

No. , 1920.

A BILL

To confer additional powers on the Public Trustee; to enable corporations to hold property jointly with the Public Trustee; to amend the Public Trustee Act, 1913, and certain other Acts; and for purposes consequent thereon and incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Public Trustee Short title.
(Amendment) Act, 1920."

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118—(4)

2.

Amendments
to Public
Trustee Act.

Sec. 6 (1)
and (2).

Sec. 10 (1).

Sec. 12 (1) (3)
and (4).

Sec. 13 (1)
(2) and (3).

Sec. 16 (1)
and (2).

2. The Public Trustee Act, 1913, is amended as follows:—

- (1) Section six by the omission of subsections one and two and the substitution therefor of the following new subsections:—

(1) The Governor may appoint a deputy public trustee, whose duties shall be those prescribed by the Governor or directed by the public trustee.

(2) During the illness, absence, or suspension from duty of the public trustee such deputy shall have the powers, duties, and liabilities of, and be entitled to the same rights and immunities as the public trustee.

- (2) Subsection one of section ten by the omission of the words "under an order to collect."

- (3) Subsection one of section twelve by the addition at the end thereof of the following: "(v) as committee, manager, guardian, or receiver of the estate of an insane patient or an insane or incapable person within the meaning of the Lunacy Act of 1898"; subsection three by the omission of the words "as executor, administrator, agent, or attorney" and the substitution therefor of the words "in any of the capacities specified in subsection one"; and subsection four by the omission of the words "or charitable" and of all words after the word "purposes."

- (4) Section thirteen by the omission of the proviso to subsection one; the omission from subsection two of all words after the words "to the contrary"; and the repeal of subsection three.

- (5) Section sixteen, subsection one, by the omission of the words "under any order of the said court"; and subsection two, by the omission of the words "sections thirteen and fourteen" and the substitution therefor of the words "section thirteen."

(6)

- (6) Section seventeen by the omission of the words Sec. 17.
“said court” and the substitution therefor of
the words “Supreme Court in its equitable
jurisdiction.”
- (7) Section twenty-three, subsection one, by the Sec. 23 (1)
omission of the word “collect” and the substi- and (2).
tution therefor of the word “administer”; and
subsection two, by the omission of the words
“an order to collect the estate of such person”
and the substitution therefor of the words “a
grant of probate or letters of administration.”
- (8) Section thirty-five, subsection two, by the Sec. 35.
omission from paragraph (n) of the words
“two hundred and fifty” and the substitution
therefor of the words “five hundred”; and by
the addition at the end of paragraph (n) and
at the end of paragraph (p) of the words
“except for purposes of administration under
Part XV of the Conveyancing Act, 1919.”
- (9) Section forty-nine by the omission of the words Sec. 49.
“trustee, executor, administrator, agent, or
attorney” and the substitution therefor of the
words “in any of the capacities specified in
subsection one of section twelve.”
- (10) Sections fourteen, fifteen, nineteen, twenty, Repealed
twenty-one, twenty-two, twenty-four, twenty- sections.
five, twenty-seven, twenty-eight, twenty-nine,
thirty, thirty-one, and thirty-two are repealed.

3. In section seven of the same Act add the fol- New subse-
lowing subsections :— tions of s. 7.

(2) The public trustee as such corporation shall The holding
be capable of acquiring and holding any real or of property
personal property in joint tenancy in the same in joint
manner as if such corporation were an individual ; tenancy.
and any other corporation shall be capable of holding cf. Imperial
any such property jointly with the public trustee in Act 62 and
the same manner as if it were an individual. 63 Vic., c. 20.

Where the public trustee and an individual or
the public trustee and another corporation become
entitled to any such property under circumstances
or by virtue of any instrument which would if the
bodies

bodies corporate had been individuals have created a joint tenancy, they shall be entitled to the property as joint tenants :

Provided that the acquisition and holding of property by a body corporate, in joint tenancy, as aforesaid, shall be subject to the like conditions and restrictions as attach to the acquisition and holding of property by a body corporate in severalty.

(3) Where the public trustee and any other body corporate are joint tenants of any property, then on the dissolution of such other corporation the property shall devolve on the public trustee.

New section
after s. 18.

Election by
public trustee
to administer.

cf. N.Z. 1913,
No. 19,
s. 18 (1).

