

1927.  
NEW ZEALAND

# PUBLIC TRUST OFFICE

(REPORT OF THE) FOR THE YEAR ENDED 31st MARCH, 1927.

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*Presented to both Houses of the General Assembly in accordance with Section 47 of the Public Trust Office Amendment Act, 1913.*

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PURSUANT to section 47 of the Public Trust Office Amendment Act, 1913, I have the honour to lay before Parliament the attached report on the work of the Public Trust Office for the year ended 31st March, 1927.

1. A satisfactory increase in the business handled by the Office is recorded for the past year. During the year 3,581 new estates of a total value of £5,551,019 were accepted for administration, as compared with 3,353 estates of a value of £4,651,447 accepted during the previous year. The value of the estates and funds under administration on the 31st March, 1927, was £41,043,523, and the period under review was the first occasion on which the new business exceeded £5,000,000. In the two previous years it exceeded £4,000,000. The following table shows the rapid growth of the business conducted by the Office during the past thirty-five years :—

Year.	Value of Estates and Funds under Administration.			
	£			
1892 .. .. .	..	1,284,755		
1897 .. .. .	..	1,898,163		
1902 .. .. .	..	2,467,614		
1907 .. .. .	..	4,969,100		
1912 .. .. .	..	9,493,959		
1917 .. .. .	..	15,065,583		
1922 .. .. .	..	25,497,779		
1927 .. .. .	..	41,043,523		

2. Through strict attention to the economical management of the Office the working-expenses, apart from the salaries (which, of course, are subject to statutory increases), show a reduction of nearly £10,000 from the previous year's figures. In this regard it is interesting to note that in comparison with the year ended 31st March, 1921, when the estates and funds under administration were some £18,500,000 less in value, the past year showed an increase of £1,813 only in working-expenses, including salaries—a striking testimony to the economical and efficient administration of the Office. Moreover, at the close of the past year the staff showed a reduction of thirty-six in number without in any way impairing the efficiency of the Office, a result made possible through improvements in matters of system. New business exceeding £6,000,000 in value is anticipated during the current year, but it is confidently anticipated that the expenditure will not show any material increase over that recorded during the past year. It must be a source of gratification to those responsible for the internal management of the Department that upon each occasion during the past three years when the accounts relating to the Office have been placed before the Public Accounts Committee the Committee has congratulated the Public Trustee upon the economical manner in which the Office has been conducted.

3. The total revenue of the Office during the year under review amounted to £274,845, a net decrease of £7,541 compared with the revenue derived from the previous year's working. The past year, however, was the first complete year in which the concessions by way of increased rates of interest and reduced charges granted as from 1st January, 1926, operated, the previous year's working having been affected by these concessions over a period of three months only. Viewed in this light it will be seen that the results have been eminently satisfactory.

4. The investments of the Office have now reached a total of £26,179,886, and the assets, other than those which are the property of estates under administration, amount to £1,135,690 in all. Of the investments, £15,583,706, or considerably more than one-half of the total investments, represent mortgages secured upon land in the Dominion for advances on loan made to farmers, business men, and others, thus evidencing the important part which the Office plays in the financial life of the Dominion. The sum of £8,298,026 has also been lent to local bodies for the furtherance of works of public service and utility. The investments made during the year total £2,812,643, and the net increase in the investments and Office assets amounted to £2,083,001.

5. The wills deposited with the Office increased during the year by a net number of 4,574, which is well above the average yearly increase for the past ten years. The total number of wills on deposit is now 53,531, showing that a large percentage of the will-making population of the Dominion is availing itself of the advantages offered by the Office. It is estimated that the wills deposited represent prospective business of over £200,000,000, so that it will be seen that the future of the Office is well assured. In addition, it is to be remembered that many wills appointing the Public Trustee executor are not reported to the Office until after the deaths of the testators; and in view of these factors and with the anticipated steady increase in the other phases of Office activities its continued expansion is confidently anticipated. The importance of will-drafting is recognized by the Public Trustee, and every possible care is taken to ensure that the intentions of testators are given effect to. Every will prepared in the Office is scrutinized by experienced legal officers before being finally filed away. Special accommodation has been provided for the storage of wills deposited with the Public Trustee.

6. As a certain amount of misapprehension appears to exist on the subject, I feel it my duty to direct special attention to the method of investment of trust and other similar funds dealt with by the Public Trustee. All moneys held by the Public Trustee for investment either fall into the Common Fund or are specially invested outside it. If the funds are invested in the Common Fund,—

- (1) The investments are not earmarked to the estate.
- (2) The capital and interest are guaranteed by the State.
- (3) Interest accrues from the day the money reaches the Office, and is paid without interruption until the capital is paid out to the persons entitled.
- (4) The interest is at such rate as is from time to time fixed by the Governor-General in Council, and is free of all Office charges. The present rate for trust moneys other than moneys at call is  $5\frac{1}{4}$  per cent. per annum.

If, on the other hand, the moneys are directed to be specially invested outside the Common Fund,—

- (1) The investments belong to the estate.
- (2) Although every care is taken in investing, there is no State guarantee, and, subject to the Public Trustee's ordinary liability as a trustee, any loss falls on the estate.
- (3) Strictly speaking, the capital should earn no interest until actually invested, but the Public Trustee has for some years past in appropriate cases made certain concessions by introducing a scheme of temporary allocation. This is referred to at length in the Public Trustee's report.
- (4) Commission is payable at scale rates on the interest collected,

Testators and others are entirely free to choose one or other of these two modes of investment, and it is their choice at the creation of the trust or the inception of other similar transactions which determines the form of investment to be employed in each individual case. The distinction between the two systems is carefully explained to such clients; and, moreover, in the preparation of wills by the Office the intending testator is required to answer definitely a specific question in the form of instructions whether the trust funds are to be invested in the Common Fund or outside of it, and the features and operation of such fund are set out for his guidance. As is only to be expected from the special advantages appertaining to it, the vast majority select the Common Fund. Clients whose funds are invested in it are well satisfied with the return they receive from it, and complaints in respect to it do not originate with those affected. The system of the Office investments was investigated by the Royal Commission of 1891, and it was as a result of its recommendations that the Common Fund was established in its present form. This mode of investment has been in existence ever since, and during that period has stood the test of time and shown itself to be superior to any other workable system which could be set up. In 1913 the work of the Office was again inquired into by a Royal Commission, and in their report the Commissioners did not suggest any alteration to the Common Fund system. Its cardinal features are the absolute safety which it affords and the unfailing regularity with which payments of income and the like can be made under it. When this is grasped, and the services which clients receive at the hands of the Office are borne in mind, I feel sure that it will be readily recognized that the Common Fund makes a very fair return to those whose moneys are invested in it, and at the same time affords an exceptionally fine form of investment for trust funds.

7. In considering the Public Trustee's charges for the administration of estates it must not be overlooked that the services covered by them include a large number of matters for which, if administered elsewhere, the estates would, as a rule, have to bear special fees. These services include the application for probate or other grant of administration, filing stamp accounts, registering transmission, preparation of land- and income-tax returns, the general management and supervision of property, and so forth, for which other corporate trustees here and abroad have usually to employ professional men and debit the cost to the estates concerned, in addition to their recognized commission. Furthermore, it cannot be contended that the method of assessing the Public Trustee's remuneration according to scale rates of commission is inelastic in its operation. The Public Trustee is given power by the regulations governing these matters to reduce the scale rates of commission in appropriate cases, and this power is utilized by the Public Trustee to readjust his charges in the infrequent cases where the scale charges exceed a sufficient remuneration for the services rendered.

8. An undertaking such as the Public Trust Office, the business of which is not only commercial but of a highly technical and difficult nature, should be amply staffed with a staff of skilled officers capable of efficiently carrying out the work. Special attention has been devoted to the staffing of the Department during the past few years, and I am pleased to say that at present the staff is adequate and competent, and that the work is being performed in a capable and reliable manner. Particular care is directed to the training of junior officers, and a system of training classes for tuition in theoretical and practical work has been conducted for some time, with very encouraging results.

9. The safe-deposit system, which is explained in the Public Trustee's report, is a facility which is finding greatly increased popularity with the public. The system is being extended gradually throughout the Dominion, and lockers are now available for clients in the majority of the more important towns. In a number of centres it has been found necessary from time to time to increase the number of lockers in order to cope with the public demand.

10. Reference will be found in the Public Trustee's report to the system governing the acceptance of money on deposit, and particulars are given of the terms on which money is received.

11. An interesting statement has been made by the Public Trustee as to the law in regard to legitimation and illegitimate succession. Fundamental alterations have

recently been made to the English law in this regard, and as the matter is of particular interest to persons engaged in the administration of trust estates the Public Trustee has thought well to refer to this subject in his report.

12. Apart from the foregoing matters, attention may be directed to the following matters appearing in the Public Trustee's report :—

- (1) The increase in the balance at credit of estates and funds from £24,426,009 to £26,485,917.
- (2) The increase in the Office reserves to a total of £647,884.
- (3) The statement of the Public Trustee regarding the extension of the Public Trustee system throughout various parts of the British Empire and other countries.
- (4) The satisfactory relations maintained throughout the year with advisory trustees appointed to act in regard to the administration of estates in the Public Trust Office, and the steadily increasing popularity of this system.
- (5) The progress made in regard to the duties imposed upon the Public Trustee in connection with the disposal of enemy property and the settlement of pre-war debts between British and German nationals. These duties form the subject of a separate report already presented to Parliament, but in future years the compilation of a separate report will be discontinued and a comprehensive statement of the position included in the Public Trust Office report annually.
- (6) The operation of the system in force in the Office for the inspection and supervision of the work performed, also the system of audit in regard to the accountancy work of the Department.

13. The work of the Office has proceeded smoothly during the past year, and the competency of the staff and the efficiency of the Office system are evidenced by the absence of justified complaints by beneficiaries and others coming into contact with it. On the other hand, many expressions of appreciation from such persons have come before my notice from time to time. The experience of the year just past and of previous years points to the continued popularity of the Office and the steady increase in the business entrusted to it.

Wellington, 14th September, 1927.

J. G. COATES,  
Prime Minister.

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## REPORT ON THE WORKING OF THE PUBLIC TRUST OFFICE FOR THE YEAR ENDED 31ST MARCH, 1927.

SIR,—

I have the honour to submit a report on the work of the Public Trust Office for the year ended 31st March, 1927.

1. A perusal of this report will show that the year's operations have been very successful, and that the steady growth of the Office business in every department of the work which has been displayed in previous reports has been well maintained.

The new business received during the year for administration amounts to £5,551,019, which constitutes a record for the Office since it was established.

### EXTENSION OF THE PUBLIC TRUSTEE SYSTEM.

2. When the founders of the Public Trust Office established it in 1872 they little realized that they were bringing into operation a system which in time would extend throughout the British Empire, and probably at no distant date to other civilized countries. It is pleasing to see that New Zealand, which has always been characterized by its progressive legislation, was the first country to set up this system. Shortly afterwards a Public Trust Office was established in South Australia, and Great Britain followed the example of New Zealand by the passage of the Public Trustee Act of 1906, which became operative on the 1st January, 1908. This Act applies to England and Wales, but does not extend to Scotland and Ireland. The English Public Trustee Office has made rapid growth, and it is interesting to see that on the 31st March last there were capital funds and properties under administration by it valued at approximately £200,000,000, with an annual income of approximately £10,000,000.

In the Australian States there are public officials guaranteed by the State, sometimes called Public Trustees and sometimes Curators, whose function it is to provide corporate trusteeship on lines somewhat similar to those of the Public Trustees of New Zealand and England. It is gathered that efforts are being made to establish similar officials in parts of Canada.

In connection with the Great War, apart from the ordinary functions of administration, &c., a number of these officials rendered valuable service to their respective Governments in controlling and administering enemy property. Separate reference is made elsewhere in this report to the enemy-property work in New Zealand which is carried on by the Public Trustee as Custodian of Enemy Property and Controller of the New Zealand Clearing Office.

It may be mentioned that in the United States of America Congress, by the Trading with the Enemy Act of the 6th October, 1917, appointed Public Trustees, called Alien Property Custodians, to administer such property, with all the powers of a common law trustee. By 1921 the number of separate trusts administered by these officials was 32,296, having an aggregate value of 502,000,000 dollars.

### EFFICIENCY IN THE ADMINISTRATION OF TRUST ESTATES.

#### BENEFIT OF CORPORATE TRUSTEESHIP.

3. The future of an institution such as the Public Trust Office, the primary function of which is the assumption of responsibilities of a trust or fiduciary character, must necessarily depend upon the reputation which it acquires for the manner in which it carries out the trust reposed in it. Such a reputation can be gained only by careful, efficient, and considerate administration of the estates entrusted to it, and can only be maintained by successfully continuing along these lines. The astonishing results achieved by the Office during its fifty-five years of existence afford in themselves convincing proof that the Department satisfactorily fulfils the exacting requirements of the functions it assumes.

In my last report I drew attention to the marvellous growth of corporate trusteeship throughout the civilized world, and examined some of the causes which during recent years have led to the greatly increased public confidence in this form of trusteeship. The factors to which I referred in that report apply more strikingly to the Public Trust Office, and they contribute in no small measure to the present popularity of the institution. Not only does it possess all the more or less general attributes of a corporate trustee, but there are in the case of the Office a number of other factors which conduce to the more efficient, prompt, and economical administration of the estates entrusted to its management. These features have been referred to by me at length in previous reports, and therefore it is not deemed necessary to reiterate them here.

#### QUALIFIED AND EXPERIENCED STAFF.

The extensive organization of the Public Trust Office enables it to employ for the general benefit of estates officers with specialized knowledge of the various matters which are of general application to the estates under its control. The staff is carefully selected, and every effort made to ensure that officers of special ability and qualification are set apart to supervise and to carry out the more important branches of the work. A large number of officers have spared no pains in qualifying themselves in law, accountancy, commerce, and other directions, and the special knowledge they have gained is of distinct advantage in the work they undertake. At all times the staff is encouraged to keep abreast with the most modern business and commercial methods, and to become acquainted with matters which are of importance in the administration of the estates and other classes of work handled by them.

#### EXPERT OFFICERS.

For the better handling of the more important assets the services of experts are retained. Previous reports will show that the Office employs Property Inspectors, who render valuable assistance in regard to inspections, valuations, leases, tenancies, and repairs of town properties. In the case of country properties the Farm Inspectors render similar services. Farm properties are inspected regularly to ensure that occupants are reasonably complying with the conditions of their tenure. The services of these Inspectors are availed of when questions of sale arise, and where a property is to be leased they are consulted as to the reserve rental to be placed upon the property, and as to the provisions which should be inserted in the lease to ensure that the land is properly farmed. Where farming operations are actively carried on by the Office the Farm Inspectors exercise a close supervision over the management of the properties. It will be recognized that in recent years matters affecting farming operations have, from the prevailing economic conditions, been difficult and exacting. Constant care and attention have therefore been necessary to protect the interests controlled by the Office, and in this respect the Farm Inspectors have rendered most useful service.

Estates with holdings of stocks and shares have the benefit of the advice of the Financial Adviser, an officer with long banking and financial experience, whose special function is to keep in close touch with the movements of the investment market, and to advise upon the retention or disposal of holdings, the mode of realization, and general matters affecting these assets.

#### ORGANIZATION.

The organization of the Office has been so built up and developed that it now is in a very efficient state. This organization plays no small part in bringing about the successful results which this report discloses, and in maintaining the high standard of service which the Office renders in the community.

The scheme of decentralization which was established some years ago is now in full operation, and has proved of great benefit to the Office and its clients. Subject to certain safeguards and control by the Head Office, the work of the administration of estates is completed at the various branch offices, thus facilitating and expediting this work to a very marked extent.

So that the benefits of decentralization may be extended as widely as possible, there is in operation a system whereby the administration of certain estates is completed by District Managers, subject to the control and supervision of the District Public Trustees.

By means of decentralization the Office organization is prevented from becoming top-heavy. Apart from the considerations of economy and efficiency, it is a distinct advantage to those with whom the Office deals to be able to come into personal contact with the officers managing their affairs.

#### EXPERIENCE.

It was the aim of the founders of this institution to establish an official who would possess considerable experience in the special duties of trusteeship and administration, and for whose good conduct the Government would be responsible. There is little doubt that the aim of the far-seeing founders has been amply fulfilled. The Office has now had a long and valuable experience in administration work and the other duties entrusted to it, and with the accumulation of such experience and knowledge has been enabled to devise efficient and economical methods of administration and to establish an organization which will safeguard the interests entrusted to its care. It may be confidently claimed that the standard set up by the Office in its work is a high one, and that its clients receive good service from it.

#### SPECIAL POWERS OF THE PUBLIC TRUSTEE.

4. A considerable amount of misapprehension exists in regard to the special powers which the Legislature has from time to time conferred upon the Public Trustee, and, as some criticism has appeared again during the past year in regard to these powers, I take this opportunity of endeavouring to make the position clearer. The suggestion is frequently made that these powers are repugnant to the spirit of trustee law; but such an idea is a mistaken one. Upon an examination of the powers in question it will be found that generally they allow the Public Trustee merely to do, within prescribed limits, what the Supreme Court would upon application in the particular cases authorize him to do. Such, for example, are his discretionary powers of selling, leasing, managing, and otherwise dealing with estate assets, and the powers of applying estates funds for the benefit of widows, minors, and other dependants. In view of the special position which the Public Trustee occupies as a State official whose activities are subject to public inquiry and criticism, it has been possible to grant him these powers with the knowledge that they will not be abused in any manner.

