Births, Deaths, Marriages and Relationships Registration Amendment Bill

Why this proposed legislation is bad for historians and researchers

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1. Introduction

I am an Auckland-based journalist and author, these days self-employed through my own company, Hunt Communications Ltd. I was for many years editor-at-large of the *National Business Review*.

Since 1984 I have written nine major books and written or edited five others. History-writing is an important part of my portfolio and my works include:

The Rich List: Wealth and Enterprise in New Zealand 1820–2003 (the first edition of which was a bestseller)

Black Prince: The Biography of Fintan Patrick Walsh

Centenary: 100 Years of State Insurance

Rural Challenge: A History of Wrightson Ltd (with Hugh Stringleman)

Hustlers, Rogues & Bubble Boys: White-collar Mischief in New Zealand

Peka Totara: Penrose High School Golden Jubilee 1955–2005

I am a genealogist but, more importantly, an historian. In the course of my research I have drawn extensively on primary records, not least extracts from the register of New Zealand births, deaths and marriages.

I am, therefore, horrified at the proposed restrictions as outlined in the Births, Deaths, Marriages and Relationships Registration Amendment Bill now before the House.

If passed, the legislation would make the job of competent historians writing about 20th-century New Zealand difficult, if not impossible, I am, therefore, vehemently opposed to the bill though I applaud efforts to make the register less prone to identity theft.

2. Background

Civil registration started in New Zealand on a voluntary basis for Europeans in 1848, 11 years after civil registration was introduced in England and Wales (1 July 1837). Registration later became compulsory for New Zealand Europeans and was extended to Maori.

It was introduced in England and Wales during a period of rapid change in religious persuasion when only about 40 per cent of churchgoers attended the established church (the Church of England). Many were Dissenters (in England and Wales, mainly Methodists and Congregationalists) or simply ‘non-attenders’

As a result of this, major population increases and huge demographic changes, the traditional system of de facto registration through the Anglican Church — the recording of baptisms, marriages and burials that had been in force since 1538 —

started to break down.

Civil registration, conducted publicly with full public access to the registers, limited the chance of bigamists and under-age girls marrying. It also identified children born out of wedlock for Poor Law purposes (England and Wales) and estate purposes (England, and Wales and New Zealand).

In New Zealand, as in England and Wales (and later in Scotland and Ireland), civil registration was transparent and public.

3. Use of the registers

For family historians, historical authors and researchers, the open-register policy in New Zealand was a godsend in a country where virtually no census enumerators' records have been retained (as they have for mainland Britain and the United States). People were able to record the history of families; historians met a key ethical duty of inspecting primary information; researchers were able to ensure that fact ruled over family legend or myth.

The proposed bill would impose unnecessary hurdles on scholarship relating to 20th-century New Zealand. The burden would be greatest (not least in cost) on genealogists and historians. They would not be allowed to inspect the register or extracts from the register, except with the express permission of a family member. This would make independent scholarship extremely difficult.

Writers would be dependent on other published material and family information, oral history (itself unreliable) and myth.

History-writing should be transparent and contestable. It would be much less so if this bill became law. The imposition of a fine of up to $10,000 for illegal access to, or dissemination from, a register is draconian and anti-democratic.

4. Bill of Rights Act

The Bill of Rights Act guarantees freedom of expression, taken to mean, after the *Lange v Atkinson* case, freedom of expression within the bounds of honest opinion. Within freedom of expression is the implied right of freedom of dissemination — the right of people to obtain and use previously public information for lawful purposes.

The Births, Deaths, Marriages and Relationships Registration Amendment Bill is a savage attack on freedom of expression and freedom of dissemination and is, in my view, as unlawful as it is undemocratic.

5. Press freedom

This bill is an attack on press freedom. Media organisations would not be able to inspect the register without family permission. To check the accuracy of ages, names and facts they would be dependent on second-hand sources.

In nearly all other democratic countries the trend has been to make more information public. In New Zealand, if this bill became law, we would be heading in the other direction.

A feature of democratic societies is the free flow of public information. Autocracies, generally speaking, seek to limit access to public information. For this reason the bill should be opposed as much on principle as on the detail.

It has no clear public-policy objective other than to impose the veil of secrecy on an open society. It should, therefore, be opposed at all costs.

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