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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,
2nd August, 1872.*

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

* * * The new matter is shown either by an underline or by italics.

(Hon. Mr. Vogel.)

Public Trust Office.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Public Trust Office. 4. Governor to appoint Public Trustees. 5. Office held during good behaviour. 6. Governor may suspend Public Trustee temporarily. 7. Deputy Public Trustee. 8. Public Trustee not to have seat in Parliament. 9. Public Trustee a Corporation sole. Common Seal. 10. Governor may appoint other officers. 11. Salary of Public Trustee and of other officers. 12. Officers to find security. 13. Regulations. 14. In cases of doubt, Board to decide. 15. Public trust property may be placed in Public Trust Office. 16. Or removed therefrom. 17. Private trust property may be placed in Public Trust Office. Also securities of friendly and other societies. 18. Board to decide whether private property shall be placed in Public Trust Office. 19. Public Trustee to give notice when any will finally accepted or rejected. Or when any other deed accepted, or rejected. Notice to be given to governing body of Societies. If rejected, powers null and void. 20. Testator may deposit will. 21. Supreme Court may appoint Public Trustee to be Trustee, Guardian, or Committee. 22. Property to be managed by Public Trustee, subject to this Act. 23. Powers of Public Trustee over private trusts may be revoked as in ordinary cases. 24. Landed property only disposed of by the Board and under Seal. 25. Board to direct how moneys to be invested.</p>	<p>26. Public Trustee not to invest moneys without approval of Board. 27. Title-deeds and securities to be kept as the Governor directs. 28. Case may be referred to Supreme Court on petition. 29. Supreme Court may make final orders thereon. 30. Judges to make rules. 31. Trustee Relief Act to apply. 32. Money to be paid to "Public Trustee's Account" in Bank. 33. Bank to send pass-book to Auditor daily. 34. Public Trustee to send cash-book to Commissioners of Audit daily. 35. Public Trustee to give notice to Commissioner of Audit of agreements by which money is payable to Public Trustee's Account. 36. Colonial Treasurer to recover deficiency from Public Trustee or other officer. 37. Money in Public Trustee's Account, property of the Crown. 38. Public Trust Office Expenses Account. Accounts of each separate property. 39. Expenses of office and of managing properties and profits to be paid out of Public Trustee's Account. 40. Deficiency in Public Trust Office Expenses Account to be advanced out of Consolidated Fund. Excess to be paid into Consolidated Fund. 41. Auditor to send Public Trustee's accounts to persons concerned. 42. Yearly balance sheet. 43. Liability of Public Trustee and others. Losses failing to be made good by Public Trustee or others to be paid out of revenue of Colony. 44. Colonial Treasurer to have access to papers in Public Trust Office. 45. Auditors same powers as under Public Revenues Act.</p>
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A BILL INTITULED

AN ACT to establish a Public Trust Office.

Title.

WHEREAS it is expedient to make provision for the custody and management of certain property held in trust within the Colony of New Zealand:

Preamble.

BE IT THEREFORE 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 is "The Public Trust Office Act, 1872."

Short Title.

2. The word "property" in this Act means every kind of property both real and personal, and includes all income and proceeds accruing therefrom, and every interest therein.

Interpretation.

When any notice in writing is required by this Act to be given by the Public Trustee, it shall be sufficient if such notice be posted in a registered letter addressed to the last known address of the person to whom such notice is to be given.

Public Trust Office.

3. There shall be an office called the Public Trust Office, administered by an officer called the Public Trustee, ~~who shall be appointed and may be removed from office by the Governor in Council who shall be~~ 5
appointed by the Governor, in the name and on behalf of Her Majesty.

Governor to appoint Public Trustees.

4. The Governor in Council may from time to time, in the case of the death resignation or removal of the Public Trustee, in like manner appoint some other fit and proper person in his stead.

Office held during good behaviour.

5. The Public Trustee shall hold his office during good behaviour, 10
and shall be removable therefrom by the Governor in the name and on behalf of Her Majesty, upon an address from both Houses of the General Assembly praying for such removal.