As for the remaining powers, they are chiefly such as usually appear in well-drawn wills and trust settlements. The powers have been made available to the Public Trustee purely in the interests of the beneficiaries, and they are not exercised in such a way as to override in any way the rights of interested parties. To guard against the possibility of such an occurrence the Legislature has provided a simple process by which beneficiaries opposing any proposed course of action upon the part of the Public Trustee may refer the matter to a Judge of the Supreme Court for consideration and directions. Though this provision has been in force for many years, there has been only one occasion on which it has been utilized, and in that instance the Public Trustee's proposals were approved by the Court. This is striking testimony to the fact that the powers are exercised in the interests of the beneficiaries, not to their detriment. I claim that the history of the Public Trust Office is in itself sufficient assurance that any powers conferred upon the Public Trustee are exercised with discretion and caution, and will not be availed of arbitrarily or in a harsh and inequitable manner.

The powers have in no way operated to deprive beneficiaries of any rights which they may possess in the event of any estate not being administered in accord with the general principles of trustee law. The measure of protection afforded to beneficiaries in estates administered by the Office is, indeed, far in excess of that which is afforded in the case of any other trustee. The Public Trustee is a

permanent State official; he is always available to answer for any acts or defaults on the part of himself or his employees; furthermore, the integrity and fidelity of the Public Trustee and all his officers are guaranteed by the State.

It has been urged in some quarters that the increased powers and facilities conferred on the Public Trustee should be made available to all trustees. This is a matter which does not directly concern the Public Trustee. It may, however, be pointed out that whilst it may be safe to grant extended powers to an officer such as the Public Trustee, whose unique position provides special safeguards and assurances, it would plainly be inadvisable to make such powers available to private trustees, when by so doing the well-recognized safeguards would be removed without providing any adequate protection in their place. Moreover, the undertaking of trusteeships is purely voluntary on the part of private trustees, but such is the principal object for which the Public Trustee was created, and by reason of his position and from the operation of numerous statutes he is forced to undertake all classes of estates and to perform numbers of services of a miscellaneous nature. This does not apply to private trustees, and makes it desirable that facilities should be afforded to the Public Trustee which are not justified in the case of other persons carrying on a similar class of work.

Finally, I desire to refer briefly to the assertion that is sometimes made that the full effect of the additional special powers conferred upon the Public Trustee was not realized by the Legislature at the time when the amending Act of 1921 was passed. A suggestion of this nature is, upon the face of it, of doubtful force. Before taking effect as law, drafts of the Bill which subsequently became the Public Trust Office Amendment Act, 1921–22, were closely examined by the highest disinterested legal authorities, acting independently of the Public Trustee, and were scrutinized also by the Statutes Revision Committee. Both Houses of Parliament also had ample opportunity of discussing the Bill before it became law, and any criticism such as is made in some quarters, that the powers were conferred by the Legislature carelessly or in ignorance as to their effect, clearly lacks substantiation.

#### OFFICE CHARGES FOR ADMINISTERING SMALL ESTATES.

5. A criticism of Office administration which is sometimes encountered is to the effect that the Office charges for administering small estates are unduly high in comparison with the charges for administering large estates, the inference, of course, being that the larger estates are being administered cheaply at the expense of the smaller estates. This idea is erroneous, and is based upon a misconception of the true position. The Office charges for administration are levied upon a sliding scale which is designed from experience extending over half a century to return a reasonable remuneration in each case for the work occasioned by the administration. It is found in practice that in the bulk of cases the scale operates satisfactorily. Where in an unusual combination of circumstances the scale rates of commission do not represent a reasonable charge for the work involved the Office meets the position by reducing the scale charges of commission.

It is true that as a result of the operation of the sliding scale of charges the average rate of commission charged for the administration of a comparatively small estate will probably be a little higher than the average rate charged in respect of a larger estate; but this fact alone does not justify the inference to which I have referred. With the exception of extremely small estates, there are in all estates certain duties to perform which do not vary greatly in extent whether the estate is large or small; for example, a grant of administration must be taken out, stamp accounts filed, debts ascertained and paid, and other similar duties performed. This important factor must be taken into consideration in fixing the charges to be levied. Moreover, it must be remembered that it does not necessarily follow that the larger an estate is the work involved in its administration increases proportionately.

It can be confidently stated that the Office scale of charges is satisfactory in its operations, and does not favour one class of estate at the expense of another.



## WORKING WITH ADVISORY TRUSTEES.

6. In a recent issue of an American publication devoted to matters of interest to corporate fiduciaries reference is made to the generally unfavourable experience of trust companies in acting jointly with co-executors or co-trustees. The writer of the article describes the problem as one of the most difficult administrative problems encountered by trust companies and banks as fiduciaries, and stresses the greater difficulty in the cases where the co-executor or co-trustee is a relative, a personal friend, or a former business associate of the testator lacking experience in trust administration than where he is a person with technical knowledge in regard to trustee law. The writer goes on to remark that the difficulty is accentuated where the co-fiduciary is also a beneficiary, in which case his (or her) interests as beneficiary may often conflict with the obligations and duties imposed on such person as trustee. Where a business partner is appointed a similar conflict of interests is likely to arise, and in the case of personal friends or relatives the element of impartiality may often be destroyed.

The article concludes with the statement that “seldom is anything added by the appointment of co-executor by way of financial responsibility, experience, permanence, or accessibility which are inherent in trust-company administration.”

This was recognized by those responsible for the establishment of the Public Trust Office, and so from its inception it has been provided that the Public Trustee should not act jointly with a co-executor or co-trustee. The Public Trust Office Amendment Act, 1913, however, made provision for a testator who wished to do so to join with the many advantages of Public Trust administration the benefit of specialized knowledge in some particular sphere of business, professional or commercial activity, or the helpful advice of some person in whose judgment he had confidence. This was done by the creation of the position of “advisory trustees,” who may not only be appointed by testators in their wills or settlors in their settlements, but also by the Court, either upon application by the Public Trustee or by any other interested party.

When the Public Trustee acts in conjunction with advisory trustees he has the sole control of the estate, and the assets are vested in him alone. The advisory trustees are, however, consulted on all estate matters of importance, and their advice is sought as to the course of action to be adopted in the various estate matters which arise for decision.

Should there arise between the Public Trustee and the advisory trustees any difference of opinion which cannot be amicably settled, the law provides a simple and ready means of adjusting the difficulty by reference to a Judge in Chambers. It is, however, quite unusual to have any such difference which cannot be settled by friendly conference.

The experience of the Office has been that the system of acting in conjunction with advisory trustees has generally been most satisfactory from the point of view of the beneficiaries, the advisory trustees, and the Office. That it is satisfactory to clients of the Office is amply proved by the increasing number of cases where advantage is taken of these provisions of the Office Acts.

The provision for the appointment of advisory trustees may also be availed of in the administration of intestate and mental-patient estates.

It will be seen that the difficulties with co-fiduciaries referred to in the article mentioned above, which are no doubt more or less common experience with corporate fiduciaries throughout the world, are happily, through the wise provisions of our Legislature, non-existent in the case of the Office.

## SECURITY OF TRUST MONEYS.

7. The main concern of a trustee must rightly be the security and conservation of the funds entrusted to his management, so that when the time comes for accounting to the persons entitled they will receive the full benefit of the bequest or share due to them. Pending the arrival of that time, it is the duty of a trustee to invest the funds in one or other of the prescribed forms of trustee investment so that a satisfactory return is secured for the beneficiaries ultimately entitled or for the persons

entitled to the income for the intervening period, as the case may be. The cardinal principle must necessarily be the safety of the funds, and to ensure this object the Legislature both here and elsewhere has wisely restricted the classes of investments which, in the absence of specific provision to the contrary in the trust instrument, a trustee may select. Except where the trust instrument contains special provision as to investments, a trustee must be careful not to endanger the security of funds in an endeavour to obtain a higher return.

As I pointed out in my report for last year, the range of authorized securities has been considerably amplified in recent years, but the scope must always remain very restricted. Pressure is liable to be exercised upon trustees by persons interested in the income of trust funds to invest in, to renew, or retain more hazardous securities yielding a higher return than those authorized by statute. On no account whatever should a trustee permit himself to be induced, either by the solicitations of beneficiaries or by the allurements of what appears an exceptionally fine investment, to disregard the instructions contained in the instrument under which he is acting and the limitations which the law has from experience seen fit to impose.

It is important to stress this, for trustees are frequently adversely criticized for not employing investments which, though unauthorized, return a large revenue, and are considered by prudent investors to be quite safe. Speculation or hazard must be eliminated in trust operations, for this is a field where they are undoubtedly not justified. The law reports show how disastrous to a trustee and his beneficiaries may be the consequences of the departure by him from the powers bestowed upon him by the trust instrument or by the law. Nevertheless, no matter how careful and prudent a trustee may be, or how closely he adheres to his restricted powers, he may incur a loss of trust funds as a result of circumstances beyond his control, or the development of which could not have been foreseen and provided for by ordinary human prudence. In America one large trust institution has caused widespread interest through its action in creating out of its reserves a special reserve fund of 2,000,000 dollars for the protection of beneficiaries receiving income from trust investments arranged by it. The plan, in effect, subject to certain limitations defined in a declaration of trust, pledges the trust company to absorb to the extent of the fund any losses in payment of interest or depreciation of principal where trust investments are purchased by the institution as trustee. Thus to honesty, capacity, and experience there is added a definite, tangible undertaking.

In the case of the Public Trust Office of New Zealand a still wider and more extensive guarantee of the security of investments of the trust funds is provided by the Common Fund scheme. This scheme has been in force for thirty-three years, and was established in its present form as a result of a recommendation of the Royal Commission of 1891. The principal advantage under this mode of investment is the State guarantee for the payment of principal and the punctual payment of interest throughout the term of investment. This form of investment is very freely availed of by testators, settlors, and other clients of the Office, for, in addition to the more extensive guarantee, it offers other advantages beyond those which this American scheme confers. For example, when the Common Fund is chosen for investment, interest begins at once and runs continuously—there is never any broken period—and there is no interval between the falling-in of an investment and the finding of a new one. Interest is paid on the daily balance, and it can be made payable weekly, monthly, quarterly, or half-yearly on the appointed days anywhere in the Dominion, free of deductions, including exchange. Where the interest is not required to be utilized for estate purposes or to be paid to beneficiaries it is capitalized at regular intervals and thus becomes interest-bearing.

The principal, either wholly or in part, is available immediately it is required, for the money is always liquid. If part is withdrawn interest continues on the balance, and any addition to the capital begins at once to earn interest. Finally, no charge whatever is made for the Public Trustee's services in connection with investment in the Common Fund.

There is no doubt that in the range of investments for trust funds there is nothing more simple than the Common Fund, and it is interesting to note how much greater are the benefits which it affords than are available in the case of one of the

most progressive trust concerns in the United States, where the principle of corporate trusteeship has been embraced to a larger extent than in most countries.

8. Sometimes the manner in which the Common Fund system of investment functions is subject to criticism. It is well to record, however, that such criticism does not emanate from those directly affected—viz., the beneficiaries in estates and others whose funds are invested in the Common Fund.

It is alleged that too great a proportion of the earnings of the Common Fund is retained by the Office, and that the beneficiaries consequently do not receive a sufficient return for the moneys invested on their behalf. The position was very fully covered in my report for the year ended the 31st March, 1925, and a further statement which would be simply a reiteration of the factors explained in that report would not appear to be called for. The facts set out there will, I am sure, be found to present a full answer to criticism of this nature.

If further argument were necessary, I would stress again that the bulk of the estate moneys placed in the Common Fund for investment is made subject to investment in this manner with the full knowledge of the contracting parties as to the comparative advantages of investment within the Common Fund and outside of that fund, and with their full knowledge of the usual return from the former class of investment. In the very numerous cases where wills or trust settlements are prepared by the Office, constituting the majority of the estates and trusts coming under the Public Trustee's administration, care is taken to place the full facts relating to the alternative systems of investment before the testator or settlor. It is found that the large majority prefer the Common Fund system, with its manifold advantages. Among them are many careful business or professional men whose lengthy experience in matters of investment enables them to appreciate how advantageous a form of investment the Common Fund system is.

#### ECONOMIC POSITION.

9. The year has been, on the whole, a difficult one in many respects for the primary producers, the only satisfactory feature being the good prices obtained at the wool-sales held in the Dominion. The prices showed a tendency to become firmer as the sales proceeded, and the outlook is fairly satisfactory in view of the known fact that the world's supplies of wool are on the low side.

The butter market, on the other hand, has been very depressed, though it is now showing some improvement. Doubtless there were special causes operating last year, such as the distressing coal strike in England, which served to depress the market to an exceptional degree; but apart from these special features it seems clear that in view of the reduced purchasing power of people in European countries and the increasing competition in the production of butter and kindred products in the Argentine, Siberia, and the Baltic States, together with the general world movement in the way of declining prices as contrasted to the inflation which took place in the years following the war, the primary producers of the Dominion will be faced with a position which will call for the utmost economy and care and a constant effort to increase production by the application of improved methods of farming.

It is pleasing to record that in his capacity as mortgagee the Public Trustee has received evidence that many of the borrowers from the Office are fully alive to the need of increased production and improved methods of farming, and are embarking upon an extensive programme of top-dressing for their farms. This applies more particularly to dairying lands, where regular and systematic top-dressing has been proved an absolute necessity if the best results are to be obtained; but the system has been extended in some cases to sheep country also. So important is this question becoming that many mortgagees are now insisting that a definite covenant be inserted in mortgages (especially where dairying-lands are concerned) to provide that a fixed proportion of the property shall be treated each year with an adequate quantity of suitable manures.

The Public Trustee controls large and ever-increasing interests which are vitally affected by the progress of the Dominion, and therefore it is fitting in this report, as on previous occasions, to make brief reference to some factors which are considered to have an important effect on the economic position of the country.

Occasionally we get bad seasons, sometimes a succession of them; but, taking all things into account, over a period of years we will find that in this country, with its favourable climate and fertile soil, the results are quite satisfactory. There are causes quite apart from the climatic conditions and yield which are liable to act detrimentally on trade and commerce generally. Not the least of these are matters pertaining to money and finance. It does not seem to be sufficiently recognized how important these matters actually are. In the absence of a better one, money is still the medium of the world's exchange, and consequently a dominant factor in the progress of its civilization. What contributes to depreciate or derange the currency must needs retard progress and bring with it economic setbacks and even distress. From time to time economists sound a note of warning against the evils of inflation, which are too often painfully exemplified by depression, unemployment, and chaotic trade conditions. Not only do the warnings pass unregarded and are the painful lessons too soon forgotten, but inflation is foolishly encouraged because it tends to create for a time a fictitious prosperity. An unsatisfactory modern development is found in the time-payment or instalment system of buying and selling, which tends to encourage unjustified spending by those whose needs exceed their resources, and which, of course, further increases the evils of inflation. It cannot be overlooked that the instalment plan has extensively increased in recent years, and not only shows no abatement but will probably remain a permanent institution of finance and a very real part of our economic structure. It is conceded that protracted payments are advantageous in extending legitimate enterprise—as, for example, where lands, farming-implements, motor-lorries, &c., are purchased for productive purposes. It is, however, somewhat alarming to see to what proportions the increase in the time-payment system is swelled by the purchase of furniture, musical instruments, radio sets, motor-cars, and other articles of luxury. The danger of the instalment system lies in the following directions:—

- (a) The acquiring of articles involving a heavy upkeep, especially during the period of payment of the purchase-money;
- (b) The purchase of articles of short-lived utility, which do not greatly outlive the period over which payment is spread, or of articles in the nature of luxuries;
- (c) The application of an unduly high proportion of the purchaser's available income, leaving an insufficient margin for contingencies.

In advocating the system it is urged that “the purposes of an economic system are to bring into existence the largest quantity of saleable goods and to transfer them out of the industrial system into the houses of private individuals as fast as they are made.” It is said that the instalment plan of purchasing merely facilitates this transfer, and without it the standard of life of large numbers of people would be considerably lowered. It is not denied that the doctrine of “produce more and consume less” can be taken too far, resulting in harmful reduction in the standard of life of the community. Nevertheless, the extension of consumption must ultimately be limited to the purchasing-power of the people, and experience shows that the only way to bring about real prosperity is to produce more for export, for goods represent the real wealth of any community. Lavish and extravagant expenditure, and financial expedients and facilities which are employed for the gratification of pleasure and increase our indebtedness without increasing production, only go to jeopardize our prosperity. Economic saving, regulation of expenditure within our means, and increased production, especially here in New Zealand in our primary industries, alone will help us to maintain our hitherto fortunate position. Years of prosperity are inevitably followed by years of leanness, and therefore we should so husband our resources as to be able to provide for ourselves and meet our commitments in times of stringency as well as in those of success. We are too prone in prosperous periods to dissipate surplus profits in a needlessly lavish way without making provision for bad times in the future.

In previous reports I pointed out the efforts which are being made in the administration of farming, business, and other classes of estates under the control of the Public Trustee, wherever possible, to increase the earning power and at the same time legitimately to limit the expenditure and the cost of production.

The encouragement which is now being given to scientific and industrial research is heartily welcomed, and it is sincerely hoped that this will be still further encouraged and developed, for it is felt that most beneficial results in respect to our primary industries and in other matters of vital importance to us will be obtained from this source.

### LEGISLATION.

10. Since my last report there has been little legislation which directly affects the class of work undertaken by the Office. Amongst the legislation passed last year may be mentioned the following :—

#### DEATH DUTIES AMENDMENT ACT, 1926.

An amendment to the Death Duties Act providing for a reduction in the penalty for unpaid duty is much appreciated by those whom it affects. The former penalty of 10 per cent. of the duty was considered too severe.

