principle, and the unqualified acceptance of the Westminster Confession of Faith. According to the minority members, these two doctrines were part of the constitution of the Free Church and could not be altered. The minority claimed that the United Presbyterian Church was opposed to the Establishment principle, and did not maintain the Westminster Confession of Faith in its entirety. The merger left ministers and

laymen free to hold opinions as regards the Establishment principle and the predestination doctrine (in the Westminster Confession) as they pleased, and this constituted a breach of trust inasmuch as the property of the Free Church was no longer being used for the benefit of the original purposes of the Free Church.

72 The House of Lords identified the issue in question as being whether the merger had indeed breached the fundamental doctrines of the Free Church such that the minority was the true representative of the Free Church. It was common ground between the parties that the Free Church had no formal written constitution, trust deed or other such document setting out those principles. The five members of the House of Lords who ruled in favour of the minority members (Earl of Halsbury LC, Lord Davey, Lord James, Lord Robertson and Lord Alverstone) found as a fact that the Establishment principle and unqualified acceptance of the Westminster Confession of Faith were fundamental doctrines of the Free Church, and that these doctrines had been altered by the merger. Furthermore, the constitution of the Free Church did not contain any provision for the alteration of its fundamental doctrines. Accordingly, the majority members were not entitled to transfer the property of the Free Church to the newly merged church.

73 The two dissenting members of the House of Lords who found for the majority gave different reasons for doing so. Lord Macnaghten held that the Establishment principle and Westminster confession of faith were not the fundamental principles on which the Free Church was founded, and therefore the merger did not amount to a breach of trust. Furthermore, the Free Church had the power to change her doctrines through the general assembly.

Accordingly, it was well within the majority's right to change these doctrines pursuant to the merger.

74 In contrast to Lord Macnaghten's liberal interpretation of the powers of the Free Church, Lord Lindley adopted a more circumspect approach towards the interpretation of the Free Church's competence to alter its doctrines. In his Lordship's opinion, the constitution of the Free Church conferred on its general assembly the freedom to alter its religious doctrines. However, this power had to be used bona fide for the purposes for which they were conferred, and could not be used to destroy the Free Church itself. Although the limits of this power could not be defined precisely, the court could, in the majority of cases, determine whether a particular change was within this power. The Free Church's competence to alter its religious doctrine was limited by its identity as a Christian Church and a Reformed Protestant Church.

75 *Overtoun* is an important case for two reasons. First, the House of Lords established that a mere divergence from the original practice of a religious institution's founders was insufficient to show a breach of trust. The divergence had to be related to a "fundamental and essential" doctrine of the institution before it could amount to a breach of trust. This was so held by all seven members of the House. As Lord James stated (at 656):

> [I]t is necessary first to determine to what extent the Free Church was based upon the principles of Establishment. But before entering upon such inquiry it is, I think, worthy of remark that the Church is not a positive, defined entity, as would be the case if it were a corporation created by law. It is a body of men united only by the possession of common opinions, and if this community of opinion ceases to exist, the foundations of the Church give way. *But difference of opinion to produce this result must be in respect of fundamental principles, and not of minor matters of administration or of faith.* [emphasis added]

76 Second, the majority of the House also confirmed that it was possible for a religious institution to confer upon its trustees the power to alter the religious doctrines on which it was based, including its fundamental doctrines. However, such a power had to be expressly conferred. In the absence of any words to that effect, the courts would construe any power of plenary legislation as relating only to administrative issues, and not to matters of doctrine. As Lord Davey stated:

> The bond of union, however, may contain within itself a power in some recognised body to control, alter, or modify the tenets and principles at one time professed by the association. But the existence of such a power would have to be proved like any other tenet or principle of the association. [at 646]
>
> ...
>
> [L]et it be assumed that the language of the Act does imply the existence of some power. Certainly it is not necessarily an unlimited or general power, and the question then is, what is the extent or what are the limits of the power? It has been said that it is a power to legislate in any manner not inconsistent with the continued existence of the Church. But applying that to the case now before us, what, it may be asked, is the Church but an organized association of Christians holding certain doctrines and principles in common? [651]
>
> ...
>
> I think the Dean of Faculty was logically right in contending for an unrestricted power of legislation. But if the property was intended to be held in trust for a body of Christians holding such doctrines as the majority acting through the General Assembly might from time to time approve, such an intention should be made clear beyond the possibility of question. [651]

