Honourable and Learned Members

The Honourable Henry Greathead Rex Mason
QC CMG
1885 - 1975

Attorney-General and Minister of Justice
1935 - 1949
1957 - 1960

Derek Round
PREFACE

Rex Mason appeared a gaunt, rather austere figure to a young political correspondent as he strode the corridors of Parliament House in the early 1960s.

Unlike other MPs, he rarely attended Press Gallery social functions and journalists seldom ventured beyond the office of his efficient secretary, Eileen Mansfield, in the old wooden building, formerly Government House, which was pulled down to make way for the Beehive.

Forty years later the same journalists could look back with regret at the missed opportunity of talking to Mason about his experiences - like the Paris Peace Conference and his encounters with Molotov and Vyshinsky. And about the Mareo case which it later became clear had caused him so much concern.

Mason was obviously a thoughtful man. After the Peace Conference he continued to send food parcels and soap to people he met there who were experiencing hardship under post-war austerity. He even sent one of his suits to a French diplomat who had fallen on hard times.

Above all, he was a dedicated law reformer.

I am grateful to The Honourable Justice Anthony Ellis, who acted for Mason when he was in private practice, for his assistance, to The Right Honourable Jonathan Hunt M.P., who succeeded Mason as M.P. for New Lynn, and to the staff of the Manuscripts Section of the Turnbull Library who have been unfailingly helpful.

I am particularly grateful to the New Zealand Law Foundation for the grant which made this series of profiles of lawyer-politicians possible. I hope it will help to fill the gap which exists in legal biography in New Zealand.

Tanglin Lodge
Masterton

Derek Round
August, 1999
The Honourable Henry Greathead Rex Mason QC CMG
1885 - 1975

Attorney-General and Minister of Justice
1935 - 1949  1957 - 1960
Minister of Education 1940 - 1947
Minister of Native Affairs 1943 - 1946
Minister of Health 1957 - 1960

An outstanding law reformer

Rex Mason, Attorney-General and Minister of Justice in the first and second Labour governments, made possibly the greatest contribution of any politician to law reform in New Zealand in the 20th century.

Known as the 'Father of Decimal Currency', which he championed for over three decades before seeing it adopted, he played a significant role in the reform of property and criminal law and improving the legal rights of women.

When he retired in 1966 he had served in the House of Representatives for 40 years, becoming Father of the House. The only other M.P. who had served anywhere near as long was Sir Apirana Ngata who was there for 37 years.

Throughout his two terms as Attorney-General Mason worked under the shadow of the sensational 1936 Mareo poison case.

Eric Mareo, an Auckland musician and conductor, was accused of murdering his wife Thelma, who was in the same theatrical company, by poisoning her with veranol, a sleep-inducing drug.

Found guilty after two trials - with a very strong recommendation to mercy from the jury in the first trial - he was twice sentenced to death and reprieved.

There was a strong but unsuccessful campaign over ten years for Mareo's release, supported by some prominent members of the legal and medical professions. But he was to spend a lonely 12 years in Mt. Eden Prison - a model prisoner who played the chapel organ and composed an oratorio - before he was released in 1948.

Mason, ironically, would have led the prosecution for the Crown if New Zealand had followed the English practice of the Attorney-General leading the prosecution in poison trials.
In fact, he believed Mareo was innocent of the murder charge. During the 1961 debate in Parliament on the Crimes Amendment Bill, which abolished hanging, Mason accused Freda Stark, the chief prosecution witness, of committing perjury at Mareo’s trial. He did not name Stark, a danseuse and Thelma Mareo’s lover, who died in Auckland in 1999.

The second trial judge, Mr Justice Callan, told Mason he was not personally convinced Mareo was guilty - although he said there was evidence on which the jury could reach its verdict.

In his retirement Mason spent many hours working on a book on the Mareo case but it was unfinished when he died in 1975.

Rex Mason was born in Wellington on June 3, 1885, son of Harry Brooks Mason, a compositor at the Government Printing Works and for a time on the staff of Hansard, who had come to New Zealand from Cape Town. His mother, Henrietta Emma Rex, an Australian, helped form the Women’s Social and Political League in 1894 and was vice-president when women got the vote. She also taught many Wellingtonians ballroom dancing before World War I.

Mason was educated at Clyde Quay School and Wellington College where he was Dux in 1902. He won a junior national scholarship, and a Victoria Scholarship instituted by Premier Richard John Seddon and graduated M.A. with honours in mathematics from Victoria University in 1907, and then LL.B.

The future attorney-general worked in law firms in Wellington and Eltham before opening a practice in Pukekohe in 1911. He was later joined in practice in Auckland by his brother Spencer who later became president of the Auckland District Law Society. He died suddenly in 1942.

Mason was elected Mayor of Pukekohe in 1915 and during his four years as mayor in World War I schemes for electricity, roading and water supplies were inaugurated.

In 1912 Mason married Dulcia Martina Rockell and they had two sons and two daughters. Mason and his wife were Theosophists, vegetarians and teetotallers.

Joining the Labour Party after it was founded in 1916, Mason stood for the Manukau seat in 1919 when Sir Frederick Lang retained it for the Massey Government. In 1922 and 1925 he contested the Eden seat against Sir James Parr who had a majority of 2336 in 1925, although Mason only narrowly lost in 1922.

