

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

*House of Representatives,
10th September, 1891.*

AS REPORTED FROM THE COMMITTEE OF THE WHOLE COUNCIL.

Hon. Mr. Ballance.

PUBLIC TRUST OFFICE ACTS AMENDMENT.

ANALYSIS.

- | | |
|---|--|
| <p>Title.</p> <p>1. Short Title.</p> <p>2. Interpretation.</p> <p>AMENDMENT OF EXISTING LAW.</p> <p>3. Repeal of section 5 of the Act of 1872. Trustee to hold office at pleasure.</p> <p>4. Powers, &c., of Deputy Public Trustee. Validation of certain acts done by Deputy Public Trustee.</p> <p>PROVISIONS RESPECTING INTESTATE ESTATES.</p> <p>5. Payment of claims against intestate estates and distribution of residuc may be made within twelve months in certain cases.</p> <p>6. Consular officer in the colony to receive residuc for residents in foreign States.</p> <p>7. Priorities of certain claims.</p> <p>8. Trustee may administer property under £250 in value without order.</p> <p>9. Where next of kin cannot be found, Trustee may pay residuc of estate to widow.</p> <p>INVESTMENT OF GENERAL FUNDS.</p> <p>10. Securities in which moneys may be invested where no special direction given.</p> | <p>11. All moneys to form common fund for investment, where no special direction given for investment. Rate of interest allowed to respective estates.</p> <p>12. If common fund insufficient to meet claims Colonial Treasurer to make up deficiency.</p> <p>13. Guarantee-charge.</p> <p>14. If moneys directed to be invested specially estate not entitled to protection of this Act. Saving.</p> <p>SHARES IN COMPANIES.</p> <p>15. Trustee may be transferee of shares under "The Companies Act, 1882." How Trustee to hold shares. Shares held by R. C. Hamerton to be transferred by him. Meaning of "company."</p> <p>GENERAL PROVISIONS.</p> <p>16. Receiver to pay moneys into Public Trustee's Account.</p> <p>17. Regulations may be made for additional purposes.</p> <p>18. Public Trust Office may purchase land for business purposes.</p> <p>19. Repeal.</p> |
|---|--|

A BILL INTITULED

AN ACT to amend the Acts relating to the Public Trust Office. Title.

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

5 1. The Short Title of this Act is "The Public Trust Office Acts Amendment Act, 1891." Short Title.

2. In this Act, if not inconsistent with the context,-- Interpretation.

"Trustee" means the Public Trustee, constituted a corporation sole under "The Public Trust Office Act, 1872," and the Acts amending the same.

10

AMENDMENT OF EXISTING LAW.

3. The *fifth* section of "The Public Trust Office Act, 1872," is hereby repealed, and any person hereafter appointed to be Trustee shall hold office during pleasure, and on the same terms and conditions as officers in the ordinary Civil Service of the colony. Repeal of section 5 of the Act of 1872. Trustee to hold office at pleasure.

Powers, &c. of
Deputy Public
Trustee.

4. Any Deputy Public Trustee, whether appointed before or after the passing of this Act, shall and may, in case of any vacancy in the office of Trustee by death, resignation, or removal from office, and in any other case in which a Deputy Public Trustee is required or allowed by law to act for the Trustee, exercise all the powers and perform all the duties and functions of the Trustee, whether under "The Public Trust Office Act, 1872," and its amendments, or under any other statute or law relating to such powers, duties, or functions, in his own name, as such Deputy; and no person shall be concerned to inquire whether any occasion has arisen requiring or authorising the Deputy Public Trustee to act as such Deputy. 5 10

Validation of
certain acts done
by Deputy Public
Trustee.

The foregoing provisions of this section shall apply to the Deputy Public Trustee in office on the twenty-sixth day of August last, and every act, matter, or thing done or suffered by such Deputy Public Trustee in virtue of his office after the date aforesaid and before the passing of this Act, whether in his own name or in the name of the person formerly holding the office of Trustee, shall be and be deemed to have been valid and effectual to all intents and purposes, and notwithstanding the resignation of the Trustee on the date aforesaid. 15 20

PROVISIONS RESPECTING INTESTATE ESTATES.

Payment of claims
against intestate
estates, and distri-
bution of residue
may be made within
twelve months in
certain cases.