77 A more recent case is *MacKay v MacLeod* (10 January 1952, unreported) ("*MacKay*") where the subjects of a trust were expressed to be "for the sole use and behoof of the Congregation of the Body of Christians called 'The Free Presbyterian Church of Scotland' presently worshipping in

the Free Presbyterian Church, North Church Place, Inverness, and adhering to the Constitution and to the whole standards of the Free Church of Scotland as set forth and enumerated in the hereinafter mentioned Deed of Separation". The Deed of Separation contained an enumeration of a number of well known doctrinal and ecclesiastical formularies, beginning with the Westminster Confession of Faith.

78 In 1938, the congregation split into two sections over a religious dispute, and the court was called upon to determine which section was entitled to the property of the trust. In order to answer this question, the court held that it first had to decide whether either section had departed from the fundamental doctrines of the church. In relation to this inquiry, the Lord President laid down a principle of construction:

> If the difference leading to a secession relates to a matter not covered by the constitution and standards, and if therefore the continuing section cannot be shown to have violated or departed from the constitution and standards, the seceders secede at their peril and cannot by professions of conscientious conviction elevate minor or extraneous points of controversy into principles embodied in the Church's constitution and standards.

79 This approach advocated in *MacKay* is important, especially in relation to a case where the change in doctrine concerns matters that are not covered by the trust deed or constitution of the religious institution. In our view, there is much to be said in favour of adopting this approach, as it is both practical and sensible.

80 A century after the House of Lords had resolved the dispute between the contending parties in *Overtoun*, a second dispute arose between the General Assembly of the Free Church and a minority of dissentient members. *In Free Church of Scotland v General Assembly of the Free Church of*

Scotland [2005] 1 S.C. 396 ("*Free Church*"), a minority of members in the Free Church of Scotland brought an action against the General Assembly of the Free Church, claiming that the General Assembly had ceased to adhere to the fundamental principles of the Free Church, and was therefore no longer entitled to the beneficial interest in the Free Church's property. The minority members claimed that the constitution of the Free Church contained a fundamental principle of the right of continued protest, and that the General Assembly had breached this fundamental right by preventing the minority members from airing their grievances concerning the alleged misconduct of a particular professor teaching in the Free Church.

81 The Court of Session identified the main issue in the case to be whether the right of continued protest was so fundamental to the Free Church that the General Assembly had abrogated its right to use the assets of the Free Church by departing from it. Ultimately, the court held that it was unable to identify a right of continued protest as a fundamental constitutional principle of the Free Church. Although some members of the Free Church had acted in a way that could be regarded as supporting a right of protest, it was more appropriate to interpret such acts as a means to achieve the objective of preserving the substantive fundamental principles of the Free Church, rather than as a principle by itself. Accordingly, the court held that the General Assembly had not deviated from the fundamental principles of the Free Church.

82 The significance of this case is that it illustrates the fine balance which the court has to maintain when it tries to determine whether a particular tenet is a fundamental principle of a religious institution. As in *Overtoun*, the court considered that it was entitled to take into account all relevant evidence when determining if the Free Church was founded on the fundamental principle of

the right of protest. However, the approach of the court also suggests that the mere fact that the founders of a religious institution had acted in a particular way, does not ipso facto mean that the particular way of acting was so fundamental that any departure from it would amount to a breach. There must be some evidence that the founders themselves considered it to be fundamental.

83 We will finally refer to the rather interesting case of *Varsani v Jesani (Cy Pres)* [1999] Ch. 219 ("*Varsani*") which would seem to suggest that there is an alternative to the "zero-sum" method which the courts had traditionally employed to resolve disputes of this nature. The plaintiffs and the defendants in this case were both followers of a Hindu sect, Shree Swaminarayan Gadi, based in Maninagar, Gujarat, India. An essential tenet of the faith was that the founder was believed to have been the incarnation or manifestation of the Supreme Being. The followers believed that there was a direct line of succession from the founder through three other successors to Shree Muktajivandasji Swaminarayan ("Muktajivandasji"). Muktajivandasji remained the Acharya or leader of the sect until he died in 1979. About ten years before he died, Muktajivandasji established a constitution to govern the affairs of the sect, including his succession ("the 1969 constitution"). The 1969 constitution did not stipulate whether the successor had any divine attributes, and further provided that the successor could be removed if he misconducted himself in certain ways. Before he died, Muktajivandasji appointed one Shree Purushottam Priyadasji ("Priyadasji") to be his successor as the leader of the sect.