The Reform Party had held Eden for 30 years but Mason, then aged 40, managed to win the seat for Labour at a by-election in 1926 following Parr’s appointment as High Commissioner in London, defeating Sir James Gunson who called for three cheers for the new member. Mason had fought the campaign on policy and not personal lines, Gunson said. The Reform vote had been split by the independent former - Reform candidate Ellen Melville, giving Mason a slim majority of 441.
His win in Eden gave Labour 13 M.Ps in Parliament, making it the official Opposition. Wellington’s Evening Post commented in an editorial: "To the Labour Party, which is stronger in the theory than in the practice of government, the accession of Mr Mason should be of special value." Mason was to represent Eden and its successors, Auckland Suburbs, Waitakere and New Lynn for 40 years.

Mason was soon working on law reform and in 1929 succeeded with a private member’s bill - the Marriage Amendment Bill - which allowed the marriage of a man and the niece of his deceased wife or of a woman with the nephew of her deceased husband. It was passed after ten minutes in committee “with rounds of applause.”

In the previous two years only two other private members’ bills had reached the Statute Book - T.K. Sidey’s Summer Time Bill and Wellington North M.P. Sir John Luke’s Music Teachers’ Registration Bill.

In 1930 Mason had two bills passed. One allowed local bodies the option of choosing between two systems of voting at elections, striking out names or marking names with a cross. The other bill repealed a superfluous provision where a local body was required after a poll to give the Valuer-General a complete valuation roll after the system of rating on unimproved value had been adopted.

Mason clashed with Labour leader Harry Holland during one debate when Holland tried to curtail discussion. Mason retorted - "with some warmth," according to a newspaper report - that there was nothing some members so much resented as being told to be quiet when they wanted to speak.

In 1928 Mason sent a telegram to Holland in Westport. It read: "I submit that undue publicity is being given to Samoa as a political issue and that the Tories will use it to divert attention from the unfavourable opinion in New Zealand domestic policy. I most strongly urge that every reference to Samoa is providing the Government with a battleground where the issues are too complex for us to make great headway and that the political fight should be confined to the domestic battlefield where victory is certain."

Mason’s clearly angry leader wrote to him from Greymouth as soon as he got the telegram, telling him he was “amazed” to get it. “Of course you are quite entitled to your opinion, but I do not think you or I or any other member of the Party are entitled to send such messages by telegram. That is the way to furnish the Tories with ammunition.

“Please do not send further communications by wire,” Holland told Mason. “A letter will reach me in 24 hours or a little more.”

Anyway, Holland reprimanded Mason, he had wrongly addressed the telegram to Westport instead of Greymouth and “I had to pay full rates on the readdressed message," adding: “The contents of your wire will be public property over Westport and Greymouth by this time - and that fact doesn’t help the movement.” When he got the letter - which was signed “yours fraternally” - Mason wrote back saying he was sorry Holland was out of pocket and enclosing some stamps to cover the charges.
The same year Mason wrote to Prime Minister Gordon Coates suggesting amendments to the licensing laws affecting the wine industry.

In 1930 Mason introduced the Divorce and Matrimonial Causes Amendment Bill which established an important legal principle giving domicile to a wife whose husband was out of the country. This became the model for laws that were adopted in other parts of the Commonwealth to help women whose marriages with servicemen from other countries were on the rocks. Mason explained that women had married American sailors when the United States fleet was in New Zealand. The sailor sailed away and that was the last his bride heard of him. Women in this position could not get a divorce in New Zealand because New Zealand law, like the law of many other countries, recognised domicile as giving jurisdiction.

Mason said it was expedient that there should be only one domicile and the recognised domicile was that of the husband. The New Zealand wives were recognised as having an American domicile. They had never been out of New Zealand and yet had no status in a New Zealand court. Mason’s bill gave recognition to the independent existence of the woman.

Mason was active in local body affairs while he was an M.P. and served on the Auckland Transport Board from 1931 to 1939, chairing it from 1935 to 1939. He narrowly failed to win the Auckland mayoralty in 1932.

Elected president of the Labour Party in 1931, Mason was a member of the party’s policy committee and worked on policy for the 1935 election. Labour M.P. Jonathan Hunt, Mason’s successor in New Lynn, writing about him in the Dictionary of New Zealand Biography, said this policy consolidated Labour’s shift away from socialism towards laying the groundwork for a welfare state in New Zealand and reflected Mason’s social democratic rather than socialist principles.

Mason wanted all New Zealanders over 55 to be paid decent pensions and advocated that welfare benefits should be paid to the unemployed and incapacitated, that producers should receive a fair income, all employees should have full pay during two weeks annual holiday and essential public works should go ahead.

He was interested in monetary reform and in the 1931 election campaign helped Captain Harold Rushworth, president of the Country Party, who had strong social credit views. Mason told Walter Nash’s biographer, Sir Keith Sinclair, that he helped to write Rushworth’s election material. Labour did not put up a candidate against him in the Bay of Islands seat. Rushworth was to become a leading campaigner for Eric Mareo’s release.

Between 1932 and 1935 Labour credit reformers were active in Parliament, in caucus and at the Labour Party conference. Mason introduced several private member’s bills aimed at stabilising prices.

Keith Sinclair described Mason and fellow Labour M.P. Frank Langstone as being to some degree converts to Major C. H. Douglas’s Social Credit Ideas which
had been gaining supporters in New Zealand since the early 1920s. Sinclair observed rather unkindly that Langstone, who was to become a cabinet minister got his economic experience running the railway refreshment rooms at Taumarunui.

Mason believed the Depression resulted from bankers deliberately restricting the volume of money in circulation. It was necessary to stabilise internal purchasing power and price levels which were more important than overseas reserves, he argued. A central bank should issue interest-free credit so the amount of money in circulation was the same as in more prosperous years.

Superannuation, pensions, public works and payment of a bonus to all producers to raise their income to the average before the Depression should be financed from interest-free credit, Mason said.

