

Bill No. 49 of 1935.

A BILL TO ESTABLISH THE OFFICE OF PUBLIC
TRUSTEE.

NOTE.

Sections 3 and 4 of the Bill provide for the establishment of the office of a public trustee; specify the trusts which he is empowered to undertake; and provide that he shall not undertake any trust jointly with any other person without the consent of the Minister, and that he shall not accept any appointment in any bankruptcy or insolvency.

The public trustee is not permitted to undertake a trust unless he is appointed by the persons empowered to appoint a trustee or by the Court (sections 6 and 7).

By section 8 a judge may in a proper case dispense with the consent of any person who is under disability in cases where that consent is required to the appointment of a trustee.

Section 9 provides for the vesting of the trust estate in the public trustee upon his appointment.

Sections 10 and 11 empower the public trustee to obtain administration of estates in cases of intestacy or where there is a will but no executor; and confer upon him special powers of administration in respect of estates not exceeding \$1,000.00.

Section 12 enables any person entitled to probate or letters of administration to obtain the cancellation of any grant made to the public trustee under sections 11 and 12 and the issue of probate or letters of administration to himself.

Section 13 entitles the public trustee to probate in cases where the deceased died testate after the expiration of three months from the death unless the person entitled to probate shows that his delay was unavoidable or accidental: and thereafter any person entitled to probate or letters of administration with the will annexed may obtain a revocation of the previous grant and a new grant to himself (section 14).

Section 15 sets out the rights and liabilities of the public trustee in cases where he has acted as a trustee pursuant to the Act, and the right to so act passes to another person.

Section 16 protects the public trustee for all acts done by him in the purported exercise of any power conferred upon him by the Act and in the *bona fide* belief that he is duly exercising the same or that he is in the circumstances entitled to exercise the same.

II.

Section 17 provides that the public trustee, if he acts in good faith, shall not be liable by reason of the acceptance by him of statements made by credible persons as to birth, death, marriage and matters of pedigree and relationship and the like.

Section 18 empowers the public trustee to receive money due to any infant in trust for the infant.

Section 19 provides for advances by the public trustee to beneficiaries.

Section 20 confers upon the public trustee powers of management not incompatible with the terms of the trust.

Section 21 permits the public trustee to apply to a judge for directions as to any question arising in relation to a trust and provides a summary method for deciding the same.

Section 22 makes special provision where a distribution depends upon the ascertainment of the fact as to whether or not a beneficiary is living.

Sections 23 and 24 permit the investment by the public trustee of capital trust moneys in a common fund except where the terms of the trust prohibit it, and prescribe the amount of interest payable to each estate interested therein.

Section 25 prescribes the investments in which the public trustee may invest trust moneys.

Section 26 authorizes the payment of any deficiencies in the common fund out of the General Revenue Fund; and section 27 provides for short term borrowing on the hypothecation of common fund investments to facilitate the close investment of moneys in the common fund.

Sections 28 and 29 provide for an annual audit of the activities of the public trustee by the Provincial Auditor; an annual report by the latter and the submission thereof to the Legislature; advances from the General Revenue Fund to make up deficiencies; and payment to the General Revenue Fund of three-quarters of any surplus.

Section 30 provides for an audit of the accounts of any trust at the instance of interested persons.

Section 31 provides for the payment out of the General Revenue Fund of losses caused by the negligence of any member of the staff of the public trustee.

Section 32 provides as to the execution of documents, etc., by officials authorized by the public trustee for that purpose.

Section 33 empowers the public trustee to require evidence as to the existence and identity of any person entitled to money or property as a condition precedent to payment or transfer.

Section 34 sets out the regulatory powers of the Lieutenant Governor in Council.

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 49 of 1935.

An Act to establish the Office of Public Trustee.

