

Mr. J. Hutcheson.

NEW ZEALAND LAW BUREAU.

ANALYSIS.

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A BILL INTITULED

AN ACT to enable Reforms to be effected in relation to the transaction of Legal Work for the Government of New Zealand and for the People of New Zealand, and to simplify and cheapen the doing of Work at present usually performed by Persons practising the Profession of the Law, and to enable the establishment of a Law Bureau. Title.

BE IT 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 New Zealand Law Bureau Act, 1898." This Act shall come into force six months after the passing thereof. Short Title.

## Interpretation.

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

- “ Board ” means the Board constituted by this Act ;  
 “ Court ” or “ Judge ” includes any Court or Judge having jurisdiction ; 5  
 “ Estate ” or “ estates ” means any property under administration by the Public Law Officer under this Act ;  
 “ Instrument ” includes any Act of the General Assembly ;  
 “ Land ” or “ real estate ” includes lands, tenements, and hereditaments, whether corporeal or incorporeal, and any share, 10  
 estate, or interest in them, and any possibility, right, or title of entry or action, and whether the same shall be in possession, reversion, remainder, or contingency ;  
 “ Person ” shall mean any person or persons, company, or corporation, or society ; 15  
 “ Property ” includes both real and personal property ;  
 “ The Public Law Officer ” means the Public Law Officer as constituted by this Act.

Where, under this Act, notice is required to be given by the Public Law Officer, the Deputy Public Law Officer, or any officer, 20  
 servant, or person acting under, or *boná fide* assuming to act under this Act, it shall be sufficient if such notice is sent by registered letter addressed to the person to whom such notice is to be given at his then known or then last known place of abode or business, and time shall, 25  
 as from the posting of such registered letter, be reckoned as if such notice had been actually served on such person from the posting of such registered letter.

INSTITUTION OF THE LAW BUREAU : THE PUBLIC LAW OFFICER AND THE BOARD.

Establishment of Law Bureau and appointment of Public Law Officer.

3. There shall be an office called “ The Law Bureau,” administered by an officer called “ The Public Law Officer,” who shall be appointed by the Governor in Council, and shall hold office during the pleasure of the Governor in Council, and on the same terms and conditions as officers in the ordinary Civil Service of the colony. 30

The Public Law Officer constituted a corporation sole.

4. The Public Law Officer is hereby constituted a corporation 35  
 sole with perpetual succession and a seal of office. The appointment of the Public Law Officer, the seal of the Public Law Officer, and the signature of the person for the time being holding the office of Public Law Officer, shall be judicially taken notice of without further proof. 40

Governor in Council may remove or suspend Public Law Officer and appoint successor.

5. The Governor in Council may from time to time remove or suspend the Public Law Officer, and, in the case of the death, resignation, or removal of the Public Law Officer, appoint some fit and proper person in his stead.

Appointment of Deputy Public Law Officer.

6. The Governor in Council may appoint some person to act as 45  
 the deputy of the Public Law Officer in the case of the illness, death, removal, suspension, resignation, or absence from duty of the person for the time being holding the office of Public Law Officer ; and such deputy shall, during the time he shall act as such deputy, have all the powers and perform all the duties of the Public Law Officer, and shall 50  
 receive such remuneration as the Governor in Council shall determine,

not exceeding the amount of salary which the Public Law Officer is entitled by law to receive; and no person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising such Deputy Public Law Officer to act as such Deputy, or as to the necessity or propriety of such appointment; and all acts or things done or omitted by such Deputy Public Law Officer shall be as valid and effectual as if the same had been done or omitted by the Public Law Officer.

7. The Minister of Justice may, from time to time, appoint, suspend, and remove such officers and servants, other than the Public Law Officer or the Deputy Law Officer, as may be necessary for the purposes of this Act, who shall hold their several offices on the same terms as Civil servants.

Subordinate officers may be appointed, suspended, or removed by Minister of Justice.

8. The salaries of the Public Law Officer, the Deputy Public Law Officer, and of other officers and servants in the Law Bureau shall be fixed by the General Assembly.

Salaries of officers to be fixed by General Assembly.

