

IMPERIAL LAWS APPLICATION BILL

EXPLANATORY NOTE

TOWARDS the end of the 1981 session, an earlier version of this Bill was introduced into Parliament so as to give notice of the legislation that it foreshadowed to Parliament and to others whom it may concern.

The present version of the Bill brings in the tentative thinking in relation to work done and suggestions received since then so far as ideas have clarified sufficiently to warrant inclusion at this stage.

The primary purpose of the intended legislation is to provide for the repeal, in relation to New Zealand, of all Imperial Acts that serve no necessary or useful purpose in this country; the creation of a definitive statutory list of Imperial Acts that are, in the meantime, to continue to have effect as part of the laws of New Zealand in their existing form or in an amended form; the enactment of revised substituted provisions to take the place of certain Imperial Acts that can be dealt with in this way at this stage; and the enactment of certain consequential provisions.

The possibility of providing for revised substituted provisions by separate concurrent Bills has been contemplated in some cases. It is not intended to delay the enactment of legislation on the lines now proposed while all details of suitable substituted provisions are being settled.

A secondary purpose of the intended legislation is to define or save the Imperial subordinate legislation that is in future to have effect as part of the laws of New Zealand, and to revoke all other Imperial subordinate legislation in relation to New Zealand.

Following the enactment of the definitive statutory list of preserved Imperial Acts, it is proposed to proceed without delay to absorb the listed items into the New Zealand Statute Book by re-enactment or reprinting so far as it is useful to do so.

The necessity to explain the relevant Imperial Acts as well as the actual contents of the Bill calls for a very full explanatory note. The pattern of this explanatory note is as follows:

Pages i and ii deal with introductory matters:

Pages ii to vi indicate the material referred to in the preparation and settling of the Bill:

Pages vi to xii explain general background matters that are relevant to the Bill:

Page x explains the general approach to the preparation of the Bill:

Pages xii to xvii explain the steps that had been taken up to the stage of the introduction into Parliament of the 1981 Bill, subsequent developments, and the present position:

Pages xvii to xxvi explain the detailed provisions of the Bill:

Pages xxvi to cxii set out 3 Appendices (A to C) that aim to facilitate the enactment of the Bill by placing on record information that has come to notice in the course of the preparation of the Bill, and by providing comment on Imperial enactments where (in the context of the Bill) it seems helpful to do so.

Appendix A will list, in the first column, all Imperial enactments that are being mentioned in the Bill or in concurrent related legislation, or that, for any reason, call for explanation; also all Imperial enactments known to have been repealed, and all Imperial enactments that are at this stage reserved for further study, or that are being specially watched. References to enactments that are still so reserved or watched are shown in italics or bold type in the said first column.

Columns 2 and 3 of *Appendix A* indicate how the Imperial enactments mentioned in that Appendix (other than those still reserved for further study) are being or have been affected by the Bill or other legislation, and indicate the provisions by which they are being or have been so affected.

Column 4 of *Appendix A* indicates the relevant other Appendix in cases where a fuller explanation is given in *Appendix B* or *Appendix C*.

Appendix B explains each Imperial enactment that is being preserved in its original form or in an amended form. In cases of substituted enactments, the corresponding explanation appears in relation to the clause of the Bill that provides for the substitution.

Appendix C gives an explanation of certain Imperial enactments to which *subclause (1) of clause 7* relates. The subclause provides that, except as provided by the subclause, no imperial enactments passed before the commencement of the Bill shall have effect as part of the laws of New Zealand after the commencement of the Bill.

No mention is made in the Appendices of Imperial enactments shown in the *English Chronological Table of the Statutes* to have been repealed as part of the laws of England before 14 January 1840 because they will not be in force in New Zealand in terms of section 2 of the English Laws Act 1908 (N.Z.); or to any Imperial enactment that from its nature can have no application to New Zealand, perhaps because it relates to a person or locality or subject in no way connected with New Zealand, e.g., enclosures, the draining of the fens, the East India Company, or the Bank of England, or because they relate to an area of the law for which New Zealand has its own adequate statutory code; or to any Imperial enactment if it seems clear that it is obsolete, or that it serves no necessary or useful purpose in New Zealand.

Material Referred to in Preparation of Bill

The drafting of the Bill has involved much reference to New Zealand Acts and ordinances and to Imperial enactments.

In relation to New Zealand Acts and ordinances, the course followed has been to use a fairly completely annotated set of these that is held in the Parliamentary Counsel Office.

In relation to Imperial enactments,—

- (a) For the years after 1868, being the last year to which the first edition of the *Statutes Revised* relates, the series known as the *Public General Acts* is being used. A complete but unannotated set of the series for these years is held by the Parliamentary Counsel Office. The series is printed by the Queen's or King's Printer, and provides authentic texts, as being prescribed by *clause 3*, of the Public Imperial enactments passed during those years.

- (b) For the years 1235 to 1868, reference is made in the first instance to the first edition of the series known as the *Statutes Revised*. An unannotated set of this edition is held by the Parliamentary Counsel Office. The edition provides the authentic texts, as being prescribed by *clause 3*, of the Public Imperial enactments for those years so far as they appear therein. All the Imperial enactments that are listed in the Schedule to the Bill (as it stands at present), being enactments that relate to the last-mentioned years, are to be found in the said edition. The edition does not include enactments that were repealed in relation to England between 1840 and 1868, but that may have effect as part of the laws of New Zealand if the repeals did not extend to New Zealand.
- (c) So far as it is necessary to refer to Imperial enactments for the years 1235 to 1868 that are not included in the said first edition of *Statutes Revised*, the series known as *Ruffhead's Statutes at Large*, 1769 Edition, is being used in conjunction with the *English Chronological Table of the Statutes*. An unannotated set of the said edition of *Statutes at Large* covering the years 1235 to 1868 is held by the General Assembly Library. The set is printed by the Queen's or King's Printer, and therefore gives the contemplated authentic texts for the years from 1785 [when *Ruffhead's Statutes at Large* (by *Serjeant Runnington*—1786) ceased to provide the authentic texts specified in *clause 3 (3) (c)*] to 1868 [when the first revised edition of the *Statutes Revised* ceased to provide the authentic text specified in *clause 3 (3) (a)*], but not earlier.
- (d) So far as it is necessary to refer to the contemplated authentic texts of Imperial enactments that were passed in the years from 1235 to 1713 but do not appear in the said first edition of *Statutes Revised*, these are to be found in the edition known as the *Statutes of the Realm*, an unannotated copy of which is available in the Parliamentary Library. The 1769 edition of *Statutes at Large* is easier to use than the full collection to be found in the *Statutes of the Realm*, because enactments repealed before 1769 are omitted from the edition of that year.
- (e) So far as it may become necessary to refer to the contemplated authentic texts of Imperial enactments that were passed during the years from 1714 to 1785 but do not appear in the said first Edition of *Statutes Revised*, these are to be found in the 1786 Edition of *Ruffhead's Statutes at Large* (by *Serjeant Runnington*). An almost complete set of this edition is held in the library of the Victoria University of Wellington. When last consulted, the Librarian of that library was attempting to replace the 2 volumes of the 1786 edition that were missing from that library. Some volumes of the said 1786 edition are known to be held in the library of the University of Otago.

Considerable assistance has been derived from the following additional material:

The English Chronological Table of the Statutes

The edition that has been used was published in 2 volumes by Her Majesty's Stationery Office in London in 1980, and covers the period from 1235 to 1979. This Table lists all Imperial Acts that had been in force in England at any time since the first Act of Parliament was passed in England in 1235 and before the end of 1979. It shows in each case what has happened to the Act so far as it relates to England. An additional Table at the beginning of Volume 1 shows variances in the references to the early Imperial Acts in different published editions thereof.

Material Relating to the Australian State of Victoria

This comprises—

- (a) The Imperial Acts Application Act 1922, No. 3270 (Vic.), and the explanatory paper prepared in conjunction with the Bill that preceded that Act. The Bill and explanatory note were the culmination of an extended period of careful work by the late Sir Leo Cussen, a Judge of the Supreme Court of Victoria.
- (b) The Report by Mrs Gretchen Kewley published in Victoria in 1974-75 on the said Imperial Acts Application Act 1922, which Report is referred to in this explanatory note as the 1974-75 Report of Victoria.
- (c) The Report on the 1974-75 Report of Victoria made by the Statute Law Revision Committee of Victoria in 1978, which 1978 Report is referred to in this explanatory note as the 1978 Report of Victoria.
- (d) The Imperial Law Re-enactment Act 1980, No. 9407 (Vic.), and the Imperial Acts Application Act 1980, No. 9426 (Vic.), which both arose out of the 1974-75 and 1978 Reports of Victoria and the Report of the Statute Law Revision Committee of Victoria on those Acts.

The 1922 material relating to Victoria must be read in the light of the later material relating to that State.

Material Relating to the Australian State of New South Wales

This comprises—

- (a) The 1967 Report of the Law Reform Commission of New South Wales on the application of English Acts, which Report is referred to in this explanatory note as the 1967 Report of New South Wales.
 - (b) The Imperial Acts Application Act 1969 (N.S.W.), which Act arose out of the last-mentioned Report.
- (The 1973 Report of the Australian Capital Territory states on page 1 as follows: "We are satisfied that the list of Imperial Acts which were treated by the New South Wales Commission as in force in New South Wales when that Commission reported, can be accepted as a substantially exhaustive list of such Acts passed before the Australian Courts Act 1828. We have found very few Acts indeed which that Commission did not mention, and we do not believe that there are any such Acts which are of any importance.")

Material Relating to the Australian Capital Territory

This comprises the Report made by the Law Reform Commission of the Australian Capital Territory on the Imperial Acts in force in that Territory. This Report was published in 1973 in place No. 4 of Volume 7 of the Parliamentary Papers of the Commonwealth of Australia, and is referred to in this explanatory note as the 1973 Report of the Australian Capital Territory. The Commission reports on page 2 that it had tried to find and consider all Imperial Acts in force in the Australian Capital Territory and passed before 3 September 1939, the date on which section 4 of the Statute of Westminster came into force in regard to Australian law. The First Parliamentary Counsel at Canberra advised on 4 August 1980 that legislative effect had not at that stage been given to the said 1973 Report.

Material Relating to the Australian State of Queensland

A confidential working paper of the Queensland Law Reform Commission in relation to Imperial statutes in force in Queensland is held by the Parliamentary Counsel Office. That Office was advised in September 1981 that the preparation by the Commission of a report arising out of the said working paper was well advanced.

Material Relating to the Australian State of South Australia

Since the Imperial Laws Application Bill 1981 was introduced into Parliament, the 54th, 55th, 58th, 59th, 61st, 65th, 68th, 78th, 85th, 91st, and 102nd Reports of the Law Reform Committee of South Australia have come to notice. Copies of these Reports, except the 85th and 91st reports are held by the Parliamentary Counsel Office, and (with the exception of the 102nd report) those so held have received scrutiny in connection with the Bill. The Reports all relate to the inherited Imperial statute law of South Australia. Their special significance in relation to the Bill is connected with the said 54th Report, which raises indirectly key issues as to whether New Zealand should legislate so as to produce a definitive statutory list of Imperial Acts that are to continue to have effect as part of the laws of New Zealand, and repeal all other Imperial enactments in relation to New Zealand; also as to whether the time is ripe for such legislation in New Zealand. The South Australian Committee was not prepared to follow the earlier precedents and reports of Victoria, New South Wales, and the Australian Capital Territory, which precedents and reports are being followed in relation to these issues in the present Bill. The South Australian thinking turned very largely on the legislative history of that State. There was consultation several years ago with the Statutes Revision Committee and the Law Reform Council regarding the said issues, and the tentative thinking has been to continue as contemplated in the Imperial Laws Application Bill 1986. As will be seen from Appendix A of this explanatory note, New Zealand has advanced a very long way towards bringing the inherited Imperial enactments into its own statute books. The South Australian Reports have significance for New Zealand as far as they provide useful lists of Imperial enactments that call for special consideration in relation to the Bill, and so far as they point to the need for considerable caution in connection with the course that is being followed in New Zealand.

Canadian Material

The Department of Justice in Ottawa has furnished useful background material in relation to the problem as it arises in Canada, including an extract of pages 465 to 469 of *Problems of Canadian Sovereignty* by Maurice Oliver, Joint Clerk of the House of Commons of Canada. These pages set out an incomplete list of enactments of the Parliament of Great Britain that by their express terms, or by necessary implication, apply to the Dominion of Canada.

New Zealand Material

This comprises—

- (a) A partly annotated volume of selected Imperial Acts in force in New Zealand in 1859, which volume is a collection of Acts of the Imperial Parliament that were passed since 14 January 1840 and that originally or by adoption affect New Zealand.
- (b) A partly annotated volume, in the library of the Parliamentary Counsel Office, of selected Imperial Acts in force in New Zealand in 1881 compiled by the Revision of Statutes Commission, which volume was prepared by the Commissioners appointed under the Revision of Statutes Act 1879 (N.Z.) (in accordance with section 4 (6) of that Act). It includes such enactments of the Imperial Parliament as from their general interest and importance the Commissioners thought it desirable should be so preserved.

- (c) The Reports of the Revision of Statutes Commission published in New Zealand in 1880 as Parliamentary Paper A9, and in 1881 as Parliamentary Paper A7, which Reports contemplate (among other things) the volume that was published in 1881. The Commissioners were Alexander James Johnston, a Judge of the Supreme Court of New Zealand, and Walter Scott Reid, the Solicitor-General.
- (d) The last edition (the 28th) of the *Index to the Laws of New Zealand* (commonly known as Curnin's *Index*), which edition brought the facts stated therein down to 31 March 1933. This Index contains, at pages 32 to 39, an incomplete Table of Imperial Acts in force in New Zealand, and, at pages 362 to 369, an incomplete Table of repealed Imperial Acts. These Tables are almost identical with those that appear in Volume 2 of Butterworth's *Annotations to New Zealand Statutes*, Volume 2, pages 279 to 294. See also the Supplements to Butterworth's said lists in Butterworth's *Annotations of New Zealand Statutes, Volume VI (Statutes) 1932-1954*, pages 557 to 563, and Butterworth's *New Zealand Annotations 1958-1967, Volume 4 (Statutory Amendments)*, pages 493 to 502.
- (e) The Table set out at pages 179 to 185 of Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, which Table shows Imperial Acts in force in New Zealand. This Table repeats the corresponding Table in the last-mentioned edition of Curnin's *Index*. The list in each case contains a note that the "list is not exhibited as a complete list of the Imperial statutes in force in New Zealand, as there are some the applicability of which to New Zealand can only be determined by a decision of the Supreme Court". The note does not tell the whole story in relation to the incompleteness of the list. Work in connection with the preparation of subsequent consolidating Acts has disclosed many significant Imperial enactments that were not included in the list, e.g., the list does not include most of the Imperial enactments that are mentioned in the Fourth Schedule to the Administration Act 1969 and that are repealed in relation to New Zealand by section 84 (2) of that Act.
- (f) A Report made to the Attorney-General on 31 October 1952 by the then Compiler of Statutes, Mr A. E. Currie, forwarding a Schedule of the Imperial Acts up to 1688 that he believed were in force in New Zealand.
- (g) The Tables of Imperial Acts referred to, and other useful material, that can be found in various New Zealand law books.
- (h) Reports on New Zealand cases in which it was held that Imperial enactments or Imperial subordinate legislation had effect as part of the laws of New Zealand.

Piggott's Imperial Statutes Applicable to the Colonies

This is a 1903 compilation in 2 volumes of Imperial Statutes applicable to the colonies.

General Background to Bill

Imperial Enactments in Force in New Zealand

These comprise—

- (a) Enactments not repealed in relation to New Zealand that have effect as part of the laws of New Zealand by reason of section 2 of the English Laws Act 1908 (N.Z.), which section provides as follows:
 "The laws of England as existing on the 14th day of January 1840, so far as applicable to the circumstances of New Zealand, and in so

far as the same were in force in New Zealand immediately before the commencement of this Act, shall be deemed to continue in force in New Zealand and shall continue to be therein applied in the administration of justice accordingly:

“Provided that the laws of England relating to usury existing as aforesaid shall be deemed not to have extended to or been in force in New Zealand at any time.”

- (b) Enactments not repealed in relation to New Zealand that have effect as part of the laws of New Zealand because in each case the enactment is either—

(i) Declared to be in force in New Zealand by the express words or necessary intendment of some New Zealand Act, e.g., section 8 (1) of the Admiralty Act 1973 and section 4 of the Fugitive Offenders Amendment Act 1976; or

(ii) Extended to New Zealand as part of the laws of this country by an Imperial enactment enacted after 14 January 1840 by the Parliament of the United Kingdom while it remained the ultimate lawmaking authority for New Zealand or subsequently while it retained a residual lawmaking power enabling it to extend the enactment to New Zealand as part of our laws.

With reference to paragraph (a) under the immediately preceding heading, it is mentioned that, before section 2 of the English Laws Act 1908 (N.Z.) came into force, a somewhat similar provision appeared in section 1 of the English Laws Act 1858 (N.Z.), which section provided—

“1. The laws of England as existing on the 14th day of January 1840 shall, so far as applicable to the circumstances of the said Colony of New Zealand, be deemed and taken to have been in force therein on and after that day, and shall continue to be therein applied in the administration of justice accordingly.”

It is to be noted that the said section 1 was retrospective to 14 January 1840.

The Preamble to the 1858 Act recited that the laws of England as existing on 14 January 1840 had until recently been applied in the administration of justice in New Zealand, and that doubts had then been raised as to what Acts of the Imperial Parliament passed before 14 January 1840 were in force in New Zealand.

These doubts arose because of the difficulty of applying the principle of English law that is stated in the 1967 Report of New South Wales at page 20 as follows:

“In 1788 it had become a well-established principle of English law that, the law of England being the inheritance of the subjects of the realm, on the settlement of a colony the settlers carry that law with them as far as it is applicable to their new situation, and by that law their rights, duties and obligations are determined.”

During the period 16 June 1840 to 15 March 1842 the laws of New South Wales were in force in New Zealand in accordance with the N.S.W. Act 3 Vic., No. 28, and the N.Z. Ordinances Session 1, No. 1 and Session 2, No. 19. Section 2 of the last-mentioned Ordinance provided that no law, Act, or Ordinance of New South Wales should thereafter be of any force or effect whatever in New Zealand. The laws of England as at 25 July 1828 had at that stage been applied to New South Wales in accordance with section 24 of the U.K. Act of 9 Geo. IV, c. 83. Section 3 of that Act, and section 4 of 4 Geo. 4, c. 96 (1812) provided, among other things, that the Supreme Courts of New South Wales and Van Dieman's Land respectively shall and may enquire of, hear, and determine all Treasons, Piracies, Felonies, Robberies, Murders, Conspiracies, and other offences committed in New Zealand.

With reference to paragraph (b) under the last preceding heading in this explanatory note, it is mentioned that on page 3 of the 1973 Report of the Australian Capital Territory it is recognised that Imperial Acts may provide for their application to that Territory either expressly or by necessary intendment. The formula of "express words or necessary intendment" is suggested by the use of these words in an analogous context in section 1 of the Colonial Laws Validity Act 1865 (U.K.). It is there provided as follows:

"An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament."

Problems of Ascertaining Imperial Acts in Force in New Zealand

A great number of Imperial enactments have had, and in some cases still have, effect as part of the laws of New Zealand. There is no definitive list of these enactments; and, for reasons hereinafter mentioned, the preparation of such a list would present great difficulty.

To a substantial extent it is possible to ascertain repeals of Imperial enactments, so far as the repeals relate to New Zealand, from the Table of Obsolete or Repealed English Acts published in the said last edition of Curnin's *Index to the Laws of New Zealand*, pages 362 to 369; from annotations made in the Parliamentary Counsel Office of its copies of the Table of Imperial Acts in Force in New Zealand published in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185; from a scrutiny of Acts known to have repealed Imperial enactments; and indirectly by examining the Acts shown in the said English *Chronological Table of the Statutes* as having repealed Imperial enactments in order to see whether the repeals extend to their application to New Zealand.

In many of the cases where express or implied repeal is not known with certainty, it is much easier to state definitely that repeal is desirable than to state definitely whether or not it has taken place. Great care is being taken to avoid the inclusion in the Schedule of enactments that have been repealed already. Many of the enactments being specified in that Schedule and preserved by *clause 6* are well known, and it is a matter of common knowledge that they have not been repealed in relation to New Zealand.

In addition to the difficulties of ascertaining whether Imperial enactments have been expressly or impliedly repealed in relation to New Zealand, there is a corresponding difficulty in determining exhaustively what Imperial enactments have been brought into force in New Zealand since 14 January 1840 by the express words or necessary intendment of an Imperial enactment or a New Zealand Act. Piggott's *Imperial Statutes Applicable to the Colonies* points in the preface to the difficulty of bringing to light all the Imperial enactments that had been applied to the colonies, and comments as follows:

"The general impression left on the mind after the prolonged study of these Statutes which the process of collecting them has involved, is that the draftsmen have not always borne the existence of the Colonies in mind, but have dealt with them as the humour seized them, in some cases almost whimsically.

"The fact is that Imperial legislation for the Empire has been fitful and spasmodic: reflecting perhaps the ebb and flow of the Imperial spirit. Imperfect as that legislation sometimes is, sometimes forgetting the existence of the Colonies, it is at other times singularly complete in its details.

"But apart from this defect, Imperial legislation for an Empire such as ours could hardly fail to be unscientific in its methods. The keystone of the Empire's existence is that it should contain and maintain, not only laws infinitely varying in their origin, but also every form of legislative body, and every variety of

legislative power. The simple process by which France legislates for her Colonies could not be fitted to it: and even our own doctrine that settlers take with them so much of the Common Law of England as is adapted to their new conditions of existence, with such modifications as may be necessary, serves, after all, only as the root from which infinitely varying legislation ultimately springs. Absence of method, therefore, in the Imperial legislation for the Colonies is hardly to be wondered at."

At the dates at which the laws of England are declared to be in force in New Zealand and in the parts of Australia that have been mentioned, there remained unrepealed in England many enactments that had ceased to be in force or become unnecessary. Between 1863 and 1875 the Parliament of the United Kingdom passed a series of Statute Law Revision Acts expressed in the Titles to be "for promoting the revision of the statute law by repealing certain enactments which have ceased to be in force or have become unnecessary". The process of tidying up the statute book by getting rid of spent or unnecessary enactments has continued in the United Kingdom.

Background to and Relevance of Australian Precedents

Australia has problems that are in many respects similar to those of New Zealand in relation to Imperial enactments. The Act of 9 Geo. IV, c. 83 applied to New South Wales and the territory then known as Van Dieman's Land all laws and statutes in force in England on 25 July 1828. New South Wales at that date included the territory that now comprises the Australian Capital Territory and the States of Victoria and Queensland.

Moves towards resolving the problems in Victoria and New South Wales (as now constituted) were made by the Imperial Acts Application Act 1922 (Vic.), the Imperial Law Re-enactment Act 1980 (Vic.), the Imperial Acts Application Act 1980 (Vic.), and the Imperial Acts Application Act 1969 (N.S.W.). The other available relevant material relating to those States and mentioned earlier explains the course followed in those Acts. In each case the Act was restricted to Imperial enactments in force in England on the said 25 July 1828.

The Acts were so restricted for constitutional reasons that have no application in New Zealand at this stage. For the period that they cover these Acts and the Reports and papers relating to them have provided valuable, though not conclusive, assistance in determining what Imperial enactments should continue to have effect as part of the laws of New Zealand. A course that is desirable in an Australian State in the light of legislation in force there may not be desirable in New Zealand if there is no equivalent legislation here. By the same reasoning New Zealand may need to preserve Imperial enactments that had become unnecessary in an Australian State.

The Parliament of the Commonwealth of Australia, like the Parliament of New Zealand, is now master of its own statute book, and the 1973 Report of the Australian Capital Territory made recommendations to cover all Imperial enactments passed before 3 September 1939, the date on which section 4 of the Statute of Westminster 1931 (U.K.) came into force with regard to Australian law. For the period that the Report covers (especially the period subsequent to the period covered in the Victorian and New South Wales Acts) the Report provides valuable, though (for the reasons previously mentioned) not conclusive, assistance in determining what Imperial enactments should continue to have effect as part of the laws of New Zealand. In the New Zealand context there seems no point in confining the application of the Bill to a period ending before the date of the commencement of the provisions of the Bill.

Powers of Parliament of New Zealand in Respect of Bill

The power of the Parliament of New Zealand to make laws was restated in 1973 in section 2 of the New Zealand Constitution Amendment Act 1973, which repealed section 53 of the New Zealand Constitution Act 1852 (U.K.), and substituted the following section:

"53. (1) The General Assembly shall have full power to make laws having effect in, or in respect of, New Zealand or any part thereof and laws having effect outside New Zealand.

"(2) Without limiting the validity of any Act of the General Assembly passed before the 25th day of November 1947 (being the date of the passing of the Statute of Westminster Adoption Act 1947), every Act of the General Assembly duly passed on or after that date, and every provision of every such Act, are hereby declared to be and always to have been valid and within the powers of the General Assembly."

The process by which the General Assembly of New Zealand gained legislative autonomy, and the position in relation to the residual lawmaking power of the United Kingdom Parliament, are referred to in the following extract from pages 28 to 30 of the Second Report of an Officials Committee on Constitutional Reform:

"2. LEGISLATIVE AUTONOMY—THE RESIDUAL LAWMAKING POWER OF THE UNITED KINGDOM PARLIAMENT

- "2.1 Before 1947 the New Zealand Parliament was clearly subordinate to the Parliament of the United Kingdom, which was the ultimate lawmaking authority for this country. Not only did our Parliament derive all its powers from that Parliament, but the United Kingdom Parliament retained, and sometimes exercised, the power to make laws for New Zealand. There is no need for us to cite instances.
- "2.2 However for many years by convention, and from 1931 by statute, the United Kingdom Parliament did not enact law to have effect in New Zealand except with the agreement of New Zealand. Although the Statute of Westminster 1931 did not initially apply to New Zealand (section 10), its effect was that, as a matter of construction under United Kingdom law, United Kingdom Acts did not extend to this country as part of our law without an express declaration that New Zealand had requested and consented to this enactment. Because of this, it is highly doubtful if the Regency Acts 1937 and 1943 for example, originally extended to New Zealand despite their subject matter and the failure of New Zealand to have adopted the Statute of Westminster at the time they were enacted.
- "2.3 The laggard adoption by New Zealand in 1947 of sections 2-6 of the Statute of Westminster did not put an end to this power of the United Kingdom Parliament. What it did (for the purposes of New Zealand law) was to empower the New Zealand Parliament to enact legislation overriding any United Kingdom Act that did extend to New Zealand, whenever passed (abolition of 'repugnancy' doctrine). But the United Kingdom in terms of section 4 of the Statute of Westminster could still make law for New Zealand by request and consent. In adopting the Statute of Westminster the New Zealand Parliament declared (Statute of Westminster Adoption Act 1947, section 3) that this request and consent was to be given by an Act of the New Zealand Parliament and not otherwise.

- “2.4 (A fine distinction may be noted here. Under United Kingdom law an Act could extend to *inter alia* New Zealand if it ‘expressly declared’ the request and consent of New Zealand. It was technically a matter of form and construction. In section 3 of the Statute of Westminster Adoption Act, the New Zealand Parliament clearly implied a substantive concept of request and consent, and one which took the form of an Act of our Parliament. In theory our Parliament had arguably already transcended section 4 of the 1931 Act).
- “2.5 When it adopted the Statute of Westminster, Parliament also passed the New Zealand Constitution (Request and Consent) Act. The object of this was to obtain the United Kingdom legislation that was thought necessary to override section 8 of the Statute of Westminster in its application to New Zealand and to confer full power on the New Zealand Parliament to alter our constitution.
- “2.6 No subsequent resort has been made to the request and consent procedure. Indeed, its use in 1947 has in our opinion made it unnecessary ever to invoke it again. And if it is unnecessary to use it, it is inappropriate and undesirable to retain it. We see the continued power of the United Kingdom Parliament to legislate for New Zealand, even residually and as agent for the New Zealand Parliament, as incompatible with New Zealand’s present status.
- “2.7 As part of the exercise carried out for Canada in 1982 to ‘patriate’ the Constitution, the power of the United Kingdom Parliament to legislate for Canada was removed by the Canada Act 1982 (UK), section 2 of which provides that—
 ‘No Act of the Parliament of the United Kingdom passed after the Constitution Act, 1982 comes into force shall extend to Canada as part of its law.’
 Thus section 4 of the Statute of Westminster 1931 is impliedly repealed in relation to Canada by the above provision.
- “2.8 As we have said, we believe the continuance of a power vested in the United Kingdom Parliament to legislate for New Zealand is wholly out of accord with New Zealand’s constitutional status. This power of the United Kingdom Parliament should be terminated in the proposed constitutional enactment.
- “2.9 We note that this question has already arisen in the context of the Imperial Laws Application Bill exercise. However, a change in New Zealand law with respect to the power of the United Kingdom Parliament ought certainly to be dealt with in a Constitution Act.
- “2.10 We appreciate that the abrogation of the power in relation to Canada was effected by an Act passed by the United Kingdom Parliament itself, whereas the termination of the power in respect of New Zealand by a New Zealand enactment would still leave the relevant provisions of the Statute of Westminster 1931 in force in the United Kingdom in relation to New Zealand as part of United Kingdom law. We do not see this as causing any practical difficulty. Our recommendation that the New Zealand Constitution Act 1852 be repealed would have the same effect (as indeed have past amendments to that Act). Again we can see no harm flowing from that.

- “2.11 The termination of the power of the United Kingdom Parliament to make law for New Zealand could be achieved by the New Zealand Parliament enacting a provision on the lines of section 2 of the Canada Act 1982, or by its repeal of the Statute of Westminster insofar as it applies to New Zealand and of related legislation, or both. The first course has a crystal clarity to it. The second has the advantage of removing from the statute book legislation which would no longer have any practical effect. Either would, we think, be sufficient, but we prefer and recommend both courses of action.
- “2.12 The related legislation referred to in the last paragraph is the Statute of Westminster Adoption Act, the New Zealand Constitution Amendment (Request and Consent) Act and the New Zealand Constitution (Amendment) Act (UK), all enacted in 1947. If the Statute of Westminster is no longer to be part of New Zealand law then the Act which gave it that status and which also indicates how, in accordance with its terms, New Zealand will request United Kingdom legislation is no longer needed. The usual rule, to be found in the Acts Interpretation Act 1924, that a repeal does not revive the situation which existed before the passing of the Act being repealed, ensures that we lose nothing that the Statute of Westminster conferred—nothing, that is, in terms of the lawmaking powers of the Parliament.”

Commencement of Statute Law in England

The English *Chronological Table of the Statutes* shows the Statute of Merton 20 Hen. 3 (1235–6) as the first of the Statutes of the Parliament of England; and, at the beginning of the preface to the said *Chronological Table*, there is mention of “the passing of the earliest statute of the Parliament of England (1235)”. The position of Magna Carta is explained at pages 45 and 46 of the 1967 Report of New South Wales as follows:

“Nowadays the earliest set of laws regarded as a statute is that known as the ‘Provisions of Merton’ or the Statute of Merton, of A.D. 1236. In earlier times, Magna Carta had come to be considered as the beginning of English statute law. But there are four versions of the Charter, that of 1215, that of 1216, that of 1217, and that of 1225. John died in October, 1216. At that time Henry III was a child. An amended version of the Charter was issued by Henry’s two guardians in November, 1216. Several clauses contained in the Charter of 1215 were omitted in that of 1216 and were never again inserted. In 1217, a longer and more carefully revised version of the Charter was issued. In 1225, when Henry III had become of an age to act for himself, he reissued the Charter, substantially the same as that of 1217. Although substantially the Charter took its final form in 1217, it is the Charter of 1225 which is the Magna Carta of future times. When printing was introduced, Magna Carta, that is, the Charter of 1225, took its place as the first statute on the statute roll.

“Edward I confirmed the Charter in 1297. This confirmation, a restatement of the Great Charter of Henry III issued in 1225, is the version which is currently treated as a statute. It is printed in the *Revised Edition of the Statutes*, 2nd Edn, 1868, Vol. 1, pages 44 et seq.”

General Approach to Preparation of Bill

The Bill follows substantially the lines of the Imperial Acts Application Act 1969 (N.S.W.).

It follows the New South Wales precedent in providing a definitive statutory list of preserved enactments rather than enacting transcribed texts thereof as in Victoria. In New Zealand at this stage the provision of the list appears to be sufficient having regard to the intention to bring the preserved Imperial enactments into the New Zealand Statute Books by reprint or re-enactment as soon as possible in all cases where a useful purpose will be served by doing so. The terms of the old Acts are reasonably available in New Zealand from Halsbury's *Statutes of England*, a work that had not appeared at the time of the passing of the Imperial Acts Application Act 1922 (Vic.).

The Bill departs from the N.S.W. and Victorian precedents by covering the period down to the present time. By so extending the period covered, the number of Imperial enactments to be studied in relation to the Bill has been substantially increased.

The New Zealand legislation will depart from the Australian precedents in providing for substituted provisions to be drafted (where appropriate) as amendments to existing Acts, and for their inclusion in proper cases in separate Bills. The aim at this stage is to place substituted provisions in their final place in the New Zealand Statute Books so far as this can be done. The Australian precedents and other overseas precedents have no provision corresponding with *clause 8* of the Bill, which deals with the extent to which Imperial subordinate legislation is to apply in New Zealand in future.

The attitude towards the preservation of Imperial Acts has changed substantially since the time when Sir Leo Cussen was drafting the Imperial Acts Application Act 1922 (Vic.). He was breaking new ground and understandably adopted a cautious approach.

When the Imperial Acts came under scrutiny in New South Wales, Victoria, and the Australian Capital Territory during the years 1967 to 1980 there was increasing willingness to repeal Imperial enactments in relation to those jurisdictions.

In the 1974-75 Report of Victoria, Mrs Gretchen Kewley stated that the object of her review of the Imperial Acts Application Act 1922 (Vic.) was "to clear away as much as possible of the dead wood, recommending for repeal those enactments which appear meaningless, unnecessary, or uncertain in their application or adequately covered by present-day Victorian law, and recommending for retention only those English Acts which are undoubtedly in operation in Victoria or with which the Victorian law is so inextricably bound that to repeal them would be impossible". The Law Revision Committee of Victoria, in its Report of 1978, approved the Report of 1974-75 in this respect.

The Imperial Acts Application Act 1969 (N.S.W.) is notable for the extent to which it repealed, in relation to New South Wales, Imperial enactments of the period up to 1828.

The 1973 Report of the Australian Capital Territory shows an even greater readiness to repeal Imperial enactments in relation to that Territory.

The English *Chronological Table of the Statutes* shows the very great extent to which the earlier Imperial enactments have been repealed in relation to England.

Note, however, that the Law Reform Committee of South Australia is now favouring a more cautious approach. See the note at *page v* of this explanatory note on material relating to South Australia.

It is against this background that the Bill contemplates the repeal of all Imperial enactments that cannot be shown to serve a necessary or useful purpose in New Zealand, or to merit preservation because of their outstanding constitutional or historical significance.

Course Followed in Drafting the Contemplated Legislation

Steps Taken up to Stage of Introduction into Parliament of 1981 Bill

The work in relation to the drafting of the Imperial Laws Application Bill 1981 began with a preliminary background study aimed at forming a reasonably clear and detailed picture of what would need to be covered in the contemplated legislation and the related explanatory note, and at settling a framework that would make provision for all the expected details. This study took into account all Imperial enactments for the period between 1235 and 1601, and much of the detail covered in the relevant Acts and Reports of New South Wales and Victoria. The results of this study were placed before the Law Reform Council in a report that indicated in broad outline what was contemplated. The scheme for the 1981 Bill was settled in consultation with that Council.

By the time that the scheme of the 1981 Bill had been settled and a preliminary draft thereof had been prepared, it became clear that Appendix A of the explanatory note was going to be a key tool in relation to the consideration of individual Imperial enactments; also that it was desirable to move as quickly as possible to bring into that Appendix as much detail as was readily available.

When the related Acts and reports of New South Wales and Victoria were being studied, it proved to be desirable to reserve for further consideration some of the Imperial enactments mentioned therein. In some of the reserved cases considerable work was done, and consultation was commenced with interested Government departments. In other reserved cases there was no readily ascertainable starting point for consultation, and the enactments were simply passed over in the meantime. The device of indicating reserved Imperial enactments in italics in the first column to Appendix A emerged during the course of the work leading up to the introduction of the 1981 Bill.

In the Bill as introduced into Parliament in 1981, Appendix A of the explanatory note showed the express repeals of Imperial Acts ascertainable from the list of obsolete or repealed Imperial Acts that appears in Curnin's *Index to the Laws of New Zealand*, 28th Edition, pages 362 to 369, from the repealing Acts mentioned in Curnin's said list, and from the Parliamentary Counsel Office's annotations in relation to about three-quarters of the list of Imperial statutes apparently in force in New Zealand that appears in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185. The 1981 Bill also showed, in the Second Schedule and in the Appendices to the explanatory note, the results of the incomplete study that had been made of the said 1931 list and of the relevant Acts and Reports of New South Wales and Victoria.

Developments Since Introduction into Parliament of 1981 Bill

Valuable guidance in relation to the legislation has been provided from submissions to the Statutes Revision Committee of Parliament in relation to the 1981 Bill; from discussions by that Committee of that Bill and those submissions; from work done by the Sub-committee on the Bill set up by the New Zealand Law Society; and from work done by many people within and outside Government circles at all stages of the exercise. The District Law Societies, the Deans of the Faculties of Law of the Universities in New Zealand, the Anglican Church of New Zealand and its advisers, and other interested people have been kept informed in connection with the exercise.

Important Changes in Approach Since the 1981 Bill was Introduced

Clauses 4, 5, and 6 of the Bill that was introduced into Parliament in 1981, followed the Imperial Acts Application Act 1969 (N.S.W.) in seeking to indicate the extent to which Imperial enactments have been in force in New Zealand

before the commencement of the contemplated legislation. It has since been pointed out that the said clauses did not fully indicate the past position; and that it is difficult, dangerous, and unnecessary to attempt to do so. The present version of the Bill merely states the future application in New Zealand of Imperial enactments, Imperial subordinate legislation, and the other laws of England. In accordance with normal New Zealand practice it leaves the past position unchanged, and to be ascertained in accordance with the rules that have hitherto applied. See the note on *pages vi and vii* of this explanatory note on Imperial enactments in force in New Zealand, and the note on *pages viii and ix* on the problems of ascertaining Imperial Acts in force in New Zealand.

A new *clause 8* has been included in the Bill with a view to defining the extent to which Imperial subordinate legislation will in future have effect as part of the laws of New Zealand.

Present Position

Subject to what appears in this explanatory note under the immediately preceding heading, the background study and drafting connected with the Bill have now been mainly completed, except that—

- (a) Some further study is desirable in connection with Imperial subordinate legislation as indicated in the notes that follow *clause 8* of the Bill and in the note in this explanatory note relating to that clause:
- (b) Some further study is needed in relation to the reserved Imperial enactments that are still shown in italics in Appendix A, being Imperial enactments that are linked with the contemplated Property Law Amendment Bill hereinafter mentioned and a relatively few other reserved Imperial enactments the position of which can probably be settled without undue difficulty for the purposes of the Imperial Laws Application Bill:
- (c) It is desirable for the checks against the Statute Books of England for the years 1235 to 1947 to be completed by covering the years 1817 to 1819, and the years 1927 to 1947:
- (d) Some work will be needed in connection with a few suggestions and questions that have recently emerged, and perhaps with others that may still emerge:
- (e) Developments need to be watched in connection with certain contemplated related legislation, especially the *Constitution Bill* (now introduced into Parliament), a *Notaries Public Bill*, an *Extradition Bill*, and a *Property Law Amendment Bill*, because these developments may have a bearing on the details and drafting of the Imperial Laws Application Bill.

Constitution Bill—This Bill was introduced into Parliament in April 1986. The Bill is based on recommendations that were made by a committee of officials, and were set out in 2 reports, which were published in a compendium volume in February 1986. If the Constitution Bill is enacted in substantially its present form, that Bill (especially *clause 25*) will bring about major constitutional reforms, which will need to be reflected in the Imperial Laws Application Bill 1986. This version of the Bill provides in the meantime for the preservation of the Imperial Acts mentioned in the said *clause 25*; but their repeal seems likely, and they are being kept under notice by showing them in bold type in the list in the Schedule.

Clause 5 of the Constitution Bill incorporates the effect of the Demise of the Crown Act 1908 (N.Z.), which Act is repealed by *clause 27 (1)* of the last-mentioned Bill.

Notaries Public Bill—Consideration is being given to enacting a Notaries Public Bill in New Zealand in order to make provision for a code for this country in relation to notaries public. At the present stage it is expected that this code will not be in place in New Zealand soon enough to fit in with the timetable for the Imperial Laws Application Bill 1986. It is therefore being provided in the last-mentioned Bill for the position to be covered in the meantime by the savings provision in *clause 10 (10) (f)* of this Bill. Useful notes and information in relation to notaries appear in the *1931 Reprint of the Public Acts of New Zealand*, Volume 6, at pages 433 and 434, and in Halsbury's *Statutes of England*, Third Edition, Volume 23, at pages 1117 to 1136.

Extradition Bill—There is a possibility that an Extradition Bill may be enacted in New Zealand in order to make better provision in relation to extradition and fugitive offenders. Work on the Imperial Laws Application Bill proceeded for a period in the hope that the Extradition Bill would be in place soon enough to fit in with the timetable for the Imperial Laws Application Bill, and would simplify what will be needed in this connection in that Bill.

It now appears that this timetable for the Extradition Bill will not be kept; and **consideration is therefore being given to what will need to be done in the Imperial Laws Application Bill in order to prevent a gap in our law** from occurring, by reason of the general repeal and general revocation in *clauses 7 and 8 (1) (b)*, because the position is not going to be covered by the contemplated Extradition Bill.

In connection with the orders and notices that relate to extradition and fugitive offenders that are listed in the 1985 *Tables of New Zealand Acts and Ordinances and Statutory Regulations* at pages 188 to 190, it seems sufficient to cover the position in the meantime by inserting the saving provision shown in *clause 10 (10) (g)* in this version of the Bill so as to provide in effect that nothing in the legislation shall limit or affect any such order or notice.

In a memorandum dated 26 June 1985 the Secretary for Justice stated as follows:

"We see little need to preserve the Foreign Jurisdiction Act 1890 (U.K.) as we doubt it has ever been in force in New Zealand. We are not aware of any orders made under that Act which are applicable to New Zealand insofar as the Fugitive Offenders Act is concerned."

The Fugitive Offenders Act 1881 (U.K.) and the Fugitive Offenders (Protected States) Act 1915 (U.K.) are both being preserved in force as part of the laws of New Zealand by being shown in the Schedule to the Bill. See the notes on these Acts in Appendix B.

Property Law Amendment Bill—The Property Law and Equity Reform Committee has given thought to the clauses relating to property law that appeared in the previous version of the Bill, and has done a considerable amount of work in connection with various Imperial enactments relating to the law as to distress, waste, landlord and tenant, and other aspects of the old English law relating to property.

During the course of the background study and drafting in connection with the Imperial Laws Application Bill, notes have been taken as to Imperial enactments and other matters that came to notice and will need to be taken into account when settling the legislation that is likely to be based on the work of the Committee.

Thought has been given to including this legislation, in its final stage, in a Property Law Amendment Bill. Until now, work on the Imperial Laws Application Bill has proceeded in the hope that the contemplated Property Law Amendment

Bill would be in place soon enough to fit in with the timetable for the Imperial Laws Application Bill, and thus simplify the drafting of that Bill. At this stage it seems unlikely that the contemplated Property Law Amendment Bill will be in place soon enough to be helpful in this connection.

Consideration is therefore now being given to what will need to be done in the Imperial Laws Application Bill to prevent gaps in our law from arising by reason of the general repeal in *clause 7* if the position is not going to be covered in the contemplated Property Law Amendment Bill.

No satisfactory way of covering the position by a savings provision has emerged.

Perhaps the most satisfactory course will be to extend the list of preserved enactments in the Schedule so as to provide for it to include those Imperial enactments relating to the law of property that still have usefulness in New Zealand, either in their original form or in some modified or substituted form.

To this end **steps are now being taken to settle a list showing what additional Imperial enactments will need to be preserved**, and to make sure that nothing gets overlooked. Reports and correspondence from the Property Law and Equity Reform Committee will be helpful in this connection. Also assistance towards settling this list of additional enactments is being offered by the Parliamentary Counsel who is to draft the Property Law Amendment Bill and was a member of the Property Law and Equity Reform Committee at the time when it was doing the work connected with the relevant Imperial enactments.

The Imperial Laws Application Bill should not be passed until the list of additional Imperial enactments has been settled and provision can be made for the inclusion of the additional Imperial enactments in the Schedule to the Bill.

Consideration is also being given to the tidest way of showing, in the Schedule, the Imperial enactments relating to property law. In the Bill as previously drafted, the Imperial enactments included in the Schedule are shown as falling into 2 categories, being Constitutional Enactments, and Other Enactments. There seems to be usefulness in showing a third category, after the Constitutional Enactments, and under the heading "Enactments Relating to Property".

