

PRIVATE ACTS OF PARLIAMENT

*Rt Hon Sir Ivor Richardson**

The article explains the role that Private Acts of Parliament have played and still play. It does so by recounting their historical development and then discussing some 70 Bills and their progress through the Parliamentary processes. The narrative follows a broad subject-matter classification of Private Bills which are promoted by private individuals, local institutions, companies, particular charities, associations and other corporate bodies for their own benefit, whereas Public Bills and Local Bills are directed to the functioning of Central Government and Local Government respectively.

I INTRODUCTION

Private Acts of Parliament have waxed and waned in their apparent significance and in the numbers of highlight cases since New Zealand gained responsible government in 1856. They remain a significant function of Parliament and it is worthwhile reflecting on their historical background and the role they have played and still play there as well as in the affairs of the particular individuals and corporate bodies.

McGee classifies Bills into four categories: Government Bills, dealing with a matter of public policy initiated by a Minister; Member's Bills, dealing with a matter of public policy introduced by a Member who is not a Minister; Local Bills, promoted by a local authority and confined in their effects to a particular locality; and Private Bills, promoted by a person or body of persons for the particular interest of that person or body of persons.¹ Burrows and Carter explain that the three main categories of Acts of Parliament are Public, Local and Private: Public Acts affect the public at large;

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1 David McGee *Parliamentary Practice in New Zealand* (3rd ed, Dunmore Publishing, Wellington, 2005) at 307-309.

Local Acts affect Local Government; and Private Acts are passed for the benefit of named individual persons and corporate bodies and are promoted on their behalf.²

Private Acts are passed for the benefit of individuals and, more frequently, for incorporated bodies, ranging from local institutions, to companies, charities, associations and other corporate bodies, where the benefits sought cannot reasonably be gained without that legislation. As McGee and Burrows and Carter emphasise, the promoters of a Private Bill must follow a rigorous procedure prescribed by Standing Orders leading to the presentation of a petition for the Bill, which is introduced by a Member of Parliament.³

The legislation website maintained by the Parliamentary Counsel Office lists 212 Private Acts currently in force in New Zealand.⁴ They are principal Acts and do not include subsequent amending statutes but their amendments are incorporated into the texts of the principal Acts. The earliest is 1864, the latest 2009. Sixty one have been enacted in the last 30 years. The Appendix to the article lists the statutes in alphabetical order.

After a stocktaking of the relevant legislation in Part II and of historical developments in Part III the article reviews how Private Bills developed in New Zealand, including the class of Private Bills called estate Bills where judicial involvement was regarded as a crucial feature in the exercise of the legislative power of the state from 1867 to 1951. It goes on to discuss a range of Private Acts affecting individuals and corporate bodies drawing on the legislative processing of the Bills as reflected in *Hansard*, Supreme Court decisions on relevant estate Bills and other available biographical and historical material.

The broad subject-matter classification which follows in Parts IV to IX of the article is: first, Acts affecting individual parliamentarians disqualified because of their Crown appointments or to avoid limiting provisions of specific legislation; second, various adoption problems and marriage disqualification; third, a range of estate Bills; fourth, some Private Bills that would have been subject to the estate Bills regime had Parliament not repealed the estate Bills provisions in 1951; fifth, a variety of other Private Bills promoted by individuals; and, sixth, a range of Private Bills promoted by local institutions, companies, charities, associations and other corporate bodies.

When reflecting on the New Zealand pattern of Private Acts, two passages from the Preface to Robson *New Zealand: The Development of its Laws and Constitution* are in point. Dr Robson notes:⁵

2 JF Burrows and RI Carter *Statute Law in New Zealand* (4th ed, LexisNexis, Wellington 2009) at 9.

3 McGee, above n 1, at 331–339 and 344; Burrows and Carter, *ibid*.

4 "Private Legislation: Current" (2010) New Zealand Legislation <www.legislation.govt.nz>.

5 John L Robson *New Zealand: The Development of its Laws and Constitution* (Stevens, London, 1954) at vii.

Sir Joshua Williams, a famous New Zealand Judge, said in 1903: 'Fifty years in New Zealand mean much more than fifty years in England. The changes, political, social and material, that have taken place in New Zealand during the latter half of the nineteenth century are greater than those that have taken place in England from the time of the Tudors to the present day'.

Dr Robson continues:⁶

These changes had a profound influence in constitutional, judicial, legislative, and administrative developments. Although Sir Joshua was referring to the latter half of the nineteenth century, the first half of this century has produced its full share of changes, although relatively less rapid and less original. ... It is inevitable that the great bulk of the book should be a discussion of legislation, for it is there that New Zealand has made its contribution rather than in the fields of judicial creativeness.

II TAKING STOCK

Over the whole period from 1856, when Responsible Government came into effect, to 2010, some 445 Private Acts and amending Acts were enacted. Because of inconsistencies and variances in the classification of Acts at different earlier times, it is not possible to give a precise figure. The parliamentarians and officials then involved did not have continuing clear guidance equivalent to that provided by McGee and Burrows and Carter and by the detailed procedural requirements as laid down in current Standing Orders. They often had limited time and resources to determine how best theoretically to characterise a particular legislative proposal. In some instances, too, what might seem to be clearly for the benefit of particular persons was seen as having a significant policy dimension and proceeded on that basis as a public or local statute. Inevitably, one is applying hindsight in drawing up a list of Private Acts in 2010. I will set out shortly how and why I went about it.

The working hypothesis I followed drew on McGee's and Burrows and Carter's conclusions and the Parliamentary Counsel Office's allocation of statutes to the list of Private Acts in force. It was that Public Acts and Local Acts are directed to the function of central government and local government respectively and Private Acts reflect the dominant role and benefit of private individuals and institutions.

That basic distinction is explicit in the earliest Standing Orders. McLintock and Wood explain:⁷

6 Ibid.

7 Alexander McLintock and Gilbert Wood *The Upper House in Colonial New Zealand: A study of the Legislative Council of New Zealand in the period 1854-1887* (Government Printer, Wellington, 1987) at 200 footnote 451, describes and illustrates the essentials of Private Bills from 1858, drawing on the report of the Standing Orders Committee *Votes and Proceedings of Legislative Council 1858, Appendix: Report of the Standing Orders Committee on the subject of Private Bills*.

A private bill was characterised by its subject-matter and by its origin: it was a bill 'for the particular interest or benefit of any person or persons', as opposed to a measure 'of public policy, in which the whole community are interested', and it was marked by the solicitation of the bill 'by the parties themselves whose interests are concerned'. Early Standing Orders spelled out at length the subject matter of private legislation including burial grounds, chapels, ferries, fisheries, gaols, market places, the making or varying of aqueducts, archways, bridges, canals, docks, piers, railways, sewers, streets, tunnels, and what were known as 'estate bills'.

The legislators in the early years considered that they were not in a good position to undertake factual inquiries into estate Bills, which often raised difficult legal questions concerning trusts and settlements. The estate Bills procedure provided for the petition to be referred to a judge or judges of the Supreme Court to conduct an inquiry, to certify as to the facts found on the inquiry and that the objects of the Bill were not attainable otherwise than by legislation and that the provisions of the Bill, if passed into law, would effect the proposed objects of the Bill. The steps leading to the differentiation drawn in New Zealand between estate Bills and other Private Bills are discussed in the next Part of the article.

The Alphabetical Indexes to the Statutes of the General Assembly of New Zealand for 1856, 1858, 1860 and 1861 list three Private Acts in 1856, five in 1858, seven in 1860 and four in 1861. They provided for such matters as pensions for named public servants, granting patents to named individuals (Anderson Pipe Patent Act 1860 and Purchas and Ninnis Flax Patent Act 1860, which preceded the first, and rudimentary, public Patents Act 1860) and individual naturalisations, as well as for local institutions, companies, charities, associations and other corporate bodies.

From then through to 1879 some such statutes were included in Public Acts (e.g. naturalisations and land compensation claims arising from the New Zealand Wars) and some in Local and Personal Acts. From then until 1908 Private Acts were separately listed. Between 1908 and 1912 they were listed under Local and Personal, the Meikle Acquittal Act 1908 being the only one designated as Personal.

When reflecting on inconsistencies in the classification of statutes we need to keep in mind how limited the available human and financial resources were in the early years of our Parliament. The politicians were mainly youngish men few of whom had any previous parliamentary experience. Responsible government came into effect in May 1856. Including the Governor, the Chief Justice and another judge, there were only 191 names on the payroll of central government, 71 of whom were in the Customs Department.⁸

Moving the capital to Wellington in 1865 was another milestone. It was a substantial logistical exercise involving the Governor and his establishment, officials of the various departments plus

⁸ See Michael Bassett *The Mother of all Departments: The History of the Department of Internal Affairs* (Auckland University Press, Auckland, 1997) at 31.

public records and about 80 cases of library books which were sent south from Auckland by the SS *Queen* in late March 1865.⁹ The total cost of moving the seat of Government from Auckland to Wellington was £64,200 and included relocating the 64 officials listed under the Governor's establishment, Government House, the printing establishment and 10 departments.¹⁰

The gradual expansion of the infrastructure of government over the next 20 years depended on the availability of financial and human resources and the priorities of the times. For example, the reallocation of responsibilities following the abolition of the provinces in 1876 required the passing of over 150 statutes between 1877 and 1879. And as the functions of the government were devolved to newly created departments from the Colonial Secretary's Office (renamed the Department of Internal Affairs in 1907 when New Zealand attained Dominion status), the Department earned its name as the Mother of all Departments.¹¹

Overall from 1856 to 2010, for the first period to 1880 and succeeding 20 year periods down to 1920, Private Acts (including amending Acts) consistently totalled in the fifties and increased in the subsequent periods from the high fifties and sixties to over seventy and to over twenty in the last decade to 2010. There has been constant resort to the Private Bills processes over the whole period.

The state of the statute book in relation to Private Acts compares favourably with the statute book recording our Public Acts which has become very untidy. Over the whole period 1856 to 2010 some 445 principal Private Acts and amending Acts were enacted. The 212 statutes listed in the Appendix do not include the 35 statutes amending particular listed Acts. Of more significance, only 25 of the 212 are 19th century statutes and 122 have been enacted since 1950. I suggest there are two factors of particular significance in producing these results.

The first is the impact of the Repeals Act 1878 and the Statutes Repeal Act 1907 which cleared away statutes that had not already been expressly repealed but were spent or had ceased to be in force in those early years where New Zealand had gone through considerable economic and social development and change. Following the abolition of the provinces in 1876 the Repeals Act 1878 repealed 13 of the extant Private Acts, including the Anderson Pipe Patent Act 1860 and the Purchas and Ninnis Flax Patent Act 1860 mentioned earlier in the article, no longer applicable once general patents legislation was in force.

In anticipation of the 1908 consolidation of statutes prepared by the Commissioners appointed under the Reprint of Statutes Act 1895, the General Assembly enacted the Statutes Repeal Act 1907.

9 John Martin *The House: New Zealand's House of Representatives 1854-2004* (Dunmore Press, Wellington, 2004) at 41.

10 John Williamson "Return Showing the Cost of the Removal of the Seat of Government from Auckland to Wellington" [1865] AJHR B9.

11 Bassett, above n 8, at 7-8 and 54.

The long title to the 1907 statute described it as an Act for promoting the review of statute law by repealing enactments which had ceased to be in force or had become unnecessary and the Preamble recorded that:

It is expedient that certain enactments which may be regarded as spent, or have ceased to be in force otherwise than by express specific repeal by Parliament, or have by lapse of time or otherwise become unnecessary, should be expressly or specifically repealed.

By s 2 the enactments and parts of enactments described in the Schedule were thereby repealed. The Schedule lists 14 Private Acts as wholly repealed and 14 as repealed as to part. Fourteen of the 28 concerned supply of gas and electricity to the local body by a company or in one case a named individual, two to the funding of water-races to be paid for by the ratepayers benefitting and one to the supply of water by pipes or water-races to ratepayers or persons outside the district at their expense. The remaining 11 were promoted by named banks, companies, charities and other named local institutions or persons.

I pause to add two points. First, the Appendix reflects a similar differentiation affecting utilities as noted in Part IX below discussing the Kaitangata Railway and Coal Company Limited Empowering Act 1875 and the Stratford Electric Lighting Act 1898. Private enterprises needed statutory authorisation to enable them to fulfill their functions. And, the Auckland Improvement Act 1873 is not dissimilar in subject-matter to the Auckland Regional Amenities Funding Act 2008 discussed in Part IX.

Second, the Mete Kingi Paetahi Election Act 1868 and the Michael Connelly Appointment Validation Act 1936 discussed in Part IV below as Acts affecting individual parliamentarians, and the Martin's Annuity Act 1858, an example of statutes in the 1850s providing pensions from public funds for named public servants, may all be characterised as providing benefits for the named individuals and in that way serving the effective functioning of Government.

Sir William Martin had resigned as Chief Justice on grounds of ill health. Following the enactment of the Supreme Court Judges Act 1858 he was granted the same retiring pension he would have received had he served under that Act.¹² Moving the first reading of the Supreme Court Judges Act Mr Stafford, the Premier, explained the need to increase the judicial strength of the colony, noting that to secure the services as judges of lawyers of known reputation it was considered necessary to hold out a sufficient inducement for them to give up a profitable practice "at Home," not so much by the offer of a high salary, but "by the prospect of a liberal superannuation after a prescribed term of office".¹³

12 (29 July 1858) 1858-1860 NZPD 64.

13 (12 May 1858) 1856-1858 NZPD 434.

Martin's Annuity Act 1858 Amendment Act 1878, which increased the pension by fifty per cent, was opposed by a small minority in the House on the ground that it would be setting a bad precedent to increase the amount of a pension once fixed. But, as emphasised in the debate, Sir William Martin was not aware of the proposed statutory increase and the reason for the legislation was to do justice to him in New Zealand's better financial times and given that recently retiring judges had far higher pensions.¹⁴

The second factor which reduces the number of Private Acts not listed in the Appendix for potential consideration in an overall assessment is that the Parliamentary Counsel Office has taken opportunities to repeal earlier statutes in particular subject-area consolidating legislation when facilitating the drafting and passage of Bills. Acts and amending Acts affecting particular religious denominations are a prime example. Others relate to particular banks, insurance companies and trustee companies and lodges, which were very numerous in the 19th and early 20th century New Zealand.

