

Tabled by Mr I Dunlop  
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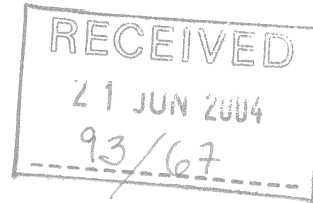
GENERAL PURPOSES STANDING COMMITTEE NO. 5

INQUIRY INTO MURRUMBIDGEE COLLEGE OF AGRICULTURE

STATEMENT OF IAN STUART DUNLOP

(Made to the Committee on 05/07/04)

Mr Chairman and Committee Members,



1. *INTEREST*

- 1.1 I am a son and former partner of the late Colin Dunlop who was for many years the principal of Shaw Dunlop & Co, the solicitors for the Estate of the late C B Alexander, the benefactor of C B Alexander Agricultural College (herein and in the Terms of reference referred to as Tocal College).
- 1.2 Also, I am an active member of The Friends of Tocal Inc (a community group providing support for Tocal College) and represent that group for the purposes of this Inquiry.
- 1.3 My concern is with Term of Reference 1(g), which raises the issue of the future operation of Tocal College.
- 1.4 That Term of Reference contemplates a transfer of Tocal College to the Department of Education and Training.

2. *ESTABLISHMENT OF TOCAL COLLEGE*

- 2.1 Tocal College was established as an agricultural college in 1965 by virtue of the benefaction contained in the Will of the late C B Alexander, of which Will my late father, Colin Dunlop, was an executor and trustee.
- 2.2 The principal object of the testator's endowment was, in effect, the training of youth in agriculture.
- 2.3 That object was brought to fruition in 1963 by the Order of the Equity Court of New South Wales (the Court) approving the scheme proposed by the Trustees of the Presbyterian Church of Australia (the Church Trustees).
- 2.4 That predominant object was preserved by the foresight of the NSW Government in its incorporation of the C B Alexander Foundation (the Foundation). This was achieved by Act No. 61 of 1969 (the Statute). The Statute appointed Mr Colin Dunlop and Mr Edward Hunt (the Law Agent of the Presbyterian Church of New South Wales) as inaugural members of the Foundation, it being stated in support that "these two gentlemen have played an important part in the development of Tocal College"..
- 2.5 The Foundation has continued to preserve the spirit of the testator's bequest for the benefit of agriculture.
- 2.6 In 1970, pursuant to the Statute, the State Government assumed responsibility for Tocal College and its development on a scale not otherwise possible.
- 2.7 Under the control of NSW Agriculture, Tocal College has become one of Australia's leading agricultural institutions. Through its unique expertise in agricultural education and practice, it provides the NSW rural community with a range and diversity of courses not found in other States. These course, which are provided internally and by means of part time and distance education, are cost effective and flexible.

2.8 The management of Tocal College by NSW Agriculture ensures a continuing response to the needs of rural industry and that the Tocal facilities have wide ranging community use. Tocal College has developed a distinctive role that is strongly supported by rural industry and the community. It has a unique range of resources and is a major asset to the NSW and Australian communities. The record of Tocal College is second to none.

2.9 The New South Wales Government's assumption of responsibility for Tocal College was the outcome of discussions between it and the Church Trustees who were seeking to alleviate the increasing financial burden for their conduct of Tocal College pursuant to the scheme approved by the Court. This burden could not be adequately met from the assets of, and income generated by, Tocal College.

2.10 At the time of those discussions, the then Attorney-General suggested that the Government take over the Alexander Trusts and relieve the Church Trustee of their responsibility. In doing so he pointed out that the Government was the ultimate authority over all charitable trusts and had more strength than the Church to develop an agricultural college.

2.11 The fact that Tocal College was established as the outcome of the charitable trusts provided for by the Will of the late C B Alexander distinguishes it from similar entities administered by the State and otherwise brought into being.

2.12 Also, that fact makes it imperative that a thorough understanding of the background of that establishment precede any decision affecting, in any way, the future of Tocal College.

### 3. *ALEXANDER INVOLVEMENT*

3.1 "Tocal" was purchased by the Alexander family in 1926.

3.2 In 1904 The family had moved to New South Wales from Victoria. At the time of that move the family had comprised five unmarried brothers and three unmarried sisters, all of them middle aged. At the time of the "Tocal" purchase, there remained in that family two brothers (Robert and Charles) and two sisters (Isabella and Jean), their siblings having predeceased them. One other sister, then deceased, had previously married and had two daughters, Myrtle Eliza Curtis and Marguerita Curtis.

3.3 In 1926 the Alexander family had rural properties at Jerrys plains, Bulga and Milbrodale near Singleton. The family fortunes had been consolidated by hard work and astute management. The Alexanders were renowned as progressive, practical farmers.

3.4 The Alexanders well demonstrated their knowledge of the need for progressive methods in farming and the importance of learning how to best implement improved skills. Charles Alexander guided "Tocal" from a labour intensive operation to one using the latest technology. In doing so, he began to move "Tocal" in the direction that is now associated with modern agriculture.