General Comment

The present impression is that the Imperial enactments that will have effect as part of the laws of New Zealand after the commencement of the contemplated legislation will comprise less than 5 percent of the statute law in force in New Zealand.

Explanation of Provisions of Bill

Clause 1 relates to the Short Title to the Bill, and provides that it shall come into force on the 1st day of January 1988.

Clause 2 defines, for the purposes of the Bill, terms that are used therein. The explanatory paper that accompanied the 1922 Bill in Victoria states that the word "Imperial" is the only suitable compendious expression covering legislation of the Parliaments of England, Great Britain, and the United Kingdom. Its use is in accordance with section 14 of the Acts Interpretation Act 1924 (N.Z.).

Subclause (2) of clause 2 provides that where, in any Imperial enactment or Imperial subordinate legislation or New Zealand enactment or New Zealand subordinate legislation, reference is made to whether or not any Imperial enactment or Imperial subordinate legislation is in force in New Zealand, the Bill shall be read as if that reference was to whether or not the last-mentioned enactment or legislation has effect as part of the laws of New Zealand. The subclause is necessary because existing references are in some places to an enactment or legislation being in force in New Zealand, and in other places to it having effect as part of the laws of New Zealand.

PART I

GENERAL PROVISIONS

Clause 3 states the rules that are to apply, after the commencement of the Bill, for the purpose of determining which is to be regarded as the authentic text of any Imperial enactment to which reference is made in the Bill or in other New Zealand enactments, or in New Zealand subordinate legislation, or in other instruments and documents that have to be construed according to the laws of New Zealand. The position needs to be clarified because there are variances between different editions of the Imperial Acts for the period ending with the session of the 25th year of the reign of King George the Third in 1785. See the Table of Variances published at the beginning of the English *Chronological Table of the Statutes*. The clause is suggested in part by sections 3 and 4 of the Imperial Acts Application Act 1922 (Vic.).

Subclause (3) of clause 3 is adapted from section 19 (1) of the Interpretation Act 1978 (U.K.). It is to be noted that *paragraph (a) of clause 3 (3)* refers to Imperial enactments included in "the first revised edition of the *Statutes Revised*", whereas the corresponding paragraph of the said section 19 (1) refers to Imperial enactments included in "any revised edition of the statutes printed by authority". The note to the said section 19 in Halsbury's *Statutes of England*, Third Edition, Volume 48, page 1308, shows that 4 such revised editions have been published, namely, the *Statutes in Force* commenced in 1972, and 3 editions called *Statutes Revised*, the earliest of which was commenced in 1870. Since *paragraph (b) of clause 3 (3)* goes on to deal with "enactments not so included", it is simpler in the New Zealand context to confine the reference to the earliest of the revised editions. This contains more Imperial enactments relevant in New Zealand than do the later editions. This was the course followed in the related provision in section 3 of the 1922 Act of Victoria. The first revised edition of the *Statutes Revised* covers the Imperial statutes as far as 1868, and includes all the preserved Imperial enactments that are mentioned in the Schedule to the Bill as it now stands and that relate to the period covered by the said first edition. The authentic texts of all later Public Imperial enactments are to be found in the copies printed by the Queen's or King's Printer, and these are reasonably readily available.

Paragraph 4 of the Preface to the English *Chronological Table of the Statutes* for 1977 states as follows:

"4. The Chronological Table is based on the edition of the Record Commissioners, known as the Statutes of the Realm, as far as the edition extends, namely, to the end of the reign of Queen Anne (13 Anne) in 1713. Thenceforth Ruffhead's edition (by Serjeant Runnington), has been followed, as far as it extends, namely, to the end of the session of the twenty-fifth year of the reign of King George the Third (25 Geo. 3) in 1785. It is believed that after this date all editions are alike. A complete table of the variances between the Statutes of the Realm and Ruffhead's edition is given on pages 1-6."

In the light of the Interpretation Act 1978 (U.K.), this part of the Preface was revised when the English *Chronological Table of the Statutes* for 1978 was published. This part as so revised states that the Table contains—

"(a) The Acts printed in the edition of the Record Commissioners, known as Statutes of the Realm, so far as it extends (to the end of the reign of Queen Anne (13 Queen Anne) in 1713):

"(b) The Acts printed in Ruffhead's Edition (by Serjeant Runnington) so far as it extends (to the end of the session of the 25th year of the reign of King George the Third (25 Geo. 3) in 1785):

“(c) Thenceforth all Acts printed by the King’s or Queen’s Printer as Public Acts or (since 1797) Public General Acts.”

Paragraph (c) of subclause (3) has been included in the light of the reliance placed on the *Statutes at Large* when the 1977 and 1978 editions of the *English Chronological Table of the Statutes* were being prepared. It is to be noted that *paragraph (c)* refers to *Ruffhead’s Statutes at Large (by Serjeant Runnington—1786)*. There were a number of editions of the *Statutes at Large*; and the one specified is that used for the purposes of the *English Chronological Table of the Statutes*. See the passages quoted earlier in this explanatory note in relation to *subclause (3)*. The edition specified was also used for the Table of Variances in the first revised edition of the *Statutes Revised*. See p. xxxv of the Introduction thereto in volume 1.

In the introduction to *Halsbury’s Statutes of England*, Second Edition, Volume 1, page vii, the Editor in Chief, Sir Roland Burrows, states:

“The text has been prepared so as to accord with the provision of the Interpretation Act, 1889, whereby references in statutes to other Acts are to be read as referring to the text printed by authority either in the *Statutes Revised* or in the King’s Printer’s copy.”

Subclause (4) of clause 3 provides that judicial notice shall be taken of the editions mentioned in *subclause (3)* and of the contents thereof, and of the Acts printed as mentioned in *paragraph (d)* of that subclause.

Subclause (5) of clause 3 provides that the translation from the original Latin or Norman-French of the authentic text of any Act in the edition in which the authentic text appears shall be deemed to be correct.

Subclause (6) (a) of clause 3 declares that section 39 of the Evidence Act 1908 shall apply to Imperial subordinate legislation.

Subclause (6) (b) of clause 3 declares that sections 34 and 39 of the Evidence Act 1908 shall not restrict the application of the earlier provisions of *clause 3* to Imperial enactments.

Clause 4 provides that, after the commencement of the Bill, and subject to *clause 10 (10)* of the Bill,—

(a) Imperial enactments shall have effect as part of the laws of New Zealand to the extent provided by any one or more of the enactments and Orders in Council hereinafter specified, being—

(i) *Clause 6* of the Bill; and

(ii) Any Order in Council made under *clause 11* of the Bill; and

(iii) **Any Imperial enactment passed after the commencement of the Bill that has effect as part of the laws of New Zealand in accordance with section 4 of the Statute of Westminster 1931 (U.K.) and section 3 (1) of the Statute of Westminster Adoption Act 1947 (N.Z.); and**

(iv) Any New Zealand enactment passed after the commencement of the Bill,—

and shall be applied in New Zealand in the administration of justice accordingly:

(b) Imperial subordinate legislation shall have effect as part of the laws of New Zealand to the extent provided by or under *clause 8* of the Bill, and by *clause 10 (10)* of the Bill, and shall be applied in New Zealand in the administration of justice accordingly:

(c) The laws of England, other than Imperial enactments and Imperial subordinate legislation, shall have effect as part of the laws of New Zealand to the extent provided by section 2 of the English Laws Act 1908, and shall be applied in New Zealand in the administration of justice accordingly,—

except so far as the said enactments, legislation, and laws have been effectively amended or affected (**whether** before **or after** the commencement of the Bill) by any Imperial enactments and Imperial subordinate legislation that from time to time have had or have effect as part of the laws of New Zealand (as provided by the Bill), and (whether before or after the commencement of the Bill) by any other New Zealand enactments and New Zealand subordinate legislation.

Clause 5 provides that, in construing any New Zealand enactment that comes into force on the commencement of the Bill and is in substitution for any Imperial enactment, or any New Zealand enactment that comes into force after the commencement of the Bill and is in substitution for any preserved Imperial enactment mentioned in the Schedule to the Bill, regard shall be had to the context (if any) of the Imperial enactment for which the provision is substituted.

Clause 6 (1) provides that, after the commencement of the Bill, each Imperial enactment mentioned in the Schedule to the Bill shall have effect as part of the laws of New Zealand to the extent provided by the enactment by virtue of which it is in force in New Zealand as shown in that Schedule, except so far as it has been effectively repealed, amended, or affected as part of the laws of New Zealand,—

- (a) Whether upon the commencement of the Bill, or before or after the commencement of the Bill, by any New Zealand enactments (including the Bill); and
- (b) Before the commencement of the Bill by any Imperial enactments and any Imperial subordinate legislation.

Clause 6 (2) provides that, notwithstanding *subclause (1)* of *clause 6*, after the commencement of the Bill—

- (a) The Short Titles Act 1896 (U.K.), and sections 5 and 6 (1) of, and the Second Schedule to, the Statute Law Revision Act 1948 (U.K.) shall have effect as part of the laws of New Zealand only so far as they relate to other Imperial enactments that for the time being have effect as part of the laws of New Zealand;
- (b) The Interpretation Act 1978 (U.K.) and all Imperial enactments passed in amendment thereof or in substitution therefor (whether before or after the commencement of the Bill) shall have effect as part of the laws of New Zealand so far as they relate to—
 - (i) Any Imperial enactment and any Imperial subordinate legislation that for the time being has effect as part of the laws of New Zealand; and
 - (ii) Any other Imperial enactment or Imperial subordinate legislation when it applies, in accordance with the laws of New Zealand, to any contract, instrument, or transaction;
- (c) Sections 1 and 6 of the Statute of Monopolies (21 Ja. 1, c. 3) shall have effect as part of the laws of New Zealand so far as they had effect as part of the laws of England at the commencement of the Bill;
- (d) The Accession Declaration Act 1910 (U.K.) shall have effect as part of the laws of New Zealand.

In Volume 9 of the 1931 Reprint of the Public Acts of New Zealand at page 183, the Short Titles Act 1896 is shown in the list of Imperial Statutes in force in New Zealand. This may not be strictly correct. In the reprint of the Wills Act 1837 (U.K.) in the New Zealand Statutes 1977, Volume 4, page 3715, there is the following note:

“The Short Title was given to this Act by the Short Titles Act 1896 (U.K.) although this Act is not in force in New Zealand. Short Titles given by it are in practice adopted in this country.”

Clause 7 (1) provides that, except as provided by—

(a) *Clause 6* of the Bill; or

(b) Any Order in Council made under *clause 11* of the Bill; or

(c) **Any Imperial enactment that is passed after the commencement of the Bill and has effect as part of the laws of New Zealand in accordance with section 4 of the Statute of Westminster 1931 (U.K.) and section 3 (1) of the Statute of Westminster Adoption Act 1947 (N.Z.); or**

(d) Any New Zealand enactment passed after the commencement of the Bill,—no Imperial enactments passed before the commencement of the Bill shall have effect as part of the laws of New Zealand after the commencement of the Bill.

Clause 7 (2) follows section 8 (2) of the Imperial Acts Application Act 1969 (N.S.W.). It provides that the repeal of the Imperial Act 7 George 2, chapter 8 (Sir John Barnard's Act) effected by *clause 7 (1)* shall be deemed to have taken effect on 14 June 1860, the date on which the last-mentioned Act was repealed in England. The proviso to *clause 7 (2)* provides that nothing in *subclause (2)* shall affect any transaction in respect of which proceedings in any Court have been commenced on or before 9 October 1981, being the date on which the Imperial Laws Application Bill 1981 was introduced into the House of Representatives.

See the note at page 80 of the 1967 Report of New South Wales. Sir John Barnard's Act was "an Act to prevent the infamous practice of stock jobbing". It was made perpetual by 10 Geo. 2, c. 8, and repealed in England by 23 and 24 Vic., c. 28. The last-mentioned Act, after reciting the said 2 Acts of George the Second, further recites that "the said Acts impose unnecessary restrictions on contracts for the sale and transfer of public stocks and securities and it is therefore expedient to repeal the same". The 1967 Report describes Sir John Barnard's Act as unnecessary in New South Wales, if ever applicable there. This view applies equally in New Zealand.

Clause 8: This clause relates to Imperial subordinate legislation. As it now appears in the Bill it is not necessarily complete. This explanatory note on the clause, and the notes at the end of the clause, show that more research and exploratory work is contemplated before the clause takes its final form. No precedent has been found for the clause, and no related New Zealand or overseas work in the area has come to notice.

The aim of the clause is to preserve Imperial subordinate legislation that serves a necessary or useful purpose as part of the laws of New Zealand, and to clear away dead wood by revoking all other Imperial subordinate legislation in its application to New Zealand. See *subclause (1)*.

The only relevant classes of Imperial subordinate legislation that have come to notice at this stage are those coming within *paragraph (a) of clause 8 (2)*, which paragraph relates to Imperial subordinate legislation made pursuant to Imperial enactments that are being preserved by the Bill as part of the laws of New Zealand; and those coming within *paragraph (b) of clause 8 (2)*, which paragraph preserves Imperial subordinate legislation that may now have effect as part of the laws of New Zealand in circumstances similar to those contemplated in the proviso to section 513 (1) of the Shipping and Seamen Act 1952.

Certain Letters Patent, Royal Charters, and other instruments made under the Royal Prerogative are saved by *clause 10 (10)*. Apart from this saving there are many instances where these and other instruments do not come within the definition of Imperial subordinate legislation in *clause 2* of the Bill, and are therefore not affected by the general revocation in *clause 8 (1) (b)*. See also the general savings in *clause 10*.

More work will be done—

- (a) To check, as far as possible, that there are no other classes of Imperial subordinate legislation that need to be preserved by *clause 8*:
- (b) To check that there are no other instances where Imperial subordinate legislation made under Imperial enactments being preserved by the Bill needs to be covered by special provisions as in *clause 8 (3)*:
- (c) To study what revision of the clause may be necessary in the light of these checks when they have been made.

Subclauses (4) to (7) of clause 8 make provision for extending Imperial subordinate legislation to New Zealand in certain cases; for revoking Imperial legislation in relation to New Zealand; and for making New Zealand subordinate legislation under the powers conferred by preserved Imperial enactments so far as they are applicable to the circumstances of New Zealand and with any necessary modifications.

Subclause (6) of clause 8 provides that after the commencement of the Bill, any Imperial enactment that for the time being has effect as part of the laws of New Zealand and purports to give powers to make Imperial subordinate legislation that has effect as part of the laws of England or as part of the laws of New Zealand shall be construed, so far as applicable to the circumstances of New Zealand and with any necessary modifications as conferring corresponding powers to make regulations that have effect as part of the laws of New Zealand on—

- (a) The Sovereign in right of New Zealand acting by and with the advice and consent of the Executive Council; or
 - (b) The Governor-General in Council—
- and not otherwise.

Subclause (7): Without restricting the powers conferred by *subclause (6)*, *subclause (7) of clause 8* declares that any regulations made under that subsection may—

- (a) Amend in its application to New Zealand any Imperial subordinate legislation that for the time being has effect as part of the laws of New Zealand; and
- (b) Be made, in relation to New Zealand, for all or any of the purposes for which regulations may be made in exercise of those powers.

Subclause (8) of clause 8 provides that 2 Proclamations relating to the application of parts of the Coinage Act 1870 (as amended by the Coinage Act 1891) to New Zealand shall not have effect as part of the laws of New Zealand after the commencement of the Bill.

Clause 9 (1) provides that nothing in the Bill shall restrict section 9 of the Crimes Act 1961. That section provides that no one shall be convicted of any offence at common law, or of any offence against any Act of the Parliament of England or the Parliament of Great Britain or the Parliament of the United Kingdom. Paragraph (b) of the proviso to the section provides that nothing in section 9 shall limit or affect the jurisdiction or powers of any Court Martial, or of any officer in the New Zealand forces.

Clause 9 (2) provides that, for the avoidance of doubt, it is declared that section 107 of the Crimes Act 1961 shall not extend to any contravention of any Imperial enactment or Imperial subordinate legislation that has effect as part of the laws of New Zealand after the commencement of the Bill, or any omission to do any act which any such Imperial enactment or Imperial subordinate legislation requires to be done. The said section 107 imposes a penalty for contravening any enactment or omitting to do any act which it requires to be done in cases where no penalty or punishment is otherwise specified. The note in Adams' *Criminal Law and Practice in New Zealand*, second edition, page 239, in respect of the said

section 107 mentions that the said section 9 “prohibits conviction for any offence under any Act of the Parliaments of England, Great Britain, or the United Kingdom, and presumably s. 107 must not be read as creating offences against any such Act”.

Clause 10 (1) provides that references in the clause to a repeal or revocation to which the clause applies mean any repeal of an Imperial enactment, or any revocation of any Imperial subordinate legislation, that is made by—

- (a) The Bill; or
- (b) Any New Zealand enactment or New Zealand subordinate legislation that comes into force at the same time as the Bill; or
- (c) Any New Zealand enactment or New Zealand subordinate legislation that comes into force after the commencement of the Bill, if the repeal or revocation relates to an Imperial enactment or any Imperial subordinate legislation that has effect as part of the laws of New Zealand after the commencement of the Bill in accordance with the Bill.

Subclauses (2) and (3) of clause 10 are based on section 9 (1) of the Imperial Acts Application Act 1969 (N.S.W.), but the provisions of that section have been modified in the light of *clause 9* of the Bill.

Clause 10 (4) applies sections 20, 20A, and 21 of the Acts Interpretation Act 1924 to repeals and revocations to which *clause 10* applies.

Clause 10 (5) follows substantially section 10 of the Imperial Acts Application Act 1969 (N.S.W.). It provides that where any Imperial enactment or Imperial subordinate legislation, being an enactment or legislation that has not been repealed or revoked by a repeal or revocation to which this clause applies, has been repealed or revoked (whether expressly or impliedly), confirmed, revived, or perpetuated by any Imperial enactment or Imperial subordinate legislation, being an enactment or legislation that has been repealed or revoked by a repeal or revocation to which this clause applies, the first-mentioned repeal or revocation, or the confirmation, revivor, or perpetuation shall not be affected by the repeal or revocation to which the clause applies.

Clause 10 (6) provides that the repeal by the Bill of the Charitable Uses Act 1601 shall not affect the established rules of law relating to charities. These rules have evolved from part of the Preamble to that Act. Neither that Act nor the relevant part of the Preamble lend themselves to preservation or reprinting.

Clause 10 (7) is a savings provision designed to preserve the existing effect of the Colonial Stock Acts 1877 to 1948 (U.K.) and the Forged Transfer Acts 1891 and 1892 (U.K.) in relation to New Zealand Government securities that had been registered with the Bank of England before the Public Finance Act 1977 (N.Z.) came into force, and have not been transferred to the register kept in New Zealand. There are still some securities in existence registered in this way.

The Colonial Stock Acts 1877 to 1948 (U.K.) are in their terms applicable to these securities. They are expressly mentioned in sections 45 (1) and 47 (3) of the New Zealand Loans Act 1953 (N.Z.), which sections are, to a limited extent, preserved in force in New Zealand by section 162 of the Public Finance Act 1977 (N.Z.).

The Forged Transfer Acts 1891 and 1892 (U.K.) can be adopted by the New Zealand Government in accordance with section 5 of the Act of 1891. It is not known whether the Acts have been so adopted, but it may be that it is still open to the New Zealand Government to adopt them.

In the circumstances, it appears undesirable to clutter the Schedule to the Bill by mentioning these Imperial enactments, but they can scarcely be ignored,

especially as several of them are mentioned in the list of Imperial Statutes in force in New Zealand that appears at pages 179 to 185 of Volume 9 of the 1931 Reprint of the Public Acts of New Zealand.

Subclauses (8) and (10) of clause 10 provide for other specified savings.

Clause 10 (9) provides that other repeals and revocations to which *clause 10* applies shall not affect any rules of law or equity not enacted by the repealed enactment or the revoked Imperial subordinate legislation.

Clause 11 makes provision for the revival by Order in Council of Imperial enactments repealed by *clause 7*. All such Orders in Council must be laid before Parliament within the 28-day period prescribed by section 8 of the Regulations Act 1936, as substituted by section 2 of the Regulations Amendment Act 1962. If the House of Representatives passes a resolution, being a resolution of which notice has been given within 20 sitting days after any such Order in Council has been laid before Parliament, disallowing that Order in Council or part thereof, the Order in Council or part thereof shall thereupon cease to have effect. See *clause 10 (4) (a)*, which makes provision for Imperial subordinate legislation to be applied or extended to New Zealand as part of the laws of New Zealand.

PART II

SUBSTITUTED AND CONSEQUENTIAL ENACTMENTS TO BE PASSED AS SEPARATE ACTS

Acts Interpretation

Clause 13: Paragraph (a) of section 17 of the Acts Interpretation Act 1924 specifies the manner in which reference to Imperial Acts is to be made. The paragraph is rewritten so as to take account of *clause 3* of the Bill and of sections 34 and 39 of the Evidence Act 1908.

Contracts Enforcement

Clause 15 makes provision for the insertion in the Contracts Enforcement Act 1956, after section 2, of a new *section 2A*, which provides that an action shall not be maintainable on representations of character, etc., unless they are in writing signed by the party chargeable.

Clause 16 states that the new *section 2A* is in substitution for section 6 of the Statute of Frauds Amendment Act 1928, which last-mentioned section is to cease to have effect as part of the laws of New Zealand on the date of the commencement of the said new *section 2A*.

Crown Proceedings

Clause 18 provides for the abolition of informations of intrusion and writs of intrusion—See the note in Appendix C on the Act 21 Ja. 1, c. 14—Informations of intrusion.

English Laws Act

Clauses 19 to 21 amend the English Laws Act 1908 by repealing section 3 and the Second Schedule, and by adding to section 2 a subsection that states that the section shall be subject to the Bill.

Evidence

Clause 23 inserts in the Evidence Act 1908 a new *section 6A* that provides that a witness shall not be excused from answering any question relevant to the

proceedings on the sole ground that to answer the question may establish or tend to establish that the witness owes a debt, or otherwise subject the witness to any civil liability.

The new *section 6A* is in substitution for the Witnesses Act 1806 (46 Geo. 3, c. 37), and that Act will cease to have effect as part of the laws of New Zealand after the commencement of this clause.

Clause 24: Section 29 (1) of the Evidence Act 1908 provides that every copy of any public Act printed under the authority of the Government by the Government Printer shall be evidence of that Act and of its contents; and every copy of any such Act purporting to be printed as aforesaid shall be deemed to be so printed unless the contrary is proved. *Section 29 (1)* is rewritten so as to extend to Imperial enactments printed under the authority of the Government of New Zealand by the Government Printer of New Zealand.

The clause also inserts, in the said section 29, a new *subsection (1A)*. This provides that every copy of any Imperial enactment, being a copy purporting to be printed by the Queen's or King's Printer or under the superintendence or authority of Her Majesty's Stationery Office in England, and whether printed before or after the commencement of the subsection, shall, unless the contrary is proved,—

- (a) Be evidence of the enactment and its contents; and
- (b) Be deemed to be so printed; and
- (c) Be deemed to be identical with the authentic text of that enactment specified in *clause 3 (3)* of the Bill.

The last-mentioned presumption is intended to provide a temporary partial solution to the problems related to the limited availability in New Zealand of the authentic texts of Imperial enactments. The revised *section 29 (1)* will provide a complete solution in relation to each preserved Imperial enactment that is brought into the New Zealand statute book as contemplated.

Judicature

Clause 26 amends the Judicature Act 1908 by inserting a new *section 16A*. This section provides that, where the High Court has jurisdiction to entertain an application for an injunction or specific performance, it may award damages in addition to, or in substitution for, an injunction or specific performance.

Clause 27 provides that the new *section 16A* is in substitution for section 2 of the Chancery Amendment Act 1858, and that the said section 2 shall cease to have effect as part of the laws of New Zealand after the commencement of the clause. Section 16A follows substantially section 50 of the Supreme Court Act 1981 (U.K.), which section was in substitution for section 2 of the Act of 1858.

Shipping and Seamen

Clause 29 amends the Shipping and Seamen Act 1952 by repealing the proviso to subsection (1) of section 513. The clause also provides that all Orders in Council, rules, and regulations that were made under the United Kingdom Merchant Shipping Act (as defined in the said Act of 1952) and now have effect as part of the laws of New Zealand by reason of the said proviso shall cease to have effect as part of the laws of New Zealand.

The Ministry of Transport, which administers the said Act of 1952, advises that the said proviso and all subsisting Orders in Council, rules, and regulations made thereunder can now be repealed or revoked because they have either already been revoked or have ceased to serve a useful purpose in New Zealand.

The only current United Kingdom subordinate legislation of which the Ministry is aware from its own experience is the Merchant Shipping (Registration of New Zealand Government Ships) Order 1946 (S.R. 1946/174), which is no longer used.

The Ministry points to the fact that the *British Shipping Laws Vol. 11 (Temperley—Merchant Shipping Act)*, Seventh Edition, mentions the following orders as applying in New Zealand:

- (a) Order in Council dated May 9, 1891 (SR & O. Rev. 1948, XIV, p. 99)—as amended by SR & O 1906, No. 810. Relates to recognition of colonial certificates of competency:
- (b) Order in Council dated November 26, 1886 (SR & O and SI Rev. 1948, XIV, p. 209). Relates to acceptance of colonial certificates for passenger steamers.

Clause 3 (1) of the Shipping (Recognition of Certificates of Competency) Order 1965 (S.R. 1965/73) declares the 1891 Order (as amended in 1906) to cease to have effect as part of our laws. With respect to the 1886 Order the Ministry advises that there is no need for it today. Section 214 of the Shipping and Seamen Act 1952 governs the issue of safety certificates for passenger ships. The subject is covered by an international convention and certificates issued in accordance with the convention are accepted by contracting States.

APPENDICES

APPENDIX A

ENACTMENTS, ETC., THAT CALL FOR MENTION

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1225) 9 Hen. 3, c. 29 Magna Carta			C
(1235) 20 Hen. 3— (The Statute of Merton)	Repealed	7	C
(1256) 40 Hen. 3— <i>De Anno Bisext.</i> (Leap year)	Repealed		C
(1267) 52 Hen. 3,— <i>Statute of Marlborough— Distress for rent; waste cc. 15, 23</i>			
(1275) 3 Edw. 1,—Statutes of Westminster the First	Repealed	7	C
(1276) 4 Edw. 1, St. 2— (Office of coroner)	Repealed	7	C
(Date uncertain) 17 Edw. 2, St. 1, c. 6— <i>Prerogativa Regis</i>			
(1278) 6 Edw. 1— <i>Statute of Gloucester-Waste</i>			
(1279) 7 Edw. 1—The Statute for religious men	Repealed	7	C
(1285) 13 Edw. 1, c. 1—Statute of Westminster the Second (<i>De Donis</i>)	Repealed	7	C
(1285) 13 Edw. 1, cc. 2, 14, 22, 37— <i>Statute of Westminster sec.—Waste, distress</i>			
(1285) 13 Edw. 1, Chapters 19, 23—Statute of Westminster the Second	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1285) 13 Edw. 1, cc. 34, 35, 49—Statute of Westminster the Second	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1289-90) 18 Edw. 1, St. 1— <i>Quia Emptores</i>	Preserved	7—See note as to Property Law Amendment Bill on pages xvi and xvii of this explanatory note	
(1297) 25 Edw. 1, cc. 7, 18	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	B
(1297) 25 Edw. 1, c. 29—Magna Carta—Criminal and civil justice	Preserved	6	
(1300) 28 Edw. 1, c. 11	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	C
(1301) 29 Edw. 1—(A statute for escheators)	Repealed	7	
(1305) 33 Edw. 1—An ordinance concerning conspirators	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(Date uncertain) 17 Edw. 2, St. 1, c. 6—Prerogativa Regis			
(Date uncertain) 17 Edw. II, St. 1, cc. 9, 10 (or 11, 12)—Of the Kings Prerogative	Repealed	1868, No. 16, s. 2 (N.Z.); See 1878, No. 28, s. 3 (N.Z.)	C
(Date uncertain)—Statute concerning conspirators	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(Date uncertain) Statute concerning tenants by the Curtesy of England	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(Date uncertain) Of the chattels of felons	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1326-7) 1 Edw. 3, St. 2, c. 14—(Maintenance)	Repealed	7	C
(1327) 1 Edw. 3, St. 2, cc. 12, 13			
(1327) 1 Edw. 3, St. 2, c. 16—The Justices of the Peace Act 1327	Repealed	7	C
(1328) 2 Edw. 3—(Statute of Northampton)	Repealed	7	C
(1330) 4 Edw. 3, c. 7	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1331) 5 Edw. 3, c. 9—Justice and liberty	Repealed	7	C
(1340) 14 Edw. 3, St. 1, c. 6	Repealed	7—See s. 335, Crimes Act 1961 (N.Z.)	
(1344) 18 Edw. 3, St. 2, c. 2—The Justices of the Peace Act 1344	Repealed	7	C
(1350-1) 25 Edw. 3, St. 1			
(1351) 25 Edw. 3, St. 5, c. 2—The Treason Act 1351	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1351-2) 25 Edw. 3, St. 5, c. 3—Juries	Repealed	7	C
(1351) 25 Edw. 3, St. 5, c. 4—Criminal and civil justice	Preserved	6	B
(1351-2) 25 Edw. 3, St. 5, c. 5	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1353) 27 Edw. 3, St. 1, c. 2	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1354) 28 Edw. 3, c. 3—Liberty of subject	Preserved	6	B
(1357) 31 Edw. 3, St. 1, cc. 4, 11	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1361) 34 Edw. 3, c. 1—The Justices of the Peace Act 1361	Repealed	7	C
(1361) 34 Edw. 3, c. 12	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1361) 34 Edw. 3, c. 15	Preserved	See note as to Property Law Amendment Bill on pages xvi and xvii of this explanatory note	
(1362) 36 Edw. 3, c. 15—The Pleadings in English Act 1362	Repealed	7	C
(1368) 42 Edw. 3, c. 3—Observance of due process of law	Preserved	6	B
(1368) 42 Edw. 3, c. 10	Repealed	7—See 4 and 5 Geo. 5, c. 17 (U.K.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1377) 1 Rich. 2, c. 4	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1381) 5 Rich. 2, St. 1, c. 7—The Forcible Entry Act 1381	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1383) 7 Rich. 2, c. 15	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1387-8) 11 Rich. 2, c. 10	Repealed	7	C
(1389-90) 13 Rich. 2, St. 1, c. 5	Repealed	1973, No. 119, s. 14 (N.Z.)	
(1389-90) 13 Rich. 2, St. 2, c. 1	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1391) 15 Rich. 2, c. 2	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1391) 15 Rich. 2, c. 3	Repealed	1973, No. 119, s. 14 (N.Z.)	
(1392) 16 Rich. 2, c. 5—The Statute of Praemunire	Repealed	7	C
(1392-3) 16 Rich. 2, c. 6	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1393-4) 17 Rich. 2, c. 8	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1405-6) 7 Hen. 4, c. 1	Repealed	7	C
(1411) 13 Hen. 4, c. 7	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1414) 2 Hen. 5, St. 1, c. 8	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1421) 9 Hen. 5, St. 1, c. 4	Repealed	7—See s. 335, Crimes Act 1961 (N.Z.)	
(1423) 2 Hen. 6, c. 17—(Silverware)	Repealed	7	C
(1425-6) 4 Hen. 6, c. 3	Repealed	7—See s. 335, Crimes Act 1961 (N.Z.)	
(1429) 8 Hen. 6, c. 9—The Forcible Entry Act 1429	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1429) 8 Hen. 6, cc. 12, 15	Repealed	7—See s. 335, Crimes Act 1961 (N.Z.)	
(1488-9) 4 Hen. 7, c. 20—The Collusive Actions Act 1488	Repealed	7	C
(1495) 11 Hen. 7, c. 1	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1503) 19 Hen. 7, c. 7—The Ordinances of Corporations Act 1503			
(1511-12) 3 Hen. 8, c. 11—(Physicians and surgeons)	Repealed	7	C
(1512) 4 Hen. 8, c. 8—The Privilege of Parliament Act 1512	Never in force here		C
(1529) 21 Hen. 8, cc. 4, 5	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1531) 23 Hen. 8, c. 15—(Costs)	Repealed as unnecessary	7	
(1533-4) 25 Hen. 8, c. 21—The Ecclesiastical Licences Act 1533	Present position being saved	10 (10) (e)—See note in explanatory note on <i>pages xvi and xvii</i> as to contemplated Notaries Public Bill	
(1534) 26 Hen. 8, c. 13	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1535) 27 Hen. 8, c. 24—The Jurisdiction in Liberties Act 1535	Repealed	7	C
(1535-6) 27 Hen. 8, c. 10—The Statute of Uses	Repealed	1905, No. 36, s. 121 (N.Z.)	
(1535-6) 27 Hen. 8, c. 16—The Statute of Enrolments	Repealed	7	C
(1536) 28 Hen. 8, c. 7	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1536) 28 Hen. 8, c. 15—The Offences at Sea Act 1536	Repealed	1953, No. 120, s. 7 (1) (N.Z.)	
(1536) 28 Hen. 8, c. 16—The Ecclesiastical Licences Act 1536	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1539) 31 Hen. 8, c. 1—The Partition Act 1539	Preserved	6	B
(1539) 31 Hen. 8, c. 10—The House of Lords Precedence Act 1539	Repealed	7	C
(1540) 32 Hen. 8, c. 9	Repealed	1961, No. 43, s. 412 (1) (N.Z.): See 1905, No. 36, s. 121 (N.Z.) re repeal of s. 2	
(1540) 32 Hen. 8, c. 28—Leases	Repealed	1965, No. 3, s. 34 (N.Z.): See 1878, No. 28, s. 3 (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1540) 32 Hen. 8, c. 32—The Partition Act 1540	Preserved	6	B
(1540) 32 Hen. 8, c. 34— <i>Grantees of Reversions</i>			
(1540) 32 Hen. 8, c. 37, ss. 1-3.	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1540) 32 Hen. 8, c. 37—The <i>Cestui Que Vie</i> Act 1540	Repealed	7	C
(1540) 32 Hen. 8, c. 38—The Marriage Act 1540	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1541-2) 33 Hen. 8, c. 9	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1541-2) 33 Hen. 8, c. 20	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1541) 33 Hen. 8, c. 21—The Royal Assent by Commission Act 1541	Repealed	7	C
(1541) 33 Hen. 8, c. 39—(Crown debts)	Repealed	7	C
(1542) 34 and 35 Hen. 8, c. 8—The Herbalists Act 1542	Repealed	7	C
(1543-4) 35 Hen. 8, c. 2	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1545) 37 Hen. 8, c. 9	Repealed	7—See 1868, No. 3 (N.Z.); 1878, No. 28, s. 3 (N.Z.); and 1908, No. 55, s. 2 (N.Z.)	
(1547) 1 Edw. 6, c. 12, s. 16 (or 17)	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1548) 2 and 3 Edw. 6, c. 8, s. 6	Repealed	1868, No. 16, s. 2 (N.Z.); and 1878, No. 3, s. 3 (N.Z.)	
(1548) 2 and 3 Edw. 6, c. 23	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1551-2) 5 and 6 Edw. 6, c. 4—An Act against fighting and quarrelling in churches and churchyards	Repealed	7—See s. 3c Police Offences Act 1927 (N.Z.)	
(1551) 5 and 6 Edw. 6, c. 11	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1551) 5 and 6 Edw. 6, c. 16	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1553) 1 Mar., Sess. 1, c. 1	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1553) 1 Mar., Sess. 2, c. 3	Repealed	7—See s. 3c Police Offences Act 1927 (N.Z.)	
(1553) 1 Mar., Sess. 2, c. 8	Repealed	1858, No. 24, s. 15 (N.Z.); and 1878 No. 28, s. 3 (N.Z.)	
(1554) 1 Mar., Sess. 3, c. 1—The Queen Regent's Prerogative Act 1554	Repealed	7	C
(1554) 1 and 2 Phil. and Mar., c. 10	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1558) 1 Eliz., c. 1—The Act of Supremacy	Repealed	7	C
(1562) 5 Eliz., c. 4	Repealed	1894, No. 13, s. 4 (N.Z.)	
(1562-3) 5 Eliz., c. 9	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1566) 8 Eliz., c. 2	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1571) 13 Eliz., c. 4—(Crown accountants liable for their debts)	Repealed	7—See note in Appendix C on (1541) 33 Hen. 8, c. 39	
(1571) 13 Eliz., c. 5—An Act against fraudulent deeds, gifts, alienations, etc.	Repealed	1952, No. 51, s. 155 (1) (N.Z.); see also 1951, No. 84, s. 43 (2)	
(1571) 13 Eliz., c. 8	Repealed	7—See 1868, No. 3 (N.Z.); 1878 No. 28, s. 3 (N.Z.); and 1908, No. 55, s. 2 (N.Z.)	
(1575-6) 18 Eliz., c. 5	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1584-5) 27 Eliz., c. 3—(Crown debtors)	Repealed	7—See note in Appendix C on (1541) 33 Hen. 8, c. 39	
(1584-5) 27 Eliz., c. 4—An Act against covenous and fraudulent conveyances	Repealed	1952, No. 51, s. 155 (1) (N.Z.); see also 1951, No. 84, s. 43 (2)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1586) 29 Eliz., c. 5—(Acts continuance)	Repealed	7	C
(1588-9) 31 Eliz., c. 5	Repealed	1950, No. 65, s. 35 (1) (N.Z.)	
(1588) 31 Eliz., c. 11—The Forcible Entry Act 1588	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1588) 31 Eliz., c. 12—The Sale of Horses Act 1588	Repealed	7	C
(1597) 39 Eliz., c. 18—(Acts continuance)	Repealed	7	C
(1601) 43 Eliz., c. 4—The Charitable Uses Act 1601	Repealed	7—See 10 (6)	
(1601) 43 Eliz., c. 8	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1603) 1 Ja. 1, c. 13—The Privilege of Parliament Act 1603	Never in force here		C
(1606) 3 Ja. 1, c. 1—(Observance of 5 November Act)	Repealed	7	C
(1606) 4 Ja. 1, c. 3—(Costs)	Repealed as unnecessary	7	
(1609) 7 Ja. 1, c. 5—The Public Officers Protection Act 1609	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1609) 7 Ja. 1, c. 12—(Shop-books evidence)	Repealed	7	C
(1609) 7 Ja. 1, c. 15—(Crown debtors)	Repealed	7—See note in Appendix C on (1541) 33 Hen. 8, c. 39	
(1623-4) 21 Ja. 1, c. 3—The Statute of Monopolies, ss. 1 and 6	Preserved	6	B
(1623-4) 21 Ja. 1, c. 4	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1623-4) 21 Ja. 1, c. 7	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1623-4) 21 Ja. 1, c. 8	Repealed	7	C
(1623-4) 21 Ja. 1, c. 15—The Forcible Entry Act 1623	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1623-4) 21 Ja. 1, c. 16—The Limi- tation Act 1623	Repealed	1950, No. 65, s. 35 (1) (N.Z.)	
(1623-4) 21 Ja. 1, c. 25	Repealed	7	C
(1624) 21 Ja. 1, c. 24—(Debts not to abate by reason of the death of a debtor during imprisonment)	Repealed	7	C
(1625) 1 Cha. 1, c. 1	Repealed	1884, No. 24, s. 48 (N.Z.)	
(1627) 3 Cha. 1, c. 1—The Petition of Right	Preserved	6	B
(1627) 3 Cha. 1, c. 2	Repealed	1884, No. 24, s. 48 (N.Z.)	
(1627) 3 Cha. 1, c. 4	Repealed	7—See 1878, No. 28, s. 3 (N.Z.)	
(1640) 16 Cha. 1, c. 10—The Habeas Corpus Act 1640	Preserved	6	B
(1660) 12 Cha. 2, c. 13—Usury	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1660) 12 Cha. 2, c. 14—(Observ- ance of 29 May Act)	Repealed	7—See note in Appendix C on (1606) 3 Ja. 1, c. 1	
(1660) 12 Cha. 2, c. 24—The Ten- ures Abolition Act 1660	Repealed	1968, No. 63, s. 35 (2) (N.Z.)	
(1661) 13 Cha. 2, St. 1, c. 1, s. 6— The Sedition Act 1661	Never in force here		C
(1661) 13 Cha. 2, St. 1, c. 14	Repealed	7—See 1878, No. 28, s. 3 (N.Z.)	
(1664) 16 Cha. 2, c. 7	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1666) 18 and 19 Cha. 2, c. 11—The <i>Cestui Que Vie</i> Act 1666	Repealed	7	C
(1670-71) 22 and 23 Cha. 2, c. 10	Repealed	1944, No. 19, s. 12 (2) (N.Z.)	
(1670-71) 22 and 23 Cha. 2, c. 22	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1677) 29 Cha. 2, c. 7—The Sunday Observance Act 1677	Repealed	1884, No. 24, s. 48 (N.Z.)	
(1678) 30 Cha. 2, c. 7	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1679) 31 Cha. 2, c. 2—The <i>Habeas Corpus</i> Act 1679	Preserved	6	B
(1685) 1 Ja. 2, c. 17	Repealed	1944, No. 19, s. 12 (2) (N.Z.); 1969, No. 52, s. 84 (2) (N.Z.)	
(1688) 1 Will. and Mar., c. 18—The Toleration Act 1688	Repealed	7	C
(1688) 1 Will. and Mar., c. 30—The Royal Mines Act 1688: section 3	Repealed	7	C
(1688) 1 Will. and Mar., Sess. 2, c. 2—The Bill of Rights	Preserved	6	B
(1689) 2 Will. and Mar., Sess. 1, c. 5— <i>Distress for rent</i>			
(1692) 4 Will. and Mar., c. 16	Repealed	7	C
(1692) 4 Will. and Mar., c. 18	Repealed	7	C
(1692) 4 Will. and Mar., c. 24	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1693) 5 Will. and Mar., c. 6—The Royal Mines Act 1693	Repealed	7	C
(1694) 5 Will. and Mar., c. 13—(Pardon of felony)	Repealed as obsolete	7	
(1695) 7 and 8 Will. 3, c. 3—The Treason Act 1695	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1696) 8 and 9 Will. 3, c. 8—(Silverware)	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1696) 8 and 9 Will. 3, c. 11—The <i>Administration of Justice Act 1696</i>			
(1697) 9 Will. 3, c. 7—(Squibbs, Serpents, and other Fire-works)	Repealed	1983, No. 71, s. 3 (N.Z.)	
(1697) 9 Will. 3, c. 15	Repealed	1890, No. 10, s. 28 (N.Z.)	
(1697) 9 Will. 3, c. 17	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1697) 9 Will. 3, c. 35	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1698) 10 Will. 3, c. 12	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1698) 10 Will. 3, c. 22—The Posthumous Children Act 1698	Repealed	7	C
(1698) 10 Will. 3, c. 23	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1698) 11 Will. 3, c. 7—An Act for the most effectual suppression of piracy	Repealed	1893, No. 56, s. 422; and 1961, No. 43, s. 412 (1) (N.Z.)	
(1698) 10 and 11 Will. 3, c. 23—(Prohibition of Lotteries)	Repealed	7	C
(1698-9) 11 Will. 3, c. 12—Crimes by Governors of Colonies	Repealed	7	C
(1700) 12 and 13 Will. 3, c. 2—The Act of Settlement	Preserved in part	6	B
(1702) 1 Anne, c. 2—The Demise of the Crown Act 1702	Repealed	7	C
(1702) 1 Anne, St. 2, c. 9	Repealed	1957, No. 88, s. 31 (1) (N.Z.)	
(1702) 1 Anne, St. 2, c. 21—The Treason Act 1702	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1704) 3 and 4 Anne, c. 8	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1705) 4 and 5 Anne, c. 3 (or 16)— <i>The Administration of Justice Act 1705</i>			
(1707) 6 Anne, c. 41 (or 6 Anne, c. 7)— <i>The Succession to the Crown Act 1707: section 9</i>			

