

CLAIMS FOR DAMAGES FOR PERSONAL INJURY OR DEATH.

56. The Public Trustee's interest in claims for damages usually arises under the Deaths by Accidents Compensation Act, 1908, as legal representative of a person whose death has been caused by the wrongful act, neglect, or default of some other person; secondly, as the personal representative of a person who, while employed in or about a mine has been killed owing to the non-observance in such mine of any of the provisions of the Mining Act, 1926; or, thirdly, as the personal representative of a person who while employed in or about a coal-mine, is killed owing to the non-observance in such mine of any of the provisions of the Coal-mines Act, 1925; or, fourthly, under section 13 of the Public Trust Office Amendment Act, 1913, in any cause or matter in any Court where damages are awarded to an infant or a person of unsound mind.

Eleven actions were brought by the Public Trustee during the period under review as the legal representative of a deceased person, and all such actions were prosecuted to a successful conclusion.

THE MAINTENANCE OF DEPENDANTS.

57. The application of settled or other funds for the maintenance of persons beneficially interested therein is a phase of the work of the Public Trust Office which is of great importance and entails a considerable degree of responsibility. There are many cases where in accordance with the provisions of wills or trust instruments or upon the distribution of intestate estates moneys are to be held on behalf of infants until they attain their majority, or under terms of specific trusts imposed upon the Public Trustee, funds are to be safeguarded for widows or other persons deemed by the settlor or testator to be in need of some measure of protection. Moreover, the Public Trustee is often required by legislation or otherwise to assume the control of the property of persons suffering under some disability—as, for example, mental patients, convicts, persons committed to reformative institutions, and aged and infirm persons where, in the latter case, the Supreme Court appoints the Public Trustee to act.

With regard to infants it is prescribed as a general rule that moneys or damages recovered in any Court on behalf of minors or persons of unsound mind shall be paid to the Public Trustee to be applied for the maintenance, education, or otherwise for the benefit of the person so entitled [Public Trust Office Amendment Act, 1913, section 13 (2)]. Another provision which is freely availed of is that contained in section 17 (2) of the Public Trust Office Amendment Act, 1913, which enables executors, administrators, and trustees to pay into the Office the legacy or share due to any infant, to be accounted for by the Public Trustee to such infant according to the provisions of the trust instrument.

Again, section 38 of the Workers' Compensation Act, 1922, provides that compensation-money in respect of the death of a worker shall, in the absence of an order of the Court to the contrary, be paid to the Public Trustee. The Public Trustee retains control of such moneys pending an order of the Court as to the manner in which the funds are to be applied for the benefit of the persons declared to be dependants of the deceased worker.

In these ways and in many others as well the Public Trustee becomes possessed of funds to be administered and applied on behalf of persons a large number of whom are in some degree dependent upon such moneys. In view of the multiplicity of duties arising out of such funds, the powers conferred upon the Public Trustee must necessarily be wide and varied, differing considerably in their application to particular classes of estates. In order to give some idea of the range and diversity of these powers in regard to maintenance, especially as the principles underlying the Public Trustees' powers are at times misunderstood, I shall refer briefly to the position in regard to the more important classes of estates.

Trust and Testate Estates.—In cases where the property is subject to the provisions of a will or other trust instrument, the Public Trustee is bound to follow any specific instructions contained therein as to the application of funds for the benefit of the legatees. He is, however, endowed by statute with certain specific powers where the will or trust instrument is silent upon this point or has, in the Public