9. (1.) There shall be a Board styled "The Law Bureau Board," consisting of the Colonial Treasurer, the Minister of Justice, the Solicitor-General, the Government Insurance Commissioner, the Commissioner of Taxes, the Surveyor-General, and the Public Law Officer. The Board shall sit in the City of Wellington, at such times and places as it thinks fit. Three of the members shall form a quorum. At all meetings of the Board the Colonial Treasurer, if present, shall be the Chairman, and in his absence such member of the Board as the majority of the members present shall choose shall preside; and such Chairman, or presiding member, shall have a deliberative vote, and, in all cases of equality of votes, shall also have a casting vote.

Constitution and powers of Law Bureau Board.

(2.) The Board may from time to time make, alter, and revoke by-laws for regulating the general conduct of business and proceedings of the Board. Before the Public Law Officer shall be appointed, or accept any appointment, as agent or attorney for any person who shall be desirous of investing any sum of money through the medium of the Bureau exceeding one thousand pounds, or any other appointment under this Act, the question of such appointment shall be submitted to the Board, and unless the Board consent thereto, no appointment shall be made or accepted: under no circumstances shall the Public Law Officer accept any appointment jointly with any other person, excepting with the Public Trustee for the Colony of New Zealand. The Governor in Council may from time to time provide that any of the appointments hereinbefore authorised may be accepted by the Public Law Officer without the consent of the Board.

(3.) The respective appointments of the members constituting the Board, and their signatures, shall be judicially taken notice of without further proof. All by-laws, minutes, or resolutions of the Board or copy thereof, if purporting to be signed by the Chairman or presiding member, shall be *prima facie* evidence of such by-laws, minutes, or resolutions, and that the same have been duly and properly made, and that the person signing the same is such Chairman or presiding member.

(4.) Where the Public Law Officer is appointed or authorised to act in any capacity consistent with the provisions of this Act, he shall not be removed from any of those appointments by any Court or person unless the Board consent thereto.

(5.) The Public Law Officer shall be subject to any directions which may from time to time be made by the Board; but the Governor in Council may from time to time direct and authorise the Public Law Officer to exercise any powers and perform any duties vested in or performed by him without reference to the Board; and under no circumstances shall it be obligatory on any person dealing with the Public Law Officer to see or inquire whether any act or thing done or omitted was so done or omitted with the sanction of the Board; and persons so dealing shall be entitled to assume that the act or thing so done or omitted was done or omitted with the sanction of the Board. 5 10

Capacity of Public Law Officer to contract or exercise power.

10. When the Public Law Officer is authorised to enter into any contract or exercise any power, such authority may be exercised as follows:—

Any contract which if made between private persons, or any power which if exercised by private persons:— 15

- (a.) Firstly, must be in writing under seal;
- (b.) Secondly, must be in writing signed by the parties thereto or the persons executing the power;
- (c.) Thirdly, may be made or exercised verbally without writing; 20

when entered into or exercised by the Public Law Officer:—

- (d.) In the first case shall be in writing under the seal of the Public Law Officer, and signed by the Public Law Officer;
- (e.) In the second place shall be in writing, signed by the Public Law Officer; 25
- (f.) In the third place may be made or exercised verbally without writing by the Public Law Officer or by any person by his direction or on his behalf.

#### INVESTMENTS.

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All moneys invested to become one common fund.

11. All capital moneys however arising, and whether directed to be invested or not, shall, unless expressly forbidden to be invested, become one common fund, and such moneys shall be invested as provided by section *thirteen* of this Act; and any investment made from such common fund shall not be made on account of or belong to any particular estate. 35

Interest, how payable.

The interest payable to the respective estates, 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 the respective estates quarterly—namely, 40 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. On the moneys arising from one estate no rate of interest shall be allowed higher than five pounds per centum per annum on an amount not exceeding three thousand pounds, and on any amount exceeding three thousand 45 pounds not higher than five pounds per centum per annum on the first three thousand pounds, or higher than four pounds per centum on the excess: Provided always that the Governor in Council may, subject to the limitations aforesaid as to the rate of interest, make regulations as to the payment or non-payment of interest upon moneys 50 belonging to any estate, and as to the period from which interest, if allowed, is to be computed, as he thinks proper.

