

Hon. Mr. Ward.

UNCLAIMED LANDS.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Repeals. 4. Public Trustee may publish notices calling upon owners of land unknown to him to establish their title within six months. 5. If owner fails to establish his title, Public Trustee may notify in <i>Gazette</i> that land vested in him, and will be administered under Act. Effect of notice. 6. Powers of Public Trustee. 6a. 7. If land under "The Land Transfer Act, 1885," Public Trustee may, without production of instrument of title, be registered as proprietor, subject to this Act. 8. Land of which the Public Trustee is the registered proprietor under "The Unclaimed Lands Act, 1892," to be administered under this Act. 9. Real estate under administration by Public Trustee under sections 20 to 28 of "The Public Trust Office Act Amendment Act, 1873," and 10 and 11 of "The Public Trust Office Act, 1876," to become subject to this Act. If same under "The Land Transfer Act, 1885," Public Trustee may be registered as proprietor without production of instrument of title. 10. As to land or real estate not under "The Land Transfer Act, 1885," the Public Trustee entitled to be regarded as proprietor under that Act upon applying, and without production of title-deeds. 11. Moneys received by Public Trustee under this Act not to form part of common fund, but may be similarly invested.</p>	<p>12. Subject to payment of charges and expenses, property to be held by Public Trustee upon trust for owner, upon his establishing his title thereto. 13. Application to establish title to be made by petition to the Supreme Court, to be served on the Public Trustee. Before order made, owner to pay to Public Trustee all his costs, charges, commissions, and expenses. 14. Upon order being made declaring the owner, Public Trustee to transfer and pay to him all land, real estate, and money held on trust for him. 15. If, within twelve years, no person establishes his title, then land, real estate, or money to become property of the Crown. 16. Provision as to claims made under "The New Zealand Company's Land Claimants Act, 1892," &c. 17. When land, real estate, or money becomes property of the Crown under this Act, Crown may vest same in local authority. 18. Instruments executed by Public Trustee hereunder. 19. Recovery of charges, commissions, and expenses made and incurred by the Public Trustee under this Act. 20. Public Trustee only responsible for wilful default. Not obliged to take steps under sections 4, 5, and 6. 21. Regulations. 22. Public Trustee may require issue of instruments of title. 23. Validation of acts done under repealed statutes. 24. "Interpretation Act, 1888."</p>
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A BILL INTITULED

AN ACT to deal with Lands where the Owner thereof is Unknown.

Title.

WHEREAS there are or hereafter may be lands in the colony the owners of which are unknown, and who are or are believed to be out of the colony, and it is expedient that such lands should be administered by the Public Trustee: And whereas it is expedient to repeal sections twenty to twenty eight inclusive of "The Public Trust Office Act Amendment Act, 1873," and sections ten and eleven of "The Public Trust Office Act, 1876," and also to repeal "The Unclaimed Lands Act, 1892," and to declare that the real estate or land thereby under administration should as provided by this Act become subject hereto:

Preamble.

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

Short Title.

1. The Short Title of this Act is "The Unclaimed Lands Act, 1894."

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Interpretation.

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

Struck out.

"Land" does not include land held by Natives under their customs or usages the title whereto has not been ascertained by the Native Land Court; but, with this exception, includes all land in the colony (except land not alienated or contracted to be alienated by the Crown), and all estates or interests therein:

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New.

"Land" includes all land in the colony, and all estates and interests therein, except,—

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(a.) Land held by Natives under their customs or usages, the title whereto has not been ascertained by the Native Land Court:

(b.) Lands of the Crown in respect of which no contract for the alienation thereof shall have been made:

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"Native" means any aboriginal native of New Zealand, and includes half-castes and their descendants:

Struck out.

"Owner" includes any person having any legal or equitable estate or interest in land:

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New.

"Owner" means any person having any legal or equitable estate or interest in land, and includes any infant, idiot, lunatic, or person under any disability having such estate or interest:

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"The Public Trust Office Acts" means "The Public Trust Office Act, 1872," and all amendments of that Act, and any Act passed in substitution of that Act and its amendments.

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Repeals.