5. When an intestate estate is under administration, and such administration could be properly closed in a less time than twelve months but for the existing law, the Trustee, after giving *such* notice as a Judge may direct in two newspapers at least published or circulating in every county, borough, or other district where the deceased intestate last resided or carried on business requiring creditors and others to send in to the Trustee their claims against the said estate, shall, at the expiration of the time limited in such notice, being not less than *two* calendar months from the first publication thereof, be at liberty to distribute the assets of the intestate or any part thereof amongst the parties entitled thereto, having regard to the claims of which the Trustee has then notice, and he shall not be liable for the assets or any part thereof so distributed to any person of whose claims he shall not have had notice at the time of distribution of the said assets or a part thereof as the case may be; but this provision shall not prejudice the rights of any subsequent claimant to establish his right to receive payment from the person or persons who shall have been paid distributive shares or the whole residue of the estate by the Trustee : 25 30 35 40

Provided that, if any such estate shall be of less value than fifty pounds, it may be distributed and dealt with without giving any such notice in two newspapers as aforesaid.

Consular officer in
the colony to
receive residue for
residents in foreign
States.

6. The chief consular officer in New Zealand representing any foreign country may, with the sanction of Her Majesty or a principal Secretary of State of the United Kingdom to be signified to the Governor, be nominated for the purpose of receiving any residue of any intestate estate which shall properly come or belong to the next of kin (of any deceased intestate) resident within the jurisdiction of such foreign country; and on such nomination being notified in the *Gazette* such residue may be paid to such consular officer, and his 45 50

receipt for all moneys so paid to him shall be a sufficient discharge to the Trustee.

7. Whenever any testate or intestate estate is insufficient to pay the claims made thereon in full, and no recourse shall have been had to the provisions of "The Administration Act 1879 Amendment Act, 1888," the said estate shall be distributed according to the following priorities, namely:—

Priorities of certain claims.

- (1.) In payment of all authorised and legal charges attending the due administration of the estate;
- (2.) In payment of funeral charges proportioned to the position of deceased in his lifetime;—, and of medical charges not exceeding three months next before death of the deceased.

Struck out.

- (3.) In payment of all wages or salary of any clerk or servant in the employment of the deceased at the date of his death, and not exceeding three months' wages or salary then immediately preceding accrued due, and not exceeding one hundred pounds;
- (4.) In payment of all wages of any artisan, labourer, or workman, whether skilled or unskilled, in the employment of the deceased at the date of his death, and not exceeding three continuous months' wages at current rates;
- (5.) In payment of all wages of any artisan, labourer, or workman, whether skilled or unskilled, in the employment of the deceased, at piecework, at the date of his death, and not exceeding the amount earned at such piecework in the three months preceding the death of the deceased;
- (6.) And the balance shall be applied in or towards payment of all other lawful claims, including any wages or salary in excess of those hereinbefore stated, *pro rata*.

If the estate prove insufficient to pay the classes numbered three, four, and five in full, then they shall be abated proportionately amongst themselves.

The balance of the estate shall be applied and distributed in accordance with the law and practice for the time being in force with respect to the estate of a bankrupt, and any surplus shall be applied in terms of the will, or the law relating to intestate estates.

8. The Trustee shall not be obliged to obtain an order of the Court to administer any intestate estate, unless the property to be administered shall exceed the estimated value of *two hundred and fifty* pounds, and the Trustee may administer any estate when the property to be administered shall not exceed the estimated value of *two hundred and fifty* pounds without any such order as aforesaid; and such estate shall be deemed to be placed in the Public Trust Office whenever the Trustee elects to administer the same, without an order.

Trustee may administer property under £250 in value without order.

If at any time after commencing to administer any estate under this section, the property to be administered shall be found to exceed the value of *two hundred and fifty* pounds, the Trustee shall, as soon as practicable thereafter, file in the Supreme Court a memorandum under his hand stating the fact, and proceed in the ordinary manner to obtain an order for the administration of the estate.

9. Whenever the next of kin of any deceased intestate shall be unknown, and no person shall be known to the Trustee to have taken proceedings to establish a right as next of kin to any portion of the

Where next of kin cannot be found Trustee may pay residue of estate to widow.

estate of the said deceased intestate for *three* years next after his death, and such intestate shall have left a widow who shall be then living, the Trustee may at the expiration of such period pay over to the said widow, and whether or not she shall have again married, the residue of such estate, and her receipt shall be a sufficient discharge. 5

But this provision shall not prejudice the right of any unknown next of kin to recover and receive the same from such widow, nor entitle any next of kin of the said widow if she shall die before becoming so entitled to receive the same in her right. 10

INVESTMENT OF GENERAL FUNDS.