84 In or about 1985, allegations of misconduct surfaced against Priyadasji in relation to a trip he made to England. A majority of members in India and England did not accept the allegations against the successor. They continue to

recognise his authority, and his divine status. The minority believed that the allegations were true and that he had lost the right to lead the sect. This dispute finally culminated in cross suits between the majority and minority groups. The majority started a suit in 1988 seeking the removal of the trustees who were members of the minority group and a scheme for the administration of the charity. In 1990, the minority commenced their own suit seeking declarations that the successor had ceased to be the spiritual leader of the sect and that those who continued to accept him as their spiritual leader were not entitled to worship in the London temple or otherwise to have the use and benefit of the assets of the charity.

85 The English Court of Appeal held that the original purpose of the charity was to promote the faith of Swaminarayan according to the teachings and tenets of Muktajivandasji. However, the teachings of Muktajivandasji did not deal with whether a belief in the divine attributes of his successor were essential tenets of the faith, and it was therefore not possible to determine whether either group had departed from the fundamental tenets of the faith.

86 In any event, the court considered that it had the power under section 13(1)(e)(iii) of the Charities Act 1993 (UK) to settle a cy-pres scheme for the division of the charity's assets. That section stated that cy-pres was available

> [W]here the original purposes of the gift had "ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the appropriate considerations."

87 The court held that under this section, when considering the appropriateness of settling a cy-pres scheme, the court had to look beyond the original objects of the trust and to seek to identify the spirit in which the

donors gave property upon trust for those purposes. Having regard to this, it then concluded that:

> [T]he spirit in which property was given in 1967 was a desire to provide facilities for a small but united community of the followers of Muktajivandasji in and around Hendon to worship together in the faith of Swaminarayan. The original purposes specified in the declaration of trust - that is to say the promotion of the faith of Swaminarayan as practised in accordance with the teachings and tenets of Muktajivandasji - are no longer a suitable and effective method of using the property given in 1967, or added property held upon the same trusts, because the community is now divided and cannot worship together. Nothing that the court may decide will alter that. To hold that one group has adhered to the true faith and that the other group has not will not alter the beliefs of that other group. The position will remain that the community cannot worship together. *To appropriate the use of the property to the one group to the exclusion of the other would be contrary to the spirit in which the gift was made.*
>
> [emphasis are my own]

88 Section 13(1)(e)(iii) of the Charities Act 1993 (UK) is in pari materia with s 21(1)(e)(iii) of our own Charities Act. Hence, it is within the power of the court to adopt the approach advanced in *Varsani*.

Summary of principles

89 The principles that can be drawn from the above stated cases are as follows:

> (i) Where a trust/gift is established for the benefit of a religious institution, it is a breach of trust/gift for the members of that religious institution to deviate from the purpose of that trust/gift. To the extent that the purpose of the trust/gift involves issues regarding adherence to certain religious beliefs or doctrine, it is the duty of the court to take cognisance of these matters to determine whether the purpose of the trust/gift has been breached: see *Craigdallie* and *MacKay*.

(ii) The mere fact that the members of that religious institution has deviated from the original doctrines and practices of that institution does not ipso facto amount to a breach of the purpose of the trust/gift. *Craigdallie*. The deviation must be material and relate to a "fundamental and essential" doctrine/practice of the institution: see *Craigdallie* and *Overtoun*.

(iii) The party who alleges that there has been a deviation from a fundamental and essential doctrine/practice of a religious institution bears the burden of proving it: see*Craigdallie*.

(iv) Whether a particular doctrine or belief is "fundamental or essential" to a religious institution is a question of fact. In this respect, particular regard should be given to the terms of the trust/gift if there is one, since it is presumed to manifest the intentions of its founders: see *Aust* and *Free Church*.