Provided however that the Public Trustee shall not, by reason of holding his office during good behaviour, be deemed exempt from 15
removal from office on such address as aforesaid, if it should be made to appear that the holder of such office is not qualified for the same, or that such office may with advantage to the public service be filled with some other person.

Provided further that no person holding the office of Public Trustee 20
shall, if removed therefrom, be deemed by reason of such office being tenable during good behaviour to have any other or greater claim for compensation than if such office were tenable during pleasure, or under the same terms and conditions as officers in the ordinary Civil Service of the Colony. 25

Governor may suspend Public Trustee temporarily.

6. It shall be lawful for the Governor in Council, at any time when the General Assembly shall not be in session, to suspend from his office the Public Trustee, and such suspension, unless sooner revoked by the Governor in Council, shall continue in force until the end of the then next Session of the General Assembly: 30
Provided that such suspension shall not affect the right of the Public Trustee to receive, during the continuance of such suspension, the salary appropriated to his office.

Deputy Public Trustee.

7. In case of the illness suspension or absence from duty of the Public Trustee, the Governor may appoint some person to act as the 35
Deputy of such Public Trustee, and every such Deputy shall, during the time that he shall act as such Deputy, have all the powers and perform all the duties of the Public Trustee, and shall receive such remuneration as the Governor in Council shall determine, not exceeding the amount of salary which the Public Trustee is entitled by law to 40
receive.

Public Trustee not to have seat in Parliament.

8. 5. The Public Trustee shall be incapable of having a seat in the Executive Council, or in either House of the General Assembly, or of holding the office of Superintendent, or of having a seat in any Provincial or County Council, or of entering into any contract with 45
the General or any Provincial Government for any gain or profit, or of engaging in any trade or business except as a shareholder in any public company, or of becoming the trustee *guardian committee administrator* executor agent or attorney of any person or persons in respect of any property other than as provided by this Act. 50

Public Trustee a Corporation sole. Common Seal.

9. 4. The Public Trustee is hereby constituted a Corporation sole for the purpose of this Act, with perpetual succession and a seal of office, which shall be kept and used by the Public Trustee only.

Governor may appoint other officers.

10. 6. The Governor may from time to time appoint such officers

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and servants in the Public Trust Office as may be necessary for the custody and management of the property placed therein, and such officers and servants shall hold their several offices at the Governor's pleasure.

11. 7. The salary of the Public Trustee and of the other officers and servants in the Public Trust Office shall be such as shall be fixed by the General Assembly.

Salary of Public Trustee. And of other officers.

12. 8. The Public Trustee and any other officer or servant in the Public Trust Office shall give security for the faithful discharge of the duties of his office, in such form by such sureties and to such amount as the Governor directs.

Officers to find security.

13. 9. The Governor may by Order in Council make and from time to time revoke or alter regulations for the conduct of the business in the Public Trust Office, and for determining the duties of the officers and servants employed therein, and for the custody of the property placed therein, and for fixing scales of charges upon such property for the cost of managing the same, and for the receipt and payment of moneys belonging to or accruing from such property, and for keeping rendering and auditing accounts of such moneys, and for directing in what Bank the same shall be kept, and for determining what part of and in what securities such moneys shall be invested, and for the safe custody of such securities: Provided that no such regulation shall be repugnant to any of the provisions of this Act.

Regulations.

14. 10. When any doubt arises in the administration of this Act, or the Regulations aforesaid, or the Orders in Council hereinafter mentioned, or as to the powers or duties of the Public Trustee, or any other person thereunder, the determination of the Board Colonial Treasurer, (with the advice of the Attorney-General but not otherwise) shall absolutely determine the same be binding on and be obeyed by the Public Trustee and every officer in the Public Trust Office; and the Public Trustee and every such officer shall be indemnified, out of moneys to be appropriated by the General Assembly for the purpose, for and against all actions or other legal proceedings for money or otherwise which may be brought or taken against him by reason of any act or thing done or omitted by him under the direction of the Board.