10. If by the statute or instrument by or under which any moneys forming or accruing from any property which has heretofore been, or which may hereafter be, placed in the Public Trust Office, no direction is given for the investment of such moneys, 15 or no direction for such investment other than generally at the option of the Trustee, in Government securities in New Zealand, or upon mortgage of real estate within the colony, or to the like effect, the Trustee may, with the approval of the Board, invest such moneys or any part thereof in any of the securities hereinafter men- 20 tioned, namely:—

- (1.) In the Government securities of the United Kingdom, or of any colony or dependency thereof, issued under the authority of the Parliament or other legislative authority of the said kingdom, colony, or dependency respectively, and 25 secured upon the public revenues thereof;
- (2.) In debentures issued or mortgages executed by any local authority within the colony, under any law now or hereafter in force, secured upon general or special rates, or upon real estate within the colony held in fee-simple, to an 30 amount not exceeding one-half of the estimated value of such estate, according to a valuation approved by the Board;
- (3.) In advances by way of mortgage on the security of any real estate held in fee-simple within the colony and free from 35 all encumbrances, to an amount not exceeding one-half of the estimated value of such estate, according to a valuation approved by the Board;
- (4.) In fixed deposits in any bank of issue created or established by or under any Act of the General Assembly, or by Royal 40 Charter, or in the Post Office Savings-Bank or other savings-bank established in New Zealand in accordance with any law affecting such banks.

11. All moneys in the Public Trustee's Account, from whatever property arising, and for the investment of which no direction is 45 given by or under the statute or instrument by which such property has heretofore been or may hereafter be placed in the Public Trust Office otherwise than as hereinbefore mentioned, shall, for the purposes of investment, become one common fund, and the investments made from such fund shall not be made on account of or belong to any 50 particular property, unless the Governor in Council shall otherwise

Securities in which moneys may be invested where no special direction given.

All moneys to form common fund for investment where no special direction given for investment.

direct as to any particular property which he has placed or may hereafter place in the Public Trust Office.

5 The interest payable to the respective properties, the moneys of which shall form such common fund, shall be at a rate to be from time to time determined by the Governor in Council, and such rate of interest shall be credited to such properties quarterly, namely, on the first day of January, on the first day of April, on the first day of July, and on the first day of October in each year: Provided that on the moneys arising from one property no rate shall be allowed higher than five pounds per centum per annum ~~on an amount not exceeding three thousand pounds, or higher than four pounds per centum per annum on any amount in excess of three thousand pounds.~~

Rate of interest allowed to respective estates.

12. If at any time the common fund of the Public Trustee's Account shall be insufficient to meet the lawful claims of any property the moneys of which shall have formed part of such fund, it shall be the duty of the Colonial Treasurer from time to time to pay such sums out of the Consolidated Fund as may be necessary to meet any deficiency in such common fund.

If common fund insufficient to meet claims Colonial Treasurer to make up deficiency.

13. A guarantee-charge not exceeding one-half of one per centum per annum, may be made on money invested in mortgages of real estate held in fee-simple, and the amount of such charge shall be deducted and retained by the Trustee out of the interest to be collected from the mortgagors.

Guarantee-charge.

Struck out.

14. If by the statute or instrument by or under which any property has heretofore been or may hereafter be placed in the Public Trust Office it is directed that any moneys forming such property or accruing therefrom may be invested in any securities other than those mentioned in the subsections to section ten of this Act, the Trustee may, with the approval of the Board, make such investments accordingly; and if such statute or instrument shall restrict or limit the investment of any moneys affected thereby to any locality, value, or extent, or to any particular mode of investment other than generally at the option of the Trustee, in Government securities in New Zealand, or upon mortgage of real estate within the colony, or to the like effect, then the restriction or limitation shall be observed, notwithstanding the foregoing provisions; but such investments shall not be entitled to the protection afforded by this Act, and any loss or deficiency in respect of any such property, or the money received therefrom or realised thereby, shall be borne by the estate to which such moneys belong, or if received or realised would belong.

New clause.

