



The Public Trust Office

April 1990

PLAIN LANGUAGE AND LEGAL DRAFTING

Public Trust Office Plain English Wills

1. Background

- 1.1 In 1985 the Public Trust Office already had a comprehensive set of wills precedents of the highest standard. With over 100 years in the estates administration business the Public Trust Office took great pride in its will drafting expertise and made a point of revising the wills precedents from time to time. No interpretive problems had arisen.
- 1.2 Increasingly, however, clients from all backgrounds were beginning to question some of the more traditional wording (eg I give devise and bequeath), the lack of punctuation and the long paragraphs. Many of their comments were both intelligent and perceptive. While the answer of "tried and tested" precedents could be given, staff sometimes found their own answers unconvincing.
- 1.3 Rather than merely "tinker" with the precedents to remove what might be described as the more obvious excesses, the Public Trust Office decided that an attempt should be made to gain a market advantage over competitors by completely rewriting the precedents using plain language. This would be complimented by a modern lay-out intended to invite and encourage will makers to read their wills and also to be a practical reading aid.

2. How it was Done

- 2.1 Two Senior staff Solicitors rewrote the 240 wills precedents during the months of October and November 1985. At two-weekly intervals the redrafted precedents were sent to all the other Staff Solicitors for comment. This provided not only valuable professional feedback for the two solicitors but also familiarised the other solicitors with the new precedents and strengthened their commitment to the change.
- 2.2 The two solicitors consulted a Wellington Technical Institute lecturer who had written several textbooks and was a member of the Consumer Council of New Zealand. She was able to help with stylistic changes. Among the more important ones were:
 - (a) Long paragraphs were broken down into clauses and sub-clauses.

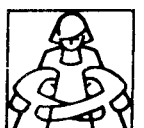
- (b) Clauses were drafted in the active rather than the passive.
 - (c) Clauses were given headings to aid the client find his or her way around the will.
 - (d) A modern numbering system was introduced.
 - (e) Punctuation!
- 2.3 A forms designer was also consulted regarding the lay-out and the colour of the new wills form.
- 2.4 Three examples of the traditional precedents translated into a new style are annexed. The first is a typical short will, the other two examples show even how a longer more complex will can be made easier to read.

3. Testing and Market Research

- 3.1 The initial feedback from our staff Solicitors assisted in the development of the new precedents. In addition the Public Trust Office commissioned a market research company to "consumer test" the proposed new precedents.
- 3.2 The purpose of the testing was to measure consumer reaction to the format and layout of both our traditional wills and the new plain English will. To remove possible bias in respect of the new stationery design the wills that formed part of the survey were all produced on similar stationery.
- 3.3 There was a very favourable overall reaction to the plain English will, especially from younger respondents. Overall 67% of respondents indicated a definite preference for the plain English will. It was seen as clear and easy to understand, brief and to the point, well set out and in sections with appropriate and relevant headings. Some 23% of respondents (mainly older respondents) preferred the traditional will but the majority of respondents (including the majority of older respondents) stated that the traditional will contained too many legal words and was too involved.
- 3.4 No interpretive problems have arisen since plain English wills were introduced in March 1986.

4. Implementation and Results

- 4.1 Following a national training programme for both staff Solicitors and other officers involved in the will drafting process the plain English wills precedents were nationally introduced. After a period of familiarisation advertising campaigns encouraging clients to make plain English wills commenced. For the business year to 31 March 1988 a record number of wills were drafted by the Public Trust Office and

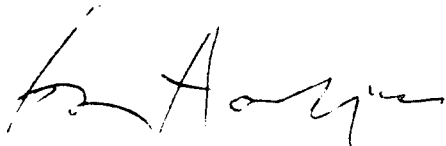


again in the 1989 business year a record number of clients revised their wills with the Office.

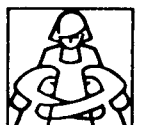
- 4.2 The reaction of customers has been encouraging with many new and existing customers requesting that their wills be written in plain English.
- 4.3 From the example of plain English and traditional wills attached it can be appreciated that the new drafting style, layout and wording has produced substantial savings for the Public Trust Office in the time taken for drafting and checking wills. Savings have also arisen in the costs of preparing, storing and handling wills due to their reduced length. In addition the will makers provide a further quality control - they are able to interpret and understand their will - this ensures that it meets their needs.
- 4.4 The New Zealand Plain English Campaign awarded the Public Trust Office their inaugural Plain English Award in 1986.

