

NEW ZEALAND.



QUADRAGESIMO

VICTORIÆ REGINÆ.

No. XLIII.

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Trustees may place estates in Public Trust Office with consent of a Judge of the Supreme Court. 4. Executors or administrators may place estates in Public Trust Office. 5. Immediate order to administer estate may be granted to Public Trustee. Persons entitled to administration may obtain administration subsequently. 6. Residue of estate administered by Public Trustee not exceeding £50 may be paid to widow when children are under fifteen years of age. 7. Residue of estate administered by Public Trustee exceeding £50 may be paid to widow when children are under fifteen years of age on order of Judge. | <ol style="list-style-type: none"> 8. Such payments or dispositions to be valid. 9. Public Trustee may, with consent of Board, make advances for payment of necessary cost of administration. 10. Public Trustee may take possession of and administer land of absentee proprietor. 11. Public Trustee may, with consent of Board, lease certain lands for limited periods. 12. Public Trustee may, with consent of Board, acquire lands the purchase of which would tend to improve the estate. 13. Public Trustee, with consent of Board, may raise money for the improvement of property. Mortgage to be granted on order of Judge. 14. Public Trustee, coming into possession of land the subject of a contract for sale, to be registered proprietor of such land when subject to "Land Transfer Act, 1870." |
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AN ACT to amend "The Public Trust Office Act, 1872," and the Act amending the same. Title.

[14th October, 1876.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be "The Public Trust Office Act, 1876." Short Title.

2. In the interpretation of this Act the following words and expressions shall have the meanings hereby assigned to them:— Interpretation.

"The said Act" means "The Public Trust Office Act, 1872."

"The Amendment Act" means "The Public Trust Office Act Amendment Act, 1873."

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“Judge” means a Judge of the Supreme Court of New Zealand.

“Court” means the Supreme Court of New Zealand.

Trustees may place estates in Public Trust Office with consent of a Judge of the Supreme Court.

3. Any trustee or trustees may place in the Public Trust Office any property vested in such trustee or trustees, or within his or their lawful custody or control.

But such property shall only be placed in the Public Trust Office with the consent of the Board, and after it shall have been shown to the satisfaction of a Judge—

(1.) That such of the *cestuis que* trust as are under no disability and are in New Zealand consent to an order under this Act;

(2.) That where the *cestuis que* trust are absent from New Zealand, or are under disability, it will be for the advantage of the property to be so placed in the Public Trust Office.

The Judge may make such order as he thinks fit in respect of the matters herein provided for, and if he makes an order that the property shall be vested in the Public Trustee, then from and after the date of any such order the property therein mentioned shall vest in the Public Trustee, subject to the trusts attaching thereto.

Executors or administrators may place estates in Public Trust Office.

4. In addition to the persons described in the seventeenth section of the said Act, any executor who has obtained probate, or administrator who has obtained letters of administration, with or without a will annexed, may place the estate of which he is such executor or administrator in the Public Trust Office.

Any executor or administrator may so place an estate in the Public Trust Office whether he has or has not acted in the administration of the estate; but no estate shall be dealt with under this provision except with the consent of a Judge, who may make such order as he thinks fit in relation thereto.

This provision shall extend to lands passing under the operation of “The Real Estate Descent Act, 1874.”

Immediate order to administer estate may be granted to Public Trustee.

5. Notwithstanding anything contained in the fourth section of the Amendment Act, a Judge may at any time, if he shall think fit, grant an order to the Public Trustee to administer the estate of any deceased person, which under the said section he is entitled to grant without proof that no person entitled and within New Zealand is ready to take a grant of probate or letters of administration, and that the estate of such person or some part thereof is exposed and liable to loss waste or injury.

Persons entitled to administration may obtain administration subsequently.

If any person entitled to probate or letters of administration, and within New Zealand, shall, within six months from the death of such deceased person, or within three months after the grant of administration to the Public Trustee, apply to such Judge, he may, if he shall think fit, make an order that such estate and the further administration thereof shall be transferred to the person so applying, upon the terms to be stated in such order.

But all acts lawfully done by the Public Trustee in and about such administration, and before the making of any such order as last aforesaid, shall be valid and effectual in every respect.

Residue of estate administered by Public Trustee not exceeding £50 may be paid to widow when children are under fifteen years of age.

6. Where the entire residue of the estate of any deceased person administered by the Public Trustee shall not exceed the sum of fifty pounds, and such person shall have died intestate leaving a widow and children, none of which children are above the age of fifteen years, it shall be lawful for the Public Trustee, if he shall think fit, to pay the whole of such residue to the widow.

Residue of estate administered by Public Trustee exceeding £50 may

7. Where the entire residue of the estate of any deceased person which is being administered by the Public Trustee shall exceed the sum of fifty pounds, and such person shall have died intestate leaving

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a widow and children, none of which children are above the age of fifteen years, the Public Trustee may, on the order of a Judge, to be made on the application of such widow or by the Public Trustee on her behalf, pay to such widow, either at one time or from time to time, such sum or sums, in addition to the share to which such widow is entitled under the Statute of Distributions, as the Judge thinks fit for the maintenance, education, and advancement of such children or any of them.

be paid to widow when children are under fifteen years of age on order of Judge.

8. Any payment or disposition of such residue made by the Public Trustee under the sixth and seventh sections of this Act shall be deemed a valid payment or disposition thereof, if made in accordance with the terms of the Judge's order; and,

Such payments or dispositions to be valid.