12. Moneys heretofore or hereafter expressly directed to be invested otherwise than as mentioned in subsections *one, two, three, and four* of section *thirteen* of this Act shall not form part of the common fund, and the Public Law Officer may invest such moneys in accordance with such direction; 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 estate to which such moneys belong, or if received and realized would belong.

Moneys invested otherwise than under section 14 not entitled to protection of Act.

13. Unless expressly prohibited, the Public Law Officer may invest all capital moneys heretofore or hereafter arising—

Securities.

(1.) In the Government securities of the United Kingdom, or of any colony or dependency thereof, issued under the authority of the said kingdom, colony, or dependency respectively, and secured upon the public revenues thereof;

(2.) In debentures issued by any local authority under any law now or hereafter in force, secured upon general or special rates, upon real estate held in fee-simple free from encumbrance, or upon the rents and profits of real estate held in fee-simple free from encumbrances: Provided that no greater advance shall be made where the debentures are secured upon real estate than one-half of the value of such real estate; and if the debentures are secured upon rents and profits, then no advance shall be made unless such rents and profits are sufficient to pay double the annual interest payable in respect of the advance.

“Local authority” means, for the purpose of this subsection, the Council, Board, or other authority of a city, borough, county, town district, harbour board, or river district, now or hereafter constituted under an Act of the General Assembly.

(3.) In advances by way of mortgage on the security of any real estate held in fee-simple within the colony and free from encumbrances, to an amount not exceeding two-thirds 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 Charter, or in the Post Office Savings Bank, or other savings bank established in New Zealand in accordance with any law affecting such banks.

If the common fund shall be insufficient to meet the lawful claims thereon, the Colonial Treasurer shall, out of moneys to be appropriated by Parliament from the Consolidated Fund, pay such sums as he may deem necessary to meet the deficiency.

14. Moneys in or payable into the Public Law Officer's account by the Public Law Officer, Deputy Public Law Officer, or any officer, servant, or person acting or presuming to act under the authority of this Act, shall be deemed to be the property of the Crown, and shall be recoverable in like manner as money due to the Crown is recoverable.

Moneys shall be the property of the Crown.

Public Law Officer shall prepare balance-sheet.

15. The Public Law Officer shall, within thirty days after the close of each year ending on the thirty-first day of March, prepare a balance-sheet setting forth—

- (1.) The total receipts and expenditure of or in the Public Law Officer's account during such year, and property and investments made during that period ; 5
- (2.) A profit and loss account setting forth the total revenue and expenditure of the Law Bureau, including advances from Consolidated Fund, and losses chargeable to such revenue. 10

And the Public Law Officer shall send such balance-sheet to the Auditor-General, who shall forthwith transmit the same, together with such report thereon as he thinks fit, to the Colonial Treasurer, by whom it shall be forthwith laid before the General Assembly if in session, or, if not in session, then within ten days after the next meeting thereof. 15

Charges on Public Law Officer's account may be met by advance from Consolidated Fund.

16. If the balance at the credit of the Profit and Loss Account of the Public Law Officer is at any time insufficient to meet the charges thereon, the Colonial Treasurer may, from time to time, out of moneys to be appropriated by Parliament from the Consolidated Fund, advance such sums as may be necessary to meet such charges. Moneys so advanced shall be repaid by the Public Law Officer to the Consolidated Fund, so soon as there is in the Public Law Officer's account a balance available for such repayment. If the balance in the profit and loss account is more than sufficient to meet the charges thereon, the Public Law Officer shall, from time to time, at such times as the Colonial Treasurer shall direct, pay the excess into the Consolidated Fund as part thereof. 20

Public Law Officer to pay salaries and expenses.

17. The Public Law Officer shall, out of moneys to be appropriated by Parliament, pay all such salaries and other expenses in the general service of the Law Bureau as he shall be authorised to pay by the Colonial Treasurer, and as shall be by law payable, and all current expenses and charges incident to his administration under this Act, and all moneys payable to any person entitled thereto. 30

Colonial Treasurer to inspect accounts.