(Assented to _____, 1935.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Public Trustee Act.*"
2. In this Act, if not inconsistent with the context—
 - (a) "Expenses" includes costs and charges;
 - (b) "Court" means the Supreme Court of Alberta, and as respects trusts within its jurisdiction, the District Court;
 - (c) "Instrument" includes every Act of the Parliament of the United Kingdom of Great Britain and Ireland applicable to Canada, every Act of the Parliament of Canada, every Act of the Province, and every Ordinance of the North-West Territories having the force of law in the Province;
 - (d) "Judge" means a judge of the Supreme Court of Alberta;
 - (e) "Land" includes corporeal as well as incorporeal hereditaments, and any interest therein, and also an undivided share of land;
 - (f) "Letters of administration" means letters of administration of the estate and effects of a deceased person, whether general or with a will annexed, or limited either in time or otherwise, and administrator has a meaning similarly extended;
 - (g) "Minister" means the member of the Executive Council for the time being charged with the administration of this Act;
 - (h) "Prescribed" means prescribed for the time being by rules under this Act;
 - (i) "Property" includes real and personal property and any estate or interest in any property, real or personal, and any debt, and anything in action, and any other right or interest, whether in possession or not;
 - (j) "Securities" includes stocks, funds and shares;
 - (k) "Stock" includes shares whether fully paid up or not, and any fund, annuity or security transferable in a book or register, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein;

- (l) "Trust" includes an executorship or administratorship, and the expression "trustee" shall be construed accordingly;
- (m) "Trust property" includes all property in the possession or under the control wholly or partly of the public trustee by virtue of any trust.

3.—(1) There shall be established the office of public trustee.

(2) The public trustee shall be a corporation sole under that name, with perpetual succession and an official seal, and may sue and be sued under the above name like any other corporation sole.

(3) The public trustee shall be appointed and the terms of his appointment fixed by the Lieutenant Governor in Council.

(4) The Lieutenant Governor in Council may appoint a person to act as the public trustee in the case of the absence of the public trustee by reason of illness or for any other reason, and the person so appointed shall whilst so acting have all the powers of the public trustee.

(5) The Lieutenant Governor in Council may from time to time appoint such officers and servants as may be necessary for the purpose of this Act, and prescribe their duties.

4.—(1) Subject to the provisions of this Act, the public trustee may accept any appointment by the Government or any other person or by a court and either generally or in a particular case (*as the case may be*) as trustee, executor, administrator, guardian, committee, agent, receiver, liquidator, official guardian, official assignee, custodian of the estates of missing persons or administrator of lunatics' estates under any instrument authorizing the appointment of any of the said persons or under the exercise of the general jurisdiction of any court, and any such other appointment as may be prescribed but he shall not accept any such appointment jointly with any other persons or person without the prior consent of the Minister.

(2) The public trustee may accept and administer any charitable or public trust.

(3) The public trustee shall not accept an appointment as a trustee or official receiver in bankruptcy or liquidator of any company which is being compulsorily wound up under any statute relating to bankruptcy or insolvency.

5. The public trustee may be appointed as a sole trustee or with the prior consent of the Minister as a joint trustee by any court, judge or person, including the Crown, desiring to create or declare a trust.

6. The public trustee, notwithstanding the terms of the trust instrument, if any, may be appointed as a sole trustee

or with the prior consent of the Minister as a joint trustee of any property subject to a trust by the trustees or trustee of such property or by the person authorized by statute or otherwise to appoint new trustees of such property.

7. The public trustee may be appointed as the sole executor or administrator or with the prior consent of the Minister as a joint executor or administrator of the estate of any person whether dying before or after the passing of this Act—

- (a) by the executors of such estate who have taken probate;
- (b) by the executors named in the will where probate has not been taken;
- (c) by the administrators of any such estate.

(2) Upon any such appointment the public trustee shall be sole or joint trustee of the said estate as the case may be, whether the appointing persons were or were not trustees.

