

741

This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed, is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,  
11th September, 1924.

[AS AMENDED BY THE HOUSE OF REPRESENTATIVES.]  
House of Representatives, 3rd November, 1924.

Hon. Sir Francis Bell

## THOMAS CAWTHRON TRUST.

[PRIVATE BILL.]

### ANALYSIS.

Title.	7. Quorum.
Preamble.	8. Time and place of meetings.
1. Short Title and commencement.	9. Validity of acts of Board not to be impaired by vacancies or defective appointments.
2. Incorporation of Cawthron Institute Trust Board.	10. Contracts of Board.
3. Constitution of Board.	11. Board may accept and administer other bequests, &c.
4. Appointment of members to fill vacancies on Board.	12. Additional powers of Board.
5. Mode of appointment of Legislative Councillor as member of Board.	13. Provision for a Capital Conservation Account.
6. Membership of Board not to be increased because any member qualified to hold office in personal and also in official capacity.	14. Annual balance-sheet and accounts.
	15. Property of trustees vested in Board.
	16. Registration of title.
	17. Remuneration of Board.

### A BILL INTITULED

#### *Struck out.*

5 AN ACT to incorporate the Trustees under the Will of Thomas Cawthron, deceased; to make Provision for Additional Trustees and the Succession of Trustees; and to confer certain Special Powers on the Trustees. Title.

#### *New.*

10 AN ACT to make Provision with respect to the Appointment and Incorporation of Trustees under the Will of Thomas Cawthron, deceased, and to confer certain Special Powers on the Trustees.

15 WHEREAS Thomas Cawthron, of the City of Nelson in New Zealand, retired shipping agent, by his last will and testament bearing date the fifteenth day of December, nineteen hundred and two, devised and bequeathed all his real and personal property (excepting certain household furniture and effects and certain properties in the said City of Nelson) unto the Bishop of Nelson, the Mayor of Nelson, the Chairman of the Waimea County Council, the members of the House of Representatives and Legislative Council for the City of Nelson and Waimea Electorate, the Chairman of the Nelson Harbour Board, and William  
20 Rout the younger, of the City of Nelson, in trust (after payment of certain legacies in the said will mentioned amounting in all to the sum of eight thousand one hundred pounds, and subject to certain annuities in the said will mentioned amounting in all to the yearly sum of six hundred and thirty-six pounds), for the purchase of land and erection  
25 and maintenance of an industrial and technical school institute and Preamble

museum to be called "The Cawthron Institute": And whereas the said Thomas Cawthron died on the eighth day of October, nineteen hundred and fifteen: And whereas probate of the said will was on the twelfth day of November, nineteen hundred and fifteen, granted to William Charles Sadler, who was the Bishop of Nelson at the date of the death of the said deceased; Charles John Harley, who was the Mayor of Nelson at the date of the death of the said deceased; Horatio Everett, who was the Chairman of the Waimea County Council at the date of the death of the said deceased; Thomas Andrew Hemming Field, who was the member of the House of Representatives for the Nelson Electorate at the date of the death of the said deceased; and Henry Richard Duncan, who was the Chairman of the Nelson Harbour Board at the date of the death of the said deceased (the executors referred to or indicated in the said will under and by the titles to the respective public offices held by them); and to William Rout (formerly known and in the said will described as "William Rout the younger"), the executor personally named in the said will: And whereas the said Charles John Harley died on the sixteenth day of December, nineteen hundred and twenty-two: And whereas the said will made no special provision for succession in the event of a trustee dying: And whereas the surviving trustees for the time being, in exercise of the powers conferred by the Trustee Act, 1908, did by deed dated the tenth day of May, nineteen hundred and twenty-three, appoint Frederick Giles Gibbs, of Nelson, retired school-teacher, to be a trustee in the place of the said Charles John Harley: And whereas

*Struck out.*

it is desirable that the trustees should be constituted a body corporate with perpetual succession and a common seal, and that certain powers should be granted for the administration of the said trust:

*New.*

And whereas it is desirable to make other provision for the appointment of trustees, which is deemed to be in conformity with the wishes of the testator, and to provide for their incorporation: And whereas the objects of this Act are not attainable otherwise than by legislation:

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

1. This Act may be cited as the Thomas Cawthron Trust Act, 1924, and shall come into force on the first day of January, nineteen hundred and twenty-five.

2. There is hereby constituted a body corporate under the name of "The Cawthron Institute Trust Board" (hereinafter referred to as the Board) which shall have perpetual succession and a common seal, and shall be capable of holding real and personal property.

3. The Board shall be constituted as follows:—

*Struck out.*

(a.) Each of the present trustees of the said will of Thomas Cawthron, deceased, shall be a member of the Board in his personal capacity until he dies or resigns his membership or ceases to reside permanently within the Provincial District of Nelson.

Short Title and commencement.

Incorporation of Cawthron Institute Trust Board.

