

1913.
NEW ZEALAND.

PUBLIC TRUST OFFICE

(REPORT OF COMMISSION APPOINTED TO INQUIRE INTO AND REPORT UPON THE
WORKING OF THE).

Presented to both Houses of the General Assembly by Command of His Excellency.

COMMISSION.

ROBERT STOUT, Administrator of the Government.

To all to whom these presents shall come, and to Alexander Macintosh, Esquire, of the City of Wellington, Superintendent of Dalgety and Company (Limited); and John Henry Hosking, Esquire, K.C., of the City of Dunedin: Greeting.

WHEREAS it is expedient that inquiry should be made into the working of the Public Trust Office:

Now, therefore, I, Robert Stout, the Administrator of the Government of the Dominion of New Zealand, in exercise of the powers conferred by the Commissions of Inquiry Act, 1908, and of all other powers and authorities enabling me in this behalf, and acting by and with the advice and consent of the Executive Council of the said Dominion, do hereby constitute and appoint you, the said

ALEXANDER MACINTOSH and
JOHN HENRY HOSKING,

to be a Commission to inquire into and report upon the working of the Public Trust Office, and, in particular, to ascertain,—

- (a.) Whether estates in the hands of the Public Trustee are efficiently administered.
- (b.) Whether the moneys controlled by the Public Trustee are satisfactorily invested.
- (c.) Whether realizations are properly conducted.
- (d.) Whether the affairs of members of the Native race intrusted to the Public Trustee are carefully and satisfactorily managed, and to report whether the Native business managed by the Public Trustee should be separated from the Public Trust Office and managed by a Board or a Trustee specially appointed for the purpose.
- (e.) Whether the methods of book-keeping and accountancy adopted by the Public Trustee are satisfactory and in accordance with proper business methods.
- (f.) Whether the Public Trust Office is well and sufficiently staffed.
- (g.) Whether the present constitution of the Public Trust Office Board is satisfactory.

And generally to report upon any matters which come under your notice in the course of your investigations, and make any suggestions which in your opinion will tend to the greater efficiency of the Public Trust Office.

And for the better enabling you, the said Commission, to carry these presents into effect, you are hereby authorized and empowered to make and conduct any inquiry under these presents at such times and places in the said Dominion as you deem expedient, with power to adjourn from time to time and from place to place as you think fit, and to call before you and examine, on oath or otherwise, as may be allowed by law, such person or persons as you think capable of affording you information in the premises; and you are also hereby empowered to call for and examine all such books, papers, writings, documents, or records as you deem likely to afford you the fullest information on the subject-matter of the inquiry hereby directed to be made, and to inquire of and concerning the premises by all lawful means whatsoever.

And, using all diligence, you are required to report to me, under your hands and seals, not later than the tenth day of February, one thousand nine hundred and thirteen, your opinion as to the aforesaid matters.

And it is hereby declared that these presents shall continue in full force and virtue although the inquiry is not regularly continued from time to time or from place to place by adjournment.

And, lastly, it is hereby further declared that these presents are issued under and subject to the provisions of the Commissions of Inquiry Act, 1908.

Given under the hand of His Excellency the Honourable Sir Robert Stout, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Chief Justice, Administrator of the Government in and over His Majesty's Dominion of New Zealand and its dependencies; and issued under the Seal of the said Dominion, at the Government House, at Wellington, this sixteenth day of December, in the year of our Lord one thousand nine hundred and twelve.

A. L. HERDMAN,
Minister of Justice.

Approved in Council.

J. F. ANDREWS,
Clerk of the Executive Council.

PUBLIC TRUST OFFICE COMMISSION: EXTENDING PERIOD WITHIN WHICH COMMISSIONERS SHALL REPORT.

LIVERPOOL, Governor.

To Alexander Macintosh, Esquire, and John Henry Hosking, Esquire,
K.C.

WHEREAS you, the said

ALEXANDER MACINTOSH and
JOHN HENRY HOSKING,

were appointed to hold an inquiry and to make a report into the working of the Public Trust Office:

And whereas you were required to report to me on or before the tenth day of February, one thousand nine hundred and thirteen:

And whereas it is expedient that the said period should be extended as hereinafter provided:

Now, therefore, I, Arthur William de Brito Savile, Earl of Liverpool, Governor of the Dominion of New Zealand, in pursuance of the powers vested in me, and acting by and with the advice and consent of the Executive Council of the said Dominion, do hereby extend the period within which you shall report to me to the thirty-first day of March, one thousand nine hundred and thirteen.

And, in further pursuance of the powers vested in me and with the like advice and consent, I do hereby confirm the original Commission except as altered by these presents.

Given under the hand of His Excellency the Right Honourable Arthur William de Brito Savile, Earl of Liverpool, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, member of the Royal Victorian Order, Governor and Commander-in-Chief in and over His Majesty's Dominion of New Zealand and its dependencies; and issued under the Seal of the said Dominion, at the Government House, at Wellington, this seventh day of February, in the year of our Lord one thousand nine hundred and thirteen.

Approved in Council.

H. D. BELL,
Minister of Internal Affairs.

J. F. ANDREWS,
Clerk of the Executive Council.

PUBLIC TRUST OFFICE COMMISSION: FURTHER EXTENDING PERIOD WITHIN WHICH COMMISSIONERS SHALL REPORT.

LIVERPOOL, Governor.

To all to whom these presents shall come, and to Alexander Macintosh, Esquire, and John Henry Hosking, Esquire, K.C.

WHEREAS by Warrant dated the sixteenth day of December, one thousand nine hundred and twelve, you, the said Alexander Macintosh and John Henry Hosking, were appointed to be a Commission, under the Commissions of Inquiry Act, 1908, to inquire into and report upon the working of the Public Trust Office: And whereas by a Warrant dated the seventh day of February, one thousand nine hundred and thirteen, the period within which you were required to report to me was extended to the thirty-first day of March, one thousand nine hundred and thirteen: And whereas it is expedient that the said period should be further extended as hereinafter provided:

Now, therefore, I, Arthur William de Brito Savile, Earl of Liverpool, the Governor of the Dominion of New Zealand, in pursuance of the powers vested in me by the said Act, and acting by and with the advice and consent of the Executive Council of the said Dominion, do hereby extend the period within which you shall report to me as by the said Commission provided to the thirtieth day of April, one thousand nine hundred and thirteen.

And in further pursuance of the powers vested in me by the said Act, and with the like advice and consent, I do hereby confirm the said Commission except as altered by these presents.

Given under the hand of His Excellency the Right Honourable Arthur William de Brito Savile, Earl of Liverpool, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, member of the Royal Victorian Order, Governor and Commander-in-Chief in and over His Majesty's Dominion of New Zealand and its dependencies; and issued under the Seal of the said Dominion, at the Government House, at Wellington, this twenty-eighth day of March, in the year of our Lord one thousand nine hundred and thirteen.

Approved in Council.

A. L. HERDMAN,
Minister of Justice.

J. F. ANDREWS,
Clerk of the Executive Council.

REPORT.

To His Excellency the Right Honourable Arthur William de Brito Savile,
Earl of Liverpool, Governor and Commander-in-Chief in and over
His Majesty's Dominion of New Zealand and its dependencies.

MAY IT PLEASE YOUR EXCELLENCY,—

The Commission intrusted to us by Your Excellency with reference to the Public Trust Office directed us to inquire into and report upon the working of the Public Trust Office and to ascertain,—

- (a.) Whether the estates in the hands of the Public Trustee are efficiently administered.
- (b.) Whether the moneys controlled by the Public Trustee are satisfactorily invested.
- (c.) Whether the realizations are properly conducted.
- (d.) Whether the affairs of members of the Native race intrusted to the Public Trustee are carefully and satisfactorily managed; and to report whether Native business managed by the Public Trustee should be separated from the Public Trust Office and managed by a Board or a Trustee specially appointed for the purpose.
- (e.) Whether the methods of book-keeping and accountancy adopted by the Public Trustee are satisfactory, and in accordance with proper business methods.
- (f.) Whether the Public Trust Office is well and sufficiently staffed.
- (g.) Whether the present constitution of the Public Trust Office Board is satisfactory.

We were further directed to report generally upon any matters which came under our notice, and to make any suggestion which in our opinion would tend to the greater efficiency of the Public Trust Office.

We commenced our duties on the 9th day of January, 1913, and occupied ourselves with them continuously until the 4th day of February, 1913, when we adjourned for the purpose of preparing our report. The adjournment was made to the 28th day of March, 1913.

For the purpose of our inquiry, we first had an interview with the heads of the various Departments in the Head Office, and we then took the evidence of the officials we thought it desirable to examine. We had a notice put up in the office inviting any member of the staff to offer suggestions or to communicate with us on any subject relative to the inquiry if he desired to do so. A committee of six waited upon us as spokesmen on behalf of the junior staff, and their statements were taken. We also examined a number of gentlemen not belonging to the staff whom we thought might be of assistance to us. The office also furnished us with returns on various topics, and such returns accompany this report.

A list of the names of all witnesses is appended, together with their evidence, which was taken down, transcribed, and signed by them. In order to save space and expense, the evidence has for the most part been taken down in narrative form, and not in shape of question and answer.

In order to learn as much as possible from the District Managers we had a request sent to them by telegram in the following terms :—

15th January, 1913.

We have the honour to request that you will furnish us, as the Commissioners appointed to inquire into the working of the Public Trust Office, with a report, offering any suggestions as to the improved working of the Department, especially as regards branches, and your branch in particular; also, whether your staff is sufficient as regards number and competence; also,

particulars of any complaints, say, during the past five years, by third parties; also, if, and what, delays occur in your receiving replies and instructions from Head Office, and if no delays why complaints made, and generally on points affecting the efficient working of your office, or calculated to improve same. It is desired report reach Commissioners on or before 23rd instant.

Their replies are herewith.

As it was known that the various law societies had from time to time made representations to the Public Trustee, we invited them to formulate their views, and we received communications from the following societies: Auckland District Law Society, Hawke's Bay District Law Society, Taranaki District Law Society, Nelson District Law Society, Canterbury District Law Society; and from Sir Arthur Guinness and others on behalf of the practitioners at Greymouth.

We also personally heard representatives on behalf of the New Zealand Law Society and the Wellington District Law Society.

Consequent upon a newspaper advertisement, we received letters from various members of the public, containing complaints of maladministration and remissness in relation to estates. We did not consider it within the scope of our Commission to inquire into these complaints from the point of view of being able to afford the complainants any remedy. We nevertheless did make an inquiry, and formed certain conclusions in some of those cases. The conclusions at which we arrived are embodied in a separate memorandum, as it might be thought undesirable to make the matters to which they relate public. In the other cases the explanation of the Public Trustee is appended to the complaint. We informed the complainants in each case that our report thereon would be forwarded to Your Excellency.

We now proceed to deal with the matters into which we were directed to inquire, and in doing so we shall, as a matter of convenience, alter the order in which the directions were put.

PRELIMINARY.

In order to make our subsequent observations clear, it is desirable to bear in mind that, broadly speaking, the functions of the Public Trustee come under two distinct categories, namely—(1) Those relating to the management and realization of estates; (2) those relating to the investment of trust funds.