In cases of doubt, Board to decide.

15. 11. The Governor may by Order in Council place in the Public Trust Office any property held in trust for the benefit of private persons or public bodies or communities by the Crown or by the Governor or by officers or trustees appointed by the Governor, in virtue of any Act in that behalf; and from and after the date of any such Order in Council the property to which it relates shall become vested in the Public Trustee, subject to the trusts attaching thereto and to the provisions of this Act for the custody disposal or management thereof, and every such Order in Council shall define the nature and extent of the powers intended thereby to be vested in the Public Trustee in respect to the property to which such Order relates; and when any such property is placed in the Public Trust Office, all the duties powers and responsibilities of the officers trustees or other persons theretofore holding or administering the same shall cease, and such officers trustees or other persons shall forthwith hand over to the Public Trustee all deeds papers and moneys belonging to or relating to such property.

Public trust property may be placed in Public Trust Office.

16. 12. The Governor may by Order in Council revoke any former Order in Council placing any property in the Public Trust Office, and may by any such Order revoke or alter the powers vested in the Public Trustee in respect to any such property.

Or removed therefrom.

17. 13. Any private person, public or other company or association, or charitable or other public body within or without the Colony of New Zealand may, subject to the provisions of this Act, place any property belonging to or vested in him or them, or within his or their lawful custody or control, in the Public Trust Office, by deed or will conveying

Private trust property may be placed in Public Trust Office.

devising or otherwise vesting such property to the Public Trustee *alone*, upon the trust and for the uses and with the powers in such deed or will expressed, and defining the nature and extent of the powers intended to be vested in the Public Trustee in respect of such property :

Also securities of friendly and other societies.

Any building or land society, and any society established under the Acts relating to friendly societies, may by the rules or regulations of such society provide that the property of such society or any part *thereof* shall be placed in the Public Trust Office, and by such rules or regulations define the trusts and uses upon or for which the Public Trustee is to hold such property, and the powers he is to exercise with regard thereto, and in such case the Committee or other governing body of such society shall obey such rules or regulations, and by an instrument in writing convey such property to the Public Trustee upon the trust and for the uses and with the powers in such instrument expressed, and defining the nature and extent of such powers intended to be invested in the Public Trustee in respect of such property.

Provided that nothing in this section shall be deemed to give any such person company or body any further powers of disposing of any such property, or of creating any further powers thereover, or of attaching any other trusts thereto, than he or they might have exercised without this Act.

Board to decide whether private property shall be placed in Public Trust Office.

18. 14. Upon the receipt of any such deed or will or instrument the Public Trustee shall forthwith refer the same to a Board, consisting of the Colonial Treasurer, the Government Annuities Commissioner, the Attorney-General, the *Auditor Commissioners of Audit*, and the Public Trustee, of whom three shall be a quorum, and which is hereinafter called "the Board;" and if the Board is of opinion that the property intended to be conveyed and the powers intended to be created are duly conveyed and created thereby, and that the property therein referred to may be administered by the Public Trustee in accordance with the conditions of the said deed or will or instrument, with due regard to the public service and to the objects and provisions of this Act, the Public Trustee, being so instructed by the Board, shall indorse thereon a statement of the acceptance thereof. But if the Board shall be of the contrary opinion, then the Public Trustee, being so instructed by the Board, shall indorse thereon a statement of the rejection thereof.

No will shall be finally accepted until after the death of the testator, but any person may during his life request that his will may be provisionally accepted, and in such case the Board may thereupon consider the same, and the same may, if not rejected, be provisionally accepted by the Board; but notwithstanding that a will be provisionally accepted, the same may upon the death of the testator be rejected, if the Board shall be of opinion that on account of the value of the property or other circumstances of the case having altered such will ought not to be accepted.

No deed will or other instrument shall be accepted in or by which the property is conveyed devised or vested in any person jointly with the Public Trustee.