#### GUARDIANSHIP OF INFANTS ACT, 1926.

In this measure statutory recognition is given to the well known rule of the Courts that the welfare of the infant is to be the first and paramount consideration. The Act further declares that in matters affecting the custody and upbringing of infants the Court shall take into consideration whether from any other point of view the claim of the father in respect to such custody and upbringing is superior to that of the mother, or *vice versa*. By the Act, too, the mother is given more extensive rights in respect of her children than she formerly possessed.

#### THE DAIRY INDUSTRY AMENDMENT ACT, 1926.

Important questions arise as to the apportionment as between lessor and lessee of expenditure incurred as a result of the provisions of this Act. The Office has under its control numerous properties on which dairying is carried on, and wherever necessary suitable steps are taken to protect the interests of the estates in respect to any expenditure involved in fulfilling the requirements of the authorities by virtue of the Act.

#### SCIENTIFIC AND INDUSTRIAL RESEARCH ACT, 1926.

With a decided fall in the prices of our principal products, the prospect of lower prices in the future than those which existed in the years of inflation, and a keener and more extensive competition from foreign rivals, it is essential that not only should overhead and other incidental expenses be decreased, but production should be substantially increased. It is therefore with much interest that we turn to the modern development in the form of scientific research into matters affecting production, transport, storage—affecting in particular our primary industries—and hope that it will ultimately lead not only to a raising of the standard of the production, but a marked increase in the productivity, especially of land which has now to bear increased charges, such as those for electric-power schemes, &c., which with ordinary rates and land-tax, where payable, are a heavy charge on such properties. Thus it is gratifying to see that the Scientific and Industrial Research Act of 1926 was passed, and it is sincerely hoped that valuable results will be obtained by reason of the operation of this Act.

#### TOWN-PLANNING ACT, 1926.

This is also an Act of considerable interest, and will apply to any property under administration, or held, or managed, or controlled by the Public Trustee as trustee, executor, administrator, committee, agent, attorney, or in any capacity whatsoever except on behalf of the Crown. Like any private individual, the Public Trustee must, of course, conform to the obligations contained in the Act imposed

upon him, but at the same time he must see that the interests of those whose affairs are managed by him are safeguarded as much as possible.

#### THE HOWARD ESTATE AMENDMENT ACT, 1926.

The Public Trustee is administering the estate of Josiah Howard, of Tikokino, Hawke's Bay, sheep-farmer, who by his will devised and bequeathed all his real and personal property to His Majesty the King without restriction or limitation, but in confidence that the Government of New Zealand would use the property as a foundation or endowment for the purposes of agricultural education. In order to give legal effect to the testator's wishes the Howard Estate Act, 1919, was passed, defining the objects to which the estate is to be applied, and setting out certain powers of management, &c., in connection with the administration of it by the Public Trustee.

Some slight amendments to this Act were made by the Howard Estate Amendment Act, 1926. By this amending Act the District Land Registrar is authorized to issue a comprehensive certificate of title for the various parcels of land comprised in the gift to the Crown. Power is given to acquire any land which may be found to be necessary for the development of the estate. Authority is also granted to the Public Trustee to provide out of the estate for the erection of a headstone over the late Mr. Howard's grave.

#### FINANCE.

11. In my previous reports I have set out some of the difficulties to be met in finding suitable investments to absorb the big inflow of money throughout the year. Apart from the ever-present necessity of making full provision for the commitments arising from the administration of estates valued at over £41,000,000, the investment of funds has presented unusual difficulties during the past year inseparable from the existing conditions, which have borne more heavily on lands devoted to farming purposes.

The funds available for lending are trust moneys, and the utmost care must be exercised in their investment if the Public Trustee is to fulfil his duties as a trustee and preserve the integrity of the funds and safeguard the interests of the Office.

The land-market throughout New Zealand is in a state of uncertainty, and valuations show a marked variation from those existing in recent years, and even where valuations are made on apparently sound lines it is necessary to bear in mind the actual experience the Office has gained in its lending operations over many years.

It may be felt at times that a too conservative attitude is adopted by the Investment Board, but it should be realized that the administration of trust funds does not permit of any view other than that which makes the safety of the funds the chief consideration.

Satisfactory investments were completed, however, for the whole of the funds available, while during part of the year there was some difficulty in meeting commitments by way of loans. All engagements were met at the appointed times, and, generally speaking, in accordance with the borrowers' wishes.

It is inevitable that there should be occasions when the financial conditions do not permit of any definite promise being made regarding the date on which settlements will be made, but it is unusual for borrowers to have to wait for their money. When a definite date is fixed the engagement is always kept. When no definite promise can be made the borrower is told that payment will be made as soon as funds are available, and rarely is there any delay in making prompt settlement.

12. The investments made during the year from the Common Fund totalled £2,812,643, consisting of mortgages, £1,247,756; Government securities, £200,297; local bodies' debentures, £906,590; and other securities, £458,000. In addition, special investments made on behalf of estates the funds of which do not form part of the Common Fund amounted to £141,644. These new investments brought the total value of investments held by the Public Trustee on the 31st March, 1927

(including those held on behalf of estates, &c., the funds of which are specially invested), to £26,179,886. The following statement shows the various classes of the investments :—

	£
Government securities .. .. .	1,816,670
Local bodies' debentures .. .. .	8,298,026
Land Settlement Finance Act debentures .. .. .	45,106
Other debentures and shares in companies .. .. .	13,101
Mortgages .. .. .	15,583,706
Savings-bank accounts .. .. .	374
Overdrafts by way of advances to estates and to beneficiaries .. .. .	367,950
Advances for protection of securities acquired or in possession .. .. .	10,032
Property acquired by foreclosure (less reserve) .. .. .	44,921
	<hr/>
	£26,179,886
	<hr/>

In addition the following assets were held on that date :—

	£
Cash in hand, on current account, and on deposit in New Zealand and London .. .. .	265,967
Office premises, furniture, plant, &c. .. .. .	484,834
Interest and rent accrued due and overdue .. .. .	355,968
Sundry debtors .. .. .	27,757
Loans .. .. .	1,164
	<hr/>
	£1,135,690
	<hr/>

13. The gross value on the 31st March, 1927, of estates, funds, and accounts the administration of which was attended to by the Public Trustee was £41,043,523. This represented an increase of £3,034,043 on the previous year's figure of £38,009,480.

14. The value of new estates and funds the administration of which was accepted by the Public Trustee during the year was £5,551,019. This figure represents an increase of £899,572 on the new-business figures for the previous year.

The difference between the amount of new business which the Office obtained during the year and the net increase in the value of estates under administration at the close of the year is accounted for to a large extent by the value of estates closed during the year—namely, £1,604,565—and to a lesser extent by the realization of assets and distribution of funds in estates under administration at the beginning of the year. The special facilities which the Public Trustee has for administering estates permits of some estates being dealt with most expeditiously ; in fact, the administration of 573 estates which were reported after the commencement of the year was completed before the 31st March, 1927. They, of course, comprised only estates where the trusts applicable and the wishes of the beneficiaries allowed the administration to be so closed.

15. During the past six years the value of estates under administration has increased by nearly £19,000,000, but notwithstanding this tremendous influx of new business the total expenses for the past year (excluding depreciation) were only £1,813 more than those of the year 1921. That increase is more than accounted for by the statutory increases in the salaries of the Office staff, so that it will be seen that during the past six years there has been a decrease in the working-expenses of the Office apart from salaries.

16. As from the 1st January, 1926, the scale charges for the services of the Office were substantially reduced, and as from the same date a liberal increase was made in the rates of interest allowed on moneys held in the Common Fund of the Public Trust Office on behalf of estates and funds. These concessions affected only three months of the year ended the 31st March, 1926, but they have operated for the whole of the year now under review. Notwithstanding the amount of the benefits so extended to clients of the Office, the profits for the year amounted to £32,650, a result which is regarded as most satisfactory.

## GOVERNMENT SUPERANNUATION FUNDS.

17. The steady increase in the amount of investments and funds administered by the Public Trustee on behalf of the National Provident Fund, the Public Service Superannuation Fund, the Teachers' Superannuation Fund, and the Government Railways Superannuation Fund has been maintained during the year, as may be seen from the following figures :—

	Value as at 31st March, 1927. £	Increase for the Year. £
National Provident Fund .. ..	1,653,796	273,264
Public Service Superannuation Fund ..	2,486,327	127,612
Teachers' Superannuation Fund ..	1,106,190	70,653
Government Railways Superannuation Fund .. ..	954,458	128,400
	<u>£6,200,771</u>	<u>£599,929</u>

The investments held on behalf of these funds are located in all parts of the Dominion, so that the Public Trust Office, with its many district offices and agencies, is well adapted for conducting work of this nature. Further, the several funds derive the benefit not only of the local knowledge of the experienced District Officers and Agents of the Public Trust Office, but also of the expert knowledge of the Farm Property Inspectors on the staff of the Office. At little, if any, expense to the funds concerned periodical inspections of the securities can be made to ensure that the covenants of the mortgages are being complied with.

For the Public Trustee's services in attending to these investments a commission is charged at the rate of  $2\frac{1}{2}$  per cent. on all income collected. No charge is made against the funds for the arranging of new investments or for collecting principal moneys.

The investments for these funds are selected from those made on behalf of the Common Fund. Such investments are allocated as from the 1st of the month following the date of receipt of any moneys, whether principal or interest, which are not required to meet the immediate calls on the funds concerned.

From the foregoing remarks it will be observed that the investment of these funds is very economically conducted by the Public Trustee.

18. In addition to the four large funds already enumerated, the Public Trustee administers four smaller Government superannuation funds, which are set out below. The moneys held on behalf of these funds, however, are all invested in the Common Fund.

	£
Civil Service Act, 1908 .. ..	9,473
Deferred Pay (Naval) Account .. ..	27,067
Post and Telegraph Act, 1908 .. ..	3,593
Public Service Classification and Superannuation Act, 1908, section 31 .. ..	4,085
	<u>£44,218</u>

## LOCAL AUTHORITIES SUPERANNUATION FUNDS.

19. In accordance with the regulations prescribed by Order in Council dated the 10th March, 1923, in pursuance of the Local Authorities Superannuation Act, 1908, the Public Trustee holds the sum of £173,425 on behalf of four funds established in terms of that Act by local authorities. All of the money held in this connection forms part of the Common Fund.

It is in the case of funds such as these that the benefits of investment in the Common Fund of the Public Trust Office are perhaps the best illustrated. The moneys received on behalf of the funds consist of comparatively small weekly or monthly contributions, while monthly withdrawals are required for the payment of allowances, and from time to time calls are made on the occasion of the retirement of a contributor to a fund.



Immediately the moneys are received by the Public Trustee they begin to earn the highest rate of interest authorized by regulation for moneys invested in the Common Fund. The necessity does not arise of accumulating small contributions until sufficient funds are held to permit of a remunerative investment being arranged. On the other hand, it is not necessary to hold an uninvested cash balance to meet calls on the funds. The whole of the fund is at all times in a liquid state and available for any contingencies that may arise. Further, the interest which is credited is subject to no deduction whatever by way of commission for collection. As an investment the security is beyond doubt, both capital and interest being guaranteed by the State. A still further advantage is the fact that payment of allowances, &c., may be arranged free of exchange at any place in the Dominion in which the annuitant may be located.

As no charge is made by the Public Trustee by way of commission on contributions made to the funds, it will be seen that the conditions under which these funds are administered are most favourable.

#### MISCELLANEOUS ACCOUNTS AND FUNDS.

20. As at the 31st March, 1927, the sum of £146,603 was held on behalf of the accounts and funds shown in the following table:—

New Zealand Sheepowners' Acknowledgment of Debt to	£
British Seamen Fund .. .. .	46,670
Sundry deposit accounts .. .. .	545
Proceeds of mortgages discharged under section 75 of the Property Law Act, 1908, and under section 117 of the Land Transfer Act, 1915 .. .. .	852
Unclaimed moneys (held pending expiry of statutory period before being paid to the Consolidated Fund)..	45,430
Government Fire Insurance Fund .. .. .	52,897
Government Stores Marine Insurance Fund .. .. .	209
	<hr/>
	£146,603
	<hr/>

#### INVESTMENTS BY MEMBERS OF THE STAFF.

21. In order that members of the Office staff might have to some extent the benefit of the facilities which the Office affords for the investment of money, arrangements were made to accept from those officers who wished to take advantage of the scheme monthly payments by way of deductions from their salaries. A number of officers availed themselves of this opportunity, and on the 31st March, 1927, the sum of £6,900 was held on their behalf.

#### TRUSTEE FOR DEBENTURE-HOLDERS.

22. The Public Trustee has in several instances accepted the appointment as trustee under deed of trust for the protection of debenture-holders. Thirty-eight of such trusts existed as at the 31st March, 1927, the nominal value of the debentures protected by the trusts being £1,122,844. These figures are not, however, included in the statistics of the office business supplied in this report.

#### REPAYMENT OF THE PUBLIC DEBT ACT, 1925.

23. The funds which the Public Trustee previously held on behalf of the various Government sinking funds were transferred to the credit of the Public Debt Redemption Fund in accordance with section 8 (c) of the above Act. The capital amount held in this connection is £7,966,688. In compliance with the terms of the Act the income for the year was paid to the Consolidated Fund for the financial year ended the 31st March last.

#### INSURANCE COMPANIES' DEPOSITS.

24. The sum of £1,016,593, including interest accrued but not yet disbursed, was held as at the 31st March, 1927, on behalf of thirty-four foreign insurance companies which are transacting business in the Dominion. These moneys are all invested in the Common Fund in accordance with the statute governing the matter.

During the year a deposit of £35,000 was returned to one company which had given notice that it had ceased to carry on business in New Zealand and had satisfied the Public Trustee that the requirements of the Insurance Companies Deposits Act, 1921–22, had been met.

#### UNCLAIMED LANDS.

25. By Part II of the Public Trust Office Act, 1908, the Public Trustee is authorized to administer unclaimed lands. As at the 31st March, 1927, the value of assets and funds under administration in this connection was £5,103.

#### UNCLAIMED PROPERTY.

26. As at the 31st March, 1927, unclaimed property to the value of £15,493 was under administration by the Public Trustee in pursuance of the provisions of Part III of the Public Trust Office Act, 1908.

#### GENERAL LEGAL EXPENSES ACCOUNT.

27. Section 28 of the Public Trust Office Amendment Act, 1921, enables the Public Trustee to confer upon estates under his control a benefit which is unique in its nature. Occasions frequently arise when it is desirable that the Public Trustee should bring a test case to settle some disputed question of law which is of general interest to all estates under his administration, although the case brought may be based upon the facts of a particular estate. The Public Trustee is authorized to pay the cost of any such litigation out of a General Legal Expenses Account, thus freeing the particular estate from the cost of these proceedings. This authority has been utilized in a number of cases where on account of the general importance of the legal question involved it would be inequitable to charge the expenses to any one estate.

#### OFFICE RESERVES.

28. The Office reserves on the 31st March, 1927, totalled £647,884.

COMPARATIVE TABLE INDICATING THE PROGRESS MADE BY THE PUBLIC TRUST OFFICE DURING THE DECENNIAL PERIOD 1918–27.

Year ended 31st March,	Total Value of Estates in Office, including Unrealized Assets.	Funds at Credit of Estates and Accounts.	Gross Income.	Office Reserves.
	£	£	£	£
1918 .. .. .	17,153,031	9,004,057	162,614	345,871
1919 .. .. .	19,242,347	10,065,027	194,452	393,377
1920 .. .. .	20,860,686	11,911,290	240,469	418,640
1921 .. .. .	22,364,319	13,918,906	244,090	437,414
1922 .. .. .	25,497,779	15,329,125	220,794	451,585
1923 .. .. .	28,904,798	17,466,787	246,692	491,775
1924 .. .. .	32,404,724	19,215,388	257,623	541,473
1925 .. .. .	35,570,642	20,864,356	299,439	605,274
1926 .. .. .	38,009,480	24,426,009	282,386	621,948
1927 .. .. .	41,043,523	26,485,917	274,845	647,884
Increase in preceding 12 months	3,034,043	2,059,908	7,541* (Decrease)	25,936

\* The decrease in gross income is accounted for by the substantial concessions made to clients as from the 1st January, 1926, by way of increased rates of interest and reduced charges.

#### OFFICE BUILDINGS.

29. In my report for the year ended the 31st March, 1926, reference was made to the fact that a contract had been signed for the erection of new Public Trust Office premises in Dunedin. This building is now in the course of erection, and when it has been completed the disabilities under which the work of the Office at Dunedin is being conducted will disappear.

It has been found in other districts that the new Office premises which have been erected have brought the Office and its functions more prominently under the notice of the public, with consequent increase in business. Apart from this aspect, the accommodation of the staff in up-to-date premises has permitted of much better organization of the office work and of more economical management. The improvement in the health and comfort of the staff has also been a gratifying feature.

It is confidently anticipated that the completion of the new premises at Dunedin will be followed by similar beneficial results.

At a later date it will no doubt be found necessary to provide up-to-date premises in other towns in which the Office is represented, and with this end in view suitable sites were obtained during the year at Ashburton and Gore.

#### SAFE-DEPOSIT LOCKERS.

30. The increasing popularity of the Office safe-deposit-locker system has been steadily maintained during the year.

The results which have followed the installation of a safe-deposit vault in the new premises at Christchurch have been particularly gratifying.