Under the management of estates come such multifarious business as letting, supervising tenants, repairs, sales, carrying on businesses pending sale, and suchlike. Under the same head come the distribution of income, and the fixing and payment of maintenance for infants.

The investments of trust funds applies not only to moneys forming part of, or derived from, the realization of estates and not requiring to be immediately distributed, but also the large sums annually received on account of superannuation, sinking, and many other classes of public funds.

The functions with regard to investment are direct and simple as compared with those involved in management and realization, and obviously, therefore, call for less resources in the way of staff, and for less office expenditure, than are required for management and realization.

A point to be noted is that the functions of management and realization are carried out by means of the office branches and agencies in various parts of the Dominion under the control and direction of Head Office. The Trust Office in this respect is like a bank with a head office controlling the various offices at which the actual banking is done. But there is this difference: that in the case of the Public Trustee no provision is made by law (with the exception of the Act passed in 1912 authorizing the creation of Deputy Trustees at four centres) enabling the Public Trustee to delegate his functions. Up to 1912 the law was silent as to branches or agencies. The Public Trustee had, therefore, no alternative, even if for other reasons it was not the proper course to pursue, but to concentrate all the work of management and realization at Head Office by requiring that no act involving discretion or liability should be done without the sanction of Head Office. Hence with regard to

every estate a full and absolutely complete record at Head Office became requisite. Hence also the protective result that every act proposed with regard to an estate came under the review of the Public Trustee.

It is obvious that with the increase of business the Public Trustee could not be expected to bring his own mind to bear upon every question that arose. Each estate is, as the Public Trustee himself has put it, a separate microcosm—a separate business—and presents its own problems. In regard to every estate, some thought, judgment, and discretion must be exercised by the Trustee—it may be as to whether and when a property should be sold, how it should be sold, what the reserves should be, who shall sell it, whether it should be let, what terms should be asked, what repairs should be done, who should pay for them, whether a tenant is properly farming his land. Upon all these points thought, judgment, and discretion on the part of the Public Trustee himself or his Deputy are called for. How the work is done may be briefly described.

All estates, whether under deed, will, or intestacy, or from mental patients or convicts, are attached to some district branch or agency. An estate on coming to the office is assigned to the officer at headquarters in charge of that class to which the trust belongs, and he is the medium of communication with the branch office or agency. For example, if the trust is created by will, it goes to one of the two officers in charge of the estates under will, one taking those from A to L, and the other those from M to Z; if it is an intestacy, it goes to the officer in charge of intestacies; and so as regards mental patients, &c. The officer in charge frames instructions for the branch officer or agent thereon. All subsequent correspondence and communications from the branch, or beneficiaries, or others is passed out to him. He prepares the instructions or reply thereon. The letters embodying instructions or replies or otherwise relating to the estate are then submitted with the relative file of papers to the Public Trustee, or the Deputy, or Secretary, and if he approves, he signs.

The officer in replying should, from his knowledge and experience, be able to form a correct judgment on many matters without previous reference to the Trustee, and in practice does so. Otherwise he refers the question to the Public Trustee first. In short, subject to the Public Trustee, the officer in charge of the particular department “runs” the estates belonging to that department by advising and controlling the District Managers and Agents and using them as his executive.

These officers in charge of estates send up for approval and signature by the Public Trustee between two and three hundred letters per diem—quite an unnecessary proceeding in our opinion—as hereafter referred to in general recommendations.

THE COMMON FUND.

A further subject for explanation is the Common Fund. In the earlier history of the Public Trust Office the moneys belonging to each estate were as far as possible separately invested, but owing to the difficulty of always finding investments to suit the exact sum to be invested, the practice grew up of combining moneys belonging to two or more estates and investing them, *pari passu*, on one security. In the year 1891, consequent on doubts as to the legality of this mode of dealing with trust funds, and in accordance with the recommendation of a Commission which sat in that year, provision was made by statute for the Common Fund, which in effect means that all trust moneys which come into the Public Trustee's hands, unless expressly forbidden to be so invested, form one blended fund, and are invested indiscriminately, so that no investment can be said to be earmarked or to belong to any particular estate. This Common Fund earns interest at, say, from $4\frac{1}{2}$ per cent. to $5\frac{1}{2}$ per cent. per annum, and the estates whose money make it up are paid at a somewhat lower rate without break for any interval of non-investment. This rate is fixed by *Gazette* notice from time to time, and the difference between this and the rate earned is retained by the office in lieu of commission on the income as profit.

It is only where the trust instrument, whether statute, deed, or will, provides specially that the trust funds subject thereto are to be separately invested that separate investments will be made. The beneficiary in that case would get the full rate of interest earned, but—(a) he gets none during an interval of non-investment; (b) a commission is deducted; (c) mortgage-tax is paid if incurred.

A further distinction is that if the trust moneys are to go into the Common Fund they are guaranteed by the State, but if they are specially invested, neither the Public Trustee nor the State is responsible for any failure of or deficiency in the security, provided the Public Trustee has acted as a trustee ought to do in making and looking after the investment.

In this connection it should be carefully noted that in so far as an estate comes into the Public Trustee's hands already invested in any form not casting liability upon him, then, unless it is his duty to convert the investments, they are retained in specie, and the beneficiary gets the full interest derived therefrom, less the Trustee's commission, and not merely the common rate. These securities are not guaranteed.

SKILLED WORK REQUIRED.

It is necessary to emphasize that a good supply of skilled officers must be kept up to ensure effective working. Those in charge of branches, the Corresponding Clerks, Examiners, and Accounts Clerks must all possess some knowledge of law and accountancy to enable them to determine the ordinary questions connected with trusts and administration, and to make up accounts of estates based upon the requirements of the trust documents and the law.

These accounts, it may be noted, are first made out by the Accounts Clerks, who have to take the whole file, and study it so as to see what the position is and what points have required attention, and whether they have been disposed of. An account is then passed over to an Examiner, who goes over it in the same way to test its correctness. We saw what work was involved in this, and are satisfied that special knowledge and experience are required for it.

I. WHETHER ESTATES ARE EFFICIENTLY ADMINISTERED.

The first head of inquiry put to us is: "Whether estates in the hands of the Public Trustee are efficiently administered."

We exclude from this head Native trusts, which are dealt with under another head.

As regards the investment of trust funds, both on public and private account, we may say at once, in order to anticipate misapprehension, that in our opinion the administration with respect to the methods adopted in making investments and the collection of the income and revenue therefrom is eminently efficient.

The practical work of administering estates as regards their realization and management, as already pointed out, is necessarily in the hands of District Managers and Agents controlled by the Head Office, and the efficiency with regard to each estate must further be dependent upon and vary according to the business capacity, judgment, and energy of the individual Manager or Agent, and the recommendations he makes to the Head Office for its consideration. The Head Office is the advising and accounting body.

We do not pretend to answer this question upon the basis that we have reviewed more than a very small fraction of all the estates that are or have been in the hands of the Public Trustee. It would be next to impracticable to do so.

A general affirmative answer may be given by reference to the increasing amount of business *voluntarily* placed in charge of the office year by year, for example,—

Rider A.

Year.		Number of New Estates.	Net Increase in Total Business. £
1906	...	136	330,510
1907	...	149	356,129
1908	...	270	194,998
1909	...	302	504,507
1910	...	298	299,110
1911	...	440	453,573
1912	...	430	362,456

Further, the number of well-founded complaints received by us is exceedingly small in comparison with the number of estates administered or in course of administration and the variety of the factors to be dealt with.

As a set off, the Public Trustee produced to us letters from various persons expressing their thanks for, and appreciation of, the manner in which their business had been attended to.

At the same time, having regard to the insufficiency of the staff, hereafter discussed, and to the varying business capacities of the Agents (in the back-blocks, for small estates, the local policeman is the realizing agent), we cannot say that the administration is as efficient as it could be made to be.

In administering wholesale in so many places through such a variety of agencies errors of judgment and want of attention are bound to occur, and the office cannot claim that in some instances it may not be justly charged with those faults.

The following table shows how small a sum has fallen upon the office by way of compensation for losses caused to estates during the past seven years :—

Date.	Estate.	Amount paid to compensate for Loss.	Remarks.
		£ s. d.	
2/8/1906	Wills 1, W.N.A. ..	21 3 2	Amount erroneously paid in full on an estate which only paid a dividend of 3s. 2d. in the £.
11/2/1908	Wills 11, W.T. ..	40 0 0	Compensation for sale of land below reserve price.
30/7/1908	Wills 1, C.D. ..	150 0 0	Loss to estate owing to fire breaking out in building nine hours after insurance expired.

This table is also evidence of careful administration.

Delays.

Both as between Head Office and its agencies, and as regards third parties, delay in answering correspondence and in rendering accounts are serious and existing defects which cannot be denied. These are due largely to the insufficient manning of the skilled departments, as will be apparent from our subsequent remarks on the office organization.

These defects are, we are assured, in the course of removal, but while they exist they cannot but impair efficient administration.

A further defect which will doubtless be to some extent removed by the appointment of inspecting officers (Mr. Barnett being the first) is the insufficient inspection of the various house and other properties under the office control. The need of this has been long realized, but the insufficiency of the staff has been the excuse for its non-adoption.

Finding.

Subject to the foregoing remarks, it can be said with confidence, for the assurance of those who have, or propose to have, dealings with the Public Trust, that the office system and methods provide with the greatest care for safeguarding, controlling, and scrupulously accounting for any estate placed in its charge.

II. WHETHER REALIZATIONS ARE PROPERLY CONDUCTED.

We have investigated the course followed with regard to realizing assets, and are of opinion that realizations are carried out on proper business lines consistently with the duties of trustees.

In determining the course of realization in the case of wills, the provisions of the will must be the primary guide for a trustee. Sometimes the will directs immediate realization, or it may authorize postponement and a carrying-on of a farm or business for a certain time. The Public Trustee acts upon such provisions, but is reluctant to carry on business for more than a short period. A going concern would be worked with a view to immediate sale if the assets could be best realized in that way. The action of the Public Trustee in regard to realization and carrying on is guided, in cases of doubt, by the beneficiaries where they are of age and available. In practice their wishes are consulted with regard to the time and the mode of realization, the agents to be employed in doing so, the reserve to be fixed, and so on.

In the case of intestacies, the large proportion of which consists of estates of small value, it is the duty of the office to realize within a year if practicable. In these cases those interested, where of age and available, are consulted in cases of doubt or where for other reasons it is thought desirable. Intestate estates are very troublesome to handle, for frequently they are represented by a suburban section with a cheap house and a heavy mortgage. Such properties are difficult to dispose of so as to satisfy the expectations of beneficiaries, and especially so when suburban properties of that kind come to be a glut in market. Again, in many cases of intestacy, it is found that the beneficiaries desire immediate realization in order to get hold of the money.

From the evidence before us and the investigation of many files we find that the Head Office and its various agencies are fully and anxiously alive to the various business considerations combined with trustees' duties to be taken into account with respect to the realization of estates. It must be borne in mind that trustees—and the Public Trustee is one—cannot, without incurring uncalled-for responsibility, deal with another man's property and affairs without regard to what the law demands of a trustee.

