

**Reprint
as at 1 November 1934**



McLean Institute Act 1934

Private Act 1934 No 4
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Commencement 31 October 1931

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An Act to ratify and confirm payments and acts heretofore made and done by the McLean Institute for the benefit of Mary Alexandra Thomson, wife of Shirley Thomson of the City of Christchurch, labourer, and her children, and to confer upon

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

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 Thomson and her children

Preamble

Whereas Allan McLean, late of Christchurch, gentleman, died on 12 November 1907, having first made his last will and testament, together with 1 codicil thereto, dated respectively 20 July 1904 and 28 November 1906, which said will and codicil were duly proved in the Supreme Court of New Zealand at Christchurch on 21 November 1907 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 5,000 pounds upon trust to pay the income of the said sum of 5,000 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 10 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 18 years and to

the children not being over the age of 10 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 3 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 3 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 3 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 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 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 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 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 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 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 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 5 May 1927, and has since married the said Shirley Thomson:

And whereas there are 3 children of such previous marriage—namely, Mary Faulkner Heasley, born on 19 November 1910; Betty Faulkner Heasley, born on 20 April 1913; and Grey Faulkner Heasley, born on 2 October 1914:

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 1926 purchased a residential property for the sum of 2,000 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 1926 made a special loan to the said Mary Alexandra Thomson out of the income of the institution funds of the sum of 199 pounds 1 shilling;
- (iii) in 1928 lent to the said Mary Alexandra Thomson the sum of 478 pounds 14 shillings and 2 pence upon the security of a policy of life assurance insuring the sum of 400 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 5 pounds per centum per annum;

- (iv) since 1926 has made advances to the said Mary Alexandra Thomson in anticipation of income so that on 31 May 1934 the said Mary Alexandra Thomson will have received the aggregate sum of 175 pounds 11 shillings and 6 pence in excess of the income earned by the said trust fund of 5,000 pounds; such sum of 175 pounds 11 shillings and 6 pence having been paid out of the income of the institution funds:

And whereas since the making of the said loan in 1928 the Board has paid premiums due in respect of the said policy of life assurance so mortgaged to the Board amounting to 13 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 20 November 1928 the said Mary Alexandra Thomson assigned to the McLean Institute all that her life estate and interest in the said sum of 5,000 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 for the maintenance and personal support or benefit of all or any 1 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 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 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 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 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 5,000 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.

1 Short Title

This Act may be cited as the McLean Institute Act 1934.

2 Interpretation

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 5,000 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).

3 Validating clause

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.

4 Re past loans to Mrs M A Thomson

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.

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

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 400 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 1 pound 10 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.

6 Expenses incidental to the passing of this Act

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.

7 Private Act

This Act is hereby declared to be a private Act.

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Notes**1 General**

This is a reprint of the McLean Institute Act 1934. The reprint incorporates all the amendments to the Act as at 1 November 1934, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989*

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*