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1707) 6 Anne, c. 72— <i>The Cestui Que Vie Act 1707</i>	Repealed	7	C
(1708) 7 Anne, c. 12— <i>The Diplomatic Privileges Act 1708</i>	Repealed	7	C
(1708) 7 Anne, c. 21— <i>The Treason Act 1708</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1709) 8 Anne, c. 18 (or 14) <i>The Landlord and Tenant Act 1709</i>			
(1710) 9 Anne, c. 6— <i>The Lotteries Act 1710</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1710) 9 Anne, c. 19 (or 14)— <i>The Gaming Act 1710</i>	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1710) 9 Anne, c. 25 (or 20)— <i>The Municipal Offices Act 1710</i>	Repealed	7	C
(1714) 1 Geo. 1, St. 2, c. 5	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1717) 4 Geo. 1, c. 11— <i>The Piracy Act 1717</i>	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1719–20) 6 Geo. 1, c. 11— <i>The Plate Duty Act 1719</i>	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1721) 8 Geo. 1, c. 2— <i>The Lotteries Act 1721</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1721) 8 Geo. 1, c. 24— <i>The Piracy Act 1721</i>	Repealed	1973, No. 119, s. 14 (N.Z.)	
(1722) 9 Geo. 1, c. 19— <i>The Lotteries Act 1722</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1725) 12 Geo. 1, c. 29	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1725) 12 Geo. 1, c. 34	Repealed	1894, No. 13, s. 4 (N.Z.)	
(1728) 2 Geo. 2, c. 22—(Set-off): Title and section 13	Preserved	6	B
(1728) 2 Geo. 2, c. 25	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1728) 2 Geo. 2, c. 28— <i>The Unlawful Games Act 1728</i>	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1730) 4 Geo. 2, c. 28— <i>The Landlord and Tenant Act 1730</i>			
(1730 or 1731) 4 Geo. 2, c. 26— <i>The Proceedings in Courts of Justice Act</i>	Repealed	See note in Appendix C on the Pleadings in English Act 1362 (36 Edw. 3, c. 15)	
(1731) 5 Geo. 2, c. 27—(Process for small debts)	Repealed	7	C
(1732) 6 Geo. 2, c. 35— <i>The Lotteries Act 1732</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1733) 7 Geo. 2, c. 8— <i>Sir John Barnard's Act</i>	Repealed	7 (2)	C
(1734) 8 Geo. 2 c. 13	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1734) 8 Geo. 2, c. 24—(Set-off): Title and sections 4 and 5	Preserved	6	B
(1735) 9 Geo. 2, c. 5— <i>The Witchcraft Act 1735</i>	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1735) 9 Geo. 2, c. 36— <i>The Charitable Uses Act 1735</i>	Not in force here		C
(1735) 8 Geo. 2, c. 24—(Debt. Set-off.)			
(1736) 10 Geo. 2, c. 8	Repealed	7	C
(1737) 11 Geo. 2, c. 19— <i>The Distress for Rent Act 1737</i>			
(1737) 11 Geo. 2, c. 24— <i>The Parliamentary Privilege Act 1737</i>	Never in force here		C

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1738-39) 12 Geo. 2, c. 26—The Plate (Offences) Act 1738	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1738) 12 Geo. 2, c. 28—The Gaming Act 1738	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1739) 13 Geo. 2, c. 19—The Gaming Act 1739	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1741) 14 Geo. 2, c. 20, s. 9—The Common Recoveries Act 1741	Repealed	7	C
(1741-2) 15 Geo. 2, c. 20—The Gold and Silver Thread Act 1741	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1741-2) 15 Geo. 2, c. 30	Repealed	1868, No. 16, s. 2 (N.Z.); and 1878, No. 28, s. 3 (N.Z.)	
(1742) 16 Geo. 2, c. 31—The Prison (Escape) Act 1742	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1744) 18 Geo. 2, c. 30—The Piracy Act 1744	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1744) 18 Geo. 2, c. 34—The Gaming Act 1744	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1745) 19 Geo. 2, c. 21—The Profane Oaths Act 1745	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1745) 19 Geo. 2, c. 37—The Marine Insurance Act 1745	Repealed	1907, No. 24, s. 92 (N.Z.)	
(1750) 24 Geo. 2, c. 23—The Calendar (New Style) Act 1750	Preserved in part	6	B
(1750) 24 Geo. 2, c. 40	Repealed	1881, No. 21, s. 230 (N.Z.)	
(1750-1) 24 Geo. 2, c. 44	Repealed	7	C
(1751) 25 Geo. 2, c. 36—The Disorderly Houses Act 1751	Repealed	7	C
(1751-52) 25 Geo. 2, c. 37	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1758) 32 Geo. 2, c. 28—The Debtors Imprisonment Act 1758	Repealed	7	C
(1763) 4 Geo. 3, c. 10—Recognisances	Repealed as obsolete	7	
(1765) 5 Geo. 3, c. 21	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1766) 6 Geo. 3, c. 53—The Treason Act 1766	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1766) 7 Geo. 3, c. 38—The Engraving Copyright Act 1766	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1769) 9 Geo. 3, c. 16—The Crown Suits Act 1769	Repealed	1950, No. 65, s. 35 (1) (N.Z.)	
(1770) 10 Geo. 3, c. 50—The Parliamentary Privilege Act 1770	Never in force here		C
(1772) 12 Geo. 3, c. 11—The Royal Marriages Act 1772: sections 1 and 2	Preserved	6	B
(1772) 12 Geo. 3, c. 24—The Dockyards, etc., Protection Act 1772	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1773) 13 Geo. 3, c. 52—Local (Plate Assay—Sheffield and Birmingham)	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1774) 14 Geo. 3, c. 48—The Life Assurance Act 1774		See section 8 Insurance Law Reform Act 1985	
(1774) 14 Geo. 3, c. 78—The Fires Prevention (Metropolis) Act 1774: sections 83, 86	Preserved	6	B
(1775) 15 Geo. 3, c. 39—The Oaths Act 1775	Repealed	7	C

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1777) 17 Geo. 3, c. 57—The Prints Copyright Act 1777	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1780) 21 Geo. 3, c. 49—The Sunday Observance Act 1780	Repealed	1952, No. 40, s. 3 (2) (N.Z.)	
(1782) 22 Geo. 3, c. 75—The Colonial Leave of Absence Act 1782	Repealed	7	C
(1784) 24 Geo. 3, c. 84—(Ordination of Aliens)	Repealed	See note in Appendix C on (1819) 59 Geo. 3, c. 60 (Ordination for Colonies)	
(1785) 25 Geo. 3, c. 35—(Crown Debtors)	Repealed	7—See note in Appendix C on (1541) 33 Hen. 8, c. 39	
(1786) 26 Geo. 3, c. 84—(Consecration of Bishops abroad)	Repealed	7—See note in Appendix C on (1819) 59 Geo. 3, c. 60 (Ordination for Colonies)	
(1787-8) 28 Geo. 3, c. 7—The Gold and Silver Thread Act 1788	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1788) 28 Geo. 3, c. 56—The Marine Insurance Act 1788	Repealed	7	C
(1790) 30 Geo. 3, c. 31—The Silver Plate Act 1790	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1790) 30 Geo. 3, c. 48	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1792) 32 Geo. 3, c. 56—The Servant's Characters Act 1792	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1792) 32 Geo. 3, c. 60—The Libel Act 1792	Repealed	1954, No. 46, s. 23 (2) (N.Z.)	
(1793) 33 Geo. 3, c. 13—The Acts of Parliament (Commencement) Act 1793	Repealed	7—See s. 10 Acts Interpretation Act 1924 (N.Z.)	
(1793) 33 Geo. 3, c. 67	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1795) 36 Geo. 3, c. 7—The Treason Act 1795	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1796) 36 Geo. 3, c. 60—The Metal Button Act 1796	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1797) 37 Geo. 3, c. 70	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1796-7) 37 Geo. 3, c. 123	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1797) 37 Geo. 3, c. 126	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1797) 37 Geo. 3, c. 127—(Meeting of Parliament)	Repealed	7	C
(1798) 38 Geo. 3, c. 69—The Gold Plate (Standard) Act 1798	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1798) 38 Geo. 3, c. 87—The Administration of Estates Act 1798	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1799) 39 Geo. 3, c. 37—The Offences at Sea Act 1799	Repealed	1953, No. 120, s. 7 (1) (N.Z.)	
(1799) 39 Geo. 3, c. 79	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1799-1800) 39 and 40 Geo. 3, c. 14	Repealed	7	C
(1800) 39 and 40 Geo. 3, c. 42	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1800) 39 and 40 Geo. 4, c. 54—(Sale of assets of Crown debtors and their sureties)	Repealed	7—See note in Appendix C on (1541) 33 Hen. 8, c. 39	
(1800) 39 and 40 Geo. 3, c. 93	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1800) 39 and 40 Geo. 3, c. 94	Repealed	1868, No. 16, s. 2 (N.Z.); 1878 No. 28, s. 3 (N.Z.)	
(1800) 39 and 40 Geo. 3, c. 98—The Accumulations Act 1800	Repealed	1952, No. 51, s. 155 (1) (N.Z.)	
(1801) 41 Geo. 3, c. 57	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1801) 41 Geo. 3, c. 79—The Public Notaries Act 1801	Present position being saved	10 (10) (f)—See note in explanatory note on <i>page xvi</i> as to contemplated Notaries Public Bill	
(1802) 42 Geo. 3, c. 85—The Criminal Jurisdiction Act 1802	Repealed	7	C
(1802) 42 Geo. 3, c. 119	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1803) 43 Geo. 3, c. 139	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1803) 43 Geo. 3, c. 140—The <i>Habeas Corpus</i> Act 1803	Preserved	6	B
(1804) 44 Geo. 3, c. 102—The <i>Habeas Corpus</i> Act 1804	Repealed	7	C
(1806) 46 Geo. 3, c. 37—The Witnesses Act 1806	Substituted	23	
(1806) 46 Geo. 3, c. 54—The Offences at Sea Act 1806	Repealed	1953, No. 120, s. 7 (1) (N.Z.)	
(1806) 46 Geo. 3, c. 148—The Lotteries Act 1806	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1808) 48 Geo. 3, c. 58—The Bail Bonds Act 1808	Repealed	7	C
(1808) 48 Geo. 3, c. 106	Repealed as unnecessary	7	
(1809) 49 Geo. 3, c. 126—The Sale of Offices Act 1809	Repealed	7	C
(1810) 50 Geo. 3, c. 59—The Embezzlement by Collectors Act 1810	Repealed	7	C
(1812) 52 Geo. 3, c. 101—The Charities Procedure Act 1812	Repealed	7	C
(1812) 52 Geo. 3, c. 104	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1812) 52 Geo. 3, c. 155—The Places of Religious Worship Act 1812	Repealed	7	C
(1812) 52 Geo. 3, c. 156—The Prisoners of War (Escape) Act 1812	Repealed	1961, No. 43, s. 412 (N.Z.)	
(1813–14) 54 Geo. 3, c. 146	Repealed	1870, No. 1, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.); 1893, No. 56, s. 422 (N.Z.). See s. 14, Crimes Act 1961 (N.Z.)	
(1814) 54 Geo. 3, c. 56—The Sculpture Copyright Act 1814	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1814) 54 Geo. 3, c. 61—The Public Office in Colony Act 1814	Repealed	7	C
(1815) 55 Geo. 3, c. 184—The Stamp Act 1815	Repealed	7	C
(1816) 56 Geo. 3, c. 100—The <i>Habeas Corpus</i> Act 1816	Preserved	6	B
(1816) 56 Geo. 3, c. 138—The Pilory Abolition Act 1816	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1817) 57 Geo. 3, c. 6—The Treason Act 1817	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1817) 57 Geo. 3, c. 19	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1817) 57 Geo. 3, c. 52	Repealed	1867, No. 13, s. 2 (N.Z.)	
(1817) 57 Geo. 3, c. 53—The Murders Abroad Act 1817	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1818) 58 Geo. 3, c. 29—(Fees for pardons)	Repealed as obsolete	7	
(1818) 58 Geo. 3, c. 30—(Costs)	Repealed as unnecessary	7	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1819) 59 Geo. 3, c. 7—Cutlery Trade	Repealed	7—See note in Appendix C on 2 Hen. 6, c. 17 (1423)	
(1819) 59 Geo. 3, c. 60—(Ordination for Colonies)	Repealed	7	C
(1819) 59 Geo. 3, c. 69	Repealed	33 and 34 Vict., c. 90, s. 31 (U.K.)	
(1819) 60 Geo. 3 and 1 Geo. 4, c. 1—The Unlawful Drilling Act 1819	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1819) 60 Geo. 3 and 1 Geo. 4, c. 4—The Pleading in Misdemeanor Act 1819	Repealed	7	C
(1819) 60 Geo. 3 and 1 Geo. 4, c. 8—The Criminal Libel Act 1819	Repealed	7	C
(1820) 1 Geo. 4, c. 57—The Whip- ping Act 1820	Repealed	1961, No. 43 s. 412 (1) (N.Z.)	
(1820) 1 Geo. 4, c. 92	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1821) 1 and 2 Geo. 4, c. 78	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1821) 1 and 2 Geo. 4, c. 88	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1821) 1 and 2 Geo. 4, c. 121—The Commissariat Accounts Act 1821	Repealed	7	C
(1823) 4 Geo. 4, c. 35—The Statu- tory Commissioners Act 1823	Repealed	7	C
(1823) 4 Geo. 4, c. 48—The Judg- ment of Death Act 1823	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1823) 4 Geo. 4, c. 54	Repealed	1867, No. 8, s. 2 (N.Z.); and 1878, No. 28, s. 3 (N.Z.)	
(1823) 4 Geo. 4, c. 60—The Lotter- ies Act 1823	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1823) 4 Geo. 4, c. 83	Repealed	1890, No. 11 s. 16 (N.Z.)	
(1823) 4 Geo. 4, c. 91	Repealed	1946, No. 8, s. 7 (2) (N.Z.)	
(1824) 5 Geo. 4, c. 113—The Slave Trade Act 1824	Repealed	1961, No. 43, s. 412 (N.Z.)	
(1825) 6 Geo. 4, c. 50—The Juries Act 1825	Repealed	7	C
(1825) 6 Geo. 4, c. 53	Repealed	1868, No. 16, s. 2 (N.Z.); and 1878, No. 28, s. 3 (N.Z.)	
(1825) 6 Geo. 4, c. 69—The Trans- portation Act 1825	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1825) 6 Geo. 4, c. 94	Repealed	1890, No. 11, s. 16 (N.Z.)	
(1825) 6 Geo. 4, c. 129	Repealed	1894, No. 13, s. 4 (N.Z.)	
(1826) 7 Geo. 4, c. 64	Repealed	1893, No. 56 s. 422 (N.Z.)	
(1827) 7 and 8 Geo. 4, c. 15	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1827) 7 and 8 Geo. 4, c. 18	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1827) 7 and 8 Geo. 4, c. 28—The Criminal Law Act 1827	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1827) 7 and 8 Geo. 4, c. 29	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1827) 7 and 8 Geo. 4, c. 30	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1828) 9 Geo. 4, c. 14—The Statute of Frauds Amendment Act 1828	Repealed	7	C
(1828) 9 Geo. 4, c. 31	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1828) 9 Geo. 4, c. 32—The Civil Rights of Convicts Act 1828	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1828) 9 Geo. 4, c. 83—The Aust- ralian Courts Act 1828	Repealed	1973, No. 119, s. 14 (1) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1830) 11 Geo. 4 and 1 Will. 4, c. 36—(Contempt of Court)	Repealed	7	C
(1830) 11 Geo. 4 and 1 Will. 4, c. 40	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1830) 11 Geo. 4 and 1 Will. 4, c. 46—The Illusory Appointments Act 1830	Preserved	See note as to Property Law Amendment Bill on pages xvi and xvii of this explanatory note	
(1830) 11 Geo. 4 and 1 Will. 4, c. 47—The Debts Recovery Act 1830	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1830) 11 Geo. 4 and 1 Will. 4, c. 65—The Infants Property Act 1830	Repealed	7	C
(1830) 11 Geo. 4 and 1 Will. 4, c. 66	Repealed	7—1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3, (N.Z.)	
(1830) 11 Geo. 4 and 1 Will. 4, c. 68—The Carriers Act 1830	Repealed	1948, No. 66, s. 10 (N.Z.)	
(1830) 1 Will. 4, c. 4—The Colonial Offices Act 1830	Repealed	7	C
(1831) 1 Will. 4, c. 21—(Mandamus, Prohibition)	Repealed	7	C
(1831) 1 Will. 4, c. 22—The Evidence on Commission Act 1831	Repealed	1962, No. 34, s. 5 (N.Z.)	
(1831–2) 1 and 2 Will. 4, c. 58—Interpleader—(Mandamus)	Repealed	7	C
(1832) 2 and 3 Will. 4, c. 4	Repealed	1867, No. 8, s. 3 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1832) 2 and 3 Will. 4, c. 34	Repealed	1867, No. 8, s. 1 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1832) 2 and 3 Will. 4, c. 51	Repealed	26 and 27 Vict., c. 24, s. 24 (U.K.)	
(1832) 2 and 3 Will. 4, c. 71—The Prescription Act 1832	Preserved	6	B
(1832) 2 and 3 Will. 4, c. 75	Repealed	1867, No. 8, s. 2 (N.Z.)	
(1832) 2 and 3 Will. 4, c. 98	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1832) 2 and 3 Will. 4, c. 123	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 26, s. 3 (N.Z.)	
(1833) 3 and 4 Will. 4, c. 15—The Dramatic Copyright Act 1833	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1833) 3 and 4 Will. 4, c. 27—The Real Property Limitation Act 1833	Repealed	1950, No. 65, s. 35 (1) (N.Z.)	
(1833) 3 and 4 Will. 4, c. 41—The Judicial Committee Act 1833, except sections 22 to 24	Preserved	6	B
(1833) 3 and 4 Will. 4, c. 42—The Civil Procedure Act 1833			
(1833) 3 and 4 Will. 4, c. 44	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1833) 3 and 4 Will. 4, c. 49—(Quakers and Moravians)	Repealed	7	C
(1833) 3 and 4 Will. 4, c. 70—The Public Notaries Act 1833	Present position being saved	See note in explanatory note on page xvi on contemplated Notaries Public Bill	
(1833) 3 and 4 Will. 4, c. 73—The Slavery Abolition Act 1833	Repealed	7—See 1961, No. 43, s. 98	
(1833) 3 and 4 Will. 4, c. 74—The Fines and Recoveries Act 1833			C
(1833) 3 and 4 Will. 4, c. 104—The Administration of Estates Act 1833	Repealed	1969, No. 52 s. 84 (2) (N.Z.)	
(1833) 3 and 4 Will. 4, c. 105—The Dower Act 1833	Repealed	1905, No. 36, s. 121 (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1833) 3 and 4 Will. 4, c. 106—The Inheritance Act 1833	Repealed	7	C
(1834) 4 and 5 Will. 4, c. 26	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1835) 5 and 6 Will. 4, c. 24—The Naval Enlistment Act 1835	Repealed	7	C
(1835) 5 and 6 Will. 4, c. 41—The Gaming Act 1835	Repealed	1977, No. 84, s. 142 (2) (N.Z.)	
(1835) 5 and 6 Will. 4, c. 54—The Marriage Act 1835	Repealed	7	C
(1835) 5 and 6 Will. 4, c. 62—The Statutory Declarations Act 1835	Repealed	1957, No. 88, s. 31 (1) (N.Z.)	
(1835) 5 and 6 Will. 4, c. 63—(Weights and Measures)	Repealed	7—See Weights and Measures Act 1925 (N.Z.)	
(1835) 5 and 6 Will. 4, c. 65—The Lectures Copyright Act 1835	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1835) 5 and 6 Will. 4, c. 71—(Charities inquiries)	Repealed	7—See Charitable Trusts Act 1957 (N.Z.)	
(1835) 5 and 6 Will. 4, c. 81	Repealed	7—1867, No. 8, s. 2 (N.Z.)	
(1835) 5 and 6 Will. 4, c. 83 (Patents)	Repealed	(1860) No. 14, s. 12—See 1878, No. 28, s. 3 (N.Z.)	
(1836) 6 and 7 Will. 4, c. 4	Repealed	7—1867, No. 8, s. 2 (N.Z.)	
(1836) 6 and 7 Will. 4, c. 30	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1836) 6 and 7 Will. 4, c. 58	Repealed	1883, No. 8, s. 97 (N.Z.)	
(1836) 6 and 7 Will. 4, c. 59—The Prints and Engravings Copyright Act 1836	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1836) 6 and 7 Will. 4, c. 66—The Lotteries Act 1836	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1836) 6 and 7 Will. 4, c. 111—The Previous Convictions Act 1836	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1836) 6 and 7 Will. 4, c. 114—The Trials for Felony Act 1836	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 26—The Wills Act 1837	Preserved	6	B
(1837) 7 Will. 4 and 1 Vict., c. 84	Repealed	7—1867, No. 8, s. 2 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 85	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 86	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 87	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 88	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 89	Repealed	1867, No. 8, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 90	Repealed	1867, No. 67, s. 2 (N.Z.); 1893, No. 56, s. 422 (N.Z.)	
(1837) 7 Will. 4 and 1 Vict., c. 91—The Punishment of Offences Act 1837	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1838) 1 and 2 Vict., c. 14	Repealed	1868, No. 16, s. 2 (N.Z.)	
(1838) 1 and 2 Vict., c. 45			
(1838) 1 and 2 Vict., c. 45—(Bail)	Repealed as obsolete	7	
(1838) 1 and 2 Vict., c. 74	Repealed	1867, No. 13, s. 2 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1838) 1 and 2 Vict., c. 105—The Oaths Act 1838	Repealed	1957, No. 88, s. 31 (1) (N.Z.)	
(1838) 1 and 2 Vict., c. 110—The Judgments Act 1838	Repealed	7	C
(1839) 2 and 3 Vict., c. 11—The Judgments Act 1839	Repealed	7	C
(1839) 2 and 3 Vict., c. 54	Repealed	1882, No. 29, s. 41 (N.Z.)	
(1839) 2 and 3 Vict., c. 60—The Debts Recovery Act 1839	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1840) 3 and 4 Vict., c. 62	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1840) 3 and 4 Vict., c. 65—The Admiralty Court Act 1840	Repealed	1873, No. 119, s. 14 (N.Z.)	
(1841) 4 and 5 Vict., c. 56	Repealed	1891, No. 8, s. 3 (N.Z.). See English Acts Ordinance 1845, No. 8 (N.Z.)	
(1841) 5 and 6 Vict., c. 36	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1842) 5 and 6 Vict., c. 45—The Copyright Act 1842	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1842) 5 and 6 Vict., c. 51—The Treason Act 1842	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1843) 6 and 7 Vict., c. 10	Repealed	1867, No. 8, s. 3 (N.Z.); 1878, No. 28, s. 3 (N.Z.). See 1845, No. 8 (N.Z.)	
(1843) 6 Vict., c. 10	Repealed	See 1867, No. 8, s. 3 (N.Z.)	
(1843) 6 and 7 Vict., c. 22—The (Colonies) Evidence Act 1843	Repealed	1957, No. 88, s. 31 (1) (N.Z.)	
(1843) 6 and 7 Vict., c. 34	Repealed	44 and 45 Vict., c. 69, s. 41 (U.K.)	
(1843) 6 and 7 Vict., c. 38—The Judicial Committee Act 1843	Preserved	6	B
(1843) 6 and 7 Vict., c. 67— <i>Mandamus</i>			
(1843) 6 and 7 Vict., c. 85—The Evidence Act 1843	Repealed	7	C
(1843) 6 and 7 Vict., c. 90—The Public Notaries Act 1843	Present position being saved	See note in explanatory note on page xvi on contemplated Notaries Public Bill	
(1843) 6 and 7 Vict., c. 94—The Foreign Jurisdiction Act 1843	Repealed	53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890 (U.K.)	
(1843) 6 and 7 Vict., c. 96—The Libel Act 1843	Repealed	1901, No. 56, s. 8 (N.Z.). See English Acts Ordinance 1845, No. 8 (N.Z.)	
(1843) 6 and 7 Vict., c. 98—The Slave Trade Act 1843	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1844) 7 and 8 Vict., c. 2—The Admiralty Offences Act 1844	Repealed	1893, No. 56, s. 42 (N.Z.); See also 1953, No. 120, s. 7 (N.Z.)	
(1844) 7 and 8 Vict., c. 12—The International Copyright Act 1844	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1844) 7 and 8 Vict., c. 24—(Fore-stalling, etc., restraint of trade)	Repealed	7	C
(1844) 7 and 8 Vict., c. 49—The Post Office (Duties) Act 1844	Repealed	7—See Part III Post Office Act 1949 (N.Z.)	
(1844) 7 and 8 Vict., c. 62	Repealed	1867, No. 8, s. 3 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1844) 7 and 8 Vict., c. 69—The Judicial Committee Act 1844	Preserved	6	B
(1845) 8 and 9 Vict., c. 16—The Companies Clauses Consolidation Act 1845	Repealed	7	C
(1845) 8 and 9 Vict., c. 113—The Evidence Act 1845	Repealed	1905, No. 16, s. 53 (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1846) 9 and 10 Vict., c. 24	Repealed	1891, No. 8, s. 3 (N.Z.)	
(1846) 9 and 10 Vict., c. 25 (Malicious injury)	Repealed	1878, No. 28, s. 3 (N.Z.)	C
(1846) 9 and 10 Vict., c. 62	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1846) 9 and 10 Vict., c. 82—The New Zealand Company Act 1846	Repealed	(1875) 39 and 40 Vict., c. 66 (U.K.)	
(1846) 9 and 10 Vict., c. 93—The Fatal Accidents Act 1846	Repealed	1880, No. 15, s. 11 (N.Z.)	
(1847) 10 and 11 Vict., c. 17—The Waterworks Clauses Act 1847	Repealed	7—See note in Appendix C on (1845) 8 and 9 Vict., c. 16	
(1847) 10 and 11 Vict., c. 62—The Naval Deserters Act 1847	Repealed	7	C
(1847) 10 and 11 Vict., c. 66	Repealed	1867, No. 8, s. 3 (N.Z.); 1878, No. 28, s. 3 (N.Z.)	
(1847) 10 and 11 Vict., c. 95—The Colonial Copyright Act 1847	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1847) 10 and 11 Vict., c. 112—The New Zealand Company's Colonisation Act 1847	Repealed	(1894) 57 and 58 Vict., c. 56 (U.K.)	
(1848) 11 and 12 Vict., c. 12—The Treason Felony Act 1848	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1848) 11 and 12 Vict., c. 42	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1848) 11 and 12 Vict., c. 43	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1848) 11 and 12 Vict., c. 44	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1848) 11 and 12 Vict., c. 46	Repealed	1878, No. 28, s. 3 (N.Z.); 1893, No. 56, s. 422 (N.Z.)	
(1848) 11 and 12 Vict., c. 87—The Debts Recovery Act 1848	Repealed	1883, No. 29, s. 97 (N.Z.)	
(1849) 12 and 13 Vict., c. 68—The Consular Marriage Act 1849	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1849) 12 and 13 Vict., c. 79—The New Zealand Company Act 1849	Repealed	(1894) 57 and 58 Vict., c. 56 (U.K.)	
(1849) 12 and 13 Vict., c. 96—The Admiralty Offences (Colonial) Act 1849	Repealed	1953, No. 120, s. 7 (1) (N.Z.)	
(1850) 13 and 14 Vict., c. 21—An Act for shortening the language used in Acts of Parliament	Repealed	52 and 53 Vict., c. 63—The Interpretation Act 1889, s. 41 (U.K.)	
(1850) 13 and 14 Vict., c. 26—The Piracy Act 1850: section 5	Preserved	6	B
(1850) 13 and 14 Vict., c. 60—The Trustee Act 1850	Repealed	7—1883, No. 30, s. 3 (N.Z.)	
(1850) 13 and 14 Vict., c. 70—The Canterbury Settlements Lands Act 1850	Obsolete	See 15 and 16 Vict., c. 72, s. 76 (U.K.)—Canterbury Ordinance 1855, Sess. 4, No. 6	
(1851) 14 and 15 Vict., c. 19	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1851) 14 and 15 Vict., c. 25—The Landlord and Tenant Act 1851	Repealed		
(1851) 14 and 15 Vict., c. 83—The Court of Chancery Act 1851	Part of section 16 preserved	6	B
(1851) 14 and 15 Vict., c. 84—(Canterbury Association)	Obsolete	See 15 and 16 Vict., c. 72, s. 76 (U.K.); Canterbury Ordinance 1855, Sess. 4, No. 6	
(1851) 14 and 15 Vict., c. 86—(New Zealand Company's Settlements)	Repealed	7	C
(1851) 14 and 15 Vict., c. 99—The Evidence Act 1851	Repealed	1952, No. 50, s. 8 (4) (a) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1851) 14 and 15 Vict., c. 100	Repealed	1893, No. 56, s. 422 (N.Z.)	
(1852) 15 and 16 Vict., c. 12—The International Copyright Act 1852	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1852) 15 and 16 Vict., c. 24—The Wills Amendment Act 1852	Preserved	6—See the English Laws Act 1908, s. 3 (N.Z.)	
(1852) 15 and 16 Vict., c. 26—The Foreign Deserters Act 1852	Repealed	57 and 58 Vict., c. 60—The Mer- chant Shipping Act 1894, c. 60, s. 745 (U.K.)	
(1852) 15 and 16 Vict., c. 39—The Crown Revenues (Colonies) Act 1852	Repealed	7	C
(1852) 15 and 16 Vict., c. 55	Repealed	1883, No. 30, s. 3 (N.Z.)	
(1852) 15 and 16 Vict., c. 72— The New Zealand Constitution Act	Preserved	6—See R.S. Vol. 10, p. 453	
(1852) 15 and 16 Vict., c. 83	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1853) 16 and 17 Vict., c. 48—The Coinage (Colonial Offences) Act 1853	Repealed	1961, No. 43, s. 412 (1)	
(1853) 16 and 17 Vict., c. 69—The Naval Enlistment Act 1853	Repealed	7	C
(1853) 16 and 17 Vict., c. 73—The Naval Volunteers Act 1853	Repealed	7	C
(1853) 16 and 17 Vict., c. 83	Repealed	7	C
(1854) 17 and 18 Vict., c. 24 (or 113)—An Act to amend the law relating to the administration of the estates of deceased persons	Repealed	1883, No. 29, s. 97 (N.Z.)	
(1854) 17 and 18 Vict., c. 104—The Merchant Shipping Act 1854	Repealed	57 and 58 Vict., c. 60—The Mer- chant Shipping Act 1894, s. 745 (U.K.)	
(1854) 17 and 18 Vict., c. 113—The Real Estate Charges Act 1854	Repealed	1883, No. 29, s. 97 (N.Z.)	
(1855) 18 and 19 Vict., c. 43	Repealed	1883, No. 29, s. 97 (N.Z.)	
(1855) 18 and 19 Vict., c. 91—The Merchant Shipping Act (Amend- ment) Act 1855	Repealed	57 and 58 Vict., c. 60—The Mer- chant Shipping Act 1894, s. 745 (U.K.)	
(1855) 18 and 19 Vict., c. 111—(Bills of Lading)	Repealed	1880, No. 12, s. 98 (N.Z.)	
(1855) 18 and 19 Vict., c. 119—The Passengers Act 1855	Repealed	57 and 58 Vict., c. 60—The Mer- chant Shipping Act 1894, s. 745 (U.K.)	
(1856) 19 and 20 Vict., c. 113—The Foreign Tribunals Evidence Act 1856	Repealed	1962, No. 34, s. 5 (N.Z.)	
(1857) 20 and 21 Vict., c. 39—The Colonial Attorneys Relief Act	Repealed	63 and 64 Vict., c. 14—The Colonial Solicitors Act 1900 (U.K.)	
(1857) 21 and 22 Vict., c. 51—The New Zealand Loan Guarantee Act 1857	Expired		C
(1857) 20 and 21 Vict., c. 52—The New Zealand Company's Claims Act 1857	Repealed	(1892) 55 and 56 Vict., c. 19 (U.K.)	
(1857) 20 and 21 Vict., c. 53—The New Zealand Constitution (Amendment) Act 1857	Repealed	1947, c. 4, s. 1 (U.K.)	
(1857) 20 and 21 Vict., c. 77—The Court of Probate Act 1857	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1858) 21 and 22 Vict., c. 27— <i>The Chancery Amendment Act 1858</i>	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1858) 21 and 22 Vict., c. 47	Repealed	7	C
(1858) 21 and 22 Vict., c. 90— <i>The Medical Act (1858)</i>	Repealed	1969, No. 52, s. 84 (2) (N.Z.)	
(1858) 21 and 22 Vict., c. 95— <i>The Court of Probate Act 1858</i>	Repealed	1962, No. 34, s. 5 (N.Z.)	
(1859) 22 Vict., c. 20— <i>The Evidence by Commission Act 1859</i>	Repealed	1878, No. 28, s. 3 (N.Z.)	
(1859) 22 Vict., c. 33	Repealed	1957, No. 88, s. 31 (1) (N.Z.)	
(1859) 22 and 23 Vict., c. 12— <i>The Colonial Affidavits Act 1859</i>	Repealed	7	C
(1859) 22 and 23 Vict., c. 40— <i>The Royal Naval Reserve (Volunteer) Act 1859</i>	Repealed	6	B
(1859) 22 and 23 Vict., c. 63— <i>The British Law Ascertainment Act 1859</i>	Preserved	1953, No. 120, s. 7 (1) (N.Z.)	
(1860) 23 and 24 Vict., c. 122— <i>The Admiralty Offences (Colonial) Act 1860</i>	Repealed	1973, No. 119, s. 14 (N.Z.)	
(1861) 24 and 25 Vict., c. 10— <i>The Admiralty Court Act 1861</i>	Repealed	1961, No. 34, s. 5 (N.Z.)	
(1861) 24 and 25 Vict., c. 11— <i>The Foreign Law Ascertainment Act 1861</i>	Repealed	57 and 58 Vict., c. 60— <i>The Merchant Shipping Act 1894</i> , s. 745 (U.K.)	
(1861) 24 and 25 Vict., c. 52— <i>The Australian Passengers Act 1861</i>	Repealed	7	C
(1861) 24 and 25 Vict., c. 114— <i>The Wills Act 1861</i>	Repealed	7	C
(1861) 24 and 25 Vict., c. 121— <i>The Domicile Act 1861</i>	Repealed	7	C
(1862) 25 and 26 Vict., c. 20— <i>The Habeas Corpus Act 1862</i>	Repealed	7	C
(1862) 25 and 26 Vict., c. 48— <i>The New Zealand Provincial Boundaries Act 1862</i>	Repealed	56 Vict., c. 14 (U.K.)	
(1862) 25 and 26 Vict., c. 63— <i>The Merchant Shipping Amendment Act 1862</i>	Repealed	57 and 58 Vict., c. 60— <i>The Merchant Shipping Act 1894</i> , s. 745 (U.K.)	
(1862) 25 and 26 Vict., c. 68— <i>The Fine Arts Copyright Act 1862</i>	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1863) 26 and 27 Vict., c. 23— <i>The New Zealand Boundaries Act 1863</i>	Preserved	See R.S. Vol. 10, p. 460	
(1863) 26 and 27 Vict., c. 24— <i>The Vice-Admiralty Courts Act 1863</i>	Repealed	53 and 54 Vict., c. 27 (U.K.)	
(1863) 26 and 27 Vict., c. 51— <i>The Passengers Act Amendment Act 1863</i>	Repealed	57 and 58 Vict., c. 60— <i>The Merchant Shipping Act 1894</i> , s. 745 (U.K.)	
(1863) 26 and 27 Vict., c. 76— <i>The Colonial Letters Patent Act 1863</i>	Repealed	7	C
(1863) 26 and 27 Vict., c. 84— <i>The Colonial Acts Confirmation Act 1863</i>	Repealed	7	C
(1864) 27 and 28 Vict., c. 25— <i>The Naval Prize Act 1864</i>	Preserved	6	B

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1865) 28 and 29 Vict., c. 14—The Colonial Naval Defence Act 1865	Repealed	7	C
(1865) 28 and 29 Vict., c. 63—The Colonial Laws Validity Act 1865	Preserved	6	B
(1865) 28 and 29 Vict., c. 64—The Colonial Marriages Act 1865	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1865) 28 and 29 Vict., c. 72—The Navy and Marines (Wills) Act 1865	Repealed	1955, No. 94, s. 11 (2) (a) (N.Z.)	
(1865) 28 and 29 Vict., c. 106—The Colonial Docks Loans Act 1865	Repealed	7	C
(1865) 28 and 29 Vict., c. 116—The Foreign Jurisdiction Amendment Act 1865	Repealed	53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890 (U.K.)	
(1866) 29 and 30 Vict., c. 87—The Foreign Jurisdiction Amendment Act 1866	Repealed	53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890 (U.K.)	
(1866) 29 and 30 Vict., c. 104—The New Zealand Loans Act 1866	Repealed	7	C
(1866) 29 and 30 Vict., c. 109—The Naval Discipline Act 1866	Repealed	7	C
(1867) 30 and 31 Vict., c. 45—The Vice-Admiralty Courts Amendment Act 1867	Repealed	53 and 54 Vict., c. 27 (U.K.)	
(1867-8) 31 and 32 Vict., c. 57—New Zealand (Legislative Council)	Repealed	56 and 57 Vict., c. 14 (U.K.)	
(1867) 30 and 31 Vict., c. 124—The Merchant Shipping Act 1867	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1868) 31 and 32 Vict., c. 29—The Medical Act Amendment Act 1868	Repealed	49 and 50 Vict., c. 48—The Medical Act 1886, s. 28 (U.K.)	
(1868) 31 and 32 Vict., c. 37—The Documentary Evidence Act 1868	Repealed	1952, No. 50, s. 8 (4) (b) (N.Z.)	
(1868) 31 and 32 Vict., c. 57—(Legislative Council appointments)	Repealed	1891, No. 25, s. 11 (N.Z.)	
(1868) 31 and 32 Vict., c. 61—The Consular Marriage Act 1868	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1868) 31 and 32 Vict., c. 93—(New Zealand Company's equitable estates)	Repealed	7	C
(1868) 31 and 32 Vict., c. 129—The Colonial Shipping Act 1868	Repealed	57 and 58 Vict., c. 60—Merchant Shipping Act 1894, s. 745 (U.K.)	
(1869) 32 and 33 Vict., c. 10—The Colonial Prisoners Removal Act 1869	Repealed	7	C
(1869) 32 and 33 Vict., c. 11—The Merchant Shipping (Colonial) Act 1869	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1870) 33 Vict., c. 10—The Coinage Act 1870	Repealed	7	C
(1870) 33 and 34 Vict., c. 14—The Naturalization Act 1870	Repealed	4 and 5 Geo. 5, c. 17 (U.K.)	
(1870) 33 and 34 Vict., c. 40—The New Zealand (Roads, Etc.) Loan Act 1870	Repealed	7	C
(1870) 33 and 34 Vict., c. 52—The Extradition Act 1870	Repealed	1965, No. 44, s. 20 (2) (N.Z.)	
(1870) 33 and 34 Vict., c. 90—The Foreign Enlistment Act 1870	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1871) 34 and 35 Vict., c. 91—The Judicial Committee Act 1871	Repealed	56 and 57 Vict., c. 54 (U.K.)	
(1871) 34 and 35 Vict., c. 110—The Merchant Shipping Act 1871	Repealed	57 and 58 Vict., c. 60, s. 745 (U.K.): See 1873, No. 29 (N.Z.), and 1877, No. 54, s. 309 (N.Z.)	
(1872) 35 and 36 Vict., c. 19—The Pacific Islanders Protection Act 1872	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1872) 35 and 36 Vict., c. 73—The Merchant Shipping Act 1872	Repealed	57 and 58 Vict., c. 60, s. 745 (U.K.): See 1874, No. 9 (N.Z.), and 1877, No. 54, s. 309 (N.Z.)	
(1873) 36 and 37 Vict., c. 15—The New Zealand (Roads, Etc.) Loan Act 1873	Repealed	7	C
(1873) 36 and 37 Vict., c. 22—The Australian Colonies Duties Act 1873	Repealed	7	C
(1873) 36 and 37 Vict., c. 60—The Merchant Shipping Act 1873	Repealed	57 and 58 Vict., c. 60, s. 745 (U.K.): See 1874, No. 9 (N.Z.), and 1877, No. 54, s. 309 (N.Z.)	
(1873) 36 and 37 Vict., c. 60—The Extradition Act 1873	Repealed	1965, No. 44, s. 20 (2) (N.Z.)	
(1873) 36 and 37 Vict., c. 88—The Slave Trade Act 1873	Preserved	6	B
(1874) 37 and 38 Vict., c. 27—The Courts (Colonial) Jurisdiction Act 1874	Repealed	1953, No. 120, s. 7 (1) (g) (N.Z.)	
(1874) 37 and 38 Vict., c. 37—The Powers of Appointment Act 1874	Preserved	See note as to Property Law Amendment Bill on <i>pages xvi and xvii</i> of this explanatory note	
(1874) 37 and 38 Vict., c. 41—Colonial Attorneys Relief Act Amendment	Repealed	63 and 64 Vict., c. 14—The Colonial Solicitors Act 1900 (U.K.)	
(1874) 37 and 38 Vict., c. 62—The Infants Relief Act 1874	Repealed	7	C
(1874) 37 and 38 Vict., c. 88—The Births and Deaths Registration Act 1874, s. 39	Repealed	See 57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1875) 38 and 39 Vict., c. 12—The International Copyright Act 1875	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1875) 38 and 39 Vict., c. 51—The Pacific Islanders Protection Amendment Act 1875	Repealed	1961, No. 43, s. 412 (1) (N.Z.)	
(1875) 38 and 39 Vict., c. 85—The Foreign Jurisdiction Act 1875	Repealed	53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890 (U.K.)	
(1876) 39 and 40 Vict., c. 36—The Customs Consolidation Act 1876	Repealed	7	C
(1876) 39 and 40 Vict., c. 59—The Appellate Jurisdiction Act 1876: section 14	Preserved	6	B
(1876) 39 and 40 Vict., c. 80—The Merchant Shipping Act 1876	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1877) 40 and 41 Vict., c. 59—The Colonial Stock Act 1877	Saved	10 (7)	
(1878) 41 and 42 Vict., c. 67—The Foreign Jurisdiction Act 1878	Repealed	53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890 (U.K.)	