~~15. When any deed or any will in which any executor is appointed other than the Public Trustee is accepted, the Public Trustee shall forthwith send a written notice thereof to each person executing such deed or appointed executor under such will, as the case may be; and when any such deed or will is rejected, the Public Trustee shall forthwith send the same to any person executing such deed, or to any executor under such will, as the case may be; and when a will is rejected in which no executor other than the Public Trustee is appointed, the Public Trustee shall forthwith publish a notice thereof in the New Zealand Gazette and in~~

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~~one or more newspapers, and shall give such will to any person legally entitled to demand the same; and when any~~

Public Trustee to give notice when any will finally accepted or rejected.

19. When any will is accepted otherwise than provisionally, or is rejected after the death of the testator, the Public Trustee shall forthwith publish a notice thereof in the *New Zealand Gazette*, and in one or more newspapers, and shall, if rejected, deliver the will to any person legally entitled to demand the same; and when any will is provisionally accepted, the Public Trustee shall forthwith send notice thereof to the Testator.

10 When any deed or instrument other than a will is accepted, the Public Trustee shall forthwith send a written notice thereof to each person executing such deed.

Or when any other deed accepted.

When any deed or instrument other than a will is rejected, the Public Trustee shall forthwith send written notice thereof to each person executing such deed, and shall return such deed to the person from whom the same was received by the Board.

Or rejected.

When any such instrument as aforesaid by or on the part of any building friendly or other society is accepted or rejected, notification thereof shall be sent to the governing body of such society.

Notice to be given to governing body of societies.

20 16. When any deed or will or such instrument as aforesaid is rejected by the Public Trustee, such rejection shall, to all intents and purposes, have the effect of a disclaimer by deed by the Public Trustee of the grant devise or power made or given thereby respectively, and of the office of trustee or *Agent executor* under the same respectively, and of all and singular the trusts powers authorities rights and privileges whatsoever under such deed will or other instrument as the case may be.

If rejected, powers null and void.

20. 17. Any testator may deposit his will in the Public Trust Office for safe custody, but it shall not be deemed to be received within the meaning of the fourteenth section of this Act until the death of such testator; under such Regulations, and upon payment of such fees as the Governor shall from time to time direct; and if any person shall open any such will when sealed up, or shall cause or direct the same to be opened, before the death of the testator, he shall be liable to a penalty of one hundred pounds, to be recovered in a summary way, guilty of a *misdemeanour*.

Testator may deposit will.

If any will deposited for safe custody, and sealed up, bears on the outside thereof or of the wrapper in which it is contained, a notice that the same is to be deemed delivered for acceptance or rejection, then after the death of the testator the Public Trustee may open and deal with the same as if delivered for acceptance or rejection.

21. 18. The Supreme Court may, in any case in which it might appoint a Trustee or Guardian of any property, or a Committee of any lunatic's estate, appoint the Public Trustee to be such Trustee or Guardian or Committee: Provided that before such appointment be made, the proposal to make such appointment shall be submitted to and approved of by the Board; and upon such appointment being made, the property of which the Public Trustee is appointed to be Trustee, Guardian, or Committee, shall be deemed to be placed in the Public Trust Office without further reference to the Board.

Supreme Court may appoint Public Trustee to be Trustee, Guardian, or Committee.

22. 19. Every property placed in the Public Trust Office shall subject to the provisions of the deed *will or other instrument affecting the same*, be administered by the Public Trustee, and the profits and income accruing therefrom shall be paid or invested, subject to the provisions of this Act and of any Act hereafter to be passed amending the same, and to the Regulations made under the authority thereof and subject to the trusts attached to each such property severally.

Property to be managed by Public Trustee, subject to this Act.

Powers of Public Trustee over private trusts may be revoked as in ordinary cases.

23. 20. The powers of the Public Trustee and of all other persons in respect to any such property shall be liable to be revoked or altered in the same manner and to the same extent only as if an ordinary Trustee, Guardian, or Committee, had been originally appointed in lieu of the Public Trustee under this Act.