In my last year's report I intimated that the heavy call on the safe-deposit accommodation at first provided in that office had necessitated the placing of an order for a further group of lockers. During the year that group was installed, but this has not exhausted the demand. Still a further group had to be ordered to meet the requirements of clients, and it is hoped to have this group installed early in the present financial year.

#### MUNICIPAL CORPORATIONS' RENEWAL FUNDS.

31. The Common Fund of the Public Trust Office has appealed to several Municipal Corporations as a desirable medium for the investment of Renewal Funds created under the authority conferred by section 114 of the Municipal Corporations Act, 1920. On the 31st March, 1927, the amount held on behalf of such funds was £47,718.

#### SINKING FUNDS IN RESPECT OF LOANS TO LOCAL BODIES.

32. During the year the Public Trustee has accepted appointment of Commissioner in respect of a large number of new sinking funds. As at the 31st March, 1927, the cash and investments held on behalf of 2,265 funds was £2,027,740. These figures exceed those of the previous year by 328 in number and £402,272 in value. The total amount of the loans for the redemption of which these funds were created is £26,726,252.

#### ADVANCES TO BENEFICIARIES AND TO ESTATES.

33. Under conditions such as those which have prevailed during the past year the statutory powers which the Public Trustee possesses to advance Common Fund moneys on the security of estate assets or on the security of beneficiaries' shares in estates have proved a great boon in many cases. Reference has been made elsewhere in this report to the difficulties which have been experienced in endeavouring to effect realization of property in some districts. In some cases where funds were urgently required the unsuccessful attempts to realize assets would have been most embarrassing but for the assistance which the Public Trustee has been able to afford in pursuance of the powers to which reference has just been made. In numerous cases also this assistance has avoided the necessity of realizing good investments at an inopportune time to provide some temporary accommodation.

The power to advance moneys in this way is of particular advantage in the early stages of the administration of large estates in which there are no liquid assets from which to provide for administration expenses, death duties, debts, legacies, &c. Without the expense attendant upon the raising of a mortgage in

the usual way, funds can be made available at short notice to meet liabilities which call for early settlement. One special advantage of this method of financing the estates is that immediately the proceeds of realization, however small, come to hand the advance is automatically reduced, with consequent saving of interest.

Beneficiaries, too, have derived much assistance in this way. The greater part of some estates is represented by assets such as mortgages and balances of unpaid purchase-money the principal of which will not fall in for several years. In many such cases the Public Trustee has been able to assist beneficiaries to turn their interests to immediate advantage.

The amount of such advances current as at the 31st March last was £367,950.

### INVESTMENT AGENCIES.

34. Reference has been made in previous reports to the facilities which the Office has for the investment of money on behalf of clients and beneficiaries in estates, and the volume of this class of business which the Public Trustee is called upon to accept is increasing year by year.

Its origin lay in the requests of beneficiaries in estates to allow moneys to which they were entitled to remain in the Office at interest after the administration of the estates had been closed. These requests were made mostly by persons without experience in the management of investments, who were satisfied to accept the interest allowed by the Office, with the undoubted security of their capital. In course of time it became necessary to put the business on a more regular basis, and definite periods were fixed for the retention of the money, with the right of renewal. The terms were for two years and a quarter and five years, the deposits for the longer period, of course, carrying the higher rate of interest.

Up to recent years the whole of the money accepted had been for investment in the Common Fund, but in some cases special requests were made for investment in mortgages or local bodies' debentures outside the Common Fund, so as to secure a higher rate of interest. Later, clients were given their choice of the form of investment. In the case of investment outside the Common Fund the capital is not guaranteed by the State, as it is in respect of investment in the Common Fund.

At the present time money accepted for investment in the Common Fund for two years and a quarter bears interest at the rate of  $4\frac{1}{2}$  per cent., and the amount held is very small. For the longer period of five years the present rate is  $5\frac{1}{4}$  per cent.

Where money is specially invested it must be for a term of five years, and the interest is subject to a commission charge of 5 per cent.

There seems to be some misconception about the use to which the funds received by the Public Trustee are put, and it will be as well to point out again that they are practically all lent out by way of mortgages at a very reasonable rate of interest to farmers and business men, or in advances to local bodies and secured by debentures. The Public Trust Office is one of the biggest lending institutions in New Zealand, and its funds are all directed into those investment channels benefiting the farming and business community.

### OFFICE ORGANIZATION.

35. During the year it was decided for reasons of economy to discontinue the part-time offices at Manaia and Opunake. The agencies at Morrinsville and Takaka were also closed, but the Takaka agency has since been reopened.

It is anticipated that the present organization will with very little alteration be sufficient to meet the requirements of the Office for some time yet to come.

### STAFF.

36. The organization of the Office, to which such careful attention has been given during the past few years, is now on a very satisfactory footing. Accordingly during the past year there have been comparatively few staff changes other than those necessary by reason of resignations and promotions, with the result that there has been a considerable saving in incidental expenses. The principal changes were the transfer of Mr. W. M. Egglestone, Reviewing Inspector, Wellington, to Christchurch to fill the vacancy caused by the resignation of Mr. A. C. Bretherton. Mr. D. O'Donoghue was appointed Assistant District Public Trustee at Palmerston North,

and Mr. D. Scannell to a similar position at Hamilton. Mr. F. W. Browne was appointed Assistant Controller of the Mortgage Division in Head Office. I regret to have to record the death of Mr. M. B. Rudd, a member of the staff of the Auckland Branch.

The following tables indicate the number of staff engaged in Head Office and branches on 31st March, 1926, and on 31st March, 1927 :—

*Head Office—*

ON 31ST MARCH, 1926.				ON 31ST MARCH, 1927—			
	Male.	Female.	Total.		Male.	Female.	Total.
Permanent ..	109	33	142	Permanent ..	101	27	128
Temporary ..	23	7	30	Temporary ..	15	7	22
			— 172				— 150

*District Offices—*

Permanent ..	421	46	467	Permanent ..	420	37	457
Temporary ..	21	69	90	Temporary ..	9	77	86
			— 557				— 543
			729				693

It will be seen that the staff decreased by thirty-six during the year.

#### TRAINING OF JUNIOR OFFICERS.

37. On the occasion of my last report I referred at some length to the system which had been established for the training of junior officers in the work of the Department. The training is done by means of special classes in theoretical and practical work. For a time these classes were carried on in Head Office, but owing to lack of space it was found necessary in 1926 to have them transferred to Christchurch, where ample accommodation was available in the new building there. The class does not, however, form part of the organization of the Christchurch office, being carried on independently of that branch under the control of the Head Office. An experienced administration officer with legal experience is the Director, and he has associated with him a qualified estates-administration clerk and an experienced accountant. Details of the scheme were outlined in my last report, and it is therefore unnecessary to deal at length with it again.

The results of the last year's training were highly satisfactory, and a number of junior officers who passed through the class are showing themselves to have profited by the course of training undergone by them. At the expiration of the training-class in December these trained juniors were allocated to the various branches.

Early in the new year a fresh selection of twenty-eight cadets was made, and these are now actively undergoing a course of training. In making the selection cadets of from one and a half to two years' service, who had given indications of developing into useful officers, were chosen. With experience the scheme is being gradually improved, and in time it is hoped to make it even more useful than it is at present. I may state that considerable interest had been evinced in this scheme by business and public men both in New Zealand and elsewhere. Inquiries concerning the scheme have been received from Great Britain, Canada, and the United States.

#### RECORDS.

38. The record system in operation in the Office is a simple but effective one. In the Head Office the record work is centralized and the staff segregated on one floor in a specially equipped portion of the office. By this means the work can be promptly and economically carried out. With such a large number of estates the recording of the correspondence in connection with them involves a great deal of work and attention. A separate file is kept for each estate, and in estates with numerous assets and other matters involving a considerable amount of correspondence separate special files are made for such special matters. It will be realized that many of the estate and other transactions are carried on over extended periods, and therefore the correspondence in connection with them becomes bulky. A system of removing the dead matter and filing it away for ready reference is in force, thus leaving only active matters on the current file. So many have been the estates which have been dealt with and the administration of which is now closed that the accommodation of the estate, accountancy, and other records is becoming an

increasingly difficult one. The Office has now been in active operation since early in 1873, and it took over from the Curators of Deceased Persons' Estates a large number of records held by them. By section 3 of the Public Trust Office Amendment Act, 1873, the Public Trustee was created *ex officio* Curator, and all estates vested in the Curators became vested in the Public Trustee.

During the past year a thorough overhaul was made of the Office records both at Head Office and at the branches to ascertain whether any of the older records, not being estate files, might, with due regard to safety, be destroyed, thus providing additional space for storage of necessary current and future records. The records affected were mainly old subsidiary accounting matters, such as those relating to rent and interest, copies of schedules of cash transactions, and the like. Care was taken to ensure that only those records were destroyed which would not be required for future reference. Wherever practicable any stationery contained in such records suitable for carbon copies and similar purposes in connection with record work was reserved for Office use. The estate files, however, have been held intact. They contain many valuable records, and at times after the lapse of a very long period reference to them has to be made. There are now over thirty-six thousand closed files held in Head Office. These are all carefully indexed and, in order to save space, filed in numerical order. Only recently reference from the United States of America was made to the Public Trustee in regard to an estate which was administered over forty-five years ago. This was readily turned up and valuable information required supplied.

#### INSTRUCTIONS TO OFFICERS.

39. The practice of issuing circular instructions to officers upon matters having an important bearing upon the Office work has been continued during the past year. The issue of these instructions has assisted in increasing the efficiency of the Office work, as officers are kept informed upon matters affecting their work, and are also provided with a convenient means of reference to the many and varied subjects dealt with in the circular instructions.

The following is a list of the principal instructions issued during the year :—

Economies in expenditure.

Apportionment of compensation-moneys as affecting a widow's pension.

Administration in New South Wales.

Legalization of documents.

Inspection of tenements.

Unclaimed lands : Public Trustee's powers of leasing.

Accounts diary-cards system.

Earthquake insurance.

Land Transfer (Compulsory Registration of Titles) Act, 1924 : Limited titles.

Accident insurance : Globo policy.

Distribution of assets while liabilities are outstanding.

Distribution of intestate estates in England.

Liabilities and claims in estates : Trustees' powers.

Repayment of Common Fund mortgages.

Workers' Compensation Act : Disputed claims.

Shares : Bank of New Zealand.

Family Protection Act, 1908.

New Zealand Government securities, Purchase and realization of.

Preparation of wills : Bequests to a class.

Assignments and orders.

Special investments : Accounting systems.

Form of agreement in cases of short tenancies.

Resealing probates, &c., in England.

Convicts' estates.

Services of Post Office.

Preparation of farm leases : Dairy Industry Amendment Act, 1926.

Preparation of wills : Devise of testators' dwellinghouse used as home.

Payment of shares of infants into the Public Trust Office.

Law of procedure in relation to loans to local bodies.

Administration in England : Intestate estates.

## CONTROL AND DISPOSAL OF EX-ENEMY PROPERTY.

40. The past year has seen very few developments of a novel nature in regard to the duties of the Public Trustee as Custodian of Enemy Property and Controller of the New Zealand Clearing Office.

The work in regard to ex-enemy property has now reached the stage where only properties presenting some particular difficulty of administration or realization remain undisposed of.

The outstanding claims are few in number and every effort is made to procure their speedy disposal, but this object is often beyond the power of the Public Trustee to attain, and he must in these cases await action by the parties interested in the claim. The statistics in regard to these claims show that out of claims to a total of £316,918 notified to the New Zealand Clearing Office for settlement only a total amount of £7,315 remain unsettled. These comprise claims totalling £820 notified by New Zealand residents against German subjects, and claims amounting to £6,495 submitted by German subjects against New Zealand residents.

The net amount credited to the German Liquidation Account to date is £245,405, and to the Austrian Liquidation Account £1,563. The cash funds and property still held or controlled amount respectively to £18,390 and £23,387 (approximately). In all these cases there are special circumstances or difficulties preventing the prompt disposal of the assets. In addition, there are some New Zealand Government securities on the Register with the Bank of England, London, as to which full particulars have not yet been received, but which are understood to amount to a substantial total.

To date payments totalling £150,000 have been made to the Treasury in respect of surplus funds arising from the liquidation of ex-enemy property in the Dominion. Further payments will be made from time to time as the progress of this work permits.

As in previous years a special report has been presented to Parliament by the Hon. the Attorney-General, under whose direction the Public Trustee acts in carrying out these special duties. In view of the advanced stage to which the work has progressed, it is proposed, with the consent of the Hon. the Attorney-General, to discontinue in future the preparation of a separate report in regard to these duties, and to include in the annual departmental report a comprehensive statement of the position.

## ADMINISTRATION OF ESTATES.

### STATISTICS.

41. During the year a total of 3,581 new estates came into the Office. The estates were of the following classification :—

	Number.	Value. £
Wills estates .. .. .	1,102	2,642,476
Trust estates .. .. .	305	1,081,358
Intestate estates .. .. .	635	425,563
Mental patients' estates .. .. .	447	428,984
Miscellaneous .. .. .	1,092	972,638
	<u>3,581</u>	<u>£5,551,019</u>

The estates closed during the year numbered 2,217. Of these, 573 were estates which came into the Office after the 1st April, 1926.

On the 31st March, 1927, there were 14,514 estates under administration. These are classified as follows :—

	Number.	Value. £
Wills estates .. .. .	3,318	9,529,945
Trust estates .. .. .	2,082	6,566,404
Intestate estates .. .. .	2,190	1,476,002
Mental patients' estates .. .. .	1,343	1,617,508
Miscellaneous .. .. .	5,581	21,853,664
	<u>14,514</u>	<u>£41,043,523</u>

## NEW BUSINESS.

42. In the new business another record year has been experienced, the volume of new estates and funds reported to the Office during the year for administration reaching a total of £5,551,019, or, by way of comparison, more than the total value of estates under administration only nineteen years ago. As I have indicated earlier in this report, this pleasing result points to the fact that, as the Office comes into wider personal touch with a greater portion of the public, the efficiency of its administration, the numerous advantages and the security which it offers in regard to the administration of estates under its control, and the sympathetic manner in which its difficult and so often delicate duties are performed are more widely realized and appreciated.

The most outstanding feature of the new business for the last few years has been the increase in the number and volume of the estates placed with the Office by testators in accordance with the directions contained in their wills, and of settlements created by living persons who have selected the Public Trustee to act as their trustee. The figures in regard to transfers from private trustees of estates partially administered have also shown a striking increase. Frequently trustees find that the increasing pressure of their business affairs, or advancing years, or failing health does not allow them time or energy enough to devote to the conduct of other people's affairs. Frequently, too, persons assume office as trustees without fully appreciating the responsibilities which attach to that position, but in course of time, as the responsibilities and difficulties of the position become apparent to them, they desire to be relieved of the responsibilities which they undertook.

By the Acts constituting and governing the Office the Public Trustee can readily be appointed to act in the place of private trustees who desire to retire from their office.

## REALIZATIONS.

43. The generally unfavourable outlook during the past year has been reflected in the difficulties which have attended the handling of farming and agricultural properties. In cases where the properties are only partially improved, or are situated in districts which have been opened for settlement only in recent years or in the "deteriorated" areas, these difficulties have been exceptionally pressing. In most cases such properties are found to be more or less heavily encumbered, so that the financing of them, when in the prevailing conditions the revenue from them is so reduced, presents problems necessitating the closest attention.

The statutory powers of the Public Trustee to advance funds to estates under his control are utilized wherever possible in cases showing the required margin of security, and this has been of great benefit to the individual estates. Unfortunately, in a large number of instances no such margin exists, with the result that the administration is often very perplexing indeed.

The difficulties to which I have just referred have not been so pronounced in the case of town properties, and, except in certain localities where special conditions have ruled, there has not been any outstanding difficulty in effecting satisfactory sales. Of course, to secure adequate prices it is very often necessary to offer fairly liberal terms for the payment of the purchase-money, but wherever it is possible, and it is advisable in the interests of the particular estate to do so cash sales have been arranged.

## INVESTMENT OF FUNDS OUTSIDE THE COMMON FUND.

44. In previous reports attention has been drawn to the two methods of investment open to those appointing the Public Trustee executor, trustee, or in similar capacity—viz., (a) investment in the Common Fund; (b) investment outside the Common Fund. When the appointment of the Public Trustee is being made, executors and others are quite at liberty to choose whichever form of investment they think best. Earlier in this present report I have referred to the striking fact that the majority of testators, settlors, and others appreciate the numerous advantages the Common Fund possesses, and select it in preference to any other form of investment.

As I have already indicated, if it is specially desired to exclude trust funds from investment in the Common Fund, special provision may be made when the will or other trust instrument is being drawn up directing the mode of investment.



Although those investments which are made by the Public Trustee on behalf of estates outside the Common Fund are not entitled to the State guarantee, still the usual precautions expected of a trustee are carefully observed, and the provisions of the Trustee Act, 1908, are carried out in entirety.

If the funds in an estate are invested on first mortgage, care is taken to see that the security is ample, that the mortgagor is substantial, and the provisions of the Trustee Act, 1908, in this respect are carefully carried out, and that the ruling rate of interest for first-class securities is secured.

In order that funds which are to be invested outside the Common Fund may be made revenue-producing with a minimum of delay, a system was introduced some time ago under which temporary allocations of mortgages from the Common Fund are made to those estates where there were funds at credit awaiting investment. An allocation of these mortgages is, of course, only a temporary arrangement, but it enables the amount at credit in an estate to be revenue-producing within a reasonable time, even although investments have not actually been found. This is a special concession which is granted to clients of the Office, and is much appreciated by those whom it benefits. Furthermore, it disproves the propaganda carried on in some quarters to the effect that the Office unduly fosters the Common Fund and resolutely discourages investment of trust funds outside of it.