18. The Colonial Treasurer, and any officer of the Treasury authorised by him, shall at all times have access to all the books, accounts, documents, and papers in the Law Bureau ; and the Public Law Officer shall at all times furnish to the Colonial Treasurer all such information as the latter requires. The Auditor-General shall have, in respect to the Law Bureau and to all the officers and servants employed therein, all the powers which he possesses in respect to the officers and servants in any department of the Civil Service. 40

Auditor-General to exercise control over officers.

Moneys payable to Public Law Officer to be paid into his account.

19. Every person into whose hands or under whose control any moneys shall come, which are payable to the Public Law Officer, shall pay the same to the Public Law Officer's account as soon as practicable after their receipt. Such person shall, until he has made such payment, be deemed a debtor to the Crown. 45

Claims may be discharged from such moneys.

20. It shall, notwithstanding, be lawful for any officer, servant, or agent of the Public Law Officer to pay out of any moneys in his hand any claims which he shall be directed by the Public Law Officer to pay. 50

## ACTIONS AGAINST THE PUBLIC LAW OFFICER.

21. Neither the Public Law Officer nor the Deputy Public Law Officer, nor any officer or servant acting or *bonâ fide* assuming to act under any of the authorities contained in or conferred by this Act, shall be personally liable for any act or thing done or omitted, unless the liability shall arise from actual fraud or crime.

Officers to be exempt from personal liability.

22. Where any person, by any act or thing done or omitted by the Public Law Officer, the Deputy Public Law Officer, servant, or person acting or *bonâ fide* assuming to act under this Act, shall sustain any injury which, if the act or thing had been done or omitted by a private individual would have entitled such person to a remedy in respect thereof, then such person shall be entitled to the same remedy against the Public Law Officer in his corporate capacity as he would be entitled to against a private individual, and shall be entitled to be indemnified out of the Public Law Officer's account, and if the same shall be insufficient, then out of such moneys as may be appropriated to such purpose by the General Assembly.

Action shall lie against Public Law Officer in his corporate capacity.

## REGULATIONS.

23. The Governor in Council may make, revoke, or alter regulations:—

Governor in Council may make, revoke, or alter general regulations.

- (1.) For the conduct of the business in the Law Bureau;
- (2.) For determining the duties of the officers, servants, and persons employed therein;
- (3.) For the custody of all property placed therein, and the instruments of title relating thereto;
- (4.) For fixing scales of commissions and other charges to be made by the Public Law Officer under this Act;
- (5.) For the receipt and payments of moneys under this Act;
- (6.) For keeping, rendering, and auditing accounts under this Act;
- (7.) For determining what part of, and in what security, moneys shall be invested;
- (8.) For the safe custody of securities;
- (9.) For the custody of the moneys in the Public Law Officer'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 Law Bureau;
- (10.) For any object or purpose that may be deemed necessary for the efficient administration of this Act.

Public Law Officer may submit questions of law to a Judge of the Supreme Court, or to the Court of Appeal.

24. If any act, matter, or thing shall happen in connection with the conduct or the transaction of any business by the Bureau, and the Public Law Officer shall deem it advisable to obtain a decision concerning the same from a Judge of the Supreme Court or from the Court of Appeal, then the Public Law Officer, without instituting any action when any question of law arises under this Act, or the administration thereunder, may submit to a Judge of the Supreme Court a statement in writing setting forth the facts in respect of which such questions of law arise, and requiring the

Judge's opinion upon the facts as stated, and the Judge shall decide upon the facts so stated.

May state special case to the Court of Appeal.

25. The Public Law Officer may, by special case, submit for the decision of the Court of Appeal any question arising under this Act which shall appear to him to require such decision, and the Court shall give judgment thereon as if such question had been raised in due form. 5

Questions of law may be submitted or case stated at request of parties.

26. If all the parties concerned in any business transacted by the Bureau shall desire to obtain an opinion from the Supreme Court or Court of Appeal, and shall in writing unanimously request the Public Law Officer to submit the question to the Supreme Court or Court of Appeal, the Public Law Officer shall submit the question to a Judge of the Supreme Court, or shall state a case for the Court of Appeal as aforesaid. 10

Public Law Officer shall be indemnified.

27. The Public Law Officer acting upon any such decision shall be indemnified in respect of all acts and things done or omitted thereunder, unless in representing the facts he has been guilty of fraud or wilful concealment or misrepresentation. 15

Notice to parties.

