

LEGAL DIVISION.

132. From its very nature, trust work is full of complexities and pitfalls, and consequently it is essential to the proper transaction of the Office business that a competent and well-equipped legal staff be available to advise upon and deal with numerous legal points that must arise in the administration. Every estate and trust involves a certain amount of legal work, whilst in by no means a few cases a considerable amount is involved.

133. Estates of deceased persons fall into two classes—testate and intestate. As I have shown, those covered by the former class greatly exceed those included in the second class. During the year probate of 931 wills was applied for, including a number of cases in which application was made on behalf of the Public Trustee by outside practitioners either because the estates were introduced by them or because the relative wills directed that the legal work in connection with the estates should be attended to by solicitors nominated therein. This is an increase of 169 over the number dealt with in the previous year. In addition, applications for orders to administer intestate estates during the year numbered 235, including those made by private practitioners on behalf of the Public Trustee. As I have shown in a preceding portion of this report, where the value of an estate, whether testate or intestate, does not exceed £400, the Public Trustee may, in lieu of applying for probate of the will or an order to administer on intestacy, file in the Supreme Court an election to administer, which immediately constitutes him executor or administrator. The procedure is simple, expeditious, and inexpensive, and was adopted in 680 cases during the year.

A very large number of legal points in connection with the interpretation of ambiguous or difficult wills were dealt with in the past year. It is impossible to set out in detail the problems which come to be dealt with by the Office legal staff, but it may be imagined in the handling of over 18,000 trusts and funds that almost every conceivable point arises in the course of the work. To facilitate the business, and in keeping with the policy of decentralization, legal officers are stationed at the more important branches, and these appointments will be extended as the occasion requires.

In the administration of an estate it frequently becomes necessary to sell, lease, exchange, purchase, or make loans to carry on businesses, to deal with the shares of missing beneficiaries, to take steps to bar claims which the Public Trustee is not prepared to admit and which the claimants after due notice have failed to enforce, and so on. Many wills confer the necessary authority, and, in addition, the Public Trustee has wide statutory powers, but there are a number of cases where it is necessary to apply to the Court for leave to take the requisite administration steps. 127 applications of this nature were made by the Office legal staff during the year ended 31st March last.

Amongst the references to the Court during the year were included applications for leave to swear to the death of persons whose estates it was desired to obtain authority to administer. An executor or administrator is required in his affidavit to lead to the grant of probate or letters of administration not only to swear to the death of the testator or intestate, but to specify the actual date of such death. If it is uncertain whether the testator or intestate be dead or alive, the applicant for administration must first satisfy the Court that the facts proved raise a reasonable presumption that such testator or intestate is no longer alive, upon which leave will be granted to swear that he died on or since the last date on which he is known to have been alive.

134. The Office is very intimately concerned with compensation for deaths by accident—firstly, in the case of estates reported to the Office for administration, to see that any necessary action is taken in appropriate cases to make and pursue a claim for compensation where death arises through accident; and secondly, with regard to the apportionment amongst the dependants of a deceased person of moneys paid as compensation for death. In every estate reported for administration, whether it be that of a deceased person or a mental patient, careful consideration is given as to whether any claim under the Workers' Compensation Act lies, and, if so, care is taken to put it forward and prosecute it on behalf of those for whom the Public