To illustrate the point, the Appendix lists over 50 statutes affecting religious denominations and not including in that total amendments to those statutes, the Roman Catholic Bishops Empowering Act 1997 repealed 18 such statutes (including a Public Act of 1876), the Anglican Church Trusts Act 1981 repealed five and the Anglican (Diocese of Christchurch) Church Property Trust Act 2003 repealed 13; and of the 445 Private Acts and amendments over the period 1856 to 2010, 133 were Anglican, Catholic, Presbyterian or Methodist statutes. Again, the eight bank statutes listed in the Appendix exclude banks which came and went in early years or were merged, as also happened in other subject-area subcategories. And 71 statutes in all are noted as repealed in the text of the principal Acts listed in the Appendix.

The relatively small number of the remaining Private Acts can easily be accommodated, if not discussed along the way, by including any of particular interest, because of their subject-matter or their progress through the Parliamentary processes, in the omnibus Parts VIII and IX of the article.

III HISTORICAL DEVELOPMENTS

Holdsworth discusses at length the development and use of Private Bills, noting:¹⁵

In the case of a private bill some stages of the process are of a distinctly judicial character; and it is the elaboration of the judicial characteristics which has resulted in the evolution of a unique method of using the legislative power of the state. It is a method which combines the power to act freely in the interests of the state which is possessed by the legislator with the duty to weigh the comparative merits of the cases in the case of promoters and opposers which is imposed upon the judge. No doubt the extent

14 The particular references are all in 28 NZPD, see for example (30 August 1878) 28 NZPD 590; (16 August 1878) 28 NZPD 309; and (20 August 1878) 28 NZPD 332.

15 William Holdsworth *A History of English Law* (Methuen, London, 1938) vol 11 at 325.

and character of the legislative and judicial methods differ in different kinds of private bills. In the estate bills, which were common in the eighteenth century, the judicial characteristics largely predominate: in such bills as town improvement bills, turnpike bills, or inclosure bills, there was a larger legislative element, because considerations of public policy bulked larger. But in all these bills there was an admixture of legislative and judicial aspects, which demanded a procedure which could give due weight to both of them.

Holdsworth continues:¹⁶

... in 1705 the House of Lords made an order that all petitions for private bills should be referred to two judges, who were to summon the parties concerned in the bill, and make a report to the House on the bill. But it would seem that in practice this examination by the judges was confined to estate bills, long before it was expressly so confined by an order made by the House of Lords in 1887.

This differentiation between estate Bills and other Private Bills had been drawn in New Zealand 20 years earlier. The history is of some interest. By s 4 of the Parliamentary Privileges Act 1865 the Legislative Council, the House of Representatives and Committees and Members of those bodies held such privileges and powers as on 1 January 1865 were held by the House of Commons of Great Britain and Ireland and by its Committees and Members so far as not inconsistent with the New Zealand Constitution Act 1852 of Great Britain and Ireland. That empowerment applied to the powers to deal with petitions.

Two weeks after the passing of the Parliamentary Privileges Act 1865 the first Private Estate Bills Act 1865 was enacted and came into force. The *Hansard* debates do not record any discussion of the objects of the Private Estate Bills Act 1865 and the reasons for such expedition. But, as the Premier noted in 1893, the first Bill which followed the path provided for in the 1867 Act, which replaced the Private Estate Bills Act 1865, was the William Robinson Estate Trusts Act 1893.¹⁷ It may well be that the parliamentarians of the 1860s, drawing on the English experience, saw the estate Bills regime as a useful part of the legislative infrastructure under responsible government. By that time Private Bills were a recognised feature of the parliamentary scene in New South Wales and their Alphabetical Index of Private Acts 1832-1969 lists six trusts and marriage settlements Private Acts in the 1850s and more in the 1860s.

Section 2 of the New Zealand 1865 Act enabled petitions for Private estate Bills to be referred to one or more judges of the Supreme Court to report their opinion on the particular Bill. It was soon appreciated that s 2 had not dealt adequately with the problem. The section required the judges to report "whether presuming the allegations contained in the Bill to be proved to the satisfaction of the

16 *Ibid*, at 327-328. See also, Blackstone *Commentaries on the Laws of England* (19th ed, Sweet, Maxwell, & Stevens, London, 1836) at 344-345.

17 (1 August 1893) 80 NZPD 327.

Legislative Council" it would be reasonable to pass the Bill into law and whether the provisions were proper for carrying it into effect with any alterations or amendments the judges considered necessary. However, the Council did not think it appropriate that the legislature should be determining such issues and the Council resolved at the second reading of a further Bill in the Legislative Council on 15 May 1866 to request the judges at the next meeting of the Court of Appeal (of which they were the only members) to consider and recommend an appropriate procedure. They did so by Memorandum of the Judges in Conference of 30 October 1866 and the 1867 Bill was drawn up in conformity with the judges' opinion. This history was noted at the second reading of the subsequent Bill on 19 July 1867.¹⁸

In 1908 the 1867 provisions were carried through into the consolidating Legislature Act 1908. Thus, s 281 of the 1908 Act provided for the judge or judges to certify as to the facts found on the inquiry and s 282 provided that the objects of the Bill were not attainable otherwise than by legislation and that the provisions of the Bill, if passed into law, would effect the proposed objects of the Bill.

Touching again on the limited available resources in those early years, the December 1864 and December 1867 censuses recorded the European population of New Zealand at 171,009 and 217,436 respectively.¹⁹ Registration of electors for the general election of 1866 was around 40 per cent of adult European males (Māori members were not elected until 1868). Seventy members of the House of Representatives were elected, including nine from the Province of Wellington which stretched to Wanganui, Rangitiki and Wairarapa, and there were six appointees to the Legislative Council from the Province.²⁰ As well, the nine Provincial Councils absorbed large numbers of politicians and officials. The official records of legal practitioner certificates issued in the 1860s have apparently been destroyed or lost but the occupational classification tables in the census returns record seven from Wellington Province in 1864 out of a national total of 153 and 19 in 1867 out of a national total of 161.²¹ These resource constraints created a special need for parliamentarians to call on the services of the judiciary in the exercise of the legislative power of the state.

18 (19 July 1867) 1867 NZPD 139.

19 AH McLintock (ed) *An Encyclopaedia of New Zealand* (Government Printer, Wellington, 1966) vol 2 at 823.

20 See John Martin "Political Participation and Electoral Change in Nineteenth-Century New Zealand" (2005) 57 *Political Science* 39; and James Wilson *New Zealand Parliamentary Record, 1840-1984* (Government Printer, Wellington, 1989).

21 See Census Results 1864 Table 15 and Census Results 1867 Table 13. Official records of legal practitioner certificates issued in the 1860s have apparently been destroyed or lost and the limited census data in the Appendices to the Journals of the House and the Legislative Council do not include occupational classification information. However, thanks to the research of Robin Anderson, Head Librarian, New Zealand Law Society at Wellington, that material for 1864 and 1867 has been located in both the Census Results series and the Statistics of New Zealand series at the Wellington City Library.

In 1951 Parliament repealed the statutory provisions covering Private Bills, including Private estate Bills, leaving Private Bills to be governed solely by Standing Orders. At the second reading of that Bill in the House of Representatives the Prime Minister responded to a query from the Leader of the Opposition asking what safeguards would be substituted for the Supreme Court certification procedure which was being dropped. The Prime Minister described the old procedure as cumbersome and noted that the Select Committee, "comprising mainly legal people", was equally as competent as the Supreme Court to decide these matters.²² He added that the old procedure had since been dropped in England and that, so far he knew, it did not apply in any other Empire country.

Strict procedures continued to be prescribed by successive Standing Orders. The Schedules to the Journals of the House of Representatives are helpful in recording each stage of the progress of all Private Bills introduced into the House. Reflecting the rigorous procedures prescribed by Standing Orders and the important role of the Parliamentary Counsel Office, all except seven of the 208 Private Bills introduced into the House in the last 60 years were enacted.

Finally under this heading, it is interesting to consider briefly the role of Private Acts in some other common law jurisdictions. There is very limited scope for Private Acts in the United Kingdom or the United States of America. *Halsbury's Laws of England* states: "A Private Bill may relate to the personal affairs of an individual, though such Bills are now rare", and footnote one explains that the last personal Bill enacted before the date at which the Reissue volume restates the law (1997) was in 1987 and only six such Bills were enacted between 1977 and 1997.²³ All of these were marriage enabling Bills – Bills to authorise the marriage of two persons within the prohibited degrees of affinity. The scope for Bills of that kind was greatly reduced by the passing of the Marriage (Prohibited Degrees of Relationship) Act 1986. *Halsbury's* notes that the Transport and Works Act 1997 has had a profound impact on the number and type of Private Bills.²⁴ The effect of the Act has been to put an end to almost all Bills for works such as (a) railways; (b) tramways and the like; (c) canals and other inland waterways; (d) barrages, bridges, tunnels, pipelines and other works in tidal waters; and (e) harbour works including marinas.

As regards the United States, *American Jurisprudence* discusses the constitutional objections to statutes for the private benefit of individuals and localities and institutions.²⁵ It states:²⁶

22 (12 October 1951) 295 NZPD 292.

23 *Halsbury's Laws of England* (4th ed reissue, 1997) vol 34 Petitions for Personal Bills Presented to the House of Lords at [907].

24 *Ibid*, Private Bills; Impact of the Transport and Works Act 1992 at [846].

25 *American Jurisprudence* (2nd ed, 1979) vol 16A Constitutional Law at [789]; and *American Jurisprudence* (2nd ed, 2001) vol 73 Statutes at [7].

26 *American Jurisprudence* (2nd ed, 1979) vol 16A Constitutional Law at [789].

It is a well regarded principle that under the Federal Constitution all persons have the right to be governed by general rules, since equality of rights, privileges, and capacities, not the granting of special privileges, is the aim of the law. Efforts are not infrequently made by interested parties to procure legislation in their own behalf against other classes of the community, but such legislation is not favoured by the courts, and will be upheld only when it is strictly within the legitimate power of Congress or the state or municipal legislature.

It further states:²⁷

State constitutions generally prohibit the enactment of special laws where a general law can be made applicable. The purpose of constitutional prohibitions against special or local legislation is to prevent a legislature from providing benefits or favours to certain groups or localities.

As regards Australia, Pearce and Geddes' *Statutory Interpretation in Australia* states:²⁸

A private Act of Parliament is one that is concerned only with a club, a company, an organisation and so on. ... Sometimes private Acts dealt with an estate or a trust, or with utilities such as cattle saleyards, railways or gasworks. In New South Wales, although there are more than 500 private Acts in force, all but a handful were enacted during the nineteenth century. There are no Commonwealth private Acts.

In Canada, Chapter 23 of the *House of Commons Procedure and Practice* is devoted to Private Bill Practice.²⁹ As in New Zealand a similar distinction is drawn between Public Acts dealing with matters of public policy for the benefit of the public at large and Private Acts relating directly to affairs of private parties – an individual or group of individuals, including a corporation – which seek something which cannot be obtained by means of the general law and is founded on a petition from an individual or group of persons. And, to quote directly from that text:³⁰

Today, private legislation accounts for only a miniscule percentage of House business. Most private bills now deal with the incorporation of, or amendments to, the acts of religious, charitable and other organizations and of insurance, trust and loan companies. In recent years, private legislation has been used for the amalgamation of insurance companies and the revival of small business corporations which had previously been dissolved. Although the reasons for this decrease in the passage of private bills vary, it is to a large degree due to changes to the general law, such as the *Dissolution and Annulment of*

27 *American Jurisprudence* (2nd ed, 2001) vol 73 Statutes at [7].

28 Dennis Pearce and Robert Geddes *Statutory Interpretation in Australia* (6th ed, LexisNexis Butterworths, Sydney, 2006) at 16.

29 Audrey O'Brien and Mark Bosc (eds) *House of Commons Procedure and Practice* (2nd ed, Éditions Yvon Blais, 2009) at ch 23. See the Parliament website for the detailed procedures and the procedural authorities: "House of Commons Procedure and Practice" (2009) Parliament of Canada <www2.parl.gc.ca/procedure-book-livre>.

30 *Ibid* at 2.

Marriages Act in 1963, and the *Marriages (Prohibited Degrees) Act* in 1990, and administrative mechanisms found in present acts such as the *Canadian Commercial Corporation Act 1985*, the *Canada Corporations Act 1970* and the *Bank Act 1991*.

IV ACTS AFFECTING INDIVIDUAL PARLIAMENTARIANS

Four Bills in the first category warrant mention. The *Mete Kingi Paetahi Election Act 1868*, the first Act passed in the 1868 session, validated the election as Member of the House of Representatives of a paid Assessor under the *Resident Magistrates Act 1867* whose election would have otherwise been voided by s 2 of the *Disqualification Act 1858* which applied to any such person holding offices of emolument in the specified Departments which included Resident Magistrates Courts.

Next, the *Michael Connelly Appointment Validation Act 1936*, the first Act passed by the new Labour Government, went through all the legislative processes in both Houses on the same day in order to validate the appointment to the Legislative Council of a civil servant and without his having to sit out the six months' cooling off period after resignation.³¹

The third election validating statute was dealt with differently – as a Government promoted public Bill rather than as a Private Bill. By 2003 Mr Harry Duynhoven MP had served four terms as Labour member for New Plymouth and in 2002 he was re-elected with a huge majority. But questions arose in 2003 about the effect under the *Electoral Act 1993* of his having renewed his Netherlands passport. Mr Duynhoven was at substantial risk of having the seat declared vacant and then having to re-seek it in a by-election. In a marathon session taking up 100 pages in *Hansard* the *Electoral (Vacancies) Amendment Bill* was passed through all the legislative processes with divisions being called for every step along the way.³² The vote at the third reading was 61:56 with Labour, the Greens and the Progressives carrying the day.