28. The Judge may, on such application, require notice thereof to be served upon such person as he thinks proper. 20

Public Law Officer not bound to tax solicitor's costs. Chief Justice with Judge of the Supreme Court to regulate procedure.

29. It shall not be obligatory on the Public Law Officer to tax bills of costs between himself and any solicitor whom he may employ. 5

30. Any two of the Judges of the Supreme Court, of whom the Chief Justice shall be one, may make general or special rules for the purpose of regulating any proceedings in the Supreme Court, or any other Court under this Act. 25

Registrar of Deeds and District Land Registrar to supply Public Law Officer with information if required.

31. Every Registrar of Deeds and District Land Registrar shall supply the Public Law Officer, or his deputy, or any officer of the Public Law Office, with all particulars that may be required concerning the title of any land or lands. On application being made by the Public Law Officer to the Registrar or District Land Registrar for particulars of any title to any land, the Registrar or District Land Registrar shall search the title, and forward the result of such search to the Public Law Officer. 30

Public Law Officer may act as solicitor.

32. The Public Law Officer shall be competent to act as adviser to any person, and shall be competent to do and transact all business usually performed and done by persons practising the profession of the law in New Zealand. 35

May receive and invest moneys.

33. The Public Law Officer may receive from any person any sum or sums of money that such person may desire to place in the custody of the Public Law Officer for investment in such manner as such person shall in writing direct. In the event of such person not giving any directions, then the Public Law Officer shall invest or hold the said sum or sums of money, subject to the approval of the Board in all respects. 40 45

All licenses to land-brokers to be cancelled.

34. All licenses now held by licensed land-brokers, and issued by virtue of the provisions contained in "The Land Transfer Act, 1885," shall be cancelled as from the \_\_\_\_\_ day of \_\_\_\_\_, one thousand eight hundred and ninety\_\_\_\_\_, and no licenses shall henceforth be issued, and sections two hundred and five to two hundred and nine (inclusive) of "The Land Transfer Act, 1885," are hereby repealed. 50



35. Any person may apply to the Public Law Officer to transact business through the medium of the Bureau; such application shall be in writing, and shall be signed by the applicant. The Public Law Officer may refuse to transact any business of any applicant, and, on such refusal by the Public Law Officer, the applicant may apply to have his application referred to the Board for its consideration. The Public Law Officer may dispense with any application being in writing for the transaction of any business if he shall think proper.
36. Any person may apply to the Public Law Officer to appoint the Public Law Officer the agent or attorney of the applicant, and the Public Law Officer may, subject to the approval of the Board, consent to be appointed, or refuse to be appointed, agent or attorney.
37. Any person may make his will through the medium of the Bureau, and may appoint the Public Law Officer with the Public Trustee to be trustee, executor, or administrator: Provided that in the event of the Public Trustee deeming it advisable to administer the estate of any deceased person alone, the Public Law Officer, on the request of the Public Trustee, shall do all things needful to enable the Public Trustee to so administer the estate of any deceased person alone.
38. Any person desiring to transact any business through the medium of the Law Bureau shall sign the form of instructions in the *First* Schedule hereto, and on the said form of instructions being duly signed, and the particulars filled in as directed in the said form of instructions, the said person shall in all respects become subject to the provisions of this Act. And any person having signed a form of instructions requesting and directing the Law Bureau to carry out any business, the said instructions shall be deemed irrevocable, unless the persons who are concerned in the business shall agree to the cancellation of the instructions, then on the persons concerned in such business informing the Public Law Officer in writing that they do not desire to proceed further with the business, on payment of the proper fee the said instructions shall be cancelled and be void and of no effect.
39. All fees payable under this Act shall be recoverable by the Public Law Officer in a summary manner. A certificate under the hand of the Public Law Officer shall be transmitted to the nearest Magistrate's Court and the cause shall be entered on the list, the Public Law Officer being the plaintiff, and the debtor being the defendant. The Public Law Officer shall sign a plaint, and in the certificate and plaint shall be stated the correct amount due to the Public Law Officer. At the next sitting of the Court after the receipt of the certificate and the plaint, or so soon after such receipt as may be convenient, the Stipendiary Magistrate shall enter judgment, and on judgment being recorded, the Public Law Officer may take all usual proceedings against the defendant in the same manner as if the plaint had been entered and judgment recorded in any ordinary action.
40. The Public Law Officer shall have a lien on all deeds, documents, and papers, the property of any person transacting business through the Law Bureau, and in the possession of the Public Law Officer, until all fees have been paid.