5. Summary

- 5.1 It must be acknowledged that the needs of some clients are such that their wills (even in the new style) remain complex. In the past, such clients would have found that the length of some unpunctuated clauses left them not only speechless, but breathless as well! Happily the Public Trust Office can now assure clients that this will not happen to them.
- 5.2 Due to the success of plain English wills plain language concepts are being extended into other documents, precedents and communications in the Public Trust Office.



(W B R Hawkins)
Public Trustee





The Public Trust Office

Its origins and place in New Zealand Society

The Public Trust Office in New Zealand was established under a public Act of Parliament and commenced business in 1873. It is structured as a corporation, the Public Trustee being technically a corporation sole with the status of a legal entity separate and distinct from the Crown.

In establishing the first Public Trust Office in the world, the New Zealand Government provided a secure, independent, state backed trustee organisation, on which many other countries, including England and Wales, modelled their own Public Trust Offices.

The Public Trust Office in New Zealand provides services to clients as executor, trustee, manager or agent. In addition besides performing statutory duties, it is the trustee of last resort. A further output sought by the Office is the promotion, facilitation and making of appropriate voluntary arrangements by the public for the management of their affairs in the event of death or incapacity.

Wills are held on behalf of nearly 363,000 New Zealanders, that figure representing 16% of the adult population.

Will

Made by:

DAVID GREENE

of Wellington, Manager.

Dated:

Earlier Wills

1. I cancel my earlier wills.

Executor and Trustee

2. I appoint the PUBLIC TRUSTEE of New Zealand ("my trustee") the executor and trustee of this will.

Guardian

3. If my wife dies before me, I appoint my sister AMY the guardian of my children.

Residue

- 4.0 I direct my trustee to hold the whole of my estate on trust:
 - 4.1 To pay my debts and funeral expenses, my trustee's administration expenses, and any death duty payable on my estate.
 - 4.2 To transfer the residue to my wife MARIE GREENE.
 - 4.3 If my wife dies before me, to divide the residue equally among my children PETER GREENE, PAUL GREENE and MARY GREENE living at my death. However, if any of them die before me leaving a child or children living at my death, then that child will take, or those children will take equally, the share which the parent would otherwise have taken under this clause 4.3.

Maintenance Power

5. My trustee may use all or part of the share or interest of any child or grandchild of mine in clause 4.3 for that child's or grandchild's maintenance, education, advancement or benefit. Payments may be made for those purposes to a guardian of a child or grandchild without the Public Trustee requiring the guardian to account.

Signed by DAVID GREENE in)
our presence and attested)
by us in his presence:)



THIS IS THE LAST WILL of me DAVID GREENE of Wellington in New Zealand, Manager.

1. I REVOKE all wills and testamentary dispositions at any time heretofore executed by me.

2. I APPOINT THE PUBLIC TRUSTEE of New Zealand (hereinafter referred to as "my trustee") to be the executor and trustee of this my will.

3. SHOULD my wife predecease me I APPOINT my sister AMY OLIVER to be the guardian of each of my children who is a minor and who has not married.

4. I GIVE DEVISE AND BEQUEATH the whole of my estate both real and personal of whatsoever nature and wheresoever situate unto my trustee UPON TRUST to pay thereout my just debts funeral and testamentary expenses and all death duty payable in respect of my estate and to stand possessed of the residue for my wife MARIE GREENE but should she predecease me then for such of them my children PETER GREENE PAUL GREENE and MARY GREENE as are living at my death and if more than one in equal shares PROVIDED HOWEVER AND I DECLARE should any abovenamed child of mine predecease leaving a child or children living at my death then and in every such case such grandchild or grandchildren of mine shall take if more than one in equal shares the share or interest which his or her or their parent would have taken under this paragraph 4 had such parent be living at my death.

5. I DECLARE that the statutory powers of maintenance and advancement contained in the Trustee Act 1956 or any Act amending

DATED

1986

WILL

OF

DAVID GREENE

THE PUBLIC TRUSTEE

Will

Made by:

JOHN GRAY

of Christchurch, Company Director.