Section 2 of the 2003 Act retrospectively modified the vacancy rules of s 55(1)(b) and (c) and added a further paragraph protecting the position of any member in Mr Duynhoven's position (but without naming him) and s 3 provided for the Act to expire with the close of polling day for the first general election held after the date on which the Act came into force – at the 2005 elections.

As a postscript, s 5 of the *Electoral Amendment Act 2004* tidied up the point for the future by replacing s 55(1)(b) and adding further paragraphs and enacting s 55A providing positively for dual or multiple citizenship of members in the specified circumstances.

The fourth, the *Taiaroa Land Act 1883*, is more striking. Mr HK Taiaroa MP was a forceful Ngai Tahu leader, who vigorously pursued Ngai Tahu claims inside and outside Parliament. He was

³¹ (1 April 1936) 244 NZPD 55-56.

³² (6 August 2003) 610 NZPD 7719-7818.

the member for Southern Maori from 1871–1878 and 1881–1885 and of the Legislative Council from 1879–1880 and again from 1885 until his death 20 years later. He had acquired substantial lands and petitioned to be empowered to alienate any lands acquired or to be acquired unrestricted by any legislation relating to natives or native lands. It is clear from the lengthy reports in *Hansard* that he was generally well regarded by his colleagues, despite substantial misgivings about the appropriateness and precedent implications of passing the Bill which were expressed in the Legislative Council.³³

Section 2 provided:

It shall be lawful for the said Hori Kerei Tairaroa to alienate by sale, lease, mortgage, or otherwise howsoever, in the same manner and to the same extent as European-born subjects of Her Majesty may alienate lands held by them in New Zealand, any land in New Zealand of which he is now or may at any time hereafter be the sole owner, unrestricted and notwithstanding that his title to such land or any part thereof may have been acquired or derived by or through a grant or grants from the Crown, issued under an Act or Acts now or heretofore in force in New Zealand relating to aboriginal Natives of New Zealand, or Native lands in New Zealand, and notwithstanding any of the provisions of any Act or Acts to the contrary.

Mr Tairaroa's biography by Harry C Evison, which extends over three pages, contains criticisms made inside and outside Parliament of some political and financial dealings on Mr Tairaroa's part but, interestingly, does not refer to the Private Act and the approbation it reflects.³⁴

V ADOPTION CASES

There are two distinct subcategories of the private adoption statutes. The first facilitates adoption by deeming adoptions made overseas, which would otherwise not be valid under New Zealand law, to have effect as if the overseas order had been made in New Zealand (Sutton Adoption Act 1947) or where an interim New Zealand order had been made but a final order could not be made except by a special statute. The five such Private Acts in chronological sequence are the Slack Adoption Act 1968, Clarke Adoption Act 1969, Foote Adoption Act 1969, Macdonald Adoption Act 1974 and Longley Adoption Act 1985.

Only Sutton and Longley call for special comment. The others are straightforward and were so regarded in the debates in the House with the interim orders being converted into final orders. In Slack the father had died before a final order could have been obtained leaving the residue of his estate to be divided equally between his children living at his death and in circumstances that gave

33 (21 August 1883) 43 NZPD 133-134. See also (1 August 1883) 45 NZPD 219; (3 August 1883) 45 NZPD 343; (23 August 1883) 46 NZPD 169; (28 August 1883) 46 NZPD 327.

34 Harry C Evison "Tairaroa, Hori Kerei ?-1905" Dictionary of New Zealand Biography <www.dnzb.govt.nz> [DNZB].

his dependants the right to compensation under the Workers' Compensation Act 1956. In *Clarke* the father had died before a final order could have been obtained and the mother desired the father's name also to be shown as a parent in the final order (which she had obtained) and in the birth certificate. *Foote and Macdonald* were similar and with the same statutory consequences.

In *Longley* the interim order was made in 1970 but, due to the inadvertence of the adoptive parents' solicitors, a timely application for a final order was not made. The error was not discovered until 1983 by which time the parents' marriage had been dissolved but they and the children (twins) wished the adoption to be carried through. The Bill was read a second time and referred to the Committee of Selection on the Bill. The Government changed and the new Committee recommended that the Bill not be allowed to proceed on a number of grounds: that it was not a proper role for Parliament by legislation to correct the error of solicitors, the adoptive parents were no longer married, the twins were in their late teens and the Department of Justice had advised that such questions as inheritance, guardianship and the twins' names could to a considerable degree be resolved within existing law.

The differences amongst the Members of the House were ventilated in the media, including talk back radio in which some Members participated, and the subsequent debates in the House were larded with emotional exchanges before the Bill passed its third reading by 35:34 with some members, mainly Labour, abstaining.³⁵

In *Sutton* the parents, who had no children of their own, were both British subjects. Mrs Sutton was the sister of the matron of the maternity home in California where the child, a boy, was born on 23 November 1919. She was visiting her sister for several months, became very fond of the child and with the formal consent of her husband she was granted an adoption order in California on 15 March 1921. The Preamble to the Sutton Adoption Act 1947 recorded that the Suttons had brought him up and treated him in all respects as their child. Mrs Sutton died on 23 June 1941 leaving her estate to her "adopted son", David Lennox Sutton. Because the Californian order was not recognised under New Zealand law and the son was treated as a "stranger-in-blood", the burden of succession duty was greatly increased. The son also had expectations under Mr Sutton's will.

The Preamble went on to state that the son had served in His Majesty's Forces in New Zealand and overseas for four years eight months and had been granted a certificate of naturalisation under the New Zealand legislation.

It was accepted in the House that the parents would have regularised the position had they realised that adoption in California was not valid in New Zealand.³⁶

35 (16 November 1984) 459 NZPD 1782; (19 December 1984) 460 NZPD 2753; and (27 March 1985) 462 NZPD 3996-4011.

36 See particularly (21 July 1948) 281 NZPD 771-775.

The Sutton Adoption Act deemed him to be the adopted son of both parents, not just Mrs Sutton, as if an order under the New Zealand Infants Act 1908 had been made in their favour on 15 March 1921, the date of the Californian order.

As a postscript, by s 17 of the Adoption Act 1955 Parliament subsequently enacted provisions governing the recognition of overseas adoptions. They gave effect to adoption orders made in Commonwealth Countries and States of United States of America – and also other countries brought within the s 17 regime by the Governor General by Order in Council.

The second distinct subcategory of the private adoption statutes facilitated the marriage of siblings, an adopted child with a natural child and, in one instance, an adopted son and the natural grand-daughter of the adoptive parent (Papa Adoption Discharge Act 1982), which would otherwise have been within the degrees of prohibited relationship set out in the Marriage Act 1955. The other statutes in this subcategory are Thomson Adoption Discharge Act 1958, Thomas Adoption Act 1961 and Liddle Adoption Discharge Act 1963.

Finally, the Stockman-Howe Marriage Act 1985 achieved the same objective of making lawful an intended marriage. The parties had been living together as man and wife for many years and had four children. The impediment was that he was her mother's half-brother.

VI A RANGE OF ESTATE BILLS

The John Donald Macfarlane Estate Administration Empowering Act 1918 and the Meikle Acquittal Act 1908 were discussed at the Leading Cases Conference at Victoria University of Wellington in June 2010 and the papers relating to those Acts are included in (2010) 41 VUWLR at 453 and 519. Accordingly a relatively brief mention of these two striking examples of the engagement of the Courts and the Legislature in the resolution of difficult problems is sufficient.

Mr Macfarlane had been in a mental institution for many years and the psychiatric evidence established there was no hope of recovery. He had a large sheep station on which land tax was very burdensome. He had made a sensible will which, if given effect, would allow division of his property amongst his family and closer settlement of the property in the public interest. The Bill that was enacted contained detailed provisions for the administration of his estate and the inquiries, first by Herdman J and then by the Committee subsequently constituted by the Legislative Council, confirmed the psychiatric position.

The Bill was enacted, Letters of Administration were granted, the family entered into their inheritance and the government received death duties well before it otherwise would have done. Then, confounding the experts, Mr Macfarlane recovered his sanity, returned home, took the outcome in his stride and lived there until nature completed the process which the state had begun.

Mr Meikle petitioned Parliament alleging he was wrongly convicted of sheep-stealing in 1887 and had served his sentence. This was at a time when the law did not allow for appeals against conviction or sentence. Years of petitions to Parliament and proceedings in the courts followed.

Eventually two Supreme Court judges were appointed by the Governor as commissioners to inquire into the matter. Their report, which also includes the transcript of evidence of witnesses called and minutes of the addresses of Counsel, ran to 342 pages.³⁷

They reported that the evidence produced of the guilt of Mr Meikle "is so far from conclusive that if the said inquiry had been a retrial it would have been proper to acquit" Mr Meikle of the offence. The matter was then extensively debated in Parliament. The need for general legislation to record and remove wrongful convictions was expansively canvassed and included rather unsuccessful attempts by Parliament to get clear guidance on appeals in criminal cases from all the judges.

Eventually the Bill as enacted "reversed" the conviction and sentence and "expunged" the judgment in the court records. As well, the Act deemed all such details in prison records to be expunged. The penultimate irony was that the £5,000 compensation recommended by the Prime Minister and Leader of the Opposition and provided for in the Estimates was reduced by the Committee of Supply to £1, the majority against (37:26) viewing it as a moral issue.³⁸

That emphasis on morality was also reflected in the earlier *Hansard* debates and in the transcript of evidence, minutes of the addresses of counsel and the report itself. The Judges (Edwards and Cooper JJ) adopted a high moral tone which suffused their questioning of Mr Meikle and their decision. They concluded that the subsequent conviction for perjury at Mr Meikle's trial of the key witness against him did not establish Mr Meikle's innocence, that Mr Meikle had proved himself to be utterly unworthy of credit in any matter affecting his own interests, that he had recklessly disregarded his oath on the matter of his "illicit relations" with a young woman, Emily Mills, and that he had accepted compensation of £500 in 1897, and signed a waiver of all further claims, after an earlier petition had been extensively debated in the House. They added that they could not attach much greater weight to his wife's evidence.

That was not the end of the compensation saga. As Professor Finn brought out in his paper on the Meikle case at the NZ Leading Cases conference, after further agitation and debate Mr Meikle received £2,500 more compensation in 1911. His wife died in December 1920 and a month later he married Emily Mills, the first of their five children having been born in 1901.

Eleven more Private Acts will be discussed under this heading in broadly chronological order.

It is appropriate that the first should be the William Robinson Estate Trusts Act 1893. Mr Robinson is listed in his biography as runholder, pastoralist, sportsman and politician.³⁹ Known as

37 "Claims of John James Meikle" [1907] AJHR H-21.

38 (10 October 1908) 145 NZPD 1180-1183.

39 WJ Gardner "Robinson, William 1814-1889" DNZB, above n 34.

"Ready Money" Robinson for his ability to make swift and lavish purchases of land, stock and buildings, he has gone down in history for the impetus that the acquisition by the Crown of his huge Cheviot Hills station gave to the Government's policies for closer settlement of the land. WJ Gardner sums up the massive development and subsequent subdivision into farms as "a turning point in New Zealand Land Settlement history".⁴⁰ Mr Gardner's later book *A Pastoral Kingdom Divided: Cheviot, 1889-1894* expands on the background to the Bill and the development of the Cheviot settlement.⁴¹

Mr Robinson died in 1889. The Preamble to the Robinson Estate statute recorded that the trustees under Mr Robinson's will were dissatisfied with the amount at which the lands constituting the Cheviot Estate were assessed under the Land and Income Assessment Act 1891 Act and, in accordance with the provisions of the Act, called on the Commissioner:

Either to reduce the said assessment to the sum at which the said lands were valued in the return made by the said trustees, or else to purchase such land at the sum at which the same was so valued in such return, namely the sum of £260,220.

The will provided that subject to various annuities and payments the residue of his estate should be held in trust in equal shares for his daughters. In the ordinary course the trustees could have expected to carry on the Cheviot Estate. The immediate problem for the trustees, "much more onerous than anticipated either by the testator or themselves",⁴² was to find suitable investments for the resulting available funds.

The Private Act constituted five separate trust estates equal as to capital for the five daughters, empowered the appointment of separate trustees for each trust and enlarged the powers of investment conferred by the will to:⁴³

Any of the securities authorised by the testator in the said will, or by the Trustees Act 1883, or upon any securities which the Public Trustee is or may for the time being authorised to invest moneys in the Public Trust Account.

Extraordinarily, neither the Act nor the *Hansard* debates adverted to the financial complications affecting the estate which led the trustees and the family to solve their difficulties by disposing of Cheviot Hills to the Government, as Mr Gardner recounts in considerable detail. And the Government took possession and paid the £260,220 in April 1893, four months before the Bill was

40 William Gardner *A Pastoral Kingdom Divided: Cheviot, 1889-1894* (Bridget Williams Books, Wellington, 1992) at 371.

41 See Gardner, *ibid.*

42 William Robinson Estate Trusts Act 1893, Preamble.

43 William Robinson Estate Trusts Act 1893, s 13.

enacted on 21 August 1893 and without the empowering legislation, the Cheviot Estate Disposition Act 1893 and Cheviot Estate Payment Act 1893, which were not passed until 19 September 1893 and 2 October 1893 respectively.

The large debt owing to the bank, the burden of death duties and the impact of land tax under the Land and Income Assessment Act 1891 substantially reduced the income from Cheviot Hills on which the daughters were expecting to rely and their own resulting financial and family positions differed. The young Francis Bell, married to one of the daughters and one of the trustees, was the leader in achieving the unanimous support of the daughters for brokering and securing the arrangements with the Government. As a leading lawyer and powerful public figure he came to have a major influence on the passage of legislation particularly during the 13 years, 1912–1925, that William Massey was Prime Minister.⁴⁴

The Cutten Trust Act 1899 responded to a problem identified by Williams J in what was described as an "exhaustive report" when the Bill came before the Legislative Council.⁴⁵ It related to leasehold lands in The Octagon, Dunedin. The trustees under the deed of settlement granted leases of the lands. The Preamble to the Act recorded that the agreements under which the leases were granted provided that:

The terms of the leases as to valuation and renewal should be similar to those then commonly known in Dunedin as Corporation leases, being leases granted by the Corporation of the City of Dunedin: And whereas the terms as to valuation and renewal ... granted by the said Corporation at the time the said agreements were entered into provided for valuation and renewal not only at the end of the first twenty-one years, but at the end of every subsequent twenty-one years.