(v) The mere fact that the trust deed does not prescribe any particular form of doctrine/worship does not necessarily mean that the founders did not intend that there should be no limitations on doctrine/worship at all. The court is entitled to refer to extrinsic evidence to determine whether the founders intended to impose certain restrictions on doctrine/worship, notwithstanding the absence of express words to that effect: see *Pearson*.

(vi) Where the trust deed prescribes the doctrines and forms of worship that are to be promulgated by the religious institution, there is an inference that these are the essential and fundamental principles of that religious institution. *Aust*. The more detailed the trust deed is in relation to these matters, the stronger the inference that it is meant to be an exhaustive list. In such cases, any matters not covered by the trust deed are presumed to be non fundamental*: see MacKay*.

(vii) A trust deed may confer upon a religious institution the power to alter its fundamental doctrines/practices. However, such a power must be expressly provided for. In the absence of clear words to that effect, powers of plenary legislation will be construed as relating only to administrative issues, and not to matters of fundamental doctrine/practices: see *Overtoun*.

(viii) In the absence of a trust deed, the court is entitled to look at extrinsic evidence to determine the essential fundamental doctrines/practices of a religious institution. *Overtoun*. Neither is the court restricted to extrinsic evidence existing at the time of the creation of the trust/gift. The subsequent conduct of the members of the religious

institution may also be used to infer the original intentions of the founders: see *Free Church*.

(ix) Caution must be exercised when using extrinsic evidence to determine the fundamental doctrines/practices of a religious institution. The mere fact that the founders of a religious institution adhered to certain doctrines and practices does not ipso facto mean that these doctrines and practices are fundamental to that religious institution. There must be some evidence to show that the founders themselves considered those doctrines/practices to be fundamental: see *Free Church*.

(x) In the event of a dispute between members of a religious institution over questions of whether there has been a deviation from the essential and fundamental principles of that institution, the court retains an overarching discretion to settle a cy-pres scheme under section 21(1)(e)(iii) of the Charities Act without inquiring into whether there has been such a departure: see *Varsani*.

The College's essential and fundamental religious doctrines

90 In this case, the essential and fundamental doctrines that inform and guide the work of the College are set out in Article III of its constitution. We have in [60] above quoted the said Article.

91 It is clear from this Article that the fundamental doctrine of the College is to be the Westminster Confession of faith ("the Westminster Confession"). The Westminster Confession is a document drawn up by the Westminster Assembly in 1646. This assembly consisted of 121 Puritan clergymen who were called upon by the English parliament to provide advice on issues of church doctrine, worship and government. The Westminster Confession has been highly influential within Presbyterian churches worldwide, many of which use it as a standard of doctrine that is second only to the teaching contained in the Bible itself. The part of the Westminster Confession that is relevant for our purposes is Article VIII, Chapter 1 ("Article VIII"). Article VIII has been interpreted by many Protestants who adhere to the Westminster

Confession as standing for the principal belief that the Bible is divinely inspired. Article VIII reads as follows:

> The Old Testament in Hebrew (which was the native language of the people of God of old), and the New Testament in Greek (which, at the time of the writing of it, was most generally known to the nations), being immediately inspired by God, and, by His singular care and providence, kept pure in all ages, are therefore authentical; so as, in all controversies of religion, the Church is finally to appeal unto them. But, because these original tongues are not known to all the people of God, who have right unto, and interest in the Scriptures, and are commanded, in the fear of God, to read and search them, therefore they are to be translated in to the vulgar language of every nation unto which they come, that, the Word of God dwelling plentifully in all, they may worship Him in an acceptable manner; and, through patience and comfort of the Scriptures, may have hope.

92 Protestants have interpreted Article VIII of the Westminster Confession in various ways, of which the VPI doctrine is one. The major doctrines regarding the proper interpretation of Article VIII would appear to be as follows:

a) The dictation doctrine of inspiration sees God as the author of the Bible and the human writers as mere agents taking dictation. Essentially, God spoke and man wrote it down.

b) The VPI doctrine differs from the dictation doctrine in that its proponents do not believe that God literally dictated every word of the Bible. VPI proponents believe that when the human authors were writing, they were inspired by God so that what they wrote were the "breathed-out" words of God. This means that while the actual writings retain the personality of the individual authors, they contain the actual words of God.

c) Limited inspiration sees the Bible as primarily the work of man with "limited" inspiration from God. Under this doctrine, God guides the human authors, but allows them the freedom to express themselves in their works. This view asserts that while there may be factual and historical errors in the Bible, the Holy Spirit guided the authors so that no doctrinal errors resulted from their works.