But Labour’s finance spokesman, Walter Nash, who was to become Minister of Finance, retorted that there was no more dangerous philosophy than the idea that the issue of credit would overcome their problems.

Nash’s orthodox view prevailed and Mason never forgave him, according to Jonathan Hunt. Sinclair said Mason detested Nash.

With Labour’s sweeping victory in the 1935 general election Mason became Attorney-General and Minister of Justice. At the first caucus after the election Mason moved that Prime Minister Michael Joseph Savage should be sole selector of the cabinet which was accepted. Auckland had three members - Savage, Mason and W.E. (Bill) Parry.

Mason’s fellow monetary reformer, Frank Langstone, was also in cabinet and the new M.Ps included a number of reformers. But Sinclair says neither Mason, Langstone or fellow minister David McMillan carried enough weight in cabinet to try and introduce credit reform policies.

Mason received a letter of congratulations on his cabinet post from fellow law student Fred de la Mare, a Hamilton barrister and solicitor. “Your party is indeed lucky having you for the job. Absolute integrity is the prime qualification for justice,” he said. Kathleen Billens wrote from Palmerston North: “It has always been one of my wishes to know a great man. So please always keep a little corner in your heart for me.” Mr Justice (later Sir Arthur) Fair, who was to be the trial judge in the first Mareo trial, told Mason: “I am sure you will find the work interesting and congenial, and that you will also find your time very fully occupied.”

Wasting no time, Mason in 1936 introduced a major Law Reform Bill which removed various anomalies and brought New Zealand law more up to date. It dealt with the survival of causes of action after death, accident compensation charges on insurance monies, the capacity, liabilities and property of married women and liabilities of husbands, and liability of employers to employees for negligence caused by fellow employee.
The Chairman of the Statutes Revision Committee, F.W. Schramm M.P., reporting the bill back from the committee, commended Mason for introducing it. "It has the approval, generally speaking, of legal practitioners in New Zealand and will aid in the administration of justice and give justice to many people who have hitherto been refused it owing to the technicalities of the law," he said.

In 1937 Mason established the Law Revision Committee which was to be responsible for major reforms and he served on it and the Law Commission continuously for 38 years. Sir Wilfred Sim QC was a member for the same length of time. Mason, who had chaired the Law Revision Committee, continued as a member of the new Law Commission as did Sim. At a meeting of the Commission in 1969 National Attorney-General Ralph Hanan said they had made a "Herculean contribution."

Mason continued to be active on the Law Commission after his retirement from Parliament and in 1969 presented a report on the strata title system in New South Wales after a visit to Sydney.

Mason's private secretary at the outbreak of World War II was a 27 year old lawyer, Dr Martyn Finlay, fresh out of the London School of Economics and Harvard Law School, who was to become Attorney-General in a later Labour government.

Recalling the first informal law reform committee Mason set up, Finlay said: "With Rex's crusading spirit they got through a phenomenal amount of material." But the impetus for law reform slowed as the country found itself at war and other issues took priority.

"I think Mason's work on law reform was greatly underrated - including by me," Finlay said 60 years later.

From 1940 to 1947 Mason had Education, previously held by Fraser, added to his other portfolios and was also Minister of Native Affairs. Working closely with the Director of Education, Dr Clarence Beeby he saw the matriculation examination abolished and the secondary school curriculum reformed. At the time of his retirement he said he was pleased with the improvement in Maori housing during his term as Minister of Native Affairs.

In 1946 Mason led the New Zealand delegation to the Paris Peace Conference, held to tackle some of the many European problems left from the war.

New Zealand found itself chairing a sub-committee of the Hungarian Commission to deal with a Czech proposal to expel many of the 200,000 Hungarians within the borders of southern Czechoslovakia. It had the decisive vote following a two-two split in the five-member sub-committee and proposed a compromise solution which got the support of the conference. Prime Minister Fraser called this a "real achievement."
At the end of the 11 week conference Mason noted it had failed to reach agreement on any of the principal problems referred to it by the Council of Foreign Ministers, but he cautioned it would be a mistake to take a pessimistic view of solutions eventually being found. New Zealand believed many of the difficult problems of post-war treaties would be better solved in the United Nations than by the Council of Foreign Ministers, but this view had not been accepted.

New Zealand supported an Australian proposal to establish a European Court of human rights but this was rejected by 15 votes to 4 after the Soviet chief delegate to the United Nations, Andrei Vyshinsky, described it as "infantile." He asked: "Why not a world court?" Mason proposed a European Court of human rights as a branch of the United Nations Economic and Social Council but this was rejected too.

New Zealander Geoffrey (later Sir Geoffrey) Cox, covering the conference for the London News Chronicle reported: "In this battle the New Zealand delegation has played somewhat the same role as the New Zealand Division in the desert - that of a small, independent-minded shock force willing to take on anybody."

Despite some strong words around the conference table, Mason and the High Commissioner in London, Sir William Jordan, with the Secretary of External Affairs, Alistair (later Sir Alistair) McIntosh, were guests of Vyshinsky and Soviet Foreign Minister V.M. Molotov at luncheon at the Russian Embassy and toasts were exchanged. Vyshinsky had been notorious as public prosecutor in the 1936-38 state trials which removed Stalin’s rivals. Molotov’s “no” became a byword at meetings of the United Nations and in the Council of Foreign Ministers. Khruschev was to call him a “saboteur of peace” and sent him as Ambassador to Outer Mongolia.