8. Where the consent of any person is necessary to the appointment of an executor, administrator or trustee and such person refuses to consent to the appointment of the public trustee, or is an infant, idiot, lunatic, or person of unsound mind, or is absent from Alberta or is under any disability, then such appointment may be made without such consent, if a judge consents thereto.

9.—(1) The public trustee shall immediately upon his appointment as a trustee, executor or administrator, sign an acceptance in writing of his appointment, and shall keep the same on file in his office and shall cause a notice of the appointment to be published in *The Alberta Gazette*.

(2) The appointment of the public trustee as trustee, executor or administrator and his acceptance thereof shall, without any conveyance or assignment, operate to vest in the public trustee the trust property and the right to transfer or call for a transfer of any stock, portion of such property, and to receive the dividend or income thereof and to sue for and recover any chose in action, portion of such property.

(3) Upon receipt of a copy of the said acceptance and a copy of the instrument whereby the appointment is made, the Registrar of Land Titles for the district in which any land, portion of the trust property, is situate shall without requiring any further authority issue a certificate of title with respect thereto to the public trustee.

(4) In all cases where the public trustee becomes sole trustee, any trustee entitled under the trust to administer the estate shall upon any such vesting be discharged from all liability attaching to the administration, except in respect of past acts.

10.—(1) In case any person domiciled in or possessed of property in Alberta has died or hereafter dies in Alberta

or elsewhere, either intestate or who having died, being testate without appointing an executor, the public trustee shall upon his applying for letters of administration at any time before the grant of letters of administration to any other person, be entitled as of right to letters of administration of the property of any person so deceased.

(2) Upon the expiry of three months after the death of any person domiciled in the Province or possessed of property therein, who has died or hereafter dies in the Province or elsewhere leaving a will whereby he has appointed an executor, or within such three months, with the consent of such executor, the public trustee may prior to the grant of letters of administration or probate to any other person apply for letters of administration or probate.

(3) The application may be made to the Court of any judicial district at the discretion of the public trustee.

(4) If some other person permanently residing in the Province would, save for this section, be entitled to letters of administration or probate, the Court may direct such notice to be given to such person as it deems proper under the circumstances, or may dispense with such notice, and in default of application for probate or letters of administration by such person within the time fixed in such notice, if any, the Court shall grant letters of administration or probate, as the case may require, to the Public Trustee.

11. On the death of any person domiciled in the Province or elsewhere leaving property in the Province of a gross value not exceeding one thousand dollars according to the estimate of the public trustee, the public trustee may file an affidavit with the Clerk of the Court stating that so far as can be ascertained such person has died intestate and declaring the assets and liabilities of the deceased and the persons entitled to share in the estate so far as they have been ascertained, and thereupon the public trustee shall be the administrator of the estate to all intents and purposes as if letters of administration had been formally issued to him, and the Clerk shall issue to the public trustee a certificate of the filing of such affidavit in the prescribed form.

12.—(1) Any grant or certificate which has been issued pursuant to the two last preceding sections may be revoked and a new grant made to any person otherwise entitled to probate or letters of administration upon his making application therefor and upon proof that he has not renounced or refused probate or administration, and that the omission to apply sooner for probate or administration was due to absence from the Province, illness, incapacity or other circumstances sufficient to excuse the omission, and that fourteen days' notice in writing of his intention to so apply has been given to the public trustee.

(2) On any such application no costs shall be awarded against the public trustee.

13.—(1) Upon the expiry of three months from the death of any person testate and prior to the grant of probate or letters of administration, the public trustee may apply for letters of administration with the will annexed, and the judge shall make such grant unless the person otherwise entitled to probate or letters of administration shows that the delay in making his application was unavoidable or accidental.

(2) On any such application no costs shall be awarded against the public trustee.

14. Where any grant is made under the last preceding section, the same may be revoked and a new grant made on the application of any person otherwise entitled to probate or letters of administration with the will annexed, upon proof that he has not renounced or refused probate or administration, that the omission to apply sooner for probate or administration was due to absence from the Province, illness, incapacity or other circumstances sufficient to excuse the omission, and that fourteen days' notice in writing of his intention to so apply has been given to the public trustee.