We had a return submitted with regard to the real property realized by the various agencies of the office over the past three, and in some cases five, years, showing the valuations for death-duty purposes and the prices obtained. In the Auckland District, in the great majority of cases, the price exceeded the valuations. There, of course, the land-market has been particularly active over the period in question, and the return shows that the Department has shared in the advantage of that activity. In other districts the cases in which the price obtained exceeded the valuation were as numerous as those in which the result was less, and in almost all the latter cases the sale was with the consent of the beneficiaries. Moreover, it is not always to be assumed that the valuation was correct.

We have not had any similar return of personal property, as to obtain it would have unduly taxed an already overworked office; but as sales are, except in special cases, made by auction, and as far as possible after consultation with the beneficiaries interested, it is difficult to see why the Public Trustee should not realize to as good advantage as any other trustee whose business is to realize, and to do so without unreasonable delay.

From the long experience of District Managers in realizing estates, more expert knowledge of methods of realization is available at their hands than would be the case in many instances of private trustees.

III. ARE THE MONEYS CONTROLLED BY THE PUBLIC TRUSTEE SATISFACTORILY INVESTED?

By far the greater portion of these moneys is invested on mortgage of freehold security throughout the Dominion. The position of the funds as at the 30th September last was as follows:—

	£	s.	d.
Total for which the office was liable to account ...	5,407,356	3	3
Less funds specially invested ...	173,948	13	10
Balance ...	£5,233,407	9	5
Disposed of as follows,—			
Investments—	£	s.	d.
Mortgages ...	4,411,893	15	1
Government securities ...	122,758	0	0
Local bodies' debentures ...	260,925	5	0
Land Settlement Finance Act debentures ...	153,136	17	3
Advances to estates by way of overdraft ...	72,997	5	1
Fixed deposits in bank ...	1,062	18	0
	5,022,774	0	5
Other assets—			
Office premises and furniture ...	73,869	17	3
Mortgage securities acquired ...	5,765	8	5
Interest accrued due but not received ...	£57,709	16	2
Interest overdue ...	2,006	2	9
	59,715	18	11
Advances to Agents by way of imprest ...	1,350	0	0
Unauthorized expenditure to be refunded out of Profit and Loss Account ...	82	11	11
Cash in hand ...	69,849	12	6
	£5,233,407	9	5

STATEMENT showing the Amounts invested and the Respective Rates of Interest on 31st March, 1912.

Debentures—£174,378 at 4 per cent.; £379,533 at $4\frac{1}{2}$ per cent.; £2,800 at $4\frac{3}{4}$ per cent.; £67,325 at 5 per cent.; £639 at 6 per cent.

Mortgages—£1,817,465 at $4\frac{1}{2}$ per cent.; £457,600 at $4\frac{3}{4}$ per cent.; £1,733,207 at 5 per cent.

Fixed deposits—£531 at 5 per cent.

Totals—£174,378 at 4 per cent.; £2,196,998 at $4\frac{1}{2}$ per cent.; £460,400 at $4\frac{3}{4}$ per cent.; £1,801,065 at 5 per cent.; £639 at 6 per cent.: total, £4,633,480.

From 31st March, 1912, until 21st January, 1913, the uniform rate asked by the office on all investments on mortgage was 5 per cent. This was raised to $5\frac{1}{2}$ per cent. on the date last mentioned.

With regard to securities submitted for loans, these are reported upon by the District Manager or Agent from whom they come. They are then specially valued by a Government Valuer. If the amount to be lent is £10,000 or upwards an additional valuation is obtained from an outside valuer. They are then submitted to the Board, usually consisting of the Public Trustee, the Government Life Insurance Commissioner, the Superintendent of the New Zealand State-guaranteed Advances Department, gentlemen familiar with the business of appraising mortgage securities; and these have the occasional assistance of the Surveyor-General.

No advance is made beyond three-fifths of the valuation, and in many instances that came under our notice not more than half was lent. The period of the loan is limited to five years, and if not paid off then the loan is only renewed on a fresh valuation.

Testing the character of the securities by the cases of the exercise of the power of sale or of entry into possession or legal proceedings for the recovery

of principal or interest during the past five years, the result is in the highest degree favourable to the office. Only four cases have occurred in which the power of sale has been exercised or possession taken. In one of these cases the property was sold at a profit. In another it was sold without loss. In the other two cases, involving a total loan grant of £4,700, these, though not yet sold, are revenue-producing. In only thirty cases was it necessary to have recourse to legal proceedings for recovery.

To this must be added what are termed "sick" securities—that is, securities treated as doubtful. There are only six of these, and the total sum represented by them is only £6,495. In these cases the securities have diminished in value, but still show a margin except in one case. Interest still continues to be paid on these securities, except in one case where judgment has been obtained and the rent is collected.

Having regard to the small proportion which these cases of default and of doubtful securities bear to the total, we think the satisfactory character of the office investments and of the methods followed in making the investments is manifest.

One observation requires to be added—namely, that the Public Trustee did not, we think, take as early as he might have done advantage of the higher market rate of interest which has prevailed for the last twelve months and more. He continued to lend at 5 per cent. per annum until the 21st January last. It is to be observed, however, that the Government Insurance Commissioner did not raise his rate to $5\frac{1}{2}$ per cent. per annum before that date. In support of this undue consideration for borrowers at the expense of the Common Fund the Public Trustee assigns certain reasons which do not wholly commend themselves to us.

Subject to the foregoing observations, we find that the moneys controlled by the Public Trustee are satisfactorily invested.

IV. WHETHER THE METHODS OF BOOK-KEEPING AND ACCOUNTANCY ARE SATISFACTORY AND IN ACCORDANCE WITH PROPER BUSINESS METHODS.

In the time at our disposal we have made as full inquiry as possible into the methods adopted by the office, and, while the evidence bearing on this discloses some diversity of view, we are of opinion that the system now in force is one, on the whole, well calculated to ensure accuracy and reasonable expedition. The conclusion thus arrived at is supported by the Commissioners recently appointed to investigate and report on the condition of the Public Service (see page 58 of their report).

V. WHETHER THE PRESENT CONSTITUTION OF THE PUBLIC TRUST OFFICE BOARD IS SATISFACTORY.

According to statute the Board consists of the Minister of Finance, the Native Minister, the Solicitor-General, the Government Life Insurance Commissioner, the Surveyor-General, the Public Trustee, and such one or more of the following officers as the Governor in Council may from time to time appoint, namely: The Valuer-General, the Superintendent of the New Zealand State-guaranteed Advances Department, the Under-Secretary of the Department of Lands and Survey. Three members form a quorum. In the case of the Valuer-General and the Superintendent provision is made for his deputy acting as his substitute.

The Public Trustee is made subject to any directions from time to time given by the Board. Though he is thus placed under the control of the Board in all respects, yet such control has in practice been reduced to and is exercised in two classes of cases only, namely: (1) Consent to the Public Trustee accepting the appointment of a trustee, executor, administrator, guardian, committee, agent, attorney, or other appointment under the Act; (2) approval of investments submitted to them by the Public Trustee. No investments are made without such approval.

No other business is transacted by the Board. It is stated that the Public Trustee sometimes mentions a complaint or possibly some other matter, but such matters are not seriously entertained or deliberated upon by the Board. At any rate, no minutes concerning any such matters are kept. It is plain that the Public Trustee does not consult the Board upon questions affecting the staff or relating to the realization or administration of estates, the execution of trusts, or the discharge of the duties imposed on the office. The Board deals merely with the two subjects above stated. Such has been the practice for years past, at any rate.

The Board meets once a week, and is attended with regularity by the Government Life Insurance Commissioner and the New Zealand State-guaranteed Advances Superintendent. The Surveyor-General's attendance is infrequent. No Minister ever attends, nor does the Solicitor-General.

The Board invariably acts upon the recommendation of the Public Trustee upon the question whether he shall accept any proposed appointment. The Public Trustee never rejects an estate on account of its smallness, but he does so if he foresees that the estate will involve him in litigation, or where, as is sometimes the case, a family feud attaches to a trust, or where some other undesirable factor of that kind exists.

In regard to securities submitted for approval, the particulars are entered in the minute-book, and the files relative to the securities are placed on the table for more detailed information in case of need. When once the security has been approved further reference thereto is not made to the Board. We think it would be an improvement if in each week a record was placed before the Board in the minute-book showing what securities approved, say, three weeks or more before, have not been completed.

The members who usually attend the Board meetings to approve the securities are admirably qualified for the purpose, on account of the experience they gain in similar matters in their own lending departments—an experience not confined to Wellington, but, like that of the Public Trustee, extending over all parts of the Dominion. It sometimes happens that one or other of them recognizes some security submitted to the Trust Office as one which he has himself rejected.

We conclude that failure on the part of some members of the Board to attend meetings indicates disinclination or inability to give any portion of their time to the duties assigned to them, and in our opinion the Board should be strengthened by the addition of the Valuer-General and two members of wide business knowledge and experience, who shall deal not only with such important matters as advances, investments, and acceptance of trusts, but with questions of difficulty and general policy.

The view expressed to us (as will be seen from the evidence) to the effect that the Valuer-General should be a member of the Board we strongly recommend. He knows all parts of the Dominion; he knows his valuers—whether they are inclined to be sanguine or the reverse. Delays on the part of valuers are a not infrequent source of annoyance. These will be brought instantly and vividly before him, and he will be the better equipped for inquiry into the causes of delay. As already indicated, he may be appointed by the Governor under existing legislation.

The Solicitor-General may, we think, well be omitted, at all events, so long as the Board's functions are confined to the two classes of business before described.

It is our opinion that if the outside business element suggested were introduced, a decided improvement would be effected. Not that the members who now attend the meetings do not do admirable work, but the addition of members from outside the Service would bring the office more in touch with the public. The non-service members would, it is believed, create increased confidence in the office, and be more likely to secure independent and sympathetic consideration of the complaints or grievances of beneficiaries and others, and so be the means of prompter redress. As men of business, their appointment

would have an additional advantage, and, it is thought, would tend to relieve the office from a charge of inadequate outside experience. In particular, having regard to the many cases in which farms and live-stock have to be dealt with, the securities held over agricultural lands, and the number of tenants of that class of land, we strongly recommend that one of the additional members should be a person who is experienced in matters relating to farming and stock. The addition of the non-service members would also enable and induce more business of a general character to be brought before the Board than is possible with the time available to the present members, who have the weight of their own Departments upon their hands. Provision should be made for sub-committees of the Board, of which the Public Trustee should always be one, so as to enable appropriate business to be delegated to the non-service members.

In the earlier history of the office the Board as then constituted might well have been considered adequate, but the business has grown so enormously, so much larger estates have come to be dealt with, and so many more questions of policy of action arise, that the necessity for a stronger Board appears to your Commissioners inevitable.

It is not suggested that the Board should go into particulars of individual estates. It should only deal with such matters as the Public Trustee brought before them, but all complaints should be submitted to them and investigated. Otherwise matters to be dealt with should be left to the discretion of the Public Trustee, as in the case of the general manager of a bank or other institution. He knows, or ought to know, what are matters proper for the Board and what not.

Your Commissioners are conscious that the greatest care and discretion would have to be exercised in selecting the proper persons to be appointed as additional outside members, otherwise they might not prove a source of strength. They should, of course, be bound to secrecy to the same extent as the Public Trustee himself. It would also be necessary to attach some remuneration to the position.