3. "~~The Unclaimed Lands Act, 1892,~~" and ~~sections twenty to twenty eight inclusive of "The Public Trust Office Act Amendment Act, 1873,"~~ and ~~sections ten and eleven of "The Public Trust Office Act, 1876,"~~ are hereby repealed.

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Public Trustee may publish notices calling upon owners of land unknown to him to establish their title within six months.

4. If, after such inquiries as the Public Trustee institutes, he does not thereby ascertain who the owner of land is, and believes that such owner is not in the colony, he may adopt the following course: Publish in one issue of the *New Zealand Gazette*, and in one newspaper published or circulating in the locality in which such land is situated for three issues of the paper, at intervals of one week, a notice calling upon such owner, within six months from the date of the notice in the *New Zealand Gazette*, to establish to the satisfaction of the Public Trustee his title to the land specified in the notice, and stating that if such owner does not within the time limited so establish his title the Public Trustee

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will exercise the powers and authorities hereinafter granted. The notice shall be sufficient if it designates the owner, without naming such owner, as "the owner" or "the owners" of the land referred to in the notice. If the owner does within such period so establish
 5 his title, then all expenses incurred by the Public Trustee shall be refunded to him out of the consolidated revenue.

5. If the owner does not, within the time so limited, establish to the satisfaction of the Public Trustee his title, then the Public Trustee may, by notice—

If owner fails to establish his title, Public Trustee may notify in *Gazette* that land vested in him, and will be administered under Act.
 Effect of notice.

10 *New subsections.*

(a.) Where the value of the land is one hundred pounds or more, the Public Trustee may prepare and sign a statement of all the facts within his knowledge as to the ownership and occupation thereof respectively, and file
 15 such statement in the Supreme Court of the judicial district in which the land is situated, and apply *ex parte* on a summary application to a Judge of the Supreme Court in such district for an order that such land be vested in the Public Trustee under the provisions of this Act. The
 20 Judge may require written notice to be served on any person believed to be interested in such land, and may require further evidence, and may make such order in the premises and as to the costs or otherwise as may be just; and may, if he think fit, make an order vesting such land
 25 in the Public Trustee.

Notice of the making of any such order shall be published in the *New Zealand Gazette*.

(b.) Where the value of the land is less than one hundred pounds, the Public Trustee may, by notice in the *New Zealand Gazette*, notify that such land is vested in the Public Trustee and will be administered under this
 30 Act.

New clause.

35 The value of the land for the purposes of this section shall be the value as ascertained for the purposes of "The Land and Income Assessment Act, 1892," or, where not so ascertained, as estimated by the Public Trustee.

40 The *Gazette* notice shall be conclusive evidence, for the purposes of this Act, that the Public Trustee has made due inquiries, and is satisfied that such owner is not within the colony, and has not established his title, and that the Public Trustee has complied with the provisions of section *four* hereof.

45 6. After the publication of the notice in the *Gazette*, mentioned in section *five*, such land shall become vested in the Public Trustee, and he may, with respect to such lands,—

Powers of Public Trustee.

- (1.) Recover possession thereof and mesne profits, or damages in respect thereof;
- (2.) Carry out and enforce contracts and exercise powers in respect thereto;
- 50 (3.) Accept surrenders of tenancies;
- (4.) Let the same or any part thereof for any tenure in possession not exceeding twenty-one years;
- (5.) Lease the same ~~in perpetuity~~ under and subject to the same terms and conditions as reserves under "The West Coast

Settlement Reserves Act, 1892," may be leased, and all the provisions relating to such leasing shall, *mutatis mutandis*, apply hereto and be deemed to be incorporated herein; and "The West Coast Settlement Reserves Act, 1892," so far as is necessary to give effect to this provision, shall extend and apply and be deemed to be incorporated herein: Provided that the Governor in Council may from time to time declare which of the provisions of that Act shall or shall not extend and apply to the powers of leasing hereby given, and may so modify the same as to enable the Public Trustee to carry into effect the provisions of this subsection. Any Order in Council shall be conclusive both at law and in equity that the Public Trustee is entitled to exercise the powers hereby given pursuant to such Order in Council:

- (6.) Where the value of the land assessed under "The Land and Income Assessment Act, 1892," is less than one hundred pounds, sell by public auction, or private contract, or exchange or partition the same or any part thereof;
- (7.) Keep and maintain buildings and erections thereon in good repair and condition;
- (8.) Erect fences on and around the same, or contribute towards the erection of any dividing-fence;
- (9.) Cut and gather crops thereon;
- (10.) Insure property against loss by fire or accident;
- (11.) Pay rent, rates, taxes, and other outgoings in respect thereof;
- (12.) Pay mortgages or charges on such land;
- (13.) Pay all *such* charges and commissions as may be fixed by the Governor by regulations;
- (14.) Perform any obligation or duty which by statute or otherwise the owner of the land would be liable to perform;
- (15.) Do any act or thing requisite to obtaining or perfecting the title to such land;
- (16.) Execute any instrument for the purpose of carrying into effect any of the powers conferred by this Act;
- (17.) With the sanction of a Judge of the Supreme Court, do or omit to do any other act or thing which such Judge, upon the representation of the Public Trustee, thinks proper, and which order such Judge is authorised to make.

New clause.

6A. The Public Trustee may make such payment or allowance for moneys expended or improvements made prior to the thirty-first day of August, one thousand eight hundred and ninety-two, on or in respect of any land already or hereafter vested in the Public Trustee as to him may seem just or reasonable, and although such money might not be recoverable at law.

7. As to land referred to in the *Gazette* notice mentioned in section *five* which is under "The Land Transfer Act, 1885," then upon the production to the District Land Registrar of such *Gazette* notice with a description of the land thereby affected, and upon the Public Trustee making application in writing to be registered as the proprietor of such and, the District Land Registrar shall, without

If land under "The Land Transfer Act, 1885," Public Trustee may, without production of instrument of title, be registered as proprietor, subject to this Act.

the production of any instrument of title, register the Public Trustee as the proprietor thereof under "The Land Transfer Act, 1885," and as entitled under the provisions of this Act. ~~By such registration the Public Trustee shall become the registered proprietor of the land on the register subject only to the estates and interests as shall appear on the register.~~

8. As to land which the Public Trustee has or shall become the registered owner of under "The Land Transfer Act, 1885," by or under the provisions of "The Unclaimed Lands Act, 1892," the land shall be held and disposed of under and subject to the provisions of this Act.

9. As to real estate taken possession of and in course of administration by the Public Trustee under sections twenty to twenty-eight inclusive of "The Public Trust Office Act Amendment Act, 1873," and sections ten and eleven of "The Public Trust Office Act, 1876," at the time this Act comes into operation, such real estate shall, upon the coming into operation of this Act, become vested in the Public Trustee, and the powers of the Public Trustee shall, with respect thereto, be the same as if such real estate had directly under section *five* of this Act become subject thereto. As to such real estate, it shall be conclusive evidence, whether for the purposes of "The Land Transfer Act, 1885," or otherwise, if the Public Trustee shall in writing certify under his hand and corporate seal that such real estate is so subject to the provisions of this section. If such real estate is under "The Land Transfer Act, 1885," the District Land Registrar shall, upon an application in writing by the Public Trustee setting forth a description of such real estate, and without the production of any instrument of title, register the Public Trustee as proprietor in the same manner as is provided in section *seven* hereof.

10. As to land vested in the Public Trustee under section *six* of this Act, and as to land of which the Public Trustee is entitled to be registered as the proprietor under "The Unclaimed Lands Act, 1892," and as to real estate taken possession of and in course of administration by the Public Trustee under sections twenty to twenty-eight inclusive of "The Public Trust Office Act Amendment Act, 1873," and sections ten and eleven of "The Public Trust Office Act, 1876," ~~and which where such~~ land or real estate is not under "The Land Transfer Act, 1885," the Public Trustee shall be entitled to be registered as the proprietor thereof under "The Land Transfer Act, 1885," upon applying to be so registered, and upon production of a certificate under his hand and seal of office describing the land or real estate, and certifying that such land or real estate is subject to the provisions of this Act, and without the production of any instrument of title to such land or real estate, the District Land Registrar shall register the Public Trustee as the proprietor under "The Land Transfer Act, 1885," subject to this Act, ~~but subject only to such estates, charges, and interests (if any) as shall appear from the register books under "The Deeds Registration Act, 1868."~~

11. Moneys heretofore or hereafter received by the Public Trustee under this Act, or the Acts hereby repealed, in respect of land or

Land of which the Public Trustee is the registered proprietor under "The Unclaimed Lands Act, 1892," to be administered under this Act. Real estate under administration by Public Trustee under sections 20 to 28 of "The Public Trust Office Act Amendment Act, 1873, and 10 and 11 of "The Public Trust Office Act, 1876," to become subject to this Act.