APPENDIX A—*continued*

ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1878) 41 and 42 Vict., c. 73—The Territorial Waters Jurisdiction Act 1878	Repealed	1953, No. 120, s. 7 (1) (N.Z.)	
(1879) 42 and 43 Vict., c. 72—The Shipping Casualties Investigation Act 1879	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1880) 43 and 44 Vict., c. 18—The Merchant Shipping Act (1854) Amendment Act 1880	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1881) 44 and 45 Vict., c. 58—The Army Act 1881	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1881) 44 and 45 Vict., c. 69—The Fugitive Offenders Act 1881	Preserved	6	B
(1882) 45 and 46 Vict., c. 7—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1882) 45 and 46 Vict., c. 9—The Documentary Evidence Act 1882	Repealed	1952, No. 50, s. 8 (4) (c) (N.Z.)	
(1882) 45 and 46 Vict., c. 40—The Copyright (Musical Compositions) Act 1882	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1883) 46 and 47 Vict., c. 3—The Explosive Substances Act 1883	Repealed	1978, No. 17, s. 4 (N.Z.)	
(1883) 46 and 47 Vict., c. 6—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1884) 47 and 48 Vict., c. 8—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1884) 47 and 48 Vict., c. 24—The Colonial Attorneys Relief Act Amendment Act 1884	Repealed	63 and 64 Vict., c. 14—The Colonial Solicitors Act 1900 (U.K.)	
(1884) 47 and 48 Vict., c. 31—The Colonial Prisoners Removal Act 1884	Repealed	7	C
(1884) 47 and 48 Vict., c. 39—The Naval Discipline Act 1884	Repealed	7	C
(1884) 47 and 48 Vict., c. 46—The Naval Enlistment Act 1884	Repealed	7	C
(1885) 48 and 49 Vict., c. 8—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1885) 48 and 49 Vict., c. 49—The Submarine Telegraph Act 1885	Repealed	1966, No. 5, s. 11 (N.Z.)	
(1885) 48 and 49 Vict., c. 74—The Evidence by Commission Act 1885	Repealed	1962, No. 34, s. 5 (N.Z.)	
(1886) 49 and 50 Vict., c. 33—The International Copyright Act 1886	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1886) 49 and 50 Vict., c. 8—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1886) 49 and 50 Vict., c. 48—The Medical Act 1886	Repealed	7	C
(1887) 50 and 51 Vict., c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1887) 50 and 51 Vict., c. 54—The British Settlements Act 1887	Preserved	6	B
(1887) 50 and 51 Vict., c. 62—The Merchant Shipping (Miscellaneous) Act 1887	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1888) 51 and 52 Vict., c. 4—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1888) 51 and 52 Vict., c. 17—The Copyright (Musical Compositions) Act 1888	Repealed	1913, No. 4, s. 54 (2) (N.Z.)	
(1888) 51 and 52 Vict., c. 24—The Merchant Shipping (Life Saving Appliances) Act 1888	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1888) 51 and 52 Vict., c. 31—National defence	Repealed	7	C
(1888) 51 and 52 Vict., c. 32—Imperial defence (Australasian colonies)	Repealed	7	C
(1888) 51 and 52 Vict., c. 46—The Oaths Act 1888	Repealed	7	C
(1889) 52 and 53 Vict., c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1889) 52 and 53 Vict., c. 29—The Passengers Amendment Act 1889	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1889) 52 and 53 Vict., c. 43—The Merchant Shipping (Tonnage) Act 1889	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1889) 52 and 53 Vict., c. 49—The Arbitration Act 1889	Repealed	See 1890, No. 10—The Arbitration Act 1890 (N.Z.)	
(1889) 52 and 53 Vict., c. 63—The Interpretation Act 1889	Repealed	7	C
(1889) 52 and 53 Vict., c. 73—The Merchant Shipping (Colours) Act 1889	Repealed	57 and 58 Vict., c. 60—The Merchant Shipping Act 1894, s. 745 (U.K.)	
(1890) 53 and 54 Vict., c. 4—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1890) 53 and 54 Vict., c. 27—The Colonial Courts of Admiralty Act 1890	Repealed	1973, No. 119, s. 14 (N.Z.)	
(1890) 53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890	Repealed	7	C
(1890) 53 and 54 Vict., c. 47—The Marriage Act 1890	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1891) 54 and 55 Vict., c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1891) 54 and 55 Vict., c. 31—The Mail Ships Act 1891	Repealed	1964, No. 121, s. 4 (N.Z.)	
(1891) 54 and 55 Vict., c. 43—The Forged Transfers Act 1891	Saved	10 (7)	
(1891) 54 and 55 Vict., c. 72—The Coinage Act 1891	Repealed	7	C
(1891) 54 and 55 Vict., c. 74—The Foreign Marriage Act 1891	Repealed	1955, No. 92, s. 67 (2) (N.Z.)	
(1892) 55 and 56 Vict., c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1892) 55 and 56 Vict., c. 6—The Colonial Probates Act 1892	Never in force here		C
(1892) 55 and 56 Vict., c. 23—The Foreign Marriage Act 1892	Never in force here		C
(1892) 55 and 56 Vict., c. 35—The Colonial Stock Act 1892	Saved	10 (7)	

APPENDIX A—*continued*

ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1892) 55 and 56 Vict., c. 36—The Forged Transfers Act 1892	Saved	10 (7)	
(1893) 56 and 57 Vict., c. 4—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1894) 57 and 58 Vict., c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1894) 57 and 58 Vict., c. 30—The Finance Act 1894	Never in force here		C
(1894) 57 and 58 Vict., c. 39—The Prize Courts Act 1894	Preserved	6	B
(1894) 57 and 58 Vict., c. 60—The Merchant Shipping Act 1894	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1895) 58 and 59 Vict., c. 3—The Australian Colonies Duties Act 1895	Never in force here		C
(1895) 58 and 59 Vict., c. 7—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1895) 58 Vict., c. 9—The Documentary Evidence Act 1895	Repealed	7	C
(1895) 58 and 59 Vict., c. 21—The Seal Fisheries (North Pacific) Act 1895	Repealed	1978, No. 80, s. 30 (4) (a) (N.Z.)	
(1895) 58 and 59 Vict., c. 33—The Extradition Act 1895	Repealed	1965, No. 44, s. 20 (2) (N.Z.)	
(1895) 58 and 59 Vict., c. 34—The Colonial Boundaries Act 1895	Preserved	6	B
(1895) 58 and 59 Vict., c. 43—The Naturalization Act 1895	Repealed	4 and 5 Geo. 5, c. 17 (U.K.)	
(1895) 58 and 59 Vict., c. 44—The Judicial Committee Amendment Act 1895	Preserved	6	B
(1896) 59 and 60 Vict., c. 12—The Derelict Vessels (Report) Act 1896	Repealed or spent	7	C
(1896) 59 and 60 Vict., c. 14—The Short Titles Act 1896	Preserved	6	B
(1897) 60 and 61 Vict., c. 59—The Merchant Shipping Act 1897	Repealed	1952, No. 49, s. 513 (1)	
(1898) 61 and 62 Vict., c. 1—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1898) 61 and 62 Vict., c. 14—The Merchant Shipping (Liability of Shipowners) Act 1898	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1898) 61 and 62 Vict., c. 44—The Merchant Shipping (Mercantile Marine Fund) Act 1898	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1899) 62 and 63 Vict., c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1899) 62 and 63 Vict., c. 23—The Anchors and Chain Cables Act 1899	Repealed	1952, No. 49, s. 513 (2) (N.Z.)	
(1900) 63 and 64 Vict., c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1900) 63 and 64 Vict., c. 14—The Colonial Solicitors Act 1900	Never in force here		
(1900) 63 and 64 Vict., c. 32—The Merchant Shipping (Liability of Shipowners and Others) Act 1900	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	

APPENDIX A—continued

ENACTMENTS, ETC., THAT CALL FOR MENTION—continued

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1900) 63 and 64 Vict., c. 62—The Colonial Stock Act 1900	Saved	10 (7)	
(1901) 1 Edw. 7, c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1901) 1 Edw. 7, c. 5—The Demise of the Crown Act 1901		See note on the Constitution Bill 1986, which appears under the heading "Present Position" on page xv of this explanatory note	
(1901) 1 Edw. 7, c. 15—The Royal Titles Act 1901	Repealed	7—1974, No. 1 (N.Z.)	
(1901) 1 Edw. 7, c. 31—The Pacific Cable Act 1901	Repealed	17 and 18 Geo. 5, c. 9—The Pacific Cable Act 1927 (U.K.)	
(1902) 2 Edw. 7, c. 26—The Pacific Cable (Amendment) Act 1902	Repealed	17 and 18 Geo. 5, c. 9—The Pacific Cable Act 1927 (U.K.)	
(1902) 2 Edw. 7, c. 36—The Mail Ships Act 1902	Repealed	7	C
(1904) 4 Edw. 7, c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1905) 5 Edw. 7, c. 10—The Ship-owners Negligence (Remedies) Act 1905	Repealed	1952, No. 49, s. 513 (1)	
(1906) 6 Edw. 7, c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1906) 6 Edw. 7, c. 5— <i>The Seamen's and Soldiers' False Characters Act 1906</i>			
(1906) 6 Edw. 7, c. 15—The Extradition Act 1906	Repealed	1965, No. 44, s. 20 (2) (N.Z.)	
(1906) 6 Edw. 7, c. 48—The Merchant Shipping Act 1906	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1907) 7 Edw. 7, c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5)	
(1907) 7 Edw. 7, c. 16—The Evidence (Colonial Statutes) Act 1907	Never in force here		C
(1907) 7 Edw. 7, c. 52—The Merchant Shipping Act 1907	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1908) 8 Edw. 7, c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1908) 8 Edw. 7, c. 51—The Appellate Jurisdiction Act 1908, except sections 2, 3 (2), and 6	Preserved	6	B
(1909) 9 Edw. 7, c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1909) 9 Edw. 7, c. 18—The Naval Establishments in British Possessions Act 1909	Repealed	7	C
(1909) 9 Edw. 7, c. 19—The Colonial Naval Defence Act 1909	Repealed	7	C
(1909) 9 Edw. 7, c. 41—The Naval Discipline Act 1909	Repealed	7	C
(1910) 10 Edw. 7, c. 6—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1910) 10 Edw. 7 and 1 Geo. 5, c. 29—The Accession Declaration Act 1910	Preserved	6	B
(1911) 1 and 2 Geo. 5, c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1911) 1 and 2 Geo. 5, c. 8—The Merchant Shipping (Seamen's Allotment) Act 1911	Repealed	1952, No. 49, s. 513 (1)	
(1911) 1 and 2 Geo. 5, c. 20—The Geneva Convention Act 1911	Repealed	1936, No. 42, s. 4 (N.Z.)	
(1911) 1 and 2 Geo. 5, c. 28—The Official Secrets Act 1911	Repealed	1951, No. 77, s. 18 (N.Z.)	
(1911) 1 and 2 Geo. 5, c. 36—The Pacific Cable Act 1911	Repealed	17 and 18 Geo. 5, c. 9—The Pacific Cable Act 1927 (U.K.)	
(1911) 1 and 2 Geo. 5, c. 41—The Merchant Shipping (Stevedores and Trimmers) Act 1911	Repealed	1952, No. 49, s. 513 (1)	
(1911) 1 and 2 Geo. 5, c. 42—The Merchant Shipping Act 1911	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1911) 1 and 2 Geo. 5, c. 47—The Naval Discipline (Dominion Naval Forces) Act 1911	Repealed	7	C
(1911) 1 and 2 Geo. 5, c. 47—The Naval Discipline (Dominion Naval Forces) Act 1911	Repealed	7	C
(1911) 1 and 2 Geo. 5, c. 57—The Maritime Conventions Act 1911	Repealed	1952, No. 49, s. 513 (1)	
(1912) 2 and 3 Geo. 5, c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1912) 2 and 3 Geo. 5, c. 10—The Seal Fisheries (North Pacific) Act 1912	Repealed	1978, No. 80, s. 30 (4) (b) (N.Z.)	
(1913) 3 and 4 Geo. 5, c. 2—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1913) 3 and 4 Geo. 5, c. 16—The Foreign Jurisdiction Act 1913	Repealed	7	C
(1913) 3 and 4 Geo. 5, c. 21—The Appellate Jurisdiction Act 1913	Preserved	6	B
(1914) 4 and 5 Geo. 5, c. 13—The Prize Courts (Procedure) Act 1914	Preserved	6	B
(1914) 4 and 5 Geo. 5, c. 17—The British Nationality and Status of Aliens Act 1914	Repealed	1946, No. 20, s. 3 (1) (N.Z.); 1948, No. 15, s. 34 (2) (N.Z.); 1948, No. 28, s. 21 (2) (N.Z.)	
(1914) 4 and 5 Geo. 5, c. 42—The Merchant Shipping (Certificates) Act 1914	Repealed	1952, No. 49, s. 513 (1)	
(1914-16) 5 and 6 Geo. 5, c. 23—Army (suspension of sentences)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1914-16) 5 and 6 Geo. 5, c. 26—Army (Amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1914-16) 5 and 6 Geo. 5, c. 58—Army (Amendment) (No. 2)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1915) 5 and 6 Geo. 5 c. 30—The Naval Discipline Act 1915	Repealed	7	C
(1915) 5 and 6 Geo. 5 c. 39—The Fugitive Offenders (Protected States) Act 1915	Preserved	6	B
(1915) 5 and 6 Geo. 5, c. 40—The Marriage of British Subjects (Facilities) Act 1915	Never in force here		C
(1915) 5 and 6 Geo. 5, c. 57—The Prize Courts Act 1915	Preserved	6	B

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1915) 5 and 6 Geo. 5, c. 73—The Naval Discipline (No. 2) Act 1915	Repealed	7	C
(1915) 5 and 6 Geo. 5, c. 92—The Judicial Committee Act 1915	Preserved	6	B
(1916) 6 and 7 Geo. 5, c. 2—The Naval Prize (Procedure) Act 1916	Preserved	6	B
(1916) 6 and 7 Geo. 5, c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1916) 6 and 7 Geo. 5, c. 21—The Marriage of British Subjects (Facilities) Amendment Act 1916	Never in force here		C
(1916) 6 and 7 Geo. 5, c. 41—The Merchant Shipping (Salvage) Act 1916	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1917–18) 7 and 8 Geo. 5, c. 9—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1917) 7 and 8 Geo. 5, c. 34—The Naval Discipline Act 1917	Repealed	7	C
(1917) 7 Geo. 5, c. 51—The Air Force (Constitution) Act 1917	Repealed	1950, No. 40, s. 160 (4)	
(1918) 8 and 9 Geo. 5, c. 6—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1918) 8 and 9 Geo. 5, c. 30—The Naval Prize Act 1918	Repealed	7	C
(1918) 8 and 9 Geo. 5, c. 38—The British Nationality and Status of Aliens Act 1918	Repealed	7—See 1948, No. 15, s. 34 (2) (N.Z.)	
(1919) 9 and 10 Geo. 5, c. 11—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1919) 9 and 10 Geo. 5, c. 33—The Treaty of Peace Act 1919	Repealed	7—See S.L. (Rep.) 1976, c. 16, Sch. 1, Part XX (U.K.); <i>Tagaloa v Inspector of Police</i> [1927] N.Z.L.R. 883, 896	
(1920) 10 Geo. 5, c. 2—The Merchant Shipping (Amendment) Act 1920	Repealed	1952, No. 49, s. 513 (1)	
(1920) 10 Geo. 5, c. 3—The Coinage Act 1920	Repealed	7	C
(1920) 10 and 11 Geo. 5, c. 7—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1920) 10 and 11 Geo. 5, c. 27—The Nauru Island Agreement Act 1920	Preserved		B
(1920) 10 and 11 Geo. 5, c. 33—The Maintenance Orders (Facilities for Enforcement) Act 1920	Never in force here		C
(1920) 10 and 11 Geo. 5, c. 81—The Administration of Justice Act 1920	Never in force here		C
(1921) 11 and 12 Geo. 5, c. 9—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1921) 11 and 12 Geo. 5, c. 28—The Merchant Shipping Act 1921	Repealed	1952, No. 49, s. 513 (1)	
(1922) 12 and 13 Geo. 5, c. 6—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1922) 12 and 13 Geo. 5, c. 21—The Treaties of Washington Act 1922	Repealed	7	C
(1922) 12 and 13 Geo. 5, c. 37—The Naval Discipline Act 1922	Repealed	7	C

APPENDIX A—*continued*ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1922) 12 and 13 Geo. 5, c. 44—The British Nationality and Status of Aliens Act 1922	Repealed	7	C
(1923) 13 and 14 Geo. 5, c. 3—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1923) 13 and 14 Geo. 5, c. 40—The Merchant Shipping Acts (Amendment) Act 1923	Repealed	1952, No. 49, s. 513 (1)	
(1924) 14 and 15 Geo. 5, c. 5—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1924) 14 and 15 Geo. 5, c. 19—The Pacific Cable Act 1924	Repealed	17 and 18 Geo. 5, c. 9—The Pacific Cable Act 1927 (U.K.)	
(1924) 14 and 15 Geo. 5, c. 22—The Carriage of Goods by Sea Act 1924	Repealed	7	C
(1925) 15 and 16 Geo. 5, c. 25—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1925) 15 and 16 Geo. 5, c. 37—The Merchant Shipping (Equivalent Provisions) Act 1925	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1925) 15 and 16 Geo. 5, c. 42—The Merchant Shipping (International Labour Conventions) Act 1925	Repealed	1952, No. 49, s. 513 (1)	
(1926) 16 and 17 Geo. 5, c. 6—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1927) 17 Geo. 5, c. 4—The Royal and Parliamentary Titles Act 1927	Repealed	7—See 1974, No. 1 (N.Z.)	C
(1927) 17 and 18 Geo. 5, c. 7—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1927) 17 and 18 Geo. 5, c. 9—The Pacific Cable Act 1927	Repealed	19 Geo. 5, c. 7—The Imperial Telegraphs Act 1929, ss. 1, 3 (U.K.)	
(1927) 17 and 18 Geo. 5, c. 18—The Royal Naval Reserve Act 1927	Repealed	7	C
(1927) 17 and 18 Geo. 5, c. 43—The Colonial Probates (Protected States and Mandated Territories) Act 1927			
(1928) 18 and 19 Geo. 5, c. 7—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1928) 18 and 19 Geo. 5, c. 26—The Administration of Justice Act 1928, ss. 13, 20 (1)	Preserved	6	B
(1929) 19 Geo. 5, c. 7—The Imperial Telegraphs Act 1929	Repealed	See the Statute Law Revision Act 1963 (U.K.)	
(1929) 19 and 20 Geo. 5, c. 8—The Appellate Jurisdiction Act 1929	Repealed	7	C
(1929) 19 and 20 Geo. 5, c. 20—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1930) 20 and 21 Geo. 5, c. 22—Army (discipline amendment)	Repealed	1950, No. 39, s. 160 (5) (N.Z.)	
(1930) 20 and 21 Geo. 5, c. 38—The Navy and Marines (Wills) Act 1930	Repealed	1955, No. 94, s. 11 (2) (a) (N.Z.). See note in Appendix C on (1865) 28 and 29 Vict., c. 72	
(1931) 21 and 22 Geo. 5, c. 9—The Colonial Naval Defence Act 1931	Repealed	7	C
(1931) 22 Geo. 5, c. 4—The Statute of Westminster 1931	Preserved	6	B

APPENDIX A—*continued*

ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1932) 22 and 23 Geo. 5, c. 22—The Army and Air Force (Annual) Act 1932	Repealed	1950, No. 39, s. 160 (5) (N.Z.); 1950, No. 40, s. 160 (4) (N.Z.)	
(1932) 22 and 23 Geo. 5, c. 39—The Extradition Act 1932	Repealed	1965, No. 44, s. 20 (2) (N.Z.)	
(1934) 24 and 25 Geo. 5, c. 47—The Colonial Stock Act 1934	Saved	10 (7)	
(1934) 24 and 25 Geo. 5, c. 49—The Whaling Industry (Regulation) Act 1934	Repealed	7	C
(1935) 25 and 26 Geo. 5, c. 25—The Counterfeit Currency (Convention) Act 1935	Repealed	7—See 1965, No. 44, s. 20 (2) (N.Z.)	
(1936) 1 Edw. 8, c. 3—His Majesty's Declaration of Abdication Act 1936	Repealed	7	C
(1937) 1 Edw. 8 and 1 Geo. 6, c. 65—The London Naval Treaty Act 1937	Repealed	7	C
(1937) 1 Edw. 8 and 1 Geo. 6, c. 16—The Regency Act 1937	Repealed	1983, No. 20, s. 5	
(1938) 1 and 2 Geo. 6, c. 64—The Naval Discipline (Amendment) Act 1938	Repealed	See 1971, No. 53 (N.Z.) and S.R. 1983, No. 232	
(1939) 2 and 3 Geo. 6, c. 62—The Emergency Powers (Defence) Act 1939	Repealed	7 and 8 Eliz. 2, c. 19	C
(1939) 2 and 3 Geo. 6, c. 65—The Prize Act 1939	Preserved	6	B
(1939) 2 and 3 Geo. 6, c. 87—The Navy and Marines (Wills) Act 1939	Repealed	1955, No. 94, s. 11 (2) (a) (N.Z.). See note in Appendix C on (1865) 28 and 29 Vict., c. 72	
(1940) 3 and 4 Geo. 6, c. 18—The Army and Air Force (Annual) Act 1940	Repealed	1950, No. 39, s. 160 (5) (N.Z.); 1950, No. 40, s. 160 (4) (N.Z.)	
(1940) 3 and 4 Geo. 6, c. 43—The Merchant Shipping (Salvage) Act 1940	Repealed	1952, No. 49, s. 513 (1) (N.Z.)	
(1943) 6 and 7 Geo. 6, c. 14—The British Nationality and Status of Aliens Act 1943	Repealed	1948, No. 15, s. 34 (2) (N.Z.)	
(1943) 6 and 7 Geo. 6, c. 15—The Army and Air Force (Annual) Act 1943	Repealed	7	C
(1943) 6 and 7 Geo. 6, c. 42—The Regency Act 1943	Repealed	1983, No. 20, s. 5	
(1945) 9 Geo. 6, c. 7—The British Settlements Act 1945	Preserved	6	B
(1947) 11 Geo. 6, c. 4—The New Zealand Constitution (Amendment) Act 1947	Preserved	6	B
(1947) 10 and 11 Geo. 6, c. 33—The Foreign Marriage Act 1947	Never in force here		C
(1948) 11 and 12 Geo. 6, c. 62—The Statute Law Revision Act 1948: sections 5 and 6 (1) and the Second Schedule	Preserved	6 (2) (a)	B

APPENDIX A—*continued*

ENACTMENTS, ETC., THAT CALL FOR MENTION—*continued*

Imperial Enactment	How Affected	Related Provision of Bill or Other Legislation	Related Appendix of Explanatory Note
(1953) 2 Eliz. 2, c. 1—The Regency Act 1953	Repealed	1983, No. 20, s. 5	
(1956) 4 and 5 Eliz. 2, c. 74—The Copyright Act 1956	Never in force here		C
(1957) 5 and 6 Eliz. 2, c. 53—The Naval Discipline Act 1957	Repealed	7	C
(1978) c. 30—The Interpretation Act 1978	Preserved	6 (2) (b)	B

Notes:

¹ References in the first column that are in italics are to Imperial enactments that are being studied. References in the first column that are in bold type are to Imperial enactments that are being watched because they may be affected by possible future developments.

² This appendix is to be read as referring to the authentic texts of Imperial Acts as ascertained in accordance with *clause 3* of the Bill.

APPENDIX B

PRESERVED AND SUBSTITUTED ENACTMENTS

(1297) 25 Edw. 1, c. 29—Magna Carta

The First Schedule to the Imperial Acts Application Act 1922 (Vic.) and the Second Schedule to the Imperial Acts Application Act 1969 (N.S.W.) included c. 29 (and no other provision) of the Magna Carta of 25 Edward 1 among the Imperial enactments to be preserved. In the Imperial Acts Application Act 1980, Part II, Division 3 (Vic.), the provision appears as a transcribed enactment. As translated in Halsbury's *Statutes of England*, 3rd Ed., Vol. 6, p. 404, and in the authentic text prescribed by *clause 3* of the Bill, being the first revised edition of the *Statutes Revised*, Vol. 1, p. 89, c. 29, this chapter provides as follows:

"No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor [condemn him,] but by lawful judgement of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right."

The position regarding this enactment is fully explained in the 1967 Report of New South Wales, pp. 44-47, and in the 1973 Report of the Australian Capital Territory, p. 7. These 2 Reports concur in the view that only c. 29 of this enactment needs to be preserved. The 1967 Report of New South Wales suggests that at the present time the value of c. 29 is chiefly sentimental, but the 1973 Report of the Australian Capital Territory states that this may be an exaggeration. The last-mentioned Report states that this provision should not be restated in modern terms.

(1351) 25 Edw. 3, St. 5, c. 4—Criminal and civil justice

This provision is a reiteration, with express reference to Magna Carta, of the principle of due process of law. The 1973 Report of the Australian Capital Territory recommends that the provision be preserved in its original form, i.e., as translated in Halsbury's *Statutes of England*, 3rd Ed., Vol. 6, pp. 438, 439, and in the authentic text prescribed by *clause 3* of the Bill, being the first revised edition of the *Statutes Revised*, Vol. 1, pp. 187, 188.

(1354) 28 Edw. 3, c. 3—Liberty of subject

This provision is a reiteration of the principle of "due process of the law", a phrase that actually occurs in it. The 1973 Report of the Australian Capital Territory recommends that the provision be preserved in its original form, i.e., as translated in Halsbury's *Statutes of England*, 3rd Ed., Vol. 6, p. 440, and in the authentic text prescribed by *clause 3* of the Bill, being the first revised edition of the *Statutes Revised*, Vol. 1, pp. 187, 188.

(1368) 42 Edw. 3, c. 3—Observance of Due Process of Law

This provision is a further reiteration, in the field of criminal law, of the principle of "due process". See Halsbury's *Statutes of England*, 3rd Ed., Vol. 8, p. 16.

(1539) 31 Hen. 8, c. 1—The Partition Act 1539

This Act and the Partition Act 1540 (32 Hen. 8, c. 32) still have effect in New Zealand as part of our laws. (See Recent Law (New Series), Volume 11, No. 4, page 142.) These Acts give the right to partition in New Zealand. Section 140 of the Property Law Act 1952 does not supplant these Acts, but builds upon them by giving the Court a right to order sale instead of partition in certain cases. See *Fleming v. Hargreaves* [1976] 1 N.Z.L.R. 123, 127.

APPENDIX B—*continued*

PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

(1540) 32 Hen. 8, c. 32—The Partition Act 1540

See explanatory note in Appendix B on the Partition Act 1539 (31 Hen. 8, c. 1)

(1623–4) 21 Ja. I, c. 3—The Statute of Monopolies: sections 1 and 6

Section 1 was enacted because of abuses that were arising in relation to the exercise of the prerogative power to grant monopolies, dispensations, etc. The section declares all such grants to be void.

Section 6 provides that section 1 shall not prevent the grant of certain letters patent for inventions. Section 6 is the foundation of the law of patents. Section 2 of the Patents Act 1953 (N.Z.) defines the term “invention” by reference to the Statute of Monopolies as defined in that section.

In the Imperial Acts Application Act 1969 (N.S.W.) these sections are among the preserved constitutional enactments listed in the Second Schedule. The related N.S.W. Report, at page 44, recommended that the sections be preserved “in view of the historical or constitutional significance of the Imperial Act”.

The 1973 Report of the Australian Capital Territory, at p. 33, argues against the preservation of the sections, and expresses the view that the repeal would make no difference, notwithstanding the express reference to the Statute of Monopolies in the relevant Australian Patents Act.

There is further relevant discussion of the matter at page 96 of the 1974–75 Report of Victoria, and at page 7 of the 1978 Report of Victoria. The 1978 Report of Victoria recommended the preservation of sections 1 and 6 “even if only from a historical point of view”. In amplification of this recommendation the Report added that “from the practical point of view it would have no effect”. The sections are now preserved as transcribed enactments by the Imperial Acts Application Act 1980 (Vic.), without omitting the words “omitted in relation to the law of England by the Statute Law (Repeals) Act 1969”.

The case of *Peerless Bakery Limited v Clinkard and Others* (No. 3) [1953] N.Z.L.R. 796, 802 throws doubt on the extent to which the Statute of Monopolies is in force in New Zealand.

So far as New Zealand is concerned, it is not a matter of great moment whether the Statute of Monopolies is repealed or preserved. *Clause 6 (2) (c)* of the Bill provides for the retention of sections 1 and 6, so far as they had effect as part of the laws of England at the commencement of the Bill because of their historical and constitutional significance, and because the statute is expressly referred to in section 2 of the Patents Act 1953 (N.Z.).

(1627) 3 Cha. 1, c. 1—The Petition of Right

This is being preserved because of its historical and constitutional significance in safeguarding the liberties of the people by securing supremacy of the law. It is retained in England, Victoria, and New South Wales. The reasons for its continued retention in Victoria are stated in detail at page 97 of the 1974–75 Report of Victoria. That Report recommends that the Act be retained in its present form without attempting to translate it into more modern language. The final edition of Curnin’s *Index to the Laws of New Zealand* incorrectly shows at p. 362 that the Statute 3 Cha. 1, c. 1 (relating to Sunday) was repealed by the N.Z. Act 1884, No. 24 (Police Offences). The Statute so repealed was 3 Cha. 1, c. 2.

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*(1640) 16 Cha. 1, c. 10—The *Habeas Corpus* Act 1640

This Act has been repealed in England; and the 1973 Report of the Australian Capital Territory states that it can safely be, and should be, repealed in relation to that Territory. The Imperial Acts Application Act 1969 (N.S.W.) preserves only section 6 of the Act of 1640. The 1979 Report of the Statute Law Revision Committee of the Parliament of Victoria, on the contemplated Imperial Acts Application Act 1980 (Vic.), considers that the Act of 1640, and the *Habeas Corpus* Acts of 1679 and 1816 should be retained in full, and cites its earlier Report where the Acts are described as having fundamental historical and constitutional importance of such magnitude that they should be retained. There is other support for the Victorian view.

The Act of 1640 had no Short Title until the Statute Law Revision Act 1948 provided that the Act of 1640 may be cited as the *Habeas Corpus* Act 1640. The aptness of this Short Title has been questioned. The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 180, describes the Act more aptly by the words "Star Chamber abolition". The Act clearly has significance outside the area of *habeas corpus*. See in this connection *Cock v. Attorney-General* [1909] 28 N.Z.L.R. 405.

There is perhaps need to reform the whole area of the law covered by the *Habeas Corpus* Act 1640 and the *Habeas Corpus* Acts of 1679, 1803, and 1816, but there is no prospect that this can be undertaken in the meantime. The Bill therefore provides for these 4 Acts to be preserved as part of the laws of New Zealand. When a reform of this area of the law is undertaken, due weight should be given to the strongly expressed view that the Act of 1640 as it now stands should be preserved as part of the laws of New Zealand, and its provisions should not be restated in modern terms.

(1679) 31 Cha. 2, c. 2—The *Habeas Corpus* Act 1679

This Act has historical and constitutional importance as being an Act for securing the liberty of the subject, and for the prevention of imprisonment beyond the seas; but its main significance in New Zealand now is in relation to the rules covering the writ of *habeas corpus*. It could, if desired, be restated in modern terms when this branch of the law comes to be reformed. The *Habeas Corpus* Act 1679 is therefore shown in Division III of Part I of the Second Schedule, whereas the *Habeas Corpus* Act 1640 is shown in Division I of the said Part I to stress its special historical significance.

See the note in this Appendix B regarding the *Habeas Corpus* Act 1640, and the course being followed in this Bill in relation to that Act and the *Habeas Corpus* Acts of 1679, 1803, and 1816. The Bill follows the Imperial Acts Application Act 1980 (Vic.) in preserving the whole of the Act of 1679, except sections 10 and 14. Section 10 relates to counties palatine and other specified parts of the United Kingdom as now constituted. It has no relevance in New Zealand. Section 14 relates to the imprisonment of persons before 1679, and is therefore spent.

(1688) 1 Will. & Mar., Sess. 2, c. 2—The Bill of Rights

This is an enactment of major constitutional importance, and is being preserved accordingly. The 1973 Report of the Australian Capital Territory recommends that it be preserved in its original form.

(1700) 12 and 13 Will. 3, c. 2—The Act of Settlement

This Act is of considerable constitutional and historical significance. Its special

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

importance now is that it settles the Succession to the Throne. The Bill therefore preserves the provisions of the Act that touch on the Royal Succession, with only such alterations as have the sanction of practice or legislation.

There are only 2 such alterations. The first omits the requirement in section 2 that the Coronation Oath shall be according to the Coronation Oaths Act 1688.

S.A. De Smith's *Constitutional and Administrative Law*, Fourth Edition, page 130, footnote 35, points out that the Coronation Oath so prescribed has subsequently been modified without statutory authority. The omission will regularise current practice.

The second of the alterations omits the requirement in section 2 that the declaration required to be made by the Sovereign on Accession shall be in the form referred to in section 1 of the Bill of Rights, and provides that the declaration shall be in the form prescribed by the Accession Declaration Act 1910 (U.K.).

The provisions of the Act of 1700 that are not being preserved do not touch on Succession to the Throne.

The second recital in the **Statute of Westminster 1931 (U.K.)** stated the previously basic policy that "any alteration of the law touching the Succession to the Throne or the Royal Style and Titles shall require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom". The prohibition in section 2 of the Act of Settlement on Catholics occupying the Throne is contrary to the principles recognised in the Human Rights Commission Act 1977 (N.Z.); but, unless there can be agreement among Commonwealth countries that retain the Queen as Head of State, there are serious problems in getting rid of this prohibition. It is most important that the rules governing Succession to the Throne in these Commonwealth countries should operate to establish the same person as Sovereign in all cases.

Section 3 of the Act of Settlement opens with a Preamble stating that it is necessary that further provision be made for securing the religion, laws, and liberty of the realm. The first such provision requires that whosoever shall come to the possession of the Crown shall join in communion with the Church of England. This much of the section is being preserved.

The next such provision requires the consent of Parliament before the United Kingdom is obliged to engage in any war for the defence of any dominions or territories which do not belong to the Crown of England where the Crown is inherited by a person who is not a native of England. The provision is being repealed. It can have no application to New Zealand given that the Queen is Queen of New Zealand in Her own right.

The next such relevant provision states:

"No person born out of the kingdoms of England Scotland or Ireland or the dominions thereunto belonging (although he be . . . made a denizen (except such as are born of English parents) shall be capable to be of the privy council or a member of either House of Parliament or to enjoy any office or place of trust either civil or military or to have any grant of lands tenements or hereditaments from the Crown to himself or to any other or others in trust for him."

The authors of the *Australian and New Zealand Commentary on Halsbury's Laws of England* (Fourth Edition): British Nationality, Australian and New Zealand Citizenship, Alienage, Immigration and Race Relations express the view that—

"the prohibitions in section 3 read in their historical context do not appear to embrace offices in and of Australia and New Zealand at least at their present stage of constitutional development when they no longer form part of the realm of the United Kingdom."

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

As far as appointments to the New Zealand Public Service are concerned, the wording of section 22 of the State Services Act 1962 suggests that the 1962 Act is a complete code, which excludes the operation in New Zealand of section 3 of the Act of 1700.

Divergent views have been expressed as to whether or not the last quoted provision of section 3 (especially so far as it relates to membership of the Privy Council) is in force in New Zealand, and (in either event) whether it serves a necessary or useful purpose in this country so as to call for its preservation as part of our laws.

As far as enlistments in the Armed Forces of New Zealand are concerned, section 36 of the Defence Act 1971 allows aliens to enlist, but only with the consent of the Chief of Defence Staff. Section 36 does not apply to officers. They are appointed under section 35 of the 1971 Act.

As far as alienations of Crown land are concerned, section 23 (1) of the Citizenship Act 1977 (N.Z.) provides that, "subject to any other enactment, every person who is not a New Zealand citizen shall be entitled to take, acquire, hold, and dispose of real or personal property in the same manner in all respects as if he were a New Zealand citizen". The said section 23 (1) is in substantially similar words to section 3 (1) of the Aliens Act 1948 (N.Z.), except that the 1948 section did not include the words "subject to any other enactment". It seems unlikely that the inclusion of the said words in the 1977 section was intended to revive the application of section 3 of the Act of Settlement in relation to grants of land from the Crown in New Zealand.

The prohibition in section 3 of the Act of Settlement on aliens being elected to "either House of Parliament" seems inapplicable in New Zealand, given the express requirement in the Electoral Act 1956, section 25 (as substituted by section 9 of the Electoral Amendment Act 1981) that no person is qualified to be elected as a member of Parliament unless the person is a New Zealand citizen, or was (on 22 August 1975) registered as an elector.

Having regard to constitutional propriety, it seems best for our laws to be silent as to qualification for membership of the Privy Council. The Privy Council has its basis in the continuing residuary Imperial prerogative regulated by the Judicial Committee Act 1833 and the Judicial Committee Act 1844. Appointments are formally made to the Council by Her Majesty in right of the United Kingdom and in accordance with United Kingdom law. It would clearly be in order for the Parliament of New Zealand to legislate as to the Privy Council's jurisdiction in relation to New Zealand, but it would seem to be less appropriate for New Zealand to legislate on a matter touching the membership of the Privy Council. By being silent on the point, New Zealand avoids complications should the United Kingdom ever wish to change the rules governing qualification for membership of the Privy Council. The existing practice under which membership of the Privy Council tends to be conferred, in accordance with the laws of the United Kingdom, on Prime Ministers and certain Cabinet Ministers and Judges in New Zealand will not be affected by the course contemplated.

There is doubt as to whether the part of section 3 of the Act of Settlement that relates to the tenure of Judges and the necessity for their salaries to be ascertained and established ever applied in New Zealand. See *Terrell v. Secretary of State for the Colonies* [1935] 2 Q.B. 482, and *Attorney-General v. Edwards* [1891] 9 N.Z.L.R. 321. See now *clauses 23 and 24* of the Constitution Bill.

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

The last paragraph of section 3 of the Act of Settlement provides that no pardon under the great seal of England shall be pleadable to an impeachment by the Commons in Parliament. The wording of the provision makes it inapplicable in New Zealand, and it is doubtful whether the power of impeachment is vested in the New Zealand Parliament.

Section 4 of the Act of Settlement is a general confirmation of the laws and statutes of the Realm. There seems to be no reason to retain this provision.

(1728) 2 Geo. 2, c. 22 (Set-off): Title and section 13

Volume 9 of the 1931 Reprint of the Public Acts of New Zealand shows that this Act and the related Act of 1734 (8 Geo. 2, c. 24) were apparently both in force in New Zealand on 31 December 1931. They related to imprisonment for debt and set-off. New Zealand has its own legislation relating to imprisonment for debt, and the Imperial provisions in this connection do not need to be preserved in force here. The Contracts and Commercial Law Reform Committee had the subject of set-off under consideration, but the Imperial Laws Application Bill (1986) is expected to be passed before new legislation governing set-off can be settled. The said committee has requested that the said Acts of 1728 and 1734 be preserved in force in New Zealand in the meantime so far as they relate to set-off. The Bill provides accordingly.

(1734) 8 Geo. 2, c. 24 (Set-off): Title, and sections 4 and 5

See note in Appendix B relating to the 1728 Act 2 Geo. 2, c. 22.

(1750) 24 Geo. 2, c. 23—The Calendar (New Style) Act 1750

The Imperial Acts Application Act 1969 (N.S.W.) in Part III, Division 2, enacts a modern provision in place of this Act. The 1973 Report of the Australian Capital Territory comments (at page 9) that it is not clear that this provision serves a practical purpose since it mentions, and requires for its full understanding reference to, the Act of 1750. The Report comments that the Act can very seldom be referred to and suggests that it be one of those preserved in its present form. The Bill provides accordingly for the preservation of so much of the Act of 1750 as serves a necessary or useful purpose in New Zealand.

The 1967 Report of New South Wales at page 29 states, in relation to the Act of 1750, as follows:

“We have had the advantage of consultation with the Government Astronomer, who has pointed out that the rule in the Table relating specifically to the determination of Easter Day—in the Table ‘Tables and Rules for the Moveable or immoveable Feasts’, etc., is inaccurate and is not observed in practice, and that it is inconsistent with the general provisions of section 3, which import the Tables generally.”

The Easter Day Act 1928 (18 and 19 Geo. 5, c. 35—U.K.) provided prospectively for Easter Day to become a fixed, instead of a movable feast. The last-mentioned Act expressly did not extend to New Zealand. Whitakers Almanac 1986 (at page 188) states, in relation to the 1928 Act, as follows:

“Before it shall come into operation regard shall be had to any opinion expressed officially by the various Christian churches. Efforts have been made recently by the World Council of Churches to secure a unanimous choice of date for Easter by its 239 member Churches. Press reports suggested the second Sunday in April as their most likely choice.”

In the circumstances, section 3 of the Act of 1750, and so much of section 1

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

as relates to Easter, are not being preserved. The provisions of the Act of 1750 after section 3 and the provisions of the Calendar Act 1751 (25 Geo. 2, c. 30—U.K.) are transitional, and are not being preserved.

Section 1 of the Act of 1750 provides for the new style calendar to apply “in and throughout all His Majesty’s dominions and countries in Europe, Asia, Africa and America”. The continents mentioned do not include New Zealand and are best omitted in relation to preserving the Act in force here.

The words at the end of section 1 relating to Hilary and Michaelmas terms in certain Courts appear to have no relevance in New Zealand.

Section 2 of the Act of 1750 is being preserved as part of the laws of New Zealand. The section enacts provisions as to the number of days in leap years and common years, and is in the following terms:

“2. Provisions as to common years and leap years—And for the continuing and preserving the calendar or method of reckoning, and computing the days of the year in the same regular course, as near as may be, in all times coming, be it further enacted by the authority aforesaid, that the several years of our Lord one thousand eight hundred, one thousand nine hundred, two thousand one hundred, two thousand two hundred, two thousand three hundred, or any other hundreth years of our Lord which shall happen in time to come, *except only every fourth hundredth year of our Lord, whereof the year of our Lord two thousand shall be the first, shall not be esteemed or taken to be bissextile or leap years, but shall be taken to be common years consisting of three hundred and sixty-five days, and no more:* and that the years of our Lord two thousand, two thousand four hundred, two thousand eight hundred, and every fourth hundredth year of our Lord from the said year of our Lord two thousand inclusive, and also all other years of our Lord which by the present supputation are esteemed to be bissextile or leap years, shall for the future and in all times to come be esteemed and taken to be bissextile or leap years, consisting of three hundred and sixty-six days, in the same sort and manner as is now used with respect to every fourth year of our Lord.”

Attention is drawn specially to the exception created by the words shown in italics in the section as so quoted, which exception will apply in the year 2000 for the first time since the Act was passed in 1750.

(1772) 12 Geo. 3, c. 11—The Royal Marriages Act 1772: sections 1 and 2

These sections provide conditions for the validity of marriages contemplated by certain members of the Royal Family. The sections are preserved in force in the United Kingdom, New South Wales, and Victoria, and are recommended for preservation by the 1973 Report of the Australian Capital Territory. They are being preserved in force in New Zealand because of their constitutional significance, and because New Zealand should keep in line with other British Commonwealth countries in this connection.

(1774) 14 Geo. 3, c. 78—The Fires Prevention (Metropolis) Act 1774: sections 83 and 86

The Table at page 180 of Volume 9 of the 1931 Reprint of the Public Acts of New Zealand indicates that these sections are in force in New Zealand. It has been held by the New Zealand Courts that the sections are in force here. As regards section 83, see *Walker v Walker* [1932] N.Z.L.R. 1440, 1445. As regards section 86, see *New Zealand Forest Products Limited v Sullivan* [1974] N.Z.L.R. 80, 84. The sections are in force in England, though section 86 has been repealed

APPENDIX B—*continued*

PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

in part. Section 83 provides that, where a house or building has been burnt, the insurance company may reinstate the house or building instead of paying out the amount for which it is insured. Section 86 provides that no action shall lie against a person where the fire begins accidentally. Section 86 is qualified by section 3 (2) of the Innkeepers Act 1962 (N.Z.).

(1803) 43 Geo. 3, c. 140—The *Habeas Corpus* Act 1803

This Act provides that any Judge of the Courts at Westminster may award a writ of *habeas corpus* for bringing any prisoner in any gaol in England before a court martial, commissioners of bankrupt, etc. It covers an area that is not covered adequately by section 26 of the Penal Institutions Act 1954 (N.Z.). See the note in this Appendix B regarding the *Habeas Corpus* Act 1640, and the course being followed in the Bill in relation to that Act and the *Habeas Corpus* Acts of 1769, 1803, and 1816.

(1816) 56 Geo. 3, c. 100—The *Habeas Corpus* Act 1816

This Act extends the scope of the writ of *habeas corpus*. It is recognised that there is perhaps need to reform the whole of this area of the law; and the relevant provisions of the *Habeas Corpus* Acts of 1640, 1679, 1803, and 1816 are therefore being preserved as part of the laws of New Zealand until there is opportunity to undertake such a major reform. See the notes in this Appendix B on the said Acts of 1640, 1679, and 1803.

(1832) 2 and 3 Will. 4, c. 71—The Prescription Act 1832

The *New Zealand Commentary on Halsbury's Laws of England*, Fourth Edition, Volume D, shows, in relation to Volume 14, paragraph 73, that on 31 March 1980, the Prescription Act 1832 (U.K.) was in force in New Zealand, apart from section 3 which relates to easements of light. Section 5 of the Light and Air Act 1894 (N.Z.) provided that the said section 3 should cease to have operation within New Zealand on and after 27 July 1894. See now sections 123 to 125 of the Property Law Act 1952 regarding rights of light or air in New Zealand.

Approximately one-fifth of the land parcels in New Zealand were Crown granted under the deeds system, and accordingly were susceptible to the creation of prescriptive rights. These grants tended to be concentrated in the early commercial, industrial, and residential parts of the towns. As a consequence, particularly in the commercial and industrial areas, the Prescription Act 1832 has had considerable potential in setting up valid easements, which will continue to subsist over land transfer titles by virtue of section 62 (b) of the Land Transfer Act 1952. Most of the prescriptive rights arising in New Zealand under the Act of 1832 relate to easements. It has been questioned whether there is any practical need for the Bill to preserve section 1, which relates to profits. Section 1 is being preserved in the meantime because of a possible review of the laws relating to prescription. By reason of *clause 6 (1)* of the Bill, the reference in the Second Schedule to the Prescription Act 1832 does not affect the earlier repeal of section 3 in relation to New Zealand.

(1833) 3 and 4 Will. 4, c. 41—The Judicial Committee Act 1833, except sections 22 to 24

The Title shows this to be an Act for the better administration of justice in His Majesty's Privy Council. The Act has relevancy in New Zealand; and Volume 9, p. 181 of the 1931 Reprint of the Public Acts of New Zealand shows it to be

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

in force here. See *Transport Mutual and General Insurance Co. Ltd.* [1936] N.Z.L.R. 11, 14. Sections 22 to 24 relate to India and the East Indies.

(1837) 7 Will. 4 and 1 Vict., c. 26—The Wills Act 1837

The rules governing the making of wills are mainly provided by this Act, the amendments thereof that are in force in New Zealand, and the considerable body of case law that has grown up around the legislation. This legislation is reprinted in the New Zealand Statutes, 1977, Vol. 4, p. 3713.

(1843) 6 and 7 Vict., c. 38—The Judicial Committee Act 1843

The Title shows this to be an Act for facilitating the hearing of appeals and other matters by the Judicial Committee of the Privy Council. The Act still has relevance in New Zealand; and Volume 9, p. 181 of the 1931 Reprint of the Public Acts of New Zealand shows it to be in force here.

(1844) 7 and 8 Vict., c. 69—The Judicial Committee Act 1844

This Act provides for the making of rules governing New Zealand appeals to the Privy Council. See U.K. Orders in Council 1910, No. 70 (L. 3) and 1972, No. 1994.

(1850) 13 and 14 Vict., c. 26—The Piracy Act 1850: section 5

In the 1931 Reprint of the Public Acts of New Zealand, Vol. 9, p. 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. Section 5 of the Act provides that ships, etc., taken from pirates by Her Majesty's ships or vessels of war may be proceeded against, and shall be liable to condemnation as droits of Admiralty. There is provision for restoration of the captured ship to the former owner on payment, for or instead of salvage, of one-eighth of its true value. The amount so paid is to be distributed among the officers and crew of the ship that made the capture as directed by Order in Council. In relation to New Zealand, sections 2 and 3 of the Act were repealed by section 14 of the Admiralty Act 1973, and section 6 by section 412 of the Crimes Act 1961. Section 4 of the Act and the words to be omitted from section 5 related to captures by ships of the East India Company. The remaining sections of the Act have been repealed in the United Kingdom, and have no relevance in New Zealand.

(1851) 14 and 15 Vict., c. 83—The Court of Chancery Act 1851

So much of section 16 of this Act as prescribed the quorum of the Judicial Committee of the Privy Council has relevance in New Zealand, and is preserved accordingly. The remainder of the Act has either been repealed or has no relevance here. See Statute Law Revision Act 1892 (U.K.)