93 The Westminster Confession is a highly detailed piece of work that lays down the major tenets of the Christian faith in the Calvinist Protestant tradition. Having regard to the principles of construction laid down in *Aust* and *Mackay* (Principle (vi)), as well as the fact that Article III of the College's constitution was drafted by theologians well versed in Christian doctrine, we are of the opinion that the founders of the College intended the Westminster Confession to serve as the fundamental doctrine informing and guiding the work of the College.

What is the VPP doctrine

94 From the submissions made by counsel, we were able to discern that the VPP doctrine is actually closely related to the VPI doctrine which both parties adhere to. As mentioned above at [92], believers in the VPI doctrine believe that the original versions of the Bible as written in Aramic and old Hebrew (the autographs) were divinely inspired. The autographs do not exist anymore, but some translated copies of them (the apographs) are still in existence. On the other hand, proponents of the VPP doctrine go one step further: they believe that some of these apographs (the Textus Receptus manuscripts of the New Testament and the Masoretic Text of the Old Testament) are perfectly preserved copies of the autographs because the scribes who translated them were also divinely inspired. Since the King James

Version of the Bible ("KJV") was translated based on the apographs, adherents of the VPP doctrine believe that the KJV is the most accurate English translation of the bible.

Is the VPP doctrine a deviation from the Confession?

95 Having carefully considered the position, it seems to us that the College, in adopting the VPP doctrine, has not deviated from the fundamental principles which guide and inform the work of the College right from its inception, and as expressed in the Westminster Confession. There are four reasons why we have come to this view.

96 First, although Article VIII stands for the proposition that the original drafts of the Bible were divinely inspired, it is notably silent on the question of the relative accuracy of the translated copies of the Bibles. At the time when the Westminster Confession was written, there were already multiple translated versions of the Bible in various languages (including in English). Hence, the absence of any reference to this issue in Article VIII could have been due to either deliberate silence or a failure to consider this question.

97 Mere difference between the current and original doctrines/practice of a religious institution does not ipso facto amount to a breach of trust. The difference must relate to an essential and fundamental doctrine of the religious institution: see *Craigdallie* (Principle (ii)). The cases where the courts have found a breach of trust involved situations where the members of the religious institution had abandoned a fundamental principle, or had acted in contravention of it. In *Overtoun*, the House of Lords found for the minority group because the majority group had abandoned the Establishment principle as well as the position of strict adherence to the Westminster Confession,

which were the fundamental doctrines of the Free Church. Similarly, the court in *Pearson* was minded to order an inquiry as to the fundamental doctrines of the congregation because of the obvious incompatibility of trinitarianism (the original doctrine) with unitarianism. In contrast, the courts have been slow to find that there is a breach of trust where a religious institution adopts a position on a matter not contemplated by its founders and which position is not incompatible with the institution's fundamental doctrines.

98 Article VIII of the Westminster Confession, as well as the VPI doctrine, deals solely with the divine status of the autographs. In contrast, the VPP doctrine is concerned with the divine status of some particular apographs. Although related, the two doctrines focus on different areas of theology. It is not inconsistent for a Christian who believes fully in the principles contained within the Westminster Confession (and the VPI doctrine) to also subscribe to the VPP doctrine. In the absence of anything in the Westminster Confession that deals with the status of the apographs, we hesitate to find that the VPP doctrine is a deviation from the principles contained within the Westminster Confession.

99 Second, insofar as the Westminster Confession does not dictate any particular position with regard to the status of the apographs, the Church's own position in relation to the use of the KJV can also be regarded as a doctrinal position that is neither supported nor contradicted by the Westminster Confession. Charles Seet, the pastor of the Church, admitted during cross examination that the Church itself uses the KJV and has always subscribed to the view that the KJV is the best English translation of the bible because of its textual superiority.