Further, if the appointment were made, the quorum for a meeting of the Board should, we think, be raised to four.

It is noteworthy that in the case of trustee companies, both in New Zealand and Australia, a Board exists. In New Zealand the Boards are composed chiefly of business men. This fact is held out as an advantage and inducement, and so operates.

The desirability of appointing to the Board members from outside would not operate with the same degree of force, and might, indeed, in a Government institution, be put aside if the Public Trustee himself is one who has had a good business training and experience, as he undoubtedly should have, or one who has graduated through the office, for we regard the experience gained by long service in the Trust Office, conjoined with capacity to take advantage of it, as affording as sound a basis for an appointment as that of business experience gained outside.

We may remark that, so far, the holders of the office have, with one exception, been selected from the legal profession.

The Board, strengthened as here set out, while giving due weight to the recommendations of the Public Trustee, and without seeking to force its own views upon him, would, we are satisfied, inevitably benefit the institution in all that pertains to prudent and sound administration.

VI. WHETHER THE AFFAIRS OF THE MEMBERS OF THE NATIVE RACE INTRUSTED TO THE PUBLIC TRUSTEE ARE CAREFULLY AND SATISFACTORILY MANAGED, AND TO REPORT WHETHER THE NATIVE BUSINESS MANAGED BY THE PUBLIC TRUSTEE SHOULD BE SEPARATED FROM THE PUBLIC TRUST OFFICE AND MANAGED BY A BOARD OR A TRUSTEE SPECIALLY APPOINTED FOR THE PURPOSE.

The affairs of the Native race dealt with by the Public Trustee may be grouped under three heads—(1) The West Coast Settlement Reserves in the

Taranaki District; (2) the reserves of various areas scattered over other parts of the Dominion; (3) the control of the estates of minors under appointments made by the Native Land Court: there are about 140 of these minors, representing properties valued at £101,000.

1. The West Coast Settlement Reserves comprise an area of 193,966 acres scattered over Taranaki, from Whitecliffs, north of New Plymouth, to Waitotara, in the south, and granted to the Natives after the war. They were first brought under the control of the Public Trustee in 1881 by the West Coast Settlement Reserves Act of that year. The dominant trust imposed by that Act was "for the benefit of the Native race and the promotion of settlement." This expression of the trust was not reproduced under the consolidating Act of 1892, but the powers to lease were amplified and the provision for the payment of the rents to the Natives was elaborate, so that the dominant trust of the reserves is in effect continued. In addition to the power to lease generally, a special power was conferred to grant to the Natives themselves licenses to occupy for cultivation and residence.

Under this Act, as subsequently amended, leases for a term of thirty years for agricultural purposes were granted, conferring on the lessees on the expiry of their leases a right to valuation for improvements to the extent of £5 per acre.

Then in 1892 new legislation was substituted, and under this leases for twenty-one years, with a right of perpetual renewal for a like term, were authorized.

Legislation was also passed enabling the thirty-year tenants to convert their holdings into perpetual leasehold, but 135 tenants did not take advantage of this.

The position now is that of the total area of 193,996 acres above mentioned, 18,400 acres are held by Europeans under a thirty-year lease, 120,110 acres under renewable lease, 4,890 acres under various tenures without right of renewal or compensation, and 24,800 acres by Native beneficiaries under licenses at will. The balance of 25,798 acres has been hitherto retained for use as *papakāingas* or commonages. There was and is no special legislative authorization for so doing, and now about 7,000 acres of this area have been subdivided and are about to be granted to the Natives, under license.

There are 934 current leases to Europeans and 368 licenses to Natives.

The reserves are divided into over 200 Crown grants, each having a separate set of owners, who number between four and five thousand, mostly residing in Taranaki. These are the beneficiaries.

According to the last return available the annual rents from the European leases amount to £24,061, and from the licenses held by Natives to £6,513.

So far as the leased portion of the reserves is concerned, the duties of the Trustee consist in collecting the rents from the tenants and distributing them amongst the Natives entitled, in attending to renewals, and consenting to transfers and dealings. For the former purpose great trouble and care are involved in keeping a record of the various successions that occur amongst the Natives. The calculation of the various proportions of rent and the payment, which as far as possible is made personally to each Native, likewise involve special trouble. For these services the Trust Office has hitherto charged a commission of $7\frac{1}{2}$ per cent. on the rents from the European leases and $3\frac{3}{4}$ per cent. on the rentals from the Natives, and the total commission earned is £2,048 per annum.

All this work is largely routine and mechanical, and the books and office arrangements for carrying it out appeared to us to be above criticism. There has been no suggestion, and we see no reason for the view, that this work is otherwise than carefully and satisfactorily done. The question of management as regards the leased areas scarcely arises except with regard to periodical inspection.

It is acknowledged that inspection of areas under occupation has not been so frequent as it ought to be. Inadequacy of staff is expressed as the cause.

The power conferred on the Public Trustee to grant licenses to Natives, and which has been exercised, as mentioned, to the extent of 24,800 acres, undoubtedly was to afford them an opportunity of devoting themselves to farming and agricultural pursuits. The area mentioned is distributed amongst 368 Natives, but the Public Trustee is not satisfied with the result. In many cases the licensees have not themselves cultivated, but have granted the use of the land to Europeans. The Public Trustee does not, however, appear to have intervened to put an end to the licenses in such cases. The Public Trustee is also of opinion that where the land has been used by the Natives directly they have not dealt with them to the best advantage. The contention for the Native is that he is not encouraged by, and that the best results cannot be looked for in, a tenure at will, and that he is now much more qualified, and indeed is eager, to use the land to better purpose if he gets a more secure tenure.

The questions—(a) Whether the Native generally should not before this have been dealt with on that footing and given a lease as in the case of Europeans, or (b) whether in the interests of settlement the land should not have been let to Europeans where it has not been properly dealt with by the Natives in the past, are questions which, if answered affirmatively, would justify the criticism that these lands have not been satisfactorily managed. These are not questions that we can answer, if, indeed, it was expected we should do so. They are questions which involve the whole policy of dealing with the Natives and their lands.

The same observation is applicable to the *papakainga* areas—that is, whether, and, if so, to what extent, these lands should have been allowed to remain *papakaingas* and practically waste. Subject to the observation as to inspection, and as to the areas under license and held as *papakaingas*, we have to report that the trusts of these reserves are carefully and satisfactorily performed.

A phase of the Native policy that is now pending requires reference. The thirty-year leaseholders who did not, after repeated opportunities to do so, exchange their holdings for perpetual leases now desire to obtain such leases, or, at any rate, to be allowed for their improvements in excess of the stipulated rate of £5 per acre. The Natives oppose, and wish themselves to be able to bid for the lands when put up. The Public Trustee does not favour the claim of the Natives to bid.

A Commission, consisting of Dr. McArthur, S.M., and Mr. Kerr, S.M., investigated and reported on this matter last year in favour of the Natives; and, with a view to Parliament considering the rival claims of the Natives and the lessees, certain of the leases in question which were on the point of expiring were by legislation extended to 1st August, 1914. The Public Trustee appeared before that Commission, and openly stated the view, which he still holds, that the Native, as a rule, is not qualified to be a successful occupant of a highly improved farm, and therefore, "in the interests of settlement," supported the idea of the tenants as against the Natives. High motive actuated the Public Trustee in so doing, but it is unfortunate that while a trustee for the Natives he should have had to consider the question of settlement by Europeans, and take up a position antagonistic to his beneficiaries. In our opinion this was just such a matter as might well have been submitted to a full meeting of the Public Trust Board before the Public Trust Office became committed to an attitude adverse to the wishes of its beneficiaries, and which, according to evidence placed before us, has diminished the *mana* of the Public Trustee amongst the Natives.

In his last report to Parliament the Public Trustee expressed the view that it would be a good thing if some scheme were devised under which the available areas could be taken up by the Natives in small associations under European management and control, with funds advanced by the Public Trust Office for working and stocking. To this end he suggests that the 2½ per cent. proposed to be taken off the office commission, as hereafter explained, should be retained and invested in a sinking fund for £10,000 to start the

scheme. He does not, however, approve of advancing money to the Natives with the view of enabling them to bid for the leaseholds which are falling in, which is what the Natives desire to do, and which is their right, but a right which is valueless unless they are in a position to pay for the improvements.

It is obvious that the questions above alluded to—viz.: (a) Whether and to what extent leases should be granted to the Native in lieu of licenses at will; (b) whether and to what extent the *papakāinga* land should be redeemed from waste; (c) whether the Native should be assisted to bid for the thirty-year leases as they fall in; (d) whether and to what extent the Public Trustee's suggested scheme of Native associations for farming under European supervision should be adopted—are questions which involve the whole policy of how best to deal with the Native and his lands—that is to say, whether he is to be relegated to the mere position of an idle rent-receiving landlord, or is to be encouraged and helped to become a successful cultivator and useful member of the community; and whether any and what effort should be made to settle the still unleased portions of the various reserves. These are questions which affect not only the areas held under the leases in question, but all the other reserve areas which have not yet been alienated under perpetual lease. There is also a further question arising out of the large increase of rentals shortly to be expected upon revaluation, and that is, whether portions of the increase should or should not be devoted to measures for the improvement of the Natives interested instead of being paid over to them directly.

In the opinion of your Commissioners, these questions should not be left to be dealt with by the Public Trustee alone even if he had sufficient powers, which he has not, to enable him to do so to the full extent suggested. Moreover, he is already too burdened with other duties to supervise schemes of the kind mentioned. In any event, in the opinion of your Commissioners, the administration of those reserves and of the rentals therefrom should be in touch with the Native and Lands Departments, so that a policy consistent with the operations of those Departments as regards Natives generally should be maintained.

The Native Minister is a member of the Public Trust Board, but he never attends its meetings, and, indeed, as already pointed out, the Board does not in practice deal with such questions.

2. As regards all other reserves, special mention must be made of the Nelson and Westland Reserves. The tenants in Greymouth desire to have their tenure changed. We have read their petition presented to Parliament in 1909 and the evidence given thereon as contained in Parliamentary Paper I.—3A. The tenants allege grievances as arising from their existing tenure, but the position is not due in any respect to the Public Trustee, and can only be remedied by the Legislature.

As regards these reserves, the functions of the Public Trustee substantially consist in collecting and distributing the rents of the lands leased, in keeping a record of the changes of ownership, and in consenting to dealings by the tenants. For this work a commission of $7\frac{1}{2}$ per cent. is deducted from the Native. There has been no suggestion that this work is not well and carefully done, and we found no evidence to the contrary.

The Native reserves other than those of the West Coast Settlement are vested in the Public Trustee under the Native Reserves Act of 1882. Each reserve is held for the purpose for which it was granted or set aside. Where not inconsistent with the trust the Public Trustee has power, with the sanction of the Board specially constituted under that Act, to lease. Where the reserves are for the benefit of the Natives the trust is construed as meaning "the physical, social, moral, or pecuniary benefit of such Natives, including the providing of medical assistance and medicines."

