

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,
19th July, 1907.

94

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Rt. Hon. Sir J. G. Ward.

PUBLIC TRUST OFFICE AMENDMENT.

ANALYSIS.	
1. Short Title.	3. Outgoings to be a first charge on property.
2. Powers of Public Trustee in respect to uncared-for property.	4. Public Trustee to advertise notice of intention to act.

A BILL INTITULED

AN ACT to amend the Public Trust Office Consolidation Act, 1894. Title.

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

1. This Act may be cited as the Public Trust Office Amendment Act, 1907, and shall form part of and be read together with the Public Trust Office Consolidation Act, 1894. Short Title.

10 *Struck out.*

2. Where the owner of any real or personal property is absent from New Zealand, or his whereabouts are unknown, and such owner has left no one in charge of such property, the Public Trustee may take possession thereof, and do all acts and things which in his opinion are necessary for the maintenance and preservation thereof, and may,—

Powers of Public Trustee in respect to uncared-for property.

- (a.) Repair or insure against fire or accident any such property :
- (b.) Pay rates, taxes, assessments, insurance premiums, and other outgoings relating thereto :
- 20 (c.) Bring any action, suit, or other proceeding against any person damaging such property or trespassing thereon :
- (d.) Take criminal proceedings touching or concerning such property ; and for the purpose of such proceedings the property shall be deemed to be the property of the Public Trustee :
- 25 (e.) Sell live-stock or perishable goods by public auction, public tender, or private contract :
- (f.) Lease any lands or houses for any term not exceeding one year :
- (g.) Demand, sue for, and take possession of any title-deeds or other documents relating to such property :
- 30 (h.) Apply moneys arising from the property, whether income or capital, in or towards the maintenance, education, or

advancement of any person of whom the absent owner is a "near relative," as defined by the Destitute Persons Act, 1894 :

- (i.) Do all such acts and things and execute all instruments necessary to carry into effect the powers and authorities hereby given. 5

3. All moneys expended by the Public Trustee under the powers conferred upon him by this Act shall be a first charge upon the real and personal estate dealt with by him, and until repayment shall bear interest not exceeding five pounds per centum per annum. 10

4. On taking possession of any property under this Act the Public Trustee shall insert a notice in the *Gazette*, and in some newspaper circulating in the district in which the property is, stating his intention to exercise the powers conferred on him by this Act, and calling upon the owner of the property within three months after the gazetting of the notice to establish his title to the property to the satisfaction of the Public Trustee. 15

Outgoings to be a first charge on property.

Public Trustee to advertise notice of intention to act.

New clauses.

2. When the owner of any real or personal property is absent from New Zealand, and has no agent in New Zealand with authority to take possession of and administer such property, or when it is not known who the owner of such property is, or when it is not known where he is, or when it is not known whether he is alive or dead, or when he is dead and has left executors or administrators who are dead or whose whereabouts are unknown, a Judge of the Supreme Court may, on the application *ex parte* of the Public Trustee, and on being satisfied that the exercise of the powers hereinafter mentioned is advisable in the interests of the owner of the property or in the interests of any other person, make an order on such terms and conditions as such Judge thinks fit authorising the Public Trustee to exercise in respect of such property all or any of the following powers, that is to say :— 20

- (a.) To take possession of the said property :
- (b.) To bring any action or other proceeding relating to the said property, and to defend, confess, or submit to judgment in any or all actions, claims, demands, and proceedings touching such property : 25
- (c.) To sell the said property or any part thereof :
- (d.) To lease the said property or any part thereof for a term not exceeding twenty-one years : 30
- (e.) To receive, sue for, and recover any moneys owing to the owner of the said property : 40
- (f.) To insure any buildings or goods against loss by fire :
- (g.) To pay rates, taxes, and other outgoings payable in respect of such property : 45
- (h.) To pay, out of moneys received by him in the exercise of any of the foregoing powers, any debts owing by the owner of the said property :
- (i.) To apply moneys received by him in the exercise of any of the foregoing powers in the maintenance of the wife, husband, or children of the owner of the said property : 50

Powers of Public Trustee in respect to uncared-for property.

(j.) To execute in his own name and on behalf of the said owner all deeds and other instruments which may be necessary for any of the purposes aforesaid.

5 3. All expenses incurred by the Public Trustee in the execution of the powers conferred on him by this Act shall be a charge upon the said property, and shall bear interest at *five* per centum per annum, and such charge shall come next in priority to any mortgage or charge to which the said property is subject when he takes possession of the same.

Expenses incurred by Public Trustee to be a charge upon property.

10 4. On taking possession of any property under this Act the Public Trustee shall publish in the *Gazette*, and in some newspaper circulating in the district in which the property is situated, a notice of his intention to exercise the powers conferred on him by virtue of this Act.

Public Trustee to advertise notice of intention to act.

15 5. All moneys received by the Public Trustee in the exercise of the powers conferred on him by virtue of this Act shall, after payment thereof of all moneys authorised to be expended by him, be held by him in trust for the owner of the said property.

Moneys to be held in trust for owner.

20 6. In respect of any lease, sale, or other disposition of the said property made by the Public Trustee in pursuance of this Act, the Public Trustee shall have the same powers as if he were the owner of the said land, and all deeds and other documents executed by him in pursuance of this Act shall be registered, and have effect in all respects as if executed by the owner of the said property.

Powers of Public Trustee as to sale or lease of land.

25 7. The owner of any property in respect of which any order has been so made, or any person having any interest in the said property or in any part thereof, may at any time after the making of the order, on notice to the Public Trustee, make application to a Judge of the Supreme Court to rescind the said order, and the same may thereupon
30 be rescinded accordingly on such terms as the Judge thinks fit; but no such rescission shall affect any charge acquired by the Public Trustee under this Act, or the validity of any Act or thing done by the Public Trustee during the continuance of the said order and in pursuance thereof.

Rescission of order on application of owner, &c.

35 8. No order made under this Act, and nothing done in pursuance of any such order, shall be or become invalid or inoperative merely because it has been made or done under a mistake of fact, or because the owner of the property is dead at the time when the order is made or has died since the making thereof, or because of any dis-
40 position of the said property made by the owner thereof during the subsistence of the order.

Order not affected by mistake of fact.