Dated:

Earlier Wills

1. I cancel my earlier wills.

Executor and Trustee

2. I appoint the PUBLIC TRUSTEE of New Zealand ("my trustee") the executor and trustee of this will.

Advisory Trustee

3. I appoint my brother ALAN GRAY the advisory trustee of this will.

Disposal of Body

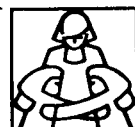
4. I request that my body be used for the purposes of anatomical examination, medical education and research. Subject to this request, I direct that my body be cremated.

Gifts

5. I give my interest as beneficiary in the estate of my late father EDWARD GRAY which at my death has not been transferred to me to my son PETER GRAY if he is living at my death.
6. I give Five thousand dollars (\$5,000) to my godson EVAN BLACK if he is living at my death and reaches the age of 21. This gift will carry interest from the date of my death.

Option to Purchase

- 7.0 I direct my trustee as soon as practicable after my death to give to my daughter MARY GRAY the option to purchase my house and land at 12 Seaside Road, Akaroa ("my bach") on these terms and conditions:
 - 7.1 This option is personal to my daughter and cannot be exercised by anyone else.
 - 7.2 The purchase price will be 75 per cent of the fair market value of my bach at my death.



- 7.3 After consulting a registered valuer my trustee will assess the fair market value of my bach but need not accept any valuation made by that valuer. My trustee's assessment will be binding on my beneficiaries.
- 7.4 My trustee will then notify my daughter in writing of the purchase price. My daughter must notify my trustee in writing whether she exercises the option or rejects it. If she does not do this within 3 months from the date of my trustee's written notice she will be taken to have rejected the option.
- 7.5 My trustee may apply all or part of my daughter's share in the estate which is not subject to a prior interest in the payment of the purchase price.
- 7.6 My trustee may give the option on any additional terms and conditions which he thinks reasonable.

Residue

- 8.0 I direct my trustee to hold the rest of my estate on trust:
- 8.1 To pay my debts and funeral expenses, my trustee's administration expenses, and any death duty payable on my estate.
- 8.2 To pay the income from the residue ("my residuary estate") to my wife ALICE GRAY while she is my widow.
- 8.3 From the first point in time ("the expiry date") when I have died and my wife has died or sooner remarried, to divide my residuary estate equally among my children PETER GRAY, PAUL GRAY and MARY GRAY living at the expiry date. However, if any of them die at or before the expiry date leaving a child or children living at the expiry date, then that child will take, or those children will take equally, the share which the parent would otherwise have taken under this clause 8.3.

No Apportionment of Income

- 9. My trustee will not apportion or treat as capital any income he receives after my death or after the expiry date. Instead, my trustee will treat the income as though it has accrued and become payable at the time he received it.

Signed by JOHN GRAY in our)
 presence and attested)
 us in his presence:)



THIS IS THE LAST WILL of me JOHN GRAY of Christchurch in New Zealand, Company Director.

1. I REVOKE all wills and testamentary dispositions at any time heretofore executed by me.
2. I APPOINT THE PUBLIC TRUSTEE of New Zealand (hereinafter referred to as "my trustee") to be the executor and trustee of this my will.
3. I APPOINT my brother ALAN GRAY to be advisory trustee of this my will.
4. I DIRECT that if it can conveniently be arranged my remains after my death be made available to the School of Anatomy of the Medical School nearest the place of my death for the purposes of anatomical examination and research and that subject as aforesaid if it can conveniently be arranged my remains after my death be cremated.
5. I GIVE DEVISE AND BEQUEATH to my son PETER GRAY should he be living at my death all that my right title share or interest in the estate of my late father EDWARD GRAY which at my death has not been paid over transferred or assigned to me as beneficial owner.
6. I DIRECT my trustee to set apart and appropriate out of my estate as at my death the sum of Five thousand dollars (\$5,000) and to hold such sum UPON TRUST for my godson EVAN BLACK should he be living at my death and attain or have attained the age of 21 years.