After the 1946 general election the Labour caucus formally re-elected the cabinet. Fraser put forward ten names and other members nominated five more. Nash and Lands Minister Jerry Skinner received most votes, 10 each. To what has been described as Fraser’s surprise and embarrassment. Hastings M.P. E.L. Cullen beat Mason for a seat at the cabinet table. But he continued to administer his portfolios and was re-elected to cabinet a few months later.

Labour was defeated in 1949 but Mason continued to live in Wellington and travelled to Auckland for electorate meetings. He was described as an energetic M.P. In opposition, speaking on a variety of subjects including law reform and monetary policy.

Known as the “Father” of New Zealand’s decimal currency system, Mason waged a sometimes lonely battle to get legislation through Parliament. He introduced a private member’s Decimal Coinage Bill eight times, persisting with the idea until decimal currency was eventually introduced in 1967. Often his bills quietly faded from the Order Paper.
"My first interest in the decimal system was simply as a country solicitor who couldn't always get staff," he said. "I had to do a great deal of accounting work myself and I soon learned that the £ s d system tended to cause mistakes. This meant that books were harder to balance and a lot of time was wasted."

But, modest about his own role in the change to decimal currency, he pointed out the idea was nothing new and had been mooted in England in Stuart times. New Zealand's Associated Chambers of Commerce had called for the introduction of decimal currency "away back," he said in a 1967 interview. With the introduction of accounting machines, office procedures were being hampered by the £ s d system. Mason was inclined to see the change as inevitable rather than the result of his own persistence.

From 1950 to 1955 Mason introduced his bill each year - twice in 1951, before and after the "snap" election - but never managed to get it before a select committee. Then in 1956 the New Zealand Numismatic Society petitioned for currency reform and Mason's bill was referred to the same committee which heard the petition. The committee's recommendation made further progress towards decimalisation possible.

"It was never a party issue and there was never any attempt to make it one," Mason said. "Many members on the (National) Government side spoke in favour of my bills and Mr (Charles) Bowden as Associate Minister of Finance was very helpful to me." With National's defeat in 1957 moves to get decimal currency suffered "a bit of a setback because the Labour Government had more pressing financial questions to worry about," Mason said. But the impetus was there and the Decimal Currency Bill eventually came before Parliament as a Government measure.

Veteran political correspondent and Editor of The Dominion Jack Young, writing after Mason's death, said: "Some of New Zealand's most beneficial laws have in the first place been sponsored by backbench members of Parliament with sufficient perspicacity to be a jump ahead of public opinion and the torpid political somnolence of the Government of the day."

Another bill of Mason's was the Property Law Amendment Bill which became the Property Law Amendment Act of 1951. He told Parliament its primary purpose was to state the law in better terms, to make it more accessible and understandable. Its aim was to correlate the provisions of the Land Transfer Act and the Property Law Act.

"We have the two systems of law and the question often arises as to where we should look for a certain provision," Mason explained. Sometimes there was a discrepancy between the provisions of the two acts. The law should be written so it was easy to find, with a simple proposition expressed only once and in the proper place.
Apart from anything else, the bill made life a little easier for law students because it abolished the legal anachronism of "estate tail" - a type of holding used in England to ensure family estates passed from generation to generation. It had been included in New Zealand's land laws when it was a young colony but, thanks to Mason, law students no longer had to spend their time learning about it.

Mason's bill was a major legislative measure modifying conveyancing procedure. After he piloted it "unmolested" through the committee stages of the House of Representatives he was greeted with loud applause from both sides. It was seen as a triumph for Mason and for the rights of private members - the first time in the history of New Zealand Parliamentary government that a private member had been able to get a public bill of such magnitude through Parliament.

Jack Young wrote in The Dominion at the time: "Scholarly and studious, Mr Mason has always been at home with these abstractions and obscurities of the law that are so incomprehensible and mystifying to the layman. His oral explanations of them often seemed to his listeners and fellow members to be almost incoherent, but there are few who can express themselves on paper with greater clarity and simplicity."

In 1957 Mason introduced the Crimes Bill, consolidating and amending the criminal law which had not been done in New Zealand since the end of the last century. It was made available to the public and referred to Sir George Finlay who had been a senior puisne judge. Judges and others were consulted on the bill's provisions and on amendments which might be suggested. Mason reintroduced it in 1959 and it was referred to the Statutes Revision Committee which had Finlay's report. The committee heard representations from the New Zealand Law Society, churches, universities, Council for Civil Liberties and other organisations and individuals.

Speaking in the 1961 debate on the bill, which had been reintroduced by the new National government, the then Deputy Prime Minister, John (later Sir John) Marshall, said that when Mason introduced the bill in 1959 he had been unfairly and inaccurately accused of wanting to amend the law to permit homosexual acts between consenting males. What he had, in fact, proposed was that such acts should be dealt with merely as indecent assaults and carry a lighter penalty. Marshall said Mason had been unfairly accused of wanting to adopt the recommendations of the Wolfenden Report on homosexuality in England which was not the case, he added.

Mason joined Labour M.P.s and some National members, including Attorney-General Ralph Hanan and backbencher Robert (later Sir Robert) Muldoon, in voting to defeat the provision in the bill retaining capital punishment for murder. Murderers sentenced to death had always been reprieved under Labour governments.

As Attorney-General, Mason had been involved earlier in the issue of flogging. In 1941 while Fraser was overseas and Nash was acting Prime Minister, the Executive Council recommended remitting a sentence of flogging on four prisoners in Mt Eden. The Governor-General, Sir Cyril Newall, was reluctant to sign
the Government recommendation and wanted it to announce legislation to abolish flogging, Keith Sinclair wrote. Nash was reluctant to acquiesce in the Governor-General not accepting advice but was half inclined to agree to his terms if the Government did oppose flogging.

