

NEW ZEALAND.

ANNO VICESIMO QUARTO ET VICESIMO QUINTO
VICTORIÆ REGINÆ.
No. 30.

ANALYSIS:

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AN ACT for the due rendering of accounts Title.
by Official Administrators ceasing to
hold the office of Registrar of the
Supreme Court. [6th September, 1861.]

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

I. The Short Title of this Act shall be "The Official Ad- Short Title.
ministrator's Act 1861."

II. The term Official Administrator in this Act shall apply to To whom the term
Official Administrator
is to apply.
any person to whom by virtue of his office of Registrar of the
Supreme Court the official administration of the Estates of
deceased persons shall be or shall have been granted by virtue of any
Rules or Orders of the Supreme Court and to any person who by
virtue of this Act shall succeed in such administration.

III. When any Official Administrator shall die or shall be re- On the death &c. of
Official Administrator
the office to devolve
on the Registrar of
the Supreme Court.
moved from or shall otherwise cease to hold the office of Registrar
of the Supreme Court for any district or place in the said Colony
(and which person is herein referred to as the outgoing official
administrator) such outgoing official administrator shall cease to
be official administrator and all the goods chattels monies and
estates whatsoever vested in such outgoing official administrator
shall immediately upon the happening of such events respectively
cease to be vested in or to belong to such outgoing official admin-
istrator and shall vest in the person who for the time being shall be
the Registrar of the Supreme Court for the same district or place

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(and who is herein referred to as the incoming official administrator) and such incoming official administrator shall *toties quoties* become and be official administrator in the place and stead of the outgoing official administrator.

Goods and chattels considered the property of incoming Official Administrator. IV. In every such case all such goods chattels monies and estate may be sued for and recovered as the proper goods chattels monies and estate of such incoming official administrator and all rights of action duties powers and liabilities whatsoever (except as hereinafter provided) of the outgoing official administrator shall *toties quoties* devolve upon vest in and be exercised by the incoming official administrator as effectually as if such incoming official administrator had been the original official administrator.

Saving of liabilities. V. Provided that nothing herein contained shall in any way release or discharge any outgoing official administrator or his sureties from liability in respect of acts done or suffered during his official administration or render any incoming official administrator or his sureties liable in respect of any such acts.

Outgoing Official Administrators to deliver over books monies &c. to the incoming Official Administrator. VI. Every outgoing official administrator and the executors of any deceased official administrator shall within one week or such other time as the Supreme Court shall by any Rule or Order from time to time prescribe and which Rule or Order such Court is hereby empowered to make after application in writing for that purpose shall have been delivered personally to or left at the last or most recent place or places of residence of such outgoing official administrator or of the executors of a deceased official administrator or sent by post addressed to him or them at such place or places of residence pay and deliver over to the incoming official administrator or to some person or persons to be appointed in that behalf by such incoming official administrator all books papers and documents and all monies goods chattels estate and effects whatsoever in any way belonging to the respective estates of such deceased persons as aforesaid which may actually be or which ought to be in the custody power or control of such outgoing official administrator or of the executors of a deceased official administrator and shall also render full and exact statements and accounts in writing of all monies received and paid on account of such estates respectively and of all matters and things whatsoever relating to the administration of such estates respectively.

Penalty. VII. If such outgoing official administrator or the executor of any deceased outgoing official administrator shall without reasonable cause shewn fail within such period as aforesaid to make such payment or delivery over as aforesaid or to render such statements or accounts as aforesaid or shall in respect of any such matters be knowingly guilty of any wilful mis-statement omission or suppression of facts he shall be deemed to be guilty of a misdemeanour and punishable accordingly.

The Executors of an outgoing Official Administrator to be liable only to the extent of the Estate. VIII. Provided that no executor of a deceased outgoing official administrator shall be liable except so far as the estate and effects of such deceased outgoing official administrator shall

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extend and the answer or plea of *plene administravit* shall be a sufficient answer or plea to any action suit claim or demand under this Act against any such executor.

IX. Provided also that no person shall be answerable or accountable under this Act for any money goods chattels estate or effects except such as shall actually come to his hands or possession and one person shall not be answerable for another person or the acts deeds receipts neglects or defaults of another person but each person shall be answerable only for his own acts deeds receipts neglects and defaults and no person shall be answerable for any Banker Broker or other person with whom any monies goods chattels estate or effects shall be or shall have been lodged for safe custody nor for any involuntary loss or damage which may happen to the estate of any deceased person unless such loss or damage shall happen through his wilful neglect or default. Saving of liabilities.

X. If any outgoing official administrator or the executor of any deceased official administrator shall wilfully neglect or refuse to deliver up any books papers accounts monies goods chattels or effects after such application as aforesaid agreeably to the provisions of this Act and if there shall be reasonable ground to suspect that the same or any of them are knowingly and wilfully retained and kept in any house or building it shall be lawful for any Resident Magistrate or for any two Justices of the Peace upon proof thereof upon Oath to his or their satisfaction by warrant under his or their hand or hands to authorise some person or persons named therein in the day time to enter into any such house or building and there to make search for any such books papers accounts goods chattels and effects and the same being then and there found to take and carry away and the same together with the person in whose custody power or possession the same shall be found to bring before such Resident Magistrate or such Justices as aforesaid to be dealt with according to law. Power to search for books &c.

XI. Any incoming official administrator and any person claiming an interest in the estate of any deceased person may (subject to such Rules as shall from time to time be made in that behalf by the Supreme Court) at any time and from time to time with or without notice apply to the Supreme Court upon motion for an Order against a deceased official administrator or the executors of an outgoing official administrator for the payment of monies delivery of books papers accounts goods chattels or effects for the rendering of accounts for the payment of costs of proceedings under this Act or in respect of any other matter touching the due administration of the estate of a deceased person or anything relating thereto and the said Court may thereupon make such Order either *nisi* or absolute as to it shall seem fit against such outgoing official administrator or the executors of such deceased official administrator for the payment of monies delivery of books papers accounts goods chattels or estates rendering of accounts and payment of costs of proceedings under this Act to such person or persons within such time or times Incoming Official Administrator may move for an order for delivery of goods and chattels &c.

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and subject to such terms and conditions as to the Court shall seem fit and generally to make such order in the premises as to it shall seem fit and every such order shall be enforced as an Order of the Supreme Court in a matter pending before it.

Act to have retrospective operation.

XII. This Act shall have retrospective operation and shall be construed as applying to all persons who may have been at any time heretofore official administrators and to the executors of deceased official administrators as effectually as if retrospective words had been used throughout this Act except where the sense shall otherwise require it.