Constitution of Board.

743

5 (b.) The persons holding for the time being the respective offices of Mayor of Nelson, Chairman of the Waimea County Council, and member of Parliament for the Electoral District of Nelson, and also the persons for the time being holding the  
 10 respective offices of Anglican Bishop of Nelson and Chairman of the Nelson Harbour Board, when the last named offices cease to be held respectively by the said William Charles Sadlier and Henry Richard Duncan, shall be members of the Board by virtue of holding their respective offices for the periods during which they respectively hold such offices.

(c.) One member of the Legislative Council, to be appointed as hereinafter provided, shall be a member of the Board.

*New.*

15 (a.) The persons for the time being holding the respective offices of Anglican Bishop of Nelson, Mayor of Nelson, Chairman of the Waimea County Council, Chairman of the Nelson Harbour Board, and member of Parliament for the electoral district of Nelson shall be members of  
 20 the Board by virtue of holding their respective offices for the periods during which they respectively hold such offices.

(b.) One member of the Legislative Council, to be appointed as hereinafter provided, shall be a member of the Board.

25 (c.) William Rout, of Nelson, hereinbefore referred to, shall be a member of the Board until he dies or resigns his membership, or ceases to reside permanently within the provincial district of Nelson, and thereafter a person appointed as hereinafter provided shall be a member of  
 30 the Board in his stead.

(d.) No casual or temporary vacancy in the membership of the Board shall affect the corporate existence and continuity of the Board.

*Struck out.*

35 4. (1.) When the number of members is reduced to a number less than ten by the death of, or vacation of office by, any of the members holding office in their personal capacity the Governor-General in Council may from time to time appoint a person or persons to be a member or  
 40 members of the Board:

Provided that the number of members of the Board holding office by such appointment shall not at any time exceed three, nor shall the total number of members be increased by any such appointment to a number exceeding ten.

45 (2.) A member appointed by the Governor-General in Council shall hold office for a period of three years from the date of his appointment.

(3.) A member so appointed shall be eligible for reappointment.

Appointment of members to fill vacancies on Board.

*New.*

50 3a. (1.) No member of the Board shall hold office by virtue of two or more of the qualifications for office prescribed by the *last preceding* section.

(2.) If any person becomes possessed of two or more of the aforesaid qualifications the Board shall forthwith appoint a

member or members sufficient to complete the full number of the membership of the Board. Every member so appointed shall retire from the Board so soon as the membership is completed by persons holding office by virtue of qualifications prescribed by the *last preceding* section.

5

(3.) If at any time two or more members appointed under this section are in office at the same time, the order of their retirement shall be determined by resolution of the Board.

Mode of appointment of Legislative Councillor as member of Board.

5. (1.) The appointment of a member of the Legislative Council to be a member of the Board shall be made by the Speaker of the Legislative Council.

10

(2.) If there is only one member of the Legislative Council permanently resident in the Provincial District of Nelson, the Speaker shall appoint that member to be the member of the Board.

(3.) If there are more such members than one, the Speaker shall select one of those members to be a member of the Board.

15

(4.) The member of the Legislative Council so appointed shall cease to be a member of the Board when he ceases to be a member of the Legislative Council.

(5.) When the membership of the Board held by the member of the Legislative Council so appointed becomes vacant, the Speaker shall appoint another member of the Legislative Council to be a member of the Board subject to the conditions defined in this section.

20

*Struck out.*

Membership of Board not to be increased because any member qualified to hold office in personal and also in official capacity.

6. If any person for the time being holding office as a member of the Board in his personal capacity under the provisions of paragraph (a) of section *three* hereof, is or becomes otherwise qualified for membership of the Board under the provisions of paragraph (b) or paragraph (c) of the said section *three*, the number of trustees shall not by reason of that fact be increased. No member of the Board shall have more than one vote, notwithstanding that he may be a member thereof in more than one capacity.

25

30

*New.*

Appointment of member of Board on death of or vacation of office by William Rout.

5A. (1.) On the death of or vacation of office by the trustee referred to in paragraph (c) of section *three* hereof, the Governor-General in Council shall appoint a person resident in the Provincial District of Nelson to be a member of the Board in his stead, and thereafter from time to time, on the vacation of office by any such trustee, shall appoint a qualified person as his successor.

35

(2.) Every member so appointed by the Governor-General shall hold office for a period of *five* years from the date of his appointment, but shall be eligible for reappointment.

40

Quorum.

7. At any meeting of the Board ~~five~~ *four* members thereof shall constitute a quorum, and the decision of a majority of the members present at any meeting of the Board shall be the decision of the Board. The chairman at any meeting of the Board shall have a deliberative vote, and in the case of an equality of votes shall have a casting vote also.

45

Time and place of meetings.

8. Meetings of the Board may be held at any time or place appointed by the Board or by any three members thereof.

50

Validity of acts of Board not to be impaired by vacancies or defective appointments.