The trusts and duties connected with those reserves are very varied, and in many cases are exceedingly indefinite, making the satisfactory administration a work of difficulty. For an example of the nature of the duties cast on the Public Trustee we may cite the Poukawa Reserves Act, 1910, which im-

poses upon him the duty of co-operating with the Minister of Public Works in draining some 1,300 acres of lake and swamps, and of financing the undertaking. Such tasks as those, it is conceived, can only serve to distract the Public Trustee from his more appropriate functions, besides exposing the office to friction with the Natives. Further, the Native Board seems to be lost sight of in these provisions.

In the case of certain of these reserves known as "The New Zealand Company's Reserved Tenths," a part not exceeding one-half of the rents and proceeds is paid to the beneficiaries. The balance is retained to form benefit funds, one for the North Island and one for the South. These funds and their accumulations are to be applied as the Public Trustee in his discretion thinks fit "towards the physical, social, moral, and pecuniary benefit of Natives individually, and the relief of such of them as are poor or distressed." This, it may be noted, is one of those indefinite trusts that serve to create irritation.

The functions of the Public Trustee in the distribution of the revenues from the reserves where they may be thus applied at his discretion are discharged through the medium of his local agents, who report or make recommendations upon applications received, and the Public Trustee endeavours to assure himself by inquiries as to the propriety of any suggested expenditure, and as to how far it will benefit the Natives. No general or settled scheme or plan has been devised with regard to the application of these funds. In like manner, as the proper disposal of the unleased areas of the West Coast Settlement Reserves involves the policy of how best to deal with the future of the Native, so does the application of these funds; and for similar reasons to those given in the case of the West Coast Reserves, we think these reserves and funds should be brought more into touch with the Native Department.

In connection with the reserves other than the West Coast Settlement there is a special Board constituted under the Native Reserves Act, consisting of the Public Trustee and the other members of the Public Trust Board and two Natives appointed by the Governor. This Board is a mere farce. It meets infrequently. Its last meeting was over a year ago. Former meetings were held as follows: In November, 1905; June and December, 1906; June, July, and November, 1907; May, 1908; February and August, 1909; none in 1910; and one in September, 1911. Of the two Native members, one attended the meeting in March, 1912; both attended the meeting in September, 1911; but neither was present at any other meeting on or subsequent to 1905. Each Native receives a guinea for his attendance, and merely registers the recommendation of the Public Trustee.

As the Native Minister has never attended, and the Under-Secretary of Lands is not a member of the Board, it is plain that the Public Trustee is altogether out of touch with the Departments that are most interested in his administration.

Under the Native Reserves Act there has always been power to appoint a Reserves Commissioner who should, subject to the Public Trustee, conduct routine business connected with such reserves. No such Commissioner exists. With regard to the West Coast Settlement Reserves, the Trust Office District Manager acts as agent, and it is his business to report as to leasing, to inspect lands, to report on applications or complaints by Natives, and generally act as the Public Trustee advises. In the case of the other reserves scattered over the Dominion, the nearest District Manager or Agent of the Trust Office reports when referred to. This work is rather that of an expert such as a Government Valuer or a Crown Lands Ranger, or such as the Reserves Commissioner, if appointed, might be expected to be.

Your Commissioners think that the foregoing considerations point to the necessity for some change in the administration of Native reserves.

It is noteworthy also that almost all the officers of the Public Trust Department who gave evidence before us on this point expressed the opinion that it would be a good thing if Native matters were removed from the office. In confirmation of this they point out that in the Native districts, owing to

the Public Trustee's position as the landlord and his consequent functions as a debt-collector, the voluntary business that accrues to the office is comparatively small.

It is also urged that the Native business has not paid. The following table gives the sources and approximately the amount of remuneration derived from the Public Trustee from all Native reserves:—

	£
7½ per cent. on West Coast Settlement Reserves ...	1,804
7½ per cent. on other reserves	762
3¾ per cent. on Native licenses	244
Consent fees to transfer, at 5s. each	60
Lease fees, from £1 to £3 3s.	100
5 per cent. commission on Native minors' estates ...	400
	<hr/>
	£3,370

The annual expenses in connection with the administration are estimated at £3,480.

On this estimate the business is done at a loss, but with the revaluation of the rents on the West Coast the commission to be derived therefrom in the near future will, it is estimated, on the reduced basis of 5 per cent. per annum, which the Public Trustee now proposes, reach £4,000 per annum, instead of something over £2,000 per annum as at present. This should afford a handsome profit to the Trust Office, which should compensate it to some extent, at all events, for unremunerative work done in the past. Nevertheless the Public Trustee and those members of the office staff who have given evidence to us hold the view that the office should be relieved of Native work. Further, the interests of the Natives should be paramount. Moreover, the total removal of the administration from the Public Trust Office would help to relieve the overtaxed resources of the office, and it would certainly be impolitic at present to increase the personal duties of the Public Trustee by involving him in schemes for the betterment of the Natives if such are to be initiated.

After careful consideration of the foregoing matters, and, in particular, after considering the evidence taken by last year's Commission on the West Coast Settlement Reserves, and the interesting and clear evidence given before us by Judge Jack, the President of the Aotea Maori Land Board, and Mr. T. W. Fisher, the Under-Secretary of Native Affairs, both of whom were at one time on the staff of the Public Trust Office, and were engaged in connection with the reserves referred to, we are of opinion that in the administration of these reserves the Native point of view should be adequately represented, and that it would be in the interests of the Natives if by means of the revenues from these reserves—their own property—they could be assisted to better themselves as agriculturists and otherwise.

To this end we are of opinion that the whole of the Native reserves and their administration should be vested in an independent body. We therefore suggest that a Native Reserves Trustee should be created, with a Board consisting of himself, the Under-Secretary of Native Affairs (or some other expert in Native affairs), the Under-Secretary of Lands, and two other members appointed by the Governor, of whom one should be a Native and the other a European who has had experience in agricultural matters.

The Native Trustee, acting under the Board, should, we suggest be endowed with the main functions of a Maori Land Board, except that he would not be authorized to sell in cases where the Public Trustee is not now authorized to do so. All existing trusts should be maintained, so that the change shall not alter the rights of beneficiaries.

A suggestion has been made in favour of the creation of a separate Maori Land Board for the purpose of the West Coast Settlement Reserves, or the vesting of them in the Aotea Maori Land Board, but an objection to this suggestion is that such Board would be out of touch with the Native and Lands Departments.

The Board we have described would, of course, be appointed to have the care of infants and other beneficiaries under disability instead of the Public Trustee, but it should invest all its funds requiring investment in the Common Fund of the Public Trust Office. The powers conferred on Maori Land Boards with reference to working lands as farms instead of letting should also be taken, as well as any others considered desirable for giving effect to a policy of helping the Native to advance.

As regards expense, we are told in evidence that five Maori Land Boards exist in the North Island, and are self-supporting on a basis of 5 per cent. commission and fees. Having regard to the approaching large increases in the rentals of the West Coast Reserves, there need, we think, be no fear that the Board proposed would cast on the Native owners any greater obligations than they bear at present. In any event, if the Public Trustee has been administering these reserves at a loss, it is not just that that loss should continue to be borne by the office. It should be borne by those for whose benefits the trusts are created, and the creation of a separate trustee would assist to that end.

The Public Trustee and his various agencies could be authorized where convenience would thereby be served to act in the collection of rents and in making payments on behalf of the Native Trust, subject, of course, to being paid properly for his services.

VII. GENERALLY TO REPORT UPON ANY MATTERS THAT CAME UNDER OUR NOTICE IN THE COURSE OF OUR INVESTIGATIONS, AND TO MAKE ANY SUGGESTIONS WHICH IN OUR OPINION WOULD TEND TO THE GREATER EFFICIENCY OF THE PUBLIC TRUST OFFICE.

Office Staff and Organization.

The staff, which generally may be described as bright, intelligent, and capable, is insufficient in numbers in the skilled departments and is greatly overworked. The members of it are in many instances, and particularly in the skilled departments, underpaid. Further, the remuneration attached to the higher officers is also, in our opinion, inadequate to the responsibilities imposed.

That the staff is undermanned and overworked is evident from an estimate of the amount of overtime for the twelve months ending 31st May last, as gauged by the amount paid on that account. (*Note.*—1s. 6d. is allowed for tea money per night of two hours.)

Head Office—				£	s.	d.
Tea money	...	...	...	188	16	0
Overtime, 1s. 6d. per hour	...	...	...	368	19	6
Agencies—						
Tea money	...	...	...	17	17	0
Overtime	...	...	...	9	4	1
				<hr/> £584 16 7		

Subject to a slight variation because of the higher rate of overtime in the case of senior officers, these payments indicate 10,552 hours' overtime, or 1,507 working-days, or fourteen men for two hours and a half nightly throughout the year. To this an addition of five thousand hours (for which no payment was made) can, so the evidence shows, be included, being for broken and excess times. With this addition we have 15,552 hours' overtime, or 2,221 working-days, or twenty men for two hours and a half nightly throughout the year. One officer worked sixteen months' time, counting by hours, in a period of twelve months.

The extent of overtime worked indicates inadequacy of staff, and also renders it impossible to get the best work out of it during the day. The undermanning particularly applies to the skilled staff.

As compared with ordinary departments of State, the functions of the Public Trust Office are of a peculiarly distinctive character. It is purely and simply a large business organization, and knowledge on the part of its staff of a special nature, such as accountancy and law in relation to the administration of trust estates and intestacies, is a necessary requisite. Many of the officers, very much to their credit, have qualified by study in these respects, and the good resulting is apparent in the highly satisfactory discharge of the duties assigned to them.

The office has been, and is, short of officers qualified to fill the posts of Accounts Clerks and Examiners. It is here that delay is apt to take place. The work is laborious, and the absence of an Accounts Clerk or Examiner through illness or other cause inevitably produces delay because there is no understudy to take his place, while to fill the vacancy from another department is only to throw that department behind. The work of the Department has been, and is, in arrear, though the arrear is, we are assured, not so great as it was; but an accession of new business or the absence of one of these essential officers would immediately cause the arrears to increase.

The absence of skilled officers and understudies to them is attributed to want of prevision in the past. A sufficient number of cadets was not introduced in time to be educated up to that point of skill and experience which the increasing volume of business has demanded. This drawback will doubtless be partially alleviated as the juniors now in the office come on, but unless they are encouraged to devote themselves to some study of law relating to trusts and the like, and to the principles of accountancy, the process of a return to a proper organization will be slow.

A table will be found with the returns accompanying this report showing the grades into which the officers are divided, and their salaries. The average rate of payment, instead of increasing as one might have expected with the growth of the business, has fallen, and is now lower than that paid in other Departments of the Service. The following table will indicate this:—

Public Trust average—In 1904, £181 13s. per annum; 1909, £164 6s. per annum; 1912, £146 per annum.

Agricultural Department—£300 per annum; experts, £392 per annum.

Lands and Survey Department—£194 per annum.

Whole Service—£162 per annum.

One striking case of underpayment is that of the Cashier. His total receipts over the counter for the half-year ending 30th September last were over half a million. Likewise his payments over the counter for the same period. The total separate transactions for the whole year numbered over 107,000. His salary is £170, with an allowance of £20. Compared with the salaries received for similar posts in other Departments of the Public Service, the inadequacy is at once apparent.