The Preamble further recorded that the lessees:

Expended large sums in erecting buildings and improvements on the lands demised by such deeds of lease, or in purchasing such leases after such buildings and improvements had been made, under the belief that they would from time to time be entitled to a renewed lease or leases of the lands demised on the same terms as are given by [that] form of lease.

It was not appreciated until the first term expired that the covenant for further renewal (in perpetuity) of the leases had been omitted. Williams J ruled that this omission arose from mutual mistakes occasioned by failure to draft the leases in accordance with the agreements as they related to the provisions for renewal and compensation for the value of improvements that had been included in the original leases. That would have meant that there would be no compensation for improvements at the expiry of the leases at the end of the only renewal period. The beneficiaries under the trusts would have gained windfall benefits.

44 See WJ Gardner "Bell, Francis Henry Dillon 1851-1936" DNZB, above n 34.

45 (12 July 1899) 106 NZPD 470.

All the adult beneficiaries under the trusts consented to the proposed Bill but the infant beneficiaries could not do so. The Act did justice to the leaseholders by providing for the renewals to be carried out in terms of the provisions of the Schedule.

The Stephen Cole Moule Trustees Empowering Act 1904 resolved two quite separate problems arising from the will of Mr Moule who died on 5 October 1890.

His will dated 27 September 1889 provided for his trustees, after the death of his wife and his only son Stephen Cole Moule the Younger, to apply the net income of his trust estate for the benefit and maintenance of the Old Men's Home at Ashburton, a charitable institution. The provision for the Old Men's Home was on the express condition that an annual subsidy of 10 shillings for every pound of the net income be paid out of the Consolidated Fund to that institution to the extent of £500. Mrs Moule died on 28 July 1892 and the son on 15 November 1900 leaving a widow and three infant children. The only provision for the son under the will was an annuity of £3 a week.

The Bill enabled the trustees to provide out of the income for the maintenance, benefit and advantage of the family of the son in the form of a home and weekly sums for each child to accumulate until attaining 21, as well as weekly sums for the widow during her widowhood and for the maintenance of the children until 21 plus an elaborate set of provisions providing further monetary benefits for the children until the death of the last surviving child.

Mr Bowen MP, moving the second reading in the Legislative Council, noted that the provision for the son's widow and children was similar to what would have been made under the Testator's Family Maintenance Act 1900 had it been in force in 1890.⁴⁶ And Mr Witty MP, moving the second reading in the House, added that the son had unsuccessfully disputed the will in the Supreme Court, had subsequently married and had the three children.⁴⁷

The second problem resolved by the Act related to the condition attaching to the bequest to the Old Men's Home that an annual subsidy be paid out of the Consolidated Fund. The Prime Minister objected to a permanent subsidy obligation and pointed out that such subsidies to charitable institutions should be in annual Estimates.

Section 5 accordingly provided for payments of the remaining net income after the payments to the widow and the children should be made to the charitable institution unfettered by any condition.

The Charles Joseph Jury Estate Empowering Act 1919 gave effect to a deed of family arrangement where, the Preamble recorded, difficulties arose in giving effect to the will and the deed had been executed in order to overcome them and to allow the estate to be administered in the most advantageous manner considering the circumstances of the family generally. Hon Sir John

46 (27 July 1904) 128 NZPD 720.

47 (17 August 1904) 129 NZPD 473.

Findlay MP noted in moving the second reading in the House that it had been the subject of the usual investigation by the Supreme Court.⁴⁸ At the Committee stage it was realised that the pooling arrangements, under which certain parties to the deed transferred certain freehold and leasehold lands held by them to the Public Trustee to be dealt with as part of the pool, could cause complications.⁴⁹

The solution adopted by the House in what became s 5 of the Act was that the sons concerned had to reduce their holdings to the limitations of area imposed by the Land Act 1908 or the Native Land Act 1909. The Legislative Council acquiesced in the s 5 provision but two members expressly considered the new clause unnecessary.⁵⁰

As brought out in his biography, Thomas Cawthron was a very successful businessman and investor.⁵¹ He made major charitable gifts to Nelson in his lifetime and by his will under which he gave virtually the whole of his estate for the establishment of an industrial and technical school, research institute and museum at Nelson to be called the Cawthron Institute.

The problem was that the will identified all but one of the specified trustees by the titles to their public offices. As a matter of law those appointments had to be treated as personal to those holding the offices at the testator's death. The complicating factor was that the trust under the will provided for remuneration of the trustees. That entitlement continued for life even after they resigned or lost their official positions. Hon Sir Francis Bell MP, explaining the Bill at the first reading in the Legislative Council, foreshadowed its consideration by a Select Committee where witnesses could be called.⁵² He noted that technically it was a Private estate Bill and added that they had the report of the Supreme Court judge on the point, but perhaps it would not help them very much.⁵³

This complication led to spirited debates and eventually the House and the Legislative Council arrived at different conclusions. The conference of managers appointed by the two chambers arrived at a compromise implemented in the Thomas Cawthron Trust Act 1924, which removed life tenure of those appointed because of their offices but continued them in their personal capacity for five years unless they earlier resigned their membership or ceased to reside permanently in Nelson.

The Act constituted the trustees as a body corporate with perpetual succession (s 2), reconstituted the Board as just described (s 3), provided for the appointment of members to fill

48 (16 September 1919) 184 NZPD 515.

49 (2 October 1919) 184 NZPD 1109.

50 (8 October 1919) 185 NZPD 184.

51 Margareta Gee "Cawthron, Thomas 1833?–1915" DNZB, above n 34.

52 (2 July 1924) 203 NZPD 99.

53 (3 July 1924) 203 NZPD 132.

vacancies on the Board (s 4) and for maximum remuneration of members (s 17), and for the mode of appointment of a Legislative Councillor as member of the Board (s 5).

The Rhodes Memorial Convalescent Home Act 1924 went through the legislative processes the same year as the Thomas Cawthron Act. The trust in that case was created and administered by the family of Robert Heaton Rhodes (who had died in 1884) and to perpetuate his memory. Again, it was deemed advisable to incorporate the committee of management of the home as a body corporate (s 3), the successors in office of the committee to be appointed in the manner provided from time to time by regulations made for that purpose (s 4) to be approved by the Governor-General in Council and having the same force and effect as if incorporated in the Act (s 8).

There were no complications such as bedevilled the Thomas Cawthron Bill and the Rhodes Bill sailed through the legislative processes.

The William George David Brown Trust Act and the Thomas George Macarthy Trust Act were enacted in 1936, both going through all the legislative steps on the same dates. William Brown's Act constituted and incorporated the Board of Trustees to consist of the persons for the time being holding the offices of the Mayor of Wellington and Chairman of the Wellington Hospital Board. The life interests to family members had terminated leaving the residuary estate available for charitable distribution.

Thomas Macarthy's Act dealt with a different problem. Mr Macarthy, a Wellington businessman, died in 1912 leaving a vast fortune subject to various legacies and a life interest provision as to one half of the residuary estate, which ended when his widow, who had remarried, died childless in 1934. From the outset the other half of the residuary estate was left for the purpose of establishing a trust for charitable and educational purposes and institutions in the Provincial District of Wellington and in 1934 the capital of the widow's trust went to the charitable trust. Mr Macarthy's will, which appointed the Public Trustee as executor, had provided for a Board of Trustees consisting of the Governor of New Zealand, the Premier of the Dominion, the Roman Catholic Bishop of Wellington and the Mayor of Wellington (all for the time being).

In 1912 Parliament promptly enacted the Thomas George Macarthy Trust Act 1912 and incorporated the Board of Trustees as the Board of Governors of the Trust, thereby overcoming the officer for the time being complication. The Bill had been lodged at the Private Bills Office with the certificate of the judge and the promoters had petitioned for suspension of Standing Orders. However, as the Minister of Internal Affairs, Hon Francis Bell explained, the Joint Committee of both Houses recommended that, in view of the Bill being of an urgent and national character, it should proceed as a Public Bill. It did so with both the Prime Minister and the Leader of the

Opposition speaking warmly in favour of the Bill but with the local member appropriately moving the second reading.⁵⁴

Consequent on the death of the widow doubts arose as to whether the charitable trust was in perpetuity (as the Public Trustee advised) or whether the Board was then required to distribute all the funds to charities (as the Department of Internal Affairs had suggested). As the Preamble to the 1936 Bill recorded, the Board of Governors instructed the Public Trustee to take steps to preserve the capital of the Trust as a perpetual trust. The petition went smoothly through the legislative processes and with a Supreme Court judge having certified it as a proper Bill.⁵⁵

The Act prohibited the distribution of capital of the estate and required the application of the income and profits for charitable and educational purposes (s 2). The website of the Trust records that the total income distributed by 2009 was over \$53.8 million.⁵⁶

The Mina Tait Horton Estate Act 1942 exemplifies the problem for trusts where conditions attached to bequests provide for the bequests to lapse and the funds to go elsewhere if the conditions are not satisfied by the specified dates.

Miss Horton died in 1935 leaving the residue of her estate which, subject to a life interest as to one fourth of the residue, was to be available for the building fund of the proposed Anglican Cathedral in Auckland, and was augmented in 1942 when the life interest was surrendered. The will provided that the design for the building should be competitive and, as the Preamble to the Act recorded:

That if such design should not be accepted by the General Trust Board within seven years from the date of death of the said Mina Tait Horton, and if such building should not be commenced within ten years of her death or if the trustees should not be satisfied at the end of the said ten years that such building will be properly carried on to a completed state, then that the said devise and bequest for the said building fund should lapse and that the ... shares and accumulated income should then be held by the trustees ...

The shares could be held on trust for payment of certain sums for specified purposes and the residue for scholarships at Auckland University College, the Diocesan High School for Girls and King's College at Auckland.

The Preamble went on to record how wartime conditions had increased the cost of building and made it impracticable for the General Trust Board to continue collecting subscriptions to the Building Fund or with the building of the Cathedral and the anticipation that those difficulties would continue for a considerable time after the state of hostilities ceased to exist. All parties had

54 See particularly (2 and 3 October 1912) 160 NZPD 602 and 675.

55 (22 April 1936) 244 NZPD 502.

56 "Thomas George Macarthy Trust" (2010) Public Trust <www.publictrust.co.nz/grants-and-scholarships>.

consented and Callan J had certified it was a proper Bill.⁵⁷ Section 3 of the Act provided that the bequest should lapse only if:

The cathedral building is not commenced within seven years from the date of the termination of the present war or if the trustees are not satisfied at the end of that period that the building will be properly carried on to a completed state.

That was not the end of the saga. By 1955 the cost of building the cathedral and the new proposed first portion only had increased from £250,000 and £90,000 respectively to £300,000 for the first portion only and the Building Fund including the Horton bequest stood as at the date of her death at less than £68,000. The 1955 Bill went through its three readings and the Committee stage in under three weeks, Mr Algie MP noting at the second reading that the interpretation of the will had been considered by Smith J.⁵⁸ In the result s 3 of the 1942 Act was amended by extending the time before the bequest lapsed by substituting the "first portion" for the "cathedral building" in the section and adding a suitable definition of "first portion".

Next, the John Duncan McGruer Estate Act 1945 allowed an otherwise time-barred application under the Family Protection Act to be made to the Supreme Court by Mr McGruer's only son.

Mr McGruer, importer and founder of a retail chain of department stores, died on 12 April 1923 leaving a net estate of over £130,000.⁵⁹ By his will dated 29 March 1923 he left annuities to his widow and three daughters and after the death of the last annuitant in trust to pay the income of the estate to two named charities. The only provision for the son under the will was an annuity of £3 a week.

The Preamble stated "that there are good grounds for believing that he [the testator] failed to make adequate provision for the proper maintenance and support of the son", that the son had made no application under the Family Protection Act 1908 and it was too late to do so because the estate was then held by his executors as trustees for the beneficiaries under the will and was deemed under the law applicable to that estate to have been finally distributed, although that law had since been amended without retrospective effect.

Mr Cotterill MP, Member for Wanganui, moving the second reading, referred at some length to the family situation.⁶⁰ He stated that there had been no estrangement between father and son, who had benefitted under earlier wills and worked in his father's chain of stores believing that he would also benefit under his father's will, and by not less than £500 per year. When his father failed to

57 (16 October 1942) 261 NZPD 720.

58 (14 September 1955) 307 NZPD 2418-2420.

59 (5 November 1945) 271 NZPD 187.

60 (31 October 1945) 271 NZPD 18-20.

leave him anything, he thought he would be benefitting substantially under the will of his mother. She died in 1924 leaving him only a car and chattels from an estate of £70,000. When the Bill was before the House in 1945 the son was working as a shop assistant in McGruers Wanganui supporting his family on his £8.10 gross weekly wage. His sisters, all older, supported his claim and funded the costs of the promoting the Bill and the charities did not object. Blair J had certified the Bill under the terms of the Legislature Act 1908.

A lengthy debate ensued in the course of which Mr TC Webb MP, National Member for Kaipara and a lawyer who subsequently became a powerful Cabinet minister,⁶¹ contended, and without even mentioning Blair J's certification of the Bill under the estate Bills regime, that to pass the Bill would create a dangerous precedent – the son had slept on his rights, and the most the House should do was to pass a Bill giving the son the right to make application under the Family Protection Act.

That course was ultimately adopted and s 3(1) authorised an application to the Supreme Court within 12 months for an order under s 33 of the Family Protection Act making such provision for the son out of the estate as the Court thought fit. Section 3(3) went on to empower the Court to have regard to the circumstances arising subsequent to, as well as those existing at the date of death

The son promptly applied to the Supreme Court for provision from the estate and on 4 April 1946, without opposition and after a short hearing, he was awarded £10,000 in addition to an annuity of £500 a year.⁶² The redoubtable FC Spratt, counsel for the son, submitted that it was for the Court to say what provision should be made in respect of the last 23 years and that, had the annuity been paid all those years, the son would have received £11,500.