(1.) Shall, in the event of such children or any of them attaining the age of twenty-one years, be deemed to be in full or in part satisfaction (as the case may be) of the moneys to which they would then become entitled;

(2.) Shall, in so far as any such order shall extend, bar all claims of any other person or persons who, but for this Act, would have been entitled to the whole or to a distributive share of any such residue.

9. The Public Trustee may, with the consent of the Board, make advances out of moneys standing to the credit of the Public Trustee's account, for the payment of expenses necessarily incurred by him in the administration of the estate of any deceased person, and, until such advances have been repaid out of such estate, the Public Trustee may charge such estate with interest on the sums so advanced at a rate not exceeding six per cent.

Public Trustee may, with consent of Board, make advances for payment of necessary cost of administration.

All interest received under this provision shall be paid into the Public Trust Office Expenses Account, and shall be part of the fund created by the said Act.

10. Whenever any land is lying waste and unoccupied in consequence of the owner of such land being unknown, or being known to have been absent from New Zealand for ten years without having left any known agent, the Public Trustee may take possession of and manage such land with the same powers and in the same manner as is provided by the Amendment Act in the case of the heir or devisee of a deceased person being absent from New Zealand, until such owner or the devisee, heir-at-law, or personal representative of such owner, as the case may be, shall establish his right and title to the satisfaction of the Judge sitting in the judicial district in which such land is situate.

Public Trustee may take possession of and administer land of absentee proprietor.

The sections numbered twenty to twenty-eight inclusive of the Amendment Act, and the next succeeding section of this Act, shall, *mutatis mutandis*, be deemed to be applicable to every such case.

11. Notwithstanding anything contained in the twenty-third section of the Amendment Act, the Public Trustee may, with the consent of the Board, in cases where he shall have the possession and management of real estate under the provisions of the Amendment Act or under the last preceding clause of this Act, let all or any part of such real estate for a period not exceeding in the whole seven years, or in the case of a minor for a period not exceeding five years beyond the time when such minor shall attain the age of twenty-one years.

Public Trustee may, with consent of Board, lease certain lands for limited periods.

Every such lease shall be as valid as if executed by the owner, or in the case of a person under full age by such person after attaining the age of twenty-one years.

12. Whenever any real property is vested in the Public Trustee, he may, with the consent of the Board, apply to a Judge for an order

Public Trustee may, with consent of Board, acquire lands

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the purchase of which would tend to improve the estate.

to purchase any lands which it may, in the opinion of the Board, be necessary or desirable to acquire for the improvement of such property.

Before any such order shall be made, it shall appear to the satisfaction of the Judge that the intended purchase will be for the benefit of the property vested in the Public Trustee, and that there are rents or other moneys belonging or accruing due to such property out of which such purchase can be effected.

When any such purchase is effected, the land purchased shall be held upon the same trusts and with the like powers as the other property of which it is to form a part is held.

Public Trustee, with consent of Board, may raise money for the improvement of property.

13. The Public Trustee, with the consent of the Board, may raise, by mortgage of the whole or a portion of any real property vested in the Public Trustee or which is under his control or management, such a sum of money as shall be sufficient for any one or more of the following purposes :—

- (1.) To repair and uphold or re-erect any buildings situated on any portion of such property.
- (2.) To erect repair or uphold any fences thereon.
- (3.) To effect any other necessary improvements on such estate, and which may be required for its maintenance.
- (4.) To pay any arrears of rates or other charges imposed upon or due in respect of such property.
- (5.) To pay off any existing mortgage or other encumbrance, or to complete payments of purchase money, or for any other purpose which may be required to perfect the title to or complete any contract in respect of such property.

Mortgage to be granted on order of Judge.

No money shall be so raised except upon an order to be made by the Court or a Judge thereof, and in such order shall be specified the amount which may be raised, the interest to be paid thereon, the property to be given as security, and the purpose to which the money shall be applied; and any such order may be varied or modified by the Court or the Judge granting or making the same, but without prejudice to any security granted prior to such variation or modification.

When any such order is made, and subject thereto, the Public Trustee shall execute a mortgage with all usual powers and remedies, including a power of sale to the mortgagee in case of default, for the purpose of securing the money raised, with interest at the rate prescribed.

Every such mortgage shall be valid as against the interest of every person entitled to or claiming any estate in the property mortgaged.

Public Trustee, coming into possession of land the subject of a contract for sale, to be registered proprietor of such land when subject to "Land Transfer Act, 1870."

14. When any deceased owner of any land subject to the provisions of "The Land Transfer Act, 1870," shall have entered into any covenant or agreement for the sale or conveyance of such land, which covenant or agreement would have been enforceable in a Court of law against the owner of such land, if alive, and the land the subject of such covenant or agreement shall, either by the will of such owner or by reason of his intestacy or for any other reason, have come into the possession of or under the management of the Public Trustee, the Public Trustee may, with the consent of the Board, apply to the Judge in whose judicial district such land is situate for an order directing that the Public Trustee shall be registered as the proprietor of such land.

The Judge to whom such application is made, upon being satisfied of the necessity or expediency of the case, may

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order the District Land Registrar to register the Public Trustee as proprietor, within a period not less than one month from the date of such application, without any of the notices or advertisements required by the eighty-seventh section of "The Land Transfer Act, 1870."

The Public Trustee shall hold such land for the persons and purposes for which it is applicable by law; but for the purposes of carrying out the conditions of such covenant or agreement as aforesaid, and of any dealing with such land under the provisions of "The Land Transfer Act, 1870," he shall be deemed to be absolute proprietor thereof.

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