(1852) 15 and 16 Vict., c. 24—The Wills Amendment Act 1852

See explanatory note in Appendix B on the Wills Act 1837.

(1859) 22 and 23 Vict., c. 63—The British Law Ascertainment Act 1859

This is stated in its Title to be an Act to afford facilities for the more certain ascertainment of the law administered in any part of Her Majesty's dominions when pleaded in the Courts of another part thereof. However, the information obtained would simply be evidence. It would not bind the New Zealand Court. See Webb and Davis *Casebook on the Conflict of Laws*, page 7, No. 13. In its terms it applies to New Zealand; and the Table in Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, at page 182, shows it as one of the Imperial Acts in force here.

APPENDIX B—*continued*

PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

(1864) 27 and 28 Vict., c. 25—The Naval Prize Act 1864

Section 8 (1) of the Admiralty Act 1973 (N.Z.) provides that the Acts of the United Kingdom known as the Prize Acts 1864 to 1939 shall continue in force as part of the laws of New Zealand. See Halsbury's *Statutes of England*, 3rd Ed., Vol. 25, p. 911 as to the Acts contemplated. Those now relevant are the Naval Prize Act 1864, the Prize Courts Act 1894, the Prize Courts (Procedure) Act 1914, the Prize Courts Act 1915, the Naval Prize (Procedure) Act 1916, and the Prize Act 1939. Halsbury shows the Prize Courts (Egypt, Zanzibar, and Cyprus) Act 1914 as one of the Acts known as the Prize Acts 1864 to 1939. This had restricted application to Egypt, Zanzibar, and Cyprus in respect of the First World War. It has been repealed in the United Kingdom as having ceased to be in force or unnecessary, and need not be preserved in New Zealand. The Naval Prize Acts of 1918 and 1928 were special provisions relating to the establishment and winding up of a Naval Prize Fund out of the proceeds of prizes captured in the First World War. They are not now in force in the United Kingdom and are not needed here.

(1865) 28 and 29 Vict., c. 63—The Colonial Laws Validity Act 1865

This Act, according to its terms, originally applied to New Zealand. In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, it is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. Section 2 (1) of the Statute of Westminster 1931 (U.K.) provided that the Colonial Laws Validity Act 1865 (U.K.) shall not apply to any law made after the commencement of the Statute of Westminster 1931 (U.K.) by the Parliament of a dominion. In terms of section 10 of the last-mentioned Act, the said section 2 was not to extend to New Zealand unless it was adopted by the Parliament of New Zealand. Section 2 was adopted in New Zealand on 25 November 1947 by section 2 of the Statute of Westminster Adoption Act 1947 (N.Z.). The principal effect of the Colonial Laws Validity Act 1865 is to clarify the law relating to the validity of colonial laws repugnant to United Kingdom legislation in force in the particular colony. The Act states that any such colonial law is void and inoperative.

It has been suggested that it is unnecessary to preserve the Colonial Laws Validity Act 1865 in force here.

The effect of the Act in relation to New Zealand legislation passed before 25 November 1947 will remain even if the Act is repealed, since the validity of such New Zealand legislation must be determined as the law stood at the time when it was passed. Further, *clause 10 (2) (c)* of the Bill saves the previous operation of Imperial enactments repealed by the Bill. **This suggestion is receiving further study.** In the meantime, the 1865 Act is shown in Appendix A as being preserved in force.

(1873) 36 and 37 Vict., c. 88—The Slave Trade Act 1873

This Act in its terms applies to all places within Her Majesty's dominions. The Crimes Act 1961 (N.Z.) repealed sections 22 and 26 of the 1873 Act, and (by section 98) specified offences connected with slave dealing. The Extradition Act 1965 (N.Z.) repealed section 27 of the 1873 Act. The pattern of the said N.Z. Acts of 1961 and 1965 infers that there was a deliberate intention at the time not to repeal the whole of the 1873 Act. This inference is strengthened by the fact that the Crimes Act 1961 (N.Z.) repealed the whole of the U.K. Slave Trade Acts of 1824 and 1843. The English *Chronological Table of the Statutes* shows that much of the 1873 Act remains in force in England. The 1973 Report of the Australian Capital Territory recommends that the 1873 Act should be retained in force in its existing form. The Report attaches significance to the provisions in the 1873 Act authorising the seizure and detention of a vessel which is on

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

reasonable grounds suspected of being engaged in or fitted out for the slave trade. The Report comments that provisions of this kind may well be fit for repeal, but the Commission responsible for the report hesitated to be dogmatic on the question. The Commission took the view that any move to repeal the 1873 Act should be Australia-wide, and that the repeal of the Act in the Australian Capital Territory alone would be anomalous. It would seem that, while the 1873 Act remains substantially in force in England and Australia, it should be preserved in New Zealand.

(1876) 39 and 40 Vict., c. 59—The Appellate Jurisdiction Act 1876: section 14

This section amends the Judicial Committee Act 1871. That Act is being preserved in relation to New Zealand, and the said section 14 (as amended by the Statute Law Revision Act 1894) also needs to be preserved. Section 23 of the Appellate Jurisdiction Act 1876 was repealed in relation to New Zealand by section 14 of the Admiralty Act 1973 (N.Z.).

(1881) 44 and 45 Vict., c. 69—The Fugitive Offenders Act 1881

Section 4 of the Fugitive Offenders Amendment Act 1976 (N.Z.) provides that, for the avoidance of doubt, it is declared that the Fugitive Offenders Act 1881 (U.K.) is and always has been in force in New Zealand as part of the laws of New Zealand. See the explanatory note to the 1976 Fugitive Offenders Amendment Bill, which explains why the 1881 Act is declared to be in force in New Zealand though it has been repealed in the United Kingdom by the Fugitive Offenders Amendment Act 1967 (U.K.).

(1887) 50 and 51 Vict., c. 54—The British Settlements Act 1887

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, shows that this Act was one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act has relevancy for New Zealand in relation to the Ross Dependency.

(1894) 57 and 58 Vict., c. 39—The Prize Courts Act 1894

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1895) 58 and 59 Vict., c. 34—The Colonial Boundaries Act 1895

This Act in its terms applies to New Zealand. The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, shows it as one of the Imperial Acts that were apparently in force here on 31 December 1931. It has relevance in relation to the Despatch dated 4 April 1887 and the Letters Patent dated 20 January 1887, which both relate to the Kermadec Islands and were published in the *New Zealand Gazette* 1887, Volume 1, page 433; also in relation to the Proclamation and Order in Council which both relate to the Cook Group and other Islands and were published in the *New Zealand Gazette* 1901, Volume 1, pages 1307 and 1308.

(1895) 58 and 59 Vict., c. 44—The Judicial Committee Amendment Act 1895

This Act amends the law relating to the membership of the Judicial Committee of Her Majesty's Privy Council. In its terms it is expressly applied to New Zealand. Volume 9, page 183 of the 1931 Reprint of the Public Acts of New Zealand shows it to be in force here.

(1896) 59 and 60 Vict., c. 14—The Short Titles Act 1896 (U.K.)

This Act is brought into force in New Zealand so far as it relates to the other Imperial enactments mentioned in the Schedule to the Bill. This will enable the

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

enactments in question to be cited by the Short Titles specified in that Act.

(1908) 8 Edw. 7, c. 51—The Appellate Jurisdiction Act 1908, except sections 2, 3 (2), and 6

This Act amends the law relating to the membership of the Judicial Committee of the Privy Council. In its terms it is shown as being in force in New Zealand. Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, page 184, shows it to be in force here. Sections 2, 3 (2), and 6 have been repealed in England, and are not relevant here.

(1910) 10 Edw. 7 and 1 Geo. 5, c. 29—The Accession Declaration Act 1910

This Act prescribed the form of the declaration to be made by the Sovereign under section 1 of the Bill of Rights (1688) and section 2 of the Act of Settlement (1700). By the declaration the Sovereign testifies that he or she is a faithful Protestant, and that he or she will, according to the true intent of the enactments which secure the Protestant succession to the Throne, uphold and maintain the said enactments.

(1913) 3 and 4 Geo. 5, c. 21—The Appellate Jurisdiction Act 1913

This Act amends the law relating to the constitution of the Judicial Committee of the Privy Council. In its terms it has effect as part of the laws of New Zealand. Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, page 184, shows it to be in force here.

(1914) 4 and 5 Geo. 5, c. 13—The Prize Courts (Procedure) Act 1914

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1915) 5 and 6 Geo. 5, c. 57—The Prize Courts Act 1915

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1915) 5 and 6 Geo. 5, c. 92—The Judicial Committee Act 1915

This Act enables the Judicial Committee of the Privy Council to sit in more than one Division at the same time. It is not made applicable to New Zealand by express words, but applies in this country by necessary intendment as part of the whole body of law relating to the Judicial Committee of the Privy Council. Volume 9, page 185 of the 1931 Reprint of the Public Acts of New Zealand shows it to be in force here.

(1915) 5 and 6 Geo. 5, c. 39—The Fugitive Offenders (Protected States) Act 1915

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows this Act as one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The Act enabled the Fugitive Offenders Act 1881 (referred to as the principal Act) to be extended to any place or group of places over which His Majesty extends his protection. Section 4 (a) of the Fugitive Offenders Amendment Act 1976 (N.Z.), for the avoidance of doubt, declares that the Fugitive Offenders Act 1881 “is and always has been in force in New Zealand as part of the law of New Zealand”. Section 2 (2) of the 1976 Act declares that “the Acts Interpretation Act 1924 (N.Z.), so far as it is applicable and with the necessary modifications shall apply with respect to the principal Act as if it were an Act of the General Assembly of New Zealand”. Section 18 of the 1924 Act provides that “a reference to or citation of any Act includes therein the citation of all subsequent enactments passed in amendment or substitution of the Act

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued*

so referred to or cited, unless it is otherwise manifested by the context". Accordingly, the Fugitive Offenders (Protected States) Act 1915 is and always has been in force in New Zealand. It is relevant to note that section 2 (2) of the Fugitive Offenders Act 1967 (U.K.) defines the term "United Kingdom dependency" as meaning, among other things, "any country outside Her Majesty's dominions . . . over which she extends protection". See the explanatory note to the 1976 Fugitive Offenders Amendment Bill which explains why the 1881 Act is declared to be in force in New Zealand though it has been repealed in the United Kingdom by the Fugitive Offenders Act 1967 (U.K.).

(1916) 6 and 7 Geo. 5, c. 2—The Naval Prize (Procedure) Act 1916

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1920) 10 and 11 Geo. 5, c. 27—**The Nauru Island Agreement Act 1920**

This Act confirmed an agreement between His Majesty's Government in London, His Majesty's Government in the Commonwealth of Australia, and His Majesty's Government in New Zealand.

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185, the Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The agreement has not yet been terminated, and the Act needs to be preserved as part of the laws of New Zealand while the agreement remains in force here.

(1928) 18 and 19 Geo. 5, c. 26—The Administration of Justice Act 1928: sections 13 and 20 (1)

Section 13 repealed provisions that were in force in New Zealand, which provisions limited the number of dominion Judges who may be members of the Judicial Committee of the Privy Council. Volume 9, page 185, of the 1931 Reprint of the Public Acts of New Zealand shows section 13 to be in force in New Zealand. Section 20 (1) prescribes the Short Title to the Act and must necessarily be preserved along with section 13.

(1931) 22 Geo. 5, c. 4—**The Statute of Westminster Act 1931**

The Statute, except sections 7 and 9, applied to New Zealand by reason of its terms and of the provisions of the Statute of Westminster Adoption Act 1947 (N.Z.). Sections 7 and 9 relate to Canada and Australia. *Clause 25 (1) (c)* of the Constitution Bill, as reported from the Justice and Law Reform Committee, provides for the repeal of the whole of the Act as part of the laws of New Zealand. It will be omitted in due course from the Schedule of preserved enactments in the Imperial Laws Application Bill.

(1939) 2 and 3 Geo. 6, c. 65—The Prize Act 1939

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1945) 9 Geo. 6, c. 7—**The British Settlements Act 1945**

This Act amends the British Settlements Act 1887, which is in force in New Zealand, and is being preserved here. By necessary intendment, the 1945 Act is in force in New Zealand. It has relevancy for New Zealand in relation to the Ross Dependency. At the time when the 1945 Act was passed, the power of the United Kingdom Parliament to legislate for New Zealand was not restricted by sections 4 and 10 of the Statute of Westminster Act 1931 (U.K.) or section 4 of the Statute of Westminster Adoption Act 1947 (N.Z.).

APPENDIX B—*continued*PRESERVED AND SUBSTITUTED ENACTMENTS—*continued***(1947) 11 Geo. 6, c. 4—The New Zealand Constitution (Amendment) Act 1947**

This Act was passed pursuant to the request and consent of the Parliament of New Zealand as set out in the New Zealand Constitution Amendment (Request and Consent) Act 1947 (N.Z.). It enabled the Parliament of New Zealand to alter, suspend, or repeal at any time all or any of the provisions of the New Zealand Constitution Act 1852 (U.K.). *Clause 25 (1) (c)* of the Constitution Bill, as reported from the Justice and Law Reform Committee, provides for the repeal of this Act as part of the laws of New Zealand. It will be omitted in due course from the Schedule of preserved enactments in the Imperial Laws Application Bill.

(1948) 11 and 12 Geo. 6, c. 62—The Statute Law Revision Act 1948: sections 5 and 6 (1) and the Second Schedule.

See explanatory note in Appendix B on the Short Titles Act 1896 (U.K.).

(1978) c. 30—The Interpretation Act 1978

See note in Appendix C on the Interpretation Act 1889.

APPENDIX C

EXPLANATION OF CERTAIN ENACTMENTS, ETC., NOT BEING PRESERVED

(1225) 9 Hen. 3, c. 29—Magna Carta. Liberty of the subject.

This instrument is mentioned in Appendix A and in this Appendix because the Magna Carta of 1225, c. 29 is shown in Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, page 179, as one of the Imperial statutes apparently in force in New Zealand. The instrument of 1225 is not now generally regarded as a statute. It was restated in the Magna Carta of 1297 which is currently treated as a statute. See the note regarding the commencement of statute law in England at *page xii* of the explanatory note to the Bill. Chapter 29 of the Magna Carta of 1297 is preserved by the Bill.

(1235) 20 Hen. 3—The Statute of Merton

This has significance because it was the first Imperial Act. It was enacted when King Henry III, the Archbishop of Canterbury and his bishops and suffragans, and the greater part of the earls and barons of England were assembled at Merton for the coronation of the said King about which they were all called. The said statute was a “heterogeneous collection” of enactments on various subjects, including dower, succession, disseizin, common rights of pasturage, usury, wardship, limitation, legitimacy, trespass, and leap year. It is not now in force in England, and has been repealed as unnecessary or obsolete in Victoria and New South Wales. The 1973 Report of the Australian Capital Territory considers it to be obsolete and recommends its repeal. It serves no necessary or useful purpose in New Zealand.

(1236) 40 Hen. 3—*De Anno Bisexti*. (Concerning leap year)

This Statute and the Calendar (New Style) Act 1750 are mentioned in Butterworth’s *Current Law* of 13 May 1986 at para. 641 where it is stated that, in the case of *Sunnyvale Services (B.O.P.) Ltd v Bhana* in the High Court at Rotorua, Gallen J. was required to examine the status in New Zealand of the Statute *De Anno Bisextili* and the Calendar (New Style) Act 1750.

The Bill provides for the Act of 1750 (including section 2, which provides a code in relation to leap year) to be preserved in force as part of the laws of New Zealand to the extent shown in the Schedule. See the explanatory note in relation to that Act in Appendix B.

The Statute of 1236 provides that the extra day of leap year and the day preceding shall be reckoned as one day. The Statute of 1236 was repealed in relation to England by the Civil Procedure Acts Repeal Act 1879 (c. 59). It seems that it can be repealed in relation to New Zealand. Section 2 of the Act of 1750 seems to provide an adequate code for New Zealand in relation to leap year.

(1275) 3 Edw. 1—Statutes of Westminster the First

These are repealed in relation to New South Wales by the Imperial Acts Application Act 1969 (N.S.W.). The 1969 Act was based on the 1967 Report of N.S.W. which treats the whole of the Statutes of 1275 as obsolete or unnecessary. The Statutes of 1275 are recommended for repeal in the Australian Capital Territory by the 1973 Report of the Australian Capital Territory.

In England the Statutes of 1275 are repealed except for c. 5. This chapter provides as follows:

“And because elections ought to be free, the King commandeth upon great forfeiture, that no man by force of arms, nor by malice, or menacing, shall disturb any to make free election.”

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

The Statute Law (Repeals) Bill 1969 (U.K.) included c. 5 of the Statute of 1275 for repeal, and the Chairman of the Joint Committee on the Bill proposed its repeal as superseded by the Bill of Rights and by the provisions of the Representation of the People Act 1949 (U.K.). See the 1974-75 Report of Victoria, pp. 27 and 28. In Victoria c. 5 was preserved as a transcribed enactment by the Imperial Acts Application Act 1922 (Vic.), and is now preserved as a transcribed enactment by Division 1 of Part II of the Imperial Acts Application Act 1980 (Vic.).

In New Zealand the position as regards c. 5 is adequately covered by s. 143 of the Electoral Act 1956 (N.Z.) and s. 59 of the Local Elections and Polls Act 1976 (N.Z.). This Bill preserves in force in New Zealand the Bill of Rights 1688, which provides that "elections of members of Parliament ought to be free". Chapters 25, 26, 28, and 29 were repealed in relation to New Zealand by section 412 (1) of the Crimes Act 1961 (N.Z.). There is no practical need in New Zealand to preserve any of the other provisions of the Statutes of 1275.

In connection with c. 1, the 61st Report of the Law Reform Committee of South Australia states:

"In Chapter 1 occurs the famous words 'that common right be done to all, as well poor as rich, without respect of persons'. The remainder of the chapter deals with matters of ecclesiastical law and can be repealed but those words should not, and they should remain in force of their own right in South Australia."

In deciding whether the said words should remain in force in New Zealand as part of the said Imperial enactment, weight is to be given to the fact that they do not remain in force in England, Victoria, or New South Wales, and do not receive mention in the 1973 Report of the Australian Capital Territory. It is relevant also to note that the Statutes of Westminster the First are not shown in the list that appears in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, which list shows the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The present version of the Bill, as it stands, does not give effect to the South Australian recommendation. If a decision is made to do so, the position can be covered by including in Division 1 of Part I of the Schedule, in its chronological order, the following item:

(1275) 3 Edw. 1, c. 1—(Statutes of Westminster the First): so much thereof as is stated in the words "the King willeth and commandeth that common right be done to all, as well poor as rich, without respect of persons."

(1276) 4 Edw. 1, St. 2—(Office of coroner)

See 1967 Report of New South Wales, page 53. In New Zealand the Coroners Act 1951 now appears to be a complete code in this connection. See Burns and O'Keefe *Functions and Powers of Justices of the Peace and Coroners*, page 14. See also *Canterbury Corporation v Wyburn* (1895) A.C. 89.

(1279) 7 Edw. 1—The Statute for religious men

This provided that no lands shall be alienated in mortmain. In the case of *Mayor, etc., of Lower Hutt v. Hayes* [1913] 32 N.Z.L.R. 1969, the Court of Appeal held that the Mortmain Acts are not in force in New Zealand.

(1285) 13 Edw. 1, c. 1—Statute of Westminster the Second (*De Donis*)

This chapter created the estate in fee tail. This estate is abolished by section

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

16 of the Property Law Act 1952. Under that section estates tail are deemed to be estates in fee simple.

(1301) 29 Edw. 1—(A statute for escheators)

This Act dealt with the procedures as to escheat. The 55th Report of the Law Reform Committee of South Australia dated 22 May 1980 states that escheat was still in force in South Australia. In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, the Act of 1301 is not included in the Table of Imperial Acts that were apparently in force in New Zealand on 31 December 1931. Section 76 of the Administration Act 1969 (N.Z.) provides for the abolition of escheat in New Zealand.

(Uncertain date) 17 Edw. 2, St. 1, cc. 9, 10 (or 11, 12)—of the King's Prerogative

Section 2, and the First Schedule of the Lunatics Act 1868 (No. 16—N.Z.), provide for the repeal of an Imperial enactment described in the said Schedule as "17 Edw. 1, St. 1, cc. 9, 10—of the King's Prerogative".

Section 3, and the First Part of the Schedule of the Repeals Act 1878 (No. 28), provide for the repeal of an Imperial enactment described in the said Schedule as "17 Edw. 2, St. 2, c. 9—of the King's Prerogative in the custody of lands of idiots", and "c. 10—of the King's Prerogative in the preservation of lands of lunatics". The Title to the Act of 1878 describes it as "an Act for promoting the revision of the Statute law by repealing divers Acts and parts of Acts which have ceased to be in force or become unnecessary".

The Table of obsolete or repealed Imperial Acts in the 28th Edition of Curnin's *Index to the Laws of New Zealand*, pages 362 to 369 includes an Act described as 17 Edw. 2, St. 1, cc. 9 and 10—of the King's Prerogative in respect of the custody of lands of idiots and lunatics", and shows the Act of 1868 as the repealing Act.

Halsbury's *Statutes of England*, Second Edition, Volume 4, pages 52 to 55, published an Act shown as "of the King's Prerogative (uncertain date)". The Act, as shown in Halsbury's *Statutes of England*, includes "Chapter 11—The custody of lands of idiots", and Chapter 12—of lands of lunatics".

In spite of the variations in the descriptions, the intention as to what was to be repealed seems reasonably clear.

Notwithstanding the express repeals of the said chapters 11 and 12 of the Act of 17 Edw. 2 relating to the King's Prerogative, it seems that those chapters may have significance in this country in relation to the interpretation of section 17 of the Judicature Act 1908, which section relates to the jurisdiction of the New Zealand High Court, under section 17 of the Judicature Act 1908, in respect of mentally defective persons. A note in Sim's *Practice and Procedure*, 11th Edition, page 613, in connection with the said section 17, states:

"Section 17 confers, *inter alia*, the ancient inherent jurisdiction known as the Prerogative, and included in the Statute Prerogative regis (temp. incert.) 17 Edw. 2, c. 12 (4 Halsbury's *Statutes*, 2nd ed. 52) to do what is for the benefit of a lunatic in respect of his lands; and this includes power to grant an easement over the land of a mental patient, if it is for the benefit of the patient: *In re W. (a Mental Patient)* [1954] N.Z.L.R. 183."

The view is being taken that the Imperial Laws Application Bill should leave matters where they now appear to stand in this connection.

(1326-7) 1 Edw. 3, St. 2, c. 14—(Maintenance)

This chapter relates to maintenance of actions, and appears to serve no

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

necessary or useful purpose in New Zealand. The old statutes regarding maintenance are discussed in the 1967 Report of New South Wales, page 54, where it is stated that “maintenance is an offence at common law, the old statutes on the subject being all merely declaratory of the common law”. In accordance with the recommendation in the said report, the chapter was repealed by the Imperial Acts Application Act 1969 (N.S.W.). Under section 9 of the Crimes Act 1961 (N.Z.), no one shall be convicted of an offence at common law, or of an offence against any Imperial Act. The Crimes Act 1961 repeals the Statutes of 1300 (28 Edw. 1, c. 11), 1377 (1 Rich. 2, c. 4), and 1383 (7 Rich. 2, c. 5), which relate to maintenance and champerty. Chapter 14 has been repealed in England by being included among the obsolete crimes listed in Schedule 4 of the Criminal Law Act 1967 (U.K.). The explanatory paper accompanying the Imperial Laws Application Act 1922 (Vic.) remarks that the chapter is unnecessary or obsolete. Its repeal is recommended at page 26 of the 1973 Report of the Australian Capital Territory.

(1327) 1 Edw. 3, St. 2, c. 16—The Justices of the Peace Act 1327

In place of this Act, the Justices of the Peace Act 1344 (18 Edw. 3, St. 2, c. 2), and the Justices of the Peace Act 1361 (34 Edw. 3, c. 1), there were enacted in sections 29 and 30 of the Imperial Acts Application Act 1969 (N.S.W.) substituted provisions for the appointment of Justices of the Peace, and for them to take sureties for good behaviour.

In New Zealand provision is made for the appointment of Justices of the Peace by section 3 of the Justices of the Peace Act 1957, and for the conservation of the peace (including the taking of sureties) by Part VI of the Summary Proceedings Act 1957. The said 3 Acts of Edward 3 are recommended by the 1973 Report of the Australian Capital Territory for repeal there, and can be repealed in relation to New Zealand.

(1328) 2 Edw. 3—Statute of Northampton

This statute is obsolete and unnecessary, and has been repealed in England, New South Wales, and Victoria. See page 34 of the 1974-75 Report of Victoria regarding chapter 8 which relates to commands to delay justice. Chapter 3 was repealed by section 412 (1) of the Crimes Act 1961.

(1331) 5 Edw. 3, c. 9—Justice and liberty

This Act forbids attachments and other deprivations against the form of the Great Charter and the law of the land. The 1967 Report of New South Wales expresses the view that it is unnecessary, and it is repealed accordingly in relation to that State by the Imperial Acts Application Act 1969 (N.S.W.). The 1973 Report of the Australian Capital Territory comments that the Act “is in a form which used to be common but is not now seen—the prohibition of what is already unlawful”.

(1344) 18 Edw. 3, St. 2, c. 2—The Justices of the Peace Act 1344

See explanatory note in Appendix C on the Justices of the Peace Act 1327.

(1351-2) 25 Edw. 3, St. 5, c. 3—Juries

This Act relates to the challenge of an indictor upon an inquest. Both the 1967 Report of New South Wales and the 1973 Report of the Australian Capital Territory regard it as obsolete and recommend its repeal. It is repealed in relation

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

to New South Wales by the Imperial Acts Application Act 1969 (N.S.W.), and is not preserved in relation to Victoria by the Imperial Acts Application Act 1980 (Vic.) or the Imperial Law Re-enactment Act 1980 (Vic.). In New Zealand provision for challenge of jurors is made by sections 23 to 26 of the Juries Act 1981.

(1361) 34 Edw. 3, c. 1—The Justices of the Peace Act 1361

See explanatory note in Appendix C on the Justices of the Peace Act 1327.

(1362) 36 Edw. 3, c. 15—The Pleading in English Act 1362

This Act and the Proceedings in Courts of Justice Act—1730 or 1731 (4 Geo. 2, c. 26) are in force in New Zealand by reason of section 2 of the English Laws Act 1908. See the judgment of Bisson J. in the case of *Mihaka v. Police* [1980] 1 N.Z.L.R. at page 459. In that case Bisson J. (in the High Court) and Richardson J. (in the Court of Appeal) accepted on general grounds that English is the customary language of the Courts in New Zealand, and Bisson J. reinforced this view by adding that “if any statutory authority is required for the conduct in English of proceedings in New Zealand Courts, the English Acts cited coupled with the English Laws Acts of 1858 and 1908 would provide the authority”. These 2 English Acts were not critical in relation to the judgment in the case, and their repeal will not affect the principle that English is the customary language of the Courts. Proposals for modification of that principle appear in clauses 3 to 5 of the Maori Language Bill 1986.

(1387-8) 11 Rich. 2, c. 10

This Act is recommended for repeal by the 1974-75 Report of Victoria, p. 34, and is not preserved by the Imperial Acts Application Act 1980 (Vic.) or the Imperial Law Re-enactment Act 1980 (Vic.).

(1392) 16 Rich. 2, c. 5—The Statute of Praemunire

See 1967 Report of New South Wales, page 58.

(1405-6) 7 Hen. 4, c. 1

For historical and constitutional reasons the Bill preserves in relation to New Zealand the Magna Carta of 1297 and 3 Acts passed in the reign of Edward 3 that confirm its principles. The said Act of Henry 4 is not being preserved in relation to New Zealand, though it also was an important constitutional instrument in the context of the time at which it was passed. Now it serves no necessary or useful purpose here, and is only of historical interest.

See the 1974-75 Report of Victoria, pp. 33, 34.

In England in 1969, the Law Commission recommended the repeal of the said 4 Acts of Edward 3 and Henry 4. They were included for repeal in the Schedule to the Statute Law (Repeals) Bill 1969, but the Joint Committee on the Bill decided to save them from repeal.

In Victoria the said 4 Acts were preserved as transcribed enactments by the Imperial Acts Application Act 1922 (Vic.), and are now so preserved by the Imperial Acts Application Act 1980 (Vic.).

In New South Wales the Imperial Acts Application Act 1969 (N.S.W.) and the related Report of 1967 are silent regarding the said Act of Henry 4, which is covered by the general repeal in the Act.

The 1973 Report of the Australian Capital Territory is also silent as to the

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

said Act of 7 Henry 4, thereby implying that it is not to be preserved in relation to the Australian Capital Territory.

(1423) 2 Hen. 6, c. 17 (Silverware)

In the Imperial Acts Application Act 1922 (Vic.), this Act and the Imperial Acts (1696–7) 8 and 9 Will. 3, c. 8, (1719–20) 6 Geo. 1, c. 11, (1738–39) 12 Geo. 2, c. 26, (1741–2) 15 Geo. 2, c. 20, (1787–8) 28 Geo. 3, c. 7, (1790) 30 Geo. 3, c. 31, and (1796) 36 Geo. 3, c. 60 are shown in the Second Schedule as Imperial Acts that were not affected by the general repeal provided in section 7 of that Act. The 9 specified Acts were some of the Imperial Acts connected with hallmarking that were passed for the purpose of protecting the public with regard to its purchase of gold and silver. Other Acts in this connection are (1772) 13 Geo. 3, c. 52 Local (Plate Assay—Sheffield and Birmingham), and (1819) 59 Geo. 3, c. 7—Cutlery Trade.

In the explanatory note printed with the 1922 Act it is stated that “though it might not be wise entirely to repeal them, they were found difficult of transcription, the applicability of many of them is doubtful, and the subject matters could probably be better dealt with in entirely new legislation”. See the 1974–75 Report of Victoria for a full discussion of these 9 Acts, and the relevant comments thereon in the 1967 Report of New South Wales (pages 58 and 59), and the 1973 Report of the Australian Capital Territory (pages 28, 37, 40, 41, 45, and 46).

In the light of what is said in the 3 Reports last-mentioned, and having regard to the unsatisfactory features of the said Imperial Acts, it appears that they should now be repealed in relation to New Zealand, and that no attempt need be made at this stage to provide substituted enactments for this country. If it subsequently appears that it is necessary to have legislation on the subject here, suitable provisions can be enacted.

(1488–9) 4 Hen. 7, c. 20—The Collusive Actions Act 1488

See page 59 of the 1967 Report of New South Wales and pages 13 and 14 of the 1973 Report of the Australian Capital Territory. The list published in Volume 9, pages 179 to 185, of the 1931 Reprint of the Public Acts of New Zealand does not include the Collusive Actions Act 1488. That Act serves no necessary or useful purpose in New Zealand, especially as it now appears that common informer procedure is a dead letter here, and is in any case undesirable.

(1511–12) 3 Hen. 8, c. 11—(Physicians and surgeons)

This Act related to the examination and approval of persons seeking to practice as physicians or surgeons. The position is governed in New Zealand by the Medical Practitioners Act 1968 (N.Z.).

(1512) 4 Hen. 8, c. 8—The Privilege of Parliament Act 1512

See note in Appendix C on the Parliamentary Privileges Act 1770.

(1535–6) 27 Hen. 8, c. 16—The Statute of Enrolments

This statute was part of the legislation system of England relating to uses. The Statute of Uses was repealed in relation to New Zealand by section 121 of the Property Law Act 1905, and the Statute of Enrolments is not now needed here.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1535) 27 Hen. 8, c. 24—The Jurisdiction in Liberties Act 1535

See page 95 of the 1974-75 Report of Victoria for a discussion of this Act and of the recommendations in regard thereto in the 1967 Report of New South Wales and the 1973 Report of the Australian Capital Territory. All 3 reports describe the Act as obsolete or unnecessary. It is not now in force in England; and it serves no necessary or useful purpose in New Zealand.

(1539) 31 Hen. 8, c. 10—The House of Lords Precedence Act 1539

This Act defines the order of precedence in the House of Lords and in certain other conferences and assemblies. New Zealand has its own order of precedence approved by Her Majesty. See 1974 *New Zealand Gazette*, Volume 1, page 5 and 1981 *New Zealand Gazette*, Volume III, page 2575. **Section 10 of the Civil List Act 1979 authorises the Governor-General to fix the order of precedence of Ministers.** The order of precedence at the Privy Council, when it meets in New Zealand, is determined by well-worn conventions. The Act of 1539 serves no necessary or useful purpose here and can be repealed in relation to New Zealand.

(1540) 32 Hen. 8, c. 37—The *Cestui Que Vie* Act 1540

Sections 1 to 3 of this Act were repealed, in relation to New Zealand, by section 84 (2) of the Administration Act 1969 (N.Z.). The only other section of the Act is section 4, which provides that persons entitled to rents, during the life of another person, may recover the same after the death of that other person, either by an action of debt or by distress.

The 1967 Report of the Law Reform Commission of New South Wales comments in relation to section 4 as follows:

“At common law the executors or administrators of a man seised of a rent-service, etc., in fee simple or fee tail or for his own life or *pur autre vie*, could not distrain for the arrears incurred in the lifetime of the testator or intestate. To remedy this the Statute 32 Henry VIII, c. 37, was passed. By section 4, tenants *pur autre vie*, their executors or administrators, may sue or distrain for arrears due during the life, and unpaid after the death, of the *cestui que vie* in like manner as at common law they might have done during his life—*Williams, Executors and Administrators*, 11th edn (1921), vol. 1, p. 690.”

Section 4 has been superseded, in relation to New Zealand, as regards the action for debt by sections 144 to 148 of the Property Law Act 1952 (N.Z.).

The only significance that the said section 4 may now have in New Zealand is in respect of the right of distress, which it confers.

The general merits of the right of distress are being questioned, and the suggestion is being made that our law in this connection should be abolished completely.

Another suggestion is that there should be a complete consolidation and codification of our law of distress.

The question whether section 4 should be preserved as part of the laws of New Zealand in its present form or some substituted form needs to be settled in the light of what is to be done generally in connection with the right to distrain.

The Property Law and Equity Reform Committee was asked to look at the question whether the Act of 1540 can be repealed as part of our law. It is understood that the Committee took the view that consideration of the general merits of the law of distress was beyond its terms of reference, but favoured a

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

simple repeal in New Zealand of that Act on the ground that it is unnecessary to preserve it here. Clause 7 of the Bill provides accordingly.

(1541) 33 Hen. 8, c. 21—The Royal Assent by Commission Act 1541

So far as this Act made general provision for giving the Royal Assent by commission, it remained in force in England until the passing of the Royal Assent Act 1967 (U.K.), which repealed the Act of 1541 and made a substituted provision for the signification of the Royal Assent. In New Zealand the Sovereign's prerogative powers in relation to assent were superseded by the statutory provisions for assent in the New Zealand Constitution Act 1852 (N.Z.), which Act impliedly repealed the Act of 1541 if it was then in force in New Zealand. **The Sovereign's power of assent in New Zealand now rests on section 3 of the Royal Powers Act 1983 (N.Z.).** No provision for the Sovereign to assent by Commission is needed in New Zealand.

(1541) 33 Hen. 8, c. 39 (Crown debts)

The 1973 Report of the Australian Capital Territory states that this Act, and the Acts (1571) 13 Eliz., c. 4 (Crown debtors), (1609) 7 Ja. 1, c. 15 (Crown debts), (1785) 25 Geo. 3, c. 35 (Crown debtors), and (1800) 39 and 40 Geo. 3, c. 54 (sale of assets of Crown debtors and their sureties) are all obsolete and should be repealed. Sir Leo Cussen's explanatory memorandum relating to the Imperial Acts Application Act 1922 (Vic.) states that the applicability of some of them in Victoria is more than doubtful. These comments seem relevant in the New Zealand context.

(1542) 34 and 35 Hen. 8, c. 8—The Herbalists Act 1542

This Act modified the Act of 3 Henry 8, c. 11 (1511–12) relating to physicians and surgeons so as to remove restrictions under the earlier Act so far as they prevented herbalists from curing outward sores by herbs and ointments and certain specified diseases by drinks. Neither Act is shown in the list of Imperial Acts in force in New Zealand in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, or included in the volumes of Imperial Acts in force in New Zealand that were published in 1859 and 1881. Neither Act is mentioned in the relevant Acts and reports of Victoria and New South Wales. The 1973 Report of the Australian Capital Territory points to the fact that the Herbalists Act 1542 expressly applies to the Crown's dominions outside England, and states that the said Act is obsolete and should be repealed. The position in New Zealand is similar. Both Acts have been repealed in England.

(1554) 1 Mar., Sess 3, c. 1—The Queen Regent's Prerogative Act 1554

This Act was repealed as part of the Laws of England as a result of the Law Commission's Report "Statute Law Revision: First Report (Law Com. No. 22)". At page 33 of that report it is stated that the Act of 1554 "declares that all Regal power appertains to a Queen in as full and ample a manner as it does to a King. As the law is purely declaratory its repeal would not alter the law, which is now beyond dispute". For similar reasons the Act can be repealed as part of the laws of New Zealand.

(1558) 1 Eliz., c. 1—The Act of Supremacy

This Act is not shown in the list of Imperial Acts in force in New Zealand in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to

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185, nor is it included in the volumes of Imperial Acts in force in New Zealand published in 1859 and 1881. The 1979 Edition of the English *Chronological Table of the Statutes* shows the Act as being in force in England. Halsbury's *Statutes of England*, 3rd Edition, Volume 10 treats the Act as part of the Ecclesiastical law of England. At page 7 of the said Volume 10, the Act is said to be of great historical interest in relation to the constitution of the Church of England. At page 20 of the said Volume 10 it is said that English ecclesiastical law does not normally apply overseas. The Act of Supremacy is mentioned in the 1967 Report of New South Wales and the 1973 Report of the Australian Capital Territory, but only to touch on section 3, which relates to marriage and prohibited degrees of consanguinity. Both of these reports treat section 3 as obsolete. Cf. section 15 of the Marriage Act 1955 (N.Z.), and section 31 (1)(a)(iii) of the Family Proceedings Act 1980 (N.Z.).

(1586) 29 Eliz., c. 5—(Acts continuance)

The 1957 Reprint of the Public Acts of New Zealand, Volume 9, page 179 shows this Act as one of the Imperial Acts in force in New Zealand. The Act was repealed in relation to England by the Civil Procedure Acts Repeal Act 1879 (c. 59). The 1967 Report of New South Wales and the 1973 Report of the Australian Capital Territory both express the view that the Act is obsolete. It appears to be obsolete in relation to New Zealand. Section 4 (or 21), which relates to appearance by an attorney, is superseded in New Zealand by the Crimes Act 1961 and the Summary Proceedings Act 1957, which purport to constitute a complete code of criminal procedure in this country.

(1588) 31 Eliz., c. 12—The Sale of Horses Act 1588

In the first edition of *The Law of Sale of Goods* by K.C.T. Sutton the said Act of 1588 is described at page 282 as "governing the sale of horses in market overt". There is no reference to the Act in the Third Edition [1983] *Sales and Consumer Law in Australia and New Zealand*. Section 24 of the Sale of Goods Act 1908, as substituted by section 2 of the Sale of Goods Amendment Act 1961, provided that the law relating to market overt shall not apply in New Zealand.

(1597) 39 Eliz., c. 18—(Acts continuance)

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, p. 180 shows this Act to be in force in New Zealand. The Act was repealed in relation to England by the Statute Law Revision Act 1863 (U.K.), and does not appear to serve any necessary or useful purpose in New Zealand.

(1603) 1 Ja. 1, c. 13—The Privilege of Parliament Act 1603

See note in Appendix C on the Parliamentary Privilege Act 1770.

(1609) 7 Ja. 1, c. 5—The Public Officers Protection Act 1609

This Act enables mayors and constables and others acting in their aid or assistance and by their commandment to plead the general issue in any action brought against them by virtue of their office. It is commonly referred to as the privilege of pleading "not guilty by statute". Section 357 of the Crimes Act 1961 (N.Z.) specifies the special pleas that may be pleaded in New Zealand, and provides that all other grounds of defence may be relied on under the plea of not guilty. The Act of 1609-10 has now been repealed in Victoria and New South Wales, and can be repealed in relation to New Zealand.

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(1609) 7 Ja. 1, c. 12—(Shop—books evidence)

This Act is now obsolete. In New Zealand law the position is covered by Part I of the Evidence Amendment Act (No. 2) 1980.

(1623-4) 21 Ja. 1, c. 8.

This Act was passed to prevent and punish abuses in relation to applications to the Court to prevent apprehended breaches of the peace. In Victoria the Act was preserved as a transcribed enactment in 1922, but has now been repealed in that State and in New South Wales as unnecessary. It is unnecessary in New Zealand where conservation of the peace is covered by Part VI of the Summary Proceedings Act 1957.

(1623) 21 Ja. 1, c. 14—Informations of Intrusion

The 1931 Reprint of the Public Acts of New Zealand shows that this Act is in force in New Zealand.

The 61st Report of the Law Reform Committee of South Australia states, in relation to the Act:

“This is a statute permitting a plea of the general issue against writs of intrusion and to enable a defendant to retain possession of land until trial. Writs of intrusion are still theoretically possible at the Crown’s suit in South Australia, but none of us know of any such writ having been issued for many years. We think the statute may safely be repealed here, partly because of the rarity of the matter and partly because directions could be given in a proper case under Order 72 Rule 2 (2) of our Supreme Court Rules. It was repealed in England by the Statute Law Revision Act 1958.”

Because of the course that is being followed in New Zealand, the position under our rules has not been checked; but otherwise the South Australian comment has relevance in the New Zealand context.

The Crown’s remedy to recover possession of land by information of intrusion was discussed by the New Zealand Court of Appeal in *Mudgway v Davy* [1886] 4 N.Z.L.R. 192. At pages 205 and following, Williams J. stated that, in an action of ejectment (the appropriate way for the subject to recover possession of land), the burden of proving his title is upon the plaintiff, but in an information of intrusion the information stating the title of the Crown appeared upon the record, and the plea of not guilty denied the intrusion only. The effect of the statute of 21 Ja. 1, c. 14 section 4 was, where the Crown had been out of possession in fact for 20 years, to allow the defendant, on an information of intrusion by a plea of not guilty, to put the Crown to the proof of its title in the same way as an ordinary plaintiff in ejectment. Williams J. questioned whether the proceeding by intrusion can be taken in New Zealand, since section 19 of the Crown Suits Act 1881 provided that the possession of land belonging to the Crown is to be recovered by an action for possession of land in the same form as nearly as may be as in an action between subject and subject. However, he stated expressly that it was not necessary to determine that question.

The information of intrusion was further discussed in *Rex v Puketapu Sawmilling Company (Limited)* [1907] 29 N.Z.L.R. 654. There, Cooper J. stated:

“At common law the Crown had the prerogative right, on an information of intrusion, of putting the defendant on showing his title specially, and the defendant could not rely merely on his possession, which ordinarily is, until title is shown by the claimant, sufficient title for the defendant. Upon such an information, before the statute 21 Ja. 1, c. 14, the allegation of the title in

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the King threw upon the defendant the obligation of disclosing upon the record a sufficient title against the Crown. All that the Crown had to prove was the mere fact of intrusion. But, by the statute of James, where the King has been out of possession for twenty years the onus is thrown upon the Crown to prove its title in the first instance. . . . In this Dominion the general procedure to recover land belonging to His Majesty is regulated by the Crown Suits Act, 1881. Informations for intrusion are abolished, and under section 19 of that Act the possession of land belonging to His Majesty shall and may be recovered and obtained by proceedings in an action for possession of land in the same form as nearly as may be as in an action to recover possession of land between subject and subject. As this section only deals with the form of the proceeding, the prerogative right which the Crown had at common law is, I think still, except so far as it has been limited by the statute of James, unaffected where the proceedings are instituted under the Crown Suits Act, as they are in the present case."

The Act of 1623 relates to procedures that are clearly obsolete in New Zealand, and the general repeal in *clause 7* should extend to it. To clarify the implications of this repeal,—

- (a) *Clause 18* amends the Second Schedule to the Crown Proceedings Act 1950 so as to extend the Schedule to informations of intrusion and writs of intrusion, and thus cause them to be abolished under section 12 (2) of the Act of 1950; and
- (b) *Clause 10 (10) (d)* provides that nothing in the Bill shall limit or affect any other Letters Patent, Royal Charter, information, writ, or instruments made or issued under the Royal Prerogative.

(1623-4) 21 Ja. 1, c. 25

This Act contained provisions for the relief of tenants of the Crown from forfeiture for non-payment of rent. In New Zealand the Land Act 1948 governs leases from the Crown and forfeiture in relation thereto. The provisions in relation to relief against forfeiture in sections 117 to 119 of the Property Law Act 1952 were made to bind the Crown in relation to leases of dwellinghouses by section 104B of that Act, as inserted by section 4 of the Property Law Amendment Act 1975. The Act of 1623-4 has now been repealed in relation to New South Wales and Victoria in the light of the legislation in those States relating to leases from the Crown.

(1624) 21 Ja. 1, c. 24—Debts not to Abate by Reason of the Death of a Debtor During Imprisonment

This Act is obsolete. See Part II of the Law Reform Act 1936, and rule 556 (2) (c) and (d) of the new High Court Rules.

