

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 6 September 1989.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. Fran Wilde

ELLEN HARRIET EAMES ESTATE

[PRIVATE]

ANALYSIS

Title				4. Construction of certain references in will
Preamble				5. Amendment of will
1. Short Title				6. Powers of investment
2. Interpretation				7. Costs and charges
3. Confirmation of administration	of	preceding		8. Private Act

A BILL INTITULED

5 **An Act to confirm the administration of the residuary estate of Ellen Harriet Eames late of Wellington, married woman, to provide that references in her will to the Board of Science and Art shall be read and construed as references to the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial or its successors in respect of the National Art Gallery, and to modify the terms of the will**

10 WHEREAS ELLEN HARRIET EAMES late of Wellington, married woman, died on the 1st day of May 1927 leaving a will dated the 27th day of November 1926 whereof she appointed the Public Trustee as the executor and trustee and whereby, 15 after providing for certain legacies, she directed the Public Trustee to apply part of the net income arising from her

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*Price
incl. GST \$2.20*

residuary estate to her husband during his lifetime and the remaining income to her daughter during her lifetime with remainder to the children of the daughter who satisfied certain conditions: AND WHEREAS the husband of the testatrix died 5 on the 9th day of August 1945 and the daughter of the testatrix died on the 20th day of May 1968 without leaving any surviving children: AND WHEREAS, certain income provisions in favour of brothers and sisters having failed by reason of the failure of any such brothers and sisters to survive the daughter, the Public Trustee as and from the 20th day of May 1968 held 10 the residuary estate of the testatrix upon trusts to pay a legacy to the Salvation Army and thereafter to hold the residue of the residuary estate on trusts that, should, within 12 months after the 20th day of May 1968, there be erected or definite provision (as to which the Public Trustee should decide and his 15 decision should be final and conclusive) be made for the erection of a Dominion Art Gallery in Wellington under the provisions of the Science and Art Act 1913 (incorrectly cited in the will as the Science and Art Act 1915), then to hold the residuary trust fund for the Board of Science and Art appointed 20 under the said Act, 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 "The Ellen Eames Collection": AND WHEREAS 25 the will provided further that the receipt of the Secretary of the Board of Science and Art or any other person duly authorised by the Board of Science and Art should be a sufficient discharge to the Public Trustee for the residuary trust fund and the Public Trustee should not be further concerned to see to the 30 application of the residuary trust fund: AND WHEREAS the Science and Art Act 1913 was repealed by the National Art Gallery and Dominion Museum Act 1930, the Board of Science and Art accordingly ceased to exist, and no provision was made 35 in the National Art Gallery and Dominion Museum Act 1930 for the succession by the Board constituted by that Act to the Board of Science and Art: AND WHEREAS before the 20th day of May 1968 a National Art Gallery had been erected in Wellington pursuant to the National Art Gallery and Dominion Museum Act 1930: AND WHEREAS the Board of Trustees of 40 the National Art Gallery, the National Museum, and the National War Memorial have since the 20th day of May 1968 administered the residuary trust fund through its agent the Public Trustee and has expended money in the purchase of pictures for the National Art Gallery: AND WHEREAS it is 45

inexpedient in the presentation of pictures for public exhibition that pictures of diverse character and nature be hung together: AND WHEREAS it is desirable for the avoidance of doubt to declare that the Board of Trustees of the National Art Gallery,
5 the National Museum, and the National War Memorial has been since the 20th day of May 1968 and continues to be the trustee of the residuary trust fund and to provide that all references in the will to the Board of Science and Art should be read as references to the Board of Trustees of the National Art
10 Gallery, the National Museum, and the National War Memorial as now constituted by the National Art Gallery, Museum, and War Memorial Act 1972 or its successors in respect of the National Art Gallery and that certain provisions in the will be modified: AND WHEREAS it is also desirable to make such
15 further provision as hereinafter appears: AND WHEREAS the objects of this Act cannot be attained otherwise than by legislation:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

20 **1. Short Title**—This Act may be cited as the Ellen Harriet Eames Estate Act ~~(1987)~~ 1989.

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25 **2. Interpretation**—In this Act the term “Board of Trustees” means the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial constituted under section 4 of the National Art Gallery, Museum, and War Memorial Act 1972.

New

30 **2. Interpretation**—In this Act the term “Board of Trustees” means the Board originally constituted by section 4 of the National Art Gallery and Dominion Museum Act 1930 under the name of The Board of Trustees of the National Art Gallery and Dominion Museum, but now constituted by section
35 4 of the National Art Gallery, Museum, and War Memorial Act 1972 under the name of the Board of Trustees of the National Art Gallery, the National Museum, and the National War Memorial.

3. Confirmation of preceding administration—It is hereby declared that the Board of Trustees has been since the 20th day of May 1968 and continues to be the trustee of the residuary fund of the estate of the late Ellen Harriet Eames.

4. Construction of certain references in will—In the construction of the will of the late Ellen Harriet Eames,—

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- (a) Every reference to the Science and Art Act 1913 shall be read as including a reference to the National Art Gallery, Museum, and War Memorial Act 1972; and

New

- (a) Every reference to the Science and Art Act 1915 shall be read,—
- (i) In respect of the period commencing with the 20th day of May 1968 and ending with the 31st day of March 1973, as a reference to the National Art Gallery and Dominion Museum Act 1930; and
 - (ii) In respect of any period commencing on or after the 1st day of April 1973, as a reference to the National Art Gallery, Museum, and War Memorial Act 1972; and

- (b) Every reference to the Board of Science and Art shall be read as *(including)* a reference to the Board of Trustees; and
- (c) Every reference to the Dominion Art Gallery shall be read as including a reference to the National Art Gallery.

5. Amendment of will—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.

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6. Powers of investment—It is hereby declared that in addition to the powers of investment conferred by section 21 of

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5 the National Art Gallery, Museum, and War Memorial Act 1972, the Board of Trustees shall not be obliged to convert any securities that, as at the date of the passing of this Act, form part of the residuary fund of the estate of the late Ellen Harriet Eames, and shall have the power to accept or take up any bonus share or other rights or benefits issued or given in respect of any such securities.

10 **7. Costs and charges**—All costs, charges, disbursements, and expenses of and incidental to the preparing, obtaining, and passing of this Act or otherwise in relation to this Act shall be paid by the Board of Trustees from the capital of the residuary fund of the estate of the late Ellen Harriet Eames.

15 **8. Private Act**—This Act is hereby declared to be a private Act.