7. I DIRECT my trustee as soon as conveniently possible after my death to give to my daughter MARY GRAY if living the option to purchase the dwellinghouse and land owned by me at the date of this my will situate at and known as Number 12 Seaside Road, Akaroa (hereinafter referred to as "my house property") at a price equal to seventy-five per centum (75%) of the fair market value of my bach at the date of my death which fair market value shall be assessed by my trustee AND I DECLARE that it is my wish that before assessing the fair market value of my bach my trustee will consult an independent valuer but my trustee shall not be bound to accept any valuation made by such valuer AND I FURTHER DIRECT that upon the price having been determined in the manner aforesaid my trustee shall immediately notify my said daughter in writing of the amount of the said price AND I FURTHER DIRECT that my said daughter shall be required to notify my trustee in writing within the period of three (3) months after the amount of the price has been communicated in writing to her by my trustee whether or not she exercises this option AND I FURTHER DIRECT that if my said daughter fails refuses or neglects to notify my trustee in writing whether or not she exercises the option within the period hereinbefore prescribed for so doing then she shall be deemed to have rejected the option AND I DECLARE that this option shall be personal to my said daughter and shall not be exercisable by her executor or administrator or

by any other person or persons AND I FURTHER DECLARE that subject to any prior interest therein the share of my said daughter in my residuary estate may in my trustee's discretion be applied wholly or partly (as the case may be) in payment of the purchase money AND I FURTHER DECLARE that the decision of my trustee as to the fair market value of my bach shall be final and binding on all persons beneficially interested under this my will AND I FURTHER DECLARE that the option may in addition to the terms and conditions hereinbefore mentioned be given by my trustee upon and subject to such other reasonable terms and conditions as he may prescribe.

8. I GIVE DEVISE AND BEQUEATH the whole of my estate both real and personal of whatsoever nature and wheresoever situate not hereinbefore otherwise disposed of unto my trustee UPON TRUST to pay thereout my just debts funeral and testamentary expenses and all death duty payable in respect of my estate and to stand possessed on the residue (herein referred to as "my residuary estate") upon the following trusts namely :-

- (a) UPON TRUST as from my death to pay the income from time to time arising from my residuary estate to my wife ALICE GRAY during her widowhood.
- (b) UPON TRUST from and after the arrival of the first point of time when I shall have died and my said

wife has died or sooner remarried (hereinafter referred to as "the period of distribution") as to my residuary estate for such of them my children PAUL GRAY and the said PETER GRAY and MARY GRAY as survive the period of distribution and if more than one in equal shares PROVIDED HOWEVER AND I DECLARE that should any abovenamed child of mine die at or before the period of distribution leaving a child or children living at the period of distribution then and in every such case such grandchild or grandchildren of mine shall take and if more than one in equal shares the share or interest which his or her parent would have taken under this subparagraph (b) had such parent survived the period of distribution.

9. I DECLARE that dividends, rents, interest, annuities, remuneration, social security benefits and other periodical payments in the nature of income (whether or not continuing to accrue after my death) received after my death in respect of a period wholly or partly prior to my death shall not be apportionable in respect of time or be treated as capital of my estate and that dividends, rents, interest and other periodical payments in the nature of income received after the period of distribution in respect of a period wholly or partly prior to the period of distribution shall not be apportionable in respect of time or belong to my said wife

or her legal personal representative AND I FURTHER DECLARE that the whole of each such periodical payment (whether received in respect of a period either wholly or partly prior to my death or wholly or partly prior to the period of distribution) shall belong to the person or persons who would be entitled thereto under this my will if it had not accrued throughout any period but had all accrued and become payable to my trustee as income at the time at which it was received AND I FURTHER DECLARE that if interest on moneys held by any bank or other corporation (including money in any National Savings account or held by the Public Trustee) is normally credited in account but not actually paid until required that interest shall for the purposes of this provision be deemed to be received at the end of the period for which it is credited in account in the normal way.

10. I DIRECT my trustee to invest all capital money forming part of my estate and available for investment by him as two separate funds upon the following basis :-

- (i) As nearly as possible having regard however to the provisions of sub-paragraph (a) hereof to 75 percent thereof shall be invested in the Common Fund of the Public Trust Office.
- (ii) The remaining 25 percent or as nearly as possible thereto having regard however to the provisions of

sub-paragraph (a) hereof shall not be invested in the said Common Fund but shall be invested in or upon any of the other modes of investment for the time being authorised by the law of New Zealand for the investment of trust funds with power at his discretion to vary or transpose any investments made by him hereunder into or for others hereby authorised.