Johnston J said he had no doubt that the change in the testator's will had been inexplicable. No reason for it could be shown by anybody, and the matter should be righted. The Judge concluded that the son should, as far possible, be in the same position as his sisters and ordered that he receive the additional lump sum free of duty, with costs of all parties to be paid out of the estate.

The last case under the estate Bills regime, the Marianne Caughey Preston Estate Act 1945 is a window into an extraordinary family saga in a setting of extensive philanthropy and business acumen.

Marianne Caughey was born in Ireland in 1851 and married William Henry Smith, who worked with her brother, Andrew, in a drapery firm in Belfast. After working in New York for some five years they returned to Belfast and started a mission before migrating to New Zealand. She started a drapery firm which her husband later joined, as did her brother who had earlier entered the Methodist ministry and shared their religious and philanthropic interests. The family history, the

61 Hugh Templeton "Webb, Thomas Clifton 1889-1962" DNZB, above n 34.

62 See "Annuity and Lump Sum – Son to Have Share of Father's Estate" *The Press* (Christchurch, 5 April 1946) at 3.

development of their business of Smith and Caughey Ltd, their work for the Methodist mission in Auckland and their extensive charitable gifts are recounted in the *Dictionary of New Zealand Biography*.⁶³ It also notes that, because "Reggie" was not formally adopted, legislation was needed to enable him to receive a larger legacy than the £100 he had received under her will.

The Preamble to the Marianne Caughey Preston Estate Act 1945, which runs to three pages in the statute book, expands on the testamentary history and the position within the family of Reginald Caughey Seymour Smith. He came to New Zealand in March 1909 "as an infant in arms in the charge of Marianne Caughey Smith" and was brought up in the household of Mr and Mrs Smith as if he had been their son, although not legally adopted by them either in the United Kingdom or New Zealand. They were in their late 50s when they brought him to New Zealand.

By his will made later that year Mr Smith left his whole estate to his wife but, if she did not survive him, he left 10,000 shares in Smith and Caughey worth at least £10,000 to Reginald at age 25. Shortly before his death on 31 December 1912 Mr Smith revoked that will and left all his property to his widow. The Preamble recorded the particulars of the 10 wills and codicil made by Mrs Caughey Smith, the last dated 12 February 1934 after she had married Raymond Preston, a retired minister of religion. Her wills made in 1917 and 1920 left Reginald 15,000 shares in Smith and Caughey worth at least £15,000 at age 25. A codicil made in 1924 revoked the gift of shares and directed that £15,000 be set apart and empowered her trustees to pay him the whole amount at any time after he attained 25 "if he should have led an upright, diligent and satisfactory life." In two of her next seven wills she left Reginald nothing, in the other five she left him £100 on similar conditions.

Mrs Caughey Smith Preston died on 1 September 1938, aged 87, leaving the remainder of her estate amounting to £325,000 for the provision of a rest home for aged, infirm or impecunious women. In August 1943 Reginald applied under the Family Protection Act 1908 for orders making further and better provision for him out of the estate. Because he was not legally adopted the Supreme Court lacked jurisdiction, dismissed the summons and authorised the trustees to distribute the estate without making any further provision for him.

The Bill went through all the legislative processes in both chambers within three months. The will was varied by increasing the bequest in favour of Reginald from £100 to £15,000, being the amount submitted on his behalf to be appropriate (s 3), the payment by the trustees to be unconditional (s 6), and he was entitled to use the name Reginald Caughey Seymour Smith as his own (s 9).

It was essentially common ground in the speeches in both chambers that Reginald was brought up in a family where there were clear expectations that he would share and reflect its values and

63 Sandra Coney "Smith, Marianne 1851-1938" DNZB, above n 34.

views in his conduct. He did so until his late teens when he ceased to measure up to Marianne Caughey Smith's somewhat puritanical standards of religiously driven behaviour which did not accept conduct such as smoking, dancing and going out with his own age group, that influenced his contemporaries. He was educated at King's College and wanted to be a doctor but she persuaded him to live at home telling him he would be provided for. An estrangement developed. Reginald left home, worked in various jobs and made efforts to join the Forces in the wartime years. He married, his wife was an invalid, they had a child and, when the Bill was before Parliament, he was working as a shop assistant earning about £6 or £7 a week.⁶⁴

Supported by the trustees, the Bill passed without difficulty through the House.⁶⁵ But there were lengthy debates in the Legislative Council before and after consideration by the Committee, which heard considerable evidence and reported supporting the Bill. Two members of the Council spoke strongly against the Bill at the third reading, which in an obviously emotion-charged atmosphere extended over 11 pages of *Hansard*.⁶⁶ They contended that it was a misuse of parliamentary procedure to pass legislation varying the terms of a trust for the benefit of one claimant and that Reginald had no right to the inheritance he sought, not having contributed towards its production. The other eight Councillors who spoke saw it as a matter of justice. The eight include three who had been on the Committee and, as was noted, the Attorney-General as the guardian of charities had approved the Bill.

VII THE IMPACT OF THE REPEAL OF THE ESTATE BILLS REGIME

There are six Acts in the fourth category of Bills that would have been subject to the estate Bills regime had Parliament not repealed the estate Bills regime provisions. Three were before Parliament in 1951 but were not enacted and in force before the Legislature Act 1951 repealed those provisions.

The Peggy Joan Boys Voluntary Settlement Act 1951 amended the trusts of a voluntary settlement she had made on 15 August 1930 vesting the trust fund upon trust for her absolutely. The Preamble to the Act is unusual in the justification it gave for the settlement. It recorded that she was born on 9 April 1909 and that under the settlement the trustees (two Christchurch solicitors and a Christchurch accountant) held the Trust Fund as she should appoint by any deed made in consideration of her marriage and that, subject to any such appointment, the trustees should hold the Trust Fund, put broadly, for her to have the income and after her death for her issue. On 27 January 1933 and in anticipation of her marriage to Henry Brian Ward Boys the equivalent of £5,000 was settled on the trusts of the marriage settlement.

64 (19 September 1945) 270 NZPD 1 and 3.

65 (24 July 1945) 268 NZPD 565-566.

66 (24 October 1945) 270 NZPD 713-724.

The explanation given in the Preamble for the original settlement reads:

And whereas the settlor at the date of her executing the settlement had not long attained the age of twenty-one years and had no experience of business affairs, and understood that the settlement would be operative only during her younger years and that in due time she would regain full control of the money and investments so settled by the settlement: And whereas the settlor did not know until some years later that she would not so regain such control and she was advised that it was too late for her to apply to the Court to have the settlement revoked or amended.

As explained by Mr Jones MP, Member for Hastings moving the second reading, the settlor, counselled by her aunt, had created the trust of her own property both thinking that she would regain absolute control, that she was married to a Waipawa sheep farmer and the purpose of regaining the fund was to improve the farm property, which would benefit Mrs Boys and ultimately her two sons. However, it was found on application to the Supreme Court that it was not possible to dissolve the trust. Hence the petition for the Bill.⁶⁷

The John Fuller Trust Act 1951 dealt with various difficulties that had arisen in implementing the terms of the will of John Fuller (who died in 1921), which had been the subject of a settlement approved by the Supreme Court on 16 November 1951 on behalf of any grandchildren and of the charitable objects mentioned in Mr Fuller's will and codicil but subject to the passing of the Act.

The Preamble to the Act running to three pages in the statute book is not very illuminating but Mr John Rae MP, Member for Roskill, gave a helpful and lively account of the family and charitable background and what the Act would achieve.⁶⁸

Mr Rae recounted that John Fuller, famous as an entertainment promoter in New Zealand and Australia, had died leaving a widow, seven children, a number of grandchildren and a lot of money. Apart from three already wealthy sons, the other son and the three daughters were given life interests and, on their deaths, the grandchildren received their respective parent's life interest, until and after the second generation when the estate went to the Public Trustee for the benefit of orphanages around Auckland. Questions arose whether and how the trusts applied to grandchildren born after Mr Fuller's death and there were other matters of interpretation in question. Hence the application by the Public Trustee to the Supreme Court and the compromise reached there. The compromise also removed what Mr Rae characterised as "a pretty tough clause" which made the Public Trustee the judge of the behaviour of beneficiaries and whether they were behaving themselves sufficiently well to get their share of the income.

67 (14 November 1951) 295 NZPD 810.

68 (16 November 1951) 296 NZPD 941-943. A more expansive and equally lively biography of Mr Fuller is in Peter Downes "Fuller, John 1850-1923" DNZB, above n 34, but without reference to the Trusts and the Private Act.

The Bill sailed through the legislative processes with encomiums to Mr Fuller.

The Eliza White Orphanage Trust Act 1951 incorporated the trustees of Mrs White's residuary estate, which was held in trust under her will for founding two orphanages in or near Christchurch. She had died in 1909 and, suiting those times, one orphanage was for girls, the other for boys. The Eliza White Board of Management was to administer the orphanages. The trustees had established an orphanage for girls, but in the opinion of the trustees the resources of the estate were inadequate to establish a second orphanage. The administration of the existing orphanage was placed under the control of the Roman Catholic Bishop of Christchurch and s 8 provided that at the discretion of the Bishop the orphanage might be used for the reception of both female and male orphans. In that regard the Hon Mr McLagan MP, when moving the second reading, suggested it was much better to bring up boys and girls of tender age together. That would provide more of a real family atmosphere and also avoid splitting siblings.⁶⁹

The remaining three Acts in this post-estate Bills regime category are the Mackelvie Trust Act 1958, the RO Bradley Estate Act 1972 and the Ellen Harriet Eames Estate Act 1989.

James Mackelvie died in 1885 leaving his vast collection of paintings, sculpture, furniture and other applied arts and a substantial monetary bequest for the purchase of a site and erection of a museum in or near Auckland to receive and display the collection and any additions as a free public museum of art "to be visited at all suitable times on Sundays as well as weekdays by all decent and orderly persons without payment or exceptional privilege." As the Preamble to the 1958 Act went on to record, it proved impracticable with the moneys available to the trustees to purchase a site and erect a museum and in 1892 the Auckland City Council made available an annex to the Auckland Art Gallery, which with additions was used exclusively for many years for safe custody and exhibition of the collection. Then, in 1954 the City Council advised the Board of Trustees it would no longer be able to make the premises available. The Board considered it might remain impracticable for many years for the Board to acquire a site and erect a museum of art.

Hence the Mackelvie Trust Bill which had its second reading on 20 August 1958. There was a spirited debate bringing out conflicting views in art circles over the treatment of the collection following changes in the directorship of the Gallery over recent years, with Mr Deas MP, Member for Otahuhu, stating that: "The collection has been merged with other exhibits without any prior consideration, without discussion with all the people interested in the collection."⁷⁰ Hon Mr Algie responded:⁷¹

69 (16 October 1951) 295 NZPD 319.

70 (20 August 1958) 317 NZPD 1280.

71 (20 August 1958) 317 NZPD 1281.

No testator can foresee when he makes a public bequest, all the ramifications of his wishes, nor can he possibly foresee how circumstances will change. What we are here for, I think, is to see that his intentions are respected while at the same time meeting the changing circumstances.

The Bill was referred to the Select Committee with numerous expressions of concern to ensure careful consideration there of opposing views. Having been considered by the Committee the Bill had its third reading on 2 September. The Act varied the trusts of the will to empower housing the collection in any building in or near the City of Auckland which the Board considered suitable for the custody (s 3), to make arrangements for the exhibition of the collection or any parts thereof, whether by the Board or any other persons, associations or bodies corporate and whether or not integrated at exhibition with any works of art not from the collection (s 4), to exhibit elsewhere in or outside New Zealand (s 5) and on certain conditions to charge for admission (s 6).

Mr RO Bradley, farmer of Charteris Bay, died in 1943. By his will he left his residuary estate remaining after the deaths of the family members who received life interests under the will, in trust for the purpose of a national park for the people of New Zealand and expressed the desire that the whole of his large farm property be used to form the park. In accordance with his expressed wish the RO Bradley Estate Act 1972 constituted the park board as a body corporate with perpetual succession (s 3) and with appropriate membership and powers.

Mrs Eames died in 1927 leaving a will providing that, after payment of legacies and the satisfaction of life interests which in the event ended on 20 May 1968, the net residue of her estate would be available (as the Preamble to the Ellen Harriet Eames Estate Act 1989 recorded):

To be applied and expended by that Board in the purchase of pictures for such Dominion Art Gallery, such pictures to be selected by that Board or by delegates selected by that Board and to hang together in the Gallery and to be known as The Ellen Eames Collection.

The express condition governing the bequest was that a Dominion Art Gallery be erected or definite provision be made, as determined by the Public Trustee, for its erection within 12 months, that is by 20 May 1969. Before then a national art gallery had been erected in Wellington pursuant to the National Art Gallery and Dominion Museum Act 1930, which had repealed the Science and Art Act 1913 (incorrectly stated in the will as being dated 1915).

On the first reading the Bill was referred to the Justice and Law Reform Committee. In its report it recommended that the Bill be allowed to proceed as amended.⁷² Moving that recommendation Mr Bill Dillon MP noted that the art collection was valued at \$5,000,000 to \$7,000,000. He added that a specific request had been made that there should be a gallery with pictures and statuary to be selected from the collection. The request was that they be displayed together in the gallery named after her. Mr Dillon said that would be impossible without erecting a massive building to house the

72 (6 September 1989) 501 NZPD 12358.

collection and referred to legal complications raised, legal opinions previously sought and "several erudite" arguments directed at the Bill during the course of the hearings of the Select Committee. But, he said, finally agreement had been reached by all parties enabling the Bill to be reported back in its amended form.

Moving the third reading Mr Mallard MP explained that it had been thought desirable during the passage of the Bill to authorise hanging paintings in a form other than as a collection.⁷³

That change will permit the gallery to hang paintings in the collection with other paintings of a similar theme, and I think those people who have spent some time at the National Art Gallery would realize that would be useful.