Applications for transaction of business.

Public Law Officer may be appointed agent or attorney.

May by will be appointed co-trustee, executor, or administrator with Public Trustee.

Manner of giving instructions.

Fees recoverable in summary manner.

Deeds and documents to be security for fees.

Sale of property  
by auction.

41. It shall not be necessary to have conditions of sale in the event of any property being submitted for sale by public auction, but the auctioneer shall announce that the purchaser of the property shall sign the agreement as in the *Fourth* Schedule hereto, and such form of agreement shall be clearly and distinctly read out by the auctioneer to the persons attending the sale, and a copy of the said agreement shall be displayed by the auctioneer in his auction-room or in such other place where any sale shall be conducted or be held. 5

Agreement of sale.

42. The said agreement shall be printed on paper or other substance on a white ground in letters of black, and the letters to be not less than one inch capital letters. On any property being sold the agreement shall be conclusive and binding on the purchaser. 10

Disbarred solicitor  
may not act as  
managing clerk to  
or be employed by  
another solicitor.

43. A barrister and solicitor whose name has been removed from the roll of solicitors of the Supreme Court of New Zealand shall not be permitted to act as managing clerk to any other barrister or any other solicitor, nor shall any barrister or any solicitor of the Supreme Court of New Zealand directly or indirectly engage or employ any barrister or solicitor so suspended for the purpose of transacting any business usually performed by persons practising the profession of the law. 15

"Solicitor" to  
include solicitor and  
barrister.

44. The word "solicitor" whenever used shall not only comprise a solicitor on the roll of solicitors of the Supreme Court of New Zealand, but shall also comprise a barrister on the roll of barristers of the Supreme Court of New Zealand. 20

Sale of mortgaged  
property by  
Registrar of  
Supreme Court.

45. In the event of default being made in the payment of principal and interest moneys, or in payment of either principal or interest moneys, or in payment of either principal or interest payable by virtue of any mortgage, or in the breach, non-observance, or non-performance of any covenant, condition, or matter, or thing contained in any mortgage, and the mortgagee shall apply to the Registrar of the Supreme Court of New Zealand to conduct the sale of the mortgaged property, then the mortgagee shall make the declaration as in the *Sixth* Schedule hereto, and shall hand the said declaration, properly signed in the presence of a Justice of the Peace in and for the Colony of New Zealand, or a solicitor of the Supreme Court of New Zealand, together with the mortgage, to the Registrar; then the Registrar, on being satisfied that the application of the mortgagee is in order, shall fix the date of sale, and give such other directions as he may deem needful. 25

When any land shall be sold by public auction by order of the mortgagee, under the conduct of a Registrar of the Supreme Court of New Zealand, on the purchaser doing all things necessary for the purpose of having the land vested in him, the Registrar who conducts the sale of the mortgaged property shall give a certificate under his hand and under the seal of the Supreme Court. Such certificate shall have the effect of vesting in the purchaser the estate or interest formerly possessed by the person who mortgaged the land, and no further deed, transfer, or document shall be required; and the certificate shall be accepted for registration in the Deeds Registration Office and in the Land Transfer Office in the same manner as a deed of conveyance or memorandum of transfer would have been. The Registrar's certificate shall be to the effect as in the *Seventh* Schedule to this Act. 30 35 40 45 50

46. The form of application for probate or letters of administration contained in the *Eighth* Schedule hereto, accompanied by the proper affidavits in support, shall be deemed to be sufficient. And on probate and administration being granted by the Supreme Court or other competent Court, the order to administer contained in the *Eighth* Schedule hereto shall be deemed to be sufficient, and shall empower the executor of a will to execute the will of a deceased person according to the provisions of the will, and shall operate in the same manner as a grant of probate did heretofore, and in the case of intestacy, or where application is made for administration with the will annexed or otherwise, the order to administer shall have the same effect as a grant of letters of administration did heretofore.