15. Where under any provision of this Act the estate of any deceased person is in whole or in part administered by the public trustee and the right to administer subsequently passes to any other person, then upon such passing all liability upon any contract or otherwise in connection with the said estate shall straightway determine in so far as the public trustee is concerned and shall pass to such other person together with such portion of the estate of the said deceased person as then remains unadministered. All expenses incurred by the public trustee in connection with the said estate or any application in respect thereof shall be a first charge upon the property of the deceased person and shall be paid or duly and to the satisfaction of the public trustee secured to him prior to the grant of probate or letters of administration to any other person, and all things done or omitted by the public trustee under any provision of this Act shall bind any person subsequently obtaining probate or letters of administration as if they had been done or omitted by him.

16.—(1) All acts of administration or trusteeship done by the public trustee in relation to any property whatsoever in the purported exercise of any power or authority conferred upon him by this Act and in the *bona fide* belief that he is duly exercising the same, or that a state of facts exists entitling him to exercise the same, shall be as good, valid and effectual as if he were the lawful executor, administrator or trustee of the property with which he deals, and notwithstanding that he is *bona fide* mistaken as to the decease, testacy, intestacy, validity or invalidity of the will of such deceased person or as to the occurrence of any other condition precedent to the exercise of his power, as if such decease, testacy, intestacy, validity, invalidity or occurrence had taken place, existed or was established, as the case may be.

(2) The onus of proving the absence of *bona fides* on the part of the public trustee shall be upon any person who controverts the same.

17. In particular but without prejudice to the generality of the preceding section, the public trustee, if he acts in good faith (and the onus of showing a want of good faith on his part shall lie upon the person impeaching his action), shall not be liable by reason of the fact that he has accepted as correct and has acted upon the faith of any written statement by any person of credibility, as to birth, death, marriage or any other matter of pedigree or relationship, or other matter of fact, upon which the title to any trust property may depend.

18. With the consent of the public trustee, any person may pay money due to an infant to the public trustee and may by writing direct him to account to such infant according to the provisions of the law, will or trust instrument, as the case may be; and the public trustee shall hold any money so paid upon and subject to all subsisting trusts affecting the same.

19.—(1) Where an estate is being administered by the public trustee, any person desiring an advance against his share may apply to that effect and the public trustee may make an advance to that person not exceeding in the whole one-half of the value of the share as estimated by the public trustee.

(2) Any such advance with interest thereon as is agreed shall be a first charge on the share, with respect to which it is made and a certificate under the hand and seal of the public trustee stating the amount due for advances and interest at any specified rate by the person to whom such advance was made and the share against which it was made shall be sufficient evidence of the facts stated therein until the contrary is proved.

20. The public trustee shall have such powers with regard to the management and disposal of the trust property as may be from time to time prescribed, provided that such powers shall not be exercised in contravention of the express terms of this Act or of the instrument (if any) creating the trust.

21.—(1) The public trustee may at any time apply to a judge for directions as to any question of doubt or difficulty arising in relation to the exercise of any power or duty conferred or imposed upon him by this Act, or as to the interest of any person in any property vested in the public trustee by virtue of his office, or as to any dealings with any such property, or as to the manner of the execution of any trust affecting the same.

(2) Upon any such application the public trustee shall furnish the judge with a statement in writing signed by him

setting out all such facts as to the public trustee appear to be material, together with copies of all material documents: and he shall furnish the judge with a further statement as to any further facts which the judge may require: and the public trustee, or some other person authorized by him, shall appear before the judge at any time and place fixed by the judge for the purpose of assisting the judge in ascertaining all facts material to the application.