In the result the Preamble included a recital that: "Whereas it is inexpedient in the presentation of pictures for public exhibition that pictures of diverse character and nature be hung together", and s5 provided:

Notwithstanding anything in the will of the late Ellen Harriet Eames to the contrary, the Board of Trustees shall be deemed never to have been under any duty or requirement to hang together all or any pictures acquired by the expenditure of money from the residuary fund of the estate of the late Ellen Harriet Eames.

Finally, again as explained by Mr Mallard, the Bill responded to the querying within the Department of Internal Affairs in 1981 of the claim by the Public Trustee to be entitled to pay bequest monies to the trustees of the National Art Gallery and Dominion Museum although not legally the successor to the Board of Science and Art, by confirming the Public Trustee's administration (s 2).

The parliamentary consideration of that Private Bill may reflect a less rigorous approach than had been customary under the estate Bills regime.

VIII OTHER PRIVATE ACTS PROMOTED BY INDIVIDUALS

Seventeen Bills in the fifth category of other Private Bills promoted by individuals warrant mention to a greater or lesser extent because of their subject-matter and unusual features or their progress through the Parliamentary processes.

The first two Private Acts enacted and assented to on 30 October 1865 enabled the later knighted Sir John Cracroft Wilson to make and maintain a dam across the Heathcote River at Duck's Nest, the river island he had acquired, and to maintain a mill dam previously erected across the river and to divert its waters.

73 (8 November 1989) 502 NZPD 13444.

The biography in the *Dictionary of New Zealand Biography* fills in the statutory and *Hansard* account.⁷⁴ He had purchased the swamp at the foot of the Port Hills, which he named Cashmere, and threw himself into the hard work of draining the land.⁷⁵ He was conspicuous for the large expenditure he incurred in improving the estate, concentrating on "his avowed intention to put together a property worthy of being entailed on his eldest son". As well, he was a long-serving Member of the House of Representatives and of the Canterbury Provincial Council. The two statutes, the Duck's Nest Dam Act 1865 and the Lincoln Road Mill Dam Act 1865 contained appropriate conditions to protect other private and public rights.

The McLean Motor-car Act 1898 was the first statute regulating the use of motor vehicles in New Zealand. The Bill was promoted by William McLean, a Wellington commission agent, who had already imported two Benz cars and the regime it provided was replaced four years later by the Public Act, the Motor-cars Regulation Act 1902.

The 1898 statute required lights to be used between half an hour after sunset and half an hour before sunrise (s 6), bells to be carried to give sufficient warning of the car's position or approach (s 7), imposed a maximum speed of 12 miles per hour (s 8), and empowered the Governor-General to make regulations prescribing the conditions under which motor cars might be used and for the issue by any local authority of licences for their use (s10).

The Rhodes Trust Act 1901 gives a glimpse of Wellington at the turn of the century and of the role of the Rhodes family in the development of New Zealand.

William Barnard Rhodes is described in his biography as pastoralist, merchant, investor, community leader and politician, and was said at the time of his death in 1878 to be one of the richest men in the country.⁷⁶ He had built his mansion on his property in the District of Rhodes known as Highland Park or Wadestown, which he left in his will, along with other assets and subject to various conditions, for the benefit of his widow and their family.

The problem resolved by the Private Act was that the will did not empower the trustees to sell or lease any of the lands and the Preamble recorded that:

Highland Park Estate is situated close to the city of Wellington, and is especially suitable for residential building purposes: And whereas the granting to the said trustees of adequate powers of leasing and sale over the said lands in the Provincial District of Wellington will be of great benefit to all the beneficiaries of the said will, and will enable land which cannot now be used for close settlement though well adapted therefor, to be so used.

74 Tessa Kristiansen "Wilson, John Cracroft 1808–1881" DNZB, above n 34.

75 Ibid.

76 Brad Patterson "Rhodes, William Barnard 1807?–1878" DNZB, above n 34.

The Premier, Hon Richard Seddon MP, noted at the second reading of the Bill in the House that, if not cut up, with the change to rating on the unimproved value, rates would be a very heavy burden on land which was not producing.⁷⁷ The resulting development is reflected in Irvine-Smith's text *The Streets of My City*.⁷⁸

The next Act to be mentioned is the McLean Institute Act 1909, which can conveniently be noticed along with a further McLean Institute Act 1934.

Mr Allan McLean is also the subject of a biography in the *New Zealand Dictionary of Biography*, which describes his run at Waikakahi as one of the finest stations in Canterbury which, when broken up under the Liberal Government's closer settlement policies, yielded 130 farms, 14 runs and 47 village sections.⁷⁹ Retiring to Christchurch he built a huge house of 23,000 square feet and 53 rooms named Holly Lea, where he died in 1907.

Mr McLean had never married and, subject to various legacies and bequests he left his residuary estate, including Holly Lea, for the benefit of gentlewomen in reduced circumstances and other women of refinement and education. In accordance with his expressed wish the 1909 Act incorporated the charity known as the McLean Institute as a body corporate, with various appropriate provisions not requiring discussion. Appropriately for a Private Bill, the local member of the House moved the second reading and it was warmly endorsed at the third reading by the Prime Minister, Rt Hon Sir Joseph Ward and Mr Massey MP, Leader of the Opposition.⁸⁰ No doubt, that straightforward response to the testator's wishes was why the estate Bills regime was not followed.

The 1934 Act dealt with a rather different problem explained in the Preamble. The will had provided that the trustees should hold £5,000 to pay the income to Mary Alexandra Thomson, described in the will as Mary Alexandra Henderson, during her life for her sole and separate use and, as expressed delicately, she:

... had special claims upon the bounty of the said Allan McLean: And ... was previously married to William Joshua Heasley, who died on the fifth day of May, nineteen hundred and twenty-seven, and has since married the said Shirley Thomson: And ... there are three children of such previous marriage.

The Preamble went on to record that the trustees had purchased a residential property, furniture and effects for Mrs Thomson and the family and made other specified arrangements for their benefit and ended:

77 (2 August 1901) 117 NZPD 233.

78 Irvine-Smith *The Streets of My City* (2nd ed, Reed, Auckland, 1949) at 157.

79 Noel Crawford "McLean, Allan 1822?-1907" DNZB, above n 34.

80 (17 November 1909) 148 NZPD 197.

And whereas there is doubt as to whether the trusts of the will empower the Board to confer all the benefits which have been conferred upon the said Mary Alexandra Thomson and her family, and it is expedient that the same should be validated: And whereas, owing to economic conditions, the income from the said sum of five thousand pounds has lately suffered considerable reduction: And whereas it is expedient that the Board should have power to make provision out of the income of the institution funds for the maintenance, benefit and advantage of the said Mary Alexandra Thomson and her said children.

The Act validated those payments and benefits provided for Mrs Thomson and her family (s 3), provided that the Board should not be obliged to require repayment during her lifetime of loans made to her (s 4) and empowered the Board to make further specified payments to her during her lifetime (s 5).

The McDougall Trust Estate Act 1913 and the Georgetti Trust Estate Act 1915 varied the provisions of the respective wills but neither followed the strict estate Bills regime.

The McDougall case was straightforward. He died in 1891 and, subject to the life interest for the widow during her widowhood, the eight children's interests were contingent on the particular child attaining 21 and surviving the widow's widowhood. All had done so and one had since died unmarried. All seven surviving members of that class desired to have their interests vested absolutely, subject only to the widow's interest. Section 2 declared those vested interests and deemed the will to take effect accordingly.

The Georgetti Trust Estate Act resolved the problems caused by the wills of Mr and Mrs Georgetti who died in 1899 and 1912 respectively. The problem with Mr Georgetti's will was that the elaborate residuary trusts for his children and grandchildren breached the rule against perpetuities and the will of his widow made in 1908 gave rise to consequential problems. The Preamble to the Act recorded that, in determining interpretation questions consequent on the intestacies occasioned by the breaches of the perpetuities rules, the Supreme Court had ruled that, without realising the whole of Mr Georgetti's estate, it was impracticable to ascertain the share in the capital representing the income payable to the widow and that the parties all desired that the whole of the residuary estate should be realised and distributed on the basis stated in the Preamble.

The Act gave effect to those proposals.

The Mildred Elaine Smyth Divorce Act 1926 dealt with a difficult family situation. Mrs Smyth had married at age 18 an older man self-described as a company manager and believed by her to be respectable and law abiding after she fell under his sway. Within five months of their marriage he was convicted of arson, sentenced to five years' imprisonment and declared a habitual criminal, having been convicted in the previous 11 years on 14 charges of false pretences and other crimes and sentenced to lengthy terms of imprisonment.

The girl and her parents had come to know that he had some convictions, which he had explained away. *Hansard* brings out the divided views of the Members which were debated at

length, both before and after the Committee on the Bill had heard evidence.⁸¹ Mr Smyth had built up a false picture of his wealth and business activities and her anxieties over their marriage were compounded by the stated determination of the husband to compel her to live with him when he came out of gaol. Under the Divorce and Matrimonial Causes Act 1908 she was outside the narrow grounds for dissolution of marriage applying in 1926.

Apart from some differences in the Members' recorded assessments of the facts, a major question was whether using Parliament to legislate on divorce for one person would set a dangerous precedent, as against supplementing the divorce legislation in the interests of justice in the present case. The outcome in s 2 was that the marriage was dissolved.

In the Morris Divorce and Marriage Validation Act 1943 Mr Morris, an unwitting bigamist, had gone through a marriage ceremony with Violet Alicia Ramsay in 1916 and they had three children. In 1912 a decree nisi had been made in respect of his earlier marriage on his wife's application and when he went through the ceremony in 1916 he had reasonably believed that his wife would have ended the marriage by obtaining a decree absolute. Twenty years later he was killed in an accident and, the Preamble added:

... the accident may have given the right to an action for damages under the Deaths by Accidents Compensation Act 1908, for the benefit of his widow if he had been lawfully married to the said Victoria Alicia Ramsay.

The Bill went through all the legislative processes under urgency. Section 2 deemed the marriage to have been dissolved on 12 December 1912 (three months after the date of the decree nisi), s 3 validated the marriage on 6 July 1916 and s 4 restored the widow's entitlement to claim under the Deaths by Accidents Compensation Act 1908 within the statutory 12 months after the passing of the Private Act and provided for the total amount of damages recoverable to be reduced by £400, being the amount previously paid for the benefit of the children pursuant to an earlier compromise of the right of action in respect of his death.

There are no less than five Private Acts in relation to the philanthropic dispositions of Mr and Mrs Bryant of Hamilton, the first in 1948, the last in 1975. They are the Bryant House Trust Board Enabling Act 1948, the Mary Bryant Trust Board Enabling Act 1955, the Bryant House Trust Board Enabling Act 1960, the Bryant Nursery Trust Board Enabling Act 1968 and the Mary Bryant Trust Board Enabling Act 1975.

Mr Bryant, a successful farmer and businessman, founded a home for children at Raglan in the 1920s under a trust deed, the trustees of which were incorporated in 1941 as a Trust Board under the Religious, Charitable and Educational Trusts Act 1908. In 1948 he was transferring assets to support

81 See particularly: (4 August 1926) 210 NZPD 71–73 and 211; and (3 September 1926) NZPD 244–252.

Mrs Bryant's Trust's nursery home for babies.⁸² Her Trust Board's powers were enlarged by the 1955 statute. In 1960 he wanted to see his charitable work, which was then specialising in the problems of family break-up and disrupted family life, perpetuated as he had conducted it and through a Board representative of three non-Catholic churches. Mrs Bryant died in 1967 and the 1968 Act empowered that Board to transfer all its assets on new trusts to the new Mary Bryant Trust Board. Finally, the 1975 Act empowered that Board to transfer major assets to the Salvation Army Property (New Zealand) Trust Board and the remainder to the D V Bryant Trust Board. As recorded in the Preamble to the 1975 Act, that course was taken:

Because of the high ratio of staff to children, the changes of conditions of employment of Karitane Nurses and Nursing Aids, the difficulty encountered in procuring the necessary staff, the necessity for extensive alterations to buildings, and for other reasons.

These statutes graphically demonstrate the impact of economic and social changes over the years and their effects on the functioning of charities.

Next, the Deckston Hebrew Trust Act 1949 stands out as a creative approach by Parliament to benefit a de facto member of the family when varying trusts under a deed poll. The Preamble recorded that by deed poll dated 31 March 1936 Annie Deckston, wife of Max Deckston, declared she held the specified properties upon trust to apply the net income in perpetuity "for the establishment, maintenance, continuance, and carrying on of the institution for those purposes theretofore carried on by the said Annie Deckston in Rintoul Street, Wellington aforesaid, and known as the Deckston Hebrew Institute" and declared her intention to appoint trustees. She died on 26 September 1938 without having made any appointments and Mr Deckston died on 7 November 1939. By orders of the Supreme Court made in 1940 trustees were appointed for the trusts created by the deed poll but they faced three further problems, two under those trusts and the other relating to the estates of Mr and Mrs Deckston.

The further problems with the trusts were that they lacked any powers of sale of the properties and that, as the Preamble added:

... experience has shown that the number of needy Jewish orphan children in or able to be brought to New Zealand does not justify the continuance at the present time of the said home.

The trustees also had to deal with the serious financial difficulties of the trust which they had inherited and they did so by very prudent management. The two problems were dealt with by extending the powers of the Trust Board constituted by the Act to enable sale of the properties (s 18) and to allow for the application of the income of the trust fund to a range of Jewish bodies and institutions (s 15).

82 (12 August 1948) 281 NZPD 1434.

Mr and Mrs Deckston had had no children of their own but by his will he had left an annuity of £2 per week to Miriam Salas. Considerable evidence was heard by the Select Committee which reported to the House. Its conclusions, accepted by both the House and the Legislative Council, were that Mrs Salas was known as their daughter but had not been legally adopted according to the laws of New Zealand.⁸³ She was a Jewish child they brought out to Wellington from a Jewish orphanage in London when they were visiting there. Mr Deckston had enrolled her at Wellington East Girl's College as his adopted daughter and a special biblical ceremony of adoption had been performed for them in Wellington. The present value of the annuity left her by Mr Deckston was calculated at £1,500 and the weekly sums affected her social security benefits.