Probate and administration.

47. For all purposes in relation to this Act or otherwise, the forms of transfer, lease, mortgage, and receipt contained in the Schedules hereto shall be deemed to be sufficient, and shall take effect and operate in order to carry out the requirements of any business or transaction, notwithstanding anything to the contrary contained in any other Act, and notwithstanding that any land or estate therein may be under the operation of "The Deeds Registration Act, 1868," or "The Land Transfer Act, 1885."

Instruments in form of Schedules hereto shall be deemed valid.

## SCHEDULES.

### FIRST SCHEDULE.

#### FORM OF INSTRUCTION.

INSTRUCTIONS given this            day of           , 189   , by           , of           , in the Provincial District of           , in New Zealand, and of           , in the Provincial District of           , in New Zealand, whose names are signed hereto for a           , the land to be dealt with as follows:—

[If a lease: here state full particulars as follows: Term of years, yearly rental, how payable, when term commences, special clauses or covenants to be fully set out.

[If a memorandum of transfer: Careful details of land dealt with, amount of consideration money, names of parties in full, and carefully described.

[If a mortgage: Name of parties carefully described, amount of money advanced, for what term of years advanced, how payable, how interest payable (that is, quarterly or half-yearly).

[If an agreement: State all terms and conditions in simple and plain language, and at the same time be careful not to omit any particular, in order to insure that all details are given.]

WE,           , and           , whose names are subscribed hereto, have signed these instructions this            day of           , 189   , and we do hereby agree that if any dispute shall arise concerning the said instructions in any manner whatever, the said dispute shall be referred to the Secretary of the Law Bureau, or, in the event of his refusing to act, then the matter in dispute shall be referred to the Stipendiary Magistrate who shall exercise jurisdiction in the district where the land the subject of dispute is situated: Provided, however, that if both parties shall reside out of the district where the land being dealt with is situated, then the Secretary of the Bureau shall nominate the said Magistrate to whom the matter in dispute shall be referred, and in making such nomination the Secretary may, as far as possible, consult the convenience of both parties. The decision of the Magistrate shall be final and conclusive, and there shall be no appeal.

### SECOND SCHEDULE.

#### FORM OF APPLICATION FOR LEGAL ADVICE AND ASSISTANCE.

To the Public Law Officer.

I have the honour to apply to you for legal advice [or assistance], the circumstances of my case being:—[Then state particulars.]

## THIRD SCHEDULE.

## FORM OF PARTICULARS OF SALE.

Particulars of property to be sold by \_\_\_\_\_ of \_\_\_\_\_, licensed auctioneer, at his [or their] auction-room on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, at \_\_\_\_\_ o'clock by order of \_\_\_\_\_ of \_\_\_\_\_, are as follows:—

The property to be sold is: All that piece or parcel of land containing [*Here describe land fully from deeds*] as the said land is delineated on the plan drawn hereon.

It is hereby declared: That the land is owned by \_\_\_\_\_; that the vendor enjoys quiet possession of the said land: that the title to the land is a good title, save and except as follows:— [*Here state defects, if any*]; that the boundaries of the said land are in order, and no dispute exists concerning the same; that the fences enclosing the said land are in the right position, and are erected and stand in accordance with the surveyed lines.

I, \_\_\_\_\_, the owner [or mortgagee] of the said land above described, do declare that what is stated in the above particulars is correct.

Witness to signature—  
.....

I, \_\_\_\_\_, do declare that I have purchased the above property, and in conformity with what is stated in the particulars and in the agreement.

Witness to signature—  
.....

## FOURTH SCHEDULE.

## FORM OF AGREEMENT.

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_, between \_\_\_\_\_, vendor, and \_\_\_\_\_, purchaser.