Fraser cabled that on no account should Cabinet accept the Governor-General’s refusal to act on ministerial advice. But Fraser, too, hesitated and thought perhaps they should not press the point. With an election pending the decision might be misunderstood. On this occasion, one of the rare times the Governor-General did not act on ministerial advice, the Cabinet backed down. Mason announced that flogging would be abolished and the Governor-General signed the recommendation to remit the sentence.

Mason took silk in 1946 and was called to the Inner Bar with Solicitor-General Herbert Edgar Evans before the Chief Justice, Sir Michael Myers. King’s Counsel C.H. Weston, W.J. Sim and P.B. Cooke with 80 members of the Bar attended the ceremony in Wellington’s Supreme Court.

Myers said he thought it doubly appropriate that Mason should carry with him to the Peace Conference, about to be held in Paris, all the prestige attached to the position of King’s Counsel. The Governor-General, Sir Bernard Freyberg, sent a handwritten note to wish him “Godspeed” on the peace mission and congratulated him on his appointment as “King’s Council.” He also wrote to thank Mrs Mason for a jar of marmalade she had sent to Government House.

Mason’s dislike of Nash continued over the years and in 1953 he was one of the M.P.s behind an abortive coup to get rid of Nash, who was then 71, as leader. Described as remnants of the credit reformers of the 1930s caucus, they included Mason, and fellow ministers Bill Anderton and Arnold Nordmeyer. Sinclair records that Mason went to see Nash and told him a number of members had complained to him about the leadership of the party, that he had consulted others and thought a majority wanted another leader.

Nash wrote in a memo after the meeting with Mason: “I stated that he had approached the members to ensure what he had always desired - my resignation. He said that was incorrect - he had a great respect for myself personally but that the party would do better under some other leader... After a lengthy conversation I advised him that I would deal with the representations in my own way.”

The following year Angus McLagan M.P. moved a vote of confidence in Nash in caucus. Mason moved as an amendment that they should fix a date for the election of the party leader. This was carried as a substantive motion which was seen as a rebuff for Nash but the caucus immediately supported McLagan’s confidence vote unanimously. The Party and caucus came out in support of Nash who received resolutions of support from Party branches throughout the country. Sinclair says the rebels sadly misjudged the situation and never had more than six votes including Mason, Nordmeyer, Phil Connolly, Anderton, Fred Hackett and Warren Freer. At a caucus four months later, Michael Meehan nominated Nash as leader and Freer nominated Nordmeyer. Nash won and Skinner, the only nomination, became deputy.
Mason was easily elected to Cabinet after the 1957 election and took on the Health portfolio as well as being Attorney-General and Minister of Justice. It was during this term that he embarked on the massive task of preparing the Crimes Amendment Bill which was passed in 1961 under the incoming National Government.

Under the leadership of Nordmeyer and then the much younger Norman Kirk there was a growing feeling in the Labour Party that younger members were needed. Mason, by then in his 80s, was the last surviving member of the 1935 Labour Government and retired in 1966. He was the Father of the House, having been a member continuously since 1926.

Prime Minister Keith Holyoake, speaking at the valedictory sitting of Parliament, said of Mason: "I cannot ever remember a clash occurring between us over the thirty-odd years I have sat opposite the honourable, venerable and highly respected member... I have never known him to do a small or mean thing." National M.P. Ernest Aderman recalled: "I found him accommodating and helpful and I found in him an integrity, a straight forwardness and ability which more and more matched my conception of what a statesman should be and my appreciation of him grew with the years." Kirk, Leader of the Opposition, in what many saw as a less-than-gracious speech, farewelled Mason in three sentences. Not a word about his huge contribution to law reform.

At a civic farewell in New Lynn Mason was praised as a self-effacing man who avoided personal fanfare. He had always been meticulous in attending to his constituents' problems or local body affairs and combined a keen intellect with a warm understanding of human nature. As a tribute, the children's section of the New Lynn Library was named the Rex Mason Wing.

Mason was to be honoured with the award of the C.M.G. but Jack Young wrote in The Dominion after his death: "To say the least of it it was scurvy recognition of a great Parliamentarian and reflects little credit on those responsible for it. It was paltry and contemptuous in the extreme." Mason had served in Parliament with Young's father, Sir James Young, a former minister of health.

In retirement, Mason continued his work as a member of the Law Commission and also turned his attention to the case of Eric Mareo - the convicted murderer he believed to be innocent - which had been on and off his desk as Attorney-General for over a decade, but never for long out of his thoughts.

Mareo, 45 at the time of his trial, was an accomplished Auckland musician and conductor who had been born in Sydney, son of a music professor, and gone to Berlin at 13 to further his musical studies. Later, in England, he lived with a woman who died from tuberculosis. There were two children, Betty and Graham.

Returning to Sydney, Mareo met Thelma Trott, an attractive university graduate who was a musician and actress. They toured in theatrical companies in Australia and New Zealand and married in Wellington. Also in the Ernest Rolls Show which toured New Zealand in the early 1930s was a New Zealand dancer, Freda Stark. After the show disbanded Mareo and Trott lived in Auckland with
Betty and Graham Mareo who had joined them from boarding school. Stark, who also lived in Auckland was a frequent visitor to the Mareos at the Hotel Fernleigh where they first stayed, at Bucklands Beach and then at the house they rented at 1 Tenderton Avenue, Mount Eden.

Evidence was to be given at Mareo’s trial that Freda Stark spent a lot of time in bed with Thelma at the Mareo home and it appeared clear they were lovers, Mason, speaking in the 1961 debate on the Crimes Bill, called them “sexual perverts.” Mareo and his wife, it had been alleged, had a no-sex pact, although the court was told Thelma had said she would commit suicide if she ever found she was pregnant.