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Landed property only disposed of by the Board and under Seal.

24. 21. It shall not be lawful for the Public Trustee to enter into any agreement for the *sale or mortgage or lease for a longer term than one year, or for any other* disposal of any landed property in the Public Trust Office, except by the written approval of the Board; and every instrument for the disposal of such property shall be executed by the Public Trustee, and sealed with the Seal of the Office, in the presence of any two members of the Board who shall witness the same.

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Board to direct how moneys to be invested.

25. 22. The Board may from time to time direct, in accordance with the Regulations above mentioned, in what securities any part of the moneys in the Public Trustee's Account shall be invested, and the Public Trustee shall thereupon make the investment so directed: Provided always that except as otherwise provided by the particular trusts affecting the trust property all such investments shall be made in the Government Securities of New Zealand or the United Kingdom or of any of the Australasian Colonies, including Tasmania, issued under the authority of the Parliament of the said countries respectively in any of which securities as aforesaid such investments are hereby authorized to be made.

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Public Trustee not to invest moneys without approval of Board.

26. 23. It shall not be lawful for the Public Trustee, except by approval of the Board, in writing, to invest any moneys of the Public Trustee's Account in any securities, or to draw any moneys from such Account for the purpose of such investment, nor to sell or otherwise dispose of nor to enter into any agreement for the sale or other disposal of any such securities.

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Title-deeds and securities to be kept as the Governor directs.

27. 24. All title-deeds relating to property in the Public Trust Office, and all securities in which any part thereof is invested, shall be deemed to be in the joint custody of the Colonial Treasurer, the Commissioners of Audit, and the Public Trustee, and shall be kept by them in such place and manner and subject to such Regulations as the Governor in Council directs for the periodical inspection and safe custody thereof.

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Case may be referred to Supreme Court on petition.

28. 25. Upon petition in that behalf presented to the Supreme Court by any member of the Board or by any person showing to the satisfaction of the Court that he has a ~~direct~~ *an* interest in any property for the time being administered by the Public Trustee, the said Court or any Judge thereof shall have power to summon the Public Trustee, and require him to answer the allegations of the petition; and may thereupon, at a hearing to be appointed in that behalf, make such order in relation to the conduct of the Public Trustee as trustee, guardian, or committee, in the matter giving rise to such petition as the said Court shall think fit.

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Supreme Court may make final orders thereon.

29. 26. For the purposes of any such petition, the said Court or any Judge thereof may also order the Public Trustee to produce or to pay and deliver over all money books and documents in his possession control or custody, to any person or persons named in any such order.

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Judges to make rules.

30. 27. Every petition to the Supreme Court presented under the provisions of this Act shall be presented heard and determined, and all proceedings thereunder shall be had and taken, in accordance with such rules of practice and procedure as shall from time to time be framed in that behalf by the Judges of the Supreme Court, or any three of them.

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Trustee Relief Act to apply.

31. 28. The provisions of "The Trustee Relief Act, 1862," shall, so far as the same are not inconsistent with or repugnant to this Act, be

deemed to apply to the Public Trustee appointed under the provisions of this Act.

32. 29. All moneys being part of or accruing out of property placed in the Office of Public Trust, and all moneys received by the Public Trustee or any other person on account of the said Office, shall be paid on the same day on which the same is received into such Bank as the Governor in Council directs, to an account called "The Public Trustee's Account," and no moneys shall be withdrawn therefrom except by cheques signed by the Public Trustee and countersigned by ~~one of~~ the Commissioners of Audit.

Money to be paid to "Public Trustee's Account" in Bank.

33. 30. It shall be the duty of the Bank, at the close of business on each day, to make up the pass-book of the Public Trustee's Account, and to send the same to ~~one of~~ the Commissioners of Audit.

Bank to send pass-book to Commissioners of Audit daily.