We are of opinion that the salaries of the staff require readjustment, and should, in individual cases, be made more commensurate with the work required of them, if the best men are to be attracted to and retained in the Service.

It is, we think, unfortunate that the question of increased payment of the staff was not taken into account before the reduction in the office charges took place.

In addition to a readjustment and increase in salaries as indicated, we also think that promotion in the skilled departments should be made according to fitness for the post, and not on the grounds of seniority in age and service, unless accompanied by equality of ability. This is eminently necessary in an office whose work is of such a special character as that of the Public Trust, and is the more requisite now that Deputy Trustees have been created, where special business aptitudes and not seniority of service must be the paramount consideration.

Having regard to the distinctive character of the work to be performed, we would strongly emphasize the necessity of full weight and consideration being given thereto by those who will in future be charged with making the appointments and regulating the salaries.

The retention on the staff of those acquainted with the business of managing trust estates is of great importance. The want of seniors in that respect is a serious defect at present, although remediable with time. The diminution in the average salaries paid serves to emphasize that point.

The result of undermanning is to cause the delays in correspondence and accounting before referred to. That such delays exist and cause great dissatisfaction is admitted by the office on all hands. The following passages from the evidence of the Public Trustee himself indicates this: "I am always girding at the staff about the delay in answering correspondence." "I seldom go outside Wellington without meeting people who say they have had no replies to their letters." The evidence of the Agents is to the effect that constant irritation on the part of the public is caused through the inability to act or answer questions owing to delays at Head Office.

A certain amount of delay is inevitable where the whole action of the various agencies is controlled from Wellington, but the compensation for the delay arising from that fact is to be sought in the advantages which the office offers. Further, in many cases where questions of law have to be considered, or where the answer is dependent more or less upon extensive inquiries outside the office, the charge of delay in replying is not justifiable. But allowing for these considerations, there is delay, and it is due to the undermanning referred to.

To the question why the position has not been met by a sufficient number of appointments of skilled persons from outside, the answer of the office is that experience has shown that they require special training, and that their introduction causes dissatisfaction amongst the juniors qualifying for those posts, for promotion is checked, and they find themselves doing responsible work equal to that of outside appointees with less remuneration.

In 1912 thirty-three new appointments were made, only two of which were from outside the Civil Service. Of these, twenty-one were cadets and nine were transferred from other branches of the Service. Several more cadets would have been appointed, but the list of Civil Service candidates was exhausted.

The staff is much stronger than it was, but is still inadequate, and while it continues so overtime must be worked. Competent juniors are said to be coming forward, so that it is expected in a few months overtime will disappear, except such as is inevitable at balancing times and when the Native rents have to be made up. In the meantime the existing staff are most loyally working long hours. The staff should now be augmented by at least twenty cadets to be specially trained in the skilled departments.

One remedy proposed for the congestion is that of

Decentralization.

An Act was passed in 1912 enabling Deputy Trustees to be constituted at four centres—namely, at Auckland, Christchurch, Dunedin, and some place selected in the Provincial District of Wellington, with such powers as the Public Trustee delegates to them. Under this it is proposed to intrust the absolute charge and realization of estates up to £1,000 in value to those Deputies without their being obliged to refer to Head Office for instructions as hitherto. They will also keep and make up locally, instead of its being done in Wellington, the accounts of those estates. As a very large number of estates, especially intestate, are under the limit of value mentioned, circumlocution, delay, and the consequent dissatisfaction will be saved, and the Head Office and the branches in question will be relieved of an enormous amount of correspondence.

This practically means that at the centres named the District Manager, as regards the estates intrusted to him, becomes a Public Trustee, except in so far as certain powers may be specifically withheld from him.

This is a departure from the original idea of the Public Trust Act, which was to render the Public Trustee the official solely responsible, and the State responsible for him. We acknowledge the plan possesses some advantages.

Its success in a district will depend upon the personal equation of the Deputy, and it is obvious that the choice of a Deputy must be based on grounds of business capacity similar to those which have to guide in the selection of the Public Trustee himself.

We have doubts as to whether the scheme will tend to relieve Head Office to the extent expected. Under certain conditions this is possible, but the serious and sometimes dangerous element of divided responsibility bulks largely in connection with the creation of Deputies. Moreover, in order to carry it out certain skilled officers will have to be taken from Head Office to supplement the branches, and all the estates must sooner or later come under review at Head Office, although in a summary form. Constant inspection on behalf of Head Office is a necessary adjunct to the scheme.

If it is found that this scheme does not within a reasonable time afford the relief required, then, it appears to us, there will be no alternative but to make appointments from outside of a sufficient number of accountants or others as nearly qualified as may be for the work involved.

While on the topic of decentralization, we suggest the regulations which the Public Trustee introduces for the delegation of his functions should safeguard as largely as possible control on the part of Head Office; that full weekly returns compiled from the books of branches should be furnished; that questions affecting minors should always be referred; and that the check system upon collection of revenue by the issue of notices from Head Office should be maintained. We think, also, that the regulations should receive the approval of the Government.

A remedy for inability to adequately cope with the work offering is in business quarters sometimes met by refusing orders. This policy has not been followed by the Public Trust Office. In many cases, of course, it cannot help itself. It could only do so where the undertaking was voluntary, as in the case of wills. On the contrary, the office has been active to induce business. The reduction of charges and the offer of cheap and gratuitous legal work are instances of this activity. If the office could have adequately undertaken the extra call upon its functions the foregoing remarks would have been unnecessary, but sufficient provision was not made for the increase. The position was put by one witness—once an officer of the Department for sixteen years—as being that of a trawler at sea which had run into a shoal of fish, the whole of the crew, including the captain and officers, being so busy in securing the fish that they neglected the navigation of the ship. This position began before the present holder of the post of Public Trustee entered upon his office, and, as before observed, it is expected to be greatly relieved, if not removed, in the near future.

Profits and General Finance.

It is to be noted that the commissions and charges received do not equal the office expenditure. Taking the last ten years, the deficiency has been at the rate of £4,814 per annum, or a total of £48,140, ranging from £3,256 in one year to £6,241 in another, the average for the past five years being £5,486; totalling for the period £27,432. These deficiencies have always been made good out of the surplus interest earned from the Common Fund, without which it is obvious the office would be carried on only at a considerable annual loss. The deficiency is partly due to the non-payable work devolving on the Public Trustee—*e.g.*, the winding-up of small intestate estates and several statutory duties for which he is either not remunerated at all or insufficiently so. It is also enhanced by the gratuitous work which the Public Trustee undertakes in connection with estates so as to keep down charges. This perhaps would not be open to substantial objection if the Common Fund consisted wholly of moneys belonging to the estates which derived the benefit of the work. But of recent years the Common Fund has more and more grown to consist of moneys which come into the Public Trustee's hands for investment merely, such as sinking funds, superannuation funds, &c. No charge is made for the

investment of these funds. The remuneration consists in the profit interest made therefrom. But this profit interest, assuming it to be $\frac{1}{2}$ per cent. on the capital, affords an ample remuneration. Now, having regard to the annual deficiency which has to be made good out of the profits from the Common Fund, it is plain that the sinking funds, superannuation funds, and other moneys that come in in liquid form are bearing an undue proportion of the cost of the gratuitous and non-payable work done by the office. It is not just that such should be the case.

Mental defectives' estates form one item of non-payable work, because in those cases there is seldom commission earned on capital value, the estates being kept *in statu quo* as far as practicable against recovery of the patients. The consequence is that the profit interest made on investments has in effect ultimately to bear part of the cost of managing these estates also.

This indicates that some compensation should be allowed for all Government services thus rendered—for example, by authorizing the Public Trustee to credit as office profit a suitable portion of the three-fourths profit which otherwise belong to the consolidated revenue under the office Act. Or there should be a distinct Common Fund for sinking funds, &c., and a suitable charge made to cover the expenses of investing and managing those funds. They would thus get all the interest they earned without deduction for maintaining other services of the State, and the cost of these services would become more manifest.

When the principal reduction in commission and fees was made, sufficient attention could not, we think, have been given to the foregoing considerations.

In dealing with the office finance, a further observation is desirable. Under the Public Trust Act one-fourth of the profit goes to the Public Trust Office and the remaining three-fourths to the consolidated revenue of the Dominion. From the date of the creation of the office to the 31st March, 1912, the total of the three-fourths share accruing to the Government was £135,980. It has drawn out no part of those profits except £18,000 in 1889 and £20,000 in 1905. Out of the balance a sum of £66,813 has, with the permission of the Government, been expended in the purchase of sites and the erection and furnishing of offices for the trust, thus leaving in the fund on the 31st March, 1912, £31,167. *There has been no cession or surrender by the Government to the Public Trust of the £66,813 expended as mentioned, or of the lands and offices acquired therewith, and in theory the Government would be entitled to claim them or their value.*

We think that to defend the fund against a sudden withdrawal of the money represented by land and buildings, provision should be made that it should not be interfered with or withdrawn by the Government except by authority of a special Act of Parliament.

We further think that in addition to this the whole of the profits should for, say, ten years be permitted by statute to go towards the increase of the Reserve Fund, which now stands at over £53,000. At the end of the period an opportunity for reviewing the position would occur. In the meantime the reserves are, and would continue to be, employed as part of the Common Fund, and thus tend to counteract any necessity for a reduction in the rate of interest to the beneficiaries. But liberty must be reserved to employ part in the acquisition of further sites and offices for branches.

We recognize that a permanent diversion of the whole of the profits from the Government cannot be recommended. In the first place, as the Common Fund pays no mortgage-tax, which, if levied on present investments would amount roughly to £12,000 a year, the consolidated revenue may well claim an equivalent sum out of the profits. In the next place, the consolidated revenue may claim to be fairly entitled to some return for its guarantee.

Gratuitous Work.

We have already alluded to this topic, but recur to it to emphasize the point that in effect all gratuitous work ultimately falls more or less upon the Common Fund—that is, upon those who are entitled to the interest derived

from that fund. The more the office undertakes or is loaded with unremunerative work the prospect of the rate of income being increased or maintained correspondingly decreases. We think each estate should bear more of its own charges. For example, the office pays the Post Office £1,147 per annum for exchange made up of small sums on the transmission of money. Why should the Common Fund bear this and those interested escape? Further, the legal work done for each estate which does not consist of the indoor advising of the Public Trustee should be charged for according to a scale, however small, calculated to make good the cost of it to the office.

Further, when Parliament casts duties on the Public Trustee, we respectfully suggest that care should be taken to provide adequate remuneration therefor, and, where possible, he should be consulted beforehand on that point. In a recent case, duties imposed under the "Washing-up" Act in connection with a Native Trust have involved an expenditure of about £200 out of the office funds without any immediate prospect of recovery.

Fixed Deposits.

With a view to increasing the profits derivable from the investment of common funds and to the possibility of attracting estates to the office upon death, the practice has grown up during the past two or three years of taking moneys on deposit. The Act does not allow of this in terms, but it is deemed to be legalized by the Public Trustee taking an agreement from the depositor constituting the Public Trustee the depositor's agent for the sole and particular purpose of investing the sum deposited, the Public Trustee undertaking to allow interest at 4 per cent. per annum. This, we think, is an abuse of the statutory power to act as agent. The Public Trust Office converts itself into a bank of deposit. There are 178 deposits of this nature, aggregating £139,569. These accounts are included under the head of "Wills and Trusts" in the Public Trust balance-sheet. They ought to be separately specified under an appropriate heading.