9. The Board may act notwithstanding any vacancy in its membership, and the validity of any act of the Board shall not be affected or called in question by reason of any defect or informality in the appointment of a member of the Board.

10. (1.) Any contract which if made between private persons must be by deed shall, if made by the Board, be in writing under the seal of the Board.

Contracts of Board.

(2.) Any contract which if made between private persons must be in writing signed by the parties to be charged therewith may, if made by the Board, be in writing signed on behalf of the Board by some person duly authorized in that behalf.

(3.) Any contract which if made between private persons may be made verbally without writing may be similarly made by or on behalf of the Board, but no verbal contract shall be made of a value exceeding twenty pounds.

11. The Board may accept and receive any gift, bequest, or devise of money or property in trust for the purposes of the Cawthron Institute, and may execute and administer any trust of such money or property in accordance with the provisions of the instrument constituting such trust; and may exercise with reference to such trust all the powers and authorities given to or vested in the Board by this Act, so far as the same are or can be made applicable to the administration of such trust.

Board may accept and administer other bequests, &c.

12. The Board shall have and may exercise all and singular the powers and authorities given to or exercisable by the trustees by or under the will of the said Thomas Cawthron, and in addition to and without derogating from such powers and authorities shall have power:

Additional powers of Board.

(a.) To regulate its own procedure:

(b.) To promote any Act of Parliament having special application to the said trusts, and to pay the costs of the promotion and passing of any such Act (including the costs of promoting and passing this Act) out of the moneys coming to the Board under the trusts of the said will:

(c.) For the purposes of any trust under its control, to hold land of any tenure, and to exercise with respect to the same all and singular the powers and authorities given to it under such trust or according to law:

(d.) For the purposes of the trusts under the said will, to sell, lease, mortgage, or otherwise dispose of all property vested in the said Board.

13. (1.) Notwithstanding the express or implied provisions and trusts in the will of the testator, but subject to the provisions of this section, the Board shall in each year set aside *four* per centum of the gross income of the estate to be credited to a Capital Conservation Account.

Provision for a Capital Conservation Account.

(2.) The moneys credited to such account shall be separately invested by the Board, and the interest thereon shall be accumulated in such account until the amount of such account is twenty thousand pounds, after which no further moneys shall be credited to the said Capital Conservation Account.

(3.) The interest-bearing capital of the said estate (other than the said Capital Conservation Account) shall not (except by unavoidable losses of capital) be permitted to fall below the sum of two hundred thousand pounds. In the event of such capital falling below the sum of two hundred thousand pounds the deficiency shall be made good from the said Capital Conservation Account, and any deficiency

in such last-mentioned account below the sum of twenty thousand pounds shall be made good by an annual appropriation of income as mentioned in subsection *one* hereof.

Annual  
balance-sheet and  
accounts.

14. (1.) The Board shall, within three months after the close of each year ending on the thirty-first day of December, cause a balance-sheet to be prepared, together with a statement of accounts (including a receipts and payments account) showing fully the financial position of the said estate. 5

(2.) Such balance-sheet and statement of accounts shall be audited and certified by an auditor appointed for the purpose by the Board. 10

(3.) The Board shall publish the balance-sheet and statement of accounts, as certified, in the *Gazette* and in a newspaper circulating in the Provincial District of Nelson.

Property of trustees  
vested in Board.

15. (1.) All real and personal property which immediately prior to the commencement of this Act is vested in the trustees of the said will of Thomas Cawthron, deceased, or in any one or more of them subject to the trusts of the said will, shall by force of this Act, and without conveyance, transfer, or assignment, be vested in the Board for the estate and interest of the said trustees therein, subject to all liabilities, charges, obligations, and trusts affecting the same. 20

(2.) On the commencement of this Act all the contracts, debts, and liabilities of the said trustees as such, or of any of them, shall become the contracts, debts, and liabilities of the Board.

Registration of  
title.

16. (1.) A memorandum referring to this Act may be registered in any Deeds Registry Office against any instrument of title registered under the Deeds Registration Act, 1908, and affecting any land which by virtue of this Act is vested in the Board, and such registration shall have the same effect as if this Act were actually registered in full. 25

(2.) The District Land Registrar shall, on written application under the seal of the Board, register the Board as proprietor of all lands registered under the Land Transfer Act, 1915, and vested in the Board by virtue of this Act. 30

Remuneration of  
Board.

17. The members of the Board shall from time to time be entitled to receive by way of remuneration for their services such amount, not exceeding in the aggregate in any year the sum of five hundred pounds, as may be agreed upon between the Attorney-General and the Board, and in the event of disagreement the amount of such remuneration shall be determined in the same manner as the remuneration of trustees is determined under the Administration Act, 1908. All moneys payable under this section shall be paid out of income coming to the Board under the trusts of the said will. 35 40