(3) The judge, upon being satisfied that the public trustee has furnished him with all the material facts which are within the knowledge of the public trustee and that further inquiry is not necessary, and that it is in the circumstances proper so to do, may make an order *ex parte* determining the question and containing such directions to the public trustee as to the persons to be served therewith and as to such other matters as he may deem fit and proper.

(4) Unless the judge is so satisfied, he shall proceed to fix a time and place for the further hearing and determination of the matter, and shall give such directions as he may think proper as to the persons to be served with notice thereof, the mode of service, the time within which the notice is to be served, and the form and contents of the notice; and upon the time and place so fixed or at any other time or place to which any adjournment is made, he shall proceed to enquire into the matter and for that purpose he may receive evidence orally and by affidavit and to make an order determining the matter, and include therein such directions to the public trustee as to the persons to be served therewith and as to such other matters as he may deem fit and proper.

(5) The judge may require that any person who may be affected by any application under this section who is a minor or for any other reason incapable of the management of his affairs be represented by counsel, and may order that the costs of any person so represented be paid out of the estate in relation to which the application is made.

(6) Every order made pursuant to this section shall be entered in the office of the Clerk of the Supreme Court at Edmonton, and a copy thereof shall be served upon such persons and in such manner as the judge may direct.

(7) Every order made under this section shall be deemed to be a final judgment and shall have the same force and effect as a final judgment made in an action, and every person who has been served with a copy of an order or is affected thereby may appeal therefrom by giving notice of appeal, which notice shall in the case of persons served with a copy of the order be given within thirty days after the date of entry thereof, and in other cases within sixty days after the said date, or in any case within such further period as the Appellate Division or a judge thereof may direct; and subject to the foregoing, the Rules of Court relating to appeals shall be applicable to all appeals from orders made under this section.

(8) Application under this section shall be made to such judge as is for the time being designated for the purpose by the Chief Justice of Alberta, and in the case of the absence or illness of that judge or if he so requests it, to any other judge.

(9) The costs of and incidental to any application under this section shall be in the discretion of the judge.

22.—(1) Where the public trustee is administering any estate, and such estate or any part thereof cannot be distributed by reason of the fact that it is not known to the public trustee whether any person entitled to or to a part of such estate is alive or dead or where that person is, the public trustee may apply for direction to the judge assigned as aforesaid or to a judge duly acting in his stead.

(2) In considering such application the judge shall order what advertisements are to be issued, and, in the event of the person aforesaid or his personal representative not responding thereto within a reasonable time and duly sending in a claim to the public trustee, shall by further order authorize the latter to distribute such estate or part thereof, disregarding the possible claim of such person and all persons, claiming by, through or under him by derivative title or otherwise howsoever.

(3) Such further order shall exonerate the public trustee from any further liability in respect to such estate or part thereof so dealt with, but nothing herein contained shall prejudice or affect the right of such person or persons to follow the estate or any part thereof into the hands of the persons who have received the same pursuant to such order.

(4) Such order shall contain such provisions as to time, payment of costs and other incidental matters as may seem good to the judge.

23.—(1) Save as is hereinafter provided all capital moneys however arising, and whether directed to be invested or not, shall unless there is in the trust instrument direction in express words not to so invest, be one common fund, and shall be invested as provided by section 26 hereof; and any investments made from such common fund shall not be made on account of or belong to any particular estate.

(2) The interest payable to the respective estates, the moneys of which form the common fund, shall be at a rate to be from time to time determined by the Lieutenant Governor in Council, and such rate of interest shall be credited to the respective estates half yearly, namely, on the first day of May, and on the first day of November in each year.

(3) On the moneys belonging to any estate no rate shall be allowed higher thanper centum per annum on an amount not exceeding \$20,000 and on any amount exceeding \$20,000 not higher than.....per centum per annum on the first \$20,000 or higher than.....per centum per annum on the excess.

(4) Subject to the limitations aforesaid as to the rate of interest, the Lieutenant Governor in Council may from time to time make such regulations as he thinks proper as to the payment or nonpayment of interest on moneys belonging to any estate; and as to the period from which interest, if allowed, is to be computed.