34. 31. The Public Trustee shall keep a Cash Account Book, in which shall be entered each day all receipts into and payments out of the Public Trustee's Account in the order in which they severally occur, and at the close of business on each day the Public Trustee shall sign the said book and send it to ~~one of~~ the Commissioners of Audit: And the said Commissioners shall forthwith compare the said book with the Bank pass-book, and if any discrepancy appear which is not explained to ~~his~~ *their* satisfaction, ~~he~~ *they* shall forthwith report thereon to the Colonial Treasurer.

Public Trustee to send cash-book to Commissioners of Audit daily.

35. 32. Whenever the Public Trustee accepts any deed will instrument or appointment as hereinbefore provided, or executes any deed or other agreement, whereby any money becomes payable to the Public Trustee's Account in respect of any property placed in the Public Trust Office, he shall forthwith send a memorial thereof to ~~one of~~ the Commissioners of Audit, setting forth the times at which the persons by whom and the several sums in which such moneys become so payable; and if such Commissioners ascertain that any such moneys are not paid into the Public Trustee's Account when due, and the default therein is not explained to ~~his~~ *their* satisfaction, ~~he~~ *they* shall forthwith report the same to the Colonial Treasurer.

Public Trustee to give notice to Commissioner of Audit of deeds &c. and agreements by which money is payable to Public Trustee's Account.

36. 33. If at any time it appears to the Colonial Treasurer, upon the report of a Commissioner of Audit, that any moneys have been expended by the Public Trustee which he was not authorized so to expend in the proper administration of the properties committed to his trust, or if it appears that any moneys payable into the Public Trustee's Account have been received but have not been paid into such Account, or if there appears to be any deficiency in the balance in such Account, the Colonial Treasurer shall forthwith call on the Public Trustee to make good the deficiency arising in any such manner, and if the Public Trustee shall not forthwith pay the same into the Public Trustee's Account, the Colonial Treasurer shall immediately recover the same as hereinafter provided:

Colonial Treasurer to recover deficiency from Public Trustee or other officer.

Provided that if the Public Trustee shall prove that the said deficiency occurred through the default of some other officer, and without his cognizance or instruction, then the Public Trustee shall not be liable, but the Colonial Treasurer shall recover the said deficiency from the officer so defaulting: Provided also that no salary or other moneys due to the Public Trustee or to such other officer shall be paid until any such deficiency for which such Trustee or other officer is liable shall have been made good.

37. 34. All moneys lying in or payable into the Public Trustee's Account shall be deemed to be property of the Crown for the purposes of this Act, and shall be recoverable from the person by whom the same are payable by action suit or information in the Supreme Court, in like manner as money due to Her Majesty within the Colony.

Money in Public Trustee's Account property of the Crown.

38. 35. The Public Trustee shall keep a separate account, called "The

Public Trust Office Expenses Account.

Public Trust Office *Expenses Account*," which he shall charge with all salaries and other expenses incurred in the general management of the Public Trust Office, and shall credit with the sums payable out of the several properties in the Public Trust Office for the cost of managing the same, and with all fees and other moneys paid into the Public Trustee's Account but not belonging to or forming part of any such property. 5
And he shall keep a separate and detailed account of the receipts and payments made on account of each separate property in the Public Trust Office, and of all moneys invested on account of each such property. 10

Accounts of each separate property.

Expenses of office and managing properties and profits to be paid out of Public Trustee's Account.

39. 36. The Public Trustee shall pay out of the Public Trustees' Account all such salaries and other expenses in the general service of the Public Trust Office as he shall be authorized to pay by the Colonial Treasurer, and as shall be by law payable, but not otherwise; and he shall pay out of the same Account all current expenses and charges incident to the management of the properties in the Public Trust Office, and all the net profits and income accruing therefrom to the several persons entitled to receive the same, subject to the provisions of this Act and of the Regulations issued under the authority thereof: 15

Provided that he shall not pay or agree to pay on account of any property in the Public Trust Office, any sum in excess of the amount which is standing in the Public Trustee's Account to the credit of such property. 20

Deficiency in Public Trust Office Expenses Account to be advanced out of Consolidated Fund.