Inspection.

Hitherto it has been considered part of the duty of the Deputy Public Trustee to periodically inspect branches and agencies. The pressure of work during the past two or three years has been such that this has been impracticable. This is very essential work, and we are glad to be able to say that Mr. Barnett, late District Manager at Christchurch, has been appointed Inspector, whose duty will comprise not only the office inspection of branches and agencies, but a supervision of the various properties under the control of the office. From many personal interviews with Mr. Barnett on various questions, we have formed the opinion that he is a capable and enthusiastic officer. There should be no hesitation in appointing one or more additional Inspectors if it is found (as we think it will be) that one is insufficient. Expert knowledge in farming and stock should not be lost sight of in making these appointments.

Custody of Securities.

This appears to be all that can be desired. Under the provisions of the Public Revenues Act, 1910, section 96, all the securities have to be kept by three officials, each of whom holds a key. These are—(1) The Audit officer appointed by the Controller and Auditor-General; (2) the Accountant of the Public Trust Office; and (3) the Public Trustee. So that it is only with the active concurrence of these three officials that securities can be got out of the safe. There is one exception that we think may well be made to this careful provision. The certificates of title deeds to mortgages and trust properties are daily and constantly required either for use in the office or for production to the mortgagors or their agents on the occasion of further dealings and otherwise. A great amount of the time of valuable officers is thus absorbed daily in what is mere detail work, for even if the titles were stolen or lost no great harm would be done where they were registered. We therefore suggest that these titles—not in any case the mortgages themselves—should be placed in the

custody of some subordinate official, or two if thought fit, so that applications for use in the office or for production to third parties may be dealt with by such subordinate official or officials, and an unnecessary daily waste of time on the part of the higher officials be saved. Indeed, in the case of the Public Trust Office at least, the Public Revenues Act would seem to require some amendment to make it clear that it is lawful for the office to part with the custody of titles for the purpose of production, even at the Land Transfer Office. See sections 97 to 100.

Local Boards of Advice.

Suggestions have been made as to the appointment of Boards at the principal centres, but we are not prepared to recommend such a course, on the ground of the unnecessary expense that would be involved, and because it would lead to needless local exposure of the nature and condition of estates that might, and probably would, prove most unpalatable to beneficiaries.

Interest on Accounts.

In regard to a final account, the practice is to calculate and allow interest up to the date of making out the account. When the account is thus made out it has to go before the Examiners and other officers before it is finally passed and ready for payment. Owing to questions arising or to pressure of work, the account may not be made up for three weeks or a month or more after the date the interest was made up to. No extra interest is added for that period unless a complete month has elapsed. Some two or three weeks' interest therefore drops into the Common Fund as a casual profit, owing to the exigencies of the office. We think the beneficiary should get this, and that the interest should be calculated to within, say, seven days of the account being notified for payment.

Audit.

A continuous audit of the books and office accounts at headquarters is maintained by an officer from the Audit Department who is specially attached to the office for that purpose by the Controller and Auditor-General, to whom he makes his reports. The Controller and Auditor-General assures us that the audit as conducted is a sufficient check on the working of the office. Branches and agencies are subject to inspection by the travelling Government Auditors, as in the case of local bodies.

Country Agencies.

These agencies are so conspicuous a part of the office equipment, and are regarded by the Public Trustee as such essential feeders to the Department's business, that reference to them is necessary. Primarily the idea of the function of an agent was that he should be available to act locally at the instance or on behalf of the Public Trustee in matters requiring local attention, and to submit for reception by Head Office whatever business offered. That idea has developed so that in many quarters he has come to treat the business as his own, and is an active canvasser for its extension. The incentive to his activity is the fact that he is paid by commission. He receives one-half of the Public Trustee's commission on an estate, and 1 per cent. on all interest derived from mortgages in his district. In two of the larger districts the annual commission totals on an average about £500 and £600 respectively. The agent, of course, has to provide his own clerical assistance. Naturally he puts forth efforts by advertisements and solicitations to gain business. In one announcement which will be found in the evidence he offers the preparation of wills gratis as an attraction. The goodwill of the resulting business he regards as his, and would treat the termination of the agency as a wrong. In practice the Public Trustee submits to this, and, in districts in which his own officers might well be installed as his representatives, refrains from taking action in that direction for fear the influence of

the displaced agents should be diverted into channels hostile to the Department, and a loss of business follow. The Public Trustee acts in such cases as if he had no alternative but to await the opportunity presented by the death or resignation of the agent before he can fill the post with an officer belonging to the Public Service. Thus, in a sense, the goodwill of a portion of the business of the Public Trust Office may be said to be transferred and belong to the agent for life. This is a position which we think should not be allowed to grow up. The ever-present fear of loss of business in the way described should have no weight with a Department such as the Public Trust Department, especially where the circumstances justify the appointment of an officer in the service: it is calculated to hamper the Public Trustee's freedom of control over the agents, and to give rise to other undesirable conditions.

In the case of some of the smaller agents the evidence given to us is to the effect that "several are sadly lacking in knowledge of the requirements of the office, and that their methods want to be considerably improved"; also, "that the office has to spoon-feed the smaller agents, almost."

It will be an advantage when the Book of Instructions to Agents is brought up to date. The present handbook was published in 1896, and, amongst other things, refers to legislation that has long been repealed. We understand that a new set of instructions is in course of preparation.

According to the evidence before us in relation to one case, it appears essential that there should be a rigid rule that the appointment of an agent when he does not thereby become a member of the Public Service should not be made without first consulting the Public Trustee, and certainly not in the face of a protest on the part of the Trustee.

The Office Legal Staff.

The legal staff has extended its operations and increased in number during the past three years. Two additional solicitors were added a few months ago. None of its members has had any outside experience as a practitioner. It has been its practice during that period to prepare conveyances and transfers to third parties purchasing from the office. There is no legal authority for the Public Trustee to do this work, nor could the office funds be made liable for any mistake in it. As the fee charged is almost nominal, the work is of that class which is done practically at the expense of the Common Fund. We are informed that the tendency of the office is to abandon this class of work. It is more than doubtful if it should have been entered upon.

A further development has been to practically issue at Wellington all originating summonses, all summonses against debtors wherever residing, and as far as possible, to concentrate all the legal work in Wellington. Thus, while decentralization of functions in other respects has been urged for the past two years, the opposite principle has been more and more applied during that period with regard to the legal business. Further, the Solicitor himself appears in Court on these matters, and is therefore necessarily withdrawn from the office for many days during the year where the matters happen to be contentious. Moreover, his time is further withdrawn in the preparation required before appearance.

It appears to us that both these developments are open to objection in that—(a.) They disregard the local conveniences of parties. Why, for instance, should a debtor at Invercargill be summoned to appear in Wellington when the local agent might have sued him in Invercargill? (b.) They are centralizing the work of all estates in Wellington, which causes inconveniences and offends local feeling. (c.) They withdraw the office Solicitor from his proper duty, which is primarily to be the indoor adviser to the Public Trustee. He should leave as little as possible of that work to juniors.

Reports to us from District Managers, and the evidence given by some of the officials at Head Office, deprecate the policy pursued with regard to

legal work, and support its decentralization instead of its aggregation at Wellington.

We recommend—(1.) That the office Solicitor and his staff should be confined to the indoor work of the office. (2.) That third parties and others requiring legal advice should not be allowed to seek it from the office staff at the expense of the Common Fund. (3.) The office Solicitor's appearance in Court should be confined to *ex parte* matters originating in the office, and for these an adequate fee should be charged to the estate to which the matter belongs; otherwise the work is being done for that estate at the expense of the beneficiaries as a whole through the Common Fund. (4.) That the legal work should be decentralized instead of being more and more concentrated at Wellington. This will obviously be necessary as a matter of convenience in those cases where a Deputy Trustee is to have sole control.

Preparation of Wills.

This is a matter of considerable importance.

It is announced in the office pamphlet published in 1910 that the office undertakes the revision of draft wills, and will do so without charge. Whatever the practice was then, the practice now is not merely to revise drafts, but to prepare the wills, including the drafts, without charge. A set of questions has been framed, the answers to which are to be filled in by the intending testator or by the person taking the instructions. This is to be done when the will is to be prepared at Head Office. These instructions appear to us to be defective. They give no hint on the important question of the guardianship of children, and no advice as to the incidence of death duties. It is not only at Head Office, where legal aid is available, that wills are prepared, but District Managers and Agents in up-country places likewise undertake such work. It is told to us in evidence that Head Office legal staff frequently has to alter wills so prepared. No instructions are sent to guide the legal staff in making these alterations. They can only infer the ill-expressed intention from the contents of the will as prepared. This experience appears to us to show the impropriety of untrained or incompetent persons undertaking the preparation of wills. Further, with regard to those which are made at Head Office on the basis of the printed form of instructions, a serious drawback in most cases is experienced by the staff for want of a personal interview. This, however, they seek, where possible, with the intending testator. The Public Trustee and the legal staff admit that the practice of preparing and revising wills without an interview is open to objection. We consider it is open to very serious objection, and recommend that if the preparation of wills by the office staff is to be continued it should be confined practically to those cases where a personal interview is had.

The Public Trustee supports the practice on the ground that it brings business to the office, and that if wills were prepared elsewhere the office would not be chosen as trustee. The necessity for the office seeking business in this way is not manifest; nor, if it is, does it seem proper to justify the practice at the risk of erroneous wills and the consequent trouble. The pamphlet would certainly lead any one to suppose that a competent hand was available to prepare the will, which, except at Head Office, and possibly at District Offices, is not the case. How wills are made by one agent considered as especially competent to draw wills is thus described to us by a witness: "In my experience of him, he never consulted precedents of any kind; he acted on his own initiative."

The Public Trustee says that he is not aware of any trouble having arisen from office-drawn wills. As against that is to be set his acknowledgment that the interpretation of the will is with them unless it should be challenged from outside.

The foregoing observations do not apply to simple wills, such as where a man leaves everything to his wife.

The Legal Profession.

It was demonstrated to us, and, indeed, it is frankly acknowledged by the Public Trustee, that a spirit of hostility has sprung up between the Public Trustee and the legal profession during the past two or three years. Causes for this were set forth from all parts of the Dominion, and were brought by us under the notice of the Public Trustee. Without going into them in detail, it is sufficient to say that they have arisen in many cases out of zeal of the Public Trustee and his agents to attract business to the office without, perhaps, a realization of the extent to which such zeal might bring about a reaction. The Public Trustee recognizes that it is in the interests of the office that he should stand on good terms with auctioneers, land agents, brokers, and other representatives of different departments in life. Otherwise opposition grows up unfavourable to the office business. It is for the Public Trustee, now that his attention has been called to the causes of the hostile feeling referred to, to determine, with a due regard to the interests of the office, upon the best method of arriving at a better understanding.

Land Associations under the Land Settlement Finance Acts.