The particulars of property are attached hereto and signed by the parties aforesaid. \_\_\_\_\_, of \_\_\_\_\_, licensed auctioneer, has sold to the purchaser on behalf of the vendor the property described in the particulars and in accordance with the said particulars. The purchase-money is the sum of £ \_\_\_\_\_ whereof the sum of £ \_\_\_\_\_ has been paid as a deposit, leaving a balance of £ \_\_\_\_\_. The purchase shall be completed on the \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_, and the said balance of purchase-money shall be paid on that date. If the purchaser shall fail to complete his purchase on the above date his deposit shall be forfeited, and he shall pay to the vendor all costs incurred by the vendor in connection with the sale of the property to the purchaser, including auction charges, legal charges, advertising charges and otherwise. [*Here state anything special.*]

[The particulars of any property to be sold by public auction shall state: That the vendor is owner, or he sells as mortgagee, or as agent for the owner; the correct area of the land; that the vendor has a good title (*if title not complete the defects in title to be plainly stated*); that the boundaries are in order, and that the fences enclosing the land are erected and stand in accordance with the surveyed lines. If fences not correct the fact to be disclosed, also if any person is in disputed possession of the whole or any part of the said land. If any vendor of any land shall not supply particulars aforesaid any agreement signed by a purchaser shall be void and of no effect, and any deposit paid shall be returned, and the vendor will pay all costs incurred by the purchaser. The amount of costs to be fixed by the Public Law Officer.]

## FIFTH SCHEDULE.

## POWER OF ATTORNEY.

I, \_\_\_\_\_, of \_\_\_\_\_, in the Colony of New Zealand, settler, do hereby nominate and appoint \_\_\_\_\_, of \_\_\_\_\_, settler, to be my attorney, and in my name and on my behalf to do the following acts, matters, and things:

- To collect my rents;
- To sell all or any of my property;
- To lease all or any of my lands;
- To sign all deeds, documents, and papers;
- To commence any action on my behalf, or to defend any action that may be commenced against me. [*Specify any other matters if any.*]

## SIXTH SCHEDULE.

## APPLICATION FOR SALE OF MORTGAGED PROPERTY.

In the matter of the mortgage bearing date the            day of            , 189   .  
Registered No.            from A.B. the mortgagor to C.D., the mortgagee.

I, A.B., of            , settler, the above-named mortgagee, hereby solemnly and sincerely declare :—

That the above mortgage affects all that piece or parcel of land more particularly described in the Schedule hereto, and delineated in the plan drawn hereon.

That default has been made in payment of principal and interest moneys secured by the said mortgage and payable to me.

That there is now due a sum of £            for principal and interest money.

That I am entitled to exercise the power of sale contained in the said mortgage.

That I desire the Registrar of the Supreme Court of New Zealand, District, to conduct the sale of the mortgaged property.

And I make this solemn declaration conscientiously believing the same to be true and under and by virtue of the provisions of "The Justices of the Peace Act, 1882."

[Here insert the schedule of the land above referred to.]

Declared at the City of            this            day of            , 189   , before me—

A Justice of the Peace for the Colony of New Zealand [or a Solicitor of the Supreme Court of New Zealand.]

## SEVENTH SCHEDULE.

## CERTIFICATE OF REGISTRAR OF SUPREME COURT OF NEW ZEALAND, WHEN LAND SOLD BY ORDER OF THE MORTGAGOR UNDER THE CONDUCT OF A REGISTRAR.

I,            , Registrar of the Supreme Court of New Zealand,            District, do hereby certify that all that piece of land described in the Schedule hereto, and delineated on the plan drawn hereon, was sold on the            day of            189   by            , licensed auctioneer, at his [or their] Auction Rooms, in the City of            , by order of            , the mortgagor, under my conduct, and at such sale of            , settler, was declared the purchaser, the purchase-money being the sum of £            .

(L.S.)

Registrar.

## EIGHTH SCHEDULE.

## FORM OF APPLICATION FOR PROBATE OR LETTERS OF ADMINISTRATION.

To his Honour the Chief Justice of the Supreme Court of New Zealand.

In the matter of the estate of            , deceased.

APPLICATION is hereby made that an order to administer the estate of            of            , deceased, be granted to            .

*Form of Order to Administer.*

In the Supreme Court of New Zealand,            District.]

In the matter of the estate of            , of            , deceased, and in the matter of the application of            .

APPLICATION having been made that an order to administer the estate of            of            deceased, be made, and the Court being satisfied, it is hereby ordered that            do administer the estate of the said            , deceased.

(L.S.)

Judge [or Registrar]