40. 37. If the balance in the Public Trust Office *Expenses Account* is at any time insufficient to meet the charges thereon, the Colonial Treasurer may from time to time advance such sums out of the Consolidated Fund as may be necessary to meet such charges: Provided that the total amount so advanced in any one financial year does not exceed the sum appropriated by Parliament for such purpose, and provided also that all moneys so advanced are repaid by the Public Trustee to the Consolidated Fund so soon as the balance in the Public Trust Office *Expenses Account* admits of such repayment; and if the balance in the Public Trust Office *Expenses Account* is more than sufficient to meet the charges thereon, the Public Trustee shall from time to time, at such times as the Colonial Treasurer shall direct, pay the excess into the Consolidated Fund, and moneys so paid in shall become a part of Her Majesty's Consolidated Revenue. 25 30 35

Excess to be paid into Consolidated Fund.

Auditor to send Public Trustee's accounts to persons concerned.

41. 38. The Public Trustee shall as soon as possible after the close of each quarter ~~of a year after the property is placed in the Trust Office,~~ *of a year ending on the thirty-first day of March, thirtieth day of June, thirtieth day of September, and thirty-first day of December in every year,* submit to ~~one of~~ the Commissioners of Audit the account for the previous year of each property in the Public Trust Office; and at the close of each year *ending on the thirtieth day of June* ~~after such Commissioner has approved the same,~~ the Commissioners shall, *after approving the same,* send the accounts for such year, together with such report thereon as they shall think fit, to the person or persons by whom the property was placed in the Public Trust Office, or to the heirs or assigns of such persons, ~~as the case may be, or the persons beneficially interested therein, as the case may be, or such of them as~~ *the Commissioners think fit.* 40 45 50

Yearly balance sheet.

42. 39. The Public Trustee shall, within twenty days after the close of each financial year, *ending on the thirtieth day of June* prepare a balance sheet showing the whole receipt and expenditure of the Public Trustee's Account during such year, ~~and therein especially the sums paid into drawn out of and remaining due from the Public Trust Fund,~~ and also the sums invested in any securities as provided in this Act, and further showing, under a separate head, the receipt and expenditure of the 55

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Public Trust Office *Expenses* Account, and the advances thereto out of and the repayments into and the balances outstanding due to the Consolidated Fund, and further showing the receipt and expenditure on account of each several property placed in the Public Trust Office by Order in Council, and further showing the aggregate of the receipt and expenditure on account of all properties placed in the Public Trust Office by deed will or appointment or otherwise as hereinbefore provided, but not showing any particulars in respect to each or any of such last-mentioned properties.

10 And the Public Trustee shall send such balance sheet to one of the Commissioners of Audit, who shall forthwith transmit the same, together with such report thereon as ~~he~~ *they* thinks fit, to the Colonial Treasurer, by whom it shall forthwith be laid before the General Assembly if in session, or if not in session, then within ten days after the next meeting thereof.

15 43. Any person suffering any loss in respect of property in the Public Trust Office, through the act or default of the Public Trustee, or of any other person concerned in the management of such property under the authority of this Act, shall have the same remedies at law for the recovery of such loss from the Public Trustee or such other person, and from his or their sureties, under this Act, respectively, as he would have had against a trustee guardian committee or other person concerned in the management of such property if the same had not been in the Public Trust Office; and if any loss so ascertained by law shall fail to be made good by the Public Trustee or such other person or their sureties, or shall have arisen from any act or default of the Public Trustee or such other person acting under any direction or approval of the Board under the authority of this Act, then such loss shall be paid out of the Consolidated Fund out of any moneys appropriated thereto by the General Assembly; and any moneys so paid out of the Consolidated Fund may, unless Parliament shall otherwise direct, be recovered at any time thereafter as a debt due to the Crown by the Public Trustee or such other person or his or their sureties respectively.

Liability of Public Trustee and others.

Losses failing to be made good by Public Trustee or others to be paid out of revenue of Colony.

