

of the trust. It appears to me that the procedure is unnecessarily a very expensive proceeding, and I cannot see the desirability of it.

87. What you propose is that the necessity for an order of the Judge should be dispensed with? —Yes.

88. If it is presumed, of course, that the trust estate is in proper order with the trustees who desire to transfer it?—Yes.

89. Do you think the order of the Judge should be dispensed with, and that the transfer might be made a simple deed of transfer, without having to recount any statements or fresh plans of real property in connection with the trust? In other words, do you think that the transfer of the original trust by endorsement should be sufficient?—Simply an indorsement on the deeds. I would make this proviso: that the trustees should pass very strictly before the Public Trustee all their accounts. I have been asked on more than one occasion to take over trusts from former trustees, and relieve them of all their prior responsibility, but I have declined to do so. While on that subject I should like also to suggest that section 3 of "The Public Trust Office Act, 1876," which enables a trustee to transfer a trust, should be amended. Now, I have had applications made to me by the beneficiaries. They have said, "We are not satisfied with our trustees, and we want you to take over the trusteeship." My answer has been, "You must first of all get the consent of the trustees to resign, because there is no clause in the Act enabling beneficiaries to dismiss a trustee." I suggest that the law be amended to enable beneficiaries, where there is good cause, to place a trust in the Public Trust Office. There is much more difficulty about that, to my mind, than in the other, because a trustee may be doing his very best, and be the most honest man in the world, and yet not give satisfaction.

90. *Mr. Loughrey.*] You have discovered that in your office?—Indeed I have, to my cost. I do not speak confidently on that, but I would suggest for consideration whether the Commissioners would recommend that an amendment be made in that direction.

91. *The Chairman.*] Leaving it open to the Public Trust Office to accept transfers if the law gave the power to beneficiaries to make the transfers under certain conditions?—The property would be vested in the trustees. The first question to arise is, how can a beneficiary place that which is not in him in any one else? The law at present prevents the Public Trustee from acting under power of attorney. There must be a transfer of property to the Public Trustee before he can take any action—before he can administer. Hence, the Commissioners will perceive at a glance that a class of business is prohibited which would act advantageously both to the office and to the public. I have in mind the case of a gentleman, a resident of Wellington, who paid a visit to the Mother-country. He called upon me, and told me he desired to place his affairs in the Public Trustee's hands during his absence, which he contemplated to last about three years. I told him that, under the law as it stood, he would have to transfer the property to me upon some trust. He instructed his solicitors in Wellington to prepare the requisite deed. It was prepared. He brought it to the office, and requested that the trust might be accepted. In further communication with his solicitors, they informed him that the deed would require a stamp of above £20. He, of course, waited upon me, and said that under the circumstances it was quite impossible he could pay the solicitors' fees in the first place and the very heavy stamp duty in the second. The result was that the trust did not come into the office. Another case is that of Condie's trust. He sent a power of attorney from Scotland to enable me to rescue as much of his property as was possible from a defaulting trustee in New Zealand. I saw at once that I was unable to act under his power of attorney. I had a trust deed prepared in Wellington, which was sent to Scotland for his execution. The trust deed came out executed, and the trust was accepted. In the meantime I had no legal authority whatever for acting; but, in order that he should not be prejudiced, I did act, and was the means of saving a considerable amount of his property. I would suggest, then, that the law should be so amended as to permit the Public Trustee to manage estates upon a simple power of attorney. I have had to refuse business over and over again in consequence of the want of it. In the matter of investments on mortgage by the Public Trustee, the position to my mind is very hard so far as he is concerned. A case which I have before me—that of Stewart's trust, of Christchurch—will show the very unsafe position which the Public Trustee occupies as the head of a Government department. Stewart's trust was placed in the office in 1882. The deed of settlement, as it is called, was drawn in Christchurch. The sum of £600 was placed in the office. An application was made by a solicitor in Christchurch for a loan of £500 on a certain parcel of land at Sydenham. The solicitor, who was solicitor for the trust, applied for the loan, and as he was solicitor for the trust it was natural I should suppose he was looking after the affairs of the trust as well as those of his client. That is to say, I could not be supposed to know he would do anything which would have the effect of damaging a trust of which he was solicitor. The application for a loan came before the Board in the ordinary course, and the Board directed a valuation to be made. The solicitor was very anxious for the matter to be settled, and telegraphed for replies. In order that no greater delay than possible should take place, I telegraphed to my agent, "Security will be recommended to the Board if the valuation of competent valuers, approved by yourself and Mr. Lane [the agent then], show sufficient margin." The reply was, "We have seen the security offered and recommend £500, which applicant agrees to accept, three years at 8 per cent." The money was lent and remitted to the solicitor. In the course of time the mortgagor transferred to a third party, who failed to pay the interest. I was advised that I could not sue the transferee because there was no privity of contract between him and me. The mortgagor had left the colony, and there appeared to be nothing for it except to sell. I put the property up to auction, but it failed to elicit a favourable bid. In the meantime the beneficiary was desirous of obtaining the income which by this means had been stopped, and she took action against me to recover the amount which I had lent. The matter was placed before the Ministry of the day, and it was held that I was personally liable for the amount lent. The land was