100 It seems to us difficult to resolve, as a matter of theology, whether the Church's position (endorsing the VPI) is closer to the Westminster Confession than that of the College (endorsing the VPP). Both positions accept the alleged superiority of the KJV, an issue that the Westminster Confession is entirely silent on. Insofar as both positions relate to the question of the accuracy of translated bibles, we are of the opinion that they are not inconsistent with the Westminster Confession.

101 Third, there is some evidence to suggest that the Church had, at least initially, regarded the VPP doctrine as not inconsistent with the principles contained in the Westminster Confession. The Statement of Reconciliation published by the Church in 2003 states that:

> For the past 52 years, Life B-P Church has been holding forth the Word of Life, and upholding the use of the King James Version (KJV) which is the best English translation of the Scriptures, made by godly translators from the best Greek and Hebrew texts.
>
> Among all English Bibles today, there is none that can surpass the KJV. We believe that this statement on the KJV being the Word of God, and fully reliable, which was arrived at after the careful deliberation of the Board of Elders, is acceptable by all other members of the Session.
>
> And thus, we should continue to exclusively use the KJV for all ministries of the church and for our members' use, and refrain from all Modern English versions, like the RSV, NASV and NIV. One of the many deficiencies of these Modern English versions is that they are based on the corrupted Westcott and Hort Greek and Hebrew Text; while the KJV is based on the uncorrupted family of the Greek Received Text and the Masoretic Hebrew Text.
>
> In the last few months, a debate has arisen within our church, concerning the Greek Received Text and the Masoretic Hebrew Text underlying the KJV. *We have come to the conclusion that neither of the views propounded is dogma but personal conviction or preference.* We confess our sins and repent before God that we have caused grief, consternation and confusion, we pray that God will forgive us

102 The Statement of Reconciliation shows that, as late as 2003, the Church was prepared to accept that personal belief in the VPP doctrine was not inconsistent with adherence to the Westminster Confession. In this respect, we would also point out that the Church's own constitution requires the Church to take an uncompromising stance against heretical doctrines that it regards as being against the fundamental precepts of the Westminster Confession. Article 4 of the Church's constitution expressly requires the doctrine of the Church to be aligned with the principles laid down in the Westminster Confession, while Articles 6.8 and 6.9 state that:

> 6.8 In loyalty to the revealed Word, we, as an organised portion of the people of God, are obliged to oppose all forms of modernism, cultism, Romantism and false religions. Dialogue for the purpose of reaching a compromise between true Bible believers and representatives of such beliefs is impious, unbiblical, treasonous and unfaithful to the holy God, as He has revealed Himself to us in His infallible, inerrant Word.
>
> 6.9 We are opposed to all efforts to obscure or wipe out the clear line of separation between these absolutes: truth and error, light and darkness. We refer to such efforts by New Evangelicals, Charismatic Christians, promoters of ecumenical cooperative evangelism and of the social gospel, and all churches and other movements and organisations that are aligned with or sympathetic to the Ecumenical Movement.

103 The Statement of Reconciliation was an attempt between the members of the Church to seek a compromise between those who believe in the VPI doctrine and those who believe in the VPP doctrine. Such a compromise would have been barred by the Church's own constitution if the VPP doctrine was indeed a deviation from the Westminster Confession.

104 Fourth, it is not disputed that out of the approximately 17 Bible Presbyterian ("B-P") churches in Singapore, there are nine that support the VPP doctrine (Berean, Berith, Calvary Pandan, Calvary Tengah, Gethsemane, New Life, Tabernacle, True Life and Truth Bible). On the other hand, there

are eight B-P churches that have rejected the VPP doctrine (Galilee, Grace, Life Church, Narareth, Olivet, Shalom, Zion, Mt Hermon).

105 The above-stated B-P churches were all members of the Bible-Presbyterian Church of Singapore ("the Presbytery") until 1986, when the Presbytery was dissolved, and the members of the Presbytery became independent churches. Article 4 of the Presbytery's constitution made it clear that its fundamental doctrines were based on the principles contained in the Westminster Confession. Accordingly, although the constitutions of those B-P churches in Singapore are not in evidence, it is fair to infer that those B-P churches would continue to regard the Westminster Confession as their fundamental doctrines.