(1661) 13 Cha. 2, St. 1, c. 1, s. 6—The Sedition Act 1661

See note in Appendix C on the Parliamentary Privilege Act 1770.

(1666) 18 and 19 Cha. 2, c. 11—The *Cestui Que Vie* Act 1666

The *Cestui Que Vie* Acts of 1666 and 1707 are not mentioned in the list of Imperial Acts apparently in force in New Zealand on 31 December 1931, which list appears in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185. They are not included among the Imperial Acts listed in Garrow and Willis *Law of Wills and Administration*, 4th Edition, nor are they

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mentioned in the current edition of Garrow, *Law of Trusts and Trustees*. *Cross on Evidence*, Third New Zealand Edition, pages 139 and 140, refers to the significance that the Title, Preamble, and section 1 of the Act of 1666 had when, in the 19th century, the Judges began to develop rules concerning a presumption of death in cases where persons had been missing for 7 years.

Thayer in his *Preliminary Treatise on Evidence* (1898) on pages 318 to 325 discusses the significance of the Bigamy Act 1604 and the *Cestui Que Vie* Act 1666 in relation to the development of the presumption of death in the 19th century. At page 323 he says—

“... we find the rule about a 7 years’ absence coming into existence in the form of a judicial declaration about what may or may not fairly be inferred by a jury in the exercise of their logical faculty; the particular period being fixed by reference to two legislative enactments.”

The common law rules in relation to the presumption of death are now so well established generally that it seems unnecessary to preserve the special statutory rule applicable to estates *pur autre vie*. The general common law presumption is saved by clause 10 (9) of the Bill.

Adams *Land Transfer Act*, Second Edition, page 184, paragraph 182 suggests that the Act of 1707 is in force in New Zealand and has a practical use in proving the termination of estates *pur autre vie*. Senior officers of the Public Trust Office advise that they have not found it necessary to invoke the Acts of 1666 and 1707; and (apart from the Title, Preamble, and section 1 of the Act of 1666) have been scarcely aware of their existence. They favour the total repeal of the said Acts of 1666 and 1707 without the enactment of substituted provisions by the Bill. The problems to which the said Acts initially related are probably adequately covered otherwise under present law, e.g., by invoking the jurisdiction of the High Court to grant leave to swear death, or by invoking the provisions of section 76 of the Trustee Act 1956 (N.Z.).

There is perhaps a case for a complete revision of the law relating to the presumption of death, but this cannot be contemplated in the context of the present Bill.

The Acts of 1666 and 1707 are being repealed because it does not appear that they now serve a necessary or useful purpose in New Zealand.

(1677) 29 Cha. 2, c. 3—The Statute of Frauds

Substituted New Zealand enactments now take the place of most of the provisions of this Act. The remainder serve no necessary or useful purpose in New Zealand, and can be repealed.

The position in connection with the individual sections is as follows:

Section 1 is no longer in force in New Zealand. That section, and sections 2 and 3, were repealed as part of the laws of New Zealand by section 49A (6) of the Property Law Act 1952 (as inserted by section 2 of the Property Law Amendment Act 1980, subsequently amended by section 2 (3) of the Property Law Amendment Act 1982).

Section 2 is no longer in force in New Zealand. See the note to section 1.

Section 3 is no longer in force in New Zealand. See the note to section 1.

Section 4 is no longer in force in New Zealand. It was repealed as part of the laws of New Zealand by section 2 (6) of the Contracts Enforcement Act 1956

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except in respect of contracts made before the passing of that Act.

Section 5 has never been in force in New Zealand. That section, and sections 6, 12, and 18 to 21, were repealed as part of the laws of England before 1 January 1840 by section 2 of the Wills Act 1837 (U.K.).

Section 6 has never been in force in New Zealand. See the note to section 5.

Section 7 is no longer in force in New Zealand. That section, and sections 8 and 9 were repealed as part of the laws of New Zealand by section 49A (6) of the Property Law Act 1952 (as inserted by s. 2 of the Property Law Amendment Act 1980).

Section 8 is no longer in force in New Zealand. See the note to section 7.

Section 9 is no longer in force in New Zealand. See the note to section 7.

Section 10 is no longer in force in New Zealand. That section, and sections 11, 23, and 24, were repealed as part of the laws of New Zealand by section 84 (2) of the Administration Act 1969.

Section 11 is no longer in force in New Zealand. See the note to section 10.

Section 12 has never been in force in New Zealand. See the note to section 5.

Section 13: This section and section 14 may never have been in force in New Zealand because they have not been applicable to the circumstances of this country. They refer only to local procedures that applied in 1677 at the Courts of Westminster. Any doubt as to their future position will be removed by the general repeal in *clause 7*.

Section 14 can be repealed under the general repeal in *clause 7*. See the notes to section 13.

Section 15 is no longer in force in New Zealand. That section and section 16 were repealed as part of the laws of New Zealand by section 60 of the Sale of Goods Act 1895 (N.Z.) (now repealed).

Section 16 is no longer in force in New Zealand. See the note to section 15.

Section 17 is still in force in New Zealand. It sets out procedural requirements now provided for by Rules 541 and 542 of the High Court Rules 1985 regarding the dating of Court judgments. It can be repealed as part of the laws of New Zealand.

Section 18 has never been in force in New Zealand. See the note to section 5.

Section 19 has never been in force in New Zealand. See the note to section 5.

Section 20 has never been in force in New Zealand. See the note to section 5.

Section 21 has never been in force in New Zealand. See the note to section 5.

Section 22 is no longer in force in New Zealand. It was repealed as part of the laws of New Zealand by section 11 (1) of the Wills Amendment Act 1955.

Section 23 is no longer in force in New Zealand. See the note to section 10.

Section 24 is no longer in force in New Zealand. See the note to section 10.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1688) 1 Will. and Mar., c. 18—The Toleration Act 1688

Section 39 of the Imperial Acts Application Act 1969 (N.S.W.) substitutes a revised provision relating to disturbing religious worship in place of section 15 of the Toleration Act 1688. The position is covered in New Zealand by section 137 of the Summary Offences Act 1981.

(1688) 1 Will. and Mar., c. 30—The Royal Mines Act 1688: section 3

This section has been retained in force in the United Kingdom, and is included among the preserved constitutional enactments listed in the Second Schedule to the Imperial Acts Application Act 1969 (N.S.W.). The section is not preserved in Victoria, and the 1973 Report of the Australian Capital Territory recommends its repeal in relation to the Australian Capital Territory. The section provides that a mine for copper, tin, iron, or lead shall not be taken to be a royal mine though gold or silver may be extracted therefrom. Section 6 of the Mining Act 1971 (N.Z.) declares that all gold and silver existing in its natural condition on or under the surface of any land in New Zealand shall be the property of the Crown.

The section is unnecessary in New Zealand, and does not appear to have constitutional significance of such magnitude as to call for its retention in this country.

(1692) 4 Will. and Mar., c. 16

This Act provides that a mortgagor who created a mortgage without disclosure of a prior judgment or mortgage is to be penalised by the forfeiture of the equity of redemption. The Act has now been repealed in relation to England, New South Wales, and Victoria because the modern law as to registration renders it obsolete. This reasoning applies in New Zealand in relation to land under the Land Transfer Act 1952. In connection with deeds system land, the Registrar-General of Lands writes as follows:

"I confirm there would be some deeds system land left. As a general rule it would either be adversely occupied or would be in the form of slivers of land which came to light on new surveys. Also, there are some parcels of abandoned land which are from time to time disposed of by the Local Authority under the Rating Act. These are of course immediately brought under the Land Transfer system. There would not be any 'commercial' quantities of deeds land. There is now no conventional conveyancing under the Deeds system.

"I know of no reason why the Clandestine Mortgages Act (1692) 4 Will and Mar., c. 16 should not be repealed."

It is relevant to note that registration of deeds system land was not compulsory. Section 9 of the Deeds Registration Act 1908 permitted registration, and section 35 of that Act provided an inducement to register. For the purposes of the deeds system that was as much as was needed.

(1692) 4 Will. and Mar., c. 18

The Preamble to the Act shows that it was aimed against cases of malicious private prosecutions where the proceedings were not pursued and the defendant had no remedy for recovering costs. In New Zealand private indictments can be presented in accordance with the procedure in section 345 of the Crimes Act 1961; and section 346 of that Act provides that, if in the case of a private

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

prosecution the prosecutor does not present an indictment, the Court may direct that the accused be discharged and may order the prosecutor to pay costs. The 1967 Report of New South Wales, the 1974–75 Report of Victoria, and the 1973 Report of the Australian Capital Territory all express the view that the Act of 1692 is either obsolete or unnecessary. It has now been repealed in relation to New South Wales and Victoria.

(1698) 10 Will. 3, c. 22—The Posthumous Children Act 1698

The Title to this Act describes it as “An Act to enable posthumous children to take estates as if born in their father’s lifetime”. The Preamble to the Act recites that “it often happens that, by Marriage and other settlements, estates are limited in remainder to the use of the sons and daughters of such marriage without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters, by which means such sons and daughters, if they happen to be born after the decease of their father, are in danger to be defeated of their remainder”.

Because of the complexity of this branch of the law, the Act was referred to the Property Law and Equity Reform Committee, which concluded that the statute was designed to deal with a rather peripheral problem of land law which has long since been dealt with by other means.

(1698) 10 and 11 Will. 3, c. 23—Prohibition of Lotteries

This was an Act concerned with the prohibition of lotteries. In *Elliott v. Hamilton* [1874–5] 2 J.R. 95 it was held to be applicable to the circumstances of New Zealand, and therefore to be in force in New Zealand by virtue of section 1 of the English Laws Act 1858. Provision for New Zealand lotteries is now made by Part VII of the Gaming and Lotteries Act 1977 (N.Z.).

(1698–9) 11 Will. 3, c. 12—Crimes by Governors of Colonies

This Act dealt with the prosecution of governors of the Crown’s overseas possessions for offences committed by them in such possessions either against the law of England or the local law. It provided for any such offences to be enquired of, heard, and determined in the Court of Kings Bench in England or before such commissioners and in such country of the realm as shall be assigned in His Majesty’s commission. This procedure is not suitable in New Zealand circumstances, and is not apt here where the Governor-General of New Zealand functions as the representative of the Queen of New Zealand. The 1973 Report of the Australian Capital Territory states, at page 38, that it is not doubted that a vice regal representative is liable to prosecution for crime just as any other subject, so the Act of 1698 is not necessary there. In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, the Act of 1698 is not included among the Imperial Acts that were apparently in force in New Zealand on 31 December 1931.

(1702) 1 Anne, c. 2—The Demise of the Crown Act 1702

This Act is unnecessary in New Zealand because the position here is now covered by the Demise of the Crown Act 1908 (N.Z.). The 1702 Act does not appear to have been expressly repealed in New Zealand. In New South Wales it was found necessary to preserve section 4 of the 1702 Act, but section 6 of the New Zealand Act covers the position here.

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(1707) 6 Anne, c. 72—The *Cestui Que Vie* Act 1707

See note in Appendix C regarding the *Cestui Que Vie* Act 1666.

(1708) 7 Anne, c. 12—The Diplomatic Privileges Act 1708

Sections 3 and 5 were repealed, in relation to New Zealand, by section 27 (2) of the Diplomatic Privileges and Immunities Act 1968 (N.Z.). Section 4 was repealed, in relation to New Zealand, by section 412 (1) of the Crimes Act 1961 (N.Z.). The remaining provisions of the Act of 1708 are either obsolete or are superseded, in relation to New Zealand, by the Diplomatic Privileges and Immunities Act 1968 (N.Z.).

(1710) 9 Anne, c. 25 (or 20)—The Municipal Offices Act 1710

The 1931 Reprint of the Public Acts of New Zealand shows this Act as one of the Imperial statutes that were apparently in force in New Zealand on 31 December 1931. The said Act does not need to be preserved here at this stage because the matters with which it deals are now sufficiently covered by New Zealand legislation. See section 99 of the Local Elections and Polls Act 1976 (Reprinted R.S. Vol. 13, page 293) and section 100 of the Local Government Act 1974 (Reprinted R.S. Vol. 5, page 77). In the case of *Attorney-General v. Pearce* [1963] N.Z.L.R. 458, 460, Richmond J. observed that the procedure sometimes available under section 62 of the Municipal Corporations Act 1954 was not available in that case. Section 100 of the Local Government Act 1974 now takes the place of the said section 62, and extends the earlier procedure so as to cover such a case.

The Act of 1710 is no longer in force in the United Kingdom except possibly in limited form in relation to the City of London. See in this connection section 307 (1) (b) of the Local Government Act 1933 (U.K.) and section 205 of the London Government Act 1939.

(1731) 5 Geo. 2, c. 27—(Process for small debts)

This Act is obsolete, if it ever applied in New Zealand.

(1733) 7 Geo. 2, c. 8—Sir John Barnard's Act.

See *clause 7 (2)* and the explanatory note in relation thereto.

(1735) 9 Geo. 2, c. 36—The Charitable Uses Act 1735

This Act is one of the old Mortmain Acts of England. The Act (with the exception of section 5, which relates to certain Universities and Colleges in England) was repealed in relation to England by the Mortmain and Charitable Uses Act 1888 (U.K.). The position of the said Mortmain Acts, and of the Charitable Uses Act 1735 in particular, is set out in a footnote on page 112 of Garrow *Law of Real Property*, 5th Edition, as follows:

"The old Mortmain Acts have in England been modified, extended, and adapted to modern conditions, but still with a jealous eye on the part of the Legislature upon anything approaching the tying up of land indefinitely in the hands of corporations, whether for charitable purposes or otherwise. The English Mortmain Acts do not apply in New Zealand: e.g., *Mayor etc. of Lower Hutt v. Hayes* [1913] 32 N.Z.L.R. 969. It was decided in *A.-G. v. Stewart* (1817) 2 Mer. 143; 35 E.R. 895, that the Charitable Uses Act (1735) 9 Geo. II, c. 36 did not apply to Grenada, and in giving his decision Sir W. Grant M.R. (at pp. 160 and 161) said: 'Whether the Statute of Mortmain be in force in the

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island of Grenada will depend on this consideration—whether it be a law of local policy adapted to the country in which it was made or a general regulation of property equally applicable to any country in which it was made or a general regulation of property equally applicable to any country in which it is by the rules of English law that property is governed. I conceive that the Statute of Mortmain was wholly political—that it grew out of local circumstances and was meant to have merely a local application.’ The decision of *A.-G. v. Stewart* was followed in a New South Wales case, *In Lambell’s Will*, 9 N.S.Q. S.C.R. Eq. 94, where there was a trust for maintenance of a tomb. See also *Canterbury Corporation v. Wyburn* [1895] A.C. 89. In *Whicker v. Hume* [1858] 7 H.L.C. 124; 11 E.R. 50 it was similarly decided that the same Act did not apply to New South Wales. ‘Neither by the common law nor by Act of Parliament is the Mortmain Act applicable to a devise of lands in New South Wales’: Per Lord Chelmsford L.C. at p. 153 (62).”

(1736) 10 Geo. 2, c. 8

This Act made perpetual the Act 7 Geo. 2, c. 8—Sir John Barnard’s Act. See *clause 7 (2)* and the explanatory note in relation thereto.

(1737) 11 Geo. 2, c. 24—The Parliamentary Privilege Act 1737

See note in Appendix C on the Parliamentary Privilege Act 1770.

(1741) 14 Geo. 2, c. 20, s. 9—The Common Recoveries Act 1741, section 9

This section may still be in force in New Zealand. Under section 12 of the Statute of Frauds Act 1677, certain estates vested beneficially in the administrators of a deceased person instead of in his next of kin. Section 9 was enacted to remedy this unintended effect. Section 12 has never been in force in New Zealand, so section 9 can be repealed as part of the laws of New Zealand.

(1750–1) 24 Geo. 2, c. 44

The Imperial Acts Application Act 1922 (Vic.) preserved sections 6 and 8 of the Act of 1750–1 in relation to Victoria. These sections indemnified constables and others acting in obedience of their warrants. Members of the Police in New Zealand now have protection for acts pursuant to legal processes under section 39 of the Police Act 1958 (N.Z.).

(1751) 25 Geo. 2, c. 36—The Disorderly Houses Act 1751

This Act provides that a person appearing to be the keeper of a disorderly house shall be taken to be so and liable to prosecution, whether in fact he or she is so or not. The 1907 Report of New South Wales and the 1973 Report of the Australian Capital Territory both recommended the Act for repeal on the ground of policy, namely, that it is unfair and inconsistent with generally accepted notions of fairness to the accused. The Act has been repealed in relation to New South Wales by the Imperial Acts Application Act 1969 (N.S.W.), and is not preserved in relation to Victoria by either the Imperial Acts Application Act 1980 (Vic.) or the Imperial Law Re-enactment Act 1980 (Vic.).

(1758) 32 Geo. 2, c. 28—The Debtors Imprisonment Act 1758

This Act is not included in the list of Imperial Acts apparently in force in New Zealand that appears in the 1931 Reprint of the Public Acts of New Zealand,

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Volume 9, pages 179 to 185. Substituted provisions covering sections 1, 3, and 4 were included in section 77 of the Imperial Acts Application Act 1922 (Vic.), and in section 40 of the Imperial Acts Application Act 1969 (N.S.W.). The said sections 1, 3, and 4 regulate what may be done, and what may not be done, by the Sheriff with a debtor whom he has arrested by virtue of any action, writ, process, or attachment. In the case of *Evans v. Atkin* 4 T.R. 455, the Act of 1758 was held to apply only to arrest on mesne process, i.e., writs issued in an action subsequently to the first or original writ, but before the writ of execution. The 1967 Report of New South Wales recommended the reproduction of the effect of sections 1, 3, and 4 because they were in favour of the liberty of the subject. The 1973 Report of the Australian Capital Territory regarded the N.S.W. replacement section as unnecessary, and recommended the repeal of the said sections 1, 3, and 4.

Section 55 (1) of the Judicature Act 1908 (N.Z.) provides that a person shall not be arrested on mesne process in an action in the High Court. The circumstances in which a person may now be arrested for debt are narrowly circumscribed in both the District Courts and the High Court. See the Imprisonment for Debt Limitation Act 1908. The Act of 1758 therefore appears to have no relevance in New Zealand now. Indeed the abuses at which it struck are no longer evident, given that a debtor can (with a few limited exceptions) be imprisoned in New Zealand only where there is a contumacious refusal to obey a Court order for payment of a judgment debt, or to prevent the debtor from absconding with intent to evade payment. Section 36 of the Judicature Act 1908 relates to the powers of Sheriffs where they arrest a person, and may impliedly repeal sections 1, 3, and 4 of the 1758 Act.

(1770) 10 Geo. 3, c. 50—The Parliamentary Privilege Act 1770

The privileges enjoyed by the House of Representatives have a statutory base in New Zealand law. The most important of the relevant statutory provisions is section 242 of the Legislature Act 1908 (N.Z.). Subsection (1) of that section provides:

“(1) The House of Representatives . . . and the Committees and members thereof . . . shall hold, enjoy, and exercise such and the like privileges, immunities, and powers as on the 1st day of January 1865 were held, enjoyed, and exercised by the Commons House of Parliament of Great Britain and Ireland, and by the Committees and members thereof, so far as the same are not inconsistent with or repugnant to such of the provisions of the Constitution Act as on the 26th day of September 1865 (being the date of the coming into operation of the Parliamentary Privileges Act 1865) were unrepealed, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise.”

The said subsection legislates by reference to various Imperial enactments, including the Privilege of Parliament Act 1512 (4 Hen. 8, c. 8), the Privilege of Parliament Act 1603 (1 Ja. 1, c. 13), section 6 of the Sedition Act 1661 (13 Cha. 2, St. 1, c. 1), which section relates to privilege of debate in Parliament, the Parliamentary Privilege Act 1737 (11 Geo. 2, c. 24), and the Parliamentary Privilege Act 1770 (10 Geo. 3, c. 50). The subsection does not have the effect of bringing the said Imperial enactments into force in New Zealand; and, in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, they were not included among the Imperial Acts that were apparently in force in New Zealand on 31 December 1931.

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It is probable also that the said Imperial enactments were not brought into force in New Zealand by section 2 of the English Laws Act 1908 (N.Z.). The said section 2 provides that "the laws of England as existing on the 14th day of January 1840, so far as applicable to the circumstances of New Zealand, . . . shall be deemed to continue in force in New Zealand." On the last-mentioned date, Sir George Gipps, the Governor of New South Wales, (by Proclamation) extended his jurisdiction to such territory in New Zealand as might be acquired in sovereignty; but the Treaty of Waitangi had not been signed and there was no Parliament in New Zealand. In construing the said section 2, it seems that the question as to whether a particular Imperial Act is "applicable to the circumstances of New Zealand" has to be determined by consideration of what was "applicable to the condition of an infant colony". (See the 54th Report of the Law Reform Committee of South Australia, page 3.)

The 1967 Report of New South Wales considered the last-mentioned point in relation to the analagous provision in section 24 of 9 Geo. 4, c. 83. That section applied to New South Wales and Van Dieman's Land all laws and statutes in force in England on 25 July 1828 "so far as the same can be applied in relation to the said colonies". At page 21 the report states:

"Various views were taken as to the scope of the first declaration in section 24, that eventually adopted being that all the laws of England were declared to be in force so far as the same can be applied, that is, 'can be reasonably applied'. The test applicable was re-stated by the High Court in 1905, in *Quan Yick v Hinds* 2 C.L.R. 345, as being whether the particular Imperial Act (or the part of it which was in question) was suitable or unsuitable in its nature to the needs of the colony, and that that question must be determined by a consideration of the condition of the colony in 1828 (per Griffith C. J. at p. 356). Some years later in *Mitchell v. Scales* 5 C.L.R. 405 the view was expressed that in considering whether an Imperial Act was introduced into New South Wales by 9 Geo. IV, c. 83, regard must be had to the suitability of the Imperial Act as a whole to local conditions."

On the general question of the application of the law and usage of the Parliament of the United Kingdom to a colony, the 1967 Report of New South Wales, at page 60, states:

"It has been held, of course, that the *lex et consuetudo Parliamenti* apply exclusively to the Lords and Commons of the United Kingdom and do not apply to the Supreme Legislature of a colony by the introduction of the common law there—*Fenton v. Hampton*, 11 Moo. P.C. 347, on page 397. There have been a number of applications of this in relation to New South Wales itself. That case also shows that it was not introduced as a whole by 9 George IV, c. 83."

The views expressed in the passages quoted from the 1967 Report of New South Wales find support in the full and helpful discussion of the privilege of Parliament and the said Imperial enactments of 1512, 1603, 1661, 1737, and 1770 in the 1974-75 Report of Victoria at pages 49 to 53.

In the circumstances, the Bill does not preserve the said Imperial enactments, or include provisions for a statutory code in relation to Parliamentary privilege. If it is thought desirable to enact such a code, it seems best to do so in separate legislation.

(1775) 15 Geo. 3, c. 39—The Oaths Act 1775

This Act gives Justices of the Peace a general power to administer oaths for

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

the purposes of levying penalties or making a distress. The working paper of the Queensland Law Reform Commission recommends the repeal of the Act as unnecessary. It is not mentioned in the relevant Act or report of New South Wales. A general power to administer oaths and take affirmations is given by section 14 of the Oaths and Declarations Act 1957 (N.Z.).

Section 4 of the Justices of the Peace Act 1957 states that the functions of Justices of the Peace shall be to take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or any other enactment.

As far as the levying of penalties is concerned, the fines enforcement provisions of the Summary Proceedings Act 1957 do not appear to require the use of the Act of 1775. In the case of distress neither the District Courts Rules 1948 nor the Distress and Replevin Act 1908 require the 1775 Act to be invoked.

(1782) 22 Geo. 3, c. 75—The Colonial Leave of Absence Act 1782

This Act in its terms had relevance to absences of the Governor-General from New Zealand. As these absences are now covered by clause xii of the Letters Patent Constituting the Office of Governor-General (S.R. 1983/225), there is no need for any statute to apply in this connection.

The Act in its terms had relevance also to the removal of Judges and gave an appeal against removal to His Majesty in Council. *Clauses 23 and 24* of the Constitution Bill provide for the removal of Judges to whom the Bill applies, and section 7 of the District Courts Act 1947 now governs the removal of Judges to whom that Act applies.

(1788) 28 Geo. 3, c. 56—The Marine Insurance Act 1788

This Act provides that it shall not be lawful for any person to make or effect any policy of assurance upon any ship, or upon any goods, merchandise, effects, or other property whatsoever, without first inserting or causing to be inserted in such policy the name of one or more of the persons interested in such assurance or without, instead thereof, first inserting in such policy the name of the consignor or consignee of the goods, merchandise, effects, or property so to be insured, etc.

The Marine Insurance Act 1907 (N.Z.) repealed the Marine Insurance Act 1788 so far as it relates to marine insurance. In doing so the 1907 Act followed the Marine Insurance Act 1906 (U.K.). The Act of 1788 appears to be in force in New Zealand in relation to goods, merchandise, effects and other property apart from ships and goods carried on ships. There appears to be no New Zealand legislation that takes the place of the Act of 1788 in respect of these items. The Act of 1788 had special relevance to interests insured under marine policies because these can change hands many times during the course of a voyage. This does not happen in the same way with other property. There seems to be no sufficient reason to retain the Act of 1788 so far as it remains in force in New Zealand. Presumably, no insurers in New Zealand would be prepared to underwrite any business without the policy being drawn in the name of some legal entity. This is necessary for accounting purposes and for identification in the event of a claim.

(1796-7) 37 Geo. 3, c. 127

This Act shortened the time required for summoning Parliament, and made certain provisions in connection with the demise of the Crown. The Constitution Bill introduced into the Parliament of New Zealand in April

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

1986 makes provision for covering the future position in this country by clause 5, which relates to the demise of the Crown; and clause 18, which relates to the summoning, proroguing, and dissolution of Parliament.

(1799–1800) 39 and 40 Geo. 3, c. 14

This Act made provision for shortening the time for the meeting of Parliament in cases of adjournment. The position in relation to New Zealand was covered by **section 44 of the New Zealand Constitution Act 1852 (U.K.)**.

(1802) 42 Geo. 3, c. 85—The Criminal Jurisdiction Act 1802

The 1973 Report of the Australian Capital Territory states that the Act is obsolete and unnecessary.

(1804) 44 Geo. 3, c. 102—The *Habeas Corpus* Act 1804

This Act makes provision for bringing prisoners before Courts to be examined as witnesses. The position is adequately covered in New Zealand by section 26 of the Penal Institutions Act 1954.

(1808) 48 Geo. 3, c. 58—The Bail Bonds Act 1808

In New Zealand provisions governing bail bonds and the granting of bail appear in sections 47–58 of the Summary Proceedings Act 1957. The 1967 Report of New South Wales describes the Act as obsolete or inapplicable, and the 1973 Report of the Australian Capital Territory describes it as obsolete. It is repealed in relation to New South Wales by the Imperial Acts Application Act 1969 (N.S.W.), and in relation to Victoria by the Imperial Acts Application Act 1980 (Vic.).

(1809) 49 Geo. 3, c. 126—The Sale of Offices Act 1809

For a full discussion of this Act and the related Sale of Offices Act 1551, see pages 83 to 86 of the 1974–75 Report of Victoria.

The Act of 1551 was repealed in relation to New Zealand by section 412 (1) of the Crimes Act 1961 (N.Z.).

It is to be noted that the Statute Law (Repeals) Bill 1969 (U.K.) provided for the repeal of the Act of 1809 in England; but following a discussion of a suggestion that the repeal might leave a small hole in the criminal law, the Act of 1809 was saved from repeal in England. Sections 3 to 8 of the Act of 1809 (which create offences in relation to the sale, etc., of offices) were repealed in relation to New Zealand by section 412 (1) of the Crimes Act 1961 (N.Z.). The Secret Commissions Act 1910, section 76 of the State Services Act 1962, and sections 99 to 106 of the Crimes Act 1961 (which relate to bribery and corruption) cover part of the ground. It is to be noted that both section 110 of the Criminal Code Act 1893 and section 128 of the Crimes Act 1908 provided for an offence of buying and selling public offices. New Zealand Acts seem to provide all that is necessary to deal with any case of dealing in public offices that may arise. Both a person receiving a bribe in return for exercising a power of appointment and the person offering it commit an offence, and conviction would probably allow removal from office, e.g., under section 55 of the State Services Act 1962.

(1810) 50 Geo. 3, c. 59—The Embezzlement by Collectors Act 1810

The Imperial Acts Application Act 1922 (Vic.) preserved section 2 of the 1810 Act, which related to officers entrusted with the receipt of public revenues furnishing false statements or returns of money collected by them or entrusted

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

to their care. The 1974-75 Report of Victoria pointed to legislation subsequent to 1922 that rendered the said section 2 unnecessary in Victoria. The section is unnecessary in New Zealand in the light of sections 251 to 254 of the Crimes Act 1961 (N.Z.).

(1812) 52 Geo. 3, c. 101—The Charities Procedure Act 1812

This enabled any 2 or more persons to apply to a Court of Equity for directions in respect of the administration of a charitable trust, and for an order on the application to be made in a summary way subject to a right of appeal to the House of Lords within 2 years. Provisions in substitution for this Act were made by sections 39 and 40 of the Imperial Acts Application Act 1922 (Vic.) and section 17 of the Imperial Acts Application Act 1969 (N.S.W.), except that the 2 Australian Acts did not provide for appeals.

In the 1973 Commonwealth Report it is stated:

"We agree that the effect of the Act of 1812 should be retained, but we are unable to see why it is necessary to adhere so slavishly to the procedure provided in the 1812 Act, which was clearly an innovation, somewhat cautiously introduced, when it came into effect. We recommended the adoption of a modern provision to the effect that any person (we can see no reason for requiring the application to be made by two persons) may, in such manner as may be prescribed by Rules of Court, apply to the Supreme Court, praying for such relief as the nature of the case may require in relation to the administration of any charitable trust, and the Supreme Court shall determine such application and make such order therein as seems just. Furthermore, we see no reason for requiring that the application be allowed by the Attorney-General or Solicitor-General before being presented."

Section 60 of the Charitable Trusts Act 1957 (N.Z.) authorises any person to apply to the Court for an order giving directions in respect of the administration of a charitable trust, but does not contemplate the making of an order in a summary way. Section 58 of the New Zealand Act authorises the Attorney-General to inquire into charities in New Zealand, including trusts for charitable purposes. The section was designed to provide simplified machinery for investigating and checking abuses of charitable trusts similar to that available to the Charity Commissioners in England. These provisions seem to be all that are necessary in New Zealand to control the administration of charitable trusts.

Provision for Charity Commissioners was first made in England in 1853 and now appears in the Charities Act 1960 (U.K.). In the light of the powers conferred on the Charity Commissioners, section 28 of the 1960 Act restricts charity proceedings in the Courts (see Halsbury's *Laws of England*, 4th Ed., Vol. 5) and provides that the Charities Procedure Act 1812 (U.K.) shall cease to have effect in England.

(1812) 52 Geo. 3, c. 155—The Places of Religious Worship Act 1812

Section 39 of the Imperial Acts Application Act 1969 (N.S.W.) substitutes a revised provision relating to disturbing religious worship in place of section 12 of the Places of Religious Worship Act 1812. The position is covered in New Zealand by section 37 of the Summary Offences Act 1981.

(1815) 55 Geo. 3, c. 184—The Stamp Act 1815

Section 14 of the Imperial Acts Application Act 1922 (Vic.) preserved the effect of section 37 of the Act of 1815. The said section 37 imposed a penalty for

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administering effects of a deceased person without proving the will or taking out letters of administration within a given time. The position is covered in New Zealand by section 48 of the Estate and Gift Duties Act 1968 (N.Z.).

(1819) 60 Geo. 3 and 1 Geo. 4, c. 4—The Pleading in Misdemeanor Act 1819

The Title shows it to be an Act to prevent delay in the administration of justice in cases of misdemeanor. The Preamble recites that the mischief arose “by reason that the defendants in some cases have according to the present practice an opportunity of postponing their trials to a distant period by means of imparlances in the Courts of Kings Bench”. The Act was repealed in Victoria by the Imperial Acts Application Act 1980 as recommended by the 1974–75 Report of Victoria. The 1967 Report of New South Wales and the 1973 Report of the Australian Capital Territory both regard the 1819 Act as obsolete. It is repealed in relation to New South Wales by the Imperial Acts Application Act 1969 (N.S.W.).

(1819) 60 Geo. 3 and 1 Geo. 4, c. 8—The Criminal Libel Act 1819

The effect of this Act is to empower a Court, after conviction of a person for seditious or blasphemous libel, to order the seizure and detention of copies of the documents containing the libel, with the necessary procedural provisions. Sections 1 and 2 of the Libel Act remain substantially in force in England. Substituted provisions appear in section 35 of the Imperial Acts Application Act 1969 (N.S.W.), and section 2 (f) of the Imperial Law Re-enactment Act 1980 (Vic.). The 1973 Report of the Australian Capital Territory recommended that the Act of 1819 should be replaced by a modern provision, but added that there may be policy questions as to how much, if any, of the 1819 Act should remain. The offence of blasphemous libel is now rather an anachronism; and the practical effect of any legislation providing for seizure of copies of material containing a criminal libel would be rather limited. If even one copy survives, modern printing processes enable new copies to be produced without much difficulty. Having regard to these circumstances the Act is not being preserved as part of the laws of New Zealand. The Act is not included in the Table, published in the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185, of Imperial Acts apparently in force in New Zealand, on 31 December 1931.

(1819) 59 Geo. 3, c. 60—(Ordination for Colonies)

This Act and the Acts (1784) 24 Geo. 3, c. 35 (Ordination of aliens); and (1786) 26 Geo. 3, c. 84 (Consecration of Bishops abroad) have all been drawn expressly to the attention of the Anglican Church of New Zealand and its advisers, who are acquiescing in their repeal.

(1821) 1 and 2 Geo. 4, c. 121—The Commissariat Accounts Act 1821

The 1973 Report of the Australian Capital Territory states that the Act is completely obsolete and should be repealed.

(1823) 4 Geo. 4, c. 35—The Statutory Commissioners Act 1823

This Act provides that where trustees or commissioners cannot meet on the day appointed by an Act for the first meeting by reason of the day appointed having been antecedent to the passing of the Act, any three may meet on the 14th day after the passing of the Act. The Act has been repealed in England by the Statute Law Revision Act 1963 and in New South Wales by the Imperial

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Acts Application Act 1969. See page 95 of the 1967 Report of New South Wales, which states that its slight utility is not enough to warrant its preservation. This reasoning applies in New Zealand.

(1825) 6 Geo. 4, c. 50—The Juries Act 1825

Clause 7 of the Bill will repeal this Act in relation to New Zealand if it is still in force here. Section 412 (1) of the Crimes Act 1961 expressly repealed section 21 of the Juries Act 1825 in relation to New Zealand. The New Zealand Acts relating to juries were consolidated by the Juries Act 1908 (N.Z.). See now the Juries Act 1981. The earlier Juries Act 1868 (N.Z.) was stated in the Title to be “an Act to consolidate and amend the law relating to juries in New Zealand”.

(1828) 9 Geo. 4, c. 14—The Statute of Frauds Amendment Act 1828

This Act is commonly known as Lord Tenterden’s Act. It was passed to remedy matters that had come to light since the enactment of the Statute of Frauds 1677.

The following comments on the individual sections explain why it is proposed that the Act of 1828 should be repealed in accordance with *clause 7* of the Bill.

Section 1 is no longer in force in New Zealand. That section, and sections 2 to 4, were repealed as part of the laws of New Zealand by section 35 (1) of the Limitation Act 1950.

Section 2 is no longer in force in New Zealand. See the note to section 1.

Section 3 is no longer in force in New Zealand. See the note to section 1.

Section 4 is no longer in force in New Zealand. See the note to section 1.

Section 5 provided that no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith. *Section 13* of the Infants Act 1908 (N.Z.) went further by providing that no action shall be brought whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, whether there is or is not any new consideration for such promise or ratification.

Section 13 of the Infants Act 1908 made *section 5* of the Statute of Frauds Amendment Act 1828 superfluous.

Neither *section 5* of the Statute of Frauds Amendment Act 1828, nor section 13 of the Infants Act 1908 affected the rules of common law and of equity mentioned in section 15 (1) of the Minors’ Contracts Act 1969. The title to that Act indicates that it is an Act to restate and reform the law relating to minors’ contracts. The said section 15 (1) of the Minors’ Contracts Act 1969 states that the provisions of that Act shall have effect in place of the rules of the common law and of equity relating to the contractual capacity of minors and to any contract or indemnity in respect of any such contract. Both *section 5* of the Statute of Frauds Amendment Act 1828 and section 13 of the Infants Act 1908 are now superfluous in New Zealand. The said section 13 has been repealed in relation to New Zealand by section 19 (1) of the Minors’ Contracts Act 1969, and *section 5* of the Statute of Frauds Amendment Act 1828 should likewise be repealed.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Section 6: See clauses 15 and 16 in Part II under the heading "Contracts Enforcement".

Section 7 is no longer in force in New Zealand. It was repealed as part of the laws of New Zealand by section 6c of the Sale of Goods Act 1895 (N.Z.) (now repealed).

Section 8 provides that no memorandum or other writing made necessary by the Statute of Frauds Amendment Act 1828 shall be deemed to be an agreement within the meaning of any statute relating to the duty of stamps.

The Deputy Commissioner of Inland Revenue advises regarding section 8 as follows:

"The effect of section 8 is to exempt from stamp duty, which might otherwise be payable, documents which are acknowledgments for the purposes of section 25 of the Limitation Act 1950. It is possible, therefore, that section 8 could be of significance in the context of present Stamp Duty legislation if such acknowledgments are liable to Stamp Duty. The question would arise whether such acknowledgments are exempt from Stamp Duty, notwithstanding the provisions of the Stamp and Cheque Duties Act.

"It seems, however, that such documents are not liable to Stamp Duty because they are neither instruments of conveyance, nor leases, nor deeds. Section 8 no longer serves any useful purpose. As section 8 does not exempt from Stamp Duty a class of documents which would otherwise be subject to Stamp Duty the issue of an implied repeal of section 8 by the Stamp and Cheque Duties Act does not arise."

Section 9 relates to the application of the Act to Scotland, and can be repealed as part of our laws.

Section 10 made provision for the Act of 1828 to come into force on 1 January 1829, and can be repealed in relation to New Zealand.

(1830) 11 Geo. 4 and 1 Will. 4, c. 36—(Contempt of Court)

This Act was invoked in *Hanna v Nodine* (No. 3) (1910) 13 G.L.R. 303. Section 3 of the Judicature Amendment Act 1910 appears to cover the situation that arose in that case.

(1830) 1 Will. 4, c. 4—The Colonial Offices Act 1830

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act has been superseded (if not impliedly repealed) by the **Demise of the Crown Act 1901** (U.K.). The Act of 1830 is no longer constitutionally appropriate in New Zealand and should be repealed here. The Act of 1901 appears to have been in force in New Zealand by necessary intendment.

(1830) 11 Geo. 4 and 1 Will. 4, c. 65—The Infants Property Act 1830

This Act consolidated the law relating to the property of infants, married women, and mentally disordered persons. It is brought to notice by the 54th Report of the Law Reform Committee of South Australia, but the 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 179 to 185 does not include it in the Table of Imperial Acts that were apparently in force in New Zealand on 31 December 1931. In New Zealand it has been superseded, as to infants, by the Minors' Contracts Act 1969; as to married women, by section 49 of the

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Matrimonial Property Act 1976; and as to mentally disordered persons, by Part VII of the Mental Health Act 1969.

(1831) 1 Will. 4, c. 31—(*Mandamus*, Prohibition)

This Act is described in the Title as an Act to improve the proceedings in prohibition and on writs of mandamus. The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181 shows that this Act was apparently in force in New Zealand on 31 December 1931. In the light of Part I of the Judicature Amendment Act 1972 (which relates to judicial review) it seems that the said Act of 1831 can be repealed in relation to New Zealand.

(1831-2) 1 and 2 Will. 4, c. 58—(Interpleader—*Mandamus*)

The Title to this Act describes it as an Act to enable Courts of law to give relief against adverse claims made upon persons having no interest in the subject of the claim. The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181 shows that the Act was apparently in force in New Zealand on 31 December 1931. A. E. Currie's *Crown and Servant*, in footnote (ii) on page 187, states that section 13 of the Crown Proceedings Act 1950 amounts to a declaration that the Crown is bound by the said Act. However, in Halsbury's *Laws of England*, Third Edition, Volume 22, footnote (g) on page 457 points to a case under the said Act where it was considered that the Act did not extend to the colonies (*Colonial Bank v. Warden* [1846] 5 Moo. P.C.C. 340).

Whether or not the Act has been in force in New Zealand, it does not seem to serve a necessary or useful purpose here now. Sim's *Practice and Procedure*, 11th Edition, page 314, in an introductory note relating to rules 482 to 489 states that interpleader depends on the provisions of the rules. See now rules 172-179 of the High Court Rules 1985. In *Coolstores (New Zealand) Ltd v. Sunplus Products Ltd and Another* [1977] 1 N.Z.L.R. 690, 691 Mahon J. describes rule 482 as one of a group of rules which together constitute a statutory code relevant to the issue of an interpleader summons and the determination of the questions thereon arising. The Act does not seem to be needed here in relation to *mandamus*.

(1833) 3 and 4 Will. 4, c. 49—(Quakers and Moravians)

This is an Act to allow Quakers and Moravians to make affirmation in all cases where an oath is or shall be required. In New Zealand the position is covered by section 4 of the Oaths and Declarations Act 1957, which provides that every person shall be entitled as of right to make his affirmation instead of taking an oath, in all places and for all purposes where an oath is required by law. Every such affirmation has the same force and effect as an oath.

(1833) 3 and 4 Will. 4, c. 74—The Fines and Recoveries Act 1833

In Volume 9 of the 1931 Reprint of the Public Acts of New Zealand, at page 181, this Act is shown as being apparently in force in New Zealand on 31 December 1931. It is now being suggested that the Act can be repealed in relation to New Zealand because it relates to estates in tail and the means by which they can be converted into fee simple estates; and it is no longer needed here because fee tail estates no longer exist in New Zealand, as they were abolished by section 16 of the Property Law Act 1952, which converted all existing estates tail into fee simple estates (subject to certain exceptions), and provided that any instrument coming into operation after the commencement of the 1952 Act which would have created an estate tail is deemed to create an estate in fee simple.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

The Property Law and Equity Reform Committee had the Act of 1833 in its list of matters to consider. The Act continues to be shown in italics in Appendix A to indicate that it is still being studied.

(1833) 3 and 4 Will. 4, c. 106—The Inheritance Act 1833

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. See *In re Macleay (deceased) Macleay v Treadwell* [1937] N.Z.L.R. 230, 236. The Act is now almost a dead letter in New Zealand and is being repealed accordingly in relation to New Zealand. It seems that any significance the Act may still have will be sufficiently safeguarded by the savings provisions in *subclauses (4) and (8) of clause 10* of the Bill.

Until 1971, theoretically at least, the canons of descent prescribed this Act for determining the common law heir, and the Act could have been of importance for determining in whom the rights of ownership of realty vests pending the obtaining of a grant of administration to the estate of a deceased owner who had died intestate. Section 22 of the Administration Act 1969 appears to have abolished any interim vesting in the common law heir, and to have removed any practical significance that the Act of 1833 may have had in this respect.

Until 1 September 1880, those entitled to the real property in New Zealand of a deceased intestate would in most cases have to be determined in accordance with English law. The possibility that there may still be some unadministered or partially administered estates of this vintage is covered by *clause 10 (4)* of the Bill.

There may be instances, especially in relation to old instruments, where the word "heir" or an expression that includes the word "heir", falls to be construed as a reference to the heir at law. *Clause 10 (8)* preserves the significance of the Inheritance Act 1833 in such a context.

(1835) 5 and 6 Will. 4, c. 24—The Naval Enlistment Act 1835

The matters covered by this Act have been provided for in New Zealand law since the Naval Defence Act 1913 (N.Z.). The said Act of 1835 serves no useful purpose here now, and can be repealed.

(1835) 5 and 6 Will. 4, c. 54—The Marriage Act 1835

Section 2 was repealed by section 9 (3) of the Marriage Amendment Act 1946 (N.Z.). The other provisions of the 1835 Act either have no application to New Zealand or are spent.

(1838) 1 and 2 Vict., c. 110—The Judgments Act 1838

A section by section study of this Act shows that none of its provisions now serves any necessary or useful purpose in New Zealand. Some have never applied in New Zealand, and some are now spent or unnecessary, and others have been superseded by New Zealand enactments and New Zealand subordinate legislation.

Section 18 of this Act calls for comment. A note to rule 555 of the Code of Civil Procedure in Sim and Cain *Practice and Procedure*, 12th Edition, states:

"Judgments Act 1838—Section 18 of this Act (1 and 2 Vict. c. 110) appears to be still in force in New Zealand. It provides, *inter alia*, that all rules of Court of Common Law whereby any costs shall be payable to any person shall have the effect of judgments in the superior Courts at common law, and persons to whom any such costs shall be payable shall be deemed judgment creditors,

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

etc. The section was applied in *Ford Sherington Ltd v. Marks and Co.* [1925] N.Z.L.R. 550; [1925] G.L.R. 421.”