AND I FURTHER DECLARE AND DIRECT that :-

- (a) When moneys become available for investment my trustee shall invest them in such manner as will so far as practicable at that time achieve maintain or restore the percentages hereinbefore referred to having regard to any prior payments and distributions and any changes in values of investments PROVIDED HOWEVER that my trustee shall also have regard to anticipated payments or distributions and he shall not be bound to adhere strictly to such percentages.
- (b) My trustee may from time to time determine the value of each of the said funds and of the investments comprising the same in such manner as he shall in his sole discretion think fit.
- (c) Nothing in this paragraph contained or implied shall restrict the discretion of my trustee in the exercise of any other duty or power vested in him and in

particular nothing herein contained shall in any way restrict the making of any payment or distribution out of any part of my estate whether or not wholly or partly out of either one or other of the separate funds hereinbefore referred to.

- (d) My trustee may if he shall in his discretion think fit to do so at any time realise any investments of either of the two separate funds referred to or any other assets of my estate which he has authority to realise in order to maintain the value of each of the separate funds in the proportions hereinbefore referred to but nothing herein contained shall impose upon him any obligation to maintain such proportions.
- (e) The decisions of my trustee as to whether when and how the duties powers and discretions conferred on him by this paragraph 10 shall be exercised shall be final and binding on all persons beneficially interested under this my will.
- (f) My trustee shall be absolutely indemnified by and out of my estate for and in respect of any loss or liability which may be sustained or incurred by reason of the exercise or mode of exercise of the powers and discretions conferred by this paragraph 10 of this my will.

8.

AS WITNESS my hand this day of One
thousand nine hundred and eighty six (1986).

SIGNED by the abovenamed)
JOHN GRAY as his last will))
in our presence and)
attested by us in his)
presence:)

DATED

1986

WILL

OF

JOHN GRAY

THE PUBLIC TRUSTEE

Will

Made by:

ALICE BROWNE

of Auckland, Widow.

Dated:

Earlier Wills

1. I cancel my earlier wills.

Executor and Trustee

2. I appoint the PUBLIC TRUSTEE of New Zealand ("my trustee") the executor and trustee of this will.

Burial

3. I direct that my body be buried with that of my late husband DAVID BROWNE in the Potts Point Cemetery. My trustee may spend as much as he thinks reasonable on gravework, and treat the cost of that work as an administration expense.

Gifts

4. I give all money (including interest) which I have at my death in the Post Office Savings Bank to my nephew ALAN SIMON. This gift excludes any money representing unclaimed Bonus Bond prizes or matured National Development Bonds deposited under Part VII of the Post Office Act 1959.
5. I give Five thousand dollars (\$5,000) to my niece JOANNA SIMON. If she dies before me, this gift is to be divided equally among her children living at my death.
6. I give Five thousand dollars (\$5,000) to the CANCER SOCIETY OF NEW ZEALAND (WELLINGTON DIVISION) INCORPORATED for research purposes. A receipt appearing to my trustee to be given on behalf of the Society will be a complete discharge to my trustee for the gift.

My Home

- 7.1 I give my house and land at 10 South Street, Auckland, together with all fitted floor coverings, blinds, curtains and light fittings in my house at my death ("my home") to my trustee on the trusts set out in this clause.
- 7.2 My trustee will let my daughter MARY BROWNE have the free use of my home and the income from it for her lifetime on these terms and conditions:
 - (1) She will pay the rates, insurance premiums, and other outgoings usually paid from income on my home.



- (2) She will keep my home in the same condition it is in at my death. My trustee may put any part of my home not in good condition at my death into good condition to his satisfaction and charge the cost to my residuary estate. If he does so then my daughter must keep it in that improved condition to my trustee's satisfaction.
- (3) She will not be responsible for any damage or loss to my home caused by fire, earthquake, storm or other inevitable accident.
- 7.3 From the death of the survivor of my daughter and me, my trustee will transfer my home to my sons PETER BROWNE and PAUL BROWNE equally if both are living at my death, or if only one is living at my death, then to that one.