24. Where there is in the trust instrument an express prohibition in terms forbidding the investment of the trust moneys in the common fund, such moneys shall not form part of the common fund, and the public trustee may invest such moneys as directed by the trust instrument; 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 moneys received therefrom or realized thereby, shall be borne by the estate to which such moneys belong, or if received and realized would belong.

25. Unless expressly prohibited the public trustee may invest capital moneys—

- (a) in the securities authorized by *The Trustee Act*;
- (b) in the Government securities of the United Kingdom or of any colony or dependency thereof, issued under the authority of the parliament or other legislative authority thereof;
- (c) in debentures issued by any local authority (being the council, or governing authority of a city, town, village, municipal district, school district, or hospital district) under any law now or hereafter in force, secured upon general or special rates or taxes or upon real estate held in fee simple free from incumbrances other than a lease or upon the rents and profits of such real estate. No objection shall be allowed in any court to any rate or tax given as security for loans by the public trustee and no defence shall be heard by any court on any claim for any such rate or tax if such objection or defence alleges any irregularity in the proceedings for pledging, making or levying such rate or tax or raising such loan, or questions the purpose or object of such loan; nor shall any action or proceedings be allowed by any court for the purpose of questioning the validity of such rate or tax or for restraining the recovery thereof on any such grounds as aforesaid. A certificate under the hand and seal of the public trustee stating that the moneys mentioned therein were advanced by him on the security of any such rate or tax shall, on being produced to any court, be sufficient evidence of the matters therein recited, and shall operate to bar any such action or proceeding as aforesaid, provided that no greater advance shall be made where the debentures are secured upon real estate than three-fifths of the value of such real estate, and if the debentures are secured upon rents

and profits, then no advances shall be made unless such rents and profits are sufficient to pay two-thirds more than the annual interest payable in respect of the advance;

- (d) in advances by way of mortgage on the security of any real estate held in fee simple in Alberta and free from incumbrances (not including in such terms leases or easements) in manner and form and to the extent from time to time prescribed;
- (e) in fixed deposits in any chartered bank in Canada.

26. If the common fund is insufficient to meet the lawful claims thereon, the Minister shall, without further appropriation than this Act, pay such sums out of the General Revenue Fund as may be necessary to meet the deficiency.

27. The public trustee may, in order to admit of the moneys in the common fund being kept invested as closely as possible, obtain advances from the Minister or the bank at which the public trustee's account is kept, by hypothecating securities held by him in respect of investments of the common fund. Any such advance shall be for such period not exceeding four months and at such rate of interest as the Minister approves and may be renewed from time to time.

28.—(1) The public trustee shall, within thirty days after the close of each year ending on the thirty-first day of March, prepare and deliver to the Provincial Auditor a financial statement setting forth—

- (a) the total receipts and expenditure of or in the public trustee's account during such year, and the property and investments held and made during that period;
- (b) an account setting forth the total revenue and expenditure of the public trustee including advances from the General Revenue Fund, and losses chargeable to such revenue.

(2) The Provincial Auditor shall make an annual audit of the transactions of the public trustee and of every financial statement delivered to him pursuant hereto, and shall make a report of his audit and the correctness or otherwise of the statement, and shall transmit his report together with the statement to the Minister by whom it shall forthwith be laid before the Legislative Assembly, if sitting, or, if not, then within ten days after the commencement of the next ensuing session.

29.—(1) If in the public trustee's financial statement the balance at the credit of the account of revenue and expenditure is at any time insufficient to meet the charges thereon, the Minister may from time to time, without further or other appropriation than is made by this Act, advance such sums out of the General Revenue Fund as may be necessary to meet such charges.

(2) Moneys so advanced shall be repaid by the public trustee to the General Revenue Fund so soon as there is in the public trustee's account a balance available for such repayment.