40 ~~The Public Trustee shall not be liable for any loss which may occur to any property in the Public Trust Office through any act lawfully done by the Public Trustee by virtue of the powers vested in him by this Act or by any Order in Council deed will appointment or otherwise as aforesaid in respect of such property; nor shall such Public Trustee incur any liability by reason of any error in judgment committed in the execution of his trust with respect to any such property. But nothing in this Act shall restrict or annul any rights or remedies which any person would otherwise have, in law or equity, against the Public Trustee or his sureties for the recovery of any loss occurring to any property in the Public Trust Office arising out of the fraud or default or neglect of such Public Trustee in the management or disposal of such property.~~

45 ~~41. In any case where the Public Trustee, acting under or by virtue of this Act, shall, with intent to defraud, convert or appropriate any property vested in him, or of which he may have the control or disposition, to or for his own use or benefit, or for any other purpose other than the purpose for which the same may be vested in him, or if such Public Trustee shall misappropriate any sum or sums of money which shall be vested in or deposited with him, or which may in any manner come to his hands under this Act, and in any case in which any person having suffered any loss in respect of which he has recourse against the Public Trustee or his sureties under the preceding section shall have been unable to recover such loss from or against such Trustee or his sureties, and in any case whatever in which~~

any person has suffered any loss of or in respect of any property placed in the Public Trust Office, and which loss he would, according to the law and practice of the Supreme Court, have been entitled to have made good by the person holding the position of Trustee, Guardian, or Committee of such property, if the Public Trustee has not been appointed Trustee, Guardian, or Committee thereof under this Act, then and in any of the said cases the amount of such moneys or the value of any such property or such loss, as the case may be, shall be made good out of the Consolidated Fund, and be paid out of any moneys which shall from time to time be appropriated for that purpose by the General Assembly; and the same may be recovered by the Attorney General, in the name of the Queen, as a debt due to the Queen by the Public Trustee or other person through whose act neglect or default such moneys have become payable; and if such act neglect or default be that of the Public Trustee, or any person who has given a bond or other security under this Act, then such moneys may be recovered against the sureties, or otherwise enforced against the security given.

Colonial Treasurer to have access to papers in Public Trust Office.

44. 42. The Colonial Treasurer and any officer of the Treasury authorized by him shall have full access to all the accounts documents and papers in the Public Trust Office, and the Public Trustee shall at all times furnish to the Colonial Treasurer all such information as the latter requires.

Auditors same powers as under Public Revenues Act.

45. 43. The Commissioners of Audit shall have, in respect to the Public Trust Office and to all the officers and servants employed therein, all the powers which they possess from time to time in respect to the officers and servants employed in any department of the Government Service.

44. The Public Trustee may be appointed under the twentieth section of "The Intestate Estates Act, 1865," to audit the accounts of all the Curators of Intestate Estates or any of them as the Governor thinks fit.

In addition to the annual account of the dealings by Curators with real estates, and the examination and allowance thereof by a Judge of the Supreme Court, provided for by the thirty third section of the said "Intestate Estates Act, 1865," every Curator shall as to the real estate of each deceased person whose estate he shall have entered upon or managed under the provisions of the said Act, and if the Governor in Council so directs by any general order, make up once in every quarter of a year, on a day to be fixed by the Governor in Council, or oftener if required, for examination and audit by the Public Trustee, an account stating therein in detail the gross receipts and the sums expended under the powers in the said Act in that behalf contained, with explanatory particulars of each item, and such account shall be examined and audited by the Public Trustee, but the passing of such accounts by the Public Trustee shall not prevent such Curator from being liable to any claim which may be made at any time on him in respect of any moneys not accounted for by him.

The Public Trustee may be appointed under the one hundred and forty sixth section of "The Lunatics Act, 1868," to audit the accounts of Registrars and of the estates of lunatics and lunatic patients.

The audit in this section provided for shall be conducted at such time and place and in such manner as shall from time to time be prescribed by regulations made under this Act for the regulation of the Public Trust Offices.