#### SHARES.

45. The Public Trustee in his official capacity has wide and extensive interests by way of shareholdings, stocks, and debentures in various commercial enterprises both in New Zealand and elsewhere.

Like all forms of investment, and more so than a number of them, shares fluctuate in value and in earning-power, often to a very marked extent, over a period of years. As I indicated on a previous occasion, the joint-stock system of financing and organizing industry is a comparatively new form of organization, which has spread so enormously during the nineteenth and present centuries. The value of shares is thus inextricably bound up with the fate of industry. Industrial troubles, change of taste or fashion, new inventions and processes, and the profound changes in the organization of industry and commerce such as has occurred within the last thirty years, all have their effect on shareholdings in industrial concerns. All of us can readily recall joint-stock concerns whose shares and stock were once very profitable investments, but are now either worthless or very much depreciated in value. Dealing with shares is therefore an important phase in the administration of estates. This is realized by the Office, and every effort is made to protect the interests of those for whom the Public Trustee acts. Shares are not a trustee investment, but for one reason or other it may be necessary or advisable to retain them. Generally speaking, when a favourable opportunity occurs it will probably be the Public Trustee's duty to realize share investments belonging to estates. Nevertheless, if there be any reasons which justify the retention, these are given careful consideration, and wherever possible and he can safely do so the wishes of the beneficiaries are respected. The services of the Financial Adviser are always available, and his expert knowledge and long experience are of value to the Office and its clients. In realization the trend of the market is carefully watched, and clients may rest assured that their shareholdings will in no way be sacrificed.

During the period under review there have been no violent fluctuations on the share-market; the continual rise and fall in the sale of shares has been closely watched and followed, so that advantage could be taken of any fluctuation in the market which acted favourably towards any of the estates under administration.

During the year the Bank of New Zealand embarked upon a new experiment and created an additional department for the making of long-dated loans on an amortization basis. An Act of Parliament was passed enabling the bank to enter into this class of business, and the directors were authorized by Parliament to issue £1,406,250 in £1 shares, together with three times that amount by way of debentures. As a beginning the Bank has issued half this number of shares to the shareholders. The debentures are open to trustees as an authorized investment. The Public Trustee arranged for the taking-up of the new shares in those estates where he had

legal authority to do so and the beneficiaries desired funds invested in that manner, and in those other cases where the new shares were not wanted sales of the rights were arranged.

#### MENTAL PATIENT ESTATES.

46. During the year 447 estates of mental patients, with assets of a total value of £428,984, were reported to the Public Trustee for administration, and on the 31st March last there were 1,343 such estates, of a total value of £1,617,508, under the control of the Office.

The care and treatment of mentally defective persons and the control of their affairs during disability are questions of considerable importance to the community. From statistical information recently published it appears that 1 per cent. of the population of England and Wales is suffering from insanity or feeble-mindedness. In New Zealand statistics show that approximately 5,300 people are inmates of mental hospitals. These figures do not include the insane and feeble-minded persons who have not been formally committed to Government or licensed institutions.

Thus it will be seen that there are a large number of persons who by reason of mental disability require treatment. As a recent legal writer points out, the ideas current on the subject of insanity have undergone appreciable modification in late years. It is only within recent times that the subject has received anything approaching the consideration which it deserves. In the middle of last century attention was drawn to the condition of persons confined in mental institutions, but now all this is changed. With the advance of knowledge and change in public feeling efforts are being made to make the conditions of the insane as satisfactory as possible. That the necessity of dealing with the problem of the mentally unfit is now well realized is evidenced by the up-to-date legislation and other efforts which are being made on behalf of this class of persons. In England the Mental Deficiency Act of 1913 set up elaborate machinery with the object of taking steps for the care and attention of feeble-minded persons other than lunatics. In New Zealand we have the Mental Defectives Act, 1911, and its amendments, which carefully and minutely lay down provisions for the care and attention of mentally defective persons. It is pleasing to note that in New Zealand the authorities responsible for the care of mental patients are making efforts to alleviate the distress and the necessarily unpleasant conditions of persons confined in mental hospitals by paying attention to classification, surroundings, and treatment. This is indeed a very important work, and will undoubtedly receive widespread approval.

The question of providing comforts which cannot be obtained in the ordinary routine of institutions is carefully considered by the Office in the administration of mental patient estates. As I have indicated in earlier reports, there is close co-operation between the Mental Hospital authorities and the Office in this matter, and where the health of the patient will permit and there are funds available necessary arrangements are made to provide suitable additional comforts.

As to the administration of the estates of mentally defective persons, careful provision has also been made. Under the provisions of the Mental Defectives Act, 1911, and the amending statutes the Public Trustee is required to undertake the administration of the estates of all persons committed in New Zealand to institutions for the mentally defective, except in cases where the Supreme Court appoints a private committee to act.

In order that prompt attention may be given to these estates, section 87 (1) of the Act requires that every Magistrate making a receiving-order, and every other person who under the authority of the Act makes any order of reception and detention of any person or for the confining of any person under Part IV of the Act, shall send forthwith to the Public Trustee notice of such order. Subsection (2) of the same Act provides that it shall be the duty of every person required by the Act to send to the Public Trustee notice of admission, death, or discharge of a patient. As soon as the notices of admission are received careful inquiries are at once instituted by the Office with a view to protecting the patients' interests as early as possible. It will be recognized that often the estates of insane persons are in a very involved and complicated condition, such complications being at times the

cause of the mental derangement. In conducting these inquiries, and indeed generally in carrying out the administration of mental patients' estates, it is realized that the relatives and friends are often very much distressed over the mental malady of the patient. The necessary duties are therefore carried out by the Office as delicately and considerately as possible. It is the aim of the Public Trustee to be as useful as possible, but at the same time to refrain from obtruding unnecessarily or officiously into private and domestic affairs. At times, however, the Office has to take a firm stand in obtaining information from persons unwilling through adverse interests, misunderstanding, or other reasons to supply it. On all these occasions, however, the Department is animated by the desire to carry out faithfully the important duties which the Legislature has seen fit to impose upon it.

In reference to the appointment of private committees, it is the practice of the Supreme Court to make such appointments only in cases where very special circumstances warrant it. Where this step is taken the committee is obliged to render to the Public Trustee annually a statement of account of his administration, and it is the duty of the Public Trustee to satisfy himself that the statement discloses that the administration has been properly conducted in accordance with the powers conferred by the Court upon the committee and the law governing the administration of estates of this nature.

One matter in which I find that private committees frequently omit to comply with the legal requirements is in regard to the investment by them of the estate funds coming within their control. Regulations gazetted in the *New Zealand Gazette* for 1913 (No. 37, page 1508), issued in pursuance of section 138 of the Mental Defectives Act, 1911, prescribe the classes of securities upon which private committees may invest the patients' funds. Generally speaking, the investments permitted are the same as those which trustees are permitted by the Trustee Act, 1908, to select. The regulations, however, provide that the Public Trustee's prior consent must be obtained to any proposed investments; but this requirement is frequently not observed.

#### AGED AND INFIRM PERSONS PROTECTION ACT, 1912.

47. This Act reminds us of the curatorship of the *prodigi interdicti* in the Roman law and the law of prodigals in France. Under the provisions of the Act the Supreme Court may be approached to appoint a manager of the estate of any person who by reason of advanced years, bodily or mental infirmity, or certain other causes is unable properly to manage his affairs or is likely to be subjected to undue influence in respect of his property. The application for the appointment of a manager is usually made by the relatives of such person or by the Public Trustee at the instigation of the person concerned or the relatives.

The Public Trustee is capable of being appointed to act as manager of estates of this nature, and is frequently approached to do so. Even where private managers are appointed he has certain duties to perform—similar, in point of fact, to those rendered in mental patient estates where private committees are appointed. The managers are required to file annually in the Supreme Court a statement of their administration, and to deliver a copy of it to the Public Trustee. The Public Trustee causes the statement to be examined, files a report in the Supreme Court, and transmits a copy to the managers.

As I have pointed out in previous reports, however, whilst it was doubtless the intention of the Legislature that the administration of all private managers should be so scrutinized, nevertheless under the existing legislation the Public Trustee has no means of ascertaining those persons who have been appointed managers, and so cannot satisfy himself whether all private managers are complying with the statutory requirements or not.

#### INTESTATE ESTATES.

48. During the year 635 estates, of a total value of £425,563, were placed with the Office for administration. In my report for last year I mentioned the experience of the Office that the proportion of persons dying intestate was gradually decreasing. Although the new business for the year showed a marked increase

in the number and volume of the estates reported to the Office for administration, the number and volume of the new intestate estates were approximately the same as the previous year. This is no matter for surprise when we consider that with the spread of knowledge, and the change in property and the conceptions concerning it, persons desire to dispose of their possessions in a way different from the stereotyped method laid down in the absence of testamentary directions or modifications. Old methods had been radically altered many years ago in New Zealand and some of the younger countries. Recently drastic changes have been made in the devolution of property in England. Owing to their importance, these have been dealt with at some length in my previous report and it is not necessary to revert further to them here. An important matter in connection with the administration of intestate estates is the establishing of the next-of-kin entitled to participate in the distribution. At times the details of family history available to the Office to commence its inquiries are very meagre. It has had a very long experience in dealing with matters of this kind, and this, with the facilities afforded by the extensive organization reaching throughout the Dominion, with the assistance and co-operation of similar State officials and its agents in other countries, enables this important work to be carried out quickly and efficiently.

A provision of the Office Act whereby the shares of subjects of foreign countries resident in those countries can be paid over to Consuls and Consular Agents facilitates distributions.

Careful efforts are made to trace the next-of-kin, and before payments to the Consolidated Fund as *bona vacantia* are authorized all reasonable means to find those entitled are exhausted.

#### CONVICTS' ESTATES.

49. By virtue of an appointment made by the Governor-General in pursuance of section 55 of the Prisons Act, 1908, the Public Trustee administers the estates of all convicts in New Zealand other than those of Natives within the meaning of the Native Land Act, 1908. During the past year arrangements were made with the Prison authorities whereby the reporting of estates requiring administration will be facilitated. This arrangement has now been in operation for some months, and is found to be working satisfactorily. During the year under review there have been no important developments to record in connection with the administration of convicts' estates.

#### AGENCIES.

50. Another important service afforded by the Department is acting in the capacity of attorney or agent for persons resident in the Dominion or temporarily or permanently abroad. The machinery of the Office is eminently suited for undertaking this class of work, and increasing numbers of persons are each year availing themselves of the facilities afforded. Agency work is therefore now one of the classes of Office business which have shown a marked development in recent years, and from present indications it can be confidently anticipated that it will disclose a healthy progress in the future. A number of Office clients have had their affairs under its management for very long periods—in some instances for well over twenty years. A valued client of the Office for whom the Office had acted for nearly a quarter of a century recently died. Prior to his death he recommended those interested in his will to entrust the management of their affairs to the Office in the same manner as he had done for many years "with the utmost satisfaction to myself."

#### RESEALING.

51. Many requests continue to be received from executors, trustees, and administrators in foreign countries for the Public Trustee's services in respect to the administration on their behalf of assets situated in the Dominion, and the increase recorded in the Office business as a whole is equally reflected in this particular phase of the work. As the services which the Office is able to undertake become more widely known in foreign countries this class of administration service is more frequently availed of by foreign administrators and trustees, and the experience of the year just past and previous years points to a steady increase in business of this description.

## ADMINISTRATION OF ASSETS ABROAD.

52. The numerous estates reported to the Public Trustee for administration include many assets situated outside the Dominion, and in these cases it becomes necessary for the Public Trustee to appoint a suitable delegate in the country concerned to act as his representative for the purpose of the administration duties required there, and to convert the assets into cash, or transfer them to the beneficiaries entitled, or otherwise administer them as the circumstances of the estate may require.

In countries, such as the various States of Australia, where State officials undertake fiduciary business, these officials are generally approached to take the necessary steps, though where reputable practitioners have acted for the deceased person during his or her lifetime the work is frequently entrusted to them if the beneficiaries so desire, or if it is deemed that a saving of time and expense will be effected by doing so.

In England the High Commissioner usually acts as the Public Trustee's agent where it is legally possible for him to conduct all the action necessitated there, though in many cases where the employment of a reputable legal firm is, by reason of its previous connection with the particular English assets, likely to result in economy and saving of time to the beneficiaries its appointment is considered. Where the High Commissioner is not able to act the services of the Public Trustee are usually availed of.

By reason of his wide experience in regard to the administration of foreign assets the Public Trustee has acquired a large fund of knowledge as to the requirements of the Courts and revenue authorities of British and foreign countries, and his consequent ability to anticipate these requirements assists greatly in the speedier completion of the administration of the estates.

## DESTITUTE PERSONS ACT, 1910.

53. By section 30 of the Destitute Persons Act, 1910, a person against whom a maintenance order is made may be required to give security for due compliance with the order. The security ordered may be either a cash deposit not exceeding £200 with the Public Trustee, or a bond to the Public Trustee, with one or more sureties approved by the presiding Magistrate, in a sum not exceeding £200. If default occurs during the currency of the order, the person in whose favour it is made may apply either to have action taken in respect to the security given or to have the arrears paid by the Public Trustee out of the deposit, according to the circumstances. If no default occurs, the deposit lodged with the Public Trustee is refunded upon the expiry of the order or the bond released.

Again, a Magistrate is empowered to charge any real or personal property belonging to the defendant in such proceedings with the payment of the sum provided in the order, and for this purpose may either at the same time or subsequently appoint the Public Trustee or some other person receiver of the rents, profits, and income of the property. The duties of the receiver are to take possession of the property, collect the rents and profits, and, firstly, apply the net income in satisfying the amounts payable under the maintenance order, and then pay the balance to the person who would be entitled if the receiving-order were not in force.

The Public Trustee is very frequently called upon to act in the various capacities detailed above, and in doing so performs a public service which the special facilities provided by the Office administration enable him to undertake with economy and satisfaction to all parties concerned.

## FAMILY PROTECTION ACT, 1908.

54. The provisions of the Family Protection Act, 1908, and the amending Act passed in 1921 are important in the administration of the estates of deceased persons. Where a testator has not made adequate provision for some dependant within the meaning of the Act (*i.e.*, wife, husband, or children), such dependant may make application to the Court for further provision out of the estate. The Act allows applicants who desire to avail themselves of this provision a period of twelve

months from the date of the grant in New Zealand of probate of the will to bring an action for further benefit out of the estate, and the Court may in its discretion extend the prescribed period at any time prior to the final distribution of the estate.

Whenever, therefore, it is brought to the Public Trustee's notice that an application will be made by a relative under the provisions of the Act, the distribution of the estate must necessarily be delayed pending the disposal of the application. It is sometimes found that notice is given of intention to make an application, but the application is not pursued with reasonable diligence. In cases of this nature the practice has been adopted of giving the relatives notice that unless the proceedings are definitely initiated by a prescribed date a distribution will be effected disregarding the proposed application. In this way the interests of the beneficiaries under the will are protected from any undue delay occasioned by threatened proceedings under the Act which it is not intended seriously to proceed with, while the rights conferred upon relatives by the statute are not prejudiced.

Section 7 of the Mental Defectives Amendment Act, 1921, provides that the Public Trustee may make a claim under the Family Protection Act on behalf of a mentally defective person who is eligible, irrespective of whether that person is or is not possessed of any estate. Wherever in the administration of the estate of a mentally defective person there appears to be justification for prosecuting a claim under the Act the position is carefully investigated, and in appropriate cases proceedings are instituted.

Provision is also contained in the Family Protection Act, 1908, that an executor may apply to the Court on behalf of any person entitled to apply who was an infant at the date of the testator's death or was of unsound mind, or may seek the Court's directions as to whether he should make an application. The practice of the Office in cases of this nature, where it seems desirable that some provision should have been made for a relative, is to approach the Court for directions as to whether an application should be made. This is considered the better course of procedure, as it avoids any imputation of the departure by the Public Trustee from the attitude of impartiality which a trustee must adopt.

#### CLAIMS UNDER THE WORKERS' COMPENSATION ACT, 1922.

55. An important branch of the Office work arises out of claims under the Workers' Compensation Act, 1922. The Public Trustee's interest in claims under this Act is sixfold, and may arise in the following circumstances :—

- (1) Where he is an employer within the meaning of the Act liable to pay compensation :
- (2) Where he is the representative of a deceased employer similarly liable :
- (3) Where he is the representative of a deceased worker :
- (4) Where he is the statutory administrator under the Mental Defectives Act, 1911, of a mental patient's estate and the condition of the patient is the result of causes which create a valid claim for compensation :
- (5) Where he is the custodian of compensation-moneys payable to a person who is under the age of twenty-one years, or who is of unsound mind, or who is subject to any other legal disability :
- (6) Where he is the statutory custodian of compensation-moneys payable in respect of the death of a worker.

Under the Workers' Compensation Amendment Act of 1926 the maximum amount payable in the event of a worker's death was increased from £750 to £1,000, and the percentage amount payable in respect of total incapability was increased from 58 per cent. to 66½ per cent. The rates of compensation now payable thus bear favourable comparison with the rates given in any other part of the world.

During the period under review the number of applications made to the Arbitration Court for the apportionment of compensation-moneys was sixty-one, and a number of applications were also made by private solicitors, in which cases a report on such application was also filed by the Public Trustee.