4. The following section is inserted next after section eighteen of the said Act :—

18A. (1) Where any person has heretofore died or hereafter dies testate, in or out of New South Wales, leaving property the gross value of which, as estimated by the public trustee, does not at the time of the election, hereinafter mentioned, exceed four hundred pounds, and no person has obtained probate, the public trustee may, in all cases where he is entitled to obtain probate, in lieu of obtaining probate, file in the office of the Supreme Court an election under his hand and seal setting forth the name, residence, and occupation (as far as then known to the public trustee) of the testator at the date of his death, and the property forming his estate and the date of his death as then known to the public trustee, and stating that, after due inquiries, he believes that the document annexed to such election is the testator's last will, and that such will has been validly executed according to the law governing the execution of wills, and electing to administer the property according to the provisions thereof.

(2) When any person has heretofore died or hereafter dies intestate, in or out of New South Wales, leaving property the gross value of which, as estimated by the public trustee, does not at the time of the election hereinafter mentioned exceed four hundred pounds, and no person has taken out letters of administration, the public trustee may,
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in all cases where he is entitled to take out letters of administration, and in lieu of taking out such letters, file in the office of the Supreme Court an election under his hand and seal setting forth the name, residence and occupation (so far as then known to the public trustee) of the intestate at the date of his death, and the property forming his estate, and the date of his death, as then known to the public trustee, and electing to administer such estate.

(3) On such election being filed the public trustee shall be deemed to be executor or administrator (as the case may be) in like manner in all respects as if probate or letters of administration had been duly granted to him.

(4) The public trustee shall publish in the Gazette, and in one daily newspaper published in Sydney, and if the deceased resided more than thirty miles from Sydney, in the paper circulating in the district where he resided at the time of his death, a notice that he has made such an election, and such notice shall be conclusive evidence that the public trustee is rightfully entitled to administer under this section.

(5) If after filing such election the gross value of the property to be administered is found to exceed the sum of six hundred pounds, the public trustee shall, as soon as practicable thereafter, file in the said office of the Supreme Court a memorandum under his hand stating the fact, and proceed in the ordinary manner to obtain probate or letters of administration.

(6) In this section "will" includes all codicils thereto, and "probate" includes letters of administration with the will annexed, whether granted for general, limited, or special purposes.

Acquisition of land and erection of building for public trust office.

5. The following new sections are inserted next after section fifty-three of the said Act:—

New sections.

53A. The Minister for Public Works is hereby authorised to expend the whole of the moneys so paid

paid into the Treasury and carried to such special trust account, or such portion thereof as may be necessary, in the acquisition of a suitable piece of land and the erection thereon and equipment of a suitable building for the purposes of the public trust office.

Application
of Public
Works Act,
1912.

53B. Such work shall be deemed to be a duly authorised work within the meaning of the Public Works Act, 1912, but the provisions of sections thirty-four, thirty-five, thirty-six, and thirty-seven of that Act shall not apply to the said work. The provisions of section thirty-eight of the said Act shall apply to any contracts for carrying out such work.

Vesting of land
and building in
public trustee.

53C. Upon the completion of the said building the said land and building shall pass to and become vested in the public trustee.

Recoupment
of cost to
special trust
account.

53D. The cost of acquiring the said land and carrying out the said work, together with interest thereon, shall be recouped to the special trust account in manner following :—

- (1) The total cost, subject to such partial remission as the Governor may think just under any special circumstances, together with interest thereon at the rate of *four* pounds per centum per annum on the sums making up such total cost calculated from the time such sums were expended, shall be certified as soon as practicable under the hand of the said Minister, and the total amount so certified shall, upon the notification of such certificate to the public trustee, become and be a debt charged upon the said land and building, and the revenues from whatever sources received by the public trustee by virtue of his office, until defrayed as hereinafter provided.
- (2) As soon as possible after the said Minister has certified the total amount as aforesaid, the Governor shall fix a period not exceeding *fifty* years, within which such amount shall be

be liquidated by the payment of such annual sums as shall after the last of such payments extinguish the whole amount of such cost with interest at the rate of *four* pounds per centum per annum on the balance unpaid in each year; and in fixing such period the Governor may take into consideration the nature and durability of the said building. Such period and the amount of such annual sums when so fixed shall be notified forthwith to the public trustee.

- (3) The first of such payments shall be made within one year from the date of such notification, and each subsequent payment at or before the end of one year from the expiration of the time limited for making the last preceding payment.
 - (4) At the end of the period so fixed and notified, and after the last payment has been made, the said land and building and the revenues of the said public trust office, from whatever sources derived, shall be discharged from any further payments under this section.
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