Residue

- 8.0 I direct my trustee to hold the rest of my estate on trust:
- 8.1 To pay my debts and funeral expenses, my trustee's administration expenses, and any death duty payable on my estate.
- 8.2 To divide the residue equally among my children MARY BROWNE, PETER BROWNE and PAUL BROWNE living at my death. However, if any of them die before me leaving a child or children living at my death, then that child will take, or those children will take equally, the share which the parent would otherwise have taken under this clause 8.2.

Replacement Home

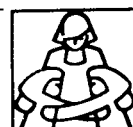
- 9.1 If at any time before the expiry date my daughter asks my trustee to sell my home, or any replacement home purchased under this power, then he may do so.
- 9.2 If at any time before the expiry date my daughter asks my trustee to purchase any replacement home then he may do so out of the proceeds of the sale of my home or of any replacement home ("the property fund").
- 9.3 My trustee will not be restricted in the exercise of this power by the nature or the terms of the ownership of any replacement home. He will not be liable for any loss resulting from the exercise of this power.
- 9.4 This power includes the right to:
- (1) Purchase land and build a home on it;



- (2) Repair, renovate, improve or landscape any replacement home.
- 9.5 Instead of purchasing a replacement home my trustee may lend all or part of the property fund to my daughter so that she can purchase a replacement home in her name. She will give my trustee such mortgage or other security as he may require but it need not be one authorised by law for the investment of trust funds.
- 9.6 My trustee will hold any replacement home, any mortgage or other security given to him by my daughter, and the balance (if any) of the property fund on the same trusts as apply to my home.

Administration Powers

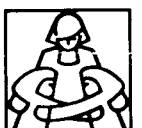
- 10.0 My trustee will have these powers:
- 10.1 He may retain any investments which I own at my death, even if they are not investments which could properly be made by a trustee. He will not be liable for any loss caused by their retention.
- 10.2 He may let any part of my estate on such terms and conditions as he thinks desirable. He may also manage any leases and tenancies in my estate and accept surrenders of them.
- 10.3 He may sell all or part of my estate in the manner and on the terms he chooses, including a term allowing all or part of the purchase price to remain owing on mortgage.
- 10.4 He may postpone the sale, calling in and conversion of any part of my estate for so long as he thinks desirable even if it is of a wasting, speculative or reversionary nature.
- 10.5 He may transfer or divide any asset in my estate in or towards the payment of the share of any of my beneficiaries. If in exercising this power my trustee cannot maintain the relativity of the shares of my beneficiaries, he may charge any of the shares with the payment of a sum of money to restore that relativity. For this purpose my trustee may fix the value of any asset, and his decision on the valuation, transfer or division of any asset will be binding on my beneficiaries.



Extension of Administration Powers

11. The powers given to my trustee my clauses 10.2 and 10.3 apply to my home, but he may not exercise those powers in respect of my home without the legal consent of my daughter while she is legally capable of giving such consent.

Signed by ALICE BROWNE in)
our presence and attested)
by us in her presence:)



THIS IS THE LAST WILL of me ALICE BROWNE of Auckland in New Zealand, Widow.

1. I REVOKE all wills and testamentary dispositions at any time heretofore executed by me.

2. I APPOINT THE PUBLIC TRUSTEE of New Zealand (hereinafter referred to as "my trustee") to be the executor and trustee of this my will.

3. I DIRECT that my remains after my death be buried with those of my late husband DAVID BROWNE in the Potts Points Cemetery AND I AUTHORISE AND EMPOWER my trustee to expend out of my estate as a testamentary expense such sum as he in his discretion thinks reasonable and concreting over the grave and having the existing headstone suitably inscribed to my memory.

4. I GIVE AND BEQUEATH to my nephew ALAN SIMON all moneys (including interest) standing to my credit at my death in any ordinary deposit account or ordinary deposit accounts in the Post Office Savings Bank other than any moneys and interest thereon held or deemed to be held on my behalf in any ordinary deposit account in the Post Office Savings Bank solely by operation of the provisions of the Post Office Act 1959 or any statutory provisions for the time being modifying or replacing the same in respect of the proceeds of any Bonus Bond, Post Office National Development Bond or registered security issued under Part VII of the said Act or in respect of any prize money or interest arising therefrom AND I DECLARE that the term ordinary deposit accounts shall

have the same meaning herein as that which it has in the said Part VII of the Post Office Act 1959.