Section 23 provided for the Board to pay the New Zealand Insurance Company Ltd £4,000 out of the Trust Fund to be applied in the purchase of a residential property and its furnishing and to be vested in Mrs Salas as owner and for any unexpended part of the £4,000 to be applied by the New Zealand Insurance Company at its discretion towards her maintenance, advancement and support and after her death to her children. Section 24 went on to release Mr Deckston's trustees from further liability in respect of the annuity he had bequeathed to her and to release both estates from any claims by or on behalf of Mrs Salas under the Family Protection Act 1908 or otherwise for provision out of the two estates.

The last Act to be mentioned under this head is the George and Annie Troup Trust Act 1949.⁸⁴ As Hon J Marshall MP, Member for Mount Victoria, noted in moving the second reading in the House, George Troup was by profession architect to the New Zealand Railways Department, in later years Mayor of Wellington, and founder of the Young Men's Bible Class movement.⁸⁵ Mr and Mrs Troup and others had created a trust to build and establish the Boys Institute for the Young Men's Bible Class of St John's Presbyterian Church, Wellington with a gift over to the Wellington Boys Institute and the S A Rhodes Home for Boys should the Institute not be up and running by 31 May 1950. The Preamble recorded the familiar story noted earlier in the Mina Horton saga that wartime conditions down to the cessation of hostilities, with resulting restrictions and increases in costs, were likely to exist for a considerable period in the future. Accordingly s 3 varied the gift over so as to take effect only if the Institute should not be built and established by 31 May 1956.

In the end the gift over took effect and supported the gymnasium and swimming pool facilities in Newtown which Sir George Troup had been instrumental in establishing in the 1890s.

83 See particularly: (18 October 1949) 288 NZPD 2854–2857, and (20 October 1949) 288 NZPD 2981–2982 respectively.

84 For a fuller account of Sir George Troup's life see his biography in James Veitch "Troup, George Alexander 1863-1941" DNZB, above n 34.

85 (30 September 1949) 288 NZPD 2502.

Generations of young Wellingtonians continued to benefit from those facilities until they were eventually sold in the 1990s.

IX PRIVATE ACTS PROMOTED BY LOCAL INSTITUTIONS, COMPANIES, CHARITIES, ASSOCIATIONS AND OTHER CORPORATE BODIES

One striking feature of the statutes coming under the sixth head is how many have been enacted under each sub-heading over most of the 150 years, including some of particular significance in recent times. The Auckland Regional Amenities Funding Act 2008 and the Eden Park Trust Act 1955, which was significantly amended by the Eden Park Trust Amendment Act 2009, are good examples.

The Preamble to the Auckland Regional Amenities Funding Act recorded that:

(1) Several arts, educational, rescue, and community organisations that are vital to the Auckland region contribute to the well being of the whole region by providing facilities or services to the community: (2) The organisations are an essential part of the fabric of the Auckland region and are necessary to make the region a vibrant and attractive place to live in and visit: (3) A significant proportion of those who visit or use, or otherwise benefit from, the organisations come from all the territorial authority districts in the Auckland region.

The Preamble went on to record deficiencies in the funding pattern and processes and the need for a statutory framework to provide adequate and secure funding for the organisations by all the territorial authorities in the Auckland region. Section 3 shortly states the purposes of the Act and the rest of the Act, which runs to 47 sections and four schedules, contains very elaborate provisions for giving effect to those objectives.

As originally enacted the Eden Park Trust Act 1955 resolved some doubts that had arisen under the charitable trusts which had been declared in 1926 in respect of the land known as Eden Park, the home of rugby and cricket in Auckland. In 2009 the Amendment Act substantially revised, recast and expanded on the 1955 statute to reflect the arrangements agreed in respect of the development of the Park for the World Cup in 2011. Hon Murray McCully MP, Minister for the Rugby World Cup, moved the second reading of the Bill. In doing so he emphasised that it was a Private Bill promoted by the Eden Park Trust Board.⁸⁶

The second subcategory, companies, covers the spectrum from large national enterprises, notably banks and insurance companies, to smaller local enterprises. Three examples of the latter are the Kaitangata Railway and Coal Company Limited Empowering Act 1875, the Stratford Electric Lighting Act 1898 and the New Zealand Portland Cement Company (Limited) Reclamation and

86 (19 August 2009) 656 NZPD 5689.

Empowering Act 1910. The Kaitangata Act authorised the company, incorporated under the Joint Stock Companies Act 1860, to make, construct and maintain a railway connecting the Main Southern Trunk Railway in Otago with the Township of Kaitangata and the adjacent coal mines and to carry out other authorised works.

The Stratford Company had been incorporated under the Companies Act 1882 and had as its objects the carrying on at Stratford and elsewhere in Stratford County the business of an electric supply company in all its branches, including the production of electrical energy and supplying it for lighting purposes and as motive power. By the 1898 Act the Company was authorised to break up and cross over streets and roads, to place mains, service-lines and distributing mains above or below ground, to lay down pipes and to construct poles for those purposes. Supply of electricity was usually undertaken by local authorities and there are numerous statutes of that period in the lists of Local Acts in the statute book, but private enterprise companies needed statutory authorisation to enable them to fulfill those functions.

The long title of the Portland Act described its purpose as authorising the Company to reclaim certain parts of the foreshore of Limestone Island and s 4 enabled the Governor in Council to vest the reclaimed land in the company.

Typical of its times, the Otago and Southland Investment Company (Limited) Act 1864 recognised and incorporated the shareholders of the Company, which had been established in England under the (Imperial) Companies Act 1862, to enable the Company to carry on its business in New Zealand. The first stated object of the Company, as recorded in the Preamble and reflecting New Zealand's need for overseas capital, was:

To provide a medium of communication between the Government public bodies landowners merchants and settlers in New Zealand and the merchants capitalists traders and industrial classes of the United Kingdom and its dependencies Europe and elsewhere.

Similarly, Private Acts of that period such as the Liverpool and London and Globe Insurance Company Act 1879 enabled English companies to carry on business in New Zealand.

One hundred years on, major insurance companies and banks have promoted Private Acts to facilitate restructuring, as in Tower Corporation Act 1990, where the company was contemplating demutualising what had previously been the Government Life Insurance, Westpac New Zealand Act 2006, which dealt with the complexities of vesting Westpac Banking Company's New Zealand retail business in the new statutory body and the earlier Westpac Banking Corporation Act 1982, facilitating the take-over by the Bank of New South Wales of the Commercial Bank of Australia. In the case of the National Bank of New Zealand Act 1985, the Company had been incorporated in England in 1872 and further incorporated in New Zealand in 1873 carrying on business principally in New Zealand but also in other parts of the world. The Preamble to the 1985 Act stated that, as the central management and control of the Bank was now in New Zealand and the area of operations of the Bank was largely in New Zealand, it was considered appropriate that the Bank should be

incorporated only under the laws of New Zealand rather than under those laws and the laws of England and the 1985 Act facilitated achieving that object.

Finally under this subcategory, the Auckland Harbour Bridge Empowering Act 1931 and its repeal by the public Auckland Harbour Bridge Repeal Act 1948 are part of the long saga leading eventually to the opening of the Auckland Harbour Bridge in 1959.

The 1931 Act passed through all the legislative processes in both the House and the Legislative Council in 1931 but not without considerable debate.⁸⁷ The Bill, which followed on after a report from a Royal Commission inquiry, was stated to be acceptable to all parliamentary parties and to the Auckland local bodies and to have met all the requirements of the relevant Government departments. It empowered the Company to erect the proposed bridge from a point in Fanshawe Street to a point in Northcote Borough and to impose and collect tolls. The Bill set a timetable for preparation of plans, commencement of work and its completion. The debate in the House was largely over the terms of acquisition of the undertaking by Auckland City Council and the Northcote Borough under the option provisions of the Bill and in the Legislative Council, as against the boost to employment, concerns were expressed at the heavy expenditure involved in the project in the depression years and the risks to the public purse.

The Auckland Harbour Bridge Repeal Act followed a report of a further Commission which recommended that a bridge be constructed and maintained by the Government. The Company had been unable to meet the timetable under the 1931 statute but had incurred substantial expenses in gathering relevant planning and construction data and the Act provided for the payment of the agreed sum of £15,000 for the purchase by the Crown of the data.

While it is convenient to think of charities, associations and other corporate bodies as separate categories, the boundaries are indistinct and some Private Acts could easily be moved to different sub-headings or even to an earlier subject-matter head. For example, religious bodies cover a wide span and there are very large numbers of Private Bills where such matters as their tenets, mission, organisational structure, property (including church buildings, burial grounds and vicarages) and the provision of social services are the subject of some focus.

Amongst the plethora of statutes concerning religious denominations, three relating to Presbyterian Churches are out of the ordinary run. Two distinct Presbyterian Churches were active in the early years of responsible government. The Preamble to the Presbyterian Church of Otago Lands Act 1866 records that by:

Certain terms of purchase of land within the settlement of Otago forming a contract between the New Zealand Company and Association of lay members of the Free Church of Scotland constituted for

⁸⁷ The relevant passages are (in the House) at (3 September 1931) 229 NZPD 609, and (in the Legislative Council) at (21 October 1931) 230 NZPD 393.

promoting the said settlement commonly called 'The Otago Association' it was agreed that ... a certain proportion of the price to be realized by the sale and disposal of the lands comprising the said settlement [was] being appropriated for religious and educational uses and [was] to be administered by ... trustees in part in purchase of the land intended to be the estate of that trust.

The parties appointed "the Reverend Thomas Burns, Edward Lee, gentleman, Otago, Edward McGlashan of Salisbury Place, Edinburgh and William Cargill, agent at Otago for the New Zealand Company" as trustees declaring that:⁸⁸

The church of the said settlement with the school attached should be formed upon the model and planted as a branch of the Free Church of Scotland and governed according to the doctrine, polity and discipline thereof of which Free Church it is thereby declared that the Confession of Faith and other standards framed by the Westminster Assembly of Divines form the fundamental standards.

The Presbytery in Otago had been divided into several presbyteries constituted into a Synod under the name, "The Synod of Otago and Southland", the Preamble went on to record various land transactions and proposed transactions and the statute provided the machinery of regulation and management.

The New Zealand Presbyterian Church Act 1875 lacked the clear definition reflected in the Presbyterian Church of Otago legislation. The Preamble is illuminating:

Whereas there is in the Colony of New Zealand a Church organized under the Presbyteries of Auckland, Hawke's Bay, Wellington, Nelson, Christchurch, Timaru, and Westland, and known as 'The Presbyterian Church of New Zealand': And whereas the members of the said Church are a body of Christians adhering to the doctrines contained in the Westminster Confession of Faith, and the Presbyterian form of Church Government by Presbyteries, Provincial or General synods, and Kirk Sessions: And whereas the said Church has never had any actual connection with any Presbyterian Church in Scotland, but is and always has been governed in manner and in accordance with the doctrines aforesaid: And whereas in many cases real and personal property, for purposes connected with the Presbyterian Church of New Zealand, is held in trust under titles indicating a connection with Churches in Scotland, and which connection has no actual existence: And whereas it is expedient that the legal position of the said Presbyterian Church in New Zealand should be defined by law, and that provision should be made enabling persons in whom Church properties are vested to deal therewith as hereinafter provided.

Accordingly s 2 recognised the Church within the previously named "provinces", s 3 deemed ministers registered under the Marriage Act 1854 as "officiating ministers of the Church of Scotland, or of the Free Church of Scotland, or of any other Presbyterian congregation within such provinces" to be officiating ministers of the Church under the Marriage Act and s 4 dealt with the lands.

⁸⁸ Presbyterian Church of Otago Lands Act 1866 (Repealed).

While the 1875 Bill just discussed passed quickly and without difficulty through all the legislative processes as a Public Bill, as did two related Presbyterian Bills of 1875, the Presbyterian Church Property Act 1885, which repealed the 1875 Act was debated at length. It was described in the long title as "an Act to define the position of the Presbyterian Church of New Zealand" and to vest certain properties in trustees and provide for their management, enabling the further expansion of that statutory regime. By s 2 the Act applied in the named provincial districts and to other parts of New Zealand in relation to any property which the Church "may now have or at any time acquire in such other parts" and s 4 recognised the Presbyterian Church then existing within the named provincial districts.

There were lengthy discussions in the Legislative Council, particularly at the third reading, querying whether the Bill should be Public (as the 1875 Act had been) or Private (which had applied to the affairs of most other denominations).⁸⁹ It was finally resolved as a Public Bill on the ground that it had been drafted by a senior government official, had been discussed at length and approved by the Church and had been endorsed as a Public Bill by the Joint Committee on Bills of the two Houses.

Private Acts of traditional Roman Catholic, Protestant and Jewish faiths shade into the Spiritualist Church of New Zealand Act 1924, where the Preamble recorded that the members of that religious body held as their general tenets, the doctrines or beliefs set out in Schedule A of the Act; and on to various charitable trusts, such as the Homewood Trust Act 1942, and the Kirkpatrick Masonic Trust Empowering Act 1998.⁹⁰

In recent years, too, Te Whanau-a-Taupara Trust Empowering Act 2003, Te Runanga O Ngai Tahu Act 1996 and Te Runanga O Ngati Awa Act 2005, iwi legislation facilitated management and administration of assets associated with the settlement of Treaty of Waitangi claims. Numerous other bodies and incorporated associations' facilitating statutes listed in the Appendix do not call for particular noting but it is interesting to end this narrative by mentioning the Sydenham Money Club Act 2001. The Club, originally registered in 1885 under the Friendly Societies Act 1882 and 100 years later deemed to be registered under the Friendly Societies and Credit Unions Act 1982, could not comply with that statute and so by its own Private Act of 2001 was reconstituted as a building society under the Building Societies Act 1965.