(3) If the balance in the account of revenue and expenditure is more than sufficient to meet the charges thereon, the public trustee shall invest one-fourth part of such balance, and shall retain the same with the accumulations thereof as an Assurance and Reserve Fund, out of which the deficiency of any subsequent year may be provided, and shall from time to time, at such times as the Minister directs, pay the remaining three-fourths of the excess into the General Revenue Fund as part thereof.

30. Subject to regulations under this Act and unless a judge otherwise orders, the condition and accounts of any trust shall on an application being made and notice thereof given in the prescribed manner by or on behalf of any trustee or beneficiary be investigated and audited by such solicitor or public accountant or both, as may be agreed upon by the applicant and the trustees, or in default of agreement by the public trustee or some person appointed by him:

Provided that (except with the leave of the court) such an investigation or audit shall not be required within twelve months after any such previous investigation or audit, and that a trustee or beneficiary shall not be appointed under this section to make an investigation or audit.

31. Where by reason of the negligence of any member of the staff of the public trustee any money loss is incurred, any person entitled to the payment of such loss from the public trustee shall be entitled to be paid the amount thereof out of the General Revenue Fund without any further or other appropriation than this Act.

32.—(1) Any officer who is authorized by the public trustee in writing in that behalf may make any oath or declaration required to be made by the public trustee, under the rules of any court or otherwise, or verify any account and give personal attendance in any court or place in lieu of the public trustee.

(2) The public trustee may authorize in writing any officer to execute transfers and assurances of any real or personal property, to give any consent requiring to be filed in any court or sign any documents or instruments requiring the signature of the public trustee, or to do any other act or thing required to be done by the public trustee.

(3) Such officer shall sign his own name, adding the words "acting under the authority of the public trustee pursuant to *The Public Trustee Act*," and affix the public trustee's seal of office in cases requiring the use of such seal.

(4) Such authority may either be general or apply to a particular case.

(5) Any transfer, assurance, consent, document or instrument so executed shall have the same effect as if the same were duly executed by the public trustee.

(6) Upon the production in any court of any document purporting to be executed by a person acting under the authority of the public trustee pursuant to this Act, the document so produced shall be presumed to be duly executed unless and until it is proved that the document was not signed by the person purporting to sign the same, or that the person purporting to sign the same was not in fact authorized so to do.

33. The public trustee may at any time require a statutory declaration or other sufficient evidence that a person is alive and is the person to whom any money or property is payable or transferable and may refuse payment or transfer until such declaration or evidence is produced.

34. The Lieutenant Governor in Council may from time to time make regulations—

- (a) prescribing the appointments which the public trustee is authorized to accept;
- (b) specifying the matters or services for which charges may be made by the public trustee or in respect of which remuneration shall be payable to him, and fixing, by scale or otherwise, the amounts thereof, or empowering the public trustee so to do;
- (c) fixing, by scale or otherwise, the professional fees and charges payable in respect of professional services rendered to the public trustee, or under his instructions by barristers or solicitors, or empowering the public trustee so to do;
- (d) prescribing the powers of the public trustee as to the management or disposal of trust property;
- (e) prescribing the manner in which the duties, functions and business of the public trustee shall be transacted or carried out;
- (f) prescribing the forms of official instruments and documents to be used in the conduct of the business of the office of the public trustee;
- (g) defining the right of access to books, accounts, vouchers, and other documents, of an auditor appointed under this Act, the remuneration, and the method of appointment and removal of an auditor;
- (h) for any other matter which by this Act is expressed to be prescribed or which he thinks necessary for the purpose of giving full effect to this Act.

35. This Act shall come into force on a day to be fixed by proclamation of the Lieutenant Governor in Council.

FIFTH SESSION
SEVENTH LEGISLATURE
25 GEORGE V
1935

B I L L

An Act to establish the Office of
Public Trustee.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. LYMBURN.

EDMONTON:
W. D. McLEAN, KING'S PRINTER
1935