5. I GIVE AND BEQUEATH the sum of Five thousand dollars (\$5,000) to my niece JOANNE SIMON but should she predecease me then to such of her children as are living at my death if more than one in equal shares.

6. I GIVE AND BEQUEATH the sum of Five thousand dollars (\$5,000) to the CANCER SOCIETY OF NEW ZEALAND WELLINGTON DIVISION INCORPORATED for research purposes AND I DECLARE that the receipt of the Secretary Treasurer or other person or persons appearing to my trustee to be authorised to give receipts on behalf of the said Society shall be a full insufficient discharge to my trustee for this legacy and my trustee shall not be obliged to see to the application thereof.

7. I GIVE DEVISE AND BEQUEATH the dwellinghouse and land owned by me at the date of this my will situate at and known as Number 10 South Street Auckland together with the fitted floor coverings blinds curtains drapes and light fittings in the dwelling house at my death (hereinafter referred to as "my house property") unto my trustee upon the following trusts, namely:-

(a) UPON TRUST as from my death to permit my daughter MARIE BROWNE to have the free use income occupation and enjoyment thereof during her lifetime (the death of the

survivor of my said daughter and me being hereinafter referred to as "the period of distribution") subject to her paying all rates taxes interest insurance premiums and other outgoings usually payable out of income from time to time payable in connection therewith and to her keeping the same in good order repair and condition to the satisfaction of my trustee except in respect of any injury or deterioration occasioned by fire lightning earthquake tempest or other inevitable accident PROVIDED HOWEVER AND I DECLARE that should any part of my house property not be in good order repair and condition at the date of my death then notwithstanding anything hereinbefore contained until my trustee shall have put such part in good order repair and condition under the power so to do hereinafter conferred on him my said daughter shall be liable as to such part to keep it only in the same order repair and condition as it was in at my death and without liability to make good any injury or deterioration occasioned by fire lightning earthquake tempest or other inevitable accident AND I EMPOWER my trustee at his discretion but without imposing upon him any obligation so to do to put any such part of my house property in good order repair and condition to the satisfaction of my trustee and to charge the cost of so doing to the capital of my residuary estate.

(b) UPON TRUST from and after the period of distribution to hold my house property for my sons PETER BROWNE and PAUL

BROWNE in equal shares should they both be living at my death or should only one of them be living at my death then for such one solely.

8. I GIVE DEVISE AND BEQUEATH the whole of my estate both real and personal of whatsoever nature and wheresoever situate unto my trustee UPON TRUST to pay thereout my just debts funeral and testamentary expenses and all death duty payable in respect of my estate and to stand possessed of the residue for such of them my said children MARIE BROWNE PETER BROWNE and PAUL BROWNE as are living at my death and if more than one in equal shares PROVIDED HOWEVER AND I DECLARE that should any of my abovenamed children predecease me leaving a child or children living at my death then and in every such case such grandchild or grandchildren of mine shall take if more than one in equal shares the share or interest which his her or their parent would have taken under this paragraph 8 of this my will had such parent be living at my death.

9. IF at any time or times prior to the period of distribution my said daughter MARIE BROWNE requests my trustee in writing so to do then and on each such occasion I AUTHORISE AND EMPOWER my trustee to sell my house property or any residential property acquired by him in substitution therefor under the provisions of this paragraph AND I FURTHER AUTHORISE AND EMPOWER my trustee if at any time or times prior to the period of distribution my said daughter

requests him in writing so to do to either -

(a) Expend out of the proceeds of sale of my house property or out of the proceeds of sale of any substituted residential property acquired by him hereunder or out of any other moneys for the time being in his hands representing my house property or such substituted residential property or advance to my said daughter hereunder (such proceeds of sale or other moneys being hereinafter referred to as "the property fund") such sum or sums as he thinks fit in acquiring as an asset of my estate a residential property in New Zealand suitable in the opinion of my trustee as a home for my said daughter that in exercising this power my trustee may -

