

[AS REPORTED FROM THE COMMITTEE ON THE BILL.]

Legislative Council, 10th August, 1934.

Hon. Sir Heaton Rhodes.

MCLEAN INSTITUTE.

[PRIVATE BILL.]

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A BILL INTITULED

- AN ACT to ratify and confirm Payments and Acts Title.
heretofore made and done by the McLean Institute
for the Benefit of Mary Alexandra Thomson, Wife
5 of Shirley Thomson of the City of Christchurch,
Labourer, and her Children, and to confer upon the
McLean Institute Power to provide out of the
Income of the Funds administered by it for the
Maintenance and Benefit of the said Mary Alexandra
10 Thomson and her Children.
- WHEREAS Allan McLean, late of Christchurch, Gentle- Preamble.
man, died on the twelfth day of November, nineteen
hundred and seven, having first made his last will and
testament, together with one codicil thereto, dated
15 respectively the twentieth day of July, nineteen hundred
and four, and the twenty-eighth day of November,
nineteen hundred and six, which said will and codicil
were duly proved in the Supreme Court of New Zealand
at Christchurch on the twenty-first day of November,
20 nineteen hundred and seven, by Henry Cotterill, Boulton

Merlin Molineaux, and George Francis Gee, the executors under the said will and codicil named : And whereas the said will provides, *inter alia*, that the trustees thereof should hold the sum of five thousand pounds upon trust to pay the income of the said sum of five thousand pounds and of the investments thereof to the said Mary Alexandra Thomson therein described as Mary Alexandra Henderson during her life for her sole and separate use : And whereas the said will also provides, *inter alia*, that the Holly Lea property and furniture therein mentioned and the residue of the trust funds of the testator, subject to the provisions therein contained, should be held by the trustees of the will upon trust for the purpose of a public institution or benevolent asylum for destitute women, to be called "The McLean Institute", and that the institution should be open—(a) As to the Holly Lea property and furniture only to gentlewomen or women of refinement or education in reduced or straitened circumstances and the children not being over the age of ten years of any such gentlewomen or women, the testator's special intention being that the Holly Lea property should be reserved exclusively for the use of gentlewomen or women (including their children as aforesaid) who either by their birth, education, previous life, or manner might be able to live in harmony under the same roof ; (b) as to the rest of the institution not represented by the Holly Lea property and furniture to persons of the female sex not being under the age of eighteen years and to the children not being over the age of ten years of any such persons, but no person should be admitted to the institution but such as were poor and of good character and such as had been resident in the colony for a period of three years at least prior to the application for admission, and who were not and had not been in receipt of a pension under the Old-age Pensions Act, 1898, or any statutory amendment thereof, at any time during the term of three years immediately before admission, or in receipt of aid from the Charitable Aid Board or other public institution having the control of the distribution of charitable aid at any time during the term of three years immediately before admission : And whereas the said will further provides, *inter alia*, that the Board to be constituted as therein directed should have absolute and uncontrolled power of admitting

inmates to any part of the institution and of determining whether any applicant for admission comes within the qualifications prescribed for that part of the institution : And whereas, after reciting that it might be desirable
5 to provide a separate establishment or separate establishments for women with children fulfilling the qualifications referred to in the foregoing paragraph (a) the said will further provides, *inter alia*, that, without prejudice to and in addition to any other powers thereby given by
10 the trusts of the will, the Board might purchase in the names of the trustees, rent, erect, maintain, pull down, repair, improve, add to, or alter any buildings, colleges, houses, outhouses, fences, grounds, or enclosures which might be necessary or desirable for the purpose of
15 providing any such separate establishments, and might also purchase any furniture, goods, chattels, and effects which might be required for the purpose of such separate establishments, and might generally conduct and carry on such establishments with the same powers in all
20 respects as are thereby given to the Board with regard to the institution : And whereas by the McLean Institute Act, 1909, the Board of Governors to the Institute which had been appointed as provided by the said will was thereby incorporated under the name of "The McLean
25 Institute " as a body corporate with a perpetual succession and a common seal, and it was in the said Act provided that nothing therein contained should prejudice or affect the provisions of the said will and codicil or anything therein contained, except in so far as the same were
30 expressly altered or modified by or were inconsistent with the said Act, the intention of the Act being that (except to such extent as therein provided) the said will and codicil should remain in full force and virtue : And whereas the said Mary Alexandra Thomson had
35 special claims upon the bounty of the said Allan McLean : And whereas the said Mary Alexandra Thomson 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
40 said Shirley Thomson : And whereas there are three children of such previous marriage — namely, Mary Faulkner Heasley, born on the nineteenth day of November, nineteen hundred and ten ; Betty Faulkner Heasley, born on the twentieth day of April, nineteen