In the case of these associations, complaint has been made that the Public Trustee undertakes the preparation of the mortgage from a member at a lower price if the transfer to the purchaser is likewise prepared by him. A fee is charged for the transfer. The preparation of these documents has been undertaken by the Public Trustee as part of his duty in connection with these associations, initiated, as they are, on a very narrow financial basis; and it appears to us to be a proper and beneficial arrangement, and one that should be maintained so long as it does not involve the office in loss. Hitherto, from a return we have had made up, a profit has accrued to the office instead of a loss. At the same time, we think the terms of the circular to purchasers might well be worded so as to be less in the nature of a solicitation for business.

Surveyors.

Representations were made on behalf of the New Zealand Institute of Surveyors that it was unfair of the Public Trustee to call for tenders for surveys so as to induce surveyors to quote prices below the official rates. These rates, however, are not laid down as the minimum, but as the maximum. Further, where the estate is small, or there are special circumstances, the Public Trustee does not call for tenders. In the disposal of survey-work his policy is, he informs us, to follow the wishes of the beneficiaries, or to employ the surveyor usually employed by the testator if the so-doing is not contrary to the interests of the estate. We think whatever grievance the Institute may have is due to the failure of their own members to resist the temptation of departing from the standard scale.

Property-realization Register.

We further recommend that a general register should be kept for the Board of all unrealized properties which are in the market, or the time for realizing which has, according to the terms of the trust, arrived, and that this register should be specially reviewed by the Board at quarterly periods. It would not, however, be expected that any entry of an unrealized property should be made in the register before, say, six months after the estate has come into the hands of the office.

The District Managers and agencies must, of course, report periodically to Head Office so as to enable the register to be kept up.

Claims unsettled for a period of six months should in like manner be registered and reviewed by the Board.

Complaint Register.

We further recommend that a register be kept in which should be entered all complaints, and that this be laid before the Board at each meeting. The

entry of the name and date of letter would be quite sufficient. It is a rule of the office on the part of the Public Trustee that all complaints shall be brought under his notice. It may be, however, that some of these affect himself or the office as a whole. It is, in our opinion, desirable that these complaints and grievances should come under the notice of the Board. It is not suggested that a reply to them or their removal should await or be dependent on the Board's decision, but the Board would be able to see from time to time whether and how they had been dealt with or disposed of.

Improper Advertising.

Charges have been made on this head. Some of the forms of advertisement are misleading, such as "Capital and Interest guaranteed by the State." This is only correct with qualifications. There is no such guarantee unless the money is in the Common Fund. There is no guarantee of an estate before it is realized. That the advertisement may mislead is evidenced by the terms of one of the complaints brought before us, in which it was suggested that the State guarantee applied, in a case of failure, to collect certain arrears of rent.

Local Bodies' Sinking Funds.

In respect of numerous local-body loans, sinking funds have been established as a basis of the loan. The Public Trustee is the recipient of many of these funds, but he only takes them as he receives them. He is under no obligation to see that the contributions thereto are paid, and does not attempt to compulsorily collect them. There ought really to be some covenant entered into by the borrowing body with the Public Trustee, enabling him to sue and recover, or else statutory provision should be made enabling and directing him to recover payments in arrear.

Secrecy.

We recommend that all who are taken on the staff should, on joining, sign a declaration of secrecy, as is the practice with banks. To place all on the same footing, we recommend that existing members of the staff should sign a similar declaration; also that all agents should do so. Agents are not members of the Public Service. A framed print of the declaration should be hung up conspicuously in the Head and Branch Offices.

Advisory Trustees.

The imputation is made that the Public Trust Office cannot always do as well as private trustees with regard to such matters as the carrying-on of a business or the management and realization of estates, and that it is not so well able as private trustees to gauge what should be done with regard to the maintenance and education of children in a particular case. This is a charge that may be made against trust companies also. It cannot be expected that any public trust department or office will in all cases possess the same special skill or the same knowledge of the testator's family as those whom the testator may have deliberately chosen because of those advantages. In the case of a public trust company a testator frequently associates a private individual with it as a joint trustee. This is not permissible in the case of the Public Trustee, and for the obviously good reason that, while the State may guarantee against the misfeasance of its own officers, it cannot undertake those of a private person also. This objection does not affect the recommendation we make that the Act should expressly authorize the appointment of one or more persons as advisory trustees, whom the Public Trustee may consult on all questions affecting the administration of the trust. The estate, of course, would be vested in the Public Trustee alone, and he would have sole custody and possession of the money and other property belonging to the estate, and do all the work connected with the administration, exactly as would be the case if no advisory trustee were appointed. It should be distinctly provided that no sale or dis-

position should be made except with the concurrence of the advisory trustees; also, that if the Public Trustee acted with the concurrence of the advisory trustees he should not be responsible, provided he acted with the *bona fides* required of a trustee. It should be further provided that in case of difference of opinion between the Public Trustee and the advisory trustees the question should be referred to a Judge of the Supreme Court.

In support of these recommendations it may be stated—(1.) That in several trust instruments somewhat similar provisions are inserted, and the Public Trustee has them occasionally inserted in wills drawn by the Trust Office. (2.) That it is the course of the Public Trustee, wherever practicable, to obtain the concurrence of all beneficiaries who are of age in a proposed sale, and to consult them as regards price and other matters. So also with regard to other important transactions. Of course, in the case of those under twenty-one any such concurrence cannot be regarded as possessing any validity. Why not, then, allow of an advisory trustee representing them? (3.) The officials of the Public Trust Office and those unconnected with the office who have given evidence before us consider the suggestion as excellent, and strongly support it.

We therefore recommend that express provision be inserted in the Act. It may be that with the law as it stands advisory trustees may be appointed, but an express provision in the Act would operate as a notification to testators and others, and tend to recommend the Public Trustee in cases where, but for that, he might have been rejected.

The advisory trustees would in no way be concerned with investments in the Common Fund. Their functions would in substance be confined to the period of realization and to consultation regarding the management of estates, and also the maintenance and education of children where those objects have to be considered by trustees and not by their guardians.

To provide for the death, resignation, &c., of an advisory trustee the same powers of filling the vacancy should be available as exist by law or as may be conferred by the trust instrument with regard to ordinary trustees.

Respecting the maintenance and education of children, the guardian, where distinct from the Public Trustee, would fill the place of an advisory trustee.

Delegations by Trustees.

A trustee or executor absent from or about to leave the Dominion may by law delegate his powers to an attorney. There is nothing in law in such cases to prevent him from delegating his powers to the Public Trustee, and we believe there is no reason why a testator should not authorize his trustees to delegate all the active work of the trust, including the receipt, payment, custody, and investment of money to the Public Trustee. Such a provision is frequently inserted in the case of a public company, and it has been acted on without difficulty.

We therefore suggest and recommend that provision be made in the Act for enabling the Public Trustee to act as the delegate of any trustees where the trust instrument so authorizes.

It should be provided that while so acting the trustees should fall into the position of advisory trustees if they so desired, but should not act otherwise in the trust.

Remedy for Grievances.

In order to enable beneficiaries to have their complaints investigated and grievances allayed, such for instance as those brought before us, we recommend that,—

(a.) A solicitor or accountant authorized in writing by a beneficiary interested in an estate should be entitled as of right to examine the file relating to that estate.

(b.) Any beneficiary aggrieved by any act or omission or decision of the Public Trustee in relation to any trust should be entitled to apply in Chambers to a Judge of the Supreme Court, and the Judge should be empowered to make such order in the matter as he thinks just. This is in substance a provision contained in the English Public Trust Act.

Without elaborating reasons, we make the following further recommendations which are supported by the evidence:—

(1.) That the final accounts rendered to beneficiaries should show the death-duty valuations of the assets, so that a comparison of the results may be readily made.

(2.) That there should be an annual conference at Wellington of the District Managers.

(3.) That care should be taken to see that a District Manager will not be unduly burdened by having the duties of Deputy Assignee cast upon him, and that the Public Trust Office is adequately remunerated for its services so that the Common Fund is not charged.

(4.) That a book of instructions to date should be compiled for the use and guidance of agents.

(5.) That a book of instructions should be prepared for the use of those in the Accountant's branch especially, giving information on questions of law and other matters that are of common or frequent occurrence in dealing with estates and the preparation of accounts, and it should be seen that this is kept up to date. This should prove of considerable advantage to those undertaking the examining and checking of estate accounts for the first time.

(6.) That juniors should be encouraged to qualify themselves in accountancy and relevant branches of law.

(7.) That a judicious interchange of officers between Head Office and the branches should be made with a view to adding to the officers' experience.

(8.) That to save the time of the Public Trustee, the Deputy, and Secretary, the officers in charge of departments might well be intrusted to a greater extent with the signature of letters on routine and other matters of an ordinary character.

General.

Having thus endeavoured to indicate such improvements as in our opinion might with advantage be effected, we would say, in conclusion, that we take it the Public Trust Office was created for the express purpose of providing equitable administration of estates, testate or intestate, under cover, in certain circumstances, of national guarantee, and the privilege thus conferred has been largely availed of during the forty years or more the Department has been in existence. It may therefore be taken for granted that the indubitable advantages derived from such an institution are by this time sufficiently well known to the community, thus rendering it quite unnecessary to resort to questionable or undignified methods of attracting business by unduly encroaching on the prerogatives of others. It should be the object of the Department not to arouse antagonism by overt acts of irritation and aggression, but to cultivate the best relations with all sections of the public, and thereby enlarge its scope of usefulness in an amicable and legitimate manner. This becomes all the more a matter of necessity in the case of a great and beneficent concern avowedly not out for profit, but for the protection of parties committed to its care by those who have confided in its integrity and stability.

We cannot therefore too strongly condemn what has been clearly manifested in the course of our investigations—a tendency to unduly force the growth of business.

A Department such as this will be more wisely and safely administered by avoiding stimulating processes and leaving it to a discriminating public to appreciate naturally and gradually its worth and utility.

Our sincere thanks are due to the members of the staff who have so readily and clearly placed before us matters concerning the various departments; to gentlemen outside, whose views and statements have so greatly assisted us; and to our Secretary, Mr. Gore, and his assistants, for the very material help they have rendered in the discharge of the task intrusted to us.

Given under our hands and seals, at Wellington, this eleventh day of April, one thousand nine hundred and thirteen.

A. MACINTOSH.
J. H. HOSKING.

RIDER.

OFFICE LEGAL STAFF.

As the lay member of the Commission, I desire to add as my personal expression of opinion, by way of further reference to this matter, that the attempt to set up a legal bureau—for so it may be described—in such a Department as that of the Public Trustee to undertake outdoor work is a very questionable and rash experiment, and involves serious responsibilities that it would be prudent to avoid. The discretion of the testators or beneficiaries should not be interfered with as regards the disposition of their legal business, and it would be well to abstain from conspicuously presenting alluring conditions in the direction of cheap law, synonymous, perhaps, with faulty law. In my opinion, the public and the Department itself would be better served from outside as regards much of the extraneous legal work now undertaken by practitioners comparatively inexperienced in outside or general business.

A. MACINTOSH.

Approximate Cost of Paper.—Preparation, not given; printing (1,500 copies), £16.

By Authority : JOHN MACKAY, Government Printer, Wellington.—1913.

Price 9d.]