### 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 reformatory 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

Trustee's opinion, made insufficient provision. The Public Trustee may in these cases apply the whole of the income from a share in which a minor has a vested interest in possession, and he may, further, in such cases, apply for the advancement or otherwise for the benefit of the infant up to £500 or one-half of the infant's share. He may also exercise the latter power where the infant's share is subject to a prior life interest, provided the life tenant assents. There are also limited powers of maintenance in cases where the infant concerned is entitled to an interest not vested in possession.

In cases where the infant is a member of a class of persons, special provision has also been made for the restricted application of his contingent share for his benefit.

*Intestate Estates.*—In regard to intestate estates the Public Trustee is specifically empowered in cases where the net residue does not exceed £500 to apply such residue towards the maintenance, education, and advancement of the widow and children in such manner as he thinks fit; and where the net residue does not exceed £200 he may, at his discretion, pay the whole of the residue to the widow. Where the net residue exceeds £200 and there are infants entitled he may, if the share of an infant does not exceed £200, pay such share to the mother or some other suitable person, to be applied for his maintenance, education, and advancement, or may himself so apply it. Where the share exceeds £200 he is entitled to make periodical payments for a similar purpose not exceeding £200 per annum, and in suitable cases he may approach the Court for authority to expend larger annual sums.

*Mental Patient Estates.*—In the case of mental patients the Public Trustee has power to apply moneys arising from such estates for the maintenance of a patient, the wife or husband of such person, or for the maintenance and education of the children and grandchildren of such person. In addition, with the sanction of the Supreme Court, he may expend such funds in the maintenance, education, or advancement of the husband or wife of the patient or any relative of that person or any person wholly or partially dependent on the patient, or may continue such other acts of bounty or charity exercised or promised to be exercised by the patient as the Court may consider proper and reasonable, having regard to the circumstances and to the value of the patient's estate. The Supreme Court may also authorize the purchase of a home for the patient or his family.

*Estates of Aged and Infirm Persons.*—The power conferred by the Aged and Infirm Persons Protection Act, 1912, enables the manager to apply any moneys belonging to the protected person for the maintenance of the protected person, or the wife or husband and the children of the protected person, and for the education of the children. It is further provided that the Court may, in its discretion, authorize the continuance of any provision made by the protected person before the making of the protection order for any person wholly or partially dependent on such person, whether a relative or not.

*Convicts' Estates.*—Section 62 of the Prisons Act, 1908, empowers the administrator of a convict's estate to make such payments as he thinks fit for the support or maintenance of the wife or child or reputed child of the convict, or any relative or reputed relative of the convict dependent upon him for support.

58. *Exercise of Powers of Maintenance.*—In every case questions affecting maintenance are given careful consideration to ensure that moneys disbursed are laid out to the best advantage. Many factors have to be taken into account, such as the circumstances of the persons proposed to be benefited, and the amount of the available funds must be considered in relation to the period over which maintenance will probably be required; and in the case of minors the circumstances of the parent, guardian, or other person who is maintaining them, and on whose behalf the application for maintenance is made. In cases where a minor is entitled to be maintained out of two distinct funds care is taken, wherever legally possible, to resort to that fund which is most advantageous to the minor. Everything is done to ensure that, so far as the funds permit and the law allows, a minor is fitted for the battle of life; but in doing this care is taken to see that the steps taken by the Office do not encroach upon the proper spheres of the parent or other guardian. When an allowance is granted it is reviewed periodically to ensure that the continuance of the expenditure is fully justified by the results,



In cases where compensation is awarded in respect of a worker's death it is often found desirable in the interests of the widow and children to purchase a home for the family out of the compensation-moneys. This is frequently done, under Court authority, by the widow purchasing the property in her own name, paying the bulk of the compensation apportioned to her towards the purchase-money, and the children's shares, so far as is necessary and desirable, being advanced to the widow by way of mortgage for the purpose of enabling her to complete the purchase. The mortgage is so drafted as to provide for the widow being exempt from the payment of interest so long as she satisfactorily maintains the infant children, the mortgage becoming immediately payable should she cease to retain the property as a family home. This procedure provides an eminently satisfactory method of providing the widow with a home and at the same time ensuring that the interests of the children are adequately protected.

In the case of persons confined in mental hospitals, I have earlier in this report, when dealing with the administration of mental defectives' estates, referred to the arrangements which are made to provide such persons with additional comforts beyond those supplied in the usual hospital routine, such as tobacco, fruit, special groceries, magazines, newspapers, providing suitable clothing, and special dental and medical attention.

In cases where advisory trustees have been appointed, they are freely consulted in regard to expenditure of this nature.

#### SECTION 75, LIFE INSURANCE ACT, 1908.

59. Section 75 of the Life Insurance Act, 1908, as amended by section 4 of the Life Insurance Amendment Act, 1920, provides that a minor of the age of fifteen years or over may, with the consent of the Public Trustee, surrender, give a discharge for, dispose of by will, or otherwise deal with his policy, as if he were of full age. Numerous applications are made under this section, and in pursuance of the statutory duty imposed on the Public Trustee careful consideration is given to each application in order to ascertain whether the proposed dealing is in the best interests of the minor concerned. The investigations involve a considerable amount of work, but a fee of 5s. only is charged in respect of each consent given, which, though not an adequate remuneration, is considered reasonable in view of the nature of the applications.

During the year the consents granted numbered 136, made up as follows: Surrenders, 69; loans, 40; assignments, 21; reductions in amount of policy, 2; exchange for another policy, 1; payment of proceeds on maturity, 1; consents to make wills disposing of policy-moneys, 2.

#### UNCLAIMED LAND.

60. By virtue of Part II of the Public Trust Office Act, 1908, as amended by section 35 of the Public Trust Office Amendment Act, 1913, the Public Trustee is empowered to administer as unclaimed land the owner of which has no known agent in New Zealand, or is unknown, or cannot after due inquiry be found. Land will be administered under these provisions only upon the application of some person or body interested in its disposal, and the administration is not in general undertaken unless a useful purpose will be served thereby.

Unclaimed lands accepted for administration are vested in the Public Trustee in trust for the owners, and the Public Trustee in conducting the administration is under a duty to exercise the diligence and care which a reasonable, prudent, and careful trustee would exercise in like circumstances to protect the interests of the persons beneficially interested.

It is found that as the Dominion becomes more closely settled the number of applications is declining, but cases still arise, and there are yet under administration lands accepted during previous years.

Experience shows that it is generally in the best interests of the owners to sell the lands, as the lack of funds, the inability of the Public Trustee to exploit by labour and expenditure of capital, the restricted areas and the difficulty of leasing are constant factors and make a sale imperative.

The Public Trustee, however, has power to lease—

- (a) For any term not exceeding twenty-one years (section 68 (d) Public Trust Office Act, 1908):
- (b) Subject to the same conditions as reserves under the West Coast Settlement Reserves Act, 1892, may be leased (section 68 (e) Public Trust Office Act, 1908.)

A difficulty might arise were leases granted under the last-mentioned authority, in that leases under the West Coast Settlement Reserves Act, 1892, confer upon the lessees a right of perpetual renewal at a rental to be fixed by arbitration, whereas the Public Trustee is merely a trustee in respect of unclaimed lands, and holds them subject to the owner appearing at any time within twenty years of the date of vesting in the Public Trustee and claiming to have the land restored or the proceeds accounted for. It is anticipated, however, that the powers conferred by section 68 (d) will be adequate for any cases in which the necessity for leasing may arise.

#### EDUCATION RESERVES.

61. In terms of the Education Reserves Amendment Act, 1910, the cash and investments held prior to that Act by the various School Commissioners throughout New Zealand for administration for the benefit of secondary and primary education were transferred to the Public Trustee.

The assets under administration by the Public Trustee as at 31st March, 1927, in pursuance of the Act were as follows:—

	Primary Schools.			Secondary Schools.		
	£	s.	d.	£	s.	d.
Cash held in Common Fund ..	18,822	15	1	796	4	2
Mortgages .. ..	3,050	0	0	Nil.		
	<u>£21,872 15 1</u>			<u>£796 4 2</u>		

#### DISCHARGE OF MORTGAGES UNDER SECTION 75 OF THE PROPERTY LAW ACT, 1908, AND SECTION 117 OF THE LAND TRANSFER ACT, 1915.

62. During the year ten mortgages were discharged under the Public Trustee's statutory powers, and principal and interest amounting to £9,175 16s. 8d. collected.

#### THE LAW RELATING TO LEGITIMACY AND LEGITIMATION.

63. A notable point of distinction between the laws of the Dominion and England in the past has been the different treatment accorded in the two countries to illegitimate persons. The matter is of special interest in considering the succession to estates of deceased persons. In the case of England, prior to the passing of the Legitimacy Act, 1926, persons born out of wedlock could enjoy no rights of succession to the intestate estates of their parents or the ancestors or collateral relations of their parents. Furthermore, English law did not permit a person born out of wedlock to be legitimated upon the subsequent marriage of the parents, although it recognized and acted upon the status declared by the law of the domicile—*i.e.*, it recognized the fact of legitimation by subsequent marriage in cases where the persons concerned were domiciled at all material times in countries the laws of which accorded that consequence to the marriage.

In New Zealand more humanitarian principles prevailed in regard to both the legitimation of the child, and the succession on the one hand of the illegitimate person to the mother's intestate estate, and on the other hand of the mother and the next-of-kin of the mother to the illegitimate's estate upon his or her intestacy. The Legitimation Act, 1908, consolidating the provisions of the original statute of 1894, provided for the legitimation of a child born prior to the marriage of its parents by its father going through certain forms, whereupon the child acquired the status and all the rights and privileges as from the date of its birth of a legitimate child. It could succeed to a share of the intestate estates of its parents, or of the ancestors or collateral relations of the

parents. In the event of the death of such a legitimated person its children could represent the parent in respect of the succession upon intestacy to a share of the estate of a parent or other relative. It was originally impossible to legitimate a child if at the time of its birth there existed any legal impediment to the marriage of the parents. This restriction was, however, removed by the Legitimation Amendment Act, 1921, which went further and enabled the mother of an illegitimate child to secure its legitimation if the father after marriage to her had died without availing himself of the provisions of the statute. The Supreme Court has held that in the event of the legitimation in this manner of a child by its widowed mother (notwithstanding the fact that in this particular case the father had died prior to the coming into force of the Legitimation Amendment Act, 1921) the legitimated child becomes entitled to a share in its father's estate equally with the children born in wedlock.

The Administration Act, 1908 (incorporating provisions originally enacted in the year 1879), also accorded to illegitimate children the right of succession to the estates of their mothers, but they were not permitted to take any benefit if legitimate children or their issue survived the mother. In the case of an illegitimate man dying intestate without legitimate children his mother is admitted to share equally in his estate with his widow, and she is entitled to take the whole of the estate if the intestate does not leave a widow or legitimate children surviving him. In the event of all these classes of relatives predeceasing the intestate the mother's next-of-kin succeed to the whole of his estate. Where an illegitimate female dies intestate, in the absence of a husband or legitimate or illegitimate children the mother succeeds to the whole of the estate, which in the event of her predeceasing the intestate goes to her next-of-kin. It will be seen that the guiding principle of this legislation is the recognition of the relationship between illegitimate children and their mother, limited, however, so as not to place the illegitimate children on a basis of equality with her legitimate children. No relationship is, of course, recognized between the father and his illegitimate children.

The Legitimacy Act, 1926 (England), has brought the English law upon these subjects into line largely with the New Zealand law, and it contains provisions of great interest to persons engaged in the administration of trust estates. The statute provides for the legitimation of children born out of wedlock upon the subsequent marriage of the parents; but this provision is subject to the important qualification that the subsequent marriage will not legitimate a person at whose birth one of the parents was married to a third person. Legitimation takes effect only from the 1st January, 1927, if the marriage occurred before that date, or if after that date, then from the date of the marriage only. The effect of the legitimation is to entitle the legitimated person and the husband, or wife, children, or remoter issue of such person to take an interest in the estate of an intestate dying after the date of legitimation, or in any disposition coming into operation or property passing under an entail created after that date, in the same manner as if the legitimated person had been born legitimate. Specific provision is made in regard to the relative seniority of the legitimated children and the legitimate children of a person in cases where under the new law this is likely to be a matter of importance. So far as concerns succession to the estate of a legitimated person who dies intestate, it appears from a reading of the statute that in the absence of issue ancestors and collaterals may inherit in the same manner as if the person concerned had been born in lawful wedlock. It is interesting to note that a legitimated person is still subject to disabilities in regard to titles of honour or dignities, in that the Act does not render him capable of succeeding to or transmitting any such titles or dignities.

The statute goes further, and makes provision much upon the lines of the New Zealand legislation in regard to the succession to the estates of illegitimate persons and the succession of such persons to the intestate estates of their mothers. As in New Zealand, no account is taken of the relationship to the putative father, but the relationship to the mother is recognized, so that illegitimate children may succeed to her intestate estate if she dies or has died after the coming into force of the statute and no legitimate issue survive her. Conversely, a mother may now take any interest in the estate of an illegitimate child to which she would have been entitled if the child had been born legitimate.

The provisions of the statute, apart from their particular interest to the Office as affecting the distribution of the estates of deceased persons dying domiciled in England and Wales, are also of more general interest as exemplifying the development of more humanitarian principles in regard to this subject.

#### CHARITABLE AND PUBLIC TRUSTS.

64. The Public Trust Office presents special advantages for the administration of funds of a charitable, educational, or similar nature. These advantages are particularly applicable where the trust is of a more or less permanent nature. The Public Trustee is therefore frequently approached to undertake the administration of important trusts of this character. Amongst the funds so administered are the following :—

*Kaitangata Relief Fund.*—The origin and history of this fund, which has been under administration by the Public Trustee since 1892, are well known, and have been referred to at length by me in previous reports.

On the 31st March last the balance at credit of the fund was £3,888 4s., being an increase of £94 by surplus of interest earned by it over disbursements. There is now only one dependant in receipt of an allowance from this fund. Considerable attention has been directed to it in recent years, and it has been urged by interested parties that the surplus moneys after making provision for this remaining beneficiary should be distributed amongst the descendants of the victims. The objects and administration of the fund are governed by statute, and consequently it would be necessary to pass amending legislation before any such course could be authorized.

*Brunner Disaster Fund.*—On the 31st March, 1927, there was at credit of this fund £1,648, a decrease since last year of £394. During the year payments totalling £490 were made in varying amounts to seventeen dependants. It will be observed that if the present expenditure is required to be continued the fund will be exhausted in the course of a few years.

*Carterton Home for Aged Poor Men.*—The Public Trustee has continued to carry out the management and control of the remaining assets of the late Mr. Charles Rooking Carter's estate, the revenue from which is in terms of his will made available for the upkeep of a home for aged poor men in the Wairarapa Electorate as it existed in 1896, and the wives of eligible men. The assets comprise chiefly land of a considerable area and value in the vicinity of Carterton. The land, apart from the site for the home, is subdivided into eighteen lots, which are leased separately, and a considerable amount of work is involved in handling the properties. The home itself is controlled by an independent committee comprising the Mayor for the time being of the Borough of Carterton, the Vicar of the Parish of Carterton, and three members of the Borough Council elected annually by poll of the Council. The funds required for the running of the home are paid over by the Public Trustee out of the income derived from the estate upon his being satisfied that the provisions of the will are being duly complied with.

*Renwick Cottages.*—The Public Trustee has continued to act in the capacity of manager of the properties comprised in this benevolent trust, the nature of which has been explained at length in my earlier reports, and the administration has progressed smoothly during the past year.

*Coal-miners' Relief Fund.*—In terms of the Coal-mines Act, 1925, certain local benefit funds were abolished as from the 31st March, 1926, and the moneys previously administered by trustees appointed by the miners were transferred to the Public Trustee. The closing of these funds resulted in the transfer to the Office of a net amount of £14,086 4s. 11d. The balance held by the Office on the 31st March, 1926, was £12,469 1s. 3d., and at the 31st March, 1927, the amount had increased to £26,868 11s. 3d. New trustees were appointed in the various districts in terms of the 1925 Act, and they disburse sick and accident grants from moneys made available from the above fund. The trustees, on their part, submit to the Office quarterly statements in regard to the disbursements of the funds which have been furnished to them.

During the past year payments totalling £5,505 8s. in all were made out of the above fund as relief grants paid by the Office to miners or as payments made to the local committees of the various sick and accident funds.

*Dobson Relief Fund.*—The Public Trustee has agreed to act, without charge for his services, as trustee of the funds which have been raised by public contribution for the relief of those who have suffered through the disastrous explosion which occurred at the Dobson Coal-mine on the 3rd December, 1926. It is understood that the funds will amount to in the vicinity of £2,500, and it is proposed that the Public Trustee shall act in conjunction with an advisory committee comprising the Mayor of Greymouth and three other permanent residents of the district. The transfer of the fund to the Office is at present receiving attention.

*Thomas George Macarthy Trust.*—Probably the best known charitable and educational trust operating in New Zealand arises out of the will of the late Thomas George Macarthy, who died in 1912. This generous-hearted testator by his will, of which the Public Trustee is executor and trustee, directed that one-half of the net income from his estate is to be applied for such charitable and educational purposes or institutions in the Provincial District of Wellington in such manner and in such proportions as a special Board of Trustees named in the will shall decide, the decision of such Board being final. After the termination of certain annuities and life and other interests the whole of the income from the residuary estate will be available for the purposes of the trust. The estate is a very valuable one, the final balance for estate duty purposes being £389,689. By careful and judicious management in the years which have passed since Mr. Macarthy's death the assets have largely increased in value and are now worth probably over £500,000.