106 Pursuant to the principles laid down in *Overtoun*, the question of whether a certain doctrine is in accord with the fundamental doctrines of a religious institution is purely a question of construction. Nonetheless, while the beliefs of a majority group is not determinative, it is a factor that cannot be ignored. In this case, neither party has adduced expert evidence on the question of the compatibility of the VPP doctrine with the Westminster Confession. The closest approximation we have to expert evidence is the expert opinions of the pastors of the various churches who adhere to the Westminster Confession. Accordingly, some weight should be given to the fact that half of the B-P churches believe that the VPP doctrine is consistent with the Westminster Confession.

107 In light of the above, we find that the Respondents (who, importantly, bear the burden of proof (see above at [95-105])) have not shown that the Appellant's adoption of the VPP doctrine is inconsistent with the fundamental doctrines of the College.

G. Does the College's teaching of the VPP doctrine constitute a deviation from the objects of the charitable purpose trust?

108 It is conceptually possible for the fundamental doctrines of the College to differ from the objects of the charitable purpose trust over the Premises. In the present case the charitable purpose trust over the Premises was not established by a single identifiable donor whose intent could be easily ascertained, be it by way of a trust deed or any other less formal way. Rather, the funds received to acquire the Premises were raised by donations from members of the Christian community whose intentions could not be ascertained with any degree of certainty. But what is clear is that the appeals for donations were made in the joint names of the Church and the College, without any further elaboration. There was no indication as to whether any one body would exercise any form of control over the other. Neither was there any specific reference to any religious doctrine other than the fact that both entities were Bible Presbyterian entities. In such circumstances, the objects of the College, as well as those of the Church, would serve as strong evidence of the presumed objects of the charitable purpose trust, because it would be natural and reasonable to infer that the donors intended their donations to benefit both the College and the Church.

109 As we see it, the charitable purpose trust upon which the Premises are impressed, as far as the College is concerned, must be that the Premises be used in accordance with its Constitution. There is nothing to suggest that the College can only enjoy the use of the Premises if it is aligned to the Church in terms of the particular translation of the Bible used. It must not be overlooked that the College was and is intended to serve the needs of all Presbyterian churches in Singapore. As mentioned above at [104], these churches are divided as far as the VPI and the VPP doctrines are concerned. In the light of

our finding (see [107] above) that the College has not deviated from its fundamental doctrines/tenets, it is entitled to continue using the Premises.

110 As a concluding remark we would make these further observations. The various fundraising events that took place between 1957 and 2000 were made in the name of both the Church and the College. Undoubtedly, when the donations were received, the donors, as well as the members of the Church and the College, did not anticipate that a doctrinal dispute like the present would arise between the Church and the College. Indeed, it is even possible that all the parties involved assumed that the Church and the College would forever be united in terms of doctrine. However, this is very different from saying that the College commits a breach of the charitable purpose trust to which the Premises are impressed with when it ceases to be aligned with the Church in terms of doctrine. The evidence produced by the Church only shows that the Church and the College shared a special and close relationship. There is nothing to suggest that the College was meant to be subordinated to the Church in either administration or doctrine. We would reiterate that the College was established not only to serve the needs of the Church but also the needs of the other Presbyterian churches in Singapore. As stated before, the Presbyterian churches in Singapore are divided over VPI and VPP. Given these considerations, we find that the College's status as a beneficiary under that purpose trust over the Premises was not conditioned on its continued doctrinal alignment with the Church.

Conclusion

111 For the above mentioned reasons, we allow the appeal. We will hear the parties on the exact orders which are necessary to give effect to the relief claimed by the Appellants in Suit 278. In order to avoid further controversies,

the parties may consider it necessary to draw up a more detailed arrangement than that set out in the 1970 Agreement, as to how the Premises are to be maintained and used by the parties.

112 The parties are also requested, within the next fortnight, to let us have their written submissions on the question of costs of this appeal and the trial below.

Chao Hick Tin Judge of Appeal	Andrew Phang Boon Leong Judge of Appeal	V K Rajah Judge of Appeal

Mr Ang Cheng Hock SC, Mr Tham Wei Chern and Mr Ramesh Kumar (M/s Allen & Gledhill LLP) for the appellants;
Mr Quek Mong Hua and Ms Esther Yee (M/s Lee & Lee) for the respondents

---