hundred and thirteen; and Grey Faulkner Heasley, born on the second day of October, nineteen hundred and fourteen: And whereas pursuant to the powers vested in the said Board by the said will and the said the McLean Institute Act, 1909, the Board has made provision for the benefit of the said Mary Alexandra Thomson and her family as hereinafter mentioned, that is to say—(i) In the year nineteen hundred and twenty-six purchased a residential property for the sum of two thousand pounds as a separate establishment of the institution to which the said Mary Alexandra Thomson and her children were admitted as inmates of the institution and purchased furniture and effects for the furnishing of such separate establishment; (ii) in the year nineteen hundred and twenty-six made a special loan to the said Mary Alexandra Thomson out of the income of the institution funds of the sum of one hundred and ninety-nine pounds one shilling; (iii) in the year nineteen hundred and twenty-eight lent to the said Mary Alexandra Thomson the sum of four hundred and seventy-eight pounds fourteen shillings and twopence upon the security of a policy of life assurance insuring the sum of four hundred pounds and on the security of a mortgage over the interest of the said Mary Alexandra Thomson under the will of the said Allan McLean, with interest at the rate of five pounds per centum per annum; (iv) since the year nineteen hundred and twenty-six has made advances to the said Mary Alexandra Thomson in anticipation of income so that on the thirty-first day of May, nineteen hundred and thirty-four, the said Mary Alexandra Thomson will have received the aggregate sum of one hundred and seventy-five pounds eleven shillings and sixpence in excess of the income earned by the said trust fund of five thousand pounds, such sum of one hundred and seventy-five pounds eleven shillings and sixpence having been paid out of the income of the institution funds: And whereas since the making of the said loan in nineteen hundred and twenty-eight the Board has paid premiums due in respect of the said policy of life assurance so mortgaged to the Board amounting to thirteen pounds annually, and the amount of such premiums has been added to the amount of the indebtedness of the said Mary Alexandra Thomson: And whereas by deed

dated the twentieth day of November, nineteen hundred and twenty-eight, the said Mary Alexandra Thomson assigned to the McLean Institute all that her life estate and interest in the said sum of five thousand
5 pounds under the will of the said Allan McLean upon trust that the Institute should in its absolute discretion, from time to time during the life of the said Mary Alexandra Thomson, pay or apply all moneys to be received by it by virtue of such assignment to or
10 for the maintenance and personal support or benefit of all or any one or more of the following persons—namely, the said Mary Alexandra Thomson and her children or child, whether minors or adults, in such proportions and manner as the Institute shall in its
15 absolute and uncontrolled discretion from time to time think proper; and it was thereby further declared that if the Institute should at any time thereafter make advances to or for the benefit of the said Mary Alexandra Thomson it should be lawful for the
20 Institute to apply any moneys which it might receive by virtue of the said assignment in payment of premiums for keeping alive any policy or policies of insurance over which the said Mary Alexandra Thomson might give security and in repayment of all such
25 advances with interest: And whereas since her remarriage the said Mary Alexandra Thomson with her husband and children has remained in occupation of the said separate establishment (being employed by the Board as caretaker therein): And whereas there is a
30 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 condi-
35 tions, 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
40 advantage of the said Mary Alexandra Thomson and her said children:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.	1. This Act may be cited as the McLean Institute Act, 1934.	5
Interpretation.	2. In this Act, if not inconsistent with the context,— “Institution funds” means and includes all property subject to the trusts in the said will contained concerning the McLean Institute. “The Mary Alexandra Thomson Fund” means the sum of five thousand pounds, the life interest in which was bequeathed to the said Mary Alexandra Thomson by the will and codicil of the said Allan McLean : “Will” means the said will and codicil of the said Allan McLean (deceased).	10
Validating clause.	3. All payments heretofore made to the said Mary Alexandra Thomson by the Board from the institution funds and all benefits heretofore provided for the said Mary Alexandra Thomson and her family by the Board are hereby validated.	20
<i>Re past loans to Mrs. M. A. Thomson.</i>	4. It shall not be incumbent upon the Board to require repayment by the said Mary Alexandra Thomson of any moneys heretofore lent by the Board to the said Mary Alexandra Thomson or the interest thereon or such life insurance premiums during her lifetime : Provided that nothing herein contained shall empower the Board to release any securities for the repayment of such moneys now held by the Board.	25
	<i>Struck out.</i>	30
Empowering payments for the benefit of Mrs. M. A. Thomson and her children.	5. The Board may at any time, and from time to time during the lifetime of the said Mary Alexandra Thomson, make payments to the said Mary Alexandra Thomson or for her benefit (or for the benefit of her said children or any of them) out of the income from the institution funds, but so that the total moneys so to be paid or applied, together with the amount of income available from the Mary Alexandra Thomson Trust Fund, shall not in any one year exceed the sum of three hundred pounds, and may, in addition, pay to the said Mary Alexandra Thomson or on her behalf a house allowance not exceeding one pound ten shillings weekly.	35 40

Struck out.

and may, in addition, continue to pay the premiums payable in respect of such life insurance policy over which the Board now holds security.

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New.

5A. The Board may at any time, and from time to time during the lifetime of the said Mary Alexandra Thomson, make payments to the said Mary Alexandra Thomson or for her benefit (or for the benefit of her said children or any of them) out of the income from the institution funds, but so that the total moneys so to be paid or applied, together with the amount of income available from the Mary Alexandra Thomson Trust Fund, shall not in any one year exceed the sum of three hundred pounds, and may, in addition, continue to pay the premiums payable in respect of such life-insurance policy over which the Board now holds security, and may, in addition, pay to the said Mary Alexandra Thomson or on her behalf a house allowance not exceeding one pound ten shillings weekly, and may as an alternative to paying a house allowance lease to the said Mary Alexandra Thomson the said residential property now occupied by her, together with such of its contents as belong to the Board, free of rent for such period or periods during her lifetime and upon such terms and conditions as the Board may from time to time think fit.

Empowering payments for the benefit of Mrs. M. A. Thomson and her children.

6. All costs, charges, and expenses of and incidental to the preparing, obtaining, and passing of this Act or otherwise in relation thereto shall be paid out of the institution funds.

Expenses incidental to the passing of the Act.

7. This Act is hereby declared to be a private Act.

Private Act.