

## **Claude Jennings Trust**

The trust was created by the will of the Late Claude Oswald Jennings. The Anglican Diocese of St Arnaud was appointed the trustee. The Trust itself relates to a block of land which sold in December 1974 for net proceeds of \$38,845.80 and this amount (after solicitors and executor's fees) formed the corpus of the trust. The trust proceeds are to be applied for the "maintenance, advancement, education or benefit of delinquent and/or indigent boys".

There have been a number of issues that have arisen over the life of this trust and various Chancellors and Advocates of the Diocese have given their opinions:

- The trust beneficiaries must be male. The Equal Opportunity Act 2010 S.51 allows for discrimination against a person in the disposal of land by a will. As such, despite the change in community expectations the limitation of the Trust to "boys" as opposed to "Girls" remains valid. The Trust specifically refers to a "boy" not a "man", so the recipient must be a minor (under the age of eighteen).
- The terms "delinquent" and "indigent" are now archaic and could be better translated as having trouble with the law or having trouble attending school, and poor or needy respectively. The funds therefore need to be directed at boys who are in difficult circumstances, either socially, emotionally or financially.
- It is clear that Claude Jennings had a close association with the parish of Swan Hill, and the Parish of Swan Hill has taken a strong interest in this Trust. There is no geographical limit specified in the Trust and given that the Anglican Diocese of St Arnaud was appointed the trustee one reasonable interpretation is that the funds were intended to be applied anywhere the Diocese of St Arnaud had influence – including, but not limited to Swan Hill.

Further, the final decision as to who the beneficiaries will be and how much they shall each receive is legally the responsibility of, and at the discretion of, the Trustees – this task is undertaken by the Diocesan Executive Committee.

From the period 1 Jan 2006 to 31 Dec 2014 the trust earned \$67,669.92 in interest, it paid out \$4,150 in grants and paid \$748 in legal fees to obtain further clarification on some of the issues raised above. At 31 Dec 2014 the trust has a balance of \$172,673.15. To date, all of the beneficiaries have come from the Swan Hill parish area. Given the large value available for distribution other parishes in the former St Arnaud Diocese area are now able to access these funds.

### **Summary:**

- Claude Oswald Jennings was a long term member of the Swan Hill Parish. On his death, the terms of his will created the 'Claude Jennings Trust'
- This Trust provides for the support of delinquent and indigent males under the age of eighteen.
- The trust beneficiaries must be male. Despite the change in community expectations, the limitation of the Trust to "boys" as opposed to "Girls" remains valid. The Trust specifically refers to a "boy" not a "man", so the recipient must be a minor (under the age of eighteen).

- The terms “delinquent” and “indigent” are now archaic and could be better translated as having trouble with the law or having trouble attending school, and poor or needs assistance respectively. The funds therefore need to be directed at boys who are in difficult circumstances, either socially, emotionally or financially.
- Historically the Parish of Swan Hill has nominated beneficiaries from this trust.
- There is no geographical limit specified in the Trust and given that the Anglican Diocese of St Arnaud was appointed the trustee one reasonable interpretation is that the funds were intended to be applied anywhere the Diocese of St Arnaud had influence – including, but not limited to Swan Hill.
- Over time the earnings of the Trust have far exceeded the grants distributed so the Trust now has a healthy corpus.
- The Bendigo Diocese Trust Corporation as Trustee of the Claude Jennings Estate has determined that applications for beneficiaries from the Claude Jennings Estate will now be considered from all Parishes across the former Diocese of St Arnaud. These Parishes are Maryborough/Avoca, St Arnaud, Charlton/Donald, Inglewood, Pyramid Hill/Boort, Central Mallee, Northern Mallee (includes Robinvale), Sunraysia South and Swan Hill.
- The Executive will consider grant applications periodically and award grants from time to time throughout the year.

The Diocese has had legal opinion over an extended period of time about the Claude Jennings Trust and any change to the above (including allowing the distribution of grants to girls and benefits for other than “delinquent” and “indigent” minors) would require an alteration of the Trust by way of cy pres to the Supreme Court of Victoria.