In the last-mentioned case Ostler J. needed to rely on the said section 18 to enable an order of the Registrar of Patents relating to costs to be made a rule of Court under section 127 of the Patents, Designs, and Trade-marks Act 1921-22 (N.Z.) which section provided:

“127. Costs—In all proceedings before the Commissioner under this Act the Commissioner shall have power to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid; and any such order may be made a rule of Court.”

It is no longer necessary to invoke section 18 in corresponding circumstances because there are now express provisions that orders for costs made by the Commissioner of Patents may be entered as a judgment of the Court and with the leave of the Court may be enforced accordingly. See section 95 (1) of the Patents Act 1953, section 38 (1) of the Designs Act 1953, and section 62 (1) of the Trade Marks Act 1953.

The term “rules of Court” as used in section 18 of the Judgments Act 1838 (U.K.) and section 127 of the Patents, Designs, and Trade-marks Act 1921-22 (N.Z.) calls for comment. In the said section 18 the reference is to “decrees and orders of Court of equity and rules of Courts of common law”. This seems to indicate that the terms “rules of Court” and “orders of Court” are synonymous. Later usage in New Zealand appears to confirm this view.

Section 3 of the Supreme Court Practice and Procedure Amendment Act 1866 provided that:

“3. Every rule of Court shall be dated the day of the week, month and year on which the same is made without reference to any other time or date.”

Rule 348 of the Code of Civil Procedure provided:

“348. Enforcing order of Court—Every order of the Court may be enforced in the same manner as a judgment to the same effect.”

A note to that rule in *Sim and Cain Practice and Procedure*, 12th Edition, states—

“Where a submission to arbitration has been made a rule of Court it has the effect of a judgment, and execution may issue as a matter of course without leave. In *re N.Z. Native Land Company* [1888] 6 N.Z.L.R. 395.”

In that case Gillies J. reached that conclusion on the wording of what was then rule 342 of the Code (which is virtually identical with what is now rule 348), therefore treating “rule of Court” as synonymous with order. Given the effect of the said rule 348 (now rule 546), section 18 of the Judgments Act 1838 (U.K.) can be regarded as obsolete in relation to New Zealand. Accordingly it is not being preserved as part of our laws.

(1839) 2 and 3 Vict., c. 11—The Judgments Act 1839

The Title to this Act states it to be “an Act for the better protection of purchasers against judgments, Crown debts, *lis pendens*, and *fiats* in bankruptcy. The Act now serves no necessary or useful purpose in New Zealand.

(1843) 6 and 7 Vict., c. 85—The Evidence Act 1843

This Act was extended to New Zealand by New Zealand Ordinance No. 8 of 1845. Section 3 and the first proviso to section 1 were expressly repealed in relation to New Zealand by section 3 of the Repeals Act 1878 (No. 28, N.Z.). Section 4 relates to the application of the Act to Scotland, and has no application to New Zealand. Section 1 provides that witnesses are not to be excluded from

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

giving evidence by incapacity from crime or interest. This is now covered by section 3 of the Evidence Act 1908. The 1932-33 Edition of Curnin's *Index to the Laws of New Zealand* at page 365 includes the 1843 Act in the list of Imperial Acts that are obsolete or repealed.

(1844) 7 and 8 Vict., c. 24—(Forestalling, etc., restraint of trade)

This Act was extended to New Zealand by section 3 of the English Laws Act 1854 (N.Z.). It was one of the Acts repealed, in relation to the United Kingdom, by the Statute Law Revision Act 1892 because they had ceased to be in force or had become unnecessary. Section 3 of the English Laws Act 1908 (N.Z.) showed the said Act of 1844 as one of the Acts that are deemed to continue in force in New Zealand. There appears to have been no need to preserve the Act of 1844 when the Act of 1908 was passed. There is certainly no need to preserve it now.

The effect of section 3 of the English Laws Act 1908 (N.Z.) was to give the said Act of 1844 effect as part of the laws of New Zealand. The 1844 Act is not made, or deemed to be, an Act of the Parliament of New Zealand by reason of the last-mentioned section.

The said Act of 1844, by section 1, took away and abolished certain earlier statutory and common law offences relating to badgering, engrossing, forestalling, and regrating. The said section can safely be repealed because the savings provisions in *subclauses (2) (c) and (4) of clause 10* of the Bill preserve the effect of the section.

The said Act of 1844, by section 4, provided that nothing in that Act "shall be construed to apply to the offence of knowingly and fraudulently spreading or conspiring to spread any false rumour, with intent to enhance or decry the price of any goods or merchandize, or to the offence of preventing or endeavouring to prevent by force or threats any goods, wares, or merchandize being brought to any fair or market, but that every such offence may be inquired of, tried, and punished as if that Act had not been made."

The offences contemplated in the said section 4 will be either offences at common law or offences against an earlier Imperial enactment. Whichever is the case, the offences will be of no practical significance in New Zealand because section 9 of the Crimes Act 1961 (N.Z.) provides that "no one shall be convicted of any offence at common law, or any offence against any Act of the Parliament of the United Kingdom". *Clause 7* of the Bill repeals, in relation to New Zealand, all Imperial enactments that may be relevant in relation to the offences contemplated in the said section 4. See *clause 9* of the Bill and the explanatory note thereon as regards the future relevant implications of the said section 9 and the related section 107 of the Crimes Act 1961 (N.Z.).

(1845) 8 and 9 Vic., c. 16—The Companies Clauses Consolidation Act 1845

The Title to this Act shows it to be "an Act for consolidating in one Act certain provisions usually inserted in Acts with respect to the constitution of companies incorporated for carrying on undertakings of a public nature": Compare (1847) 10 and 11 Vic., c. 17 (The Waterworks Clauses Act 1847), which is shown in the Title to be "an Act for consolidating in one Act certain provisions usually contained in Acts authorising the making of waterworks for supplying towns with water".

Section 8 of the Dunedin Water Works Act 1864 (Local and Personal, No. 6) provided that certain provisions of both those Imperial enactments shall be incorporated with the said Act of 1864, which 1864 Act was repealed by the

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Repeals Act 1891 (N.Z.).

The Acts of 1845 and 1847 are thought to be dead letters in New Zealand, and will be repealed under *clause 7* of the Bill unless it is shown that they are still serving a necessary or useful purpose in New Zealand.

(1846) 9 and 10 Vict., c. 25—(Malicious injury)

Curnin's *Index to the Laws of New Zealand*, 28th Edition, page 365 shows that the Act 9 and 10 Vict., c. 25 was repealed in relation to New Zealand by 1867, No. 8 (The Indictable Offences Acts Repeal Act 1867 (N.Z.)), but this reference to the repealing Act appears to be incorrect. The said Act 9 and 10 Vict., c. 25 was repealed in relation to New Zealand by 1878, No. 28, s. 3 (N.Z.).

(1847) 10 and 11 Vict., c. 62—The Naval Deserters Act 1847

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1851) 14 and 15 Vict., c. 86—(New Zealand Company's Settlements)

The 28th Edition of Curnin's *Index to the Laws of New Zealand*, page 366 shows that this Act is spent. It was repealed by the Statute Law Revision Act 1950 (U.K.).

(1852) 15 and 16 Vict., c. 39—The Crown Revenues (Colonies) Act 1852

This Act, by its Title, was declared to be intended to remove doubts as to the lands and casual revenues of the Crown in the colonies and foreign possessions of Her Majesty. In its terms it was applicable to New Zealand, and the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181 shows it as being in force in New Zealand on 31 December 1931. It was one of the Acts repealed by the Statute Law Revision Act 1950 (U.K.) because, as shown in the Preamble to that Act, they could be regarded as spent or unnecessary. As far as New Zealand is concerned, the Crown Revenues (Colonies) Act 1852 can be regarded as spent or unnecessary. Any possible significance it may have for New Zealand is preserved by the savings provisions in *clause 10* of the Bill and in section 1 of the Statute Law Revision Act 1950 (U.K.).

(1853) 16 and 17 Vict., c. 69—The Naval Enlistment Act 1853

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1853) 16 and 17 Vict., c. 73—The Naval Volunteers Act 1853

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 181, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1853) 16 and 17 Vict., c. 83

This Act amended the Evidence Amendment Act 1851 (U.K.), which last-mentioned Act was repealed by section 8 (4) of the Evidence Amendment Act 1952 (N.Z.).

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1854) 17 and 18 Vict., c. 24 (or 113)

The Schedule to the English Acts Act 1855 (N.Z.) shows, among the Acts which shall be taken to extend to New Zealand, an Act referred to as “Statute 17 and 18 Victoria, c. 24—An Act to amend the law relating to the administration of the estates of deceased persons”. Annotations in the copies, in the Library of the Parliamentary Counsel Office, of the 1859 Volume of Imperial Acts in force in New Zealand and the 1854–60 Volume of New Zealand statutes indicate that the reference in the 1855 Act to the Act 17 and 18 Victoria, c. 24, should have been to c. 113, not c. 24.

The Act of 1854 is repealed as c. 83 by 1883, No. 29 s. 97 (N.Z.).

(1857) 21 and 22 Vict., c. 51—The New Zealand Loan Guarantee Act 1857

This Act in its terms applied to New Zealand. It guaranteed a loan for the services of New Zealand. It appears in the 1859 Volume of Imperial Acts in Force in New Zealand. An annotation of the copy of that volume held by the Parliamentary Counsel Office shows that the Act had expired. It was repealed as part of the law of England by the Statute Law Revision Act 1950.

(1858) 21 and 22 Vict., c. 90—The Medical Act (1858)

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act does not appear to have been repealed in relation to New Zealand; but, as the whole of the statute law having relevance to medical practitioners in New Zealand now appears in the Medical Practitioners Act 1968 (N.Z.), the 1858 Act does not now serve a necessary or useful purpose here.

(1859) 22 and 23 Vict., c. 40—The Royal Navy Reserve (Volunteer) Act 1859

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1861) 24 and 25 Vict., c. 114—The Wills Act 1861

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act (commonly known as Lord Kingsdown’s Act) is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Preamble of the Domicile Act 1877 (N.Z.) recited that doubts had arisen whether the provisions of Lord Kingsdown’s Act were applicable to British subjects dying in New Zealand. The 1877 Act went on to enact provisions adapted from Lord Kingsdown’s Act, and relating to wills made out of New Zealand by British subjects. The 1877 Act did not, however, enact a provision corresponding with section 2 of Lord Kingsdown’s Act, which section related to wills of personalty made in the United Kingdom.

When section 31 of the Administration Act 1908 (N.Z.) was enacted to take the place of the Domicile Act 1877, no provision corresponding with the said section 2 was included. When the 1908 Act was consolidated and amended by the Administration Act 1952 (N.Z.), section 40 of the 1952 Act enacted provisions substantially on the lines of section 31 of the 1908 Act, but went on to include (for the first time in New Zealand) a provision on the lines of section 2 of Lord Kingsdown’s Act.

Section 14 of the Wills Amendment Act 1955 (N.Z.) enacted updated New

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Zealand provisions relating to the law that determines the validity of wills of movable property. Subsection (5) of the said section 14 provides that the section shall apply to all wills made on or after 27 October 1955, and that the validity of all other wills shall be determined as if section 40 of the Administration Act 1952 had not been passed.

All the relevant provisions enacted in New Zealand before 1955 and adapted from Lord Kingsdown's Act have been expressly repealed in relation to New Zealand. The savings provisions in *subclauses (2) and (4) of clause 10* of the Bill are designed to preserve in appropriate cases any effect of Lord Kingsdown's Act that may otherwise have been taken away by the general repeal in *clause 7*. Having regard to section 14 of the Wills Amendment Act 1955 (N.Z.) and all the circumstances, it seems unnecessary to preserve Lord Kingsdown's Act in force here.

(1861) 24 and 25 Vict. c. 121—The Domicile Act 1861

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182 includes this Act among the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. It appears that this Act does not now serve a necessary or useful purpose in New Zealand. There is adequate proper provision in New Zealand law for the making of grants of administration in respect of the estates of foreigners. Footnote (q) to paragraph 106 of Volume 7 of the Third Edition of Halsbury's *Laws of England* cites sections 1 and 2 of the Act of 1861 as authority for the statement made in the paragraph. The New Zealand Pilot comments, in relation to the said footnote (q), that the statement is "of no practical effect in New Zealand".

(1862) 25 and 26 Vict., c. 20—The Habeas Corpus Act 1862

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182 shows this Act as one of the Imperial statutes that were apparently in force in New Zealand on 31 December 1931. In its terms, the Act applies (as part of the laws of England) so as to prevent the issue of a writ of *habeas corpus* out of England into New Zealand, but the Act is not made part of the laws of New Zealand.

(1863) 26 and 27 Vict., c. 76—The Colonial Letters Patent Act 1863

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of New Zealand's constitutional status and modern communications, this Act is not now needed here. Clause V of the Letters Patent constituting the office of Governor-General of New Zealand (S.R. 1983/225) provides that an incoming Governor-General's commission is "to be publicly read" as prescribed.

(1863) 26 and 27 Vict., c. 84—The Colonial Acts Confirmation Act 1863

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act confirmed all laws theretofore passed or purporting to have been passed by any Colonial Legislature with the object of doing specified things. The said Act of 1863 was repealed by the Statute Law Revision Act 1963 (U.K.), which is described in the Title thereto as "an Act to revise the Statute Law by repealing obsolete, spent, unnecessary or superseded enactments". In the light of section 4 of the Statute of Westminster 1931 (U.K.)

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

and section 3 (1) of the Statute of Westminster Adoption Act 1947 (N.Z.), it appears that the Statute Law Revision Act 1963 did not operate to repeal the Colonial Acts Confirmation Act 1863 (U.K.) for the purposes of the laws of New Zealand. The 1863 Act will therefore have remained in force in New Zealand until immediately before the commencement of the Bill, and will be repealed by *clause 7* of the Bill. Its effect will be preserved by the savings provisions in *subclauses (2) and (4) of clause 10* of the Bill.

(1865) 28 and 29 Vict., c. 14—The Colonial Naval Defence Act 1865

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1865) 28 and 29 Vict., c. 72—The Navy and Marines (Wills) Act 1865

Section 11 (2) (a) of the Wills Amendment Act 1955, No. 94 (N.Z.) declares, for the avoidance of doubt, that the Navy and Marines (Wills) Acts 1865 to 1939 (U.K.) shall not have effect as part of the laws of New Zealand.

Section 2 of the Navy and Marines (Wills) Act 1939 provides that the said Act of 1939 shall be construed as one with the Navy and Marines (Wills) Acts 1865 and 1930; and those Acts and the 1939 Act may be cited together as the Navy and Marines (Wills) Act 1865 to 1939.

(1865) 28 and 29 Vict., c. 106—The Colonial Docks Loans Act 1865

The Title to this Act states that it is an Act to authorise loans in aid of the construction of docks in British possessions. In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act was one of a number of Acts that were repealed by section 1 of the Statute Law Revision Act 1958 (U.K.), and were described in the section as being Acts which are obsolete or spent or have been superseded by other enactments. It is spent in New Zealand.

(1866) 29 and 30 Vict., c. 104—The New Zealand Loans Act 1866

The Title to this Act states that it is “an Act to guarantee the liquidation of bonds issued for the repayment of advances made out of public funds for the service of the colony of New Zealand”. In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act was one of a number of Acts that were repealed by section 1 of the Statute Law Revision Act 1950 (U.K.), which last-mentioned Act is described in its Title as “repealing enactments which have ceased to be in force or become unnecessary”. The Act is obviously spent in New Zealand.

(1866) 29 and 30 Vict., c. 109—The Naval Discipline Act 1866

This Act was in force in New Zealand from its enactment in the sense that it applied to the crews of those ships of the Royal Navy's Australasian Squadron stationed in New Zealand throughout the latter half of the nineteenth century and the early part of the twentieth century. The Act was first expressly applied to the New Zealand Naval Forces by section 18 of the Naval Defence Act 1913 (N.Z.) in terms which were repeated by section 15 of the Navy Act 1954 (N.Z.).

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

Section 2 of both the 1913 and 1954 Acts defined the expression "Naval Discipline Act" in terms that included the 1866 Act. Section 3 of the Navy Amendment Act 1958 (N.Z.) amended section 2 of the Act of 1954 by repealing the said definition, and defining the said expression as meaning the Naval Discipline Act 1957 (U.K.). The Act of 1866 has ceased to be relevant in New Zealand, and can be repealed. See now the Armed Forces Discipline Act 1971 (N.Z.).

(1868) 31 and 32 Vict., c. 93—(New Zealand Company's Equitable Estates)

This Act is shown in the Title thereof to be "an Act to remove doubts respecting the operation of the New Zealand Company's Act of 9 and 10 Vict., c. 382 (Local and personal)" (1846). In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, the 1868 Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the English *Chronological Table of the Statutes* the reference to the said Act of 1868 is shown in italics, thereby indicating that the Act has expired or been repealed. This is consistent with the statement in the *Encyclopaedia of New Zealand*, 1966 Edition, edited by A. H. McLintock that the company was finally dissolved in 1858. For the purposes of the law of New Zealand the Act is obsolete and can be repealed.

(1869) 32 and 33 Vict., c. 10—The Colonial Prisoners Removal Act 1869

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 482, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The 1973 Report of the Australian Capital Territory states that the Act is clearly obsolete and should be repealed. This reasoning applies in New Zealand. See the note in this Appendix regarding the Colonial Prisoners Removal Act 1884 (U.K.).

(1870) 33 Vict., c. 10—The Coinage Act 1870

This Act applied to New Zealand by reason of its terms and of the Proclamations set out in the *New Zealand Gazette*, 1897, Vol. 1, pp. 731 to 733.

Section 5 of the Act was repealed by section 412 (1) of the Crimes Act 1961 (N.Z.). The rest of the Act is now substantially superseded by the Decimal Currency Act 1964 (N.Z.). The Reserve Bank of New Zealand and the Treasury advise that there is no need to preserve any of the provisions of the Act of 1870 in force in New Zealand.

(1870) 33 and 34 Vict., c. 40—The New Zealand (Roads, Etc.) Loan Act 1870

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act is repealed by section 1 of the Statute Law Revision Act 1950 (U.K.), which last-mentioned Act is described in its Title as "repealing enactments which have ceased to be in force or have become unnecessary". The Act is obviously spent in New Zealand.

(1873) 36 and 37 Vict., c. 15—The New Zealand (Roads, Etc.) Loan Act 1873

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act is repealed by section 1 of the Statute Law Revision Act 1950 (U.K.), which last-mentioned Act is described in its Title as "repealing enactments which have ceased to be in force or have become unnecessary". The Act is obviously spent in New Zealand.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1873) 36 and 37 Vict., c. 22—The Australian Colonies Duties Act 1873

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act was one of the enactments relating to overseas territories shown in Part VII of Schedule 1 of the Statute Law (Repeals) Act 1973 (U.K.), and repealed by section 1 of that Act. The position in New Zealand is now covered by sections 125 and 128 (a) of the Customs Act 1966.

(1874) 37 and 38 Vict., c. 62—The Infants Relief Act 1874

This Act amended the law as to the contracts of infants, and as to the ratification made by persons of full age of contracts made by them during infancy, and as to contracts by infants for necessities. The related New Zealand statute law formerly appeared in sections 12 to 14 of the Infants Act 1908, and now appears in the Minors' Contracts Act 1969. If the Act of 1874 happens to be in force in New Zealand, it will be repealed under the general repeal in *clause 7* of the Bill.

(1876) 39 and 40 Vict., c. 36—The Customs Consolidation Act 1876

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 182, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Customs and Excise Act 1952 (U.K.) repealed the said Act of 1876 with the exception of a few sections that have no relevance in New Zealand. The Act is spent so far as the law of New Zealand is concerned. See the Customs Act 1966 (N.Z.).

(1884) 47 and 48 Vict., c. 31—The Colonial Prisoners Removal Act 1884

The 1973 Report of the Australian Capital Territory comments in relation to this Act as follows:

“This was an Act of wide scope. It provides for a ‘removing authority’ (being a Secretary of State acting with the concurrence of the Government of the British possession concerned), and gave such authority power to order a prisoner undergoing sentence of imprisonment in any British possession for any offence, to be removed to any other British possession or to the United Kingdom, under certain conditions.

“The possibility of the Act’s being called into application is remote. It should be repealed because in principle it is obviously obsolete.”

Section 9 (2) was repealed in relation to New Zealand by section 412 (1) of the Crimes Act 1961.

(1884) 47 and 48 Vict., c. 39—The Naval Discipline Act 1884

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1884) 47 and 48 Vict., c. 46—The Naval Enlistment Act 1884

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1886) 49 and 50 Vict., c. 48—The Medical Act 1886

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Act does not appear to have been repealed in relation to New Zealand; but, as the whole of the statute law having relevance to medical practitioners in New Zealand now appears in the Medical Practitioners Act 1968 (N.Z.) and its amendments, the 1886 Act does not now serve a necessary or useful purpose in New Zealand.

(1888) 51 and 52 Vict., c. 31—National Defence

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, section 5 of this Act (which relates to the supply of carriages and vessels in case of emergency) is shown to have been in force in New Zealand on 31 December 1931. The Ministry of Defence has advised that it is no longer necessary to preserve either the Act or the section in force in New Zealand.

(1888) 51 and 52 Vict., c. 32—Imperial Defence (Australasian Colonies)

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. The Ministry of Defence has advised that it is no longer necessary to keep this Act in force in New Zealand.

(1888) 51 and 52 Vict., c. 46—The Oaths Act 1888

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows this Act as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of the Oaths and Declarations Act 1957 (N.Z.), the Act of 1888 can be regarded as spent in relation to New Zealand.

(1889) 52 and 53 Vict., c. 63—The Interpretation Act 1889

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows that this Act was apparently in force in New Zealand on 31 December 1931. Its operation here has been mainly restricted to the interpretation of Imperial Acts so far as they have been in force in New Zealand. The Act of 1889 was repealed as part of the law of the United Kingdom by the Interpretation Act 1978 (U.K.), but that repeal did not affect the operation of the Act of 1889 as part of the law of New Zealand. It is desirable that the rules for the interpretation of Imperial Acts that are being preserved in force here by the Bill should be the same in New Zealand as in England. The Act of 1889 is therefore being repealed by *clause 7* of the Bill, and the Act of 1978 is being brought into force here to the extent provided in *clause 6 (2) (b)* of the Bill. The Act of 1978 is shown as one of the preserved Imperial enactments listed in *Division II of Part II of the Second Schedule* to the Bill.

(1890) 53 and 54 Vict., c. 37—The Foreign Jurisdiction Act 1890

The 1973 Report of the Australian Capital Territory states that this Act is now clearly obsolete and should be repealed. The English *Chronological Table of the Statutes* shows that, except as there indicated, the Act remains in force in England. It is reprinted with annotations in Halsbury's *Statutes of England*, Third Edition, Volume 4, page 504.

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, pages 183–189 shows this Act as one of the Imperial Acts that were apparently in force in

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

New Zealand on 31 December 1931. Section 6 of the Act was repealed in relation to New Zealand by section 412 (1) of the Crimes Act 1961 (N.Z.).

A.E. Currie's booklet *New Zealand and the Statute of Westminster* states:

"Under the Foreign Jurisdiction Act 1890 and its Amendments. Many Orders in Council have been made relating to protectorates and consular jurisdiction in various countries. These, like the Acts themselves, must in New Zealand Courts be accorded recognition as part of the law of New Zealand. Of particular application are the Western Samoa Order in Council 1920, and the Union Islands (No. 2) Order in Council 1925, giving New Zealand powers of government over Western Samoa and the Tokelau Islands."

The Tokelau Act 1948 now covers the position of Tokelau. See especially the Preamble, which mentions certain of the relevant Orders in Council, and section 3 which declares that Tokelau shall form part of New Zealand.

The question at this stage is whether it is necessary and desirable to preserve or save as part of our laws the Act of 1890 and its amendments, and the related Orders in Council to which Mr Currie refers. Further thought is being given to this question, and it is being kept under notice in the meantime by showing the Act of 1890 in italics in the first column of Appendix A.

If further consideration indicates that it is marginally desirable to preserve, as part of the laws of New Zealand, the Acts in question, or the said Orders in Council, or any of them, thought will have to be given to whether they now have sufficient usefulness to justify cluttering the Schedule with references to the Acts, or *clause 8* with provisions providing for the preservation of the orders. Savings adapted from certain of the provisions in *clause 10* of the Bill may be acceptable.

The Bill as it stands at present provides that the 1890 Act and its amendments will not in future have effect as part of the laws of New Zealand and no provision is made for savings in relation thereto.

(1891) 54 and 55 Vict., c. 72—The Coinage Act 1891

This Act amended the Coinage Act 1870, which is being repealed by *clause 7* of the Bill in relation to New Zealand. The 1891 Act serves no necessary or useful purpose in New Zealand. It makes provision for the exchange of light gold coins.

(1892) 55 and 56 Vict., c. 6—The Colonial Probates Act 1892

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows that this Act was one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The Act applied to New Zealand pursuant to an Imperial Order in Council, and in the sense that New Zealand was a British possession to which the Act applied, but the Act has never been in force in New Zealand as part of our laws. It operated according to U.K. law to provide for the recognition in the United Kingdom of probates and letters of administration granted in New Zealand.

(1892) 55 and 56 Vict., c. 23—The Foreign Marriage Act 1892

Section 39 of the Marriage Act 1955 (N.Z.) provides that all marriages which are valid in the United Kingdom by virtue of the Foreign Marriage Acts 1892 to 1947 of the Parliament of the United Kingdom shall be and shall be deemed always to have been as valid in New Zealand as if solemnised in New Zealand in accordance with the 1955 Act. The related section 42 of the 1955 Act authorises

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

the giving of notice to a Registrar in New Zealand of an intended marriage under the Marriage Acts 1892 to 1947 (U.K.). These sections give recognition under New Zealand law to a fact situation that arises in the United Kingdom by reason of U.K. law, but do not extend the U.K. Acts to New Zealand as part of our law. There is nothing in the said U.K. Acts that causes them to extend to New Zealand as part of our law.

(1894) 57 and 58 Vict., c. 30—The Finance Act 1894

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183, includes sections 2 and 20 of this Act among the Imperial statutes that were apparently in force in New Zealand on 31 December 1931. These sections applied to New Zealand in the sense that New Zealand was a British possession to which the sections applied, but the sections have never been in force here as part of our law. They operated according to U.K. law, and in accordance with a scheme to avoid double taxation, to allow duty payable in New Zealand by reason of death in respect of property situated in New Zealand to be deducted from the estate duty payable in the U.K. in respect of that property on that same death. Compare section 40 of the Estate and Gift Duties Act 1968 (N.Z.).

Apart from this aspect it is mentioned that the Finance Act 1894 was repealed by the Finance Act 1975 (U.K.) consequentially on the abolition of estate duty by section 49 of the last-mentioned Act.

(1895) 58 and 59 Vict., c. 3—The Australian Colonies Duties Act 1895

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows this Act as one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The Act repealed specified Imperial enactments that restricted the powers of the Legislatures of the Australian Colonies in respect of the imposition of customs duties on articles the produce or manufacture of, or imported from, New Zealand, among other places. It seems that, although the Act could have an indirect effect on New Zealand, it has not been in force here as part of our laws. If it happens to be that the said Act is now in force here, it will be repealed by *clause 7* of the Bill, and its effect will be saved by *clause 10*.

(1895) 58 Vict., c. 9—The Documentary Evidence Act 1895

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows this Act as being apparently in force in New Zealand. The Act applies the Documentary Evidence Act 1868, as amended by the Documentary Evidence Act 1882, to the Board of Agriculture in England. In view of the terms of the Act it seems doubtful whether it has ever been in force in New Zealand. If the 1895 Act has been in force here it has ceased to have relevance because the Acts of 1868 and 1882 were repealed in relation to New Zealand by section 8 (4) of the Evidence Amendment Act 1952 (N.Z.).

(1896) 59 and 60 Vict., c. 12—The Derelict Vessels (Report) Act 1896

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 183 shows that the said Act was one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The 1896 Act was repealed by subsection (6) of section 24 of the Merchant Shipping (Safety and Load Lines Conventions) Act 1932 (U.K.), which section imposes obligations to report dangers to navigation, including dangerous derelicts. See the corresponding provision in

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

section 296 of the Shipping and Seamen Act 1952 (N.Z.). See also the Shipping Navigational Warnings Rules 1966 (S.R. 1966/157). Section 74 of the 1932 Act provides that it shall be construed as one with the Merchant Shipping Acts 1894 to 1928 (U.K.), which were repealed in relation to New Zealand by sections 2 (1) and 513 of the Shipping and Seamen Act 1952 (N.Z.). It seems that, as far as New Zealand is concerned, the 1896 Act is now either repealed or spent.

(1900) 63 and 64 Vict., c. 14—The Colonial Solicitors Act 1900

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184 shows this Act as one of the Imperial statutes that were apparently in force in New Zealand on 31 December 1931. A footnote shows that the Act was applied to New Zealand by Orders in Council published in the *New Zealand Gazette*, 1904, pp. 1214 and 1548. The Act of 1900 applies to New Zealand in the sense that New Zealand was declared to be a British possession for the purpose of the admission, to the Supreme Courts in the United Kingdom, of solicitors of Courts of British possessions to which the Act applies. It is thought that this did not cause the Act to be in force here as part of our law. The Act operates as part of the law of the United Kingdom and in accordance with a scheme for reciprocal admission of solicitors. Compare section 41 of the Law Practitioners Act 1982 (N.Z.).

(1902) 2 Edw. 7, c. 36—The Mail Ships Act 1902

This Act amended the Mail Ships Act 1891 (U.K.), which was repealed in relation to New Zealand by section 4 of the Finance Act (No. 2) 1964 (N.Z.). The Act of 1902 is now spent so far as New Zealand is concerned.

(1907) 7 Edw. 7, c. 16—The Evidence (Colonial Statutes) Act 1907

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184 shows that this Act was apparently in force in New Zealand on 31 December 1931. The Act has relevance here in that it relates to the proof of statutes of British possessions, and in effect provides, as part of the law of the United Kingdom, that copies of New Zealand enactments and New Zealand subordinate legislation, if purporting to be printed by our Government Printer, shall be received in evidence by all Courts of justice in the United Kingdom without proof being given that the copies were so printed. A related New Zealand provision appears in section 39 of the Evidence Act 1908 (N.Z.). *Cross on Evidence*, Third New Zealand Edition, page 617, discusses the said section 39; and, in a footnote, compares that section with the 1907 Act, but without making any suggestion that the 1907 Act is in force in New Zealand. It appears that the 1907 Act has never been in force here.

(1909) 9 Edw. 7, c. 18—The Naval Establishments in British Possessions Act 1909

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1909) 9 Edw. 7, c. 19—The Colonial Naval Defence Act 1909

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

that date, the Act no longer needs to be preserved in force here.

(1909) 9 Edw. 7, c. 41—The Naval Discipline Act 1909

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1911) 1 and 2 Geo. 5, c. 47—The Naval Discipline (Dominion Naval Forces) Act 1911

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931.

This Act was in force in New Zealand from its enactment in the sense that it applied to the crews of those ships of the Royal Navy's Australasian Squadron stationed in New Zealand throughout the latter half of the nineteenth century and the early part of the twentieth century. The Act was first expressly applied to the New Zealand Naval Forces by section 18 of the Naval Defence Act 1913 (N.Z.) in terms which were repeated by section 15 of the Navy Act 1954 (N.Z.). Section 2 of both the 1913 and 1954 Acts defined the expression "Naval Discipline Act" in terms that included the 1911 Act. Section 3 of the Navy Amendment Act 1958 (N.Z.) amended section 2 of the Act of 1954 by repealing the said definition, and defining the said expression as meaning the Naval Discipline Act 1957 (U.K.). The Act of 1911 has ceased to be relevant in New Zealand, and can be repealed. See now the Armed Forces Discipline Act 1971 (N.Z.).

(1913) 3 and 4 Geo. 5, c. 16—The Foreign Jurisdiction Act 1913

This Act amends the Foreign Jurisdiction Act 1890, which is being repealed by this Act.

(1915) 5 and 6 Geo. 5, c. 30—The Naval Discipline Act 1915

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 184, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1915) 5 and 6 Geo. 5, c. 40—The Marriage of British Subjects (Facilities) Act 1915

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows that this Act and the Marriage of British Subjects (Facilities) Amendment Act 1916 were apparently in force in New Zealand on 31 December 1931. They apply to New Zealand in the sense that, under United Kingdom law, New Zealand is a part of Her Majesty's dominions to which the Acts have been applied by Order in Council, so that a certificate of due publication of notice of intention to marry issued by the prescribed authority in New Zealand, will be recognised in England, Scotland, or Ireland in the specified circumstances where the marriage is to be solemnised in one of those countries; and a corresponding certificate may be issued in the specified circumstances by the prescribed authority in one of those countries where the marriage is to be solemnised in New Zealand. The Acts have never been in force in New Zealand as part of our law. A list of the Orders in Council by which the Acts apply to various parts of Her Majesty's

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

dominions appears in Halsbury's *Statutes of England*, 3rd Edition, Volume 17, page 37. Provision for the issue of the contemplated certificate in New Zealand is made by section 41 of the Marriage Act 1955 (N.Z.).

(1915) 5 and 6 Geo. 5, c. 73—The Naval Discipline (No. 2) Act 1915

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1916) 6 and 7 Geo. 5, c. 21—The Marriage of British Subjects (Facilities) Amendment Act 1916

See note in Appendix C on the Marriage of British Subjects (Facilities) Act 1915.

(1917) 7 and 8 Geo. 5, c. 34—The Naval Discipline Act 1917

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1918) 8 and 9 Geo. 5, c. 30—The Naval Prize Act 1918

See explanatory note in Appendix B on the Naval Prize Act 1864.

(1920) 10 Geo. 5, c. 3—The Coinage Act 1920

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows this Act as one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. The Act amends the law in respect of the standard fineness of silver coins current in the United Kingdom and other parts of Her Majesty's dominions. The relevant law in this connection appears in the Coinage Act 1870 (U.K.) and the Coinage Act 1891 (U.K.), both of which Acts are being repealed in relation to New Zealand by the Bill. See the explanatory note thereon in Appendix C. The position is now covered in New Zealand by section 9 of the Decimal Currency Act 1964.

(1920) 10 and 11 Geo. 5, c. 33—The Maintenance Orders (Facilities for Enforcement) Act 1920

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows that this Act was apparently in force in New Zealand on 31 December 1931. The Act affected New Zealand in the sense that, by Order in Council made in England on 20 June 1922 and published in the *New Zealand Gazette* on 21 December 1922 at page 3262, New Zealand was declared to be part of His Majesty's dominions to which the Act extends. The consequence is that, as part of the law of England, maintenance orders made by the Courts in New Zealand can be enforced by the Courts in England as provided in the Act. The said Act has never been in force in New Zealand as part of our laws. See the corresponding provisions in the Reciprocal Enforcement of Judgments Act 1934 (N.Z.).

(1920) 10 and 11 Geo. 5, c. 81—The Administration of Justice Act 1920

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows that Part II of this Act was apparently in force in New Zealand on 31

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

December 1931. This Part affected New Zealand in the sense that, by Order in Council made in England on 4 May 1923 and published in the *New Zealand Gazette* on 22 May 1924, page 1294, New Zealand was declared to be part of His Majesty's dominions to which the said Part II extends. The consequence is that, as part of the law of England, judgments obtained in superior Courts in New Zealand can be enforced in the High Court in England as provided in the said Part II. No part of the said Act has ever been in force in New Zealand as part of our laws. See the corresponding provision in the Reciprocal Enforcement of Judgments Act 1934 (N.Z.).

(1922) 12 and 13 Geo. 5, c. 21—The Treaties of Washington Act 1922

Section 5 (1) of this Act provided for this Act to extend to New Zealand. The Act is repealed as obsolete by the Statute Law Revision Act 1959 (U.K.).

(1922) 12 and 13 Geo. 5, c. 37—The Naval Discipline Act 1922

In the 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185, this Act is shown as one of the Imperial Acts that were in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1922) 12 and 13 Geo. 5, c. 44—The British Nationality and Status of Aliens Act 1922

This Act was superseded, in relation to New Zealand, by the British Nationality and New Zealand Citizenship Act 1948 (N.Z.), now the Citizenship Act 1977 (N.Z.).

(1924) 14 and 15 Geo. 5, c. 22—The Carriage of Goods by Sea Act 1924

This Act received consideration in the Supreme Court of New Zealand in the case of *Commonwealth and Dominion Line Ltd v. Laery, Beveridge and Co. Ltd* [1928] N.Z.L.R. 141 because it was admitted by the parties that the point of law involved in the case turned on a provision in the Carriage of Goods by Sea Act 1924 (U.K.).

The matter in dispute in the case was a cask of whisky which, being received on board ship in Glasgow in good order and condition, was, when landed in Wellington, practically empty.

The report does not show why the admission was made, but the Secretary for Transport advises that he assumes that it was because, at the relevant date, all inward consignments (from the U.K.) would have had their bills of lading governed by the said U.K. Act of 1924. He also advises that, in the commercial world, the present position is that all inward consignments (from the U.K.) are governed by the Carriage of Goods by Sea Act 1971 (U.K.); that outward consignments (ex New Zealand) are governed by the Sea Carriage of Goods Act 1940 (N.Z.); and that the Carriage of Goods by Sea Act 1924 (U.K.) now has no practical relevance whatever as part of the laws of New Zealand.

Clause 7 makes it clear that, after the commencement of the Bill, the said U.K. Act of 1924 shall not have effect as part of the laws of New Zealand.

(1927) 17 Geo. 5, c. 4—The Royal and Parliamentary Titles Act 1927

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows this Act as one of the Imperial statutes that were apparently in force in New Zealand on 31 December 1931. So far as the Act relates to Royal Titles, the position is now covered in New Zealand by the Royal Titles Act 1974 (N.Z.).

APPENDIX C—*continued*EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

So far as the Act of 1927 altered the style of the Parliament of the United Kingdom, it is not necessary to keep it in force here as part of the laws of New Zealand.

(1927) 17 and 18 Geo. 5, c. 18—The Royal Naval Reserve Act 1927

The 1931 Reprint of the Public Acts of New Zealand, Volume 9, page 185 shows this Act as one of the Imperial Acts that were apparently in force in New Zealand on 31 December 1931. In the light of legislation enacted in New Zealand since that date, the Act no longer needs to be preserved in force here.

(1929) 19 and 20 Geo. 5, c. 8—The Appellate Jurisdiction Act 1929

This Act is described in its Title as being an Act to make further provision with respect to the constitution of the Judicial Committee of the Privy Council, and to authorise the appointment of an additional Lord of Appeal in Ordinary. In Butterworth's *Annotations of N.Z. Statutes*, Volume VI (Statutes) 1932–1954, the Act is shown as being in force in New Zealand. The Act is shown in Part VII of Schedule I of the Statute Law (Repeals) Act 1976 (U.K.) as one of the enactments repealed by that Act. Section 3 (2) of the 1976 Act provides that the Act does not repeal any enactment so far as the enactment forms part of the law of another country outside the United Kingdom. In connection with New Zealand appeals to the Judicial Committee of the Privy Council, that Committee needs to be constituted in accordance with the provisions that apply in England. Hence the repeal of the 1929 Act in relation to New Zealand.

(1931) 21 and 22 Geo. 5, c. 9—The Colonial Naval Defence Act 1931

This Act consolidated the Colonial Naval Defence Acts (U.K.). In Butterworth's *Annotations of N.Z. Statutes*, Volume VI (Statutes) 1932–1954, the Act is shown as being in force in New Zealand. In view of the New Zealand legislation that now applies to the New Zealand Naval Forces, the Act of 1931 can be repealed in relation to New Zealand.

(1934) 24 and 25 Geo. 5, c. 49—The Whaling Industry (Regulation) Act 1934

Section 15 of the Act conferred power on New Zealand to legislate extra-territorially in respect of its own whaling ships. The power was exercised by section 4 of the Whaling Industry Act 1935 (N.Z.), the Preamble to which Act recited the said section 15. The Whaling Industry Act 1935 was repealed by the Marine Mammals Act 1978 (N.Z.), **and the power conferred by the said section 15 is now unnecessary for New Zealand in the light of the general power conferred by section 53 of the New Zealand Constitution Act 1852, as substituted by section 2 of the New Zealand Constitution Amendment Act 1973 (N.Z.).** See the note on *page x* of this explanatory note under the heading "Powers of General Assembly in Respect of Bill"; and see now *clause 15* of the Constitution Bill, as reported from the Justice and Law Reform Committee.

(1936) 1 Edw. 8, c. 3—His Majesty's Declaration of Abdication Act 1936

The Preamble to this Act recites that the Government of New Zealand had consented to the enactment thereof. The Act in its terms applied to New Zealand, and made King Edward the Eighth's abdication a demise of the Crown. The Act is now spent, and any residual implications it may have are safeguarded by the savings provision in *clause 10* of the Bill.

APPENDIX C—*continued*

EXPLANATION OF CERTAIN ENACTMENTS NOT BEING PRESERVED—*continued*

(1937) 1 Edw. 8 and 1 Geo. 6—The London Naval Treaty Act 1937

This Act amended the Treaties of Washington Act 1922, which in its terms extended to New Zealand. The Act is one of the obsolete, spent, or unnecessary enactments repealed by the Statute Law Revision Act 1963 (U.K.).

(1939) 2 and 3 Geo. 6, c. 62—The Emergency Powers (Defence) Act 1939

This Act provided by section 5, for the extra-territorial operation of defence legislation of the Parliament of New Zealand. The Act was repealed in relation to the United Kingdom by section 10(3) of the Emergency Laws (Repeal) Act 1959 (U.K.). The provision in the said section 5 is now unnecessary for New Zealand in the light of the general power conferred by section 53 of the **New Zealand Constitution Act 1852, as substituted by section 2 of the New Zealand Constitution Amendment Act 1973 (N.Z.)**. See the note on *pages vii to x* of this explanatory note under the heading "Powers of General Assembly in respect of Bill".

(1940) 3 and 4 Geo. 6, c. 18—The Army and Air Force (Annual) Act 1940

Section 3 of this Act amended the Army and Air Force Acts of the United Kingdom by substituting in each case a revised section 187c relating to the application of the Act to New Zealand. The position is now covered for New Zealand by New Zealand legislation.

(1943) 6 and 7 Geo. 6, c. 15—The Army and Air Force (Annual) Act 1943

Section 9 of this Act amended the sections in the Army and Air Force Acts of the United Kingdom that were substituted by section 3 of the Army and Air Force (Annual) Act 1940 (U.K.). See the note in this Appendix as to the said Act of 1940. The said section 9 was repealed by the Statute Law Revision Act 1953 (U.K.), and is spent in relation to New Zealand.

(1947) 10 and 11 Geo. 6, c. 33—The Foreign Marriage Act 1947

See the note in this Appendix on the Foreign Marriage Act 1892.

(1956) 4 and 5 Eliz. 2, c. 74—The Copyright Act 1956

In the Imperial Laws Application Bill as introduced into Parliament towards the end of the 1981 session, clause 9(8) provided as follows:

"(8) Subject to the provisions of the Copyright Act 1962 (N.Z.), nothing in this Act shall affect any of the provisions of the Copyright Act 1956 (U.K.) so far as they for the time being apply to New Zealand under Part V of the last-mentioned Act."

The relevant provision in the said Part V is section 32, which provides that Her Majesty may, by Order in Council, make provision for applying any of the provisions of the 1956 Act to New Zealand, among other places, in terms of a specified fact situation. Such an application to New Zealand is for the purposes of United Kingdom law, and does not extend an applied provision to New Zealand as part of the laws of New Zealand. The 1956 Act is not mentioned in the present Bill as it now stands; and *clause 7* makes it clear that the said Act is not in force in New Zealand. There is nothing in the present Bill to imply that it has been in force here.

(1957) 5 and 6 Eliz. 2, c. 53—The Naval Discipline Act 1957

Section 15 of the Navy Act 1954 (N.Z.) provided that the Naval Discipline Act

shall apply to the New Zealand Naval Forces. Section 2 of the Navy Amendment Act 1958 (N.Z.) amended section 2 of the Act of 1954 by substituting a new definition of the term "Naval Discipline Act". The substituted definition defined the term as meaning the Naval Discipline Act 1957 of the United Kingdom Parliament. Section 208 (2) of the Armed Forces Discipline Act 1971 provided for the repeal of the said Acts of 1954 and 1958. The said Act of 1971 was brought into force on 1 December 1983 by the Armed Forces Discipline Act Commencement Order 1983 (S.R. 1983/232). The Naval Discipline Act 1957 (U.K.) no longer has significance in New Zealand.