(i) Acquire freehold or leasehold land with a dwellinghouse thereon and whether then or at some subsequent time expend out of the property fund such sum or sums as my trustee thinks fit in carrying out such repairs or renovations as are in my trustee's opinion reasonably necessary or desirable at the date of the acquisition or in altering adding to or improving the same or

(ii) Acquire freehold or leasehold land and erect a dwellinghouse thereon together with such other buildings fences gates paths and other amenities and improvements as my trustee thinks fit or

(iii) Acquire a flat or apartment or the right to occupy a flat or apartment by such means as my trustee considers

appropriate (whether by acquiring shares in a company or an undivided share or interest in the land on which the premises are erected or in any other way) and at his discretion enter into any lease licence agreement or other arrangement under which my trustee or his nominee or my said daughter has the right to occupy the flat or apartment (including an arrangement whereby any company shares and the benefit of any such lease licence or agreement may be held by my said daughter or some other nominee of my trustee upon trust for him) or

(b) Advance out of the property fund by way of loan to my said daughter upon and subject to such terms and conditions as he thinks fit such sum or sums as my trustee thinks fit in order to enable my said daughter to acquire in her own name a residential property in New Zealand intended for use by my said daughter as a home for her subject to my said daughter giving my trustee such mortgage encumbrance or other security for the advance as my trustee shall require AND I DECLARE that my trustee shall be at liberty to accept such mortgage encumbrance or other security for the advance as he in his sole discretion thinks fit notwithstanding that the same may be subject to any prior encumbrance or encumbrances or may for any other reason not be a security authorised by law for the investment of trust funds.

AND I DECLARE that any residential property acquired by my trustee under the foregoing provisions and any advance made to

my said wife as aforesaid and any portion of the property fund which may not for the time being have been expended or advanced or readvanced by my trustee under the foregoing provisions shall be held by my trustee upon and subject to the same trusts powers and provisions (with any necessary changes) as apply to my house property AND I LASTLY DECLARE that my trustee shall be absolutely indemnified by and out of my real and personal estate for and in respect of any losses which he may sustain by reason of his acting in accordance with the foregoing powers and authorities or any of them.

10. I DECLARE that my trustee may at his discretion exercise the following powers and authorities or any of the same namely:-

- (a) TO SELL all or any part of my real and personal property either by public auction or private contract or in such manner and subject to such terms and conditions as my trustee shall in his absolute discretion think fit with power to allow the whole or such part of the purchase money as he thinks fit to remain on mortgage of the property sold.
- (b) TO LET any real and personal property for the time being remaining unsold either from year to year or for any term of years or otherwise at such rent and subject to such covenants and conditions as he thinks fit also to accept surrenders of leases and tenancies and generally to manage the same as he thinks fit.
- (c) TO RETAIN all or any of the investments owned by me at my death notwithstanding that they may not be investments authorised by law for the investment of trust funds AND I DIRECT that my trustee shall be absolutely indemnified by and out of my real and personal estate for and in respect of any losses which he may sustain by reason of his so retaining any such investments as aforesaid.
- (d) TO POSTPONE the sale calling in and conversion of my real and personal estate or any part thereof for so long as he thinks fit notwithstanding that it may be of a wasting speculative or reversionary nature.

(e) TO APPROPRIATE AND PARTITION any real or personal property forming part of my estate in or towards satisfaction of the share of any person or persons in the trusts hereinbefore contained and to charge any share with such sums by way of equality of partition as my trustee may think fit and for such purpose to fix the value of any part of my estate as he thinks fit and every such valuation appropriation and partition shall be final and binding on all persons beneficially interested under this my will.

AND I FURTHER DECLARE that the powers conferred on my trustee by sub-paragraphs (b) and (c) of paragraph 10 of this my will shall extend and apply to the assets devised and bequeathed by paragraph 7 of this my will and may be exercised in respect of such assets at my trustee's discretion provided he has first obtained the written consent of my said daughter MARIE BROWNE should she be living and sui juris at the time of the proposed exercise thereof.

AS WITNESS my hand this day of One
thousand nine hundred and eighty-six (1986).

SIGNED by the abovenamed)
ALICE BROWNE as her last)
will in our presence and)
attested by us in her)
presence:)

DATED

1986

WILL

OF

ALICE BROWNE

THE PUBLIC TRUSTEE