On Sunday, April 15, 1935, Thelma Mareo, 28, died in Auckland Hospital after being taken there from her home in a deep coma. Five months later Eric Mareo was arrested and charged with murdering his wife by giving her veranol, a sleep-inducing drug, in a cup of hot milk he had prepared.

Before her death Thelma had been appearing in the light opera Duchess of Danzig at His Majesty’s Theatre in Auckland and Mareo conducted the orchestra.

Mareo’s trial opened in the Auckland Supreme Court on February 17, 1936, before Mr Justice Fair A.H. (later Sir Alexander) Johnstone K.C. and V.N. Hubble appeared for the Crown and Mareo was represented by Humphrey O’Leary K.C, of Wellington, later to become Sir Humphry O’Leary, Chief Justice, K.C. Aekins and Trevor (later Sir Trevor) Henry.

There was intense public interest in the trial with women queuing at the door leading to the women’s gallery. The Auckland Star reported that an All Black was in the public gallery one day and members of the visiting MCC team were also there. The all-male jury was given an afternoon off to watch the MCC play Auckland.

Mareo, who pleaded not guilty “in a firm and ringing voice” was smartly dressed in a blue striped suit and “looked exceptionally well when he came through the trap-door into the dock, a deep sun tan showing that he had spent much of his time in the open at Mount Eden after his arrest,” the Auckland Star told its readers.

The Crown made much of Mareo’s relationship with a young Auckland University graduate, Eleanor Brownlee, who was his music pupil, acted as his secretary and was working with him on the scenario for a film, Plume of the Arawas. She also laundered his white ties and waistcoats because Thelma Mareo could not get the starch right, but she denied there was anything improper in their relationship. The defence was to argue strongly that no motive had been established for Mareo killing his wife. Freda Stark, the chief witness for the prosecution, gave evidence Mareo and his wife had a good relationship before his death.

The Crown case was that Thelma Mareo had been under the influence of veranol on the Saturday morning before her death, that Mareo had made her a
drink of hot milk containing veranol on the Saturday night and that she had gone into a coma leading to her death. Freda Stark was in the house during much of the time and Graham Mareo was there part of the time.

The defence argued there was no evidence Mareo put veranol in the milk and that Thelma could have taken the fatal dose herself. Freda Stark testified she had not seen Thelma take the veranol.

In his summing-up at the end of the nine-day trial, Mr Justice Fair said the first question was: Did Thelma Mareo die as the result of veranol poisoning? and the second was: Was her death caused by veranol administered by the accused with the intention of killing her? The jury must be convinced the facts excluded the reasonable possibility of the poison being given to her by a person other than the accused, that the evidence excluded the possibility of it being given by misadventure or accident and that it excluded the possibility of suicide by Mrs Mareo.

The jury returned nearly four hours later with a verdict of guilty with a strong recommendation for mercy. Asked if he had anything to say before sentence was passed, Mareo with a “clear, deep and ringing voice.” replied: “Nothing to say against it. Only it seems to me, after the evidence, which has been most just in every way, and after the judge, His Honour’s direction to the jury, that their verdict is a travesty of justice. Nothing more.”

Mr Justice Fair, speaking slowly and with obvious emotion, put on the black cap and sentenced Mareo to “be hanged by the neck until you are dead.”

A heart-broken 17-year-old Graham Mareo was comforted by counsel and friends and a pale-faced Freda Stark walked through a side exit.

After reports of the trial appeared in Australian newspapers several theatrical people who had known the Mareos on the stage there came forward with evidence of Thelma’s past drug-taking and drinking. The Court of Appeal refused a new trial but one was ordered after an application to the Governor-General in council in which Mason, as Attorney-General, was involved.

The second trial opened on June 1 1936 before Mr Justice John Bartholomew Callan, who had been Dean of the Faculty of Law at Otago University before becoming a K.C. in Wellington. Vincent (later Sir Vincent) Meredith led for the Crown, with O’Leary again appearing for Mareo. The evidence was similar to that of the first trial but the defence made more of testimony that Thelma Mareo had regularly taken drugs and threatened suicide.

But again Mareo was found guilty, sentenced to death and put in the condemned cell.

Auckland barrister Peter Williams QC who believed Mareo was not guilty of murdering his wife, writing in 1971, suggested the prejudiced atmosphere of the trial contributed to Mareo’s fate. Rumours about Mareo’s affairs - most of them probably false - were rife in Auckland and the puritanism of some jurors in the jury box was notorious, Williams said.
Mareo's death sentence was commuted to life imprisonment under the policy of the new Labour Government for which Mason was responsible. He had become involved in the case at an early stage when, immediately after being sworn in at Government House, he had to discuss with the Solicitor-General, H.H. Cornish the briefing of Johnstone to conduct the prosecution in the first trial in Meredith's absence. From then on the Mareo file was regularly on Mason's desk, with a succession of letters and petitions for Mareo to be released. Among Mason's papers after his death was a recommendation to Cabinet with his signature to appoint a commission of three judges to inquire into the case. But, for whatever reason, this was not done.

The case against Mareo had been influenced, it was felt, by the allegation he had shown callous indifference in not calling a doctor to his wife earlier. The allegation largely rested on Stark's evidence and this conflicted with the evidence of other witnesses. There was evidence Stark visited the Mareos two days before Thelma's death and that Eric and Thelma Mareo had invited her to stay. It seemed most improbable, it was argued, that if Mareo had conceived the idea of murdering his wife he would have invited her best friend to be at the place where he was going to murder her.