Right Hon. Geoffrey Palmer

IMPERIAL LAWS APPLICATION

ANALYSIS

Title	16. Repeal
1. Short Title and commencement	
2. Interpretation	<i>Crown Proceedings</i>
	17. Sections to be read with Crown Proceedings Act 1950
	18. Abolition of informations of intrusion and writs of intrusion
	<i>English Laws</i>
PART I	19. Sections to be read with English Laws Act 1908
GENERAL PROVISIONS	20. Restriction of application of section 2
3. Evidence of Imperial enactments and Imperial subordinate legislation	21. Repeals
4. Application of laws of England in New Zealand	
5. Construction of substituted enactments	<i>Evidence</i>
6. Preserved Imperial enactments	22. Sections to be read with Evidence Act 1908
7. Repeal of all Imperial enactments not expressly preserved	23. New section inserted
8. Preservation of Imperial subordinate legislation	6A. Questions tending to establish a debt or civil liability
9. Offences not punishable except under New Zealand law	24. Copy of public Act, Imperial legislation, and regulations printed as prescribed to be evidence
10. Savings	
11. Revival of repealed enactments	<i>Judicature</i>
	25. Sections to be read with Judicature Act 1908
PART II	26. New section inserted
SUBSTITUTED AND CONSEQUENTIAL ENACTMENTS TO BE PASSED AS SEPARATE ACTS	16A. Power to award damages as well as, or in substitution for, injunction or specific performance
<i>Acts Interpretation</i>	27. Repeal
12. Sections to be read with Acts Interpretation Act 1924	
13. References to be made to copies printed by authority	<i>Shipping and Seamen</i>
<i>Contracts Enforcement</i>	28. Sections to be read with Shipping and Seamen Act 1952
14. Sections to be read with Contracts Enforcement Act 1956	29. Repeal and revocations Schedule
15. New section inserted	
2A. Action not maintainable on representations of character, etc., unless they are in writing signed by the party chargeable	

A BILL INTITULED

An Act to specify the extent to which Imperial enactments, Imperial subordinate legislation, and other laws of England shall have effect as part of the laws of New Zealand

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

1. Short Title and commencement—(1) This Act may be cited as the Imperial Laws Application Act 1986. 5

(2) This Act shall come into force on the 1st day of January 1988.

2. Interpretation—(1) In this Act, unless the context otherwise requires,—

“Imperial enactment” means any part of the enacted law 10 that has, or that at any time has had, effect as part of the laws of England; but does not include any Imperial subordinate legislation:

“Imperial subordinate legislation” means any part of any Orders in Council, orders, rules, regulations, schemes, 15 warrants, bylaws, and other instruments made or to be made under any Imperial enactment; and includes Orders in Council and regulations made under any of the provisions of subsections (4), (6), and (7) of section 8 of this Act if they are to be read together with and 20 deemed part of any Imperial subordinate legislation:

“New Zealand enactment” means any part of any Act, ordinance, or other law at any time enacted in New Zealand; but does not include any New Zealand subordinate legislation: 25

“New Zealand subordinate legislation”—

(a) Means—

(i) Any part of any Order in Council, regulations, rules, or bylaws made under the authority of any New Zealand enactment; and 30

(ii) Any part of any Order in Council, Proclamation, notice, warrant, or instrument of authority that is made under any New Zealand enactment and extends or varies the scope or provisions of any New Zealand 35 enactment:

(b) Does not include regulations made under any of the provisions of subsections (4), (6), and (7) of section 8 of this Act, if they are to be read together with and deemed part of any Imperial subordinate legislation: 40

“Repealed”, in relation to any Imperial enactment, means that the enactment has ceased to have effect as part of the laws of New Zealand; and “the repeal” has a corresponding meaning:

5 “Revoked”, in relation to any Imperial subordinate legislation, means that the legislation has ceased to have effect as part of the laws of New Zealand; and “the revocation” has a corresponding meaning.

(2) Where, in any Imperial enactment or Imperial subordinate
10 legislation or New Zealand enactment or New Zealand subordinate legislation, reference is made to whether or not any Imperial enactment or Imperial subordinate legislation is in force in New Zealand, that reference shall, for the purposes of this Act, be read as if that reference was to whether or not
15 the last-mentioned enactment or legislation has effect as part of the laws of New Zealand.

Cf. 1922, No. 3270, s. 2 (Vic.); 1980, No. 9426, s. 2 (Vic.);
1969, No. 30, s. 4 (N.S.W.); 1978, c. 30, s. 21 (U.K.); 1936,
No. 17, s. 2 (N.Z.)

20

PART I

GENERAL PROVISIONS

3. Evidence of Imperial enactments and Imperial subordinate legislation—(1) Where this Act, or any other New Zealand enactment, or any New Zealand subordinate
25 legislation, or any instrument or document that has to be construed according to the laws of New Zealand (whether the enactment, legislation, instrument, or document was passed or made before or after the commencement of this Act), cites any Imperial enactment, by its Short Title, or by year, statute,
30 session, or chapter, or by Part, Division, section, or other term, the citation shall, unless a contrary intention appears, be read as referring to the enactment cited as shown in the authentic text thereof specified in **subsection (3)** of this section.

(2) Where, in any case to which **subsection (1)** of this section
35 does not apply, it is necessary for the purposes of the laws of New Zealand, to ascertain the terms of any Imperial enactment, if there are variances between different editions of the Imperial Acts as to the terms of the enactment, its terms shall, unless the context otherwise requires, be ascertained from the
40 authentic text thereof specified in **subsection (3)** of this section.

(3) References in this section to the authentic text of any Imperial enactment shall be read as referring to the text of the enactment, as it appears in—

- (a) The first revised edition of the *Statutes Revised* in any case where the enactment appears in that edition:
 - (b) The edition prepared under the direction of the Record Commission and called the *Statutes of the Realm*, if the enactment was passed before the end of the reign of Queen Anne in 1713, and is included in the last-mentioned edition, but is not included in the first revised edition of the *Statutes Revised*: 5
 - (c) The edition known as *Ruffhead's Statutes at Large* (by Serjeant Runnington—1786), if the enactment was passed before the end of the session of the 25th year of the reign of King George the Third in 1785, and is included in the last-mentioned edition, but is not included in either—
 - (i) The first revised edition of the *Statutes Revised*; 15
 - or
 - (ii) The *Statutes of the Realm*:
 - (d) The Acts printed by the Queen's or King's Printer, or under the superintendence or authority of Her Majesty's Stationery Office in the United Kingdom, 20 in any other case.
- (4) Judicial notice shall be taken of—
- (a) The editions mentioned in **subsection (3)** of this section and of the contents thereof; and
 - (b) The Acts printed as mentioned in **paragraph (d)** of that subsection. 25
- (5) In any case where it is necessary, in accordance with this section, to ascertain the meaning of the authentic text of any Imperial enactment that was passed in or before the reign of King Henry the Seventh and was originally expressed in Latin 30 or Norman-French, the translation shown in the edition in which the authentic text appears as a translation of that authentic text shall be deemed to be correct, and judicial notice shall be taken thereof.
- (6) It is hereby declared that— 35
 - (a) Section 39 of the Evidence Act 1908 shall apply to Imperial subordinate legislation:
 - (b) Sections 34 and 39 of the Evidence Act 1908 shall not restrict the application of the foregoing provisions of this section to Imperial enactments. 40
- Cf. ss. 3 and 4 of the Imperial Acts Application Act 1922 (Vic.); s. 19 of the Interpretation Act 1978 (U.K.); and the notes on the last-mentioned section in Halsbury's *Statutes of England*, 3rd Edition, Vol. 48, p. 1308

4. Application of laws of England in New Zealand—After the commencement of this Act, and subject to **section 10 (10)** of this Act,—

- 5 (a) Imperial enactments shall have effect as part of the laws of New Zealand to the extent provided by any one or more of the enactments and Orders in Council hereafter specified in this section, being—
- 10 (i) **Section 6** of this Act; and
- (ii) Any Order in Council made under **section 11** of this Act; and
- 15 (iii) **Any Imperial enactment passed after the commencement of this Act that has effect as part of the laws of New Zealand in accordance with section 4 of the Statute of Westminster 1931 (U.K.) and section 3 (1) of the Statute of Westminster Adoption Act 1947 (N.Z.); and**
- (iv) Any New Zealand enactment passed after the commencement of this Act,—
- 20 and shall be applied in New Zealand in the administration of justice accordingly:
- (b) Imperial subordinate legislation shall have effect as part of the laws of New Zealand to the extent provided by or under **section 8** of this Act, and by **section 10 (10)** of this Act, and shall be applied in New Zealand in the administration of justice accordingly:
- 25 (c) The laws of England, other than Imperial enactments and Imperial subordinate legislation, shall have effect as part of the laws of New Zealand to the extent provided by section 2 of the English Laws Act 1908, and shall be applied in New Zealand in the administration of justice accordingly,—
- 30 except so far as the said enactments, legislation, and laws have been effectively amended or affected (**whether before or after** the commencement of this Act) by any Imperial enactments and Imperial subordinate legislation that from time to time have had or have effect as part of the laws of New Zealand (as provided by this Act), and (whether before or after the commencement of this Act) by any other New Zealand enactments and New Zealand subordinate legislation.
- 35

- 40 **5. Construction of substituted enactments**—In construing any New Zealand enactment that comes into force on the commencement of this Act and is in substitution for any Imperial enactment, or any New Zealand enactment that comes into force after the commencement of this Act and is in

substitution for any preserved Imperial enactment mentioned in the Schedule to this Act, regard shall be had to the context (if any) of the Imperial enactment for which the provision is substituted.

Cf. 1969, No. 30, s. 5 (N.S.W.)

5

6. Preserved Imperial enactments—(1) After the commencement of this Act, each Imperial enactment mentioned in the Schedule to this Act shall have effect as part of the laws of New Zealand to the extent provided by the enactment by virtue of which it is in force in New Zealand as shown in that Schedule, except so far as it has been effectively repealed, amended, or affected as part of the laws of New Zealand,— 10

(a) Whether upon the commencement of this Act, or before or after the commencement of this Act, by any New Zealand enactments (including this Act); and 15

(b) Before the commencement of this Act by any Imperial enactments and any Imperial subordinate legislation.

(2) Notwithstanding **subsection (1)** of this section, after the commencement of this Act— 20

(a) The Short Titles Act 1896 (U.K.), and sections 5 and 6 (1) of, and the Second Schedule to, the Statute Law Revision Act 1948 (U.K.) shall have effect as part of the laws of New Zealand only so far as they relate to other Imperial enactments that for the time being have effect as part of the laws of New Zealand: 25

(b) The Interpretation Act 1978 (U.K.) and all Imperial enactments passed in amendment thereof or in substitution therefor (**whether before or after the commencement of this Act**) shall have effect as part of the laws of New Zealand so far as they relate to— 30

(i) Any Imperial enactment and any Imperial subordinate legislation that for the time being has effect as part of the laws of New Zealand; and

(ii) Any other Imperial enactment or Imperial subordinate legislation when it applies, in accordance with the laws of New Zealand, to any contract, instrument, or transaction: 35

(c) Sections 1 and 6 of the Statute of Monopolies (21 Ja. 1, c. 3) shall have effect as part of the laws of New Zealand so far as they had effect as part of the laws of England at the commencement of this Act: 40

(d) The Accession Declaration Act 1910 (U.K.) shall have effect as part of the laws of New Zealand.

7. Repeal of all Imperial enactments not expressly preserved—(1) Except as provided by—

- (a) **Section 6** of this Act; or
 - (b) Any Order in Council made under **section 11** of this Act;
 - 5 or
 - (c) **Any Imperial enactment that is passed after the commencement of this Act and has effect as part of the laws of New Zealand in accordance with section 4 of the Statute of Westminster 1931 (U.K.) and section 3 (1) of the Statute of Westminster Adoption Act 1947 (N.Z.); or**
 - 10 (d) Any New Zealand enactment passed after the commencement of this Act,—
- no Imperial enactments passed before the commencement of
15 this Act shall have effect as part of the laws of New Zealand after the commencement of this Act.

(2) The repeal of the Imperial Act 7 George 2, chapter 8 (Sir John Barnard's Act) effected by **subsection (1)** of this section shall be deemed to have taken effect on the 14th day of June
20 1860:

Provided that nothing in this subsection shall affect any transaction in respect of which proceedings in any Court have been commenced on or before the 9th day of October 1981 (being the date on which the Imperial Laws Application Bill
25 1981 was introduced into the House of Representatives).

Cf. 1969, No. 30, s. 8 (N.S.W.)

8. Preservation of Imperial subordinate legislation—

(1) After the commencement of this Act, Imperial subordinate legislation, other than any to which **section 10 (10)** of this Act
30 applies,—

- (a) Shall have effect as part of the laws of New Zealand to the extent provided by or under the following provisions of this section, and shall be applied in New Zealand in the administration of justice accordingly:
- 35 (b) Shall not otherwise have effect as part of the laws of New Zealand.

(2) So far as—

- (a) Any Imperial subordinate legislation made under any Imperial enactment mentioned in the Schedule to this Act had effect as part of the laws of New Zealand
40 immediately before the commencement of this Act; and

- (b) Any Imperial subordinate legislation, made under an Imperial enactment that has been repealed in relation to New Zealand by a New Zealand enactment, had effect as part of the laws of New Zealand immediately before the commencement of this Act by reason of any provision in the New Zealand enactment that made the repeal or in any later New Zealand enactment— 5

that Imperial subordinate legislation shall, to that extent and so far as it is for the time being applicable to the circumstances of New Zealand, have effect as part of the laws of New Zealand after the commencement of this Act, except so far as it has been effectively revoked, amended, or affected as part of the laws of New Zealand, after the commencement of this Act, by any New Zealand enactments and any New Zealand subordinate legislation, **and by any Imperial enactments and any Imperial subordinate legislation:** 10 15

Provided that nothing in this subsection shall apply to any Orders in Council, rules, and regulations to which the proviso to section 513 (1) of the Shipping and Seamen Act 1952 applied immediately before the commencement of this Act: 20

Provided also that nothing in this subsection shall restrict the following provisions of this section or any Orders in Council or regulations made under **subsection (4) or subsection (6) or subsection (7)** of this section. 25

(3) The Imperial subordinate legislation that has effect as part of the laws of New Zealand includes—

- (a) His Majesty's Order in Council under the British Settlements Act 1887 (U.K.) making provision for the government of the coast of the Ross Sea and the territories adjacent thereto, which Order in Council was made at the Court at Buckingham Palace on the 30th day of July 1923, and was published in the *New Zealand Gazette* on the 16th day of August 1923 at pages 2211 and 2212; and all rules, regulations, and instruments made under the said Order in Council that have effect as part of the laws of New Zealand at the commencement of this Act: 30 35

- (b) His Majesty's Order in Council under the Colonial Boundaries Act 1895 (U.K.) that made provision for the extension of the boundaries of New Zealand to include the Cook Group and other islands, and was published in the *New Zealand Gazette* 1901, Volume 1, pages 1307 and 1308: 40

(c) All Imperial subordinate legislation—

(i) Under which appeals to the Judicial Committee of the Privy Council are governed in New Zealand; or

5 (ii) That is made under the Acts of the Parliament of the United Kingdom known as the Prize Acts 1864 to 1939 or under any later Act of the Parliament of the United Kingdom relating to prize that has effect as part of the laws of New Zealand,—

10 if that Imperial subordinate legislation has effect for the time being as part of the laws of England, and was made before the commencement of this Act:

(d) The Order in Council that relates to fugitive offenders and is mentioned in paragraph (b) of section 4 of the Fugitive Offenders Amendment Act 1976 (N.Z.) while that Order in Council is in force as part of the laws of New Zealand in accordance with that paragraph or in accordance with any New Zealand enactment that is for the time being in substitution therefor.

(Drafting note: See the list of items that appear in relation to “Extradition and Fugitive Offenders” in the 1985 *Tables of New Zealand Public Acts and Statutory Regulations in Force* at pages 188 to 190.)

20 (4) The Governor-General, by Order in Council made under this subsection, may—

(a) Apply or extend to New Zealand as part of the laws of New Zealand, to such extent and subject to such provisions as may be set out in the Order in Council,—

25 (i) Any Imperial subordinate legislation made under any Imperial enactment or Imperial subordinate legislation so far as that enactment or the last-mentioned Imperial subordinate legislation has effect as part of the laws of New Zealand at the time when the Order in Council is made; and

30 (ii) Any other Imperial subordinate legislation so far as it had effect as part of the laws of New Zealand immediately before the commencement of this Act:

35 (b) Make regulations that declare that any Imperial subordinate legislation shall cease to have effect as part of the laws of New Zealand:

(c) Make regulations pursuant to the powers conferred by any Imperial enactment, as that enactment is affected by subsection (6) of this section, and so far as (for the time being) that enactment has effect as part of the laws of New Zealand, which regulations may—

40

(i) Amend in its application to New Zealand any Imperial subordinate legislation that for the time being has effect as part of the laws of New Zealand, including any Imperial subordinate legislation that has been applied or extended to New Zealand by Order in Council made under **paragraph (a)** of this subsection; and 5

(ii) Be made, in relation to New Zealand, for all or any of the purposes for which regulations may be made in exercise of those powers. 10

(5) All Orders in Council and regulations made under **subsection (4) or subsection (6) or subsection (7)** of this section shall have effect according to their tenor.

(6) After the commencement of this Act, any Imperial enactment that for the time being has effect as part of the laws of New Zealand and purports to give powers to make Imperial subordinate legislation that has effect as part of the laws of England or as part of the laws of New Zealand shall be construed, so far as applicable to the circumstances of New Zealand and with any necessary modifications, as conferring corresponding powers to make regulations that have effect as part of the laws of New Zealand on— 15 20

(a) The Sovereign in right of New Zealand acting by and with the advice and consent of the Executive Council; or

(b) The Governor-General in Council,— 25
and not otherwise.

(7) Without restricting the powers conferred by **subsection (6)** of this section it is hereby declared that any regulations made under that subsection may—

(a) Amend in its application to New Zealand any Imperial subordinate legislation that for the time being has effect as part of the laws of New Zealand; and 30

(b) Be made, in relation to New Zealand, for all or any of the purposes for which regulations may be made in exercise of those powers. 35

(8) Without restricting **paragraph (b) of subsection (1)** of this section, it is hereby declared that the following Proclamations shall not have effect as part of the laws of New Zealand after the commencement of this Act:

(a) The Proclamation by the Administrator of the Government, dated the 17th day of March 1897, and published in the *New Zealand Gazette* on the 25th day of March 1897 at page 731, which Proclamation promulgated for New Zealand the Proclamation mentioned in **paragraph (b)** of this subsection: 40 45

- 5 (b) The Proclamation by Her Majesty the Queen, dated the 1st day of August 1896, and published in the *New Zealand Gazette* on the 25th day of March 1897 at pages 731 to 733, which Proclamation made provision for the application of parts of the Coinage Act 1870 (as amended by the Coinage Act 1891) to the Australasian colonies.

Drafting notes:

1. Further exploratory work and research will be directed towards ensuring that the Bill preserves or saves or leaves unaffected all Imperial subordinate legislation and instruments that have significance for the purposes of the laws of New Zealand. *Subclause (3) of clause 8* will aim to include special provisions in all cases that need to be covered by that subclause.

2. New Zealand material that will be looked at includes—

(a) Curnin's *Index to the Laws of New Zealand*, 28th Edition, which is known to include some references to Imperial subordinate legislation that has relevance for the purposes of the laws of New Zealand:

(b) The *1985 Tables of New Zealand Public Acts and Statutory Regulations in Force*, which are known to include some references to Imperial subordinate legislation that has relevance in New Zealand, e.g., the Merchant Shipping (Registration of New Zealand Government Ships) Order 1946 (S.R. 1946/174), and the items at pages 188 to 190 relating to "Extradition and Fugitive Offenders".

3. English material that will be looked at includes Halsbury's *Statutory Instruments* and the *English Index to Government Orders*. The initial purposes in looking at this English material will be—

(a) To see how it can be used to provide ready reference to Imperial subordinate legislation that has been made under Imperial enactments that are being preserved by the Bill:

(b) To see (by making test probes) whether it points to classes of Imperial subordinate legislation that are not covered by *clauses 8 and 10 (10)* of the Bill as they now stand.

9. Offences not punishable except under New Zealand law—(1) Nothing in this Act shall restrict section 9 of the Crimes

10 Act 1961.

(2) For the avoidance of doubt it is hereby declared that section 107 of the Crimes Act 1961 shall not extend to any contravention of any Imperial enactment or Imperial subordinate legislation that has effect as part of the laws of
15 New Zealand after the commencement of this Act, or to any omission to do any act which any such Imperial enactment or Imperial subordinate legislation requires to be done.

10. Savings—(1) References in this section to a repeal or revocation to which this section applies mean any repeal of
20 an Imperial enactment, or any revocation of any Imperial subordinate legislation, that is made by—

- (a) This Act; or
 - (b) Any New Zealand enactment that comes into force on the date of the commencement of this Act; or
 - (c) Any New Zealand enactment or New Zealand subordinate legislation that comes into force after the date of the commencement of this Act, if the repeal or revocation relates to an Imperial enactment or any Imperial subordinate legislation that continues to have effect as part of the laws of New Zealand after the date of the commencement of this Act in accordance with this Act. 5
- (2) No repeal or revocation to which this section applies shall—
- (a) Revive anything not in force or existing at the time of the repeal or revocation; or 15
 - (b) Revive any doctrine of the common law affected, amended, or repealed by the Imperial enactment to which the repeal relates, or the Imperial subordinate legislation to which the revocation relates; or
 - (c) Affect the previous operation of the repealed Imperial enactment or the revoked Imperial subordinate legislation or anything duly done or suffered under the repealed Imperial enactment or the revoked Imperial subordinate legislation; or 20
 - (d) Affect any right, power, estate, privilege, obligation, or liability, acquired, accrued, or incurred under the repealed Imperial enactment or the revoked Imperial subordinate legislation; or 25
 - (e) Affect any investigation, legal proceeding, or remedy in respect of any such right, power, estate, privilege, obligation, or liability as aforesaid. 30
- (3) Any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced as if the Act providing for the repeal had not been passed or the revocation had not been made. 35
- (4) Without restricting **subsections (2) and (3)** of this section and subject to the provisions of those subsections, it is hereby declared that the provisions of sections 20, 20A, and 21 of the Acts Interpretation Act 1924 shall apply to Imperial enactments and Imperial subordinate legislation repealed or revoked by a repeal or revocation to which this section applies, as if the said Imperial enactments were Acts of the **General Assembly** of New Zealand so repealed and the said Imperial subordinate legislation was New Zealand subordinate legislation so revoked. 40

(5) Where any Imperial enactment or Imperial subordinate legislation, being an enactment or legislation that has not been repealed or revoked by a repeal or revocation to which this section applies, has been repealed or revoked (whether
 5 expressly or impliedly), confirmed, revived, or perpetuated by any Imperial enactment or Imperial subordinate legislation, being an enactment or legislation that has been repealed or revoked by a repeal or revocation to which this section applies, the first-mentioned repeal or revocation, or the confirmation,
 10 revivor, or perpetuation shall not be affected by the repeal or revocation to which this section applies.

(6) The repeal by this Act, in relation to New Zealand, of the Imperial Act 43 Elizabeth 1, chapter 4 (The Charitable Uses Act 1601) shall not affect the established rules of law relating
 15 to charities.

(7) In relation to New Zealand Government securities that had been registered with the Bank of England in the United Kingdom before the 1st day of April 1978 (being the date of the commencement of the Public Finance Act 1977), and have
 20 not been transferred, either before or after the commencement of this Act, to the register kept in force pursuant to section 44 of the New Zealand Loans Act 1953 (as affected by section 162 of the Public Finance Act 1977), and except so far as the Imperial enactments specified in **paragraphs (a) and (b)** of this
 25 subsection have been affected by any Imperial enactments and Imperial subordinate legislation that from time to time had effect as part of the laws of New Zealand and by any New Zealand enactments and New Zealand subordinate legislation, and notwithstanding the repeal by this Act of the Imperial
 30 enactments specified in the said **paragraphs (a) and (b)**,—

(a) The Colonial Stock Acts 1877 to 1948 (U.K.) shall, from the commencement of this Act, continue to have effect as part of the laws of New Zealand:

(b) The Forged Transfers Act 1891 (U.K.) and the Forged
 35 Transfers Act 1892 (U.K.) shall, from the date of the adoption by the Government of New Zealand of the said Forged Transfers Act 1891 or the date of the commencement of this Act, whichever later occurs, have effect as part of the laws of New Zealand:

(c) Subject to the foregoing provisions of this subsection, this
 40 Act shall apply to the Imperial enactments specified in **paragraphs (a) and (b)** of this subsection, while they have effect as part of the laws of New Zealand in accordance with this subsection, as if they were mentioned in **Division II of Part II** of the Schedule to this
 45 Act.

(8) In any instance where the word “heir”, or any expression that includes the word “heir”, falls to be construed as a reference to the heir at law, the established rules of law for ascertaining the heir at law shall have effect as if the Inheritance Act 1833 (3 and 4 Will. 4, c. 106) had not been repealed by this Act. 5

(9) Without restricting subsections (6) to (8) of this section, in any other case where any Imperial enactment or Imperial subordinate legislation is repealed or revoked by a repeal or revocation to which this section applies, the repeal or revocation shall not affect any rules of law or equity not enacted by the repealed enactment or the revoked Imperial subordinate legislation. 10

(10) Nothing in this Act shall limit or affect—

(a) The privileges enjoyed by law by the House of Representatives and the committees and members thereof: 15

(b) The Letters Patent constituting the office of Governor-General dated the 28th day of October 1983 (S.R. 1983/225) or any subsequent Letters Patent that amend, or are in substitution for, the Letters Patent first-mentioned in this paragraph, or any Commission that may issue to any Governor-General under the Seal of New Zealand: 20

(c) The Letters Patent passed under the Great Seal of the United Kingdom for the annexation of certain islands known as the Kermadec Group to New Zealand, which Letters Patent are published in the *New Zealand Gazette*, 1887, Volume 1, page 433, and have effect in accordance with the Colonial Boundaries Act 1895 (U.K.): 25 30

(d) Any other Letters Patent, Royal Charter, information, writ, or instrument made or issued under the Royal Prerogative:

Provided that this paragraph shall not limit or affect the abolition of informations of intrusion and writs of intrusion by section 12 (2) of the Crown Proceedings Act 1950, and the Second Schedule to that Act as that Schedule is amended by section 18 of the Crown Proceedings Amendment 1986: 35 40

(e) Any measure passed by the National Assembly or the General Synod of the Church of England:

(f) Any Imperial enactment or Imperial subordinate legislation relating to notaries public; or the power of the Master of the Faculties of the Archbishop of 45

- Canterbury to issue a faculty to any person to practice as a notary public in New Zealand; or the functions and powers of a person to whom such a faculty is issued; or the established rules and practice relating to such a notary public; or to the regulation of the conduct, practices, and discipline of notaries public:
- 5 (g) Any order, notice, or instrument relating to extradition and fugitive offenders or either of those subjects:
- (h) Any Imperial subordinate legislation so far as it applies or extends to New Zealand as part of the laws of England, but not as part of the laws of New Zealand.
- 10 Cf. 1922, No. 3270, s. 7 (Vic.); 1969, No. 30, ss. 9, 10 (N.S.W.); 1973, No. 119, s. 14 (2) (N.Z.); 61 and 62 Vict., c. 22, s. 1 (U.K.)

15 **11. Revival of repealed enactments**—(1) Where it is desirable to revive any provision (in this section called “the revived provision”), being the whole or any part of any Imperial enactment repealed by this Act, the Governor-General may, by Order in Council, amend the Schedule to this Act by adding

20 thereto or inserting therein an expression that identifies the revived provision.

(2) Every such Order in Council shall come into force on the 14th day after the date of its notification in the *Gazette* or on such later date as may be specified in the order.

25 (3) Upon any such Order in Council coming into force, the revived provision to which it relates shall, except so far as it has been amended or affected by any Imperial enactments and Imperial subordinate legislation that from time to time had effect as part of the laws of New Zealand, and by any New

30 Zealand enactments and New Zealand subordinate legislation, and subject to **subsection (4)** of this section, have such effect in New Zealand as the revived provision had in New Zealand immediately before the commencement of this Act.

(4) The revival under this section of any revived provision

35 shall not affect—

- (a) The previous operation of any repeal by **section 7** of this Act:
- (b) Anything duly done or suffered before the date of the revival:
- 40 (c) Any right, privilege, obligation, or liability acquired, accrued, or incurred before the date of the revival, or any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, or liability.

(5) Every Order in Council made under this section is hereby declared to be a regulation within the meaning of section 2 of the Regulations Act 1936, and shall be laid before the House of Representatives in accordance with section 8 of that Act.

(6) If, within 20 sitting days after the date on which any such Order in Council has been laid before the House of Representatives, the House of Representatives passes a resolution disallowing that Order in Council or part thereof, the Order in Council or part thereof, and the revival for which it provides, shall thereupon cease to have effect: 5 10

Provided that this subsection shall not restrict the effect of the Order in Council before the disallowance.

Cf. 1969, No. 30, s. 11 (N.S.W.); 1982, No. 167, s. 6 (N.Z.)

PART II

SUBSTITUTED AND CONSEQUENTIAL ENACTMENTS TO BE PASSED 15 AS SEPARATE ACTS

Acts Interpretation

12. Sections to be read with Acts Interpretation Act 1924—(1) This section and the next succeeding section shall be read together with and deemed part of the Acts Interpretation Act 1924* (in that section referred to as the principal Act). 20

(2) This section and the next succeeding section shall come into force on the 1st day of January 1988.

*R.S. Vol. 1, p. 7

13. References to be made to copies printed by authority—Section 17 of the principal Act is hereby amended 25 by repealing paragraph (a), and substituting the following paragraph:

“(a) In the case of Imperial Acts, in accordance with section 3 of the Imperial Laws Application Act 1986 and sections 34 and 39 of the Evidence Act 1908:”. 30

Contracts Enforcement

14. Sections to be read with Contracts Enforcement Act 1956—(1) This section and the next 2 succeeding sections shall be read together with and deemed part of the Contracts Enforcement Act 1956* (in those sections referred to as the 35 principal Act).

*R.S. Vol. 1, p. 535

(2) This section and the **next 2 succeeding** sections shall come into force on the **1st day of January 1988**.

15. New section inserted—The principal Act is hereby amended by inserting, after section 2, the following section:

- 5 **“2A. Action not maintainable on representations of character, etc., unless they are in writing signed by the party chargeable**—No action shall be brought to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct,
10 credit, ability, trade, or dealings of any other person, to the intent or purpose that the other person may obtain credit, money, or goods upon the representation or assurance, unless the representation or assurance is made in writing, signed by the party to be charged therewith.”
- 15 Cf. Statute of Frauds Amendment Act 1828, s. 6 (U.K.)

- 16. Repeal**—The new **section 2A** of the principal Act (as inserted by **section 15** of the Imperial Laws Application Act 1986), is in substitution for section 6 of the Statute of Frauds Amendment Act 1928, and that section shall cease to have
20 effect as part of the laws of New Zealand on the date of the commencement of this section.

Crown Proceedings

- 17. Sections to be read with Crown Proceedings Act 1950**—(1) This section and the **next succeeding** section shall be
25 read together with and deemed part of the Crown Proceedings Act 1950* (in those sections referred to as the principal Act).

*R.S. Vol. 2, p. 23

(2) This section and the **next succeeding** section shall come into force on the **1st day of January 1988**.

- 18. Abolition of informations of intrusion and writs of**
30 **intrusion**—The Second Schedule to the principal Act is hereby amended by adding to clause 1 the following paragraph:
“**(d) Informations of intrusion and writs of intrusion.**”

*English Laws***19. Sections to be read with English Laws Act 1908—**

(1) This section and the **next 2 succeeding** sections shall be read together with and deemed part of the English Laws Act 1908* (in those sections referred to as the principal Act).

5

(2) This section and the **next 2 succeeding** sections shall come into force on the **1st day of January 1988**.

*R.S. Vol. 6, p. 359

20. Restriction of application of section 2—Section 2 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

10

“(2) This section shall be subject to the Imperial Laws Application Act 1986.”

21. Repeals—Section 3 of, and the Second Schedule to, the principal Act are hereby repealed.

Evidence

15

22. Sections to be read with Evidence Act 1908—(1) This section and the **next 2 succeeding** sections shall be read together with and deemed part of the Evidence Act 1908* (in those sections referred to as the principal Act).

(2) This section and the **next 2 succeeding** sections shall come into force on the **1st day of January 1988**.

20

*R.S. Vol. 2, p. 341

23. New section inserted—(1) The principal Act is hereby amended by inserting, after the heading “*Privilege of Witnesses*”, the following section:

“**6A. Questions tending to establish a debt or civil liability—**A witness shall not be excused from answering any question relevant to the proceedings on the sole ground that to answer the question may establish or tend to establish that the witness owes a debt, or otherwise subject the witness to any civil liability.”

25
30

(2) **Section 6A** of the Evidence Act 1908 (as inserted by subsection (1) of this section) is in substitution for the Witnesses Act 1806 (46 Geo. 3, c. 37), and that Act shall cease to have effect as part of the laws of New Zealand after the commencement of this section.

35

24. Copy of public Act, Imperial legislation, and regulations printed as prescribed to be evidence—Section 29 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsections:

5 “(1) Every copy of any public Act, or of any Imperial enactment or Imperial subordinate legislation (as defined in section 2 of the Imperial Laws Application Act 1986), being a copy printed under the authority of the Government by the Government Printer and whether before or after the
10 commencement of this subsection, shall be evidence of that Act or Imperial enactment or Imperial subordinate legislation and its contents; and every copy of any such Act or Imperial enactment or Imperial subordinate legislation purporting to be printed as aforesaid shall be deemed to be so printed unless
15 the contrary is proved.

“**(1A)** Every copy of any Imperial enactment or Imperial subordinate legislation, being a copy purporting to be printed by the Queen’s or King’s Printer or under the superintendence or authority of Her Majesty’s Stationery Office in the United
20 Kingdom, and whether printed before or after the commencement of this subsection, shall, unless the contrary is proved,—

“(a) Be evidence of the enactment and its contents; and

“(b) Be deemed to be so printed; and

25 “(c) Be deemed to be identical with the authentic text of that enactment specified in **section 3 (3)** of the Imperial Laws Application Act 1986.”

Judicature

25. Sections to be read with Judicature Act 1908—(1) This
30 section and the next 2 succeeding sections shall be read together with and deemed part of the Judicature Act 1908* (in those sections referred to as the principal Act).

(2) This section and the next 2 succeeding sections shall come into force on the **1st day of January 1988**.

35 **26. New section inserted**—The principal Act is hereby amended by inserting, after section 16, the following section:

“16A. Power to award damages as well as, or in substitution for, injunction or specific performance—Where the Court has jurisdiction to entertain an application

for an injunction or specific performance, it may award damages in addition to, or in substitution for, an injunction or specific performance.”

Cf. 21 and 22 Vict., c. 27—The Chancery Amendment Act 1858 (U.K.); the Supreme Court Act 1981, s. 50 (U.K.) 5

27. Repeal—Section 16A of the Judicature Act 1908 (as inserted by **section 26** of this Act) is in substitution for section 2 of the Chancery Amendment Act 1858, and that Act shall cease to have effect as part of the laws of New Zealand after the commencement of this section. 10

*1957 Reprint, Volume 6, page 699

Shipping and Seamen

28. Sections to be read with Shipping and Seamen Act 1952—(1) This section and the **next succeeding** section shall be read together with and deemed part of the Shipping and Seamen Act 1952* (in that section referred to as the principal 15 Act).

(2) This section and the **next succeeding** section shall come into force on the **1st day of January 1988**.

*R.S. Vol. 4, p. 779

29. Repeal and revocations—(1) The principal Act is hereby amended by repealing the proviso to subsection (1) of section 20 513.

(2) All Orders in Council, rules, and regulations that were made under the United Kingdom Merchant Shipping Act (as defined in the principal Act) and had effect as part of the laws of New Zealand immediately before the commencement of 25 this subsection by reason of the said proviso to subsection (1) of section 513 of the principal Act shall cease to have effect as part of the laws of New Zealand on the date of the commencement of this subsection.

SCHEDULE

Section 6

PRESERVED ENACTMENTS

PART I

Imperial Enactments in Force in New Zealand by Virtue of Section 2 of
the English Laws Act 1908 (N.Z.)

DIVISION I

Constitutional Enactments

- (1297) 25 Edw. I (Magna Carta), c. 29.
- (1351) 25 Edw. 3, St. 5, c. 4.
- (1354) 28 Edw. 3, c. 3.
- (1368) 42 Edw. 3, c. 3.
- (1627) 3 Cha. I, c. 1—The Petition of Right.
- (1640) 16 Cha. 1, c. 10—The *Habeas Corpus* Act 1640.
- (1688) 1 Will. and Mar., Sess. 2, c. 2—The Bill of Rights.
- (1700) 12 and 13 Will. 3, c. 2—The Act of Settlement: The Title and Preamble; section 1; section 2 omitting the words “according to” to “an Act for establishing the coronation oath”; also omitting the words “Act first above recited mentioned or referred to”, and substituting the words “Accession Declaration Act 1910”; section 3 omitting all the words after the words “the Church of England as by law established”.
- (1772) 12 Geo. 3, c. 11—The Royal Marriages Act 1772: sections 1 and 2.

DIVISION II

Enactments Relating to Property

- (1289–90) 18 Edw. 1, St. 1—*Quia Emptores*.
- (1361) 34 Edw. 1, c. 15.
- (1539) 31 Hen. 8, c. 1—The Partition Act 1539.
- (1540) 32 Hen. 8, c. 32—The Partition Act 1540.
- (1830) 11 Geo. 4 and 1 Will. 4, c. 46—The Illusory Appointments Act 1830.
- (1832) 2 and 3 Will. 4, c. 71—The Prescription Act 1832.
- (1874) 37 and 38 Vict., c. 37—The Powers of Appointment Act 1874.
[more to come]

DIVISION III

Other Enactments

- (1666) 18 and 19 Cha. 2, c. 11—The *Cestui Que Vie* Act 1666: Title, Preamble, and section 1.
- (1679) 31 Cha. 2, c. 2—The *Habeas Corpus* Act 1679, except sections 10 and 14.
- (1728) 2 Geo. 2, c. 22 (Set-off)—Title and section 13.
- (1734) 8 Geo. 2, c. 24 (Set-off)—Title and sections 4 and 5.
- (1750) 24 Geo. 2, c. 23—The Calendar (New Style) Act 1750: So much of the Act as appears before section 3; but omitting from section 1 the words “in Europe, Asia, Africa, and America”; also omitting from section 1 the words “and the feast of Easter” to “one thousand seven hundred and fifty-two inclusive”; also omitting from section 1 all the words after “bear date according to the new method of supputation”.

SCHEDULE—*continued*PART I—*continued*DIVISION III—*continued**Other Amendments—continued*

- (1774) 14 Geo. 3, c. 78—The Fires Prevention (Metropolis) Act 1774: sections 83 and 86.
 (1803) 43 Geo. 3, c. 140—The *Habeas Corpus* Act 1803.
 (1816) 56 Geo. 3, c. 100—The *Habeas Corpus* Act 1816.
 (1833) 3 and 4 Will. 4, c. 41—The Judicial Committee Act 1833, except sections 22 to 24.
 (1837) 7 Will. 4 and 1 Vict., c. 26—The Wills Act 1837.

PART II

Imperial Enactments in Force in New Zealand otherwise than by virtue of Section 2 of the English Laws Act 1908 (N.Z.)

DIVISION I

Constitutional Enactments

Imperial Enactment	Enactment by Virtue of Which it is in Force in New Zealand
(1623–4) 21 Ja. 1, c. 3—(The Statute of Monopolies), sections 1 and 6.	Section 6 (2) (c) of this Act.
(1852) 15 and 16 Vict., c. 72— The New Zealand Constitution Act 1852: sections 32, 44, 46, 53 to 56, 66, 71, 72, and 82.	15 and 16 Vict., c. 72 (U.K.).
(1863) 26 and 27 Vict., c. 23—The New Zealand Boundaries Act 1863.	26 and 27 Vict., c. 23 (U.K.).
(1865) 28 and 29 Vict., c. 63— The Colonial Laws Validity Act 1865.	28 and 29 Vict., c. 63 (U.K.).
(1895) 58 and 59 Vict., c. 34—The Colonial Boundaries Act 1895.	58 and 59 Vict. c. 34 (U.K.).
(1910) 10 Edw. 7 and 1 Geo. 5, c. 29—The Accession Declaration Act 1910.	Section 6 (2) (d) of this Act.
(1931) 22 Geo. 5, c. 4— The Statute of Westminster 1931, except sections 7 and 9.	22 Geo. 5, c. 4, and the Statute of Westminster Adoption Act 1947 (N.Z.).
(1947) 11 Geo. 6, c. 4— The New Zealand Constitution (Amendment) Act 1947.	The New Zealand Constitution Amendment (Request and Consent) Act 1947 (N.Z.); and 11 Geo. 6, c. 4.

SCHEDULE—*continued*

DIVISION II

Other Enactments

Imperial Enactment	Enactment by Virtue of Which it is in Force in New Zealand
(1843) 6 and 7 Vict., c. 38—The Judicial Committee Act 1843.	The Judicial Committee Act 1843 (U.K.).
(1844) 7 and 8 Vict., c. 69—The Judicial Committee Act 1844.	The Judicial Committee Act 1844 (U.K.).
(1850) 13 and 14 Vict., c. 26—The Piracy Act 1850: Title, Preamble, and section 5, omitting the words “or the ships or vessels of war of the East India Company”; also omitting the words “if such” to “ships or their boats” (where they first occur); also omitting all words after “declare and direct”.	The Piracy Act 1850 (U.K.).
(1851) 14 and 15 Vict., c. 83—The Court of Chancery Act 1851: So much of section 16 as prescribes the quorum of the Judicial Committee of the Privy Council	14 and 15 Vict., c. 83, s. 16.
(1852) 15 and 16 Vict., c. 24—The Wills Amendment Act 1852.	Sections 2 and 3 of the English Acts Act 1860, and section 3 of the English Laws Act 1908 (N.Z.).
(1859) 22 and 23 Vict., c. 63—The British Law Ascertainment Act 1859.	22 and 23 Vict., c. 63 (U.K.).
(1864) 27 and 28 Vict., c. 25—The Naval Prize Act 1864.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1873) 36 and 37 Vict., c. 88—The Slave Trade Act 1873 (U.K.).	The Slave Trade Act 1873 (U.K.).
(1876) 39 and 40 Vict., c. 59—The Appellate Jurisdiction Act 1876: section 14 [as amended by the Statute Law Revision Act 1894 (U.K.)].	Section 14 of the Appellate Jurisdiction Act 1876 (U.K.).
(1881) 44 and 45 Vict., c. 69—The Fugitive Offenders Act 1881.	Section 4 of the Fugitive Offenders Amendment Act 1976 (N.Z.).
(1887) 50 and 51 Vict., c. 54—The British Settlements Act 1887.	The British Settlements Act 1887 (U.K.).
(1894) 57 and 58 Vict., c. 39—The Prize Courts Act 1894.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1895) 58 and 59 Vict., c. 44—The Judicial Committee Amendment Act 1895.	58 and 59 Vict., c. 44 (U.K.).
(1896) 59 and 60 Vict., c. 14—The Short Titles Act 1896: So much thereof as is in force in New Zealand in accordance with section 6 (2) (a) of this Act.	Section 6 (2) (a) of this Act.

SCHEDULE—*continued*PART II—*continued*DIVISION II—*continued**Other Enactments—continued*

Imperial Enactment	Enactment by Virtue of Which it is in Force in New Zealand
(1908) 8 Edw. 7, c. 51—The Appellate Jurisdiction Act 1908, except sections 2, 3 (2), and 6.	8 Edw. 7, c. 51 (U.K.).
(1913) 3 and 4 Geo. 5, c. 21—The Appellate Jurisdiction Act 1913.	3 and 4 Geo. 5, c. 21.
(1914) 4 and 5 Geo. 5, c. 13—The Prize Courts (Procedure) Act 1914.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1915) 5 and 6 Geo. 5, c. 39—The Fugitive Offenders (Protected States) Act 1915	The Fugitive Offenders Amendment Act 1976, ss. 2, 4 (N.Z.).
(1915) 5 and 6 Geo. 5, c. 57—The Prize Courts Act 1915.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1915) 5 and 6 Geo. 5, c. 92—The Judicial Committee Act 1915.	5 and 6 Geo. 5, c. 92 (U.K.).
(1916) 6 and 7 Geo. 5, c. 2—The Naval Prize (Procedure) Act 1916.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1920) 10 and 11 Geo. 5, c. 27—The Nauru Island Agreement Act 1920.	10 and 11 Geo. 5, c. 27.
(1928) 18 and 19 Geo. 5, c. 26—The Administration of Justice Act 1928, ss. 13, 20 (1).	18 and 19 Geo. 5, c. 26 s. 13 (U.K.).
(1939) 2 and 3 Geo. 6, c. 65—The Prize Act 1939.	Section 8 (1) of the Admiralty Act 1973 (N.Z.).
(1945) 9 Geo. 6, c. 7—The British Settlements Act 1945.	The British Settlements Act 1945 (U.K.).
(1948) 11 and 12 Geo. 6, c. 62—The Statute Law Revision Act 1948, sections 5 and 6 (1) and the Second Schedule.	Section 6 (2) (a) of this Act.
1978, c. 30—The Interpretation Act 1978 so far as it is in force in New Zealand in accordance with section 6 (2) (b) of this Act.	Section 6 (2) (b) of this Act.

Note: Bold type indicates that the position is being watched.

More to come