If same under "The Land Transfer Act, 1885," Public Trustee may be registered as proprietor without production of instrument of title.

As to land or real estate not under "The Land Transfer Act, 1885," the Public Trustee entitled to be regarded as proprietor under that Act upon applying, and without production of title-deeds.

Moneys received by Public Trustee under this Act not

to form part of common fund, but may be similarly invested.

Subject to payment of charges and expenses, property to be held by Public Trustee upon trust for owner, upon his establishing his title thereto.

Application to establish title to be made by petition to the Supreme Court, to be served on the Public Trustee.

Before order made, owner to pay to Public Trustee all his costs, charges, commissions, and expenses.

Upon order being made declaring the owner, Public Trustee to transfer and pay to him all land, real estate, and money held on trust for him.

If, within twelve years, no person establishes his title, then land, real estate, or money to become property of the Crown.

Provision as to claims made under "The New Zealand Company's Land Claimants Act, 1892," &c.

real estate shall not form part of the common fund as constituted by the Public Trust Office Acts; but such moneys may be invested, if the Public Trustee thinks fit, in any of the securities in which such common fund may be invested.

12. All costs, charges, and expenses paid by or payable to the Public Trustee under this Act shall be a first charge upon any land or real estate or money acquired or held thereunder, and, subject thereto, such land, real estate, or money shall be held by the Public Trustee upon trust, subject to this Act, for the owner of such land real estate, or money upon his establishing his title thereto as provided by this Act.

13. Until the owner of land, real estate, or money acquired, administered, or held by the Public Trustee under this Act establishes his title thereto to the satisfaction of a Judge of the Supreme Court, the powers and authorities conferred upon the Public Trustee shall continue. No application to establish such title shall be made except by petition, a copy of which shall be served upon the Public Trustee fourteen days prior to the hearing. Before a Judge shall make an order under this section, the owner shall pay to the Public Trustee all expenditure, charges, and commission to which the Public Trustee is entitled under this Act, and all costs incurred by the Public Trustee of and incidental to such petition.

New paragraph.

Upon any proceeding under this section, the Judge may accept and act upon and be satisfied with any evidence, whether the same be or be not strictly legal evidence, and may make an order declaring a claimant to be the owner of land, real estate, or money, although such claimant may be unable to adduce evidence which would entitle him to judgment in an action of ejectment or a decree in an action for specific performance, and the Judge may have regard to the special circumstances of each case in determining the character and sufficiency of the evidence of title adduced.

14. Upon an order being made by a Judge declaring who the owner of such land, real estate, or money is, the powers and authorities hereby conferred upon the Public Trustee shall cease, and the Public Trustee shall transfer any land or real estate, or pay to such owner any money, held by him in trust for such owner.

15. If, within ~~twelve~~ *twenty* years from the date of the notice in the *Gazette* referred to in section *five* hereof, or as to real estate or land referred to in sections *eight and nine*, and ~~ten~~ hereof, then if within ~~twelve~~ *twenty* years from the passing of this Act, no person establishes to the satisfaction of a Judge of the Supreme Court his title to such land or real estate, or the moneys arising therefrom, the estate or interest of such person in such land, real estate, or money shall become the property of the Crown.

16. Until after a claim made under "The New Zealand Company's Land Claimants Act, 1892," is determined the Public Trustee shall not, with respect to the land claimed, be entitled to exercise any of the powers and authorities conferred by this Act.

Struck Out.

5 No extension of time under section six of "The New Zealand
Company's Land Claimants Act, 1892," for making a claim shall be
made beyond the thirty-first day of December, one thousand eight
hundred and ninety-six, and no person who has not on or before that
day made a claim thereunder, and established his title under such
claim, shall have any further time within which to make his claim
or establish his title, and the right and title of such person to land
or compensation under the said Act shall be deemed to have been
10 extinguished, and the land to which such person might have made
and established his title shall become the property of the Crown :

15 Provided that if, before the first day of January, one thousand
eight hundred and ninety-seven, any person has made a claim under
"The New Zealand Company's Land Claimants Act, 1892," but
which claim has not been decided, then such claim may be dealt
with and disposed of.