Dr Philip Patrick Lynch, consultant pathologist to the New Zealand Police for three decades, says in his memoirs No Remedy for Death that a good deal of uneasiness followed Mareo's trials and conviction. "The medical evidence in the case given by the experienced Auckland pathologist, Dr Walter Gilmour, had caused some uneasiness in the minds of many persons with a direct interest in the trial," he said.

Mareo's friends went to some trouble to get reports from overseas on medical aspects of the case. One of these was from the noted London toxicologist Sir William Wilcox, principal consultant toxicologist to the Home Office, who was consulted in 1941, not long before his death, and made a detailed report. He said he did not think it at all likely that another dose of veranol had been taken on the Saturday night at the time the cup of hot milk was alleged to have been given to Thelma Mareo. The psycho-neurotic state and mental breakdown from which she had suffered during the last few weeks of her life had led to her taking barbitone to relieve her symptoms and the mental unbalance resulting from this was associated with her taking a large fatal dose which caused her death, Wilcox concluded. "If Thelma Mareo had access to veranol the drug was in my opinion self-administered as is so commonly the case in fatal cases of veranol poisoning."

Dr Lynch, who had not been involved in the Mareo trials, in a report to the Justice Department, disputed Wilcox's finding. He was not convinced Thelma was a veranol addict as Wilcox appeared to have assumed or that she was a confirmed alcoholic as Wilcox suggested. Her nervous and worried condition was explained by her husband's association with Eleanor Brownlee and her doubts about his fidelity, Lynch said. There was no evidence Mrs Mareo had purchased veranol or had it in her possession. Lynch's view was that Freda Stark's evidence was of critical importance and could only be tested by seeing and hearing her as she gave evidence. Meredith had told him he was convinced she was a truthful witness. Lynch concluded that the guilty verdict was justifiable.
When Mason was working on a book on the Mareo case in the 1970s he dictated notes on a 1913 case involving veranol, the only case of veranol poisoning at the time. A woman had periods of delirium and semi-coma and could not be aroused. A veranol bottle was found concealed under her mattress. Her doctor refused to let her have more veranol and, with a strong purgative and regular nourishment, she made a speedy recovery.

Mason said: “On reading that case I could not assume that someone or other in a house must have given a woman veranol merely because it is not known that she had taken it herself. And nor could one demand that anyone in the house should account for a patient dying of veranol on pain otherwise of being hanged for the patient’s murder.” There were hundreds of recorded deaths from veranol by accident or suicide. It was only a fortnight before Thelma Mareo’s death that regulations to make it a prescription drug came into effect in New Zealand.

In 1942 another petition was presented to Parliament calling for an inquiry into the Mareo case. Petitioners included Bruce Rainsford, Auckland manager of McDuffs department store, J.A. Cronin, a physician, Professor Ronald Algie, former Dean of the Auckland Law School and later Sir Ronald Algie, speaker of the House of Representatives, surgeon Douglas (later Sir Douglas) Robb and T.S. Fleming, a Solicitor. There was also a petition from the New Zealand Musicians’ Union. O’Leary addressed the Statutes Revision Committee, which dealt with the petition. Johnston represented the Crown and Meredith also appeared. Wilcox’s report was presented to the committee of which Mason was a member.

After discussion, National M.P. William (later Sir William) Bodkin moved and National M.P. Walter (later Sir Walter) Broadfoot seconded a motion that the committee had no recommendation to make and this was agreed to. Once again the hopes of Mareo and his supporters were dashed.

In 1943 Mason wrote to Mr Justice Callan, the second trial judge, asking if he could see him about the case. Callan replied questioning the propriety of this and Mason wrote back asking the judge to satisfy himself about that. Callan agreed to see him and they met in his chambers in Auckland. After the meeting Callan wrote to Mason saying he was personally not convinced Mareo was guilty of murder but he accepted there was evidence on which the jury could reach such a verdict.

The Court of Appeal in 1946 said Callan’s summing-up was “certainly not unfavourable to the prisoner,” but pointed out that he had put it to the jury “quite plainly” that it was possible for it to find a verdict of manslaughter (if, for example, Mareo, under the influence of veranol himself, had given it to his wife without intending to kill her).

Mareo’s second trial in 1936 had resulted from the Governor-General’s power to order a new trial after a petition for the Crown’s clemency had been submitted. The Court of Appeal at the time had both civil and criminal jurisdiction but Mason said years later its powers were so constricted in its criminal proceedings as to justify counsel saying to him: “There is no such thing as a real criminal appeal.” The ordering of a second trial in 1936 was a rare decision and
Mason said he could think of only one other case in 14 years. It was only by the Criminal Appeal Act 1945, for which he was responsible, that the powers of a court of criminal appeal were conferred on the Court of Appeal.

In 1946 Mareo’s lawyers applied under the new Criminal Appeal Act for leave to appeal against conviction on the grounds it was unreasonable on the basis of existing evidence and new medical evidence. The application was dismissed, the Court of Appeal saying no additional facts had been discovered since the trial. Mareo’s lawyers went to the Court of Appeal again asking for his conviction to be quashed on the grounds the second trial conviction was unreasonable, Freda Stark’s evidence differed from the first trial and differed from what she had told police, and that new medical evidence refuted the medical evidence given at the first two trials.

The Court of Appeal presided over by the Chief Justice, Sir Michael Myers and comprising Justices Blair, Kennedy and Finlay, dismissed Mareo’s appeal. In its judgment it said it took into consideration the fact Mareo had not given evidence at his trials which could not be commented on at the time.