As the result of the past year's operations the sum of £13,600 was available for distribution amongst charitable and educational institutions. Thus during the fourteen years the trust has been in existence the large sum of £109,027 has been so distributed. The following table shows the sum allocated each year to date :—

£				£			
1913	..	..	2,530	1921	..	..	6,860
1914	..	..	7,325	1922	..	..	9,015
1915	..	..	7,070	1923	..	..	9,350
1916	..	..	6,880	1924	..	..	10,125
1917	..	..	5,790	1925	..	..	12,040
1918	..	..	5,112	1926	..	..	13,600
1919	..	..	6,545				
1920	..	..	6,785				

## WILLS DEPOSITED.

65. During the year additional wills numbering 5,691 were deposited by testators with the Public Trustee for safe custody. The following table gives detailed figures for the year :—

Wills on hand on 31st March, 1926 .. ..	48,957
Add new wills from 1st April, 1926 to 31st March, 1927 .. ..	5,691
Deduct wills withdrawn from 1st April, 1926 to 31st March, 1927 through death of testator or otherwise .. ..	1,117

Net increase in number of wills on deposit ..	4,574
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Total number of wills on deposit at 31st March, 1927	53,531
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The following return shows the yearly increase of wills deposited for the period commencing 31st March, 1916, and ending 31st March, 1927 :—

Number of wills on deposit at 31st March, 1916 ..	11,385
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Net increase for year ending :—

31st March, 1917 .. ..	4,884
31st March, 1918 .. ..	4,781
31st March, 1919 .. ..	3,187
31st March, 1920 .. ..	1,555
31st March, 1921 .. ..	2,564
31st March, 1922 .. ..	3,483
31st March, 1923 .. ..	3,663
31st March, 1924 .. ..	4,180
31st March, 1925 .. ..	4,420
31st March, 1926 .. ..	4,855
31st March, 1927 .. ..	4,574

Number of wills on deposit at 31st March, 1927 ..	53,531
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These figures reveal that very satisfactory progress is being made in the extension of the Office operations, and establish the fact that it is rapidly growing more popular as it becomes better known amongst members of the community. It is gratifying to be able once more to record that increasing numbers of beneficiaries in estates and other clients as a result of their experience of the Office administration and methods appoint the Public Trustee executor of their own wills.

The conditions of a man's affairs and his family and other relationships often change to a considerable extent within comparatively short intervals. Thus testators find it necessary as time goes on to vary or modify the provisions of their wills, and so a large amount of redrafting of wills already on deposit has to be undertaken year by year. During the past year 3,109 such wills were redrafted.

The preparation and custody of wills are given special care. Careful attention is bestowed upon the interviewing of testators, the taking of their instructions, and drafting of their wills. Suitable accommodation is provided so that testators can freely and fully discuss matters pertaining to their wills in privacy and comfort, and no pains are spared in the typing and setting-out of the wills and recording matters pertaining to them.

A staff of officers skilled in that work superintends the preparation of and scrutinizes every will prepared in the Office before it is finally filed away for deposit. In previous reports I have referred to the special accommodation which has been provided for storage of wills deposited with the Public Trustee. A feature of this work is the precautions which have been taken to preserve secrecy. It is recognized that the contents of the wills are confidential and that a great deal of harm might result should there be any risk of these contents being divulged to unauthorized persons. The work is therefore performed by specially selected officers and the correspondence carried on under confidential cover and not prepared or despatched with the ordinary Office mail-matter.

During the year a complete overhaul was made of the files relating to wills deposited in the Office. This was carried out as an additional check and it disclosed a very satisfactory condition.

As usual the periodical stocktaking of all the wills on deposit will be held during the ensuing year.

By section 4 of the Administration Amendment Act, 1911, it is provided that upon the filing in the Office of the Supreme Court of an application by a person other than the Public Trustee for probate or administration of the estate of a deceased person it shall be the duty of the Registrar to transfer to the Public Trustee a notification of such application. This is a wise provision, because where there is such a large aggregation of wills as that on deposit with the Public Trustee it is often found in the case of an application for probate a later will than that referred to in the application is held by the Office, or in the case of application for grant of administration on intestacy that the deceased has made a will and deposited it with the Public Trustee. As soon as notifications under this section are received from the Supreme Court the records are carefully searched and the respective Registrars promptly advised so that there may be no delay whatever on the part of the Office in the grant of probate or administration.

#### LEGAL DIVISION.

66. In the class of business undertaken by the Office a skilled legal staff must be provided. As intimated in previous reports, the Office Solicitor's staff is located at Head Office. His work consists largely in advising the Public Trustee on the multitudinous legal matters arising in the course of administration of estates under the control of the Office and in the other classes of transactions handled by it. Associated with him is a skilled staff who are able to undertake all classes of legal work.

As a natural outcome of decentralization at the principal offices throughout the Dominion a District Solicitor is attached to the staff. His chief duty is to attend to the local conveyancing matters, drafting local wills, Magistrate's Court proceedings, and a number of other legal duties which may be delegated to him from time to time.

The Legal Division in common with other divisions of the Office has experienced the effect of the increased business transacted during the past year. It will be readily understood that in a large trust and investment business like that carried on by this Department there must be constantly arising a number of legal problems, some of which are of great importance and far-reaching effect, and affect property of considerable value. It is essential, therefore, that a high standard of efficiency be maintained in respect to the legal staff. Every effort is made to do this, and I feel sure that it may be safely claimed that these efforts have met with undoubted success.

During the year under review there was again a considerable number of contentious proceedings in the Supreme Court to which the Public Trustee was an original party, or wherein he was appearing on behalf of infants, absentees, or other persons not *sui juris*. It must be borne in mind that the Supreme Court is empowered to direct service on the Public Trustee as representing persons beyond the Dominion, or persons whom from any other causes, such as infancy or mental deficiency, are unable to protect their own interests.

The following are the principal cases argued in the Supreme Court in which the Office was involved during the past year :—

(1) *Stevens v. Brown and Others* (1926 G.L.R. 34 ; 1926 N.Z.L.R. 170).—By his will a testator gave to his trustees so many units of fifty shares each in a bank as should correspond with the number of his daughters living at his death. He further provided that his trustees should stand possessed of each unit of fifty shares upon trust to pay the income thereof to one of such daughters during her life, in case of marriage without power of anticipation, and after the death of any daughter the trustees were to stand possessed of the unit of fifty shares in which such daughter had had a life interest in trust for such daughter, her executors, administrators, or assigns. There was a proviso that if a certain

daughter should continue to live with testator's wife during widowhood such daughter should receive a share of the residuary estate on the distribution of the same consequent upon the death or marriage of testator's wife equally with his named sons.

The Court held—(i) That each of the testator's daughters was entitled to a unit of fifty shares absolutely for her separate use, but subject to a restraint against anticipation during coverture; (ii) that the condition attached to the bequest to the daughter referred to of a share of the residuary estate was valid.

(2) *Public Trustee v. H.* (1926 N.Z.L.R. 189; 1926 G.L.R. 39).—In this case the Supreme Court decided that on the death intestate of an unmarried male illegitimate whose mother had other illegitimate but no legitimate children and afterwards married their father, who outlived her but predeceased the intestate, the mother's other illegitimate children and their issue were the persons entitled to succeed to the intestate's estate.

(3) *Re Robertson* (1926 G.L.R. 59).—Where evidence as to the death of a missing person was merely circumstantial, the Court, on the application of the Public Trustee, granted to the Public Trustee leave to swear to the death. The application was unsuccessfully opposed by the Government Life Insurance Department, upon whom service was required to be made by the Rules of Court, and in the circumstances the Department was allowed its costs of appearance.

(4) *Public Trustee v. Smith* (1926 G.L.R. 244; 1926 N.Z.L.R. 835).—A testator gave his residuary estate to his trustees upon trust after the death of his wife to divide the income between his two daughters, with a provision that the share of any daughter dying leaving children should be appropriated to the benefit or advancement of such children, and upon the youngest attaining twenty-one years should be divided, with the capital producing the same, equally among such children. The will continued, "Should one daughter predecease the other leaving no children or leaving children should they all die before attaining the age of twenty-one years I direct that the share in the income of such deceased daughter or her issue shall be paid to the surviving daughter for her life and after death or if she be dead I direct that the whole of the capital and accumulated income shall be divided equally among the children of such survivor on their attaining the age of twenty-one years as hereinbefore recited. In the event of there being no children living to become entitled to payment the residue of my estate shall be distributed as if I had died intestate in respect thereof."

It was held by the Court of Appeal (reversing the judgment of the Supreme Court) that on the death of the surviving daughter childless the moiety of the estate in respect of which she had previously enjoyed a life interest passed to the children of the daughter who first died, the Court construing the words "predecease the other" as meaning "died" simply, and the word "survivor" as meaning "other."

(5) *Dix v. The Public Trustee* (1926 G.L.R. 260; 1926 N.Z.L.R. 610).—A testatrix bequeathed certain legacies, amongst them being a gift of her "personal" effects. These legacies were followed by a gift of the residuary estate. The Court rejected the contention that the gift of personal effects passed the residuary estate.

(6) *Re Milsom, deceased* (1926 G.L.R. 322).—A testator by his will gave his landed property to his daughter for her sole use and benefit, and directed that, in case she should marry, his executors should so order that her husband should have no power or right to sell, dispose of, or mortgage the property, but that it should be for his daughter's use and for her children's, but should she die without issue he willed that another named person should inherit the property or his heirs. The testator had but one daughter, who was born before the date of the will and who married in her father's lifetime. It was held that the testator's daughter took an estate in fee-simple in the property.

(7) *Public Trustee v. Waihi Gold Mining Co., Ltd.* (1926 G.L.R. 325).—A workman employed by the defendants was killed by being struck by a beam which accidentally fell from the roof of a smithy in which he used to work. He worked



as a surface and general labourer in the smithy, and it was during crib or midday meal time that the accident occurred. The jury found that the death of the deceased was caused by the negligence of the defendant and that the beam had not been properly secured and the smithy was unstable, and assessed the damages at £1,250. On motion for a nonsuit it was held, dismissing the same and giving judgment for the plaintiff, that the deceased was a licensee and invitee, and that under the circumstances he fell into a trap for which the defendant was liable, and that the defendant was also under a contractual liability for the injury resulting from the negligence of the defendant or its servants.

(8) *Public Trustee v. Frew and Others* (1926 G.L.R. 331).—A testatrix devised to her daughter “the piece of land on which is situate the house in which she is now living, together with appurtenances thereto belonging,” and she gave the rest of her estate to trustees in trust as to her business known as “C’s. Laundry,” together with all the land, &c., used in connection therewith to convert the same into a limited liability company and to divide the shares thereof among her children and her husband. By a codicil the testatrix declared that the gift to her daughter of the piece of land was subject to the condition that no house building, or structure of any kind should be erected between the laundry and a street. The trustees formed the company. The laundry and the dwellinghouse mentioned in the devise to the daughter were adjacent, and the question arose as to who was entitled to the piece of vacant land lying between the laundry and a street, and also as to whether the daughter was entitled to a right of way over the footpath as an appurtenance of the dwellinghouse.

It was held that the daughter was entitled to the vacant land, but was not entitled to a right of way over the footpath, as it was not a way of necessity, and that the company was entitled to a right to light over the land devised to the daughter to the windows of the northern wall of the laundry.

(9) *H. v. The Public Trustee* (1926 N.Z.L.R. 1).—A testator bequeathed a sum of money in trust to pay the annual income arising therefrom to X during his lifetime without power of anticipation. X executed a document which was in effect an attempt to anticipate the income from the trust moneys. It was proved that the document was delivered to the lender as an escrow.

It was held that as the forwarding of the order to the trustees of the funds would, had it been deliberate, have been a fraud on the plaintiff, and was due to a mistake in dealing with the document held in escrow, there had not been a forfeiture of the life interest.

(10) *Public Trustee v. Perkins* (1926 G.L.R. 340).—The testator gave his residuary estate on trust for the support of his wife A. and his children for the life or until the second marriage of A., and thereafter upon trust for the support and education of his said children until the eldest of his children who should then be living should attain twenty-one years, and then upon trust to sell and convert the estate into money and divide the residuary trust funds amongst all testator’s children who should then be living, share and share alike. The Court was asked to decide whether the word “then” as last used in the will referred to the date when the eldest child attained twenty-one, or to the date of the cesser of A.’s life interest.

It was held that the testator in making his will contemplated his own death and the death or remarriage of A. before his eldest child attained twenty-one; that he must have intended that the division of the residuary estate should take place when the eldest child attained twenty-one if A.’s estate by then had been determined, or, if not then determined, then upon the cesser of such widowhood interest. The Court accordingly ruled that the word “then” as last used referred to the date when the eldest child attained twenty-one.

(11) *In re Karena, deceased* (1926 N.Z.L.R. 177).—The Supreme Court held that an order for adoption made irregularly by the Native Land Court was within the jurisdiction of the latter Court, and that, as the Native Land Court had by statute power to amend, vary, or cancel any order made by it through mistake, error, or omission, the Supreme Court had no authority to interfere with the order made by way of certiorari or otherwise.

(12) *Henderson v. Henderson* (1926 G.L.R. 550).—A testator by his will gave a life estate, and subject thereto, *inter alia*, bequeathed 300 shares in a certain company to a legatee. At his death he owned 3,032 shares in the company. After his death and during the lifetime of the life tenant the company capitalized certain of its profits and distributed the same as a bonus on the basis of one fully paid up £1 share for every two shares held by a member.

Held that the legatee of the shares was entitled to the bonus-shares allotted in respect of the 300 shares bequeathed, and that such bonus shares were not to be treated as income.

(13) *Knubley v. Collins (No. 1)* (1926 G.L.R. 484) and *Knubley v. Collins (No. 2)* (1926 G.L.R. 487).—These were two cases in which questions were submitted to the Supreme Court respecting the interpretation of certain deeds of trust, and in both instances the Court after argument directed the trustees as to the meaning and effect of the instruments.

67. There has been the usual heavy volume of *ex parte* applications to the Supreme Court in respect to various matters arising out of the work of the Office. A large number of petitions were addressed to the Court during the past year, prominent among such applications being proceedings instituted by the Public Trustee under section 25 of the Public Trust Office Amendment Act, 1913. This section is designed to afford a simple and inexpensive procedure for obtaining the directions of the Court in regard to the shares of missing beneficiaries. Where a legatee or devisee cannot, after full inquiry, be traced, and it is unknown whether such person is living or dead, the whole of the relevant facts are placed before a Judge, and the Court is asked to direct the course to be followed. When the Court has given its directions by ordering advertisements to be inserted in appropriate newspapers the Public Trustee acts on the Court's instructions and finally brings the matter again before the Court to say whether, in the event of no trace of the missing person having been obtained, such share should be distributed to the other beneficiaries on the basis that the missing person is dead. It frequently happens that the advertisements directed by the Court succeed in locating the missing beneficiary, and in these cases the share is accounted for to such legatee forthwith.

Experience has shown that this statutory provision has been of immense service to the Office and to the beneficiaries in estates under its administration. It provides an expeditious and inexpensive means of giving effect to the directions of a testator with respect to the devolution of his property, whilst at the same time affording full safeguards to any beneficiary whose existence and whereabouts cannot be revealed by the ordinary channels of inquiry. In the remote case of a legatee whose share has been distributed subsequently appearing, the statute expressly saves his right to recover his share from the person or persons to whom payment was made under the directions of the Court on the assumption that the missing legatee was dead.

In the absence of authority conferred in the trust instrument or by statute it is necessary to approach the Court for authority in respect to various matters arising out of the administration and management of estates. Thus where it is desired to sell, lease, mortgage, purchase, or exchange land, to carry on a business, to effect necessary improvements to trust properties, and the like, where power is not conferred on the Public Trustee either by a trust instrument or by statute, the consent of the Supreme Court must be obtained. It is pleasing to note, however, that testators generally show their confidence in the ability and integrity of the Office by clothing the Public Trustee with the fullest powers of management and administration, to the intent that the Public Trustee will not be hampered in following whatever course appears to him to be in the best interests of the estate.

The number of applications to the Supreme Court for probate or administration is shown by the following figures, the corresponding totals for last year being given in parenthesis: Applications for grant of probate, 716 (569); applications for grant of orders to administer, 247 (234).

It is not necessary in all cases for the Public Trustee to apply to a Judge for a grant of administration. In the case of small estates of or under £400 in value the Public Trustee may file in the Supreme Court an election to administer such estate, whether the deceased left a will or died intestate. Upon the filing of the election the Public Trustee has all the powers of an executor or administrator, as

the case may be. Where, however, it subsequently transpires that an estate in respect of which an election to administer has been filed exceeds the sum of £600 the Public Trustee is required to file in the Supreme Court a memorandum stating this fact, and then to proceed to obtain a grant of probate or administration in the ordinary way.

During the past year 681 elections to administer were filed.

### MORTGAGE DIVISION.

68. The matter of securing suitable trust investments in order that the large amount of funds becoming available from the realizations in estates under administration by the Public Trustee and from other sources may be kept closely invested has called for constant and unremitting attention during the year just closed, as it will readily be recognized that in view of the very favourable rates of interest allowed to beneficiaries and other interested parties in funds held by the Public Trustee the financial success of the Office depends to an important degree upon the close and safe investment of the available funds.

The position has not been quite free from difficulty, for although there has been keen demand for finance, both from the farming community and also for industrial expansion and development, the demand has been principally confined to persons who have not been able to offer securities of a suitable class or showing the requisite margin of value for the investment of trust funds. The fact seems to be that following the lifting of the moratorium several years ago there was for a time great activity in connection with the refinancing of properties, but it is becoming evident that many of the farmers and other borrowers who are in a sound position and have good properties to offer as securities have already satisfied their financial requirements.