If, however, such claim shall be decided against the claimant,
then the land to which the claim relates shall become the property
of the Crown, *and shall not be subject to this Act.*

20 *New clauses.*

16A. Nothing in this Act shall affect the Crown, as to its pro-
perty or rights.

25 16B. Notwithstanding this Act, no person who has acquired
title to land by or under Statutes of Limitation shall be deprived of
such title, nor shall this Act prevent any person under Statutes of
Limitation hereafter acquiring title to land under such statutes.

30 17. Where under this Act any land, real estate, or money
becomes the property of the Crown, then the Governor, by Order in
Council, may ~~with respect thereto~~ transfer such land, real estate, or
money to any local authority, *or to the corporation controlled by any*
local authority, for such purposes and with such powers as may in
such Order be specified.

When land, real estate, or money becomes property of the Crown under this Act, Crown may vest same in local authority.

35 "Local authority," for the purposes of this section, means the
Council, Board, or other authority of a city, borough, county, town
district, road district, *education district*, drainage district, harbour
district, or river district, now or hereafter constituted under an Act
of the General Assembly, within which any land or real estate is
situated.

40 18. When an instrument is executed by the Public Trustee, pur-
porting to be made in exercise of the powers conferred by this Act,
no Court, officer, or person shall be concerned to see or inquire whether
such powers had or had not become exercisable, or be responsible for
the exercise or the improper exercise of such powers.

Instruments executed by Public Trustee hereunder.

45 19. If in administering any of the powers and authorities herein
contained the Public Trustee is unable to recover from any person or
property all his charges, commissions, and expenses, then the defi-
ciency shall be made good out of the consolidated revenue.

Recovery of charges, commissions, and expenses made and incurred by the Public Trustee under this Act.

50 20. The Public Trustee shall not be responsible for the exercise
or the non-exercise of any of the powers and authorities herein con-
tained unless the same shall arise from his actual wilful default; nor
shall he be obliged to take any steps or proceedings under sections
four, five, and six of this Act.

Public Trustee only responsible for wilful default.

Not obliged to take steps under sections 4, 5, and 6.

Regulations.

21. The power to make regulations conferred by the Public Trust Office Acts shall extend and apply to this Act as if this Act had been incorporated therein.

Struck out.

Public Trustee may require issue of instruments of title.

22. Whenever it may be necessary, in order to complete the title of the Public Trustee to any land under this Act, that any instrument of title should be issued, then the Public Trustee may require such instrument to be issued.

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New clause.

22. Whenever the title of the Public Trustee is defective through the non-existence or non-issue of any instrument of title which ought to be issued, then the Public Trustee may require the same to be issued to him, and the proper officer shall upon such request issue the same to him accordingly.

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Struck out.

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Validation of acts done under repealed statutes.

23. All acts and things done or omitted by the Public Trustee under sections twenty to twenty-eight inclusive of "The Public Trust Office Act Amendment Act, 1873," and sections ten and eleven of "The Public Trust Office Act, 1876," and "The Unclaimed Lands Act, 1892," are hereby declared to have been and to be valid.

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New clause.

23. The Public Trustee shall, within sixty days after the thirty-first day of March, one thousand eight hundred and ninety-six, and thereafter within sixty days after the thirty-first day of March in every third year, prepare a list showing all land which shall have become vested in him under this Act or the Acts hereby repealed during the period terminating on every such thirty-first day of March, and the names of any person or persons believed by the Public Trustee to have any estate or interest therein; and the Public Trustee shall transmit such list to the Colonial Treasurer, who shall forthwith cause the same to be published in the *New Zealand Gazette*, and cause such list to be laid before both Houses of the General Assembly if then in session and, if not then in session, within ten days after the next meeting thereof.

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"Interpretation Act, 1888."

24. Nothing herein contained shall prejudice or affect the provisions of "The Interpretation Act, 1888."