X CONCLUDING COMMENTS

The abstract signalled that the article would discuss some 70 Private Bills and their progress through the Parliamentary processes. Some 445 Private Acts and amending Acts have been enacted

89 (21 August 1885) 53 NZPD 194–201; (26 August 1885) 53 NZPD 262-264; and (1 September 1885) 53 NZPD 386-387.

90 See his biography recording his contributions as a business entrepreneur and philanthropist: Dawn M Smith "Kirkpatrick, Samuel 1853/1854?-1925" DNZB, above n 34.

since 1856. And the Appendix lists 212 current Acts from the Parliamentary Counsel Office website.

Rather than providing a comprehensive digest of all 445 statutes, which would have involved needless repetition and added significantly to the length of the article, the objective has been to discuss a sufficient number of Bills under various subject headings and in their historical context to give a fair picture of the important role that Private Acts of Parliament have played and still play in New Zealand. Anyone interested can readily access all the other Private Acts plus their amendments from the Parliamentary Counsel Office's legislation website.⁹¹

But three clear impressions remain from all the material studied.

First, while a significant number of Private Bills have always been for the benefit of individuals caught in a difficult legal situation, particularly in the last 50 years or so much more frequently they have been for the benefit of incorporated bodies, ranging from local institutions, to companies, charities, associations and other corporate bodies, where the benefits cannot reasonably be gained without that legislation.

Second, because of their focus and the rigorous procedures involved, which distinguish them from government Bills dealing with matters of public policy for the benefit of the public at large, Private Bills have tended not to be subject to Governmental policy imperatives. Certainly Private Bills introduced by Members of Parliament have a much higher chance of enactment than Members' Bills. The statistics are striking. Only seven of the Private Bills introduced into the House over the last 60 years were not enacted (see Part II).

Third, the very considerable professional assistance given by the Parliamentary Counsel Office at the early stages of prospective Private Bills facilitates consideration of points of difficulty and possible areas of opposition. That tends to ensure that any Bill presented can ordinarily be expected to move smoothly through the parliamentary processes.

91 Parliamentary Counsel Office (2010) New Zealand Legislation < <http://legislation.govt.nz> >.

APPENDIX: PRIVATE ACTS OF PARLIAMENT CURRENTLY IN FORCE

1. AE Thorpe Limited Act 1990
2. AMP Perpetual Trustee Company Act 1988
3. Anglican Church Trusts Act 1981
4. Anglican (Diocese of Christchurch) Church Property Trust Act 2003
5. Anglican Trust for Women and Children Act 1962
6. Anglican Trustees Investment (Auckland) Act 1972
7. ANZ Banking Group (New Zealand) Act 1979
8. Ashburton County Council Empowering Act 1882
9. Associated Churches of Christ Church Property Act 1929
10. Auckland Agricultural Pastoral and Industrial Shows Board Act 1972
11. Auckland Baptist Tabernacle Act 1948
12. Auckland Hospital Board Trusts Empowering Act 1953
13. Auckland Regional Amenities Funding Act 2008
14. Auckland Trades Hall Trust Act 1952
15. Australia and New Zealand Banking Group Act 1970
16. Automobile Association (Central) Act 1980
17. Bank of New Zealand Officers' Provident Association Act 1971
18. Baptist Union Incorporation Act 1923
19. Birdlings Flat Land Titles Act 1993
20. Bryant House Trust Board Enabling Act 1948
21. Bryant House Trust Board Enabling Act 1960
22. Bryant Nursery Trust Board Enabling Act 1968
23. Canterbury Agricultural and Pastoral Association Empowering Act 1982
24. Canterbury Jewish Cemetery Empowering Act 1943
25. Carter Trust Act 1961
26. Cathedral-site Parnell Leasing Act 1886
27. Cawthron Institute Trust Board Empowering Act 1949
28. Cawthron Institute Trust Board Rating Exemption Act 1937
29. Charles Joseph Jury Estate Empowering Act 1919
30. Christ's College Canterbury Act 1885

31. Christ's College (Canterbury) Act 1928
32. Christ's College, Canterbury Act 1999
33. Church Of England Empowering Act 1928
34. Church of England (Missionary Dioceses) Act 1955
35. Church of England Tribunal (Validation of Election) Act 1934
36. Church of Jesus Christ of Latter-Day Saints Trust Board Empowering Act 1957
37. Church Property Trustees (Canterbury) Indemnity Act 1890
38. Church Reserves (Canterbury) Act 1904
39. Clarke Adoption Act 1969
40. Clevedon Agricultural And Pastoral Association Empowering Act 1994
41. College House Act 1985
42. Congregational Union Incorporation Act 1885
43. Cornwall Park Endowment And Recreation Land Act 1982
44. Cornwall Park Trustees Rating Exemption Act 1938
45. Countrywide Banking Corporation Limited Act 1994
46. Cutten Trust Act 1899
47. Dannevirke and District Soldiers' Institute Dissolution Act 1983
48. Deckston Hebrew Trust Act 1949
49. Dilworth Trust Board Act 1946
50. Dilworth Trustees Act 1967
51. Dilworth Trustees Empowering Act 1983
52. District Grand Lodges and District Grand Royal Arch Chapters of English Freemasons of New Zealand Trustees Act 1976
53. Dominion Life Assurance Office of New Zealand Limited Act 1931
54. Duck's Nest Dam Act 1865
55. Dunedin Anglican Social Services (Child Welfare) Act 1978
56. Dunedin Waterworks Extension Act 1875
57. Eastwoodhill Trust Act 1975
58. Eden Park Trust Act 1955
59. Eliza White Orphanage Trust Act 1951
60. Ellen Harriet Eames Estate Act 1989
61. Farmers' Mutual Group Act 2007

62. Foote Adoption Act 1969
63. General Finance Limited Act 1988
64. George And Annie Troup Trust Act 1949
65. Georgetti Trust Estate Act 1915
66. Girl Guides Association (New Zealand Branch) Incorporation Act 1942
67. Grand Lodge of Freemasons of New Zealand Trustees Act 1903
68. Hamilton Parsonage Site Act 1904
69. Homewood Trust Act 1942
70. J R McKenzie Trust Act 1947
71. John Donald Macfarlane Estate Administration Empowering Act 1918
72. John Duncan McGruer Estate Act 1945
73. John Fuller Trust Act 1951
74. Joint Council of the Order of St John and the New Zealand Red Cross Society Incorporation Act 1938
75. Kaitangata Railway and Coal Company Limited Empowering Act 1875
76. Kirkpatrick Masonic Trust Empowering Act 1998
77. Knox Presbyterian Church (Lower Hutt) Cemetery Act 1949
78. Kumeu District Agricultural and Horticultural Society Act 1991
79. Liddle Adoption Discharge Act 1963
80. Lincoln Road Mill Dam Act 1865
81. Liverpool and London and Globe Insurance Company Act 1879
82. London and New Zealand Bank, Limited Act 1928
83. Longley Adoption Act 1985
84. Loyal Orange Institution of New Zealand (Incorporated) Trust Act 1954
85. Macdonald Adoption Act 1974
86. Mackelvie Trust Act 1958
87. Managers of the Saint Paul's Presbyterian Congregation (Oamaru) Act 1930
88. Manawatu Patriotic Society Act 1969
89. Manfeild Park Act 2006
90. Mangere Lawn Cemetery Trustees Empowering Act 1981
91. Marianne Caughey Preston Estate Act 1945
92. Marine and Power Engineers' Institute Incorporation Act 1925

93. Marlborough Agricultural and Pastoral Association Empowering Act 1974
94. Mary Bryant Trust Board Enabling Act 1955
95. Mary Bryant Trust Board Enabling Act 1975
96. Masonic Property Trusts Act 1956
97. McDougall Trust Estate Act 1913
98. McKenzie Trusts Act 1954
99. Mclean Institute Act 1930
100. McLean Institute Act 1934
101. Medical Assurance Society Members' Trust (Exemption from Perpetuities) Act 1997
102. Meikle Acquittal Act 1908
103. Melanesian Trusts Act 1974
104. Methodist Church of New Zealand Trusts Act 2009
105. Methodist Church Property Trust Act 1887
106. Methodist Church Withells Road Cemetery Empowering Act 1981
107. Methodist Theological College Edson Trust Extension Act 1928
108. Methodist Union Act 1913
109. Michael Connelly Appointment Validation Act 1936
110. Mildred Elaine Smyth Divorce Act 1926
111. Mina Tait Horton Estate Act 1942
112. Molyneux Gold Dredging Company (claims Amalgamation) Act 1936
113. Morris Divorce and Marriage Validation Act 1943
114. Museum of Transport and Technology Act 2000
115. Napier Odd Fellows' Lodge Site Act 1889
116. National Bank of New Zealand Act 1985
117. National Bank of New Zealand Limited Act 1994
118. National Heart Foundation of New Zealand Empowering Act 1970
119. Nelson College Empowering Act 1985
120. Nelson Diocesan Trust Board Empowering Act 1937
121. New Plymouth Boys' High School Empowering Act 1986
122. New Plymouth High School (Evelyn Dowling Trust) Empowering Act 1983
123. New Zealand Anglican Church Pension Fund Act 1972

124. New Zealand Bible Tract and Book Society Act 1886
125. New Zealand Guardian Trust Company Act 1982
126. New Zealand Institute for the Blind Rating Exemption Act 1935
127. New Zealand Mission Trust Board (Port Waikato Maraetai) Empowering Act 1986
128. New Zealand Permanent Trustees Limited Act 1991
129. New Zealand Shipping Company (Limited) Empowering Act 1884
130. New Zealand Stock Exchange Restructuring Act 2002
131. Ngati Rarua-Atiawa Iwi Trust Empowering Act 1993
132. Nurse Maude Association Act 2000
133. Orakei Maori Reserve Act 1882
134. Otago and Southland Investment Company (Limited) Act 1864
135. Otago Foundation Trust Board Act 1992
136. Otago Southland Flood Relief Committee Empowering Act 1980
137. Otaki and Porirua Trusts Act 1943
138. Papa Adoption Discharge Act 1982
139. Papawai and Kaikokirikiri Trusts Act 1943
140. Peggy Joan Boys Voluntary Settlement Act 1951
141. Pehiaweri Maori Church and Marae Site Vesting Act 1981
142. PGG Trust Limited Act 1989
143. Phoenix Assurance Company of London Act 1887
144. Plunket Society Rules Act 1959
145. Presbyterian Church of New Zealand Act 1901
146. Presbyterian Church Property Trustees Empowering Act 1957
147. Presbyterian Church Reserves (Canterbury) Act 1926
148. Primitive Methodist Temporal Affairs Act 1879
149. Provincial Grand Lodge of New Zealand (Irish Constitution) Trustees Act 1946
150. Public Service Investment Society Limited Act 1998
151. R O Bradley Estate Act 1972
152. Rhodes Memorial Convalescent Home Act 1924
153. Rhodes Trust Act 1901
154. Roman Catholic Bishop of Dunedin Empowering Act 1924

155. Roman Catholic Bishops Empowering Act 1997
156. Royal Antediluvian Order of Buffaloes Trust Act 1966
157. Royal New Zealand Foundation of the Blind Act 2002
158. Royal Society of New Zealand Act 1997
159. Saint Andrew's Church (Wellington) Trustees Empowering Act 1907
160. Saint Mary's Guild Trust Act 1956
161. Scout Association of New Zealand Act 1956
162. Slack Adoption Act 1968
163. Social Service Council of the Diocese of Christchurch Act 1952
164. Southland Agricultural and Pastoral Association Empowering Act 2006
165. Southland Flood Relief Committee Empowering Act 1992
166. Spiritualist Church of New Zealand Act 1924
167. St John's Anglican Church (Parochial District of Johnsonville) Burial Ground Act 1964
168. St John's College Trusts Act 1972
169. St Joseph's Roman Catholic Church (Upper Hutt) Burial Ground Act 1969
170. St Kentigern Trust Act 1995
171. St Mary's Church (Karori) Burial Ground Act 1963
172. St Mary's Convent Property Leases Act 1885
173. St Peter's Parish Endowment Fund Act 1927
174. St Peter's School Trust Board Act 1985
175. Stephen Cole Moule Trustees Empowering Act 1904
176. Stockman-Howe Marriage Act 1985
177. Stratford Electric Lighting Act 1898
178. Sutton Adoption Act 1948
179. Sydenham Money Club Act 2001
180. Taumarunui District Services' Memorial Fund Act 1962
181. Te Runanga o Ngai Tahu Act 1996
182. Te Runanga o Ngati Awa Act 2005
183. Te Whanau-a-Taupara Trust Empowering Act 2003
184. Telford Farm Training Institute Act 1963
185. Thomas Adoption Discharge Act 1961

186. Thomas Cawthron Trust Act 1924
187. Thomas George Macarthy Trust Act 1936
188. Thomson Adoption Discharge Act 1958
189. Tokoroa Agricultural and Pastoral Association Empowering Act 1968
190. Tower Corporation Act 1990
191. TOWER Trust Limited Act 2002.
192. Trustees Executors Limited Act 2002
193. United Wheatgrowers Act 1936
194. University of Hawke's Bay Trust Board Dissolution and Vesting Act 1998
195. Waikato Anglican Boys College Trust Act 1987
196. Waikato Show Trust Act 1965
197. Wanganui Masonic Hall Trust Board Act 1965
198. Wanganui Orphanage Trust Extension Act 1960
199. Warkworth Anglican Burial Ground Act 1968
200. Wellington and Manawatu Railway Company's Additional Capital and Debentures Validation Act 1886
201. Wellington Bishopric Endowment Trust (Church of England) Act 1929
202. Wellington City Council (Te Aro Reclamation) Act 1879
203. Wellington City Mission (Church of England) Act 1929
204. Wellington Waterworks Act 1871
205. Westpac Banking Corporation Act 1982
206. Westpac New Zealand Act 2006
207. Whakatane Board Mills Limited Water Supply Act 1961
208. Whakatane Paper Mills Limited Water-supply Empowering Act 1936
209. William George David Brown Trust Act 1936
210. William Robinson Estate Trusts Act 1893
211. Wills's Road Hall Act 1935
212. Wrightson NMA Limited (Transfer of Incorporation) Act 1974