There has been considerable competition on the part of lending institutions, solicitors, and private individuals for satisfactory securities, and the new long-term-loan department of the Bank of New Zealand and the Rural Advances Branch of the State Advances Office will presumably have the effect of accentuating this competition for the better class of securities, while still leaving unsatisfied the needs of the borrower who has only a partly improved property to offer, or whose finances do not permit of his furnishing a suitable margin of value.

The Office has, however, been able to secure a steady flow of sound applications which have served to absorb the available funds. The bulk of the applications reached the Public Trustee as a result of direct application by borrowers to one or other of the many branches of the Office throughout the Dominion, thus showing that the Office is becoming well known to the farming and business community as a source from which adequate finance may be obtained by borrowers whose position is sound. A certain portion of the applications has reached the Public Trustee through the medium of solicitors, and in such cases the Public Trustee has usually entrusted the preparation of the resulting securities to the solicitors who introduced the loans. It is pleasing to record that during the past year the arrangement has worked well.

While the Office has given due regard to the needs of the farmers, recognizing the importance of the primary agricultural and pastoral occupations in a young country such as New Zealand, it has also been able to assist in providing finance in many cases to enable new business premises to be erected in the chief centres. The year under review has been marked from a building point of view by the erection of many modern and up-to-date business premises in the chief centres of population which have set a new standard of office accommodation on advanced lines in keeping with those adopted in the older and more developed countries of the world.

### TOTAL MORTGAGE REGISTRATIONS THROUGHOUT THE DOMINION.

69. It is interesting to note that the total amount outstanding under registered mortgages throughout the Dominion rose from the sum of £124,208,969 in 1916 to £172,106,789 in 1920, and to the large total of £269,597,953 in 1925, the last year for which figures are available. The total capital value of land throughout the whole of New Zealand for the year 1924 amounted to £568,500,653, so that it will

be seen that the total mortgage indebtedness amounts to practically one-half the whole of the value of the land in the Dominion.

#### REPAYMENT OF LOANS BY INSTALMENTS.

70. Reference was made in last year's report to the wider adoption of the system of granting loans on the amortization principle, by which repayments of principal are made by instalments, together with the interest. The system has for many years past been applied to loans granted for the erection of houses, but within the last few years there has been a considerable extension of the principle to rural securities.

The figures for the year just closed show that the total loans advanced from the Common Fund to borrowers amounted to £1,247,756. Of this total the sum of £818,410 was advanced by way of instalment mortgages, whilst the sum of £429,346 was advanced on flat mortgage, the majority of cases being for a period of five years.

The Public Trustee advances money on instalment mortgages under tables ranging from ten years to thirty years. Loans for the erection or acquisition of house properties are usually made on a twenty-year table, unless the house is constructed of permanent materials, such as brick or concrete, in which case a twenty-five-year table is allowed. The favourite table with the farming community is the twenty-five-year table, though in special cases the Public Trust Office Investment Board is prepared to grant a loan on a thirty-year table. In such cases the sinking fund required for the redemption of the loan is the small one of £1 4s. 6d. per cent. per annum.

There are, of course, certain cases in which the instalment system is not acceptable to borrowers, especially where their income is limited and it is necessary to expend considerable amounts in developing and improving the property. In such cases it is difficult to find the requisite additional amount to provide the instalments for the redemption of the principal, and the Public Trustee is then prepared to consider the granting of a loan on a flat mortgage. But where the borrower's financial position is not straitened and the requisite amounts can be found for the redemption of the principal the instalment system, providing as it does for the automatic extinction of the loan during its currency, is an excellent one in every way. It gives the borrower assured finance for an extended period, and obviates the constant expense and anxiety of effecting frequent renewals of the mortgage. The system is also of great benefit to the lender in that by the regular payment of the instalments in reduction of principal the margin of security in the property is being constantly increased. Moreover, the equity of the borrower is also increasing, and the system acts as a form of compulsory saving. Had the system been adopted generally in respect of farming properties years ago, the financial position of many farmers would be better than it is at the present time. Many members of the farming community are coming to realize these benefits, and are expressing themselves strongly in favour of the instalment system.

It is, of course, essential that if loans are to be granted on long-term periods there should be an adequate system of inspection of the securities throughout the period of the loan. This presents a difficulty to private investors, and, indeed, to small lending institutions, and makes these classes of lenders reluctant to grant loans for long terms. On the other hand, the Public Trust Office has a complete organization throughout the country, and has trained officers attached to its staff who are well acquainted with farming problems in all their aspects, so that an adequate and effective system of inspection can be maintained. Generally speaking, all mortgages to secure loans on the instalment system now provide that regular inspections of the security shall be made at the mortgagor's expense, the usual term being five years, though in special cases the frequency of the inspections may be increased. By this means the Office will keep in close touch with all properties mortgaged to it and will see that they are maintained in proper condition, and this will provide an additional factor of safety of the investment of trust funds by the Public Trustee on behalf of clients and beneficiaries of the Office.

#### ADVANCES TO LOCAL AUTHORITIES.

71. The demand for funds on the part of local authorities during the past year to enable works of public utility to be carried out has shown a slight decrease, two causes having contributed to this result. In the first place, there has been a

tendency on the part of many local bodies to restrict expenditure, and this tendency has been accentuated by the fact that in a number of cases proposals submitted to the ratepayers have not received their assent, many of the ratepayers doubtless viewing with apprehension any large increase in local-body indebtedness at the present time. A further factor which has served, at all events temporarily, to restrict the flow of applications from local bodies has been the establishment of the Local Government Loans Board under the Act passed last year. The Board has been set up and is now at work, and, as the information required before consenting to the raising of the loan by a local authority is searching, the effect of the setting-up of the Board has been to stem the flow of applications to the Public Trustee—at least, for the present. Nevertheless, a considerable sum was advanced by the Office to local bodies during the year just passed to assist in the development of their districts, the principal classes of local authorities to which loans were granted being Borough Councils, County Councils, Electric-power Boards, Hospital Boards, Road Boards, and Town Boards. The total sum advanced was £906,590.

Special legislation was passed by Parliament last year empowering local authorities to raise funds for the relief of unemployment without complying with the full procedure prescribed by the Local Bodies' Loans Act, 1926. Several local bodies availed themselves of this authority, and the Public Trustee was able to make funds available for unemployment relief works. The completion of the legal formalities in connection with the loans was promptly attended to in order that the money might be made available to the local authorities at the earliest possible moment.

In the last annual report reference was made to the desirability of recasting the whole of the legislation relating to local-body-loans work in order that it might be made more effective. The various enactments governing loans to local bodies were consolidated during the last session of Parliament, but practically no new matter was introduced, and the recasting of the whole of the legislation remains to be considered.

The facilities of the Public Trust Office in connection with the completion of loans to local bodies have been made use of during the year by the General Manager of the State Fire Office, at whose request the Office Solicitor has undertaken the whole of the legal work in connection with advances made by that Office to local bodies. The arrangement has proved satisfactory in all respects.

#### DECENTRALIZATION OF INVESTMENT WORK.

72. For some years past a large measure of decentralization has been in force in regard to the estates administration work of the Public Trust Office, the active administration of the estates being carried out at the District Offices, subject to adequate control by the Public Trustee of the more important matters of administration, and subject to his general supervision and direction. The system has worked admirably and has fully justified itself. The application of a similar system to certain portions of the investment work of the Office has engaged attention during the last twelve months. Hitherto the whole of the investment work has been concentrated at the Head Office in Wellington, and has involved the employment of a large staff of officers, with consequent pressure upon the limited accommodation available in the Wellington building. The desirability of making the system of delegation complete, and also of relieving the strain upon Head Office accommodation, has led to a close examination of the investment work with a view to seeing what portions can be delegated to district officers. A commencement was made two years ago by the delegation to district officers of the management of associations formed under the Land Settlement Finance Act, 1909, and this was followed by the delegation of the whole of the insurance work connected with the mortgages to the Public Trustee, and in both cases the system has worked without any difficulty.

As a result of the further investigation made recently, together with a consideration of the views of the District Public Trustees, it has been decided that it would be advisable to proceed with the delegation of the mortgage work as far as possible. A complete set of instructions to give effect to this decision has been compiled and approved by the Public Trustee. The instructions deal fully with all phases of the work which it is proposed to hand over to district officers, including the settlement of loans, the setting-up of the necessary mortgage

accounts, the periodical balancing of the accounts, the collection of interest and the collection of rents where the mortgaged properties are leased and the rentals are assigned to the Public Trustee in payment of interest and reduction of principal. The instructions also provide for the transfer of certain portions of the mortgage administration work to the district officers. In the case of maturing mortgages the District Public Trustees will approach the mortgagors and ascertain their wishes, and where renewals are desired the District Public Trustees will undertake the whole of the preliminary work, including the ordering of the special Government valuations and the preparation of the necessary papers for submission to the Public Trust Office Investment Board. Similarly in the case of minor applications for partial releases of properties mortgaged to the Public Trustee, the district officers will undertake the preliminary action and put the matter in order for submission to the Investment Board. The local officers will also be entrusted with the responsibility for seeing that the mortgage securities are regularly inspected, this requirement being made specially applicable where loans have been granted for long terms on the instalment system.

As the adoption of the new system marks an important departure from the centralized system which has been in force for many years, it has been thought advisable to test the delegation at one office before making it generally applicable. Accordingly arrangements have been made to test the system thoroughly at the Christchurch District Office for a period of six months. So far as the test has proceeded up to the present it has proved satisfactory, and it is anticipated that before long it will be possible to give full effect to the transfer of the work to district officers.

It should be made clear that the whole of the work connected with the consideration of applications will be retained by the Public Trustee, and that the granting and renewal of all loans will still remain wholly within the control of the Public Trust Office Investment Board.

Not only will the adoption of the new system remove the congestion which would undoubtedly arise with the rapid mounting of the total investments of the Office were they all retained at headquarters, but it will serve to bring the district officers in closer touch with the mortgagors and lead them to become more closely acquainted with the mortgaged properties. This factor is important, as the day is now past when an investor on rural securities can advance his moneys on mortgage and then rest satisfied with the security. The troublous times through which the farming community is passing at present and the fluctuations in the prices for primary products make it necessary that the mortgagee should keep closely in touch with the financial position of his mortgagors, and should be fully aware of the condition of the mortgaged properties and the manner in which they are being farmed and maintained. Fortunately, the Public Trust Office has an excellent organization which will enable it to keep in close touch with the properties throughout the country, and an additional safeguard exists in the provision which is now being made for the regular inspection by the Farm Inspectors of the Office, who are well qualified to see that the properties are maintained in good order and condition, and are also in a position in many cases to offer valuable advice to the mortgagors on the management of their properties.

#### LAND TRANSFER (COMPULSORY REGISTRATION OF TITLES) ACT, 1924.

73. It will readily be understood that in view of the large number of mortgages, amounting to nearly four thousand, held by the Public Trustee as investments of the Common Fund a number of productions of the title-deeds held with the mortgages is involved in order that dealings of various kinds may be registered thereon.

Even under normal conditions the number of productions throughout the year is very large, but it has been increased in recent years as a result of the passing of the Land Transfer (Compulsory Registration of Titles) Act, 1924, which requires that as from the 1st April, 1925, the date of the coming into force of the Act, all private European land must be brought under the provisions of the Land Transfer Act as soon as possible.

During the year just closed a number of deeds titles have been requisitioned for by the District Land Registrars throughout the Dominion in order that Land Transfer titles may be issued in their place. Although this involves considerable

work at the present time, the ultimate effect will be to lessen this particular phase of the Department's work, as the Land Transfer system is a much more satisfactory one to work under than the Deeds Registration system.

### INSPECTIONS.

74. With the extension of the organization, the steady increase in the work, and the development of a scheme of decentralization, it is necessary that the Public Trustee should have the means of co-ordinating the various units of organization and of readily ascertaining whether the work of the Department throughout the Dominion is being performed in a satisfactory manner. For this there has been in operation for a number of years past a scheme of systematic inspections which has been maintained throughout the past year. This system includes—

- (a) General inspections conducted by the Chief Inspector and the Assistant Chief Inspector :
- (b) The review of the administration of estates by the Reviewing Inspectors :
- (c) Inspection of various accounting matters and systems and internal audit controlled by the Chief Auditor.

(a) *General Inspections.*—The general inspections deal mainly with the conduct of the work generally, and therefore, whilst, of course, all matters affecting the operations of the Office are scrutinized, attention is particularly directed to questions of staffing, organization, accommodation, records, and the various office systems and the like. Inspections of all the branch offices are made at suitable intervals according as the volume of business and the other incidental circumstances of each particular branch render it necessary. The inspecting officers are able to give considerable assistance in matters of organization, method, and system, and to discuss with district officers difficulties arising out of the administration of estates. During the year eighteen of the nineteen District Public Trustee offices and eleven out of the twelve District Manager Offices were inspected by the Chief Inspector or Assistant Chief Inspector, and all necessary action arising out of these inspections taken. The agencies at the smaller towns, which are conducted on a commission basis by outside local business men, are periodically inspected by the controlling District Public Trustees, who submit full reports to the Public Trustee.

(b) *Review of Administration of Estates.*—In addition to the general inspections, there has been instituted a system whereby the administration of estates in the various branch offices is regularly reviewed by Reviewing Inspectors who are experienced in administration and accounting work. The various district offices are so grouped that a Reviewing Inspector can economically work a certain area. When the scheme of decentralization was first put into force there was a great deal of incidental work which required careful watching, but now that it has been in operation for some years, and officers have become accustomed to it, during the year it has been found possible to reduce the number of Reviewing Inspectors by one without in any way impairing the efficiency of the work.

Practically every estate of an active nature has been inspected during the year by the Reviewing Inspectors or by the Chief Inspector or Assistant Chief Inspector on their special visits. As a result of these inspections I am satisfied that the work of the Office is being well performed, and that all the branch offices are sufficiently staffed for present requirements. Besides being of considerable assistance in maintaining the standard of efficiency, this system of reviewing is an additional safeguard for the good administration of the estates, and no doubt the fact that such a check is continuously operating will afford a feeling of satisfaction and security to those whose affairs are controlled by the Public Trustee.

In the year under review 5,920 investigations of estates were made.

(c) *Internal Audit.*—During the year the internal audit of the books and accounts at both the Head Office and all branch offices has been well maintained. As the result of the experience derived during the previous year from the detailed audit of the branch offices quarterly it was considered during the year that the system could be safely modified, thus considerably reducing the cost of the work, without impairing the efficiency of the audit. It was therefore decided to co-ordinate the various checks carried out by the branch checking officers, the officers of the Audit Department, the Chief Inspector and his staff, and the Chief Auditor, and to extend the audit periods from quarterly to half-yearly.



Monthly certificates by responsible officers covering the posting of the ledgers and other subsidiary registers and the protection of assets are received from the branches and accepted by the Controller and Auditor-General, who arranges as far as possible that one of his Inspectors shall visit each District Public Trustee Branch at intervals of not less than six months to conduct a detailed audit of all receipts and payments. In any case where an Audit Inspector cannot make such visit the Chief Auditor arranges for the completion of the work.

At the four large centres—Auckland, Wellington, Christchurch, and Dunedin—the Audit Department maintains a practically continuous audit. All agencies and offices controlled by District Managers are audited at half-yearly intervals by the controlling District Public Trustees.

In addition to the half-yearly audit of the receipts and payments at all branches, a detailed general inspection of the whole of the accounting work is made at approximately yearly intervals, either by the Chief Inspector or his assistant if either happens to be in the district when the inspection falls due, or by the Chief Auditor. During the year fourteen out of nineteen of the branches controlled by District Public Trustees and ten out of twelve of the branches under the charge of District Managers were so inspected. Generally the accounting work, apart from a few minor matters of routine which were remedied on the spot, was found to be excellently conducted, and no serious mistakes or delays were discovered.

The collection of rents, interest, and book debts has been kept under the most careful scrutiny by the Reviewing Inspectors on their visits to the various branches. Their reports have been carefully perused at the Head Office, and any cases in which it was recommended that further action was necessary were brought under the notice of the District Public Trustees. The system laid down for the collection of arrears has been well observed, and in only a very small percentage of cases has it been found necessary to write off amounts as irrecoverable.

All estate overdrafts have been carefully reviewed after each half-yearly balancing period to ensure that no unauthorized advances have been made, and that the margin of security, as assets forming part of the security are realized in the course of administration, is maintained.

Negotiable securities in estates have been checked at half-yearly intervals by responsible officers at the branches, and also by the Chief Inspector or Chief Auditor when conducting general inspections. In no case has any irregularity in handling and protecting the securities been discovered. All securities in respect of Common Fund investments were checked by a responsible officer of the Audit Department and found to be correct. The same officer also checked the interest accrued on Office investments as at the 31st March last and the annual accounts and balance-sheet.

Reviewing the position generally, it may be stated that the receipt, custody, and payment of all cash has been conducted with the utmost care and accuracy. All securities, both in respect of the Common Fund and of estates, have been checked and found to be in order, and all estate property held by the Office is under adequate protection.

#### CONCLUSION.

75. I desire once again to express my appreciation of the devoted services which have been rendered during the past year by the Assistant Public Trustees, the controlling officers, and the staff as a whole. As I have often stressed in my reports, the class of business transacted by the Office is one in which the personal element plays a very prominent part. Were it not for the whole-hearted and enthusiastic co-operation of my officers the striking results of recent years could not have been achieved.

I have, &c.,

J. W. MACDONALD,

Public Trustee.

The Right Hon. the Prime Minister.

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