“He now complains, in effect, that the jury drew wrong inferences,” the judgment said. “There was, however, evidence upon which it was competent for the jury to draw those inferences...” It went on: “If it be now suggested that other inferences might be drawn than those which were in fact drawn by the jury with regard, for example, to the accessibility of the concealed veranol, the possibility of Mrs Mareo having obtained it from the place of concealment, the possibility of there being tablets of veranol in the bedroom available to Mrs Mareo without any fault or connivance on the part of Mareo, these and other matters to which we have not considered it necessary to refer, were all matters which the evidence of Mareo himself could have helped to explain.”

During his nearly 13 years in Mt Eden Mareo was described as a model prisoner. But he was a very different figure from the man who had conducted the orchestra for the *Duchess of Danzig*, the prison chaplain, the Rev George Morton, wrote. “It seemed impossible that the handsome, impeccably-dressed figure that had bowed so gracefully before the clapping audience could bear any relation to the coarsely-clad prisoner who played the jail organ.” He said Mareo “in my opinion was not the type who could cold-bloodedly plan a murder. He was too artistic, too temperamentally, too fundamentally honest.”

Tragically, Mareo’s daughter Betty died while he was in prison and his son Graham, an officer in a British regiment, was killed fighting in France.

Mareo was eventually released on May 11, 1948 and wrote to Mason from the Wellington home of the son of Captain Rushworth, one of his strongest supporters throughout the long years of his imprisonment.

“You will be surprised to receive a letter from me but while I am in Wellington... I would be very happy if you could make an appointment, any time at your convenience, for me to call upon you so that I may have the privilege of personally thanking you for all that you have done for me,” Mareo wrote. “Although
I have no knowledge of why I was so unexpectedly granted my release from Mt Eden prison I am certain that in some way I owe this great happiness, at least in part, to your efforts on my behalf and, believe me, I am inordinately grateful, more than I can ever express in words."

Mareo told Mason he had completely severed connection with the name "Mareo" and changed his name by deed poll to Curtis. He asked Mason to remember his name was now Eric Curtis, ending his letter: "I remain yours sincerely and gratefully Eric Curtis" with Curtis underlined three times.

One of Mareo's active campaigners while he was in prison was Gladys Andreae who had been head masseuse at Auckland Hospital for many years. Mareo was taken there by a warder for physiotherapy over a period of about five months. "I know that you also believe him innocent, but I gather that your official position makes it difficult for you to act against the opposition you probably encounter all round," she had written to Mason. Not long after Mareo walked out the gates of Mr Eden he and Gladys Andreae were quietly married.

Eric Curtis died on November 25, 1960.

Freda Stark, Thelma Mareo's lover and principal witness against him, died in an Auckland resthome in March 1999. Obituaries recalled that in the 1930s and 40s she had danced in public in little more than a G-string and gold paint which she said "kept me warm."

Auckland film producer Peter Wells wrote of her death: "...somehow with Freda you never got behind the mask. There was always another layer of mystery there - almost a reticence. I think she needed such inner strength to survive the scandal of the 1930s, that while she recovered and went on to live a fantastic life, some part of her died. And that part was the woman she loved most in the world, Thelma." Freda Stark's ashes were to be placed on Thelma's grave. Her niece, Diane Miller, described Freda Stark as a "stylish lady."

Mason's views about her were rather different. During the 1961 debate in Parliament on the Crimes Bill which ended capital punishment, he spoke in some detail about the Mareo case and pointed out that mistakes could happen in convictions. "I am pointing out that we can obtain a conviction though the basis is not there," he said. "An innocent man can be convicted." Mason said there was "clear, inescapable perjury" committed by Stark. He called her and Thelma Mareo "sexual perverts."

When he was working on his planned book on the Mareo case Mason in 1971 wrote to Eleanor Brownlee, who had been Mareo's friend and helper and was now married and living in Auckland, seeking her help.

"The whole affair imposed on me a great and prolonged strain for I never could see the matter as the prosecution did," he said. "I could see much of the truth but only since I have decided to write have I appreciated the most completely decisive point."
After asking if she could help in checking facts within her knowledge, Mason wrote: "Dr Lynch's book gives a story quite contrary to fact and to uncontradicted trial evidence. I am strongly impelled to tell the true story as quickly as I can. I have all the essentials of it. There will be no mystery left." (Ironically, there was some mystery left. Mason did not complete his book, and tapes of material he dictated to his typist are incomplete.)

Eleanor Brownlee, who apparently knew Mason's daughter, wrote back to him urging him to "let the matter be." She told him: "As things stand, reopening the affair could bring a reprieve to noone but will almost certainly for a number of people be a cause for unpleasantness and distress."

In 1967 Mason was honoured by his old university, Victoria, with the degree of Doctor of Laws honoris causa Presiding at the ceremony was Victoria University's Chancellor, Dr Philip Patrick Lynch. Resplendent in their academic gowns, they epitomised in a sense the case of Eric Mareo - one man believed he was guilty; the other was convinced he was innocent.

Rex Mason died in Wellington on April 3, 1975, aged 89.

He was survived by his elder son, Brian, and his daughters, Mrs Jack Hutchings, and Miss Ruth Mason.

The Dominion said in an editorial: "He was a notable New Zealand politician for the reason that he had convictions and the courage of them and was no party-line prattler in the House. He gave Labour teams of his time an intellectualism and a dignity that helped them immensely. He served his country well."

To many he had been the conscience of the Labour Party.

In Portrait of a Profession the centennial book of the New Zealand Law Society, he was remembered as "one of New Zealand's outstanding reforming Attorneys-General."

Derek Round