14. If the statute or instrument by or under which any property has heretofore been or may hereafter be placed in the Public Trust Office shall contain any direction that any moneys forming such property, or accruing therefrom, shall be invested in any securities other than those mentioned in the subsections to section ten of this Act, or that such moneys shall be invested otherwise than generally at the option of the Trustee in Government securities in New Zealand, or upon mortgage of real estate within the colony, or to the like effect, the Trustee may, with the approval of the Board, invest such moneys accordingly; but such investments shall not be entitled to the protection afforded by this Act, and any loss or deficiency in respect of any such investments, or of the money received therefrom, or realised thereby, shall be borne by the property to which such moneys belong, or if received and realised would belong.

If moneys directed to be invested specially, estate not entitled to protection of this Act.

Saving.

Nothing in this Act shall be deemed to exempt the Trustee or any other person from any liability imposed upon him by or under the Acts relating to the Public Trust Office, or any of them.

SHARES IN COMPANIES.

5

Trustee may be transferee of shares under "The Companies Act, 1882."

15. Notwithstanding anything contained in section forty of "The Companies Act, 1882," every company registered under the said Act is hereby required to take notice of the Trustee by his corporate name, and every transfer from time to time made to the Trustee, and every devolution of shares in any such company coming to and vested in the Trustee by any deed, will, order, decree, or other instrument in writing shall be registered on presentation in manner and form and at the times prescribed by the said Act or the Articles of Association of any company for the registration of change of ownership of shares to or by any person.

10

15

How Trustee to hold shares.

The Trustee in his corporate capacity shall thenceforth be liable to every company in which he shall be registered as a shareholder in respect of the estate only for which he shall hold the said shares in trust to the extent and in the same manner and for all purposes as if he had been a person holding the same shares as such person would have been, and such estate shall be under the same liabilities as it would have been if it had belonged absolutely at the time of any such registration to one individual.

20

Shares held by R. C. Hamerton to be transferred by him.

All shares in any company registered as aforesaid now held by Robert Chisenhall Hamerton in his own name but in reality by him as Public Trustee shall be forthwith transferred by him to the Trustee for the purpose of enabling such registration to be effected, and every such transfer shall be exempt from stamp duty.

25

The cost of registering every such transfer, and the other incidental charges attaching thereto, shall be paid out of the Office Expenses Account of the Public Trust Office and not out of any estate to which the shares respectively may belong.

30

Meaning of "company."

The word "company" wherever used in this section shall extend to and include every company and corporate body now or hereafter incorporated by or registered under any public, local, or private Act of the General Assembly of New Zealand, or by Royal Charter, so far as the same can operate in each case; and all other provisions of this section shall, *mutatis mutandis*, extend and apply to every such company accordingly.

35

GENERAL PROVISIONS.

40

Receiver to pay moneys into Public Trustee's Account.

16. Every person into whose hands or under whose control any moneys shall come being part of or accruing out of property now or hereafter placed in the Public Trust Office, or payable to the Trustee by virtue of his office, shall pay all such moneys to the Public Trustee's Account as soon as practicable after their receipt.

45

It shall, notwithstanding, be lawful for any officer or agent of the Trustee, to pay out of any balances in his hands any claims upon the Public Trust Office which he shall be directed by the Trustee to pay.

17. The power to make, alter, or revoke regulations conferred by "The Public Trust Office Act, 1872," shall include power to make regulations for,—

Regulations may be made for additional purposes.

5 (1.) The custody of the moneys in the Public Trustee's Account, and the payment of moneys to or withdrawal of moneys from such account, and the mode of keeping and auditing that account, and any other account that may be deemed necessary in the business of the Public Trust Office ;

10 (2.) Fixing scales of the fees and charges to be allowed to any solicitor employed by the Trustee for his services to the Public Trust Office, or any property now or hereafter placed therein ;

15 (3.) Any object or purpose that may be deemed necessary for the efficient administration of the Acts relating to the Public Trust Office or any of them, and for carrying the provisions thereof, or any of them, into effect.

18. The ~~Public Trust Office~~ Queen shall have power to purchase any freehold lands, and erect buildings thereon, for the purpose of being wholly or partly occupied for the business of the office.

Public Trust Office may purchase land for business premises.

20 19. Sections five, six, thirty-two, thirty-three, thirty-four, and thirty-eight of "The Public Trust Office Act, 1872," and sections eight, twelve, fifteen, sixteen, seventeen, twenty-six, twenty-eight, and forty-seven of "The Public Trust Office Act Amendment Act, 1873," are hereby repealed.

Repeal.