3.5 In 1939 Charles Alexander invited his nieces, the Misses Curtis, to come to "Tocal" to care for him as he was, by then, the last surviving Alexander and had attained 75 years of age.

3.6 Charles Alexander was determined the hard-won Alexander capital should be employed for the furtherance of agriculture, as well as providing benefit for destitute, homeless and orphan children. So, with the assistance of his friend, Dr Samuel Gardiner, and an unknown legal draughtsman, he set about the incorporation of his ideal by means of his Will. From all accounts and inquiries that document was some two decades or more in the making and was not contributed to by his usual solicitors, save as to the codicils.

3.7 Charles Alexander died in 1947, leaving his Will (and two codicils) which appointed as his executors and trustees, his friend Dr Samuel Gardiner, his solicitor Mr Colin Dunlop, his niece Miss Myrtle Curtis and the Public Trustee (the Alexander Trustees). The Will (thirty typed foolscap pages including the two codicils) was complex and proclaimed a charitable trust to establish and conduct training homes for homeless and destitute children with

provision for their training in agriculture. The testator declared that the primary object of his Will was “the establishment of the Alexander Training Homes for Destitute Homeless and Orphan Children”(the Homes) and that the primary object of the Homes shall be the admission of Protestant destitute homeless and orphan...children....and the training of such children in....farming...and any class of pastoral work or any one or more of such pursuits”.

- 3.8 The Will had been two decades or more in the making. It provided for the testator’s estate (the Alexander Estate) to be managed by the trustees named in the Will and two codicils to whom Probate was duly granted. That estate comprised the property “Tocal” with its livestock, plant and equipment, the properties at Milbrodale, Bulga and Jerrys plains as well as real estate in Newcastle known as “Athcourt”. The estate value was approximately four hundred thousand pounds (about twelve million dollars in current values).

#### 4. *ALEXANDER ESTATE MANAGEMENT*

- 4.1 For seventeen years, from the testator’s death in 1947 until 1963, the Alexander Trustees conducted the enterprise of the Alexander Estate, including the management and running of “Tocal”. They did this with the aid and enterprise of Mr Gordon Reynolds whom they employed as manager.
- 4.2 The involvement of the Alexander Trustees was personal. They met at “Tocal” frequently to discuss its management with Mr Reynolds. His astute and profitable management was a considerable contribution to the preservation of the deceased’s assets and to the crystallisation of the objects of his Will.
- 4.3 There was an enormous amount of time spent by the Alexander Trustees in consideration of the scheme of the Will and possible alternatives. Numerous applications were made to the Equity Court by the Estate’s solicitors, Messrs Shaw Dunlop & Co of Singleton, for judicial Advice and for Declarations on questions concerning the trusts of the Will. As well, there were extensive discussions in relation to the scheme of the testator and alternative proposals to that scheme. A bewildering number of inquiries were made to a wide variety of sources to determine the practicality of what the testator proposed.
- 4.4 In 1963 the Chief Judge in Equity, the Hon Charles McLelland, made an order that the scheme provided by the trusts of the Will was impracticable and that the scheme for the establishment of an agricultural college at “Tocal”, as outlined in the proposals put forward by the Church Trustees, was an acceptable alternative.
- 4.5 Thus the idea of the Testator, to establish and conduct an institution for the training of youth in agriculture, was brought to fruition and given form. As was said subsequently by my late father: “the testator’s testament might have read, simply, ‘I bequeath to whomsoever it will benefit, the idea of training in agricultural science and practice young people who need and deserve that training, and with the idea I bequeath the means of its development and realisation’”. My father added that a lawyer would say it is not possible to bequeath an idea, but this is what the testator did.

#### 5. *THE CURTIS OCCUPANCY*

- 5.1 The Misses Curtis resided at “Tocal “ homestead from 1939 until their deaths in 1985 aged 97 and 94 years.
- 5.2 The Misses Curtis took an active interest in the administration of the testator’s estate and in the establishment of Tocal College.
- 5.3 The executor appointed by the Will of each of the Misses Curtis was Mr George McFarlane, the second principal of Tocal College.
- 5.4 Prior to their deaths, the Misses Curtis made provision for endowment of Tocal College through scholarship

5.5 In their Wills the Misses Curtis made further provision for direct endowment of Tocal College and the Foundation.

5.6 After the death of Miss Myrtle Curtis, the survivor of the two sisters, the homestead complex reverted to the Foundation.

5.7 Since 1985 the Foundation has administered the homestead complex in conformity with the Foundation's other assets including Tocal College.

## 6. *TOCAL COLLEGE AND AGRICULTURE*

6.1 In 1965, the then Australian Prime Minister, Sir Robert Menzies, opened Tocal College for the Presbyterian Church of Australia.

6.2 As was pointed out by Sir Robert at that opening, "Tocal College fulfils a great national need inasmuch as it provides on the spot solutions for the problems encountered by the man and woman on the farm; it bridges the gap between knowledge and application".

6.3 With the benefit of hindsight it can be seen that in fulfilling that need, Tocal College has had the benefit of the reservoir of experience within its own establishment as well as that within the confines of the Department of Agriculture. The situation would be somewhat different if the link between that Department and the College became lost through misguided bureaucratic re-arrangement.

6.4 In 1969, as has been related, there was enacted the Statute whereby the Foundation was incorporated and the New South Wales Government assumed responsibility for the Alexander Trust. Thereafter, in 1970, Tocal College and responsibility for its management passed to the Department of Agriculture. Thus, under the protection of the New South Wales Government, the future of Tocal College was assured.

6.5 The Foundation is a New South Wales statutory authority and is answerable to the Minister for Agriculture. It aims to support agricultural education, particularly at Tocal College, and to hold in perpetuity the Tocal land and resources.

6.6 The Tocal farms are operated as commercial enterprises and are used by Tocal College for educational activities, as well as for tourism by a widespread range of outside community groups.

6.7 The operations at Tocal include beef, dairy, chicken, horse and sheep production.

6.8 Historically, Tocal has had a reputation as a progressive and innovative farm. Current management aims to maintain the strong reputation of the property by adopting best practice property management for livestock and land use. All practice decisions take into account effects on the whole farm.

6.9 The Tocal Field Days, established in 1984, is one of the major annual events at Tocal College and is the Hunter Valley's premier annual agricultural event. Its focus is on rural development, best rural practice (including safety), agricultural opportunities and market requirements. Also, it is a showcase for food and wine producers within the region and beyond. The event attracts a crowd between 20,000 and 30,000 each year.

6.10 In 1998, the Hunter Catchment Management Trust moved its office to a building on Tocal. That Trust is a community – funded State Government body responsible for the co-ordination of catchment management in the Hunter.

6.11 In 2000, the Maitland office of NSW Agriculture moved to Tocal. The office includes advisory and regulatory staff of NSW Agriculture.

6.12 Since 1970, NSW Agriculture has been a continuing, influential presence at Tocal College.

## 7. *TOTAL COLLEGE AND THE FUTURE*

7.1 In 1993, The Friends of Tocal (the Friends) was established to coordinate the activities of a group of volunteers working to support Tocal in all its facets. Since then that support entity has raised funds for conservation projects at the Homestead, provided scholarships for students to attend Tocal College, maintained the grounds of the Homestead, including the Valley garden, helped to run events and open days at the Homestead, as well as assisting with the conduct of the Tocal Visitors Centre.

7.2 The Friends provides a link between Tocal and the community, encouraging wider community involvement in and support for Tocal in all its aspects. The Friends is firmly established as a growing entity that assures Tocal College of continuing support into the foreseeable future and beyond.

7.3 It should not be forgotten that in the course of its first reading of the Statute, a Bill designated as the instrument enabling the Minister for Agriculture to assume responsibility for the operation, maintenance and management of Tocal College and for purposes connected therewith, emphasis was placed by a number of speakers on the important research aspect of the College and its establishment. These speakers recognized the duality of education and research in the functioning of the College and the great benefit it conferred and would confer upon the agricultural community of Australia. Undoubtedly, when referring to the research aspect, these speakers were referring to research in its broadest scope commensurate with the primary purpose of Tocal College as an agricultural institution

7.4 The research aspect, in the broadest sense, of Tocal College has progressed within the educational and commercial contexts that are its essence. Research must always be subject to the primary purpose of Tocal College, which is education in agriculture. That notwithstanding, already there are research projects afoot relating to agricultural, environmental, and historical aspects that have required and will continue to require careful research and meticulous recording to the benefit of agriculture and the wider Australian community.

7.5 Some of these projects include the study and preservation of environmental areas (instanced by Pumby Brush Walk and Tocal Wetlands), the conservation of timber buildings and fences at Tocal, the research and recording of the historical and social past of Tocal, the restoration and establishment of the Tocal Visitors Centre (opened by the Premier of New South Wales in 2002).

7.6 The Tocal Visitors Centre will provide great scope for resource development and preservation to facilitate the better interpretation of the community's agricultural heritage.. The Centre will be a place where people can look back on past developments of Tocal through its heritage base. Also, through agri-tourism and specialist agriculture, the Centre can be part of a modern and sophisticated marketing network of specialist agricultural products and services.

7.7 The Tocal Visitors Centre is a key element in identifying Tocal as an agricultural centre of State significance. It marks an exciting step forward for Tocal, from solely an agricultural college to a regional centre of importance for agriculture and the economy.

7.8 In any consideration of a change in the existing arrangements for the overall management of Tocal College, there must be informed inquiry as to the outcome of the proposed change. For instance, if Tocal College were to be transferred to the Department of Education and Training, then it would be material to know whether that entity has within its existing context a like educational establishment that has an operating resource. It is quite clear that Tocal College without its operating resource, that is the farm, would not be a viable proposition. A further limb of that inquiry is the situation in relation to fees in the event of a change in management. In other words, would any such change result in a change